



Presidential Direction No 2. of 2007

**Approval of financial management plans prepared by administrators appointed
under section 245 of the *Guardianship and Administration Act 2000***

1. Introduction

Administrators can be appointed by the Supreme and Districts Courts pursuant to section 245 of the *Guardianship and Administration Act 2000* (the Act). The Courts are required pursuant to section 245 of the Act to provide to the Tribunal a copy of all orders appointing an administrator.

These orders generally appoint professional trustee companies or The Public Trustee of Queensland as administrator for indefinite duration. Presidential Direction 1 of 2004 provides the process by which these indefinite appointments are randomly reviewed. During the review process, the Tribunal reviews all aspects of the conduct of the administrator including compliance with the General Principles and with the administrator's statutory obligations since the date of the administrator's appointment.

In a number of cases in which large damages awards have been made in favour of an adult with impaired capacity, the adult or the adult's family has requested that the Tribunal conduct a review of the appointment of a professional administrator outside the random review process provided in Presidential Direction 1 of 2004 due to the breakdown of the relationship with the administrator. By conducting these requested reviews the Tribunal has become aware that many of the difficulties in the relationship between the adult and administrator had developed from a misalignment of the expectations of the adult as to access to funds with the measures put in place by the administrator to manage the adult's funds over the long term.

The Tribunal has determined that shortly after the Court has appointed an administrator a process will commence within the Tribunal to schedule a hearing when the Tribunal can consider the measures that an administrator proposes to implement to manage the adult's funds. A description of these measures is contained in the financial management plan that an administrator is required to prepare under section 20 of the Act.

2. Process to consider financial management plans prepared under section 20 of the Act

Pursuant to sections 100 and 110 of the Act, it is directed that the following process will be implemented to consider financial management plans provided to the Tribunal under section 20 of the Act.

Unless stated in the court order the Tribunal's Registry will write to the administrator requiring that a financial management plan is provided to the Tribunal within 60 days.

After the financial management plan has been received by the Registry, in cases where the funds managed by the administrator are \$750,000 or more (not including the value of a principal place of residence for the adult purchased with part of the funds under management), written notice will be given to the administrator, to the adult and to any other person required to receive notice by section 118(1) of the Act of the date of hearing when the Tribunal will consider the suitability of the financial management plan.

At the hearing the Tribunal

- will consider the suitability of the financial management plan.
- will direct the administrator to provide accounts of administration as per PD 1/2007,
- will appoint an examiner of the administrator's accounts,
- can approve conflict transactions and
- can direct the process by which disputes are to be resolved.

As The Public Trustee of Queensland under section 118(1) of the Act has the right to be informed of all hearings being conducted by the Tribunal and is an active party in proceedings in relation to an adult, a representative of The Public Trustee of Queensland can attend hearings in cases where the administrator is a private trustee company. In cases in which The Public Trustee of Queensland has indicated an intention for its representative to appear at the hearing, the Tribunal will provide a copy of the financial management plan to The Public Trustee of Queensland prior to the hearing.

In cases where The Public Trustee of Queensland is the administrator, the Tribunal may consider it appropriate on occasions to give notice of the hearing to a private trustee company under section 118(1) of the Act so the Tribunal can be provided with input from a private trustee company into specialised aspects of the financial management plan developed by The Public Trustee of Queensland. In such cases, the Tribunal will make the private trustee company an active party to the proceeding under section 119 of the Act and will provide a copy of the financial management plan to that trustee company prior to the hearing.

In cases where the funds managed by the administrator are less than \$750,000 (not including the value of a principal place of residence for the adult purchased with part of the funds under management), the financial management plan will be considered by the Tribunal on the papers without a formal hearing.

Susan Gardiner
President