Protecting children, young people and adults experiencing vulnerability

public guardian

www.publicguardian.qld.gov.au

Who we are

Queensland's Public Guardian advocates for the human rights of vulnerable Queenslanders.

For adults this means we work closely with them and their support networks to make decisions on issues such as legal matters, healthcare, living arrangements and services. Wherever possible we make sure their wishes are taken into account, and support them to be able to live life in the general community.

For children and young people in care this means making sure their voice is heard so they can play a part in decisions made about their lives, and helping them with any issues or concerns they have.

Advocacy is understanding the lives and views of our clients so we can better promote and protect their human rights. It can also mean working to prevent or address discrimination, abuse or neglect.

Advocacy does not mean taking over a client's life or problems. It also does not mean taking over the roles and responsibilities of other government agencies or service providers. We are an independent statutory office.

How we advocate for adults with impairments and impaired capacity

Adult Visiting Program

Our Community Visitors (CVs) visit certain types of sites where adults with impairments and impaired capacity may be staying or residing. These are called 'visitable sites', and fall into five categories:

- disability accommodation provided or funded by the Department of Communities and Disability Services and Seniors or the National Disability Insurance Scheme (NDIS), and relevant Queensland Health facilities
- authorised mental health facilities
- residential services with level 3 accreditation
- the Forensic Disability Service
- community care units.

The role of the CV is to independently monitor these sites, and where needed make complaints for, or on behalf of, residents. We make both announced and unannounced visits, which allows us to meet with clients and get a full picture of the standards of service.

CVs can report to the Public Guardian on whether:

- services are adequate to assess, treat and support residents
- the standards of accommodation, health and wellbeing are appropriate
- services are provided to residents in a way that least restricts their rights
- adequate information is available to residents about their rights
- there is an accessible and effective complaints process in place.

Guardians

We can be appointed as a guardian for an adult with impaired decision making capacity. This means we can make decisions on their behalf for a range of personal matters related to their legal issues, their health, where they live, what support services they have access to, and whether they work or study. Our main goal is to protect the dignity, human rights and interests of the adult, and to make sure they can live up to their full potential and participate as much as possible in the general community.

We do this by, wherever possible, making sure our decisions are in line with the adult's views and wishes, which in turn allows us to help them maintain their dignity and independence. We also put a focus on making sure existing supportive relationships, whether with friends, family or service providers, are kept in place. At all times we are guided by the General Principles and Health Care Principle of the *Guardianship and Administration Act 2000.*

It's important to note however, that we don't manage or make decisions about a person's money. Where a financial administrator is needed for an adult, and there is no one in their life to take on this role, the Public Trustee will generally be appointed.

There are three ways we can be appointed as a decision maker:

- When we are appointed as a guardian by the Queensland Civil and Administrative Tribunal (QCAT).
- When an adult nominates us as attorney under an Enduring Power of Attorney (EPA) or Advance Health Care Directive (AHD).
- When we are required to act as a Statutory Health Attorney of last resort (i.e. if an adult does not have the capacity to make a health care decision and there is no suitable family member, friend or unpaid carer to make that decision for them).

Investigations – protecting adults from harm

Our Investigations team is able to investigate allegations of abuse (including financial abuse), exploitation or neglect related to the conduct of decision makers of an adult with impaired decision making capacity. Capacity is defined as understanding what decisions need to be made about a matter and what the effect of those decisions would be; being able to make those decisions freely and voluntarily; and communicating that decision in some way. If an adult can't do one or more of these things then they are considered to have impaired decision making capacity.

We have extensive powers to investigate these allegations, and depending on the outcome of these investigations we are able to take a range of actions to make sure the adult is protected. These include:

- referring matters to QCAT
- suspending an attorney's decision making power under an enduring power of attorney
- referring matters to the police or other agencies
- providing advice.

How to refer a matter for investigation

Any person can refer allegations of abuse, exploitation or neglect to us. If you have any concerns about an adult with impaired decision making ability, you can call us on

1300 653 187

or email investigations@publicguardian.qld.gov.au

Mediation and Education

We are also able to mediate when there are conflicts over decisions made on behalf of an adult with impaired capacity (for example where a family member disagrees with a decision another family member has made).

We also take a proactive role in educating the community about Queensland's Guardianship system and how it works and OPG's role and functions. We work with a lot of government and community-based organisations to provide training and information, and also provide free advice to informal and formally appointed private guardians.

How we advocate for children & young people

Community visitors (CVs)

Every child and young person in a foster home, the home of a kinship carer, a residential care facility, a youth detention centre or adult correctional centre, a disability service or a mental health facility is entitled to receive a visit from a CV. How often we visit a child or young person depends on their circumstances, with the most vulnerable receiving the most frequent visits. Our CVs help children and young people by making sure their voice is heard and:

- providing help, information and advice about their rights or matters that affect them
- working with them or on their behalf to resolve any issues or concerns
- helping them to access support services
- helping them make changes to their care arrangements.

Child advocates – Legal officers

Our legal officers help a child or young person by:

- providing information and advice about legal matters
- advocating for their rights to be met
- making sure their views and wishes are heard when decisions are made about their care arrangements, including in a court or tribunal
- supporting their participation in meetings, conferences and legal proceedings and helping resolve disputes or make complaints if they feel they have been treated unfairly or are unhappy with a decision.

Contact OPG

Office of the Public Guardian
L16, 50 Ann Street
Brisbane, QLD 4000
Postal Address: PO Box 13554
George Street, Brisbane, QLD 4003

p. 1300 653 187

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