

SOCIAL ISSUES COMMITTEE

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Response to question on notice to IDRS – 29 September 2009

Some of the guardianship statutes across Australia spell out the duties and responsibilities of guardians, and, in some cases, provide for penalties¹ and compensation² for breaching those duties and responsibilities. The duties made explicit in some statutes are:

- a duty to act in the best interests of the person³;
- a duty of confidentiality⁴;
- a duty to act honestly and with reasonable diligence⁵;
- a duty to act as directed by the terms of a tribunal, panel, board or court's order⁶, and
- a duty to avoid situations or transactions that would give rise to a conflict of interest⁷.

A guardian can be removed for breaching these duties, failing to act or other misconduct.

¹ For example, ss35 and 36 Qld Act.

² For example, s59 Qld Act.

³ For example, s20(1) NT Act.

⁴ For example, s80 SA Act and s113 WA Act.

⁵ For example, s35 Qld Act.

⁶ For example, s36 Qld Act.

⁷ For example, s37 Qld Act.