

# The Public Guardian

## Protecting the rights and interests of adults with impaired decision-making capacity

### Who we are

The Office of the Public Guardian is an independent statutory office responsible for protecting the rights of adults with impaired decision making capacity and children and young people in Queensland's child protection system.

Established on 1 July 2014 by the Public Guardian Act 2014, the Public Guardian has all the functions and powers of the former Adult Guardian, along with the advocacy and visiting functions of the Commission for Children, Young People and Child Guardian (CCYPCG).

While independent of the government of the day, the Public Guardian is accountable to the people of Queensland by reporting to Parliament through the Minister for Justice and Attorney-General.

### Our role in relation to vulnerable adults

The Public Guardian's role in relation to vulnerable adults is part of the framework of human rights protection in Queensland and is to protect the rights and interests of adults who don't have capacity to make some or all of their own decisions due to an illness or disability.

#### Our charter is to:

- make personal and health decisions for adults with impaired capacity if we are appointed as their guardian or attorney
- investigate allegations of abuse, neglect or exploitation of adults with impaired capacity
- advocate and mediate for people with impaired capacity, and educate the public on the guardianship system
- protect the rights and interests of vulnerable adults living in supported accommodation through the Community Visitor Program.

### What we do

#### *Protect Adults from harm*

We investigate allegations of abuse, neglect and exploitation of adults with impaired capacity. We seek to determine if the allegations are true on the balance of probabilities, to identify the level of risk for the vulnerable person and the action needed to best protect them.

Where possible, we attempt to have allegations resolved informally. However, the Public Guardian has the power to suspend an attorney's decision making (under an Enduring Power of Attorney) or to refer matters to the Queensland Civil & Administrative Tribunal (QCAT) or to the police.

The OPG's Adult Community Visitor Program independently monitors accommodation facilities where vulnerable adults with impaired capacity live. The role of community visitors is to protect people's human rights.



### Contact Us

Office of the Public Guardian

t. 3234 0870 or 1300 653 187

e. [adult@publicguardian.qld.gov.au](mailto:adult@publicguardian.qld.gov.au)

w. [www.publicguardian.qld.gov.au](http://www.publicguardian.qld.gov.au)

Community visitors will investigate problems and try to resolve complaints. If necessary, complaints will be referred to other agencies for further investigation.

### **Promote decision-making**

We help adults with impaired capacity to make decisions about their life by acting as their substitute decision-maker. We can be appointed as guardian by QCAT, act as attorney under an Enduring Power of Attorney or Advance Health Directive, or exercise power as Statutory Health Attorney of last resort.

When managing an adult's affairs, we take their wishes into account, work to promote their autonomy and independence, consult with loved ones, and make decisions to ensure their care and protection.

### **Advocate, mediate and educate**

We have broader roles in relation to adults with impaired capacity. We can advocate on their behalf to help ensure that they receive the services they need. If there are family members or other parties in conflict over decisions, we can play a mediation or conciliation role.

We are also required to educate and advise the community about Queensland's guardianship system; its legislation and how it operates. We train staff from government and community-based agencies, and conduct a range of information sessions, including providing free information and advice to informal and formally appointed guardians for adults with impaired capacity.

## **Our framework**

Our work is informed by the United Nations Convention on the Rights of Persons with Disabilities, and is guided by the general principles and health care principle of the *Guardianship and Administration Act 2000*. This means that, when making any decision and carrying out any functions, we act in a way that least restricts the rights of an impaired adult. To the greatest extent possible, an adult must be able to participate in decisions affecting their life and have their views taken into account.

The overriding concern is that decisions are made in the best interests of the adult, and that adults are protected from harm. Adults are entitled to respect for their individual value, and encouraged and supported in their participation in community life and their self-reliance as much as possible.

## **How do matters come to us?**

The Queensland Civil and Administrative Tribunal (QCAT) will appoint us as a person's guardian if there is no one else more appropriate, and if the person is at risk and needs someone to make decisions for them. We cannot automatically take on the role of guardian for an adult by request; the Public Guardian is *guardian of last resort*.

You can appoint the Public Guardian as your attorney for personal and health matters under an Enduring Power of Attorney or Advance Health Directive provided there is no one else more suitable to the task. As Statutory Health Attorney of last resort, the Public Guardian also makes health decisions without a guardianship appointment, when there is no one else to do so.

You can also contact us directly if you suspect an adult with impaired capacity is being abused or neglected, or if you disagree with a decision made by an attorney or a guardian

## **How can you help us?**

It's everyone's responsibility to maintain and protect the human rights of others and you can help us safeguard vulnerable people by letting us know any concerns you may have about vulnerable adults. Whistleblower protection may be extended to a person who refers a case for investigation.