

# Legal decision making in child protection proceedings

## A factsheet for legal professionals

This factsheet is to be read in conjunction with the 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).

This factsheet only addresses what a legal officer can and cannot do for an adult with impaired decision-making capacity involved in child protection proceedings.

<b>What can a Legal Officer do for an adult involved in child protection proceedings?</b>	<b>What can a Legal Officer not do for an adult involved in child protection proceedings?</b>
<ul style="list-style-type: none"> <li>• Engage with the adult to obtain their views and wishes around decisions to be made for the adult in the child protection proceedings.</li> <li>• Apply for legal representation for the adult to be legally represented in any ongoing proceedings.</li> <li>• 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.</li> <li>• Seek legal advice from the adult's legal representative in relation to any ongoing proceedings.</li> <li>• Liaise with stakeholders to obtain relevant information to assist and inform the adult's legal representative.</li> <li>• 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.</li> <li>• Support the adult to make their own decisions about the further conduct of the legal matters, which may also involve the legal officer consenting to the adult taking a certain course of action, including opposing the child protection order sought or making a substitute decision, including to not oppose the child protection order sought.</li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Provide legal advice or direct representation to the adult.</li> <li>• Attest to any facts that only the parent themselves would be aware of (i.e. what happens during contact between the parent and child).</li> <li>• Accept substitute service on behalf of an adult.</li> <li>• Provide support or case management services to the adult.</li> <li>• Consent to any child protection order.</li> <li>• Participate in any social assessment report interviews.</li> <li>• Make decisions in relation to child/ren of an adult for whom OPG is appointed (noting parents still retain parental responsibility despite the appointment of OPG).</li> <li>• Act as a litigation guardian.</li> </ul>



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