

The investigation process

What does it mean if the Public Guardian starts an investigation relating to an adult with impaired capacity?

The Public Guardian is satisfied, on the basis of information provided by you in the referral form, and any supporting documentation submitted with it, that there are concerns which relate to the decision making and care arrangements in place for an adult with impaired capacity ('the adult') which require investigation.

Who determines the scope of the investigation?

The Public Guardian's statutory purpose is to promote and protect the rights and interests of the adult who the investigation is about.

The Public Guardian's investigation is independent. The Public Guardian may not investigate every point raised by you.

As the person who made the referral, it is important to understand that the investigation is not conducted at your direction.

The Public Guardian has the discretion to determine the scope of any investigation conducted based on the information provided by you and gathered by investigators.

Examples:

- You may be concerned about how an adult was cared for prior to their admission to a care facility. OPG Investigations Team will only investigate their current situation and care arrangements not prior arrangements before they entered the care facility.
- You may be concerned that an attorney for the adult is not consulting with you before making a decision. The law requires an attorney to consult with other appointed attorneys. There is no legal obligation that requires an attorney to consult with all members of the adult's support network. However, OPG Investigations Team may investigate situations where the attorney is not advising that adult's family and friends about the outcome of important decisions (like the sale of the family home) when the attorney does have a legal obligation to maintain the adult's existing supportive relationships.

The investigators who look into your referral must maintain an unbiased and objective approach to the gathering and assessing of all relevant information and evidence.

Information related to the investigation is confidential. Unless you are an appointed decision maker for the adult, you are not entitled to the provision of information and documentation related to the investigation.

You will be provided with a copy of the report once the investigation has been finalised.



Contact Us

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What actions can the Public Guardian take?

The Public Guardian may take a range of different actions as necessary to protect the rights and interests of the adult as a result of the finalised investigation:

- take no action
- give advice to the adult and their decision makers
- require the completion of certain tasks by the adult's decision-maker
- submit an application/s to QCAT seeking a declaration of capacity, directions as to the conduct of the matter, that an alternate decision maker be appointed or that an administrator be appointed to assist in the collection of funds
- suspend the attorney's power for the matter
- refer allegations to the police for investigation

How long does an investigation take?

The purpose of the investigation is to obtain evidence to determine whether the allegations you have raised can be substantiated and to recommend what action should be taken to address the concerns you have raised.

The duration of an investigation will depend on a range of factors which vary from matter to matter and can include:

- an assessment of the nature of the risk to the adult and their immediate safety which may require urgent action
- reviewing available information and seeking further information about the adult's capacity to make simple and complex decisions across a range of decision making domains such as personal, health and financial
- the number and complexity of the allegations made
- the period of time involved where your allegations relate to past events, we must obtain evidence about the adult's capacity at the relevant time
- the time it takes to gather relevant information/evidence to assess the allegations from a range of external sources such as medical professionals, financial institutions, service providers and the adult's support network. This process can be lengthy and whilst proactively managed by the investigator, how long it takes is often beyond their control
- determining what recommendations should be made to the Public Guardian in relation to further action in response to the findings of the investigation

We appreciate that your decision to refer the matter to the Public Guardian for investigation is often an emotional and difficult one.

We understand that you may become frustrated with the length of time taken to finalise an investigation into allegations you have brought to our attention.

However, we must ensure that our investigations are independent, thorough and procedurally fair for all those people who are impacted by them.

Please be courteous and respectful in your dealings with our staff.