

The Public Guardian

Who is the Public Guardian?

The Public Guardian is an independent statutory officer that is responsible for protecting the rights and interests of adults with impaired capacity and children and young people in the child protection system.

In this document, we are going to talk about the Public Guardian's role in protecting adults who have impaired decision making capacity.

What is decision making capacity?

The law says that if you are 18 years old or older, you are presumed to have capacity if you are capable of:

- understanding information that is required to make a decision and then being aware of what will happen if that decision is made
- freely and voluntarily making a decision about a matter
- communicating decisions in some way to others.

Sometimes, a person who is over 18 may not have decision making capacity because of a disability, a brain injury or another reason.

What does a guardian do?

A guardian can be a private person such as a family member or friend appointed by the Queensland Civil and Administrative Tribunal (QCAT). If there is no one suitable, then QCAT will appoint the Public Guardian to be the person's guardian. If financial decisions need to be made then an administrator might need to be appointed, and if there is no one else, the Public Trustee might be appointed.

A guardian makes decisions as if they were the person. They take into account the person's cultural background and religious beliefs as well as the people, places and things that are important to them.

Investigating allegations of abuse, neglect and exploitation

The Public Guardian also helps to resolve problems when an adult with impaired capacity is being abused, neglected or exploited. The Public Guardian will find out what is happening and then help by making sure that good decision making arrangements are in place.

How can we plan for future decision making now?

A person with decision making capacity who is over 18, can prepare some legal documents to make sure that good decisions are made about them in the event that they lose capacity in the future. Those documents are called **Enduring Power of Attorney** and **Advance Health Directive**



Contact us for more information

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If you would like to contact us and have a matter explained in your language, please call Translating and Interpreting Service (TIS) on 13 14 50 and ask them to contact the Public Guardian.