

# Structured Decision Making Framework Overview

The aim of the Structured Decision Making Framework is to clarify the position of the Public Guardian when making decisions as a guardian or attorney for adults with impaired decision making capacity, and should be used by all delegate guardians when making decisions.

The underlying principle is that all decision making must take place under a supported decision making structure, and prioritise and promote a least restrictive decision making model. The full Structured Decision Making Framework can be found on the OPG website.

## **Key principles and context underpinning this practice direction**

Our decision making framework is underpinned by the *Australian National Standards of Public Guardianship (2016)*, the *Guardianship and Administration Act 2000 (Qld)* and the *Powers of Attorney act 1998 (Qld)* and the *Human Rights Act 2019 (Qld)*.

You can find the Standards and the relevant wording from the Acts in the full framework document, but the key principles of both are:

- Adults should be supported to make their own decisions to the greatest extent possible.
- Every attempt must be made to seek the adult's views and wishes on the matter, or ascertain their likely views on the matter, and these wishes taken into account.
- The adult's wishes should be overridden only where it is necessary to do so to protect them from significant risk to their personal or social wellbeing. Any decision to override the adult's wishes must be balanced with their dignity of risk and right to self-determination.

## **The structured decision making process**

There are 5 broad steps in the structured decision making process:

1. Identify the need for the decision – this could be a notification from the adult or the adult's support network, or a need identified by the guardian.
2. Ascertain the will and preference of the adult (this can be through verbal or non-verbal communication) – the adult should also be given any information or support necessary to help them make a decision. Where an adult cannot communicate, a delegate guardian can, where possible, ascertain the adult's likely will and preferences (substituted judgement).
3. Gain views of other parties – this involves both other people who may be impacted by the decision, and interested parties or professionals who can provide additional information to help the decision making process.
4. Assess risks and benefits of proposed decisions – this is essentially determining whether allowing the adult's preference to be implemented would place their personal or social wellbeing at significant risk. There's more information about this in the section below.
5. Implement the decision – the decision must be fully documented and then communicated to the client and any interested parties. Who implements the decision will depend on the specifics of the decision, but could be the delegate guardian, a health professional, a service provider, or another interested party.

## Assessing risk and determining which form of decision making to use

The right to make their own decisions is fundamental to an adult's dignity, but sometimes it is necessary to override an adult's will to keep them safe. For this reason a delegate guardian must assess the risk of each possible outcome, and then balance the level of risk against the benefits of allowing the adult to make their own decision.

In some cases it may be appropriate to follow the adult's will and preference even though there are some risks, as the benefits of supporting the adult's rights for self-determination outweigh these risks. However in these cases we will clearly document the risks and reasoning for following the adult's preference.

If identified risks are unreasonable, the delegate guardian should consult with the client and/or other interested parties to explore any actions that could be taken to mitigate risks to a reasonable level.

Depending on the balance of risk and benefits, a delegate guardian will apply one of three forms of decision making. (The full policy contains a workflow chart that can help determine which of the three to follow).

1. Supporting the adult's own decision – this is the least restrictive approach
2. Substituted judgment – to be used when it isn't possible to obtain the adult's current views or wishes through any form of verbal or non-verbal communication, and is done by considering the adult's previous decisions, views or actions.
3. Promote and safeguard the adult's interests – overriding an adult's views and wishes is the most restrictive form of decision making, and should only be considered where all less restrictive options have been exhausted.

## OPG decision making procedure

The decision making process above identified the five broad processes that make up structured decision making, but there is a standard procedure delegate guardians follow every time a decision is needed. This is outlined in the flow chart over the page – the details of this workflow can be found in the Guardianship Decision Making Policy document.

# OPG decision making procedure

These are the steps OPG delegate guardians follow when making a decision.

## 1. Prepare for the decision

- Identify the need for a decision
- Confirm the QCAT area of appointment
- Understand the relevant policies, procedures & legislation
- Identify the issues that have prompted need for decision
- Identify what information needs to be gathered
- Determine the relevant parties to be consulted
- Establish and communicate timeframe for decision



## 2. Develop the decision

- Identify factors that may constrain options (e.g. financial)
- Seek views of client and interested parties
- Obtain independent expert advice as needed
- Apply natural justice and procedural fairness in gathering info
- Identify options for decision
- Gather any other relevant information

*Repeat the above steps as necessary*



## 3. Make the decision

- Identify the key facts that will be relied on to make the decision
- Consider the relevant legislation and principles
- Apply legislation and facts to assess merits of each option
- Determine if a review period is needed for decision or outcome
- Escalate decision for approval if needed



## 4. Communicate the decision

- Decide method of communication to all parties
- Communicate verbally and/or in writing
- Provide factual & meaningful reasons for decision
- Advise parties of review and appeal rights
- Finalise all record keeping in OPG systems





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