

Question 7

Department of Justice

Hon Nick Goiran asked:

Is the new practice standard that has been put in place by the Office of the Public Advocate following the Ombudsman's report to inform families after a death publicly available?

Answer:

The current Office of the Public Advocate's Practice Standard: Notification to Key Parties on the Death of a Represented Person is provided for the Hon Member's information.

A handwritten signature in black ink, appearing to be 'N. Goiran', located in the lower right quadrant of the page.

# Office of the Public Advocate

## Practice Standard

<b>Notification to Key Parties on the Death of a Represented Person</b>	<b>Version:</b> 3 2 November 2021	<b>Approved:</b> Public Advocate
	<b>Contact Officer:</b> Managers Guardianship	<b>1st Approval date:</b> 11 March 2021
	<b>Review Date:</b> November 2022	<b>Last Amended:</b> 8 July 2021
	<b>Distribution:</b> Senior Guardians, Guardians	<b>Distribution Date:</b> 2 November 2021

### Amendments

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Section</b>	<b>Summary</b>
1	11/03/2021	Sarah Keenan Senior Policy Officer	All	Original
2	8/07/2021	Sarah Keenan	2, 3, 4 & 6	Amended to reflect the July 2021 Ombudsman's Report Recommendations <sup>1</sup>
3	1/11/2021	Kylie Keenan A/Senior Policy Officer	3 & 4	<ul style="list-style-type: none"> <li>• Minor edits to remove repetition.</li> <li>• Additional information regarding Police Coronial Unit involvement.</li> <li>• Clarification of notification regarding unsuccessful contact to Public Advocate only after 10pm.</li> </ul>

This practice standard details the specific actions a delegated guardian undertakes to notify key interested parties of the death of a represented person when the Public Advocate has been appointed either plenary guardian or limited guardian.

This practice standard should be read in conjunction with those practice standards and documents identified under **Relevant Legislation/Policy**.

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<sup>1</sup> Ombudsman Western Australia Report: An investigation into the Office of the Public Advocate's role in notifying the families of Mrs Joyce Savage, Mr Robert Ayling and Mr Kenneth Hartley of the deaths of Mrs Savage, Mr Ayling and Mr Hartley, published 8 July 2021.

## 1. Definitions

**“Delegated guardian”**: a person delegated by the Public Advocate pursuant to Section 95 of the *Guardianship and Administration Act (1990)* (the Act) to carry out the functions of a guardian.

**“Guardianship and Administration Act 1990”**: an Act to provide for the guardianship of adults who need assistance in their personal affairs ... to provide for the appointment of a public officer with certain functions relative to thereto, to provide for enduring powers of attorney, enduring powers of guardianship and advance health directives, and for connected purposes.

**“Key Interested Parties”**: people who played a significant role in a represented person’s life. This could include family members, including family members who have minimal contact, close personal contacts, aged care facilities and/or service providers.

**“Represented person”**: means any person in respect of whom:

- a guardianship order is in force;
- an administration order is in force; or
- both a guardianship order and an administration order are in force.

## 2. Position statement

The Public Advocate maintains a contact service 24 hours a day, seven days a week, as decisions need to be made during office hours (Monday to Friday, 8.30am to 4.30pm) and after-hours including weekends and public holidays.

The Office of the Public Advocate is required to be contactable 24 hours a day, seven days a week in relation to urgent matters, including parties notifying the Office of the death of a represented person.

The Office has a responsibility to act on such notification in an urgent manner, as it is a high priority to ensure that family and other key parties of a represented person are notified of their death. All reasonable measures are to be taken to ensure this notification is provided in a timely manner.

### 3. Scope

When the State Administrative Tribunal appoints the Public Advocate as plenary guardian or limited guardian the guardian is responsible for ensuring family and key parties are advised of the death of the represented person.

This practice standard provides the steps that must be taken when a represented person dies. A checklist forms part of the Practice Standard to assist guardians in completing this task.

The completed and signed checklist is to be provided to the guardian's line manager, the Manager Guardianship or the Senior Guardian, and scanned into the OPA reports folder on PACMAN and placed on the physical file, before the file is closed.

It is preferable that the process outlined is undertaken by the delegated guardian, however in their absence the Senior Guardian/Manager Guardianship will allocate the task to the duty guardian or another guardian.

### 4. Process

#### 4.1. Notification of death received

Where a call or email is received from a facility, hospital, or other party regarding the death of a represented person, the guardian must, as a **high priority** alongside other urgent decisions, take action to notify the family of the death.

During business hours, calls and emails received advising of the death of a represented person are to be passed on to the delegated guardian. In the delegated guardian's absence, the notification is to be passed on to the duty guardian and copied to the delegated guardian's Senior Guardian or relevant Manager Guardianship, where the delegated guardian is a Senior Guardian.

Where the duty guardian is unable to undertake the actions required due to work load, the duty guardian is to promptly send an email to [OPARPDDeath@justice.wa.gov.au](mailto:OPARPDDeath@justice.wa.gov.au) for follow-up.

Where the after-hours on-call service is notified of the death, the on-call guardian must undertake every reasonable endeavour to notify key family members, as per the mandatory functions set out in part 4.3 below.

Where the Police Coronial Unit are involved and have indicated to this Office that they will notify the next of kin, notification by this Office must still occur, however the delegated guardian must wait until after the next of kin has been notified by Police.

When notifications are received from medical practitioners, aged care facilities or service providers that a represented person has died, the guardian receiving the call or email is to confirm with the person giving the notice of death whether anyone has been notified of the death, and if so, who has been informed and when.

## 4.2 Mandatory functions to be undertaken during office hours

### 4.2.1 Inform key interested parties

On receipt of a notification of death, by whatever means, the delegated guardian must:

- Obtain the full name and contact details of the person advising of the death, noting the time of the notice.
- Confirm with the person whether family and other key parties have been advised of the death; who was informed, when they were informed (date and time) and how they were informed (telephone call, in attendance, email).
- Confirm contact details for key interested parties with the caller and then contact key interested parties if not already notified.
- If not already notified, make every reasonable endeavour to contact family and other key parties as a matter of **high priority** alongside other urgent decisions, record the time and date of contact and whether a message was left and enter into PACMAN. (Note: if the Police Coronial Unit are notifying next of kin, notification by this Office needs to occur after the Police notification.)
- If key family are already aware of the death, the delegated guardian should endeavour to make contact with key family members on the same business day.
- Contact aged care facilities and/or service providers if not already notified, record the time and date and enter into PACMAN.
- Utilise all phone numbers of which OPA are, or become, aware until family are contacted.
- Where a current and in service phone number is not available, contact the Public Trustee (where the PTO is appointed) or any relevant agency or place of care, including the residence of the represented person, treating hospital and any other relevant care facility to obtain a contact number for family.
- If it is not possible to make contact with a key family member, after making every reasonable endeavour - record the date and time contact was attempted and notify Manager Guardianship and the Public Advocate promptly who will advise if follow-up action is required.
- Send advice to the State Administrative Tribunal and the Public Trustee, if the appointed administrator, of the death of the represented person.
- Complete Deceased Represented Person Notification Checklist, which is a template on PACMAN. This will be automatically saved in OPA Reports.
- Update PACMAN – Person and Casework details.
- Place a hard copy of the Deceased Represented Person Notification Checklist on the file for closure.
- Senior Guardian or Manager Guardianship to sign, scan and upload a copy to OPA Reports on PACMAN.

### 4.3 Mandatory functions to be undertaken by the on-call guardian

On receipt of a notification of death after hours, via the On-Call service, the on-call guardian must:

- Call the notifier and establish who has been informed of the represented person's death.
- Record on the On-Call Record Sheet the full name and contact details of the caller, and the date and time of the call.
- Enquire and record on the On-Call Record Sheet whether key interested parties have been informed of the death; who was informed, when were they informed (date and time) and how were they informed (telephone call, present, email).
- Establish contact details for key interested parties and whether there is a lead family member who will advise other family members and any close contacts.
- Where there is conflict within a family, clarify which family members and close contacts will be contacted by the lead family member and who will need to be contacted by the on-call guardian.
- Make every reasonable endeavour to contact the lead family member and other family as required, regardless of the time, except where family members have recently indicated a preference to only be contacted regarding the death of their family member during the day.
- Utilise all phone numbers of which OPA are aware of, or become aware of, until family are contacted.
- Where a current and in-service phone number for family is not available, contact any relevant agency or place of care, including the residence of the represented person, treating hospital and any other relevant care facility to obtain a contact number for family.
- Contact aged care facilities and service providers if not already informed and record on the On-Call Record Sheet.
- Record on the On-Call Record Sheet the date, time and any message received or left, if contact with key interested parties is unsuccessful.
- Where contact with a key family member is unsuccessful, notify the On-Call Manager promptly, who will advise if follow-up action required. (Note: where this occurs between 10pm and 8.30am, only the Public Advocate is be notified, as the Public Advocate is the On-Call Manager during this time).
- Email a copy of the On-Call Record Sheet to the delegated guardian and copy to the Senior Guardian or, if the delegated guardian is a Senior Guardian, copy to the relevant Manager Guardianship.
- Provide a hard copy of the On-Call Record Sheet to the delegated guardian on the next working day after on-call.

## 5. Checklist: Notification to Key Parties on the Death of a Represented Person

The Notification of Death Checklist is a tool to assist guardians in the Office of the Public Advocate in providing advice to the Public Advocate when a notification of death has been received for a represented person.

Complete the checklist with reference to the Office of the Public Advocate Practice Standard - Notification to Key Parties on the Death of a Represented Person.

The checklist can be commenced by the delegated guardian, duty guardian, on-call guardian, Senior Guardian or Manager Guardianship, collecting the information of who is notifying our office, their relationship to the represented person, and date of death. The checklist is then to be completed by the delegated guardian for submission to the Senior Guardian or Manager Guardianship for signing and uploading to PACMAN OPA Reports folder prior to closing file. (See Attachment 1.)

## 6. Relevant legislation/policy

This Practice Standard should be read in conjunction with:

- *Guardianship and Administration Act 1990*
- Office of the Public Advocate Practice Standard - Delegated Authority for Guardians and Administrators
- Office of the Public Advocate Practice Standard - Guardianship Practice
- Office of the Public Advocate Practice Standard - End of Life Care Decision Making for Represented Persons
- Office of the Public Advocate Practice Standard – After-hours Calls.

**Attachment 1:**

**NOTIFICATION OF DEATH OF A REPRESENTED PERSON  
INTERNAL FORM**

Represented Person's name: \_\_\_\_\_

Delegated Guardian: \_\_\_\_\_

Information recipient and date notified:

\_\_\_\_\_  
(Name) (Date)

Title: Guardian, Duty Guardian, On-Call Guardian, Senior Guardian, Manager Guardianship  
(strike through not appropriate titles)

Date of death:  
(dd/mm/yyyy) \_\_\_\_\_

Notified by:  
(Write full name and position if caller is from an Organisation) \_\_\_\_\_

Information source:  Telephone \_\_\_\_\_ (Number)  
 In person  
 In writing (attach copy to form)

Relationship to Represented Person: \_\_\_\_\_

**ACTION CHECKLIST - to be completed by delegated guardian**

Key Parties Notified  \_\_\_\_\_ (Date completed)

"Key Interested Parties": people who played a significant role in a represented person's life. This includes family members, including family members who have had minimal contact, close personal contacts, aged care facilities and/or service providers.

Who have you called – Full name	Title/Position/Relation to RP	Date and time completed

SAT Notified  Date completed - \_\_\_\_\_  
PTO Notified  Date completed - \_\_\_\_\_  
PACMAN updated  Date completed - \_\_\_\_\_  
(Person Details and Casework)

**Hard copy must be printed and given to Senior or Manager for signing and placing on hard file.**

Senior Guardian or Manager Guardianship \_\_\_\_\_ (Name) \_\_\_\_\_ (Date)  
\_\_\_\_\_  
(Signature)