

Legal decision making in child protection proceedings

A factsheet for legal professionals

This factsheet is to be read in conjunction with the Office of the Public Guardian (OPG) factsheet [What is the Public Guardian’s role as a decision maker when appointed for legal matters?](#), which sets out the Public Guardian’s role in all legal matters (not relating to financial or property matters).

The following table outlines what an OPG delegated legal officer can and cannot do when appointed to make decisions for an adult with impaired decision-making capacity involved in child protection proceedings (i.e. a legal matter), as per the [Guardianship and Administration Act 2000](#) (GAA).

What can a Legal Officer do for an adult involved in child protection proceedings?	What a Legal Officer cannot do for an adult involved in child protection proceedings?
<ul style="list-style-type: none"> Engage with the adult to obtain their views and wishes around decisions to be made for the adult in the child protection proceedings. Apply for legal representation for the adult to be legally represented in any ongoing proceedings. Liaise with the legal representative and client together, including attending lawyer/client meetings, to support participation for the client and in order to progress child protection matters. Seek legal advice from the adult’s legal representative in relation to any ongoing proceedings. Liaise with stakeholders to obtain relevant information to assist and inform the adult’s legal representative. Advocate for the adult’s rights and interests in the child protection proceedings, which may involve seeking increased contact between the adult and the subject child/ren. Support the adult to make their own decisions about the further conduct of the legal matters, such as consenting to the adult taking a certain course of action, opposing the child protection order sought or making a substitute decision such as to not oppose the child protection order sought. 	<ul style="list-style-type: none"> Compel an adult to engage with the legal officer, their legal representative, Child Safety or the Children’s Court or engage in a legal process they are unwilling to participate in. Provide legal advice or direct representation to the adult. Attest to any facts that only the adult themselves would be aware of (i.e. what happens during contact between the parent and child). Accept substituted service on behalf of an adult. Provide support or case management services to the adult. Consent to any child protection order being made in lieu of an adult or in place of an adult. Participate in any social assessment report interviews. Make decisions in relation to child/ren of an adult for whom OPG is appointed (noting adults still retain parental responsibility despite the appointment of the OPG). Act as a litigation guardian. See OPG’s policy statement.



Contact us

t. 1300 653 187

e. legal@publicguardian.qld.gov.au

w. www.publicguardian.qld.gov.au