

GUARD RAILING RESPONSIBILITY

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Guardianship and responsibility



- No doubt: being a guardian is a **highly responsible position!**

- What does that mean?



Peter's wards ...

2 Cases and the question of settlement

Emily, 82

- suffers from Alzheimer, lives by her own in her small house
- widow; husband left her with a small pension
- **needs nursing, assistance and care**

- 2 children
- when Emily was in good health, she was a lively and very sociable person; went on vacations as often as she could; after her husband died, she moved twice, looking for more convenience

Margret, 82

- suffers from Alzheimer, lives by her own in her big house
- widow; husband left her with a small pension
- **needs nursing, assistance and care**

- 3 children, 2 grandchildren
- when Margret was in good health, she was very much a family person; would rather save money for her children than go on vacation; never moved since she got married, always said „my home is my castle“

Should Peter decide to sell the house and arrange living in a nursing home?

Sugesstions, Opinions And Wishes

Emily

- daughter
 - suggests to find a nursing home for her mother and to sell the house to cover costs
- SON
 - suggests to find a nursing home for his mother and to let the house to cover costs

Marget

- the daughter
 - wants for her mother to find the best possible nursing home and to sell the house to cover costs
- one son
 - wants to let the house and find a reasonable nursing home
- the other son
 - wants his mother to stay in the house

Peter's decisions ...

Emily

Settlement:

- best possible nursing home

Finances:

- sell house to cover costs

Margret

Settlement:

- staying at home with an arrangement of adequate nursing and assistance services
 - woman moves in to Margret, lives there for free, looks after Margret
 - Nurse comes in twice a day

Finances:

- nurse is paid from small pension;
- assistant is paid by „living for free“ and a small pocket money

Let's blame Peter ... !!!

- he applied double standards
 - for Marget he arranged a standard of care that is lower than possible
 - he opposed to Margret's children, two of whom want her to be settled in a nursing home
 - he opposed to Emiliy's son who doesn't want the house being sold
 - ...
-
- are Peter's decisions responsible?

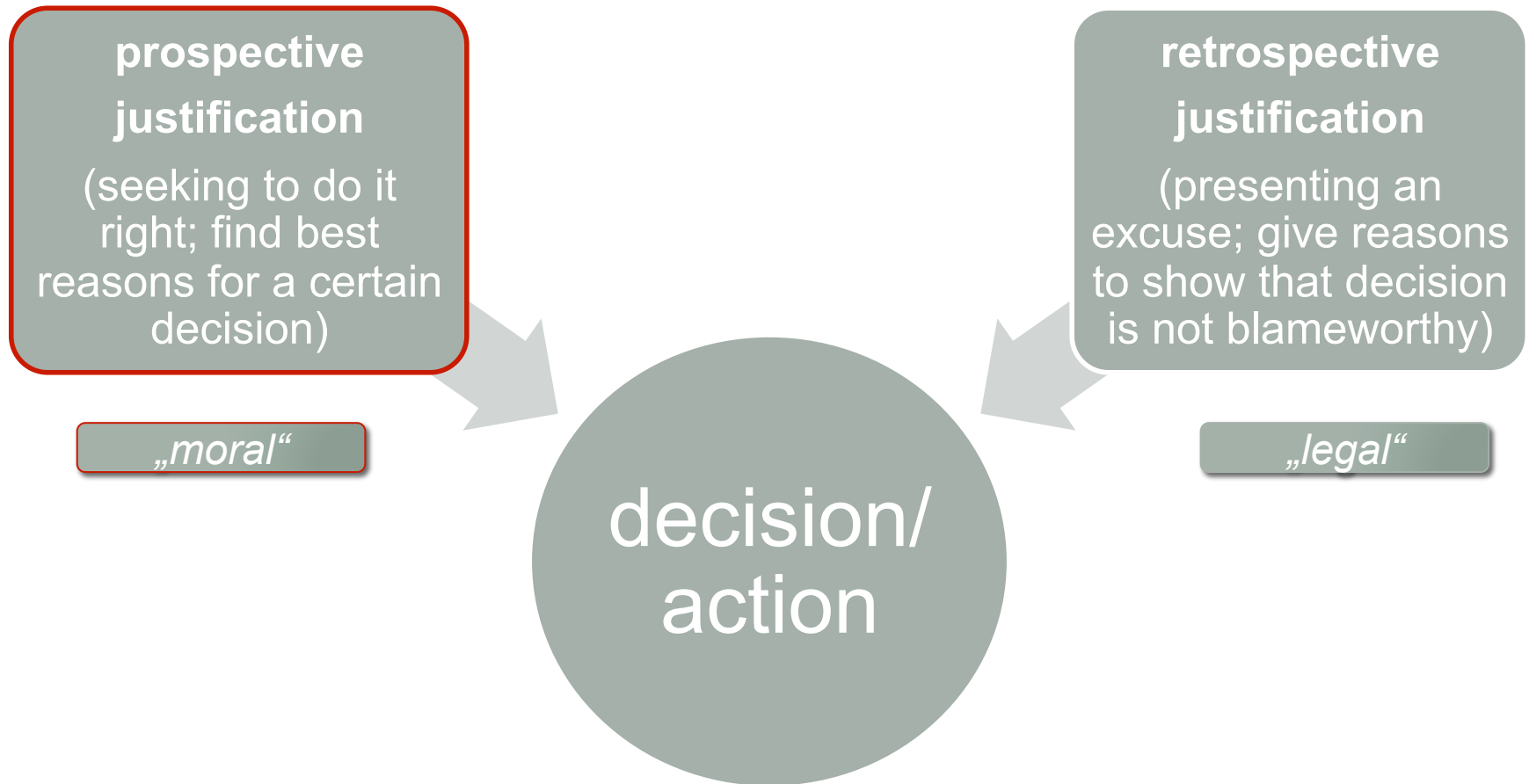
Respons-ibility?

- If responsibility is/demands an answer (response), what is the question?

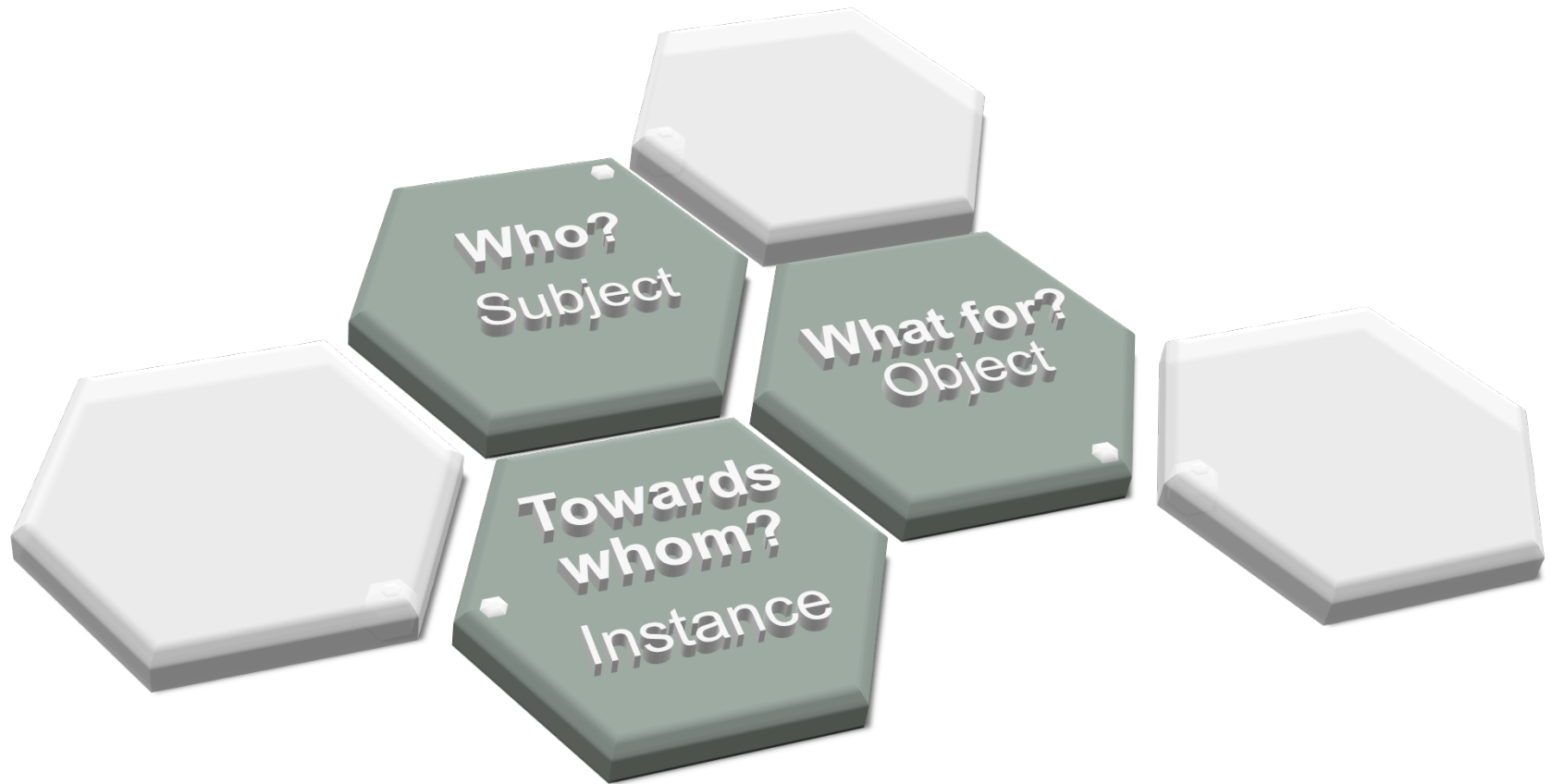
**Why did you decide and act like this
... rather than otherwise?**

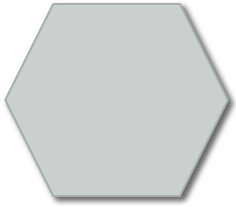
- **Demanded: justification of your decision and action**
 - sound explanation of your grounds
(situative understandings, interpretations, causal expectations, decisions, proceedings)

Prospective and retrospective responsibility



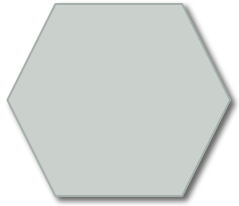
responsibility: 3-relational notion





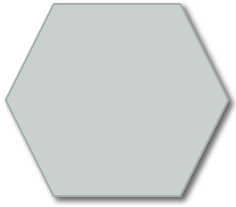
Who? - Subject of responsibility

- A **competent** Person: knowing, reflective, upright, foreseeing, decisive and skilful
- A competent person in a certain **role**: E.g. fellow human being, citizen, mother, wife, neighbor, driver, daughter, waitress, politician, actress, **guardian**, etc.
- **role-responsibility**: assuming **objectives/duties** connected to certain roles



What for? - Object of responsibility

- a valued entity, thing, state, process, ...
- rather: the value that can be protected, promoted or lost by actions of the subject of responsibility
- The guardians object of responsibility:
Will and best interests of the ward!
- **Objective/duty in the role of a guardian:**
- make decisions that best suit your wards reasonable will and/or best interests in regard to her health, finances, settlement.



Towards whom? — Instance of responsibility

- Examples: your conscience (bad or pure); a judge, the person concerned, the parties involved, ...
 - anyone who (more or less) legitimately asks you to explain your decision and action
- and
- rightfully judges, if your explanation satisfies the demands of justification
 - (i.e. ... Is convincing in the light of the objectives and duties of your legitimate role)

Guard rail for guardians' decision-making

Be aware of your role!

clarify

- what needs to be decided in the given situation

analyze

- options and risks in the eyes of your ward

consider

- opinions of others (e.g. family members)

estimate

- **judge** options and risks in regard to your ward's will

argue

- **ponder** reasons for and against one or the other option

decide

- **make explicit** why you prefer one option to others

proceed

- realize your decision

Surrogate decision making

1. decide and act according to **your wards will**

If, and only if this is impossible to find out ...

2. decide and act according to your wards **presumed will**

If, and only if this is impossible to find out ...

3. decide and act according to the **best interest of your ward**

If, and only if this is impossible to find out ...

4. decide and act according to **best standard**

Peter's decisions ...

Emily

- Settlement: best possible nursing home
- Finances: sell house to cover costs
- Justification:
 - her need for nursing and care
 - interpretation of best interests gathered from Emily's personality:
 - her easyness with moving
 - her sociability
 - her egoism

Margret

- Settlement: staying at home as long as possible with an arrangement of adequate nursing and assistance services
- Finances: keep house as long as possible
- Justification:
 - her need for nursing and care
 - best interests gathered from Margret's personality:
 - her conception of being at home
 - her clinging to her house
 - her dedication to family

Your ward ...

- needs you to make decisions in his/her place
- does not have an obligation...
 - to meet the interests of others
 - to make decisions that are objectively reasonable





TAKE CARE!

Thank you for your attention !