



Public Guardian and Trustee of Manitoba



A Client Guide to
the Public Guardian
and Trustee's Adult
Services Department

INTRODUCTION

This booklet is intended to provide information about the role and duties of the Adult Services Department of the PGT. Throughout the booklet, you will find words that are underlined. These words are explained in the Definitions section at the end of the booklet. If you would like further information about PGT, please contact us at:

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Note: This booklet is not a legal document. It contains general information and is provided for the convenience and guidance of people who have contact with the Public Guardian and Trustee of Manitoba. If interpretation problems occur, please refer to your lawyer or the appropriate legislation. This publication is available in multiple formats upon request. For further information please contact our office at 204-945-2700.

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Public Guardian and
Trustee of Manitoba

Chapter 1: About the Public Guardian and Trustee (PGT)	4
What is the PGT?	4
The PGT's Mission Statement	4
What the PGT Does	5
What Will Happen if the PGT is Appointed For You?	5
Who Does the Adult Services Administrator (ASA) Report To?	6
Chapter 2: How Does the PGT Become Involved?	7-8
<i>Involving the PGT by The Mental Health Act</i>	7
Order of Committeeship	7
Patients in Psychiatric Facilities	8-9
Court Orders	10
<i>Involving the PGT by The Vulnerable Persons Living with a Mental Disability Act (The VPA)</i>	11
Powers of Attorney	11-12
Chapter 3: What If You Disagree With The Appointment Of the PGT? . . 13	
The PGT as Committee pursuant to an Order of Committeeship 13	
The PGT as Committee for a Patient in a Psychiatric Facility 13	
The PGT as Substitute Decision Maker (SDM)	13
Chapter 4: Pre-Existing Enduring Power of Attorney (EPA)	14
The PGT is Appointed as Committee	14
Suspension of the EPA	14
Investigation	15
Results of the Investigation	16
Court Hearing	16
The PGT is Appointed SDM	17
Chapter 5: What Will the PGT Do For You?	18
Management of Property	18
Gathering Information	19
Your Account with the PGT	19
Bank Accounts	19
Investments	20
Personal Property	20
Vehicles	21
Houses	21
Farms	22
Other Types of Real Estate	22
Other Assets	22
Income and Benefits	23
Expenses and Debts	24
Personal Decisions	25

Chapter 6: How Does the PGT Make Decisions?	26
Considerations to be Taken into Account	26
Personal Care Decisions	26
Is the PGT the Right Person to Make the Decision?	27
What Must the PGT Consider When Making a Health Care Decision?	27-28
Decisions about Property and Finances	28
Delegation of Authority	29
 Chapter 7: What If You Disagree With A Decision Of the PGT?	30
 Chapter 8: How Does the PGT’s Authority End?	31
Order of Committeeship	31
Patients in Psychiatric Facilities	31-32
Court Ordered Committeeship	32
Appointment as SDM	32
What Happens When the PGT’s Authority Ends?	33
 Chapter 9: What Happens When A PGT Client Dies?	34-35
 Chapter 10: How Does the PGT Charge Fees?	36
Fee Pamphlet	36
Types of Fees	36
Percentage Fees	36
Hourly Fees	36
Set Amount Fees	36-37
Clients Who Do Not Pay Fees	37
 Definitions	38-41

CHAPTER 1: ABOUT THE PUBLIC GUARDIAN AND TRUSTEE (PGT)

What is the PGT?

The PGT of Manitoba is part of the Department of Justice of Manitoba. It is both a person and an agency. The head of the department is called the *Public Guardian and Trustee*. The PGT must be a lawyer with at least five years experience.

Although the PGT is part of the Department of Justice, it is also independent. This means that it must act in the best interests of its clients, even if those interests are different than the interests of government. At the same time, however, the PGT answers to The Minister of Justice and The Ombudsman. The PGT's accounts are audited each year by The Auditor General for Manitoba.

The PGT's office has a staff which includes lawyers, accountants, adult services administrators, estates officers and investigators whose jobs are to provide legal and managerial services to its clients.

The PGT has two offices in Manitoba. The main office is in Winnipeg, while a small satellite office is located in Brandon. Contact information for both can be found on page 1 of this booklet.

The PGT's Mission Statement

The PGT's mission is:

To protect the interests of Manitobans by providing professional and cost-effective trustee services of last resort that meet the needs of its clients.

The PGT does this by:

- Providing a service that is focused on the needs of its clients; and
- Operating efficiently, at the least cost possible.



What the PGT Does?

The PGT has many jobs. The jobs that will be discussed in this booklet are as follows:

- Committee of people who have been found incapable of managing their own property or personal decisions under *The Mental Health Act*;
- Providing consent (or refusal) to psychiatric or medical treatment for patients in psychiatric facilities who have been declared by their doctor to be incapable of consenting on their own, and who have no family who can consent for them;
- Substitute Decision Maker for people who have been found incapable of managing their own property or personal decisions under *The Vulnerable Persons Living with a Mental Disability Act*; and
- Attorney pursuant to an Enduring Power of Attorney given to the PGT by a mentally competent adult.

What Will Happen if the PGT is Appointed For You?

The first thing that will happen if the PGT is appointed to act for you is that a file will be opened with the PGT. A person called an Adult Services Administrator (ASA) will be assigned for you. That person will be your contact at the PGT's Office. When the PGT acts for you, you will be referred to as a *client* of the PGT.

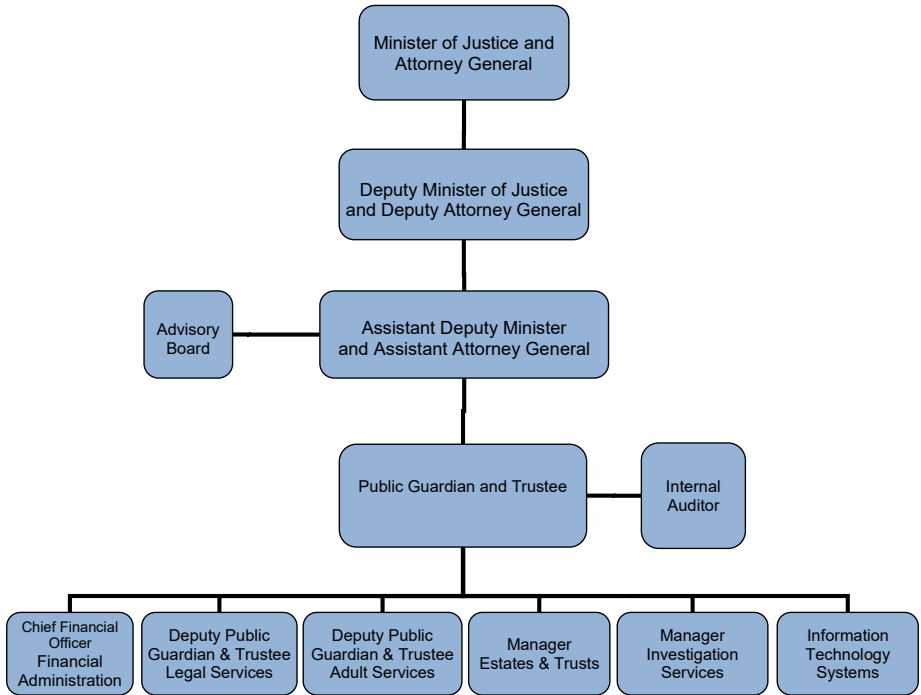
You will be sent a letter telling you the name of the ASA, and how to contact him or her. The ASA will return your telephone calls or answer your letters within a reasonable period of time. However, there may be limits to how many calls or letters can be answered. Your ASA will explain those limits to you.



Who Does the ASA Report To?

The ASA reports to the Supervisor of Adult Services (SAS). The SAS reports to the Deputy PGT - Adult Services. The Deputy PGT - Adult Services reports to the PGT. A chart showing how the office is organized follows.

Public Guardian and Trustee Organization



CHAPTER 2: HOW DOES THE PGT BECOME INVOLVED?

There are several different ways that the PGT is appointed to manage someone's personal or financial affairs. The method used depends on each person's situation. A description of the different ways to involve the PGT follows.

1. Involving the PGT by *The Mental Health Act*

a) Order of Committeeship

Sometimes a friend, family member or health care professional worries that a person is becoming confused and forgetful, and is no longer able to make personal or financial decisions. If there is no one who is willing, able or suitable to help that person, an application might be made to have the PGT appointed as committee. This is done only as a last resort. The document that appoints the PGT as committee is called an Order of Committeeship.

The way to have an Order of Committeeship made is as follows:

- Someone, who is usually a health care professional (such as a community mental health worker, home care coordinator, nurse or social worker), sees that there is a problem with the person's memory or ability to make decisions. Maybe the person can't remember to pay bills, forgets where his or her money is, or is being taken advantage of by someone else. The health care professional may arrange for the person to be seen by a medical doctor or psychiatrist.
- The doctor examines the person and decides whether he or she is able to look after personal or financial affairs. If not, the doctor may fill in a form called a Certificate of Incapacity.
- The health care professional will then write a report (sometimes called a *social history*) explaining the problems that the person is having. The report will contain information about the person's living arrangements, medical problems and property. The report and the Certificate of Incapacity will be sent to the Director of Psychiatric Services (the Director).
- The Director will read the report and certificate and will send a letter to the person, the person's family and to any proxy named in a health care directive. The notice will say that an application for the appointment of the PGT as committee has been made, and the person has a certain amount of time to disagree with the appointment. The reasons must be put in writing and sent to the Director.
- The Director will review any disagreements or complaints made in writing, and may decide to investigate further. He may gather further information or interview the person or other people who know about the situation. He will then make a decision whether or not to appoint the PGT as committee. If he decides not to, nothing else will happen.
- If the Director does appoint the PGT as committee, he will send a notice to the PGT, and to the people who received notice of the application. The PGT will immediately start acting as committee.

The PGT never applies to be appointed as committee by an Order of Committeeship. Applications are always made by someone else. However, once the PGT is appointed, it must act. It may not refuse to act, and must continue to act until it is removed as committee. The way to have the PGT removed will be talked about in Chapter 8.

Fred is 87 years old and lives alone in an apartment. He never married and has no children or other family in Manitoba. He has no friends, but he does receive some help from Home Care. Recently, the home care worker has noticed that Fred is having difficulty managing his money. She has noticed letters from the landlord saying that the rent hasn't been paid, and there are many bills piling up. There is also very little food in the cupboard. Fred doesn't seem to know what to do about these problems.

The worker tells her supervisor, the Home Care Coordinator. Arrangements are made for Fred to see a doctor, who diagnoses him with dementia, and finds him to be incapable of managing his own affairs. The doctor signs a Certificate of Incapacity.

The Home Care Coordinator sends the certificate and her report to the Director. The Director sends a notice to Fred, but Fred does not reply. After the time for objection passes, the Director signs an Order of Committeeship, and the PGT becomes Fred's committee.

b) Patients in Psychiatric Facilities

If a person is admitted to a psychiatric facility, a medical examination will take place to find out whether the person is:

- i) mentally capable of managing financial affairs; or
- ii) mentally capable of making medical or psychiatric treatment decisions.

If the person is not able to manage financial affairs, the doctor will fill in a Certificate of Incompetence to Manage Property. The certificate will be sent to the Medical Director of the psychiatric facility. If the Medical Director agrees with the doctor, he will send a copy of the certificate to the PGT, the person and his or her closest family member.

The PGT immediately becomes the person's committee, with authority to manage the person's property and deal with any legal proceedings on the person's behalf.

The PGT's authority only lasts until the person regains capacity to manage his or her financial affairs or is discharged from the facility, whichever happens first.

Frieda is admitted to a psychiatric facility. She has no known family members. Frieda is examined by a doctor, who decides that she is mentally incapable of managing her own financial affairs. The doctor completes a Certificate of Incompetence to Manage Property. The Medical Director agrees, and sends a copy of the certificate to Frieda and to the PGT.

The PGT immediately becomes Frieda's committee. However, one month later, Frieda's doctor declares that her condition has improved, and she is able to manage her own affairs. The certificate is cancelled by the Medical Director, and the PGT's authority immediately ends.

If the person is not able to make medical or psychiatric treatment decisions, the doctor will fill in a Certificate of Incompetence to Make Treatment Decisions. As with the Certificate of Incompetence to Manage Property, the certificate is sent to the Medical Director of the psychiatric facility. If the Medical Director agrees, a copy will be sent to the person and his or her closest family member.

If the patient has named a proxy in a Health Care Directive, or already has a committee appointed to make personal decisions, the proxy or committee will make treatment decisions.

If there is no proxy or committee, but there is a family member who is able, willing and suitable to make treatment decisions, the family member will be asked to make the treatment decisions. However, if there is no family member, the Certificate will be sent to the PGT, who will be asked to make treatment decisions for the person.

The PGT's authority to make these decisions will only last until the person becomes able to make the decisions, or the person is discharged from the psychiatric facility, whichever happens first.

For further information on how the PGT makes medical or psychiatric treatment decisions, see *Chapter 6: How Does The PGT Make Decisions?*

Frieda has also been found incapable of making medical or psychiatric treatment decisions. A certificate of Incompetence to Make Treatment Decisions is signed by the doctor. The Medical Director agrees. Because Frieda has no known family, the PGT is asked to make decisions about her medical and psychiatric treatment.

However, a month later, when the doctor finds Frieda able to make her own decisions, the certificate is cancelled, and Frieda immediately takes over making her own decisions about treatment. The PGT's role ends.



c) Court Orders

Occasionally, a judge of The Court of Queen's Bench will appoint the PGT as committee. This might happen when a family member applies to court to be appointed as committee, but the judge decides that the person would not be an appropriate committee. The judge may appoint the PGT as committee if a committee is needed.

Sometimes, a family member or friend is appointed as committee, but cannot continue to act. Maybe the committee moves out of Manitoba, or because of illness cannot continue to act. In those cases, if there is no one else willing, able or suitable to take over, the judge might appoint the PGT to act as committee.

Michael believes his father, Peter, aged 89, is no longer mentally capable of managing his own financial affairs. Michael applies to court for an order appointing him as Peter's committee. However, Michael's brother, George, doesn't agree that Michael should be committee. He thinks that Michael just wants to control their father's money, and that he won't do a good job as committee. George goes to court to fight Michael's appointment as committee.

Michael and George are Peter's only children, and there is no other family in Manitoba. The judge is worried about the fight between Michael and George and is afraid that Peter's interests are not being properly protected by either of them. The judge decides to appoint the PGT as Peter's committee so that his interests will be protected.

For further information about committees appointed by court orders, please see the PGT's publication called *Committeeship Guidebook*. This guidebook is available from the PGT, or on its website.



2. Involving the PGT by *The Vulnerable Persons Living with a Mental Disability Act* (The VPA)

Any person may make an application to The Vulnerable Persons' Commissioner (the Commissioner) for the appointment of an SDM for property, personal care or both for a vulnerable person within the meaning of *The Vulnerable Persons Living with a Mental Disability Act*. The PGT is only appointed as a last resort when the Commissioner believes that an SDM is necessary and there is no one else willing, able or suitable to act. Once the Commissioner appoints the PGT as SDM, the PGT will act until the appointment ends, the PGT is replaced by someone else or the vulnerable person dies.

Further information about The VPA or the appointment of an SDM may be obtained from the Commissioner's office as follows:

Office of The Vulnerable Persons' Commissioner
305 - 114 Garry Street
Winnipeg, MB R3C 4V4
Phone: (204) 945-5039
Toll-free: 1-800-757-9857
Fax: (204) 948-3713
Email: vpco@gov.mb.ca
Website: www.gov.mb.ca/fs/vpco/

3. Powers of Attorney

Sometimes, people who are mentally capable of managing their own property need help to do so. They may be physically incapable of doing their banking and other errands, and need someone with legal authority to do those things for them. They might consider appointing another competent adult as their attorney in an enduring power of attorney (EPA). EPAs are excellent tools for mentally competent adults to use to plan for a time when they are not able to look after their own financial affairs or property.

The person who signs the EPA is called the donor. An EPA is a type of power of attorney (PA) that allows the attorney to continue acting even if the donor later becomes mentally incapable of managing his or her own property.

Further information about EPAs and PAs may be found in the PGT's publication called *Enduring Power of Attorney*. This guidebook is available from the PGT, or on its website.

If a person wants to appoint an attorney in an EPA but doesn't have anyone he or she trusts to act, he or she may ask the PGT to act as attorney.

The PGT will consider acting as attorney if:

- the donor is mentally competent and wants the PGT to act;
- the donor has cash or investments worth less than \$250,000. If the donor's cash or investments are worth more than \$250,000, the PGT will consider acting if the donor has asked a private trust company to act as attorney, and the trust company has refused; and
- the EPA includes a sentence that allows the attorney to continue acting if the donor becomes mentally incapable of acting.

If a person asks the PGT to act as attorney, the following things will be required:

- the donor will be asked to provide a letter from a doctor saying that he or she has the capacity to appoint an attorney pursuant to an EPA. This will protect the donor from someone later questioning whether he or she had the mental ability to sign an EPA;
- the donor will be asked to give a cheque to the PGT for a standard amount. This money will be used to pay a lawyer in private practice to meet with the donor and take instructions for the EPA; and
- a lawyer will be asked to see the donor, and will take instructions for the EPA. The lawyer will use the PGT's standard form and will provide the original to the PGT once it is signed.

Vera is 78 years old and lives in her own home in Winnipeg. She is a widow with no children or other family she can rely on. She has been finding it difficult lately to get out to do her banking and pay her bills. She has decided that she needs some help with this, and has asked the PGT to act as her attorney by an EPA.

Once the PGT has seen the letter from the doctor stating that Vera is capable, the PGT will send an ASA out to meet with Vera to talk about her property and plans and how the PGT will manage her property. If Vera still wants to give PA to the PGT, the ASA will let the PGT know.

The PGT believes that Vera is legally capable of signing an EPA. A lawyer meets with her and she signs the document. The PGT begins acting as attorney.



CHAPTER 3: WHAT IF YOU DISAGREE WITH THE APPOINTMENT OF THE PGT?

The PGT as Committee pursuant to an Order of Committeeship

If you or a member of your support network disagrees with the appointment of the PGT as your committee:

- you may get a second opinion from a psychiatrist. If the psychiatrist agrees that you are capable of managing personal or financial affairs, the psychiatrist will complete a form. In the case of an Order of Committeeship, the form will be sent to the Director. If he agrees with the psychiatrist's opinion, he may cancel the Order of Committeeship;
- you may apply to The Court of Queen's Bench for an order that you are capable of managing personal or financial affairs. You will have to provide evidence to the judge to show capacity; or
- an application may be made to The Court of Queen's Bench for an order appointing someone else to be committee.

The PGT as Committee for a Patient in a Psychiatric Facility

If you are a patient in a psychiatric facility and you disagree with the appointment of the PGT as committee:

- you may apply to The Mental Health Review Board for a review of the doctor's opinion that you are not capable of managing your affairs or making treatment decisions, as the case may be; or
- an application may be made to The Court of Queen's Bench for an order appointing someone else to be committee.

Further information about the Mental Health Review Board may be found at: <http://www.gov.mb.ca/healthyliving/mh/act.html>

The PGT as SDM

If you or a member of your support network disagrees with the appointment of the PGT as your SDM, you may apply to The Court of Queen's Bench for an order cancelling the appointment. You will be able to put evidence before the court to show the judge why the PGT should not have been appointed.

If you decide to apply to court in either of the above cases, you will have to give written notice to the PGT. The PGT has the right to attend the hearing, and tell the judge what it thinks is the best solution.

Although a lawyer is not required for a court application, you should seriously consider hiring one. A lawyer will know what evidence to give the court, and how the evidence should be presented. You should ask the lawyer how much it will cost before you decide what to do.

CHAPTER 4: PRE-EXISTING ENDURING POWERS OF ATTORNEY

You have already read how the PGT becomes involved as committee or SDM. You may also have read about PAs and EPAs in Chapter 2. Sometimes, the PGT becomes committee or SDM even though the client has already made a decision to appoint a person as attorney by an EPA. This chapter will talk about what happens in those cases.

The PGT is Appointed as Committee

Natalie, who is 89, is finding it hard to pay her bills and do her banking. She wants her daughter, Mary, to help her with these jobs. Her lawyer helps her make an EPA in which she names Mary as attorney. This will allow Mary to take money out or put money into Natalie's bank account, and to pay her bills. Natalie doesn't tell Mary or anyone else about the EPA. Instead, she puts the papers away in a drawer.

Six months later, Natalie has a stroke and has to move to a personal care home. Her doctor decides that she is mentally incapable of making her own decisions. Mary, an only child, lives in Vancouver. The social worker at the hospital does not know about the EPA, and applies to have the PGT appointed as Natalie's committee so there will be someone in Manitoba who can make decisions for her.

After the PGT is appointed, the EPA papers are found.

The case of Natalie is one example of an instance when the PGT might be appointed as committee even though Natalie had already made an EPA. Another example might be when the person who asked to have the PGT appointed as committee knows about the EPA, but doesn't think the attorney is doing a good job. Another example is when the attorney is no longer willing or able to continue, and wants the PGT appointed as committee.

Suspension of the EPA

In all cases when the PGT is appointed as committee, it must try to find out if there was an EPA signed. In the example of Natalie, the PGT found the papers in the drawer when its investigators went to her home to do a search and inventory (see *Chapter 5: What Will The PGT Do For You?*). In other cases, the ASA asks the client, friends, family or the bank if they know whether there is an EPA.

The Mental Health Act says that if the PGT is appointed after an EPA is signed; the EPA will be suspended while the PGT investigates. This means that the attorney may not be able to use the EPA. Instead, the PGT will make decisions for the client during the investigation.

If it looks like there is an EPA, the PGT will get a copy or the original if it is available. The PGT will also decide whether it will manage some or all of the client's property during the investigation. This decision depends on the facts of each case.

Investigation

The investigation starts as soon as the PGT finds out there is an EPA. One of the first things the PGT will do is find out whether the EPA is legally valid. The PGT will have to find out whether the client was mentally capable when the EPA was signed. Also, the PGT will find out if the EPA meets the requirements of the law in Manitoba. If it does not, it is not valid, and the PGT will continue to be the committee.

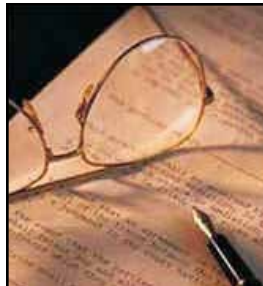
If the EPA is valid, the PGT might do some or all of the following things during the investigation:

- Freeze some or all of the client's bank accounts;
- Ask the bank to send some or all of the client's money to the PGT;
- Agree that the attorney may continue to manage some or all of the property. The PGT might make some rules about how this will be done;
- Take over payment of some or all of the client's bills;
- Ask for information, including copies of statements, from the bank;
- Ask for information from family, friends or others who know the client;
- Bring in some or all of the client's income or property.

In all cases, the PGT will write to the attorney and ask for an accounting of everything the attorney has done. This will include a list of the property the attorney has looked after for the client, what money has been brought in and paid out, and what is left. The accounting must be detailed, with dates, amounts and receipts. The PGT will usually set a deadline by which the attorney must provide this information.

It is important for the attorney to answer quickly and completely. This will help the PGT make a decision as soon as possible. The ASA and the attorney might meet to go over the information. The more information and cooperation the attorney gives the PGT, the more quickly a decision will be made.

In the case of Natalie, the PGT wrote to Mary. Mary said that she had never been told by her mother that she was named as attorney, and had never acted. Mary said that she would like to act as attorney. Although Mary had a job in Vancouver, she said that she would come to Winnipeg once a month to see her mother, and would do all her banking through the internet. She had a good plan for helping her mother and wanted to do so.



Results of the Investigation

The PGT must decide whether it is in the client's best interests that the attorney be allowed to continue, or whether it is better for the PGT to act as committee. Some of the things the PGT will consider are:

- the client's wishes;
- whether the attorney has been following the law and making good decisions for the client;
- whether the client's other family members agree that the attorney has been doing a good job; and
- whether the attorney wants to continue making decisions.

The above are guidelines only. At the end of the investigation, the PGT must make a decision about what will be best for the client.

Once the decision is made, the PGT will write to the client, attorney, the person who appointed the PGT as committee and the client's closest family to tell them about the decision. If the PGT decides that the attorney should continue, the PGT will stop acting as committee, and return any property it holds for the client. However, if the PGT decides that it should continue to act as committee, the letter will state the reasons for that decision. Some common reasons why the PGT might decide to cancel the EPA are that:

- the attorney refused to communicate or cooperate with the investigation;
- the attorney did not keep proper records and could not account for what had been done;
- the attorney was not using the client's property in a way that protected the client's best interests; or
- the attorney was no longer willing or able to act.

The letter will also say that anyone receiving the letter may disagree in writing by a certain date. If they do, the PGT will apply to The Court of Queen's Bench for a judge to decide who should look after the client's property.

In the case of Natalie, the PGT decided that Mary should act as attorney and the Committeeship should end. The PGT returned all the property it had managed for Natalie to Mary as attorney.

Court Hearing

If a court hearing is necessary, the PGT will argue that it made the right decision by cancelling the EPA. The client, attorney or client's family may tell the judge why they think the EPA should continue.

People who do not agree with the PGT's decision about an EPA may also apply to court on their own. It is always a good idea to get legal advice from a lawyer before deciding whether or not to go to court.

The PGT is Appointed SDM

The appointment of a SDM, including the PGT, is different than the appointment of a committee. An EPA that was already in place ends right away if a SDM for property is appointed. If the PGT is SDM for property, it will immediately take over management of the client's property from the attorney.

Fred, a vulnerable person living with a mental disability, signed an EPA naming his brother, John as his attorney. Since then, however, Fred developed Alzheimer's disease and became unable to manage his own money. John took over. However, Fred's other brother, Henry, didn't think that John was managing Fred's money properly. Henry applied to have the PGT appointed as Fred's substitute decision maker for property. The PGT was appointed. The EPA automatically ended, and the PGT continued as SDM.

There is one exception to this rule. If an emergency substitute decision maker for property is appointed, an EPA is suspended in the same way as it is suspended when the PGT is appointed as committee. The suspension only lasts as long as the emergency SDM appointment. If a regular SDM is later appointed, the EPA will automatically end. However, if no SDM is appointed, the EPA will start again when the emergency SDM appointment ends.

Barbara signed an EPA naming her friend, Elizabeth, as attorney. Barbara was later found incapable of managing her own property, and Elizabeth started acting as attorney. Unfortunately, Elizabeth became very sick and was in the hospital. Barbara's bills were not being paid, so her social worker applied to have the PGT appointed as emergency SDM for property for 30 days. During that time, the PGT looked after Barbara's money. However, when the 30 days was over, Elizabeth had recovered, and was able to take over again as attorney. The emergency appointment of the PGT as SDM ended, and Elizabeth took over again as attorney.



CHAPTER 5: WHAT WILL THE PGT DO FOR YOU?

The duties the PGT will perform for you will depend on the type of authority the PGT has been granted. If the PGT is your committee, it will make personal and property decisions as necessary.

If the PGT is your SDM, the Appointment Document will state the types of decisions the PGT can make. The PGT might be required to make both property and personal decisions, or just property or personal decisions.

If the PGT is your attorney, it will only make property decisions for you, and will consult with you on a regular basis.

This chapter will describe some of the things the PGT does for its clients. Whether the PGT will do some or all of these things for you will depend on the authority given to the PGT, and your particular circumstances.

1. Management of Property

The PGT may manage any type of property for its clients. Examples of the types of property it manages are:

- Cash;
- Bank accounts;
- Investments;
- Pensions or other income payments;
- Personal property, including cars, jewellery, furniture, etc.;
- Land or houses, including farms or commercial property; or
- Legal claims, including Manitoba Public Insurance claims, Workers Compensation Claims, Claims from Compensation for Victims of Crime or claims in court by or against other people.

When the PGT is appointed to manage your property, an ASA will be assigned to act for you. The ASA will be your contact at the PGT's office. The ASA will be guided by your wishes, values and beliefs when managing your property, but in the end, must make decisions based on what is in your best interests, and within the laws of Manitoba.



a) Gathering Information

The ASA must first gather as much information about your property as possible. Some of the ways the ASA does this are:

- by speaking to you, your family or people who know you well to ask for information;
- by redirecting your mail from Canada Post so the ASA receives your bills and other important information. Personal information, such as cards and letters, will be returned to you as soon as possible. The length of time the mail redirection will be in place depends on your needs;
- depending on where you live, arranging for a search and inventory of our home. This is to make a list of your belongings for insurance purposes, and to locate any important papers or information that might be in your home. If you or your family are living in the home, the search and inventory will only take place after arrangements are made with you;
- by sending letters to government agencies, banks and businesses you deal with to get information about your accounts; and
- by asking Canada Revenue Agency for information about your taxes, so that your income tax returns are properly filed.

b) Your Account with the PGT

The ASA will open an account at the PGT's Office in your name (your PGT Account). Although this account is managed for you by the PGT, it is yours, with your own account number. It earns interest for you. Most of your cash and liquid assets will be held in this account. You may ask for a statement of this account once a year, or more often if you make arrangements with your ASA.

This account will be used to collect your income and pay your expenses and bills. The ASA will work with you or your worker to prepare a budget, and may provide money to you from this account.

c) Bank Accounts

Although most bank accounts will be closed and the money put into your PGT Account, you may still need a bank account. If so, the ASA will arrange to keep a bank or credit union account open for you, and will transfer money into it from your PGT Account as necessary. The ASA will ask the bank to provide statements to the PGT to ensure that the money is being properly managed and used for your needs.

The PGT is committee for Fred. He lives in an apartment. Old Age Pension and Canada Pension payments of \$1,250 per month are deposited directly into his PGT Account. From this, the PGT pays his monthly rent and utilities, totaling \$650. Fred needs \$400 per month for groceries and personal spending. The PGT transfers this money to his bank account, and he withdraws it as needed. The rest of his money is kept in his PGT Account for other needs he may have.

d) Investments

If you have investments in a financial institution or with an Investment Company, the PGT will review them to make sure they are the best investments for you. The PGT might decide to leave the investments where they are, and simply monitor them through statements. However, the PGT may also decide that the investments should be brought in to your PGT Account.

In some cases, the PGT may decide to purchase investments for you. This would only be done where there is a real benefit to you, and you can afford to buy investments.

Further information about the PGT's role with your investments can be found in the PGT's Investment Policy, which is available from the PGT, or on its website.

The PGT is committee for John. John was a very successful businessman, and was able to save a lot of money during his lifetime. He invested some of his money in stocks and bonds. When the PGT was appointed as his committee, the PGT looked at his investments, and decided that some of them were quite safe, and should be kept. However, the PGT was concerned that some of the investments were quite risky, and should not be kept. Those investments were cashed in and the money was placed in John's PGT Account. There, the money continued to earn interest, but was no longer at risk.

e) Personal Property

Depending on the type of personal property you own, the PGT will help you look after it. If you own valuable jewellery, coin or stamp collections or art, the PGT may arrange for appraisals and insurance. In some cases, for a small fee, the items may be stored in a locked vault by the PGT. If you can no longer use these items, or want to sell them, the PGT will help you sell them. The money you receive will be deposited in your PGT Account.

If you own furniture and other household belongings that you can no longer use, the PGT will help you deal with them. You may wish to give them to someone, or you may wish to store them until a later date. The PGT will help you do that if you can afford to pay for commercial storage. Otherwise, arrangements may be made for the items to be sold at auction, with the money placed in your PGT Account.

Fred has decided to move out of his apartment, and into a smaller, furnished suite. He no longer needs most of his furniture. Fred wants to give his dining room suite to his cousin. He also wants to take his TV and computer with him to his new suite. On moving day, the PGT will arrange for movers to move the furniture. The dining room suite will be delivered to the cousin, and the TV, computer and Fred's clothing and personal items will be moved to his new suite. The items that can be sold will be taken to auction for sale. A few items that are too worn out to be sold will be thrown out.

f) Vehicles

If you own a vehicle, and will be continuing to use it, the PGT will make sure you have the proper insurance. If you can no longer use the vehicle, or want to sell it, the PGT will arrange for someone with experience selling vehicles to appraise it. It may then be sold through a dealer, at auction or in some cases privately. The money will be placed in your PGT Account.

g) Houses

If you live in your own house and will be staying there, the PGT will help you look after it. If you have enough money, the PGT will pay the bills from your PGT Account.

The PGT will make sure you have proper insurance on your house and belongings. The PGT has a special insurance policy for this. The premiums are paid directly from your PGT Account. The PGT will place this insurance on your home so that you are protected in case of fire, burglary or other insurable loss.

The PGT will help you with necessary maintenance and repairs, to the extent that you can afford them. For example, if you need a plumber or electrician, or something fixed in the house, the PGT will make those arrangements for you. The PGT may arrange for someone to cut your grass, shovel your walks or clean your house.

If the time comes when you wish to move, or for some reason can no longer live in your house, the PGT will work with you to decide what should be done with the house. In some cases, family members may continue to live there. This would only be done if you agree, and have enough money to cover the expenses for the house in addition to your own expenses. Or, the people who will live in the house might pay the bills or rent.

If the decision is made to sell the house, the PGT will arrange to have your belongings and furniture moved out and the sale arranged. The house will be appraised by a qualified appraiser or real estate agent. In most cases, the property will be listed with a real estate agent on the Multiple Listing Service. Once the property is sold, the money will be deposited into your PGT Account.

Andrea has lived in her own house in Winnipeg for 50 years. However, Andrea is now in the hospital, and will not be able to return to live in the house. She will be moving to a personal care home. Andrea had appointed the PGT to be her attorney in an Enduring Power of Attorney. The PGT will now help her to sell her house.

The PGT will arrange for Andrea's furniture and belongings to be moved out of the house. The items that she can't take with her to the personal care home will either be given to people according to her instructions, or will be sold.

The PGT will then arrange for an appraisal and opinion of value from a real estate agent. Then, the house will be listed for sale on the Multiple Listing Service. The PGT will review all the offers and will accept the best one. The money from the sale is first used to pay the expenses of the sale. The rest will be deposited into Andrea's PGT Account.

h) Farms

If you own a farm, the PGT will work with you to decide what to do with it. The PGT may arrange for a person experienced in farming to give advice on topics such as what to do with livestock, grain in bins, valuable farm machinery or leases to other people who are using the land. Sometimes farms stay in the family. In other cases, the farm is sold. The decision will be made based on your wishes, financial situation, family arrangements and your best interests.

i) Other Types of Real Estate

You may own vacant lots, a cottage or other types of land and buildings. The PGT will work with you to decide what should be done with these properties, and whether you will continue to use them. If not, they may be sold in the same way as houses are sold.

j) Other Assets

You may have or be entitled to assets other than those listed above. These might include:

- an interest in an estate of a deceased person;
- a legal claim against someone;
- a debt owed to you by someone; or
- an entitlement to a lump sum payment from an agency like Manitoba Public Insurance, Workers Compensation or Compensation for Victims of Crime.

The PGT will take the necessary steps to bring these assets in to be deposited into your PGT Account. If necessary, the PGT may use the services of a lawyer to help protect your interests. Any legal fees will be paid from your PGT Account.



2) Income and Benefits

In most cases, the PGT will redirect all your sources of income to your PGT Account. These may include:

- employment income;
- pension benefits;
- other social benefits, including Employment and Income Assistance, Rent Supplement and 55 Plus Benefits;
- income replacement or other periodic benefits payable by such agencies as Manitoba Public Insurance, Workers Compensation Board, Compensation for Victims of Crime or disability insurance benefits; and
- investment income.

If you are eligible for benefits but have not applied for them, the PGT will do so on your behalf. These might include:

- Pharmacare;
- health Insurance claims;
- Employment and Income Assistance, Rent Supplement, 55 Plus and other provincial benefits;
- Guaranteed Income Supplement;
- Veterans Allowances;
- Canada Pension Plan;
- Old Age Pension; or
- Employment Insurance.

Canada Revenue Agency will be asked for copies of your previous Income Tax Returns, and the PGT will prepare your Income Tax Return for you each year. Your refund, if any, will be deposited into your PGT Account.

Robert is 72 years old. One night when he was walking home from an evening out, he was assaulted and suffered a serious head injury. As a result, he was found to be incapable of managing his own affairs, and the PGT was appointed as his committee.

The PGT investigated the assault, and found out that someone was charged and convicted. The PGT made an application to Compensation for Victims of Crime. Robert was awarded compensation which was paid to the PGT, and used for Robert's benefit.

3. Expenses and Debts

Your ASA will work with you or your worker to create a budget for you. Each client's budget will be different, and will be based on particular circumstances. In making the budget, the ASA will consider your income, expenses, assets and lifestyle.

The PGT must use your money to:

- pay your bills, to the extent possible. This will include your food, shelter, utilities, clothing and other daily expenses;
- pay your taxes, if necessary;
- if possible, pay your debts. This might include credit card bills, bank loans, a mortgage or money owed to other people; and
- pay for any extras you may need or want, and can afford. These might include vacations, outings, or other extras beyond the basics.

The PGT must manage your money carefully with a view to meeting your immediate and long term needs. This might mean saving some of your money for a time when you will need it in the future.

The PGT is SDM for property of Jodie. Jodie is an active 24 year old, who likes to go out with her friends, buy nice clothes and occasionally eat in restaurants. She also likes to take an annual vacation to the lake with her friends.

Before the PGT was appointed as SDM, Jodie borrowed \$600 from her neighbour. She spent it on a vacation. She has not paid any of the money back. The neighbour is asking to be paid back. She will agree to payments of \$25 per month.

In addition to her room and board, Jodie receives Employment and Income Assistance benefits of \$230 per month to use for day to day expenses, clothing and extras.

The PGT worked with Jodie and her social worker to create the following monthly budget:

Clothing	\$ 50
Restaurant meals	\$ 25
Saving for vacation	\$ 25
Spending	\$ 50
Monthly payment towards debt	\$ 25
Saving for unexpected expenses	\$ 55
<hr/>	
Total	\$230

Because the budget includes an amount for savings, there is usually money available for unexpected emergencies.

4. Personal Decisions

When the PGT is committee or SDM with authority for personal care, it may have to make personal care decisions. Examples of the types of decisions the PGT may have to make include:

- deciding where or with whom a person will live;
- giving or refusing to give consent to medical or psychiatric treatment for a client who does not have capacity to make those decisions;
- deciding whether a Vulnerable Person should work or take part in educational or work related training, or social or recreational programs;
- representing the client in a legal claim or action that relates to personal rights, such as separation, custody or guardianship of the client's children, child protection matters or applications for Protection Orders against third parties; or
- making decisions about daily living, such as making sure the client receives support services in the community.

The PGT only makes personal decisions for clients when they do not have capacity to make the decision themselves, and the decision is necessary and in their best interests. Whenever possible, the PGT will seek the guidance of the clients and their support networks. For further information about how the PGT makes decisions for clients, please read *Chapter 6: How Does The PGT Make Decisions?*

The PGT is committee of Mona. She is married to Richard, but they separated six months ago due to Richard's abusive behaviour towards Mona. Mona is afraid of Richard, and doesn't want him to call her or have any contact with her. She asks her ASA to help protect her from Richard.

The PGT applies to court for a Protection Order for Mona. When the order is granted in court, it will mean that Richard can't have any contact with Mona. If he tries to call her or visit her, she will call the police, who will arrest Richard.

The PGT also works with Mona's Community Mental Health worker to help Mona find a new place to live so Richard won't be able to find her.

CHAPTER 6: HOW DOES THE PGT MAKE DECISIONS?

The PGT represents thousands of adult clients at any given time. You might wonder how the PGT can make important decisions for so many people, especially when PGT staff members don't know most of them very well or at all.

The main decision makers are the ASAs. In some cases, the ASAs must get help in decision making from their supervisors or managers. No matter who is involved in making the decision, they have several tools available to help them make the right decision.

The most important tools that are used to help make decisions for clients are laws such as *The Mental Health Act* and *The Vulnerable Persons Living with a Mental Disability Act*. These laws give guidance on what ASAs must think about when making certain types of decisions.

1. Considerations To Be Taken into Account

a) Personal Care Decisions

If the PGT is asked to make a personal care decision, it must consider:

- What are the client's wishes? If the ASA does not know, he or she must ask the client or the client's support network;
- If the ASA can't find out what the client's wishes are, he or she must try to find out the client's values or beliefs. For example, the client might have particular religious beliefs that would guide the ASA in making the decision; or
- If the ASA can't find out the wishes, values or beliefs, or can't follow them because to do so would be dangerous to the health or safety of the client or someone else, the ASA must make the decision based on the client's best interests.

The PGT is SDM for personal care of Brian. He lives in an apartment with two other men. Lately, Brian and one of the other men have not been getting along, and there have been many fights and arguments. Brian has told his ASA that he does not want to live in this apartment anymore, and wants to move to a place of his own.

The ASA knows that Brian has the money, but it will be more expensive for him to live alone. He also worries that Brian will be lonely on his own, and might not see his friends as often as he does now. However, Brian's wishes are clear, and the move will not put him or anyone else in danger. The ASA agrees that Brian should move to a new place, and helps him make arrangements to do so.

b) Is the PGT the Right Person to Make the Decision?

If a client needs health care decisions made, the PGT must ask the following questions:

- Is the client mentally capable of making the decision for him or herself? If so, the client will make the decision.
- If the client needs medical or psychiatric treatment and can't make the decision, did he or she make a valid health care directive before the PGT was appointed? If so, does the health care directive tell the PGT what decision the client would make? If so, that decision will be followed. Did the client name a person to make health care decisions (called a proxy)? If so, that is the person who will make the decision.
- Is the person a patient in a psychiatric facility? If so, the person's closest family member will be asked to make medical or psychiatric treatment decisions. Only if there is no close family member to make the decision will the PGT be asked to decide.

c) What Must the PGT Consider When Making a Health Care Decision?

If the PGT is the right person to make a health care decision for the client, the PGT must consider the following:

- Did the client express wishes about the treatment while mentally capable?
- What are the client's current wishes about the treatment?
- If the PGT cannot find out the client's wishes, or can't follow them because to do so would cause danger to the client's safety or physical or mental health or to another person, the PGT must make the decision that is in the client's best interests.

When the ASA is asked to make a health care decision for a client, he or she must speak to the doctor who is treating the client. The ASA must obtain as much information about the client and the proposed treatment as possible to make an informed and proper decision. The ASA must find out:

- whether the client's health will likely be improved by the treatment;
- whether the client's health will likely get worse without the treatment;
- whether the likely benefit to the client will be greater than the likely harm from the treatment; and
- whether the treatment is the least restrictive and least intrusive treatment available in the circumstances.

After getting all the information from the doctor, the ASA will either make the decision, or get advice from a supervisor about the decision. If the client has concerned family members, the ASA may ask the doctor to discuss the treatment with them. Sometimes, the ASA will talk to the family about the proposed treatment. The family's wishes are important, but might not be followed if the PGT does not agree that they are in the best interests of the client. The ASA will then tell the doctor what the decision is.

Janine is 54 years old and is a vulnerable person living with a mental disability. She has been in a wheelchair for a long time, and is becoming very frail. She communicates through an interpreter and by squeezing your hand or nodding her head. Janine understands English and sign language.

Lately, Janine has not been eating. Her doctor wants to put a tube into her stomach so her caregivers can feed her. The doctor has told Janine about the operation through her interpreter. He has told her that he thinks it is in her best interests to have the tube. He says she will feel better. However, the doctor is not sure that Janine understands enough to provide consent for the operation.

The doctor calls the PGT, who is Janine's SDM for personal care. He explains the operation to the ASA and also explains that he doesn't think Janine can consent on her own.

Janine has no family, and her caregivers do not know what she would want. The ASA arranges a meeting with Janine, her caregivers and her interpreter. They talk about the risks and benefits of having the surgery, and what might happen without it. Janine participates in the discussion as much as she is able. This helps the ASA come to a decision about what would be in Janine's best interests. She calls the doctor to let him know the decision.

d) Decisions about Property and Finances

When the PGT is appointed to make decisions about a client's property, it must do its job carefully and honestly. The PGT has the same authority to manage the property as the client would have if he or she was mentally capable.

The PGT will try to involve the client as much as possible in the financial decisions. However, the PGT cannot always follow the client's wishes if they are not in his or her best interests.

Barry loves cars. He does not have a driver's licence, and he has very little money, but all he wants in the world is his own car. Barry loves to go to car dealerships, talk to the salesmen, and if he can, make an offer on a car.

The PGT is Barry's committee. One day, Barry calls his ASA and asks for a cheque for \$10,000 as a down payment on the new car he bought at Harry's Used Cars. When the ASA investigates, he finds that Barry has entered into a contract to buy a used car for \$32,000. Barry does not have the money to pay for the car.

The ASA calls Harry's Used Cars and speaks to the salesman. He explains that Barry does not have the money to buy the car, and that he will not be going ahead with the deal. Barry is very disappointed, and complains that his wishes should be respected.

The ASA explains that he can not follow Barry's wishes because it is not in his best interests to do so.

2. Delegation of Authority

The PGT has thousands of adult clients. The ASAs cannot possibly meet with or get to know all of these clients well. As a result, the PGT has made arrangements with the Regional Health Authorities and the Department of Families to help the PGT make some decisions for clients. This is called delegation of authority.

If the PGT is committee for a person, it will delegate some decisions to the Regional Health Authority in the area where the client lives. For example, if a client lives in Winnipeg, authority will be delegated to the Winnipeg Regional Health Authority. If the PGT is SDM for a person living in the community, decisions will be delegated to the Department of Families.

A staff member for the delegated agency will be assigned, and will be in frequent contact with the ASA. The following table shows the types of decisions that are delegated, and the types of decisions that are always made by the PGT:

Delegated Decisions	Decisions Not Delegated
1. Help find a place for the client to live.	1. Managing client's financial affairs.
2. Help find day services.	2. Managing client's legal affairs.
3. Help client arrange for regular medical and dental appointments.	3. Consenting to medical or psychiatric treatment.
4. Help client plan for and arrange leisure activities.	4. Consenting to release of confidential information.
5. Arrange for necessary support services.	5. Decisions affecting the client's human rights.
6. Communicate directly with the client and support network.	
7. In the case of clients pursuant to <i>The Vulnerable Persons Living with a Mental Disability</i> , monitoring and helping with the management of clients' money in the community.	

Even though the PGT delegates some decisions to others, the PGT still takes responsibility for the decisions made. If a decision is difficult or controversial, the PGT will be involved in the decision making. If there is a disagreement about what decision should be made, the PGT will make the final decision.

CHAPTER 7: WHAT IF YOU DISAGREE WITH A DECISION OF THE PGT?

When the PGT is committee, it makes decisions about property and/or personal care if the client is not mentally capable of making those decisions. If the PGT is SDM, the Appointment Document tells the PGT what things it can make decisions about. Chapter 6 talks about how the PGT makes decisions.

The ASA is the front line decision maker and makes most of the decisions for clients. Whenever possible, the ASA will try to involve the client in the decision. Sometimes, the ASA must refer important decisions to a supervisor.

If you or your support network disagree with decisions made by the ASA, you should talk about it with the ASA. A meeting or telephone conversation might be the best way to deal with it. Sometimes, the best way to deal with a disagreement is to put the complaint in writing. The PGT's address is at the front of this booklet. The ASA will answer in writing.

If the disagreement with the ASA continues, the SAS may be able to help. However, if a meeting, telephone conversation or letter does not solve the problem, a letter should be sent to the Deputy PGT - Adult Services. The letter should clearly state the problem, and what you want to have happen. The Deputy PGT - Adult Services will look into it, and will answer the letter.

If the disagreement is not solved by the letter to the Deputy PGT - Adult Services, a letter may be sent to the PGT. The PGT will answer the letter. In the end, the decision will be made by the PGT.

If the PGT is attorney named in an EPA, the ASA will make decisions after talking about them with you. If you disagree with the ASA's decision, and can't resolve it, your decision will be followed. As long as you are mentally competent, you may cancel the EPA at any time. If the ASA can't follow your decision, the PGT also has the right to cancel the EPA. Before this happens, the PGT will try to resolve its differences with you.

Sometimes, disagreements can't be solved. If that is the case, you might wish to talk to a lawyer to find out what, if any, legal options are available to you.

Maureen is not happy with the amount of spending money she receives from her ASA each month. She thinks she should get \$200 per month, instead of the \$100 she now receives. Maureen phones her ASA, but the ASA says that \$100 per month is all she can afford.

Maureen decides to write a letter to the ASA's supervisor, the SAS. The SAS investigates the complaint. She agrees with the ASA that Maureen's budget is tight, and that she can't afford an extra \$100 per month for spending. However, the SAS thinks that Maureen can afford a smaller increase of \$30 per month. The SAS writes to Maureen and tells her she will get an extra \$30 for spending each month. Although Maureen would really like to get \$100 extra, she agrees to accept the \$30.

CHAPTER 8: HOW DOES THE PGT'S AUTHORITY END?

1. Order of Committeeship

An Order of Committeeship has no end date. The PGT's authority will end if:

- a client or family member who thinks that the PGT is no longer needed as committee arranges for the client to be examined by a doctor. This should be a psychiatrist, but does not have to be the same doctor or psychiatrist who completed the original Certificate of Incapacity. If the doctor or psychiatrist agrees that the client is now mentally capable of managing his or her own affairs, he or she will fill in a form and send it to The Director. If The Director agrees, he will cancel the Order of Committeeship.
- a client or family member applies to The Court of Queen's Bench for an Order cancelling the Order of Committeeship or appointing someone else to replace the PGT as committee. If the judge agrees, the Order of Committeeship will be cancelled, or another person will be appointed committee instead of the PGT.
- the client moves away from Manitoba, and a committee is appointed in the place where the client now lives; or
- the client dies. (For further information on what happens when a client of the PGT dies, see Chapter 9: *What Happens When a PGT Client Dies?*).

Norman is 28 years old, and was diagnosed with schizophrenia 5 years ago. One year ago, the PGT was appointed as his committee, because his illness was interfering with his ability to manage his own property. Since then, Norman's health has improved. He goes back to see his psychiatrist, who agrees that he is now mentally capable of managing his own affairs. The psychiatrist fills out the form that says that Norman is now capable and sends it to The Director. The Director is satisfied that Norman no longer needs the PGT's help, and cancels the Order of Committeeship.

2. Patients in Psychiatric Facilities

If the PGT is committee for a patient in a psychiatric facility, the PGT's authority usually ends when the patient is discharged. There are two exceptions:

- If the PGT is also committee by an Order of Committeeship, or SDM by an Appointment Document, the PGT will continue to act until the Order of Committeeship or Appointment ends.
- If the patient is discharged from the psychiatric facility on a Leave Certificate, the PGT will continue to act until the Certificate of Incapacity or the Leave Certificate is cancelled, whichever happens first.



The PGT's authority for patients in psychiatric facilities also ends when:

- the Mental Health Review Board reviews the patient's status, and decides to cancel the Certificate of Incompetence; or
- the client dies.

Barry is a patient in a psychiatric facility. The PGT was appointed to manage his affairs by a Certificate of Incompetence. Barry is ready to be discharged from the hospital. The doctor believes that he is able to manage his own affairs now. As a result, The Certificate of Incompetence will end when he leaves the hospital, and the PGT will no longer act as his committee.

3. Court Ordered Committeeship

If the PGT is appointed as committee by a court order, the authority ends when:

- a judge cancels the order and says that the client is able to manage his or her own affairs;
- a judge appoints someone else to act as committee for the client; or
- the client dies.

4. Appointment as SDM

When the PGT is SDM, the appointment is for a limited time, up to a maximum of five years. Before the end of each appointment, it is reviewed by The Commissioner. The Commissioner will decide whether the appointment should end, continue or be changed. Further information about The Commissioner's role can be obtained from the address on page 11 of this booklet.

The appointment will also end if:

- The Commissioner decides that it should end sooner than the end date shown on the Appointment Document. This could happen if someone, including the client, applies to The Commissioner to cancel the appointment;
- The Commissioner decides that someone else should be appointed SDM instead of the PGT;
- the client or support network disagrees with the appointment of the PGT as SDM and appeals the decision to The Court of Queen's Bench. If the judge agrees, the appointment will be cancelled, changed or someone else may be appointed as SDM; or
- the client dies.

The PGT is SDM for personal care and property for Jane. The appointment is for five years. However, after three years Jane and her support network believe that she has learned many new skills, including money management. Her support network is very involved and is willing to help her make decisions in her life. Jane's Community Services Worker helps her to fill out the papers to ask The Commissioner to cancel the appointment of the PGT as SDM. The Commissioner decides that the PGT's involvement is no longer necessary, and cancels the appointment.

5. What Happens When the PGT's Authority Ends?

When the PGT's authority ends, the client or his or her legal representative will receive a statement showing how the PGT has managed the client's property. It will show all the money received and paid out, and what is left. The client or legal representative will be asked to review the statement, and sign a paper called a release. The release says that the client is satisfied with the PGT's management of the property, and that no legal action will be taken against the PGT. The PGT will then pay the money to the client or legal representative, with any interest that has been earned.

If the client or legal representative has questions about the statement, the ASA will try to answer them. Usually, the questions are answered, and the release is signed. However, if the client or legal representative still do not want to sign the release, the PGT will arrange to pass accounts in court. This means that the PGT will apply to court for a review of the accounts and a decision as to whether or not they are proper. The client or legal representative will have an opportunity to go to court and raise their concerns. The court will then approve or not approve the PGT's accounts. The PGT will follow whatever directions are made, and the property will be returned to the client.

When the appointment of the PGT as SDM for Jane ends, the PGT sends her a statement and release. She reviews it with her support network. They ask the PGT some questions about some of the transactions. The ASA answers the questions, and Jane and her support network are satisfied. Jane signs the release, and her property is returned to her.



CHAPTER 9: WHAT HAPPENS WHEN A PGT CLIENT DIES?

When any person dies and leaves property, someone has to deal with it. After a person dies, his or her property is often referred to as the estate. If the person left a valid will naming an executor, the executor's job is to gather in the property and give it to the people named in the will. If there is no will, the person is said to have died intestate. In that case, Manitoba has a law called *The Intestate Succession Act*, which says that the property will be paid to the closest relatives.

If a client dies while the PGT is committee or SDM, the same rules apply as apply to anyone else. If the client had a will, the estate will be dealt with according to the will. If the client had no will, the law of Manitoba will say which relatives will receive the estate.

When the PGT is committee or SDM at the time of a client's death, the PGT may continue to manage the estate until a *personal representative* is appointed by The Court of Queen's Bench. The PGT may take control of property, pay bills and generally protect the estate. Once a personal representative is appointed, the PGT will provide an accounting and will ask the personal representative to sign a release. The PGT will transfer the estate property to the personal representative, who will be required to deal with it according to the terms of the will or Manitoba law.

The PGT became Joe's committee on June 1st, 2006. Joe lived in a personal care home. He made a will in 2003 naming his cousin, Frank, as executor. His will said that he wanted his estate to be divided equally between his three nieces.

When he died, Joe had \$50,000 in his PGT Account. He had some furniture in his room at the personal care home. Frank arranged the funeral at a cost of \$7000. At the time of his death, Joe owed \$400 to Canada Revenue Agency for income tax.

Frank agreed to apply to court for a Grant of Probate, the court order that allows an executor to deal with the property. The PGT and Frank knew that it would take at least a few weeks for the judge to sign the order. In the meantime, the PGT paid the funeral bill from Joe's account. It also arranged to store Joe's furniture until Frank could decide what to do with it. The PGT knew that Joe didn't have any debts except the one to Canada Revenue Agency. With Frank's agreement, the PGT paid that debt from Joe's account.

When Frank received the Grant of Probate, the PGT gave him an accounting of Joe's property. Frank signed a release, and the PGT paid what was left of the estate to Frank as executor of Joe's estate. It was then Frank's job to complete the administration of the estate, and pay any remaining money to the three nieces named in the will.

If a client dies without a will, the PGT will make a thorough search to find out if there are any relatives in Manitoba who are willing, suitable or able to handle the estate as administrator. If so, the PGT will ask that person to apply for a court order naming him or her as administrator. The PGT will then work with the administrator in much the same way as with an executor.

If there is no executor named in a will, or no one willing, able or suitable to act as personal representative, the PGT might apply to court to be appointed. If appointed, the PGT will administer the estate and pay the property to whomever the law says is entitled to receive it.

Sometimes, a client has more debt than property at the time of death. If the estate has enough money to pay for the funeral, the PGT will pay for it first, followed by any expenses related to the administration of the estate. Then, the PGT will find out who the client owed money to, and will pay the remaining property to those people. If there isn't enough money to pay everyone in full, each will receive a portion of the amount owed.

Linda was 53 years old when she died. The PGT had been her SDM for 3 years at the time of her death. Linda had \$7000 in her PGT account. She also owed \$100 to VISA and \$100 to her neighbour. Her funeral cost \$6500. The PGT paid the funeral account of \$6500. The PGT was owed \$300 for fees, which it paid. The rest of the money was used to pay the debts, leaving no money to pay to relatives.



CHAPTER 10: HOW DOES THE PGT CHARGE FEES?

Fee Pamphlet

The PGT is a Special Operating Agency of Government (SOA). It does not receive any money from government. Instead, it charges fees to the clients it serves. These fees pay all the expenses for the office, including salaries, rent, equipment and other office expenses. With this booklet, you will have received an up to date pamphlet showing the PGT's fees. You may also find the pamphlet on the PGT's website (<http://www.gov.mb.ca/publictrustee/>) or by calling (204) 945-2700 and asking for a copy.

Types of Fees

1. Percentage Fees

Most fees are calculated as a percentage of the value of the money received or paid out for a client, or as a percentage of the value of property. Please see the fee pamphlet for further information on these fees.

2. Hourly Fees

Some fees are charged on an hourly rate for services performed. Examples of these types of fees are:

- **Income Tax Fees:** The PGT does basic income tax returns for clients for a set fee. Additional fees are charged on an hourly basis if a tax return is complex.
- **Legal fees:** If one of the PGT's lawyers provides legal services for a client, fees may be charged to the client on an hourly basis.
- **Investigation Service Fees:** The PGT employs investigators who provide services for clients. Some examples of these services are shopping, securing homes or apartments, delivering items to clients and selling clients' belongings. Investigators charge fees on an hourly basis. There is also a lower fee charged for travel time.

3. Set Amount Fees

The PGT charges some fees as a set amount, rather than on an hourly or percentage basis. Some examples of these fees are:

- **Per diem appeal fee:** Clients who live in personal care homes pay a daily amount or "per diem" to the home. This amount is based on the client's yearly income. Sometimes, the amount that is charged is higher than it should be. In those cases, the PGT will appeal the amount for the client. This often results in a decrease in the amount paid to personal care home. The PGT charges a fee for appealing the rate. In most cases, the appeal results in a saving for the client that is greater than the fee charged by the PGT.

- **File closing fee for clients who have died:** When a client dies, the PGT continues to look after the property until a personal representative is appointed, or the account is closed. (See *Chapter 9: What Happens When a PGT Client Dies?*). This work is in addition to the PGT's regular duties. It often involves looking for relatives, dealing with the funeral expenses and transferring the property to the people who are entitled to receive it. When the PGT closes the account, an extra fee is charged for the extra work involved.

All fees are subject to Goods and Services Tax. If you have questions about the fees charged to your account, please speak to your ASA.

Clients Who Do Not Pay Fees

Some of the PGT's clients do not pay percentage fees. They are:

- **Clients who receive benefits from Employment and Income Assistance (EIA).** EIA pays the fees. Fees are not deducted from the clients' accounts.
- **Clients who fall within the jurisdiction of Indigenous and Northern Affairs Canada (INAC).** Mentally incompetent clients who are "ordinarily resident" on a Reserve fall within the jurisdiction of INAC. The PGT has an agreement with INAC to provide services to these clients. In return, INAC pays the clients' fees. Their fees are not deducted from their accounts.
- **Clients for whom the PGT acts only as SDM for personal care.** No fees are charged to these clients.



DEFINITIONS

(Note: These definitions are for the purpose of this booklet only, and may vary somewhat from other definitions of the same word or phrase).

Accounting: A written statement showing the money and property received, paid out and managed by one person for another. It should include a list of the property at the beginning and end of the time period in question. It should also include details of the property, the money received and money paid out.

Administrator: A person appointed to handle the estate of someone who has died without a will, or who has not named an executor in the will.

Adult Services Administrators (ASAs): Employees of the PGT of Manitoba who manage the personal and financial affairs of the PGT's adult clients.

Appointment Document: A document issued under *The Vulnerable Persons Living with a Mental Disability Act*. It is completed and signed by The Vulnerable Persons' Commissioner, and appoints a substitute decision maker for a Vulnerable Person. It sets out the types of authority the SDM has, and how long the authority will last.

ASA: See *Adult Services Administrator*

Attorney: A person named by a donor in a power of attorney to manage some or all of the donor's property.

Certificate of Incapacity: A document issued under *The Mental Health Act*. It is completed and signed by a doctor and declares that a person is mentally incapable of managing his or her affairs.

Certificate of Incompetence to Manage Property: A document issued under *The Mental Health Act*. It is completed and signed by a doctor for a patient in a psychiatric facility and declares that the patient is not mentally capable of managing property.

Certificate of Incompetence to Make Treatment Decisions: A document issued under *The Mental Health Act*. It is completed and signed by a doctor for a patient in a psychiatric facility and declares that the patient is not mentally capable of making treatment decisions.

Clients: Adults for whom the PGT acts as committee, SDM or attorney named in an enduring power of attorney.

Commissioner: See *Vulnerable Persons Commissioner*

Committee: One or more people, including the PGT, who are appointed by The Court of Queen's Bench or through *The Mental Health Act* to make personal and/or financial decisions for a person who has been declared mentally incapable of managing his/her own affairs.

Delegate: When a person, including the PGT, gives some of its authority to someone else. The PGT delegates some of its authority to Regional Health Authorities or The Department of Family Services. The PGT remains responsible for all decisions made by the delegated authority.

Delegation of Authority: The document by which the PGT delegates some of its authority to someone else, including Regional Health Authorities or The Department of Family Services.

Director: See *Director of Psychiatric Services*

Director of Psychiatric Services (Director): A psychiatrist appointed under *The Mental Health Act*. One of his duties is to consider applications for Orders of Committeeship, and when appropriate, appoint the PGT as committee for people who have been found mentally incapable of managing their own affairs. He may also cancel an Order of Committeeship when satisfied that the person has regained the mental capacity to manage his/her own affairs.

Donor: A person who signs a power of attorney or a health care directive.

Emergency Substitute Decision Maker (Emergency SDM): A SDM appointed without notice by The Vulnerable Persons Commissioner on an emergency basis for a short period of time.

Enduring Power of Attorney (EPA): A type of Power of Attorney that contains a clause that says that the authority of the named attorney will continue even if the donor later becomes mentally incapable of managing his/her own affairs.

EPA: See *Enduring Power of Attorney*

Estate: All of the property of a deceased person.

Estate Officers: Employees of the PGT of Manitoba who manage the estates of people who have died in Manitoba and do not have anyone else willing, able or suitable to administer their estates.

Executor: A person named in a will to administer the estate of a deceased person.

Grant of Probate: The court order that confirms the authority of an executor to administer an estate.

Health Care Directive: A written document that states the donor's preferences as to the type of medical care he or she would or would not want to receive, and/or names a proxy to make medical decisions for the donor.

Intestate: When a person dies without a will.

Investigators: Employees of the PGT of Manitoba who provide services to clients in the community. Such services include doing searches and inventories, purchasing items for clients, delivering items, arranging for sale or disposition of items or arranging for appraisals of valuable items.

Leave Certificate: A certificate signed by a psychiatrist for a patient in a psychiatric facility. It allows the patient to live outside the psychiatric facility while receiving treatment. It may contain details of the type of treatment the patient will continue to receive, and the conditions with which the patient must comply while the certificate is in effect.

Legal Representative: A committee, SDM or attorney with authority to make decisions for a person.

Ombudsman: An office where people can complain about decisions by the Government of Manitoba, including the PGT. The Ombudsman is not part of the Government of Manitoba, but will review the complaint and make a recommendation. The Ombudsman is not an advocate.

Order of Committeeship: An order issued by The Director of Psychiatric Services appointing the PGT of Manitoba as committee for property and personal care of a mentally incompetent person.

PA: See *Power of Attorney*

Pass Accounts: When a legal representative, including the PGT, accounts to The Court of Queen's Bench for its management of a person's financial affairs.

Personal Representative: The person, including an executor or administrator, who administers the estate of a deceased person pursuant to a court order.

Power of Attorney (PA): A document in writing signed by a donor naming an attorney to manage some or all of the donor's financial affairs.

Property: Anything owned by a client, including land, buildings, money, investments, furniture, art, jewellery, cars etc.

Proxy: A person named in a Health Care Directive to make health care decisions for the donor.

Psychiatric Facilities: Psychiatric hospitals or wards of a hospital specifically designated to provide psychiatric treatment. Examples are Selkirk Mental Health Centre, Eden Mental Health Centre, and the psychiatric units of general hospitals.

Release: A document signed by one person in favour of another that says that the person signing is satisfied with the accounting and money received, and will take no further action against the person who managed the money for him.

Review Board: A board created under The Mental Health Act. One of its functions is to hear applications by patients in psychiatric facilities who do not agree with the appointment of the PGT to make treatment decisions or manage their financial affairs while they are in the facility.

SDM: *See Substitute Decision Maker*

Search and Inventory: An activity of PGT Investigators when they search a client's home to list the contents for insurance purposes and protect valuable items. This may be done by securing the home, or placing some items in storage or safekeeping.

Substitute Decision Maker (SDM): A person or persons, including the PGT, appointed by The Vulnerable Persons Commissioner to make decisions about the property and/or personal care of a Vulnerable Person.

Support Networks: One or more people who provide advice, support or assistance to a vulnerable person or a client of the PGT. A support network may include family members or friends chosen by the person.

Vulnerable Person: An adult who meets the definition of a Vulnerable Person in *The Vulnerable Persons Living with a Mental Disability Act*, that is: an adult living with a mental disability who is in need of assistance to meet his or her basic needs with regard to personal care or management of his or her property.

Vulnerable Persons Commissioner (Commissioner): A person appointed under *The Vulnerable Persons Living with a Mental Disability Act*. One of her jobs is to appoint SDM, including the PGT when appropriate. The Commissioner also reviews SDM appointments, and varies and cancels them when necessary.

Will: A document in writing signed by a person (called a testator) to deal with the testator's property after his/her death. The testator may name an executor to administer the estate, and may set out what is to happen to property after his death.