

TASMANIA
LAW REFORM
INSTITUTE

**Guardianship and Administration Act
Review**



How to use this paper



This paper is written in an easy to read way.

We use pictures to explain some ideas.

Some words are written in **blue**. We explain what these words mean.



You can ask someone to help you read this paper.

Maybe a friend, family member, support person or advocate.



This easy read paper is a short version of a bigger paper.



You can find the bigger paper on our website at

www.utas.edu.au/law-reform

What is this about?

TASMANIA LAW REFORM INSTITUTE

The Tasmania Law Reform Institute is an organisation that looks at Tasmanian laws.

They make sure laws are

- up-to-date
- needed
- fair
- work well.



They are [reviewing](#) the [Guardianship and Administration Act 1995 \(Tas\)](#)

An Act is a law.



[Reviewing](#) means they are having a close look at it.

They want to make sure the law is fair and is right for the community.



The review wants to find out

- what is good about the law now
- what needs to be changed.



There are 15 Easy Read chapters to help you understand the Act.



There are questions at the end of each part so you can have your say.

Who is the Act for?



The Guardianship and Administration Act is for

- people with disability, their families and carers
- anyone in Tasmania who wants to plan ahead for the future
- anyone who needs medical or dental treatment and can't give consent.

What does the Act do?



The Guardianship and Administration Board is a special organisation set up under Tasmanian law.

It is also known as the Board



The Board helps Tasmanians with disability who have trouble making their own decisions.



They decide if a person needs someone to make personal or financial decisions for them.

The Act makes it legal for the Board to appoint **guardians** and **administrators** if people need them.

How can I have my say?



You can answer as many questions as you like.



Send your answers to

Tasmania Law Reform Institute
Private Bag 89
Hobart, TAS 7001



If you have any questions Kate can help.

Mrs Kate Hanslow

(03) 622 621 92



Kate.Hanslow@utas.edu.au.

You can make an appointment to meet with Kate to talk about your ideas.

We might share what you tell us:



- on our website;

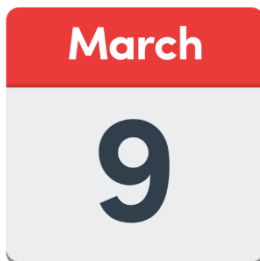


- in a report.



If you don't want us to share what you say, please tell us.

We will respect your privacy.

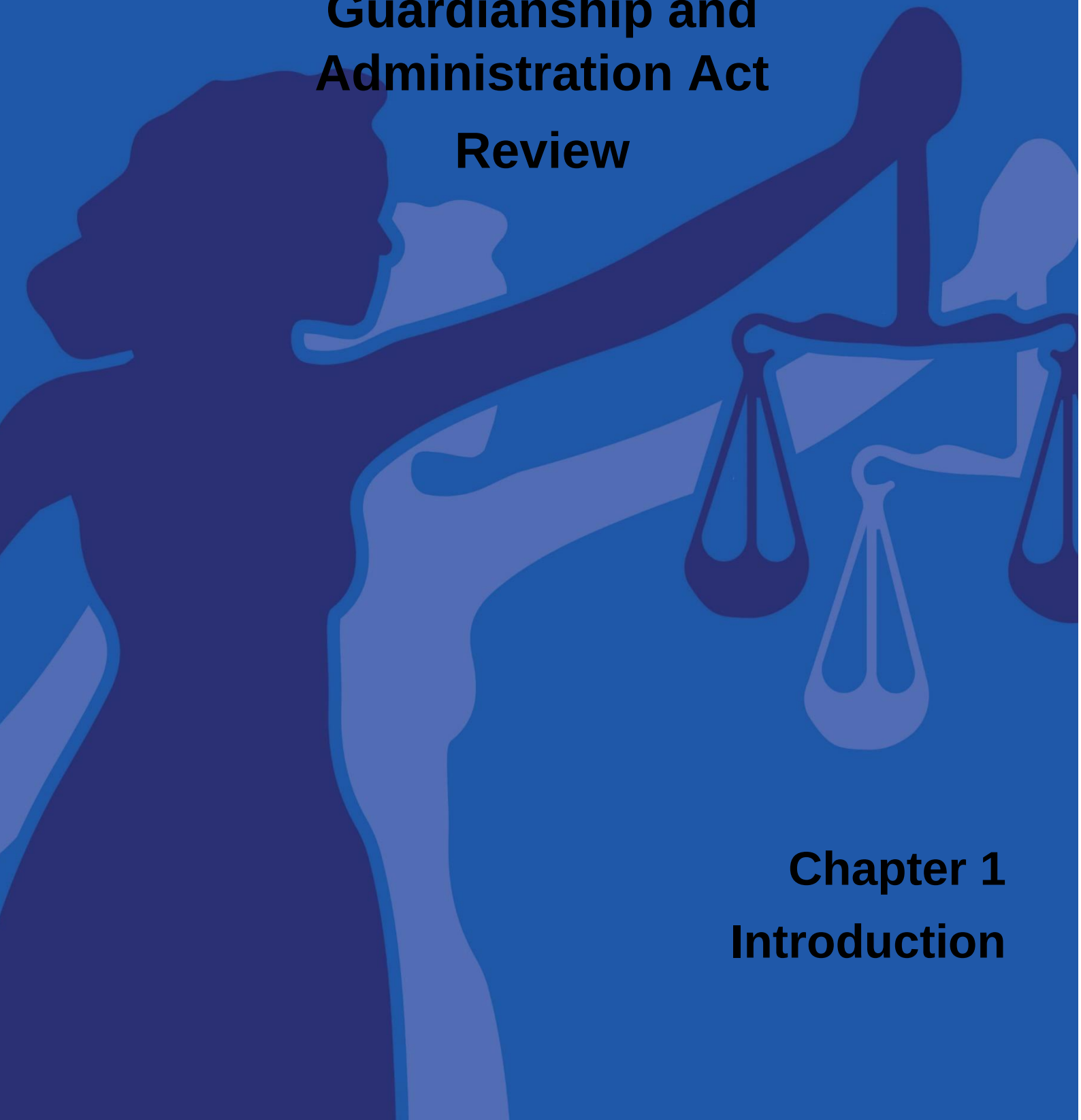


We must have your answers by
9 March 2018

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**Guardianship and
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Chapter 1
Introduction



Chapter 1: Introduction



This part looks at how the [UN Convention on the Rights of Persons with Disabilities](#) needs us to change.

We call it the [Convention](#) for short.



The [Convention](#) is a set of rules that countries should follow.

It says:



- People with disability have the same rights as everyone else.
- They should not be treated differently because of their disability.
- People with disability have the right to make their own decisions and have support to make decisions.





- When others make a decision for someone with a disability they must respect the person's rights and wishes.



- People with disability should be safe and free from abuse, violence and neglect.



Australia is changing their laws and how they do things to fit with the Convention.

The Tasmanian Guardianship and Administration Act should stick up for the rights of people with disability.

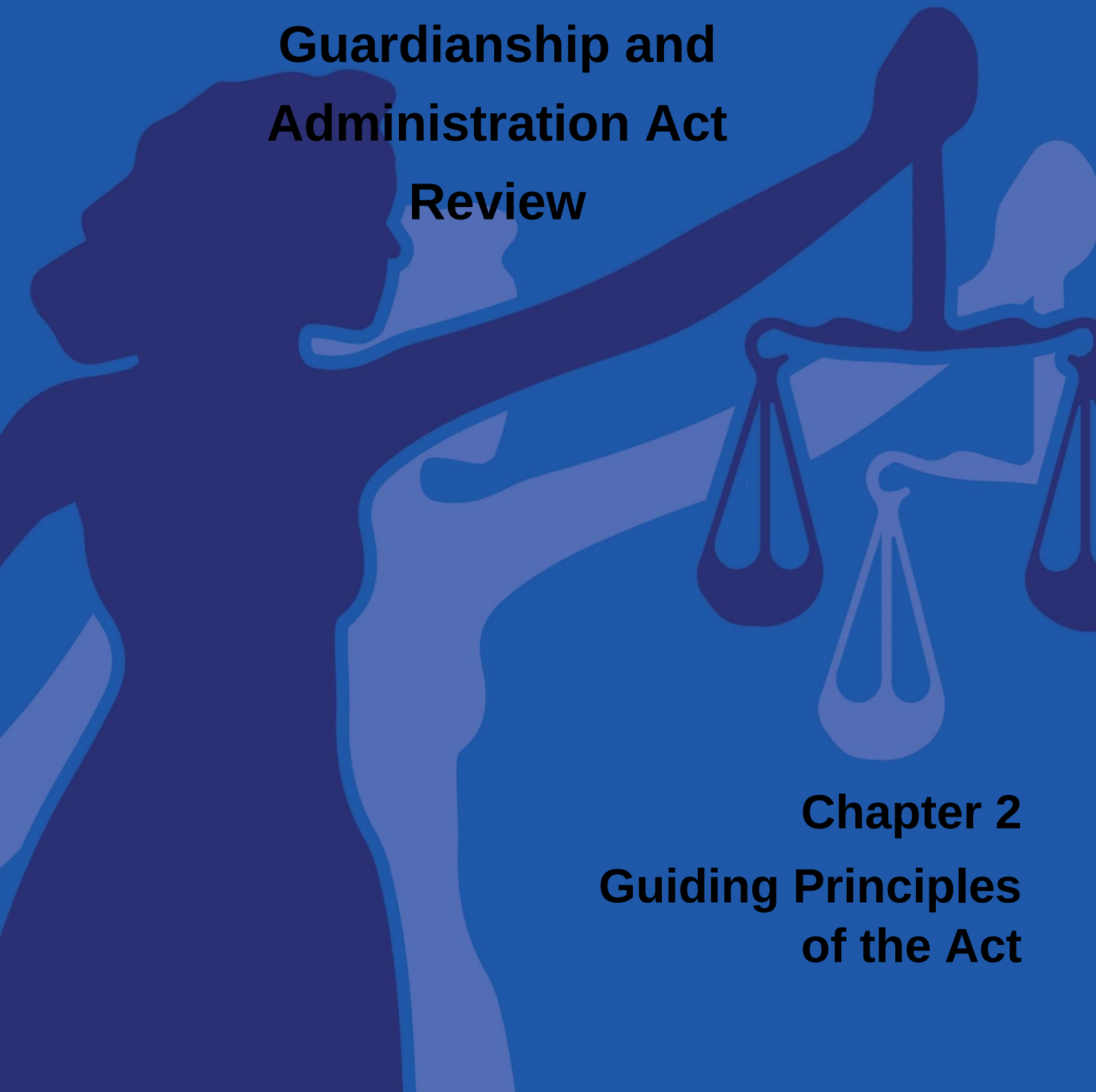


1. Do you think the Act should fit the Convention?
2. How could we make the Act work better?

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Chapter 2
**Guiding Principles
of the Act**



Chapter 2 – Guiding Principles of the Act



This part looks at what the Act says is important and if it needs to be changed.

The Act says if someone makes a decision for you, they must:



- find a way that still lets you have as much freedom as possible
- do what is best for you
- do what you want if possible.



UN Convention on the Rights of Persons with Disabilities is a set of rules that every country should follow.



It says decisions should be about your rights and wishes.

Not about your **best interests**.

Best interests is what someone else thinks is best for you.



We work out what a person wants by talking to them and looking at them.



If we can't tell what they want, we could guess by thinking about all the things we know about them.

We need to think about what we should do if we can't work out what a person wants.

And if and when we shouldn't do what a person wants.



The Act needs to look at how decisions are made and how they might be based on your rights and wishes.



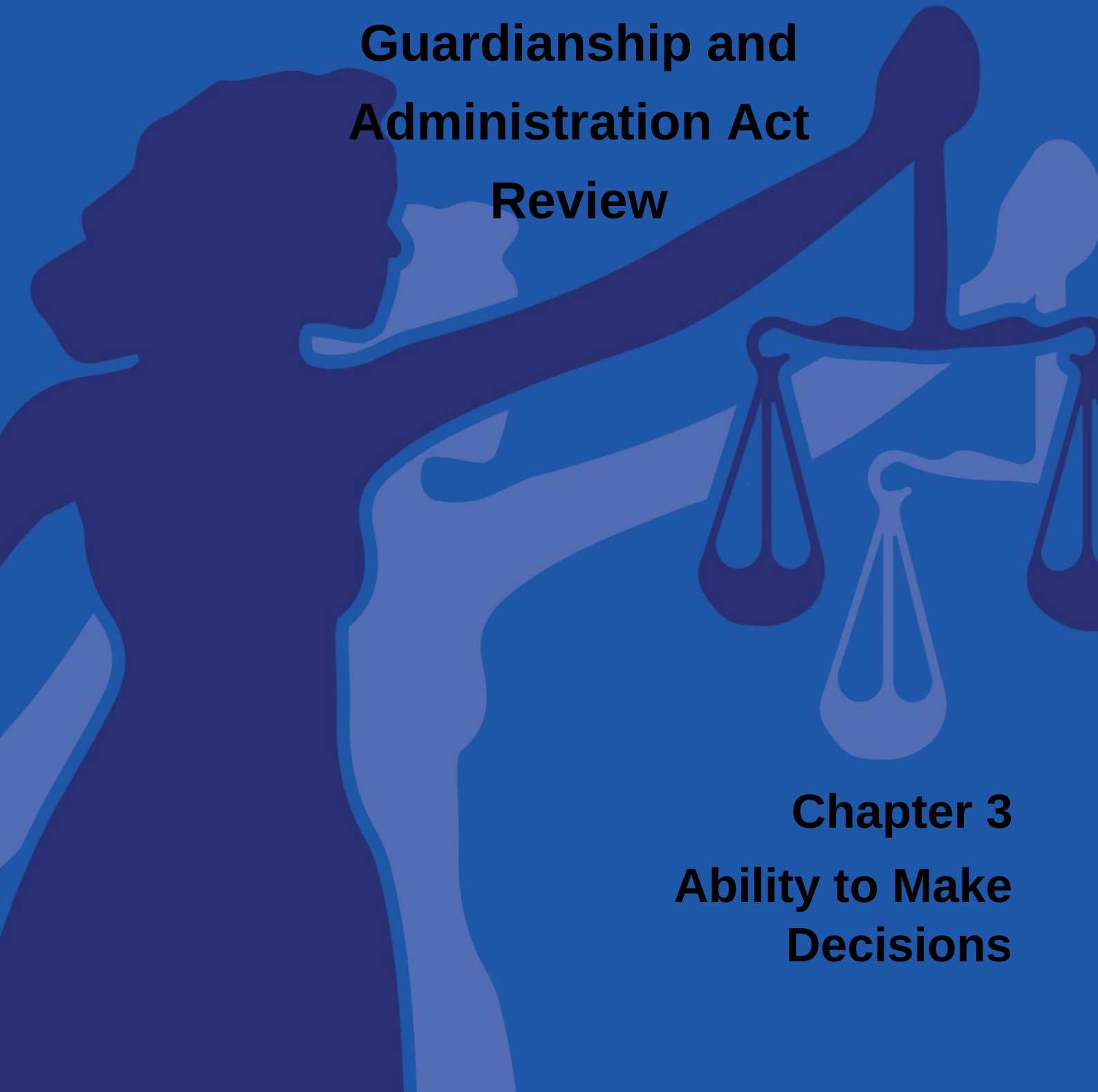
Questions for you to think about

1. Should decisions be made based on your rights and wishes, not your best interests?
2. Should we still need to think about what is in your best interests or only your wishes?

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Chapter 3
**Ability to Make
Decisions**



Chapter 3 – Ability to Make Decisions



This part looks at how the Act works out

- if a person needs help to make decisions.
- if they can make decisions on their own.



The Act tells us how to find out if a person can make decisions on their own or needs someone to make them.

The Act sets out tests to find out if you can make a decision or if you need help making a decision about



- personal matters
- money and things you own
- medical and dental treatment.



In some parts of Australia there is only one test that is used for all of the different decisions.

Tasmania needs to decide if we should only have one test, or if we keep it the same.

When laws talk about making decisions they use the word **capacity**

Capacity is the ability to



- understand information
- keep the information in your mind
- use the information to make a choice or decision
- tell people your decision.



Your capacity to make decisions about your personal life or money is based on if you can make a reasonable decision.



Your capacity to make a decision about medical treatment is based on

- if you understand what the treatment is and
- if you can tell someone that it is ok with you.



The test needs you to have a disability.

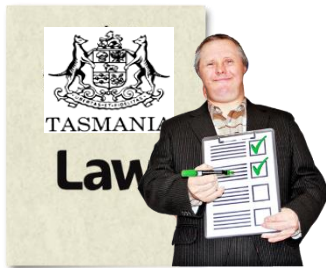
Some people think because of the Convention your disability should not be a part of the tests.



If the Act keeps saying you do need to have a disability to take the test, then the word 'disability' needs to be explained.



The law says that people who do not have capacity might need someone to make decisions for them.



Deciding someone's capacity to make decisions is very important.

We need to make sure the law is clear about how it is worked out.



Some people think the Act should say what will happen if the tests for capacity aren't done properly.



The Act can't make a person have a test.



This can make it hard for the Board to protect a person from abuse, neglect and harmful decisions.



But it is important the Act sticks up for a person's independence and choice.



Questions for you to think about

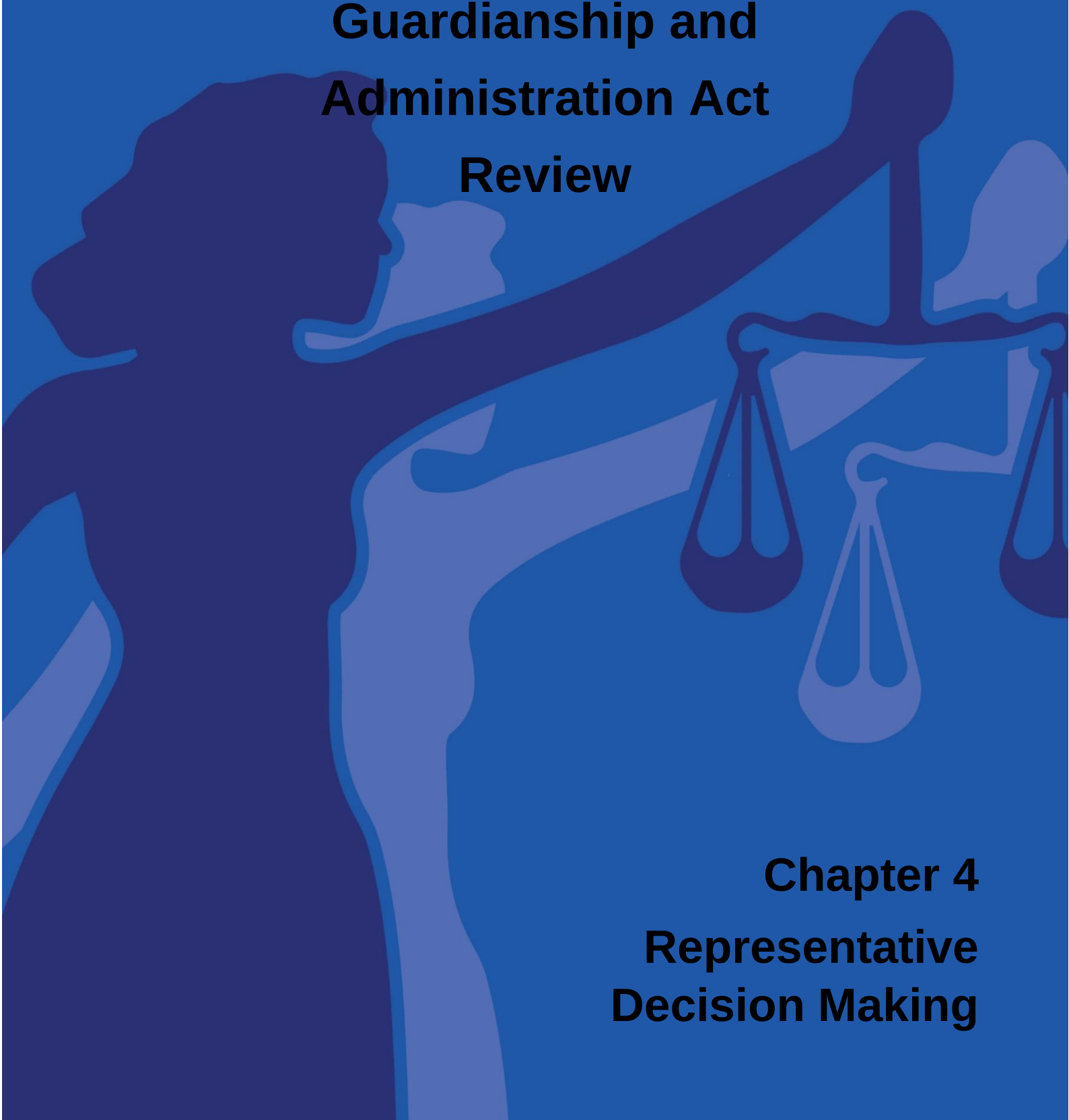
1. How should we work out if a person can make a decision?
2. In Tasmania does there need to be one test to work out if a person can make decisions about anything or keep it the same?
3. Should the Act say that we need to assume that people with disability have the ability to make their own decisions?

4. Should the Act say what people can't look at or think about when testing a person's capacity?
5. Should the Act say what should happen if the test for capacity isn't done properly?
6. Should the Act be able to make people take a test of capacity?
7. Should the Act only apply to people with disability?

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**Chapter 4
Representative
Decision Making**



Chapter Four: Representative Decision Making

This part looks at

- When the Board gives a person a **guardian** and **administrator**.



The Guardianship and Administration Board is a special organisation set up under Tasmanian law.

It is also called the Board.



They decide if a person with a disability needs someone to make decisions for them about money or personal matters.



A **guardian** is a person who makes personal and lifestyle decisions for you.



An **administrator** is a person who is responsible for looking after your financial affairs.

In this paper guardians and administrators are called **representatives**.

The Board appoints **guardians** and **administrators** if:



- a person's disability means they can't make decisions about money or personal matters



- it's the best decision and is needed
- it's in the person's best interests.

The Board must think about other ways to help someone make decisions.



Having someone else make your decisions should only be if there is no other way.

The Convention says if it's hard to make decisions, there should be support to help.

In Tasmania guardians and administrators are different jobs.



A guardian is not allowed to make decisions about how your money is used.



An administrator is not allowed to make decisions about your personal matters.



In some places one representative can do both jobs.

There are some things the Act could say.

The Act could say that representatives:



- shouldn't make decisions if they think the person can make them.
- should pay attention and say when they think a person can make their own decisions.

The Act could also explain:



- what it means when it says someone needs a representative.
- what happens if a guardian or administrator dies.



In some places the Public Guardian or the Public Trustee automatically do the job if a representative dies.

This is until the Board can appoint a new representative.



Questions for you to think about

1. Before the Board decides you need a Guardian or Administrator, should they find out about support you've had to make decisions?
2. In some places one representative can do both jobs. Should one representative be able to do the job of both Guardian and Administrator?
3. Should the Act say a representative shouldn't make decisions if they think the person can make them?

4. Should the Act say representatives need to pay attention and say when a person is learning how to make their own decisions?
5. Should the Act explain what it means when it says someone needs a representative?
6. Should the Act explain what happens if a guardian or administrator dies. Should the Public Guardian or Public Trustee take over?

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Chapter 5

**Powers, Rights and
Duties of Guardians**



Chapter 5 – Power, Rights and Duties of Guardians



This part looks at a **guardian**'s role and if anything needs to change.

A **guardian** is a person who can make personal and lifestyle decisions for you.



A person with capacity can choose their guardian.

The Board can appoint a guardian for a person who doesn't have capacity.



The Act says what rights, powers and duties guardians have.



A guardian must make decisions that are best for you.



This can mean the decision isn't what you want.



The Act says a full guardian has the same **powers** as a parent would with their child.



Powers means what the Act says they can do.



If a guardian breaks the rules or doesn't do their job well they may be taken off as a guardian.

The Act doesn't say what else could happen.

The Act says guardians can make personal decisions, like:



- where you live
- your health care
- support services you need.



In some places, their laws list powers that aren't on our list.

The Act doesn't have a list of what your guardian can't do.



Some people say guardians shouldn't be given all the power over a person's life decisions.



They think a list might be handy to understand the guardian's job.

One idea is to make the Board list what decisions a guardian can make for a person.



1. What jobs should a Guardian have?
2. What should happen if the Guardian doesn't do their job well?

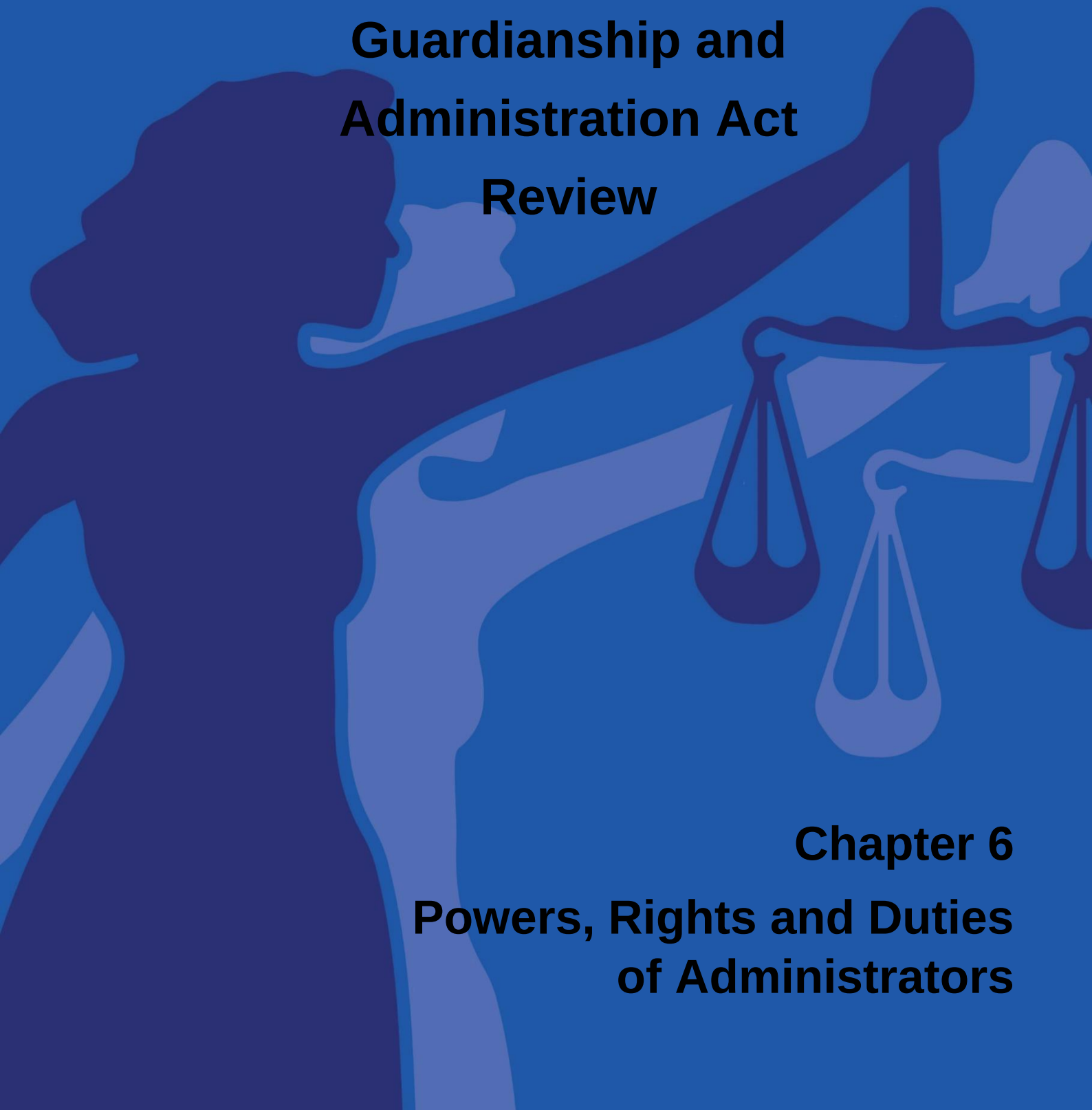
3. At the moment the Act says the powers and duties of the Guardian are like a parent over a child. Should this be taken out of the Act?
4. What things shouldn't a Guardian have power over?
5. How can the Act be better about appointing Guardians?

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Chapter 6

**Powers, Rights and Duties
of Administrators**



Chapter 6 – Power, Rights and Duties of Administrators

This part looks at the **administrator's** role and if anything needs to change.



An **administrator** is a person who can make financial decisions for you.

They are appointed by the Board.



The Act says what rights, **powers** and duties administrators have.

Powers means what the Act says they can do.



An administrator must make decisions about your money and things you own that are best for you.



This can mean the decision isn't what you want.



If an administrator breaks the rules they may be taken off as an administrator.

The Act doesn't say what else could happen.



The Act says an administrator has power to look after:

- your money



- bank accounts



- things you own.



In some places their laws list powers that aren't on our list.



The Act doesn't have a list of what an administrator can't do.

Some people think a list might be handy to understand the administrator's job.



The [Powers of Attorney Act](#) says the power an [attorney](#) has.

An [attorney](#) is someone you say can make decisions about your property and money in the future.

An example of this is

Sally has the capacity to make her own decisions but she is worried about the future.

She chose her brother Charlie as attorney.

In the future he can make financial decisions for her if needed. Sally filled in the forms so this can happen.



Questions for you to think about

1. What should happen if an administrator breaks the rules?
2. Should the Act have a list of what an administrator can not do?

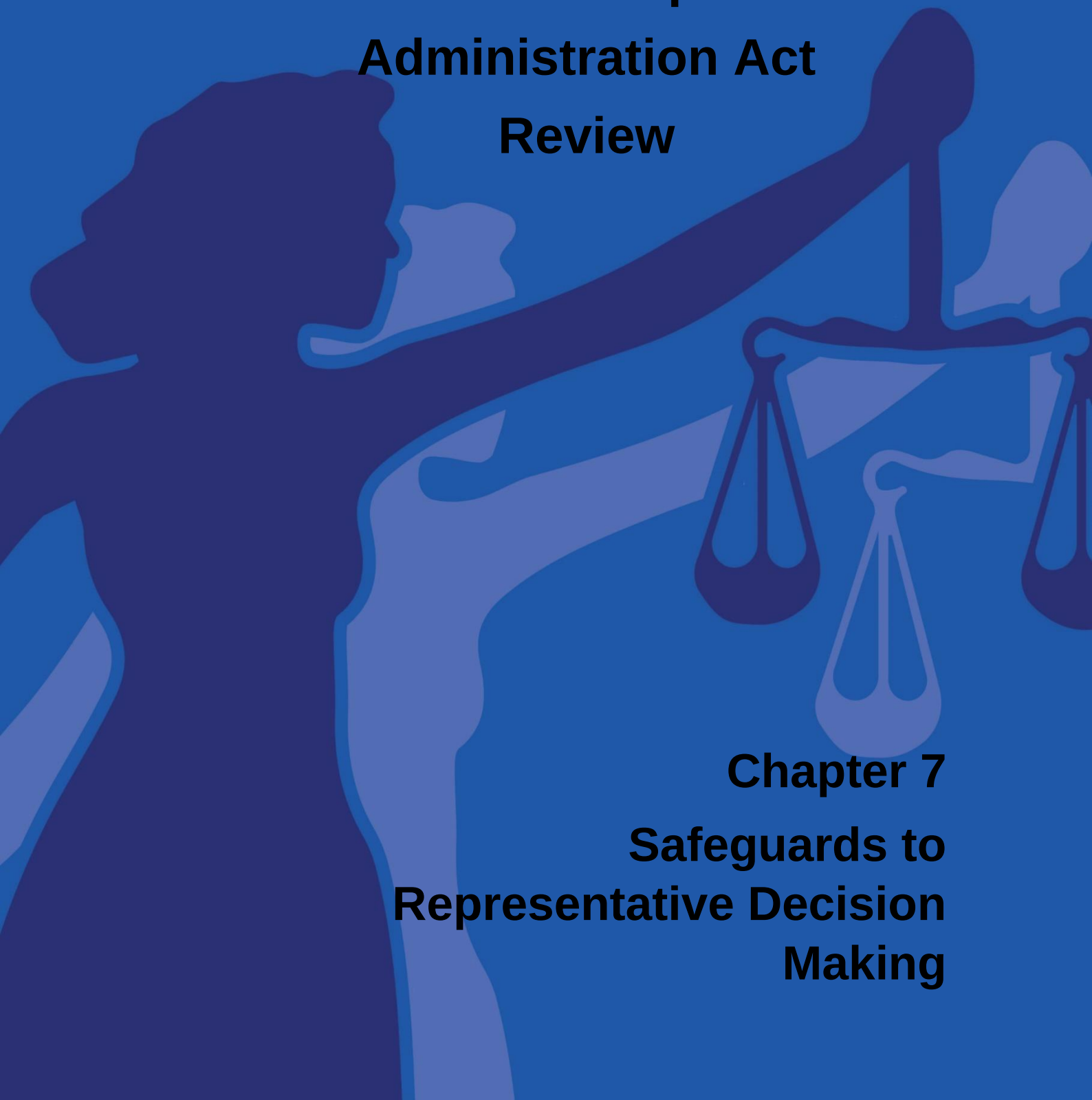
3. What things should an administrator have to do?
4. How could the Act be better about appointing administrators?

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Chapter 7

**Safeguards to
Representative Decision
Making**



Chapter 7 – Safeguards to Representative

Decision-making



This part looks at how the Act **safeguards** people who have **representatives** making decisions for them.

It also looks at if there needs to be more safeguards or changes.



Safeguards are ways to keep people safe.

Representatives are people who are appointed to make decisions for you.



Safeguards help people be free from abuse, neglect, **undue influence** or harm.



Undue influence is when someone bullies you to do something they want.



Having a representative can be a safeguard.

It can prevent people from making decisions they don't understand that could be harmful.



Guardians and administrators can be appointed for up to 3 years.

After 3 years their appointment is reviewed.



There is no test the Board needs to do when they review an [order](#).

An [order](#) is the decision made by the Board.



A person can say if they disagree with a decision the Board makes.

They can [appeal](#) to the [Supreme Court](#).

An [appeal](#) to the Supreme Court means going to court and asking if they agree with the decision the Board made.



This costs money.



An idea is to change the Act so the Board can think again about a decision before it goes to the Supreme Court.



You can ask the Board to take off a guardian or administrator.



Some people say the Act should have ways of fixing problems without having a hearing.

People could sit down together to try to fix the problem before the Board decides.



There is a test to make sure administrators and guardians can do their job well.

Each year the Board checks that representatives are doing their job well.



Administrators can only buy gifts with someone's money if the Board says they can.



Administrators and guardians report to the Board each year.

Administrators must give the Board a report about money when the Board wants it.



The Board can stop or change orders that appoint an administrator or guardian.



An **enduring guardian** is a person you appoint who can make decisions for you in the future if you lose capacity.



If a person makes an application, the Board can stop or change an enduring guardian.



The Board do this if they are sure the enduring guardian:



- doesn't want to do the job
- can't do the job or
- hasn't followed the rules in the Act.



An idea is for the Act to say an enduring guardian should stop if some things happen, like a divorce.

Frank chose his wife as his enduring guardian to make decisions for him in the future if needed.

Frank and his wife are getting divorced so he doesn't want her to be his enduring guardian.

Frank has the capacity to make his own decisions, so he can cancel it.

The Board can't do it for him or choose a different enduring guardian.



Representatives can ask the Board for advice or what to do

The Board can tell representatives what to do and they must do it.



In Tasmania the Act doesn't have **penalties** if a representative breaks the rules but they may be punished by a different law.

Penalties is punishment.

In some places the penalties are written in the Act.



We need to prevent abuse and neglect but not put people off being representatives by making it too hard for them.

Being a representative is an important job.



Questions for you to think about

1. Who should see the reasons why a Guardian or Administrator have been appointed?
2. What test should Guardians need to meet before they can be your representative?
3. What test should an Administrator need to meet before they can be your representative?

4. Should the Act say family or close friends have priority as representatives?
5. Should the Act stay the same and make guardians and administrators report to the Board? Or change and make administrators report to the Public Trustee?
6. How long should an order for a guardian or administrator be?

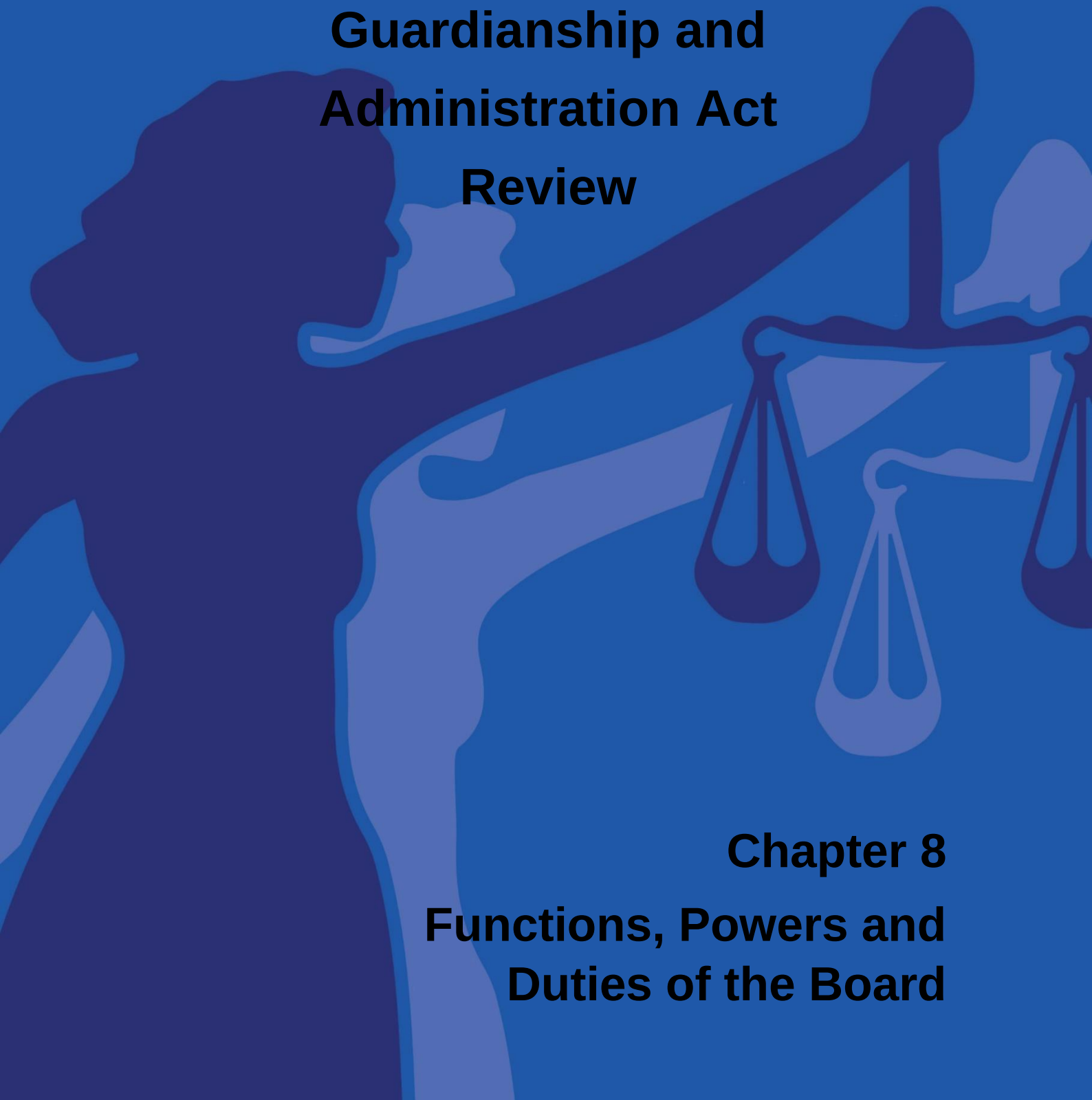
7. When should a Guardian or Administrator be sacked or taken off?
8. How else do you think we could look after people who have a representative?

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Chapter 8

**Functions, Powers and
Duties of the Board**



Chapter 8 – Functions, Powers and Duties of the Board

This part looks at what the Board does:



- what powers and duties they have.
powers means what the Act says the Board can do.

- if there needs to be any changes to the Act.



The Board has lots of different **powers**.
Powers means what the Act says they can do.



If there is an emergency the Board can give you a **temporary representative**.

The **temporary representative** is a guardian or administrator who can make decisions for up to 28 days.

They can start again for another 28 days if it's needed.



A temporary representative is only given in an emergency when there isn't enough time to hold a meeting.

The Public Trustee and Public Guardian are appointed when there is an emergency order.



The Act says what information the Board and Public Guardian can give to others.

The Board works out the best way to get information and decide if someone needs a representative.

The Board invites all the people involved in your application to a [hearing](#).

A [hearing](#) is a special meeting.



They may invite your family, advocate or lawyer and support worker.



They talk about all the reasons you may need another person to make decisions for you.

The Board must tell people about the meeting 10 days before it happens.

The meeting must happen within 45 days of your application going in.

The Act doesn't say who must be at the hearing.



There is no rule that you must be **represented** at a hearing but you can if you want to.

Represented means having someone speak up for you.

The Board can give you a representative if you want one.



Some people say there should be a rule about when you must have **legal representation** at a hearing.

Legal representation is having a lawyer.



Questions for you to think about

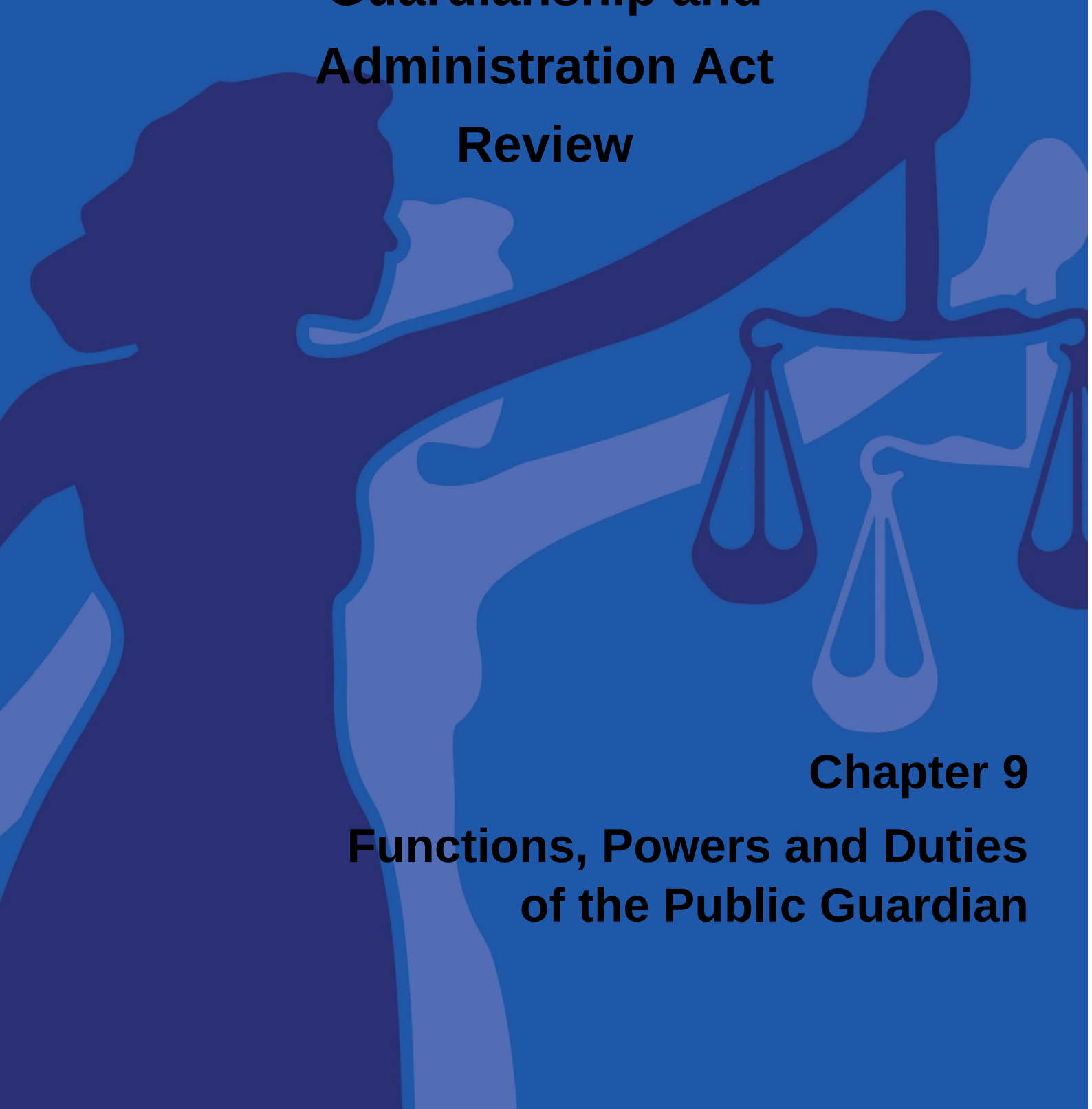
1. Do you agree with what is in this paper?
2. Should there be any changes?
3. Should the Act say who needs to be at a hearing?
4. Should it say when you need a lawyer?

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Chapter 9

**Functions, Powers and Duties
of the Public Guardian**



Chapter 9 - Functions, Powers and Duties of the Public Guardian



This part looks at

- The powers and duties the Public Guardian has
- If there needs to be any change



The Public Guardian may be appointed as your guardian.

They can make personal and lifestyle decisions for you.



They can **investigate** matters that relate to you

or matters the Board asks them to.

Investigate means looking into things and finding out what's going on.

In the Act the Public Guardian doesn't have strong powers to investigate.



Some people think the Public Guardian should have more say about what they investigate.

They think the Public Guardian should have more power to look into things like elder abuse.

The Act says the Public Guardian can:

- try to get more services and programs to help all people with disability
- speak up for all people with disability.



This is [systemic advocacy](#).

In some places the systemic advocacy job is done by a [Public Advocate](#).



In Tasmania the Public Guardian doesn't have time to do systemic advocacy.



We need to decide if it is better to have a Public Advocate do the job or get more staff to help the Public Guardian.



Some places have joined the roles of the Public Trustee and Public Guardian. They think the jobs are not very different so it can work well.



Other people think it is better to have two people. They think this protects people with disability better.



Questions for you to think about

1. Should the powers of the Public Guardian be changed?
If so how?
2. Should Tasmania have a Public Advocate?
3. Should the role for the Public Guardian and Public Trustee be made into one?

4. Any other ways to improve the Act about the Public Guardian?

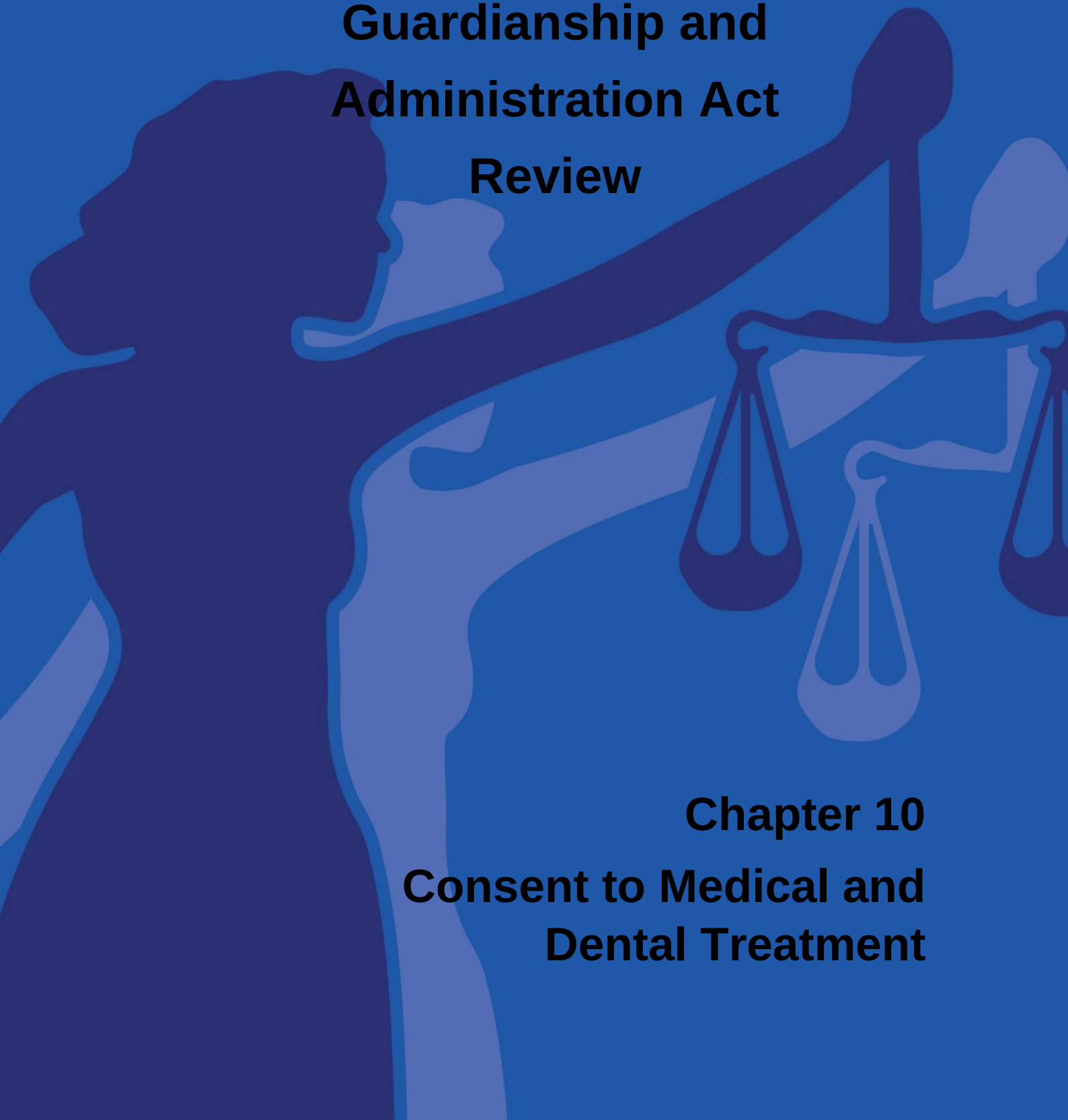
5. Should the Public Guardian have stronger powers to investigate things like elder abuse?

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Chapter 10

**Consent to Medical and
Dental Treatment**



Chapter 10 – Consent to Medical and Dental Treatment



This part looks at what the Act says about consent to medical and dental treatment if a person with disability can't give their own consent.



Our Act deals with consent for adults and children.

In some places only the Family Court can deal with decisions involving children.



What the Act says about medical treatment

- medical treatment is procedures, operations and examinations usually done by a doctor
- it doesn't include the health care you get from [allied health professionals](#)



[Allied health professionals](#) are trained people like psychologists, optometrists and pharmacists.



Allied health professionals do important work. It might be good to have it the same for doctors and allied health professionals



If a person can give consent they can say yes or no to treatment



If a person can't give their own consent

- They may have a **person responsible**
A **person responsible** is someone who can consent to some medical and dental treatment

- Treatment can be given without consent



when it is only small



when it is urgent



when there is no person responsible



- Consent to some treatment can only be given by the Board.

A representative can give consent for you even if you can almost decide for yourself.



A person who has the capacity to make decisions can choose an [enduring guardian](#).

An [enduring guardian](#) is a person you appoint who can make personal decisions for you in the future if you lose capacity.



In some places people can choose different decision-makers for:

medical treatment

personal matters

medical research



The Act says a person responsible is someone you have a relationship with.

It can be:

- your guardian
- your husband or wife
- a person that cares for you
- a close friend or relative

The test is you have a relationship with the person.



Sometimes there can be more than 1 person responsible

If you have a guardian, they are your person responsible



Before giving consent your person responsible must be sure the treatment is best for you



They think about

- your wishes
- what will happen if you don't get the treatment
- any risks with the treatment
- any options



The Act doesn't have any rules about how to ask for consent from the person responsible.



If a person doesn't have a person responsible, and a doctor needs someone to consent, an application has to be made to the Board.



The Board can appoint a guardian or give consent to the treatment.

If the treatment is for police matters you don't need to apply to the Board



Some special treatments can only happen if the Board gives consent:

- anything that can make you infertile
- termination of pregnancy
- tissue transplant
- brain surgery for mental health
- any treatment that is like punishment

The review wants to find out if any treatments should be removed or added to the list

and

If there are times where [substitute consent](#) should never be given.

[Substitute consent](#) is when someone else gives consent for you



The Board must consent to special treatments

They can tell a guardian it's ok to give consent and keep the treatment going.



Before the Board gives consent to treatment:

- they must have a hearing.

Interested people must be told by the Board 10 days before the hearing

Interested people are anyone who is affected by the decision



- the Board must be happy that the treatment is in the person's best interest



The Board and the person responsible need to think about different things before they make a decision about what is in your best interest.

In Tasmania

The Act doesn't have:



- any special tests to use before saying yes or no to **sterilisation**, **termination of pregnancy** or medical research
sterilisation is an operation that means you can't have babies.

termination of pregnancy is having a medical procedure to end pregnancy.



- any special rules about stopping treatment that keeps someone alive

- any special rules about **restrictive interventions**

restrictive interventions are ways of controlling people's behaviour and limiting their freedom





Questions for you to think about

1. What treatment should you be able to have without consent?
2. What should a person responsible be able to consent to?

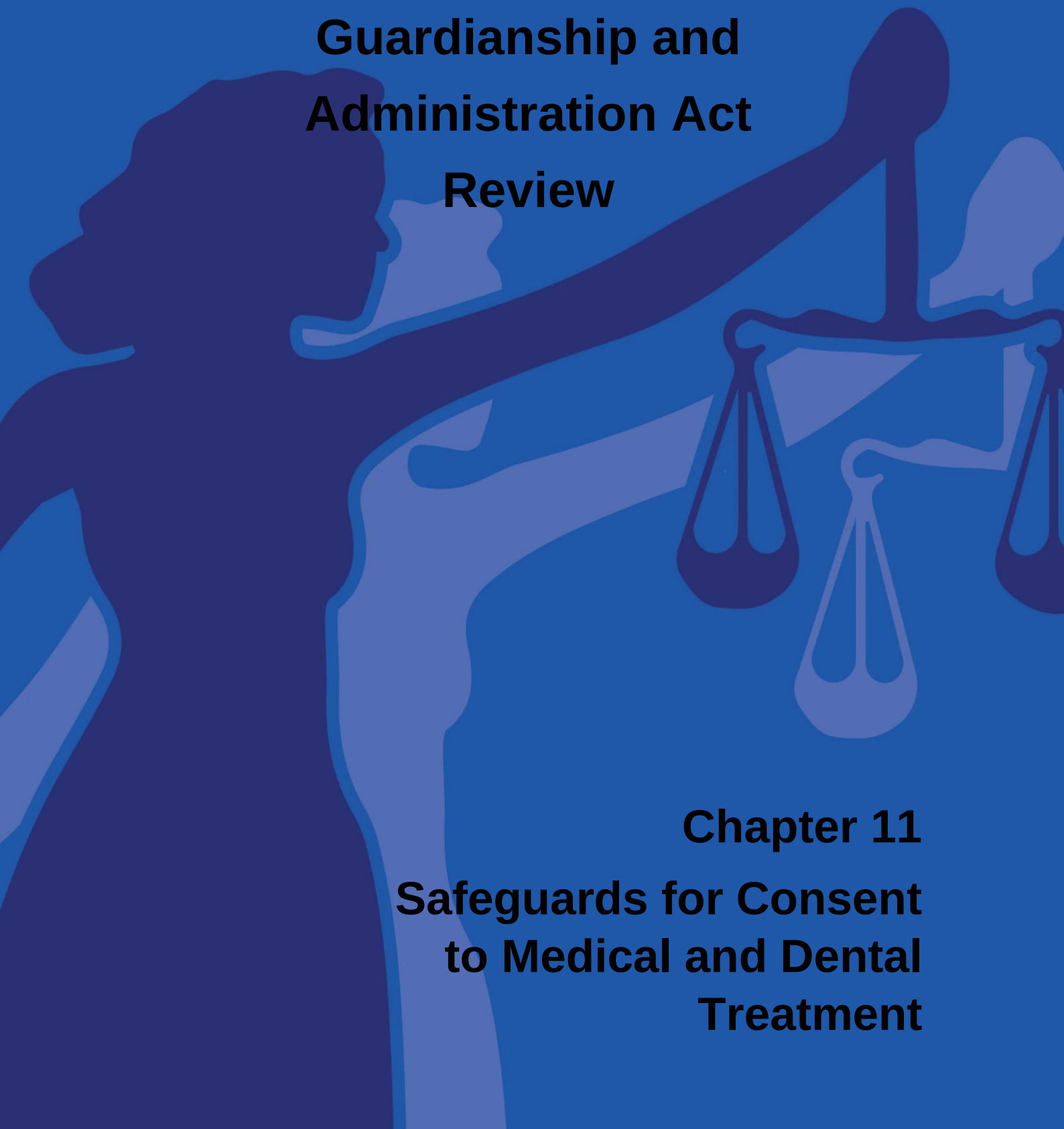
3. What special treatments should need consent from the Board?
4. Is there any treatment that should be taken off or put on the special treatments list?
5. Do you think the Act should have more special tests and rules?

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Chapter 11

**Safeguards for Consent
to Medical and Dental
Treatment**



Chapter 11 - Safeguards for Consent to Medical and Dental Treatment

This part looks at



- what **safeguards** the Act has to protect people who can't give their own consent to medical and dental treatment.

Safeguards are ways to keep people safe.



- if anything in the Act needs to be added or changed

In Tasmania

If a patient says they don't want a treatment, substitute consent to most treatments can still be given.



In some places there are strict rules about substitute consent if a patient doesn't want the treatment.



In our Act there is no way to say you disagree with a person responsible's decision.



The Act doesn't say a person responsible can ask the Board what they think should happen with your treatment.

A guardian or administrator can.



The Act makes it illegal for:

- treatment without consent
- someone to give consent when they don't have the power to do it



If someone pretends they can give consent and a doctor or dentist gives treatment, the Act protects the doctor or dentist from being punished.

They didn't know the person couldn't give consent so they can't be blamed.



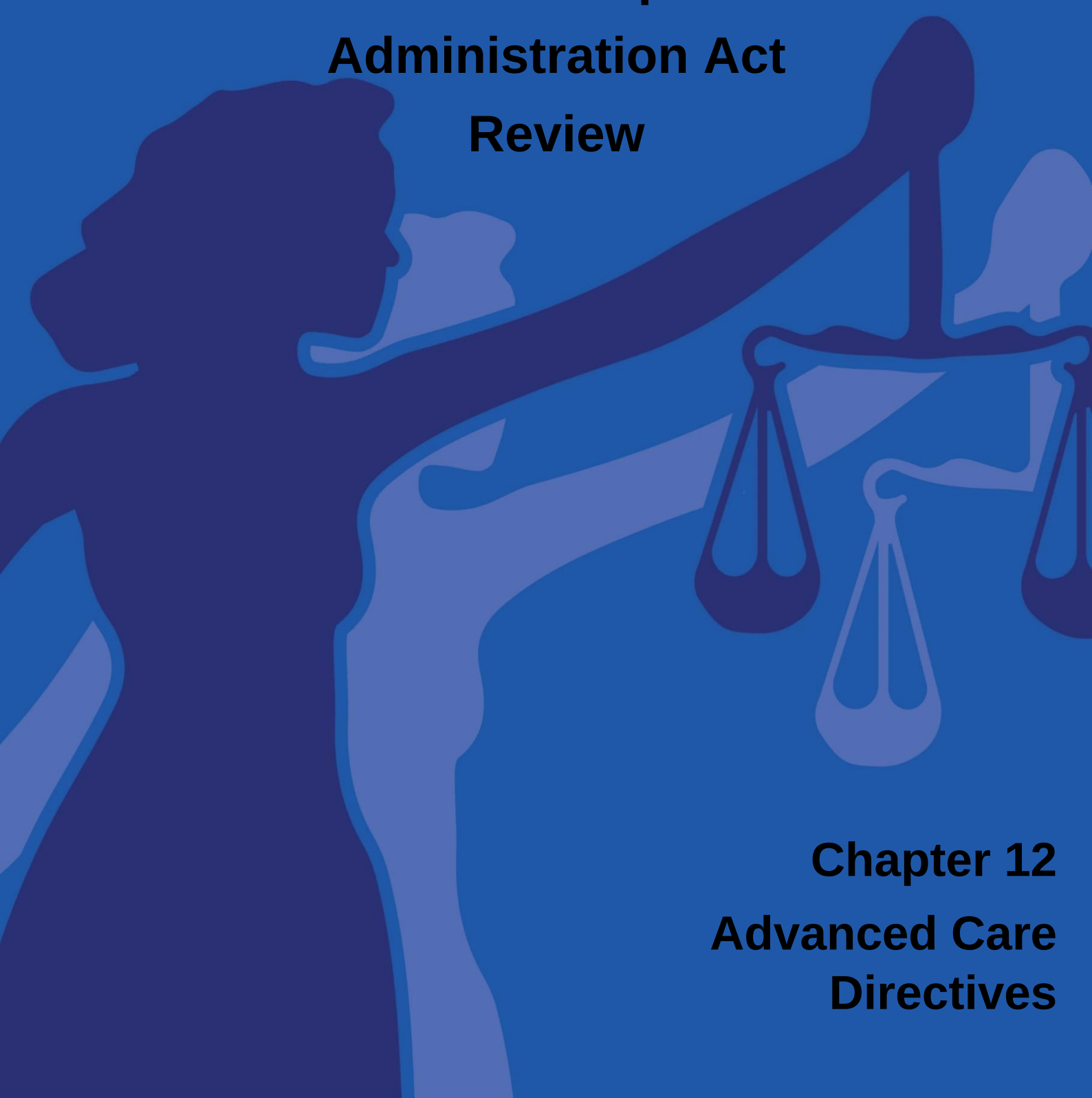
Questions for you to think about

1. How should a patient be able to object to treatment?
2. Should the Act have a way you can object to a person responsible's decision?

3. What should happen if someone pretends to be able to give consent?

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**Chapter 12
Advanced Care
Directives**

Chapter 12 – Advance Care Directives



This part looks at:

- how [Advance Care Directives](#) fit with Tasmanian law
- if Advance Care Directives should be in the Act or a different Act.



An [Advance Care Directive](#) allows you to say:

- what kind of medical treatment you want if you ever become very sick and are unable to speak for yourself
- what care you want at the end of your life.





To make a directive, you must:

- be over 18 years



- have capacity



- fill in a form



You choose if you want to make an Advance Care Directive.

You don't have to.



Advance Care Directives can help doctors, nurses and decision-makers to:

- understand your wishes if you can't tell them
- work out your treatment and care.





Advance care directives may not be useful if:

- your wishes change
- it doesn't make sense
- standards of health care change.



In Tasmania there isn't a law in writing about Advance Care Directives.

If you have an [enduring guardian](#), the information you put in a directive can be written down when you fill in the form.



An [enduring guardian](#) is someone you choose to make personal decisions in the future if you can't make them on your own anymore.



Some people may want an Advance Care Directive but don't want an enduring guardian.



We need to decide if it would be better to write down a law about advance care directives.

If advance care directives are put into a law we need to think about:



Who can make one?

How they are made?

We need to decide if people must do what is in your advance care directive.



Questions for you to think about

1. Do you think Advance Care Directives should be part of the Act?
2. Who should be able to make an Advance Care Directive?

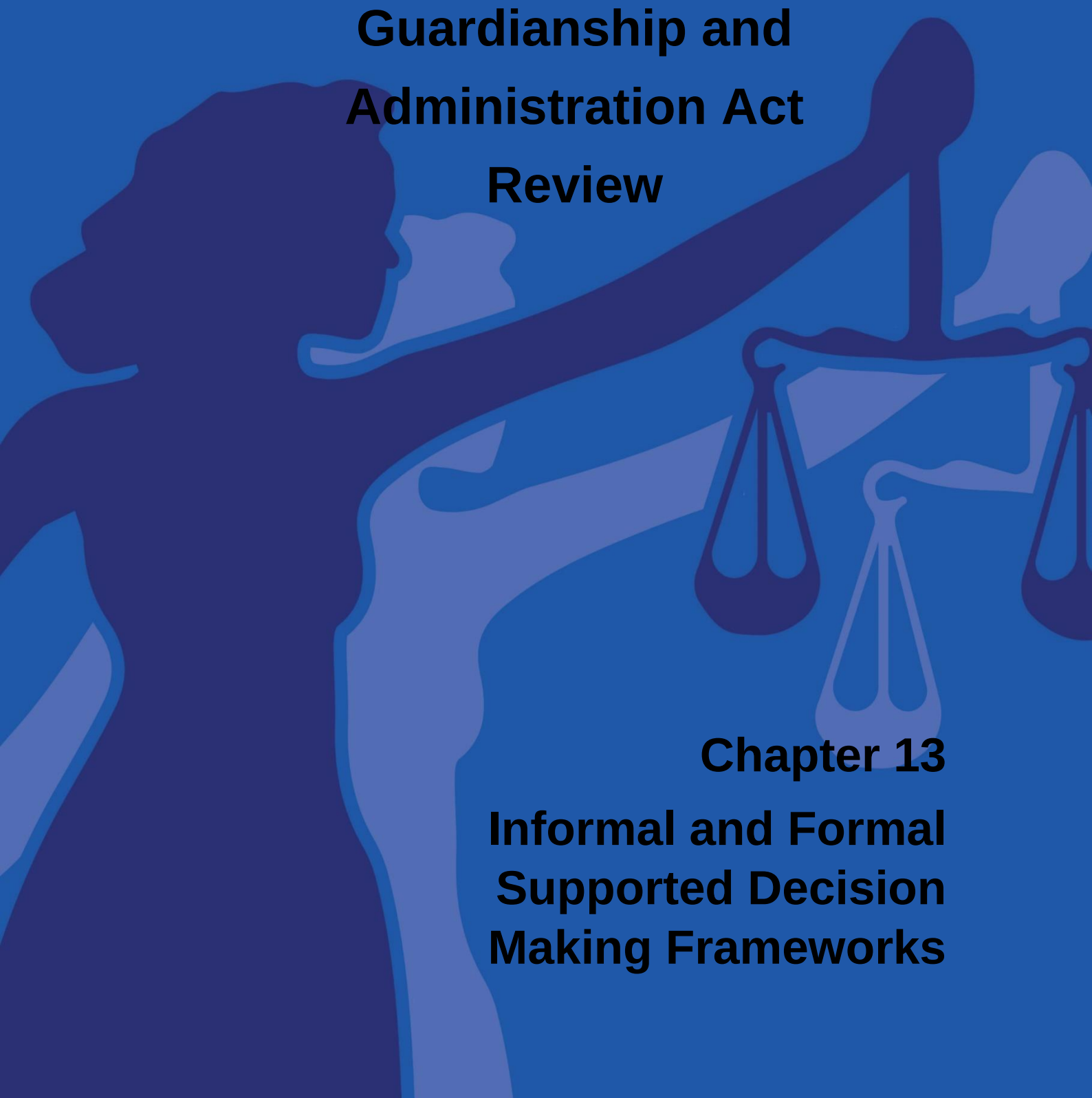
3. How could we make an Advance Care Directive?
4. Should doctors and decision-makers have to try to find out if a person has an Advance Care Directive?
5. Should your doctors have to follow what your Advance Care Directive says?

**TASMANIA
LAW REFORM
INSTITUTE**

**Guardianship and
Administration Act
Review**

Chapter 13

**Informal and Formal
Supported Decision
Making Frameworks**



Chapter 13- Informal and Formal Supported Decision-Making Frameworks

This part looks at



How the Act could change so everyone understands the importance of supporting people to make their own decisions



Some people need help to make decisions. This help is [supported decision-making](#).



The Convention says people with disability have the right to:

- make their own decisions.



- have help to make decisions.

Supported decision-making can be



Informal – from family and friends.



Formal – appointed to help you.

In Tasmania the Act says you can have support to make decisions.



- Many people get support from family, friends or advocates to make their own decisions.



- The Board must look for ways you can get support to make decisions before it decides to give you a representative.



We need to decide what the Act says about support for making your own decisions so it fits with the Convention.

In some places the law says you must be

offered support to make your own decisions.

Some places have **supporters**.

A **supporter** helps you make your own decisions.



They can support you to:

- get information
- make your own decisions
- tell people about your decisions
- take action on decisions.



Some countries have **co-decision-makers** who are appointed to make decisions with you.

If the Act has the roles of supporters and co-decision-makers we need to work out:



- how they should be appointed
- what their roles should be
- who will make sure they are doing a good job.



Questions for you to think about

1. What informal support works well for you?
2. Is there anything that stops you getting informal support to make decisions?
3. Do you think the Act should include supporters to help with decision-making?

4. Do you think the Act should include co-decision-makers to make decisions with you?

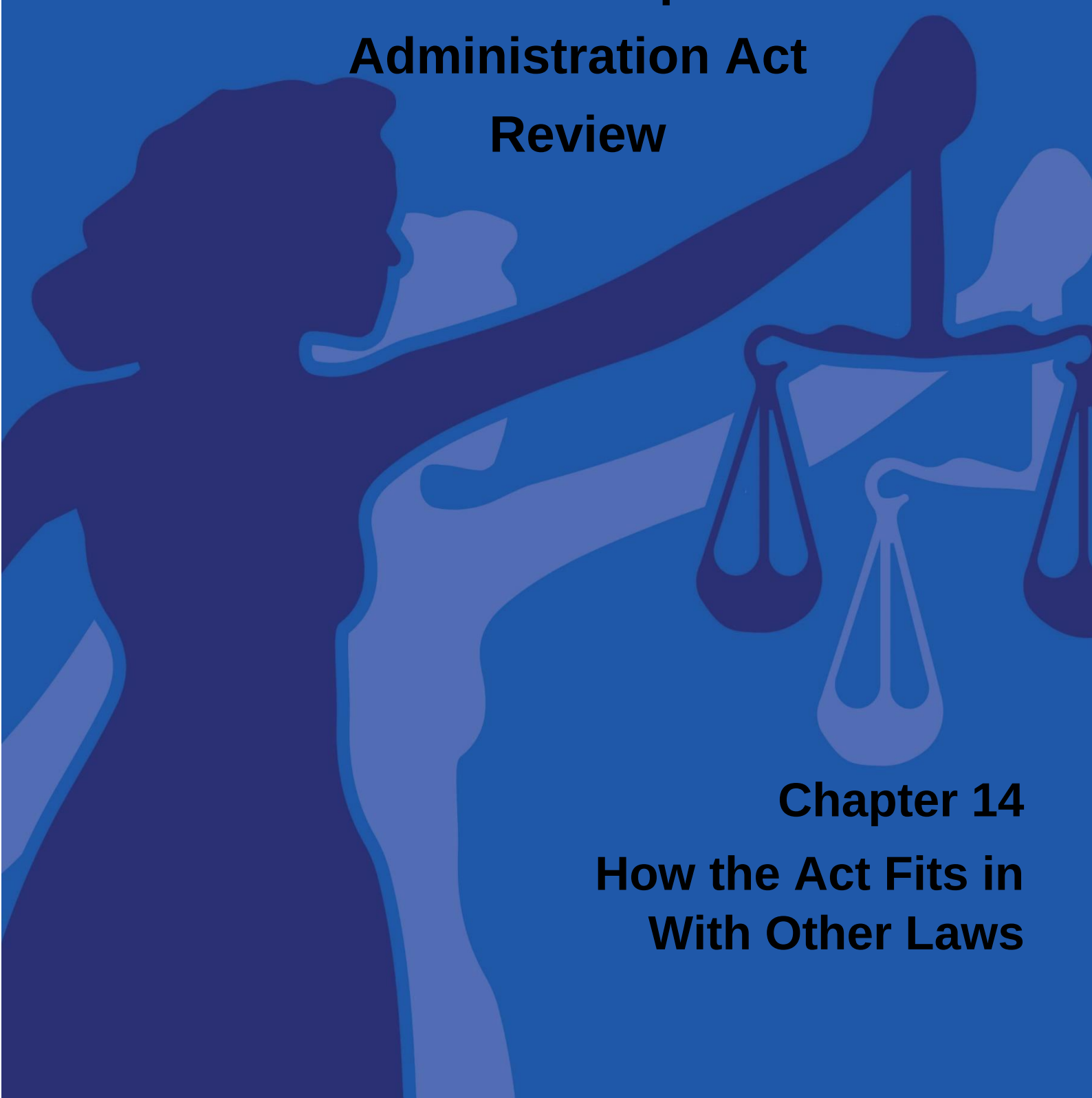
5. How would they be appointed?

6. What jobs would they do?

7. Who would make sure they are doing a good job?

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**Guardianship and
Administration Act
Review**



Chapter 14
**How the Act Fits in
With Other Laws**

Chapter 14 – How the Act Fits in With Other Laws



This part explains the other laws in Tasmania that are linked to the Act.



The Mental Health Act is the law about how people with mental illness are treated.

It sets up an [Official Visitor Program](#).



The [Official Visitor Program](#) is when members of the community are chosen to visit mental health services and facilities.

They check how people are treated and if they are ok.

Official Visitors can investigate complaints.

The Disability Services Act is the rules for disability services providers.

The [Senior Practitioner](#) can:

- investigate and make sure the rights of people with disability are protected.
- give advice about how services can improve.



There is no Official Visitor Program under the Act.



The Mental Health Act and the Disability Services Act explain the rules for using [restrictive practices](#) in services.



[Restrictive practices](#) are ways to stop people from doing [behaviours of concern](#).

A [behaviour of concern](#) might be hurting themselves or hurting another person.



The Acts give consent to restrictive practices if services follow the rules.



We need to decide if there should be any restrictive practices that only the Board can say yes to.



The Mental Health Act and the Disability Services Act say that the Acts must be reviewed to check that they are working ok.

Review means having a close look.

This makes sure the law is fair and is right for the community.



The Guardianship and Administration Act doesn't need to be reviewed in the same way.

The Powers of Attorney Act is how people with capacity can choose who can make decisions about their property and money in the future.

The rules are like parts of the Act about an enduring guardian.



If laws were changed so people could appoint an attorney and enduring guardian in one document, the laws would need to be combined.



The Alcohol and Drug Dependency Act is rules about the treatment of people with **dependence** on alcohol and drugs.

Dependence means feeling like you need drugs or alcohol all the time.



The Public Trustee Act gives legal power to the Public Trustee.

It explains the Public Trustee's job and what it can do.

It is important that these laws:
work well together
don't have any gaps.

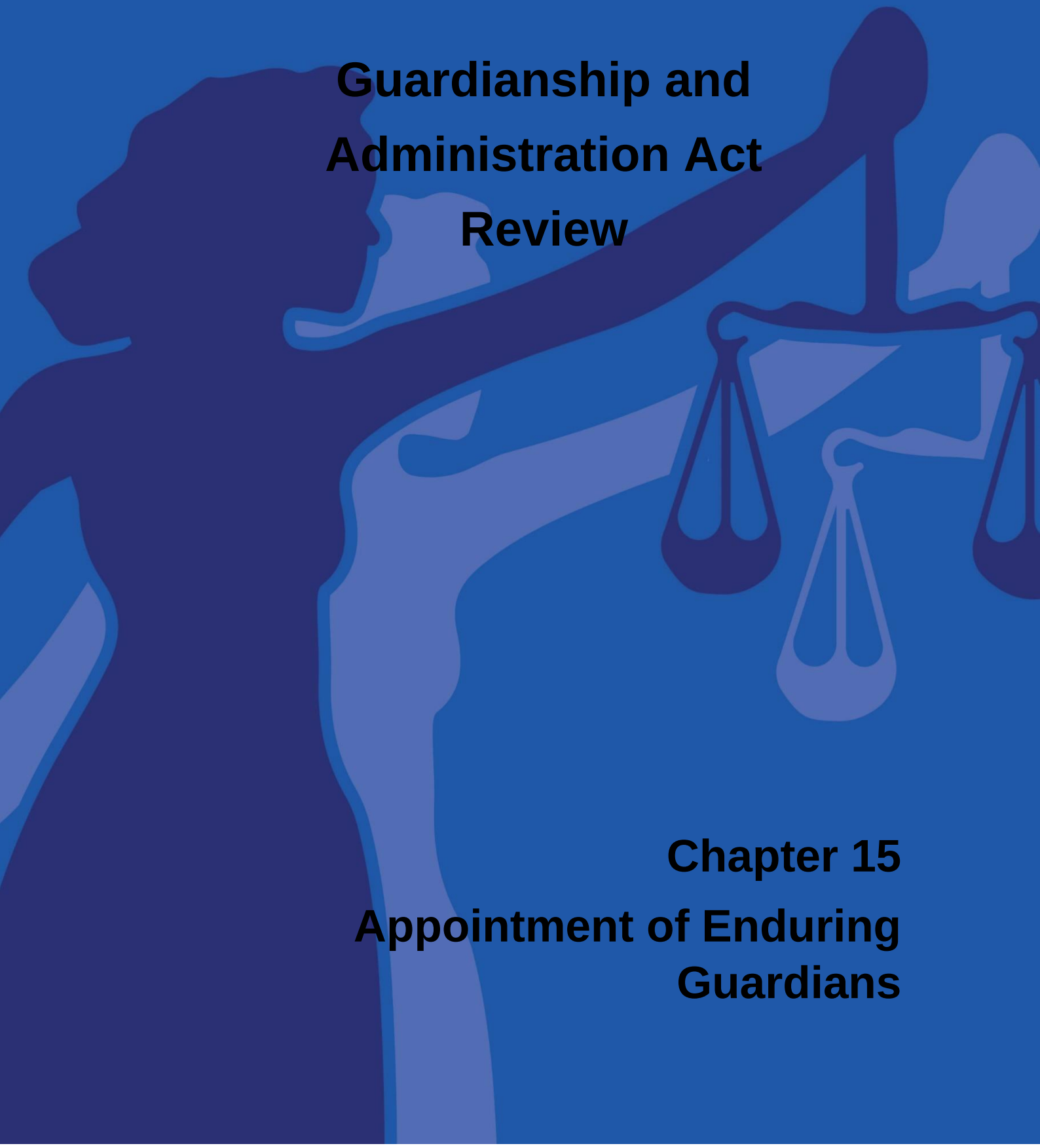


2. Is there any overlap that needs to be sorted out?

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**Guardianship and
Administration Act
Review**

Chapter 15
**Appointment of Enduring
Guardians**



Chapter 15 – Appointment of Enduring Guardians



This part explains how to choose an [enduring guardian](#) to make personal decisions for you.



An [enduring guardian](#) makes personal decisions for you in the future if you can't make decisions for yourself.



You can also choose a [substitute guardian](#) to make personal decisions for you. [Substitute guardians](#) are a back-up and can make decisions if your enduring guardian can't be there.

Only people over 18 can be an enduring guardian.



People who help with your medical care and treatment can't be your enduring guardian, for example

- Doctor
- Service provider

We need to work out if there is anyone else who shouldn't be an enduring guardian.



Name R. Smith
Address 224 West St
Manchester
Phone Number _____

To choose an enduring guardian you must fill in a form.



Two people need to **witness** you signing the form.

Witness means they watch you sign and then write their name.



A witness must be an adult that isn't related to you.

If a relative signs the form there is no penalty.



An enduring guardian must sign the form to say they agree to be your guardian.

Their signature doesn't need a witness.



We need to look at:

- how you can choose an enduring guardian
- how many witnesses there should be.
- if a witness should have any special skills.



In some places the enduring guardian has to say they understand:

- the job
- their duties
- what it means to be your enduring guardian.



The form must be [registered](#).

[Registered](#) means taking it to Service Tasmania.



Most of the time people pay to register the form.

But the Board can decide you don't have to pay.



You can change or remove your enduring guardian.

The Board can also remove your enduring guardian in special situations.

An attorney is sometimes removed straight away.



Questions for you to think about

1. Should a person under 18 be allowed to appoint an enduring guardian?

2. Is there anyone who shouldn't be an enduring guardian?
3. How many witnesses should sign the form?
4. Should witnesses need any special skills?

5. Who shouldn't be a witness?

6. Are there other ways to make the Act better about enduring guardianship?



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