

# How we make service provision 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 service provision decisions.

## **OPG's overarching decision making principles**

OPG guardians make all decisions in accordance with our [Structured Decision Making Framework](#), [Human Rights Act 2019 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 make their own decisions, or be provided with decision making support, that respects their will, preferences and rights.

## **A guardian's role in service provision decisions**

When the Public Guardian is appointed to make service provision decisions, the guardian will work with the adult and interested parties to make sure they have the necessary supports. Support services are designed to help people with disability and may include things like personal care support, accessing the community or assistance with medication. Essentially, a guardian will advocate for and ensure the services provided meet the needs of the adult.

If the adult is under 65 years old, the guardian will help make sure the adult is supported to register with the NDIS, to meet the NDIS access requirements

and to have an NDIS plan approved. Once the NDIS plan is approved, a guardian will work with an NDIS Support Coordinator, and the adult and their family/ interested parties to ensure the services being delivered are in line with the approved plan and the adult's needs. In practice, the NDIS Support Coordinator will find the most appropriate services for the adult and present it to the guardian to consider.

If the adult is over 65 years old, the guardian will help make sure they have access to supports through the aged care system (either in their own home or in a residential aged care facility). Then, the guardian will work with the chosen service provider to ensure the adult will receive the best and most appropriate services for their needs.

The guardian will also work with the adult's administrator, who has the responsibility of approving the costs of any services.

## **What to provide when requesting a service provision decision**

It is the role of the NDIS Support Coordinator or aged care service provider to work with the adult to find the most appropriate services to meet their needs. Then, a guardian will consider these options and make a decision whether or not to endorse the suggested services.

The *Guardianship and Administration Act 2000* states that a guardian is entitled to the same information as the person would be if they were making the decision themselves. This means if a guardian asks for information you will be required to provide this to assist in making the decision. Information about a service provision decision may include:

- A copy of the NDIS plan (if funded through the NDIS)
- ACAT approval (if funded through the aged care system)
- A copy of the schedule of supports or Roster of Care (NDIS SIL)
- Medical and allied health reports

Sending 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 service provision decision, there are three main things that we take into consideration:

#### **Adult's views and wishes**

Regardless of capacity, an adult has the right to be involved in choosing their supports. So, wherever possible, we take the views and wishes of the adult into consideration. 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. We will also consider the views of the adult's family and friends on the services and supports the adult will receive, as they are considered an important part of the adult's life.

#### **Eligibility to funded supports**

A guardian cannot make decisions about service provision if the adult is not eligible to receive supports or does not have the ability to pay for private supports. For example, an adult who is in Australia on a temporary visa is unlikely to be eligible for NDIS or aged care funding, so unless they have the funds to pay for private supports we cannot make any decisions about support services.

#### **The adult's needs**

Most importantly we need to confirm that any services or supports chosen for an adult meets the adult's needs. If the adult has mobility issues and requires help with personal tasks, such as showering and eating, the guardian will ensure that the adult receives this type of support.

If the proposed provision of service isn't suitable for any reason, a guardian will need to review other options provided to them to ensure the services and supports best suit the adult's needs.

### **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 the adult, and that frequently means considering a number of options and consulting a number of people, which will take time. And of course if the adult has specific or complex needs it may take longer to find suitable services and supports.

If the matter is urgent, we recommend that you let us know when requesting a decision and outline the risks to the adult if a decision isn't made.

It's also important to understand that a guardian will need to prioritise decision making for adults that are in an unsafe situation, for example are not getting the services they need to survive day-to-day, over decision making for adults that are currently in a safe and supportive 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.

### **Enforcement of decisions**

Guardians are decision makers only – we cannot enforce a decision. So for example if an adult doesn't want support to complete day-to-day household tasks, we cannot force them to accept this type of support.

### **More information**

To find out more about our decision making policies and frameworks and factsheets on how we make other types of decisions, go to [publicguardian.qld.gov.au](http://publicguardian.qld.gov.au)

A decorative horizontal line in a light green color with several small circles of varying sizes along its path.

## **Contact us**

t. 1300 653 187

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

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