

The investigations process

The Office of the Public Guardian is able to investigate abuse, neglect or exploitation of an adult with impaired decision making capacity. This factsheet explains what happens during an investigation.

How is an investigation started?

Anyone can report suspected abuse, neglect or exploitation of an adult with impaired decision making capacity to OPG. The first step is to complete a referral form. Once we receive that it will be reviewed by our Investigations team to confirm that the adult is likely to have impaired decision making capacity, and the information provided confirms the need for an investigation.

This generally takes around three weeks, and after this the referral will either be accepted or declined, and the person who made the referral will be informed.

Note that we aren't able to investigate organisations that provide paid services, such as residential care facilities or home help providers.

What happens during an investigation?

Once OPG has taken on an investigation, the investigator will begin the process of gathering

evidence to establish if abuse, neglect or exploitation is happening. This can include:

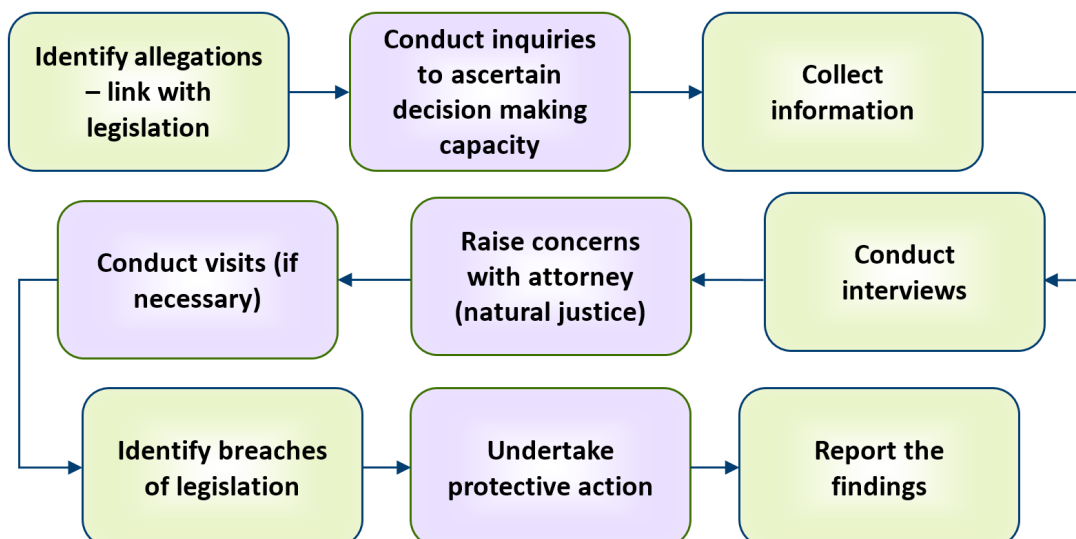
- contacting banks to get financial records
- talking with friends, family and service providers of the adult
- visiting the residence of the adult.

It's worth noting that under legislation our investigators have extensive powers to back up these processes. This includes being able to gain access to any relevant information, including medical files, and requiring people to produce records and accounts (under cross examination if necessary).

OPG investigators must maintain an unbiased and objective approach to gathering and assessing information and evidence.

The person who made the referral will be provided with a report once the investigation has been finalised

While every investigation is unique, the overarching process our investigators follow is shown below.



What is the scope of an investigation?

The most important thing to understand is that the Public Guardian has the discretion to determine the scope of any investigation. This means that not every point raised in a referral may be addressed.

We cannot investigate any historic abuse, or complaints that don't breach legislation – for example family members are often concerned if an attorney doesn't consult with them before making a decision, but in fact if the family member isn't a joint attorney there is no legal obligation for them to do so.

How long does an investigation take?

There is no fixed time for an investigation, as the range of factors to consider will vary for every investigation. Some of these factors include:

- the number and complexity of the allegation made
- whether further information is needed to determine the adult's decision making capacity, both at the current time and, where the allegation covers past events, at the time of that alleged abuse
- the time taken to gather relevant information and evidence from external sources such as medical professionals, financial institutions and service providers (note that delays are often outside of the investigators control)
- determining what, if any, further action is needed in response to finding.

The amount of investigation generally needed does mean an investigation is often not a fast process. A typical investigation can take from several months to more than a year, with about half our cases taking more than six months to complete.

We understand that you may become frustrated with the length of time taken to finalise an investigation into allegations you have brought to our attention.

However, we must ensure that our investigations are independent, thorough and procedurally fair for all those people who are impacted by them.

Please be courteous and respectful in your dealings with our staff.

However where the balance of probability shows an adult is at immediate risk of harm, we can act quickly to suspend a power of attorney or remove an adult from an harmful situation.

What are the possible outcomes of an investigation?

Our investigations have different outcomes depending on the evidence collected and findings of the investigator. The actions are also dependent on the situation and severity of the abuse. There are several possible outcomes.

- An application to the Queensland Civil and Administrative Tribunal (QCAT) to have a guardian and/or administrator appointed, or a replacement guardian and/or administrator appointed.
- A decision to supervise an attorney, guardian or administrator for a reasonable period of time, or ask a financial administrator or attorney to present a plan of management for approval.
- Give advice to the adults and their decision maker (informal resolution).
- No action, where we do not find evidence of abuse, or where the adult is found to have decision making capacity.

We also refer investigations to the Queensland Police Service where appropriate, which may result in criminal charges being laid.

Find out more

For more information on OPG's investigations function, please see publicguardian.qld.gov.au/investigations

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