

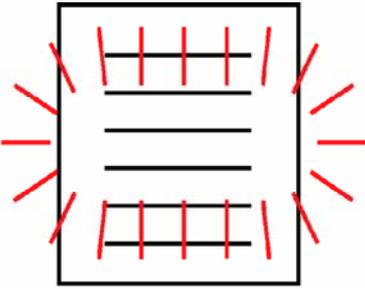
**Victorian Law Reform Commission Guardianship
Reference Consultation Paper**

Easy English

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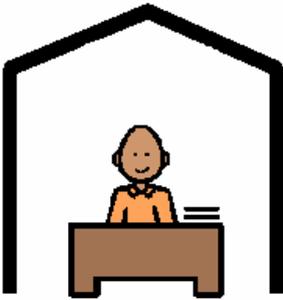
Some words we use in this booklet



There are some words we use in this paper that might be new to you.

We will try to use these words only when another easier word doesn't work.

Here is a list of some of the words you will need to learn to be able to understand this booklet.



The Commission – this is the Victorian Law Reform Commission. It is an independent organisation set up by the Victorian Government. The Commission's job is to look at different laws and decide whether or not the law needs to be changed. The Commission does not change the law. Instead, it makes suggestions to the Government about what changes need to be made. The Government then decides whether or not to do what the Commission suggests.



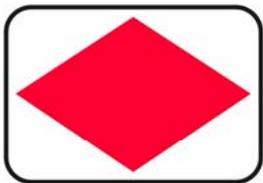
Guardian – this is a person who the law says can make decisions for someone with a disability who can't make their own decisions. A guardian can make decisions about things like where a person will live, what health care they should have, whether they should go to work, or what people they can mix with. These are just some of the decisions a guardian might make for a person with a disability who cannot make their own decisions.



Administrator – this is a person who the law says can make decisions about money for someone with a disability who can't make their own decisions. An administrator can make decisions about how much money the person should save, how much they can spend, and what they can spend it on.



VCAT – this is the name of a Tribunal. A Tribunal is a little bit like a Court. VCAT is the group that decides if someone with a disability needs a guardian. It also decides if someone with a disability needs an administrator. If a person needs a guardian or an administrator, VCAT decides who that person should be.



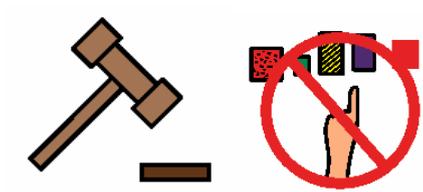
**OFFICE OF THE
PUBLIC ADVOCATE**

Public Advocate – this is a government person who advocates for people with disabilities. This means her job is to speak up for people with disabilities. The Public Advocate employs staff who help her do her job.



State Trustees – this is a government company that manages money for some people with disabilities who are not able to manage their own money

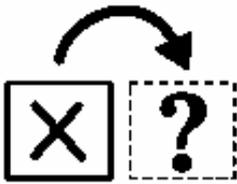
Introduction



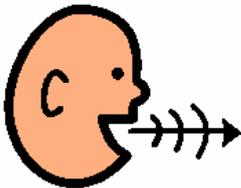
In Victoria there are some laws that say what happens when a person with a disability is not able to make their own decisions.



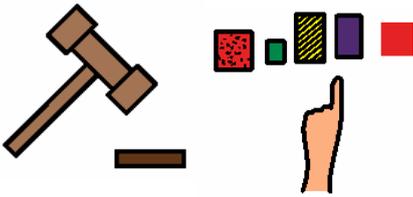
These laws are called guardianship laws.



The Government has asked the Victorian Law Reform Commission whether or not the guardianship laws need to change.



In this booklet we will tell you about these laws, and we will ask you to have your say about some of the changes we think could be made.

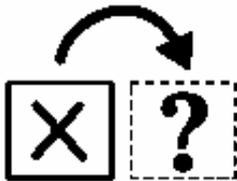


Making your own decisions

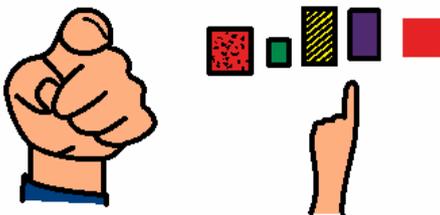
The law says that when you are an adult you can make your own decisions.



Another person can only make decisions for you if you ask them to, or if VCAT says you can't make your own decisions. VCAT is a tribunal, which is like a court, but not quite as formal.



Here are some extra things we think the law should say:



- VCAT should not be able to say you can't make your own decisions unless someone has tried to help you to make your own decisions first and it hasn't worked
- It is your right to make decisions that other people don't agree with. It doesn't mean you are unable to make your own decisions just because some people disagree with you
- Even if you can't make decisions about some things, you might still be able to make decisions about other things.
- Even if you can't make decisions some times, you might still be able to make decisions at other times.



Administrators

The law says that if you are not able to make your own decisions about **your money**, someone else might have to make these decisions for you.

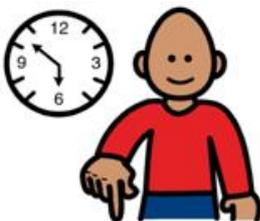
This person is called an administrator.

Some of the decisions an administrator might make are:

- Whether or not you can have money to buy something you want
- How much money you should save and how much money you can spend each week
- When to pay your bills

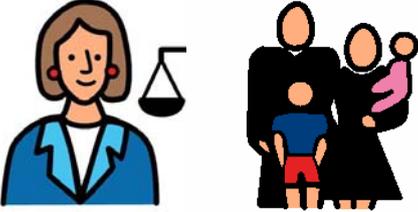


You only have an administrator if VCAT says you must have one.



The law also says you should have an administrator only if there are decisions the administrator needs to make now.

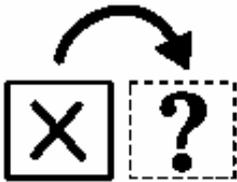
STATE TRUSTEES



If you have an administrator, the administrator might be:

- State Trustees
- A law firm called Judge and Papaleo
- Someone in your family
- Someone else

The law says an administrator should make the decision they think is best for you.

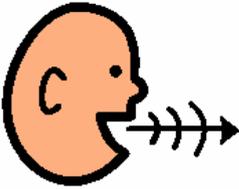


Here are some things we think might need to change about administrators:



- The law should make it clear that administrators must respect you
- The law should say administrators should try to make the decision that you would have made yourself
- The law should say administrators must explain their decisions to you in a way you can understand
- If someone is never going to be able to make their own decisions, the law should say they can have an administrator now, even if there are no decisions for the administrator to make yet.

- The law should say that if you are not happy with a decision your administrator makes, you should be able to go to VCAT and ask if the decision can be changed



Do you agree with these changes?

Are there other changes you think should be made about administrators?



Guardians

The law says that if you are not able to make other decisions about your life, someone else might need to make the decisions for you.

This person is called a guardian.

Some of the decisions a guardian might make are:

- Where you will live
- Where you will work
- Who you can mix with
- What treatment to have when you are sick



You only have a guardian if VCAT says you must have one. VCAT is a tribunal, which is like a court, but not quite as formal.



The law also says you should have a guardian only if there are decisions the guardian needs to make now.

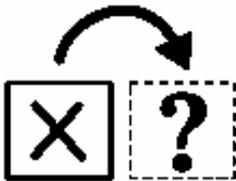


OFFICE OF THE
PUBLIC ADVOCATE

If you have a guardian, the guardian might be:

- Someone in your family
- A friend or someone else who knows you well
- the Public Advocate

The law says a guardian should make the decision they think is best for you.

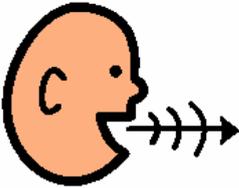


Here are some things we think might need to change about guardians:



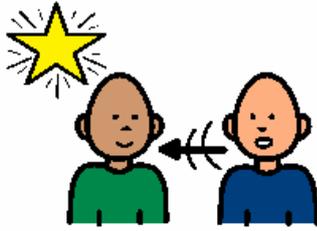
- The law should make it clear that guardians must respect you
- The law should say guardians should try to make the decision that you would have made yourself
- The law should say guardians must explain their decisions to you in a way you can understand
- If someone is never going to be able to make their own decisions, the law should say they can have a guardian now, even if there are no decisions for the guardian to make yet

- The law should say that if you are not happy with a decision your guardian makes, you should be able to go to VCAT and ask if the decision can be changed



Do you agree with these changes?

Are there other changes you think should be made about guardians?



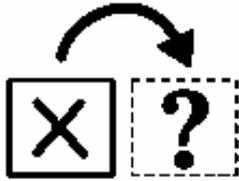
Powers of attorney

The law says that you can sometimes choose who will make decisions for you. This can only happen if you understand what you are doing at the time. Then the person you choose will make decisions for you in the future, if you are no longer able to make your own decisions.

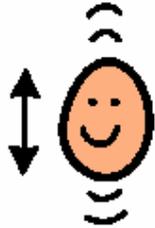
When you choose a person in this way, it is called an Enduring Power of Attorney or an Enduring Power of Guardianship.

When you choose the person, you also choose what decisions this person should be able to make in the future. These decisions can be:

- Decisions about your money
- Decisions about your medical care
- Decisions about where you live
- Decisions about other things



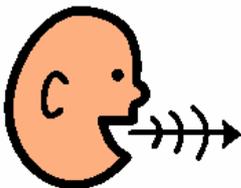
Here are some of the things we think should change about enduring powers of attorney and enduring powers of guardianship:



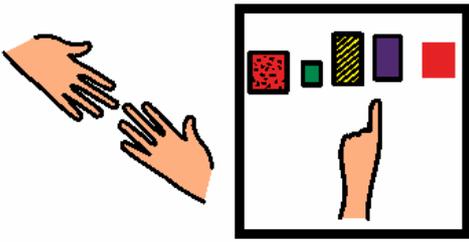
- The law should say that people you appoint to make decisions for you should try to make the decision that you would have made yourself



- The person who is chosen to make the decisions for you should have to write a report each year about what decisions they have made
- The government should keep records of who you chose, so that people such as doctors and people in banks know who is allowed to make decisions for you

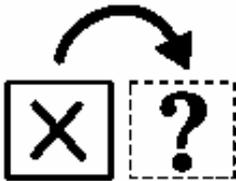


**Do you agree with these changes?
Are there other changes you think should be made about enduring powers of attorney and enduring powers of guardianship?**



Supported decision making

If you need help making decisions, but don't really need someone to make the decision for you, there is nothing the law can do at the moment. We think you should have more choices for getting help with your decisions.



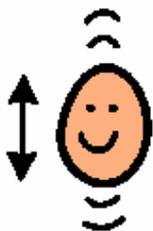
Here are some things we think should change about getting support to make decisions:



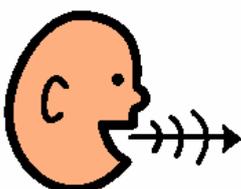
- You should be able to choose someone who has legal authority to get information about you so that they can help you make decisions

- You should be able to choose someone who makes decisions with you, and the decision is only a real decision if the two of you agree

- VCAT should be able to choose someone who has legal authority to get information about you so that they can help you make decisions

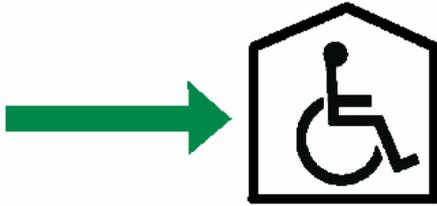


- VCAT should be able to choose someone who makes decisions with you, and the decision is only a real decision if the two of you agree

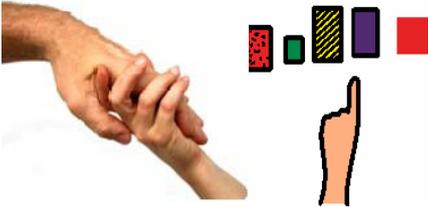


Do you agree with these changes?

Are there other changes you think should be made about getting support to make decisions?



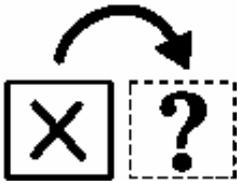
Deciding someone should move into a residential facility



The law says, in most cases, you can only move into a residential facility if you agree to go. If you can't make the decision for yourself, then a guardian can make the decision for you.



There are some people who are moved into residential facilities without really understanding what is happening. Sometimes these people go along with the decision and don't complain.



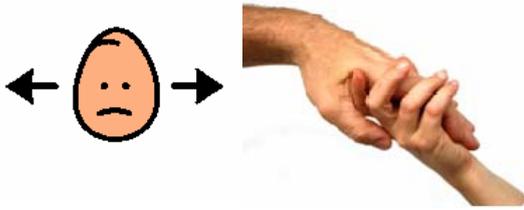
Here are some things we think should change about deciding someone should move into a residential facility:



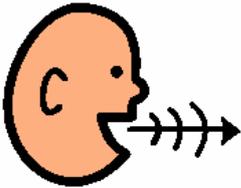
- We think that someone should be responsible for making this decision, but we don't think that a guardian always needs to be appointed.



- We think that the person's next of kin should be able to make the decision for the person to move into the residential facility, without needing to be made their guardian.



- We think a guardian only needs to be appointed by VCAT if someone disagrees with the decision the next of kin makes, or if someone thinks the person themselves is unhappy with the decision.



Do you agree with these changes?
Are there other changes you think should be made about deciding someone should move into a residential facility?



Contacting the Commission

The Commission would like to hear your answers to these questions. We would like to hear your answers before **20 May 2011**. Here are some ways you can contact us:



**Street address: Level 3, 333 Queen St,
Melbourne, Victoria, 3000.**



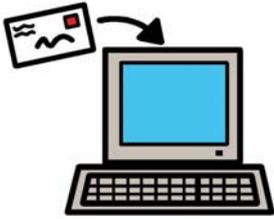
**Postal address: GPO Box 4637,
Melbourne, Victoria, 3001.**



**Phone numbers
(03) 8608 7800
Freecall: 1300 666 555**



TTY: 1300 666 557



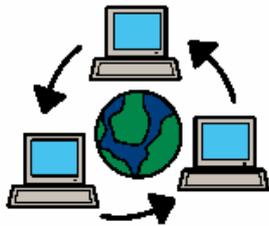
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