

Increasing Choice in Home Care – Stage 1

Feedback on Discussion Paper

Public Guardian
October 2015

About the Queensland Office of the Public Guardian

On 1 July 2014, the Office of the Public Guardian (OPG) was established as a new independent statutory body to protect the rights and well-being of vulnerable adults with impaired decision-making capacity, and children and young people in out-of-home care (foster care, kinship care, residential care) and youth detention. This new statutory body was created as a result of the acceptance by Government of recommendations contained in the report from the Queensland Child Protection Commission of Inquiry, *Taking Responsibility: A Roadmap for Queensland Child Protection*.¹

The OPG combines roles that were previously separately undertaken by the Office of the Adult Guardian, and the community visitor function of the former Commission for Children and Young People and Child Guardian.

Relevant to the proposed home care reforms, the OPG works to protect the rights and interests of adults who have impaired capacity to make their own decisions, recognising that everyone should be treated equally, regardless of their state of mind or health.

OPG's charter with respect to adults with impaired capacity is to:

- make personal and health decisions if OPG is their guardian
- make health decisions as the statutory health attorney of last resort
- investigate allegations of abuse, neglect or exploitation
- advocate and mediate for people with impaired capacity, and
- educate the public on the guardianship and attorney systems.

The OPG also provides an important protective role in Queensland by administering a community visitor program to protect the rights and interests of the adult if they reside at a visitable site.

The *Public Guardian Act 2014* (Qld) and the *Guardianship and Administration Act 2000* (Qld) set out OPG's legislative functions and powers, and the *Powers of Attorney Act 1998* (Qld) regulates the authority for adults to appoint representative decision-makers, and who can act as statutory health attorneys.

Home care reforms

The OPG is supportive of the proposed reforms to increase support and choice for consumers seeking home care services.

Overall, the OPG considers that achieving appropriate levels of support for individuals to continue to reside at home presents an important opportunity to assist in relieving the demand for, and reducing the pressures on, residential care services.

Eligibility assessment and reassessment

In relation to the proposals, OPG considers that the change with the potential for the greatest impact on OPG clients relates to the revised ACAT assessment process to determine the specific package level to be approved for an individual.

¹ Recommendation 12.7, Queensland Child Protection Commission of Inquiry, *Taking Responsibility: A Roadmap for Queensland Child Protection*, June 2013 available at <http://www.childprotectioninquiry.qld.gov.au/publications>.

In determining the eligibility assessment criteria, we would advocate that risk to the person (that is to their physical safety) would be a major determinant of the appropriate level of support. Also, it will be important that there is flexibility in the event that a person's level of support needs change, such that a higher level of support would be required for them to continue to reside at home.

In adjusting the current 'broadband' approval process to a level specific approval, the OPG cautions that consideration be given to ensuring that implementation of the change does not have the adverse impact of preventing people from being able to continue to be supported appropriately to reside at home. For example, in cases where individuals begin to show signs of dementia, their capacity may deteriorate at a rapid rate. As a result, the level of care required to assist the person to continue to reside at home may quickly move from low to intermediate or high-level.

It will be important that the reassessment process to claim a higher level of support is not overly complex or timely. In the event a quick decision to increase levels of support is not possible, this may result in an alternative decision to move the person into a nursing facility in order to manage the increased risk to the person, rather than increasing their in-home support in a flexible and timely manner to support them to remain at home.

Provider approval

OPG is supportive of the proposal to streamline provider approval processes, insofar as this continues to assess the quality and safety of proposed care and services. It is recommended that the organisation be required to evidence prior experience and relevant qualifications in the provision of aged care services and processes which evidence robust recruitment, selection and ongoing management and professional development of staff. Selection processes should continue to require personnel to undergo police checks.

Portability of packages

As noted at the outset of this submission, OPG supports the proposals to provide greater choice and flexibility for home care support recipients. In progressing the reforms, it will be important that it is easy for consumers to move between providers, by ensuring service providers are not able to lock a person into service provision through legalistic agreements, or the use of mechanisms which penalise a person seeking to change through lengthy notice requirements or exit fees.

Future work

The OPG supports the reform initiatives to increase choice and flexibility for individuals to support them continuing to live at home.

OPG encourages continued reform efforts to be mindful of opportunities to simplify processes for consumers, wherever possible, and provide clear information to assist consumers understand available options.

We look forward to remaining involved as future stages of work progress, including consideration of the draft legislation and would be happy to provide assistance or clarification in relation to the information in this submission or other matters as appropriate.

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