

How we make contact decisions

The Public Guardian is appointed by the Queensland Civil and Administrative Tribunal (QCAT) to make personal and health care decisions on behalf of adults with impaired decision-making capacity where there is no other appropriate person in the adult's life to take on this role. On a day to day basis, decisions are made by guardians employed by the Office of the Public Guardian (OPG).

The Public Guardian may be appointed to make decisions about matters such as accommodation, contact, health, restrictive practices, service provision and/or legal matters (not related to finance or property). Note we can only make decisions on matters that are specifically referred to in the QCAT order. This factsheet will focus on how OPG makes contact decisions.

OPG's overarching decision making principles

OPG guardians make all decisions in accordance with our [Structured Decision Making Framework](#), and the [General Principles](#) contained in the *Guardianship and Administration Act 2000*. These documents are based on a human rights framework, and the assumption that an adult has the right to make their own decisions, or be provided with decision making support, that respects their will, preferences and rights.

When would a contact decision be made?

Everyone has the right to choose who they have contact with or not. However, sometimes there are situations where a guardian needs to make a contact decision to ensure the relationship is in the best interests of the adult. A contact decision may relate to:

- Who someone does or does not see or speak to
- The type of contact a person has, such as via phone, in person or under supervision of a third party
- When the contact can happen, how long and under what circumstances.

A contact decision cannot be made in relation to someone's access to technology, such as mobile phones or Facebook.

Contact decisions are some of the most complex decisions a guardian will make. So, this type of decision will only be made in circumstances where there is no less restrictive option to keep someone safe and free from abuse, neglect or exploitation.

For example, a contact decision may be required where an adult is living in disability supported accommodation and a family member is visiting unannounced which is causing the person distress. Or, where a family member of the adult may be stopping them from seeing someone they want to see (one parent isolating the adult from the other parent is a good example of this).

It's important to note that contact decisions aren't used to manage family conflict – in these instances options such as engaging a mediator should be considered. Additionally contact decisions don't replace the need for police referrals.

*****If someone is being abused or is in danger it should be reported immediately to the Queensland Police Service.*****

What to provide when requesting a contact decision

A guardian must consider a range of factors when making a contact decision. This means they can't make a decision without taking into consideration relevant information about the adult and their circumstances. Please note that a guardian has a right to all documentation relevant to making a decision.

If you are requesting a contact decision from OPG you should provide:

- Details of the decisions you are seeking. For example, you recommend the adult doesn't have face to face contact with someone.
- The reasons for your request, including any risks if a decision wasn't made.
- Any information about the relationship of the person to the adult, including any history which demonstrates a close and continuing relationship, or that the relationship has previously been abusive or not in the person's best interest.

Getting the relevant information to the guardian as soon as possible will help the efficiency of the decision-making process.

What we consider when making a contact decision

Everyone has the right to choose who they do or don't want to have contact with, so understanding the adult's views and wishes is vital to the decision making process, as well as considering how well they understand any potential risks involved in choosing who they have contact with. The guardian will also consider if there is an existing close and continuing relationship with the person who wishes to have contact.

If the adult isn't able to communicate their wishes to us, we will still try to understand what they would want from opinions they previously expressed to us or to friends and family or from their previous actions and behaviours.

We must, however, also consider the adult's best interests and make decisions that keep them safe. So if the adult would be harmed in some way by continuing contact with someone in their personal network, a guardian may decide that contact should be limited or stopped.

If an adult is expressing the view that they don't want to have contact with someone, a guardian will not make a decision that says they must have contact.

Guardians must also consider any legal rulings that may be in place regarding contact, as they cannot make decisions that override these, such as the conditions of a Domestic Violence order for example.

Timeframes

We're frequently asked how long it takes to make a decision, but the simple answer is that it can vary from situation to situation, and there are no standard timeframes. We will of course always strive to be as efficient as possible in our decision making, but our

primary concerns must be that we are considering what is best for an adult, and that frequently means considering a number of options and consulting a number of people, which will take time.

It's also important to understand that a guardian will need to prioritise decision making for adults that are in an unsafe situation over decision making for adults that are currently in a safe environment where their immediate needs are being met. However guardians will still ensure that the rights and interests of all adults under their care will be protected, regardless of any priority decision making requirements.

Implementation and enforcement of decisions

Guardians are decision makers only – we cannot enforce a decision. This means a guardian cannot prevent an adult from having contact with someone, even if we have made a decision that there should be no or limited contact.

In these types of situations it is the role of the adult's support network or service provider to try and limit or prevent contact.

In an alternate scenario, if the person decides after a contact decision has been made that they no longer wish to see or speak to someone, we cannot force the person to continue the contact.

It's also important to understand that a guardian doesn't arrange or supervise contact. If contact requires third party supervision, this must be organised (and paid for if a paid service is required) independently of OPG. If supervision or monitoring of contact is required and a service provider refuses to this, guardians can't force them to do so, even if this means the contact then cannot occur.

Find out more

To find out more about the decisions that the OPG can make, go to publicguardian.qld.gov.au

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