

# How we make health care decisions

The Public Guardian is appointed by the Queensland Civil and Administrative Tribunal (QCAT) to make personal and health care decisions on behalf of adults with impaired decision-making capacity where there is no other appropriate person in the adult's life to take on this role. On a day to day basis, decisions are made by guardians employed by the Office of the Public Guardian (OPG).

The Public Guardian may be appointed to make decisions about matters such as accommodation, healthcare, contact, restrictive practices, service provision and/or legal matters (not related to finance or property). Note we can only make decisions on matters that are specifically referred to in the QCAT order. This factsheet focuses on how OPG makes health care decisions.

## **OPG's overarching decision making principles**

OPG guardians make all decisions in accordance with the [OPG Health Care Decision Making Framework](#), and the [General Principles](#) and the [Health Care Principle](#) as contained in the *Guardianship and Administration Act 2000*. These documents are based on a human rights framework, and the presumption that an adult has the right to make their own decisions, or be provided with decision making support that respects their will, preferences and rights.

## **When does OPG make a health care decision?**

There are three scenarios where OPG can generally make health care decisions for an adult who lacks the capacity to make these decisions themselves:

1. When we have been appointed by QCAT as guardian to make health care decisions
2. When we have been appointed as attorney under a person's enduring power of attorney
3. As a statutory health attorney (SHA) of last resort where there is no other culturally appropriate or readily available person in the adult's life to make the decision.

It should be noted that because OPG can make health care decisions (excluding mental health treatment decisions) as the SHA of last resort, it is often not necessary for the Public Guardian to be appointed as a guardian for health care matters. In fact where there aren't long-term health issues to be considered, using the statutory health attorney regime can be a much less restrictive option for a person as decisions can be made on a one-off basis without the formal appointment of a guardian.

For more information on the role of a statutory health attorney please see our [Statutory Health Attorney factsheet](#).

Health care decisions will generally be requested by a health care professional at the point of treatment being needed. And while actual consents for medical treatment can only be provided to healthcare professionals, OPG guardians can also work with stakeholders (including an adult's service providers, support network, case managers and doctors) to proactively progress ongoing health care matters (such as following up a doctor for a referral), or to achieve holistic health care for someone with long-term health issues. In these instances, stakeholders can contact the guardianship team responsible for the adult to discuss the best course of action.

## **When is a health care decision needed?**

A health care decision is needed for most medical treatments. It is important to note that a health care professional must gain consent before a person is treated.

However, minor and uncontroversial health care can be given without consent and can include treatments such as first aid, taking blood pressure, checking teeth or administering a flu vaccination. It is important to note that it is the treating health care professional's responsibility to determine if a matter is minor and uncontroversial, this is not something that can be decided by a guardian. It is also important to

note that if an adult with impaired capacity objects to the health care, it can no longer be considered minor and uncontroversial, regardless of what the procedure or treatment is.

Similarly, consent isn't required for urgent health care where treatment is needed to prevent immediate harm or suffering to the adult, as outlined in section 63 of the *Guardianship and Administration Act 2000*.

If someone has an Advance Health Directive (AHD), health care providers must follow the wishes set out in this document. Guardians will also take into consideration someone's wishes as set out in an AHD, or other advanced care planning documents such as a Statement of Choices, when making healthcare decisions.

### **What information is needed for a health care decision?**

Health care decisions need to be requested by a health care professional by contacting our health care consent line on 1300 753 624.

In all instances the medical professional must provide information about the adult's medical condition and details the treatment or procedure proposed, including the benefits, risks and side effects, and information about any anaesthetic needed. They also need to state whether they have been able to discuss the proposed treatment with the adult, and whether the adult objects to this treatment.

Stakeholders are also welcome to contact OPG before a decision is made to provide additional or background information if it's not known by the health care professional.

It's important to note that getting the relevant information to the guardian as soon as possible will help the efficiency of the decision making process.

### **What we consider**

Any health care decision must maintain and promote the adult's health and wellbeing and be in their best interests and in line with good medical practice. The guardian must also consider whether the treatment or procedure proposed is the least restrictive option.

Additionally the guardian must take the adult's views and wishes into consideration when they make a health care decision. If the adult isn't able to communicate their wishes to us, or their wishes haven't been documented in an advanced planning document or by a GP or service provider, we will still try to understand what they would want from opinions they previously expressed to us or to friends and family.

However, our main priority is the adult's safety and wellbeing. The guardian has to balance the adult's views and wishes and consider the best medical practice.

### **Timeframes**

We're frequently asked how long it takes to make a decision, but the simple answer is that it can vary from situation to situation. We understand that health care decisions can be time critical, so we strive to make our health decisions as quickly as possible. However as noted above, consent isn't needed for urgent health care that is needed to prevent harm or suffering.

Our primary concern must be that we are considering what is best for the adult and this can take time. And of course if the adult has ongoing or complex needs, or there is significant family conflict around treatment, it may take longer to make a health care decision.

### **Find out more**

To find out more about our decision making policies, frameworks and factsheets on how we make other types of decisions, go to [publicguardian.qld.gov.au](http://publicguardian.qld.gov.au)

Health care professionals who need to contact us for a health care decision, should call us on 1300 753 624. The health care consent phone line operates Monday – Friday 7am-7pm and Saturday, Sunday and public holidays 9am-5pm.

A decorative horizontal line in a light green color with several small circles of varying sizes along its path. On the left side, there is a larger, stylized circular logo with a green and blue floral pattern.

### **Contact us**

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*If you need translation services, contact the Translating and Interpreting Service on 131 450.*