

Policies and Procedures

Decision-Making and Recording Policy and Procedure

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1. Definitions

advance personal plan is made by an adult with planning capacity and may include advance consent decisions, advance care statements and/or the appointment of one or more decision makers.

advance care statement is a statement set out in an advance personal plan that details the adult's views, wishes and beliefs as a basis for how they would like any future decision maker to exercise their decision-making capacity in relation to them. It may relate to any aspect of the adult's care and welfare (including health care) and property and financial affairs.

dignity of risk means a represented person should be allowed to make decisions where they can exert their self-determination even though an element of risk is present, and that they should be allowed to make decisions that others do not agree with.

guardianship principles is defined in section 4 of the Act and governs how a person or the Tribunal must exercise their authority under the Act.

interested person is defined in section 3 of the Act and includes a relative of the represented person, a guardian, any agent for the adult, a person who is primarily responsible for providing support or care to the adult or any person who has a genuine and sufficient interest in protecting the represented person's best interests.

relevant considerations is defined in the guardianship principles at section 4(5) of the Act and may be found at [Appendix A](#) to this policy.

represented person means an adult for whom a guardianship order is in place.

represented person's rights, interests and opportunities is a collective reference to the matters detailed in the guardianship principles, including the represented person's right to freedom of decision and action, the right to support for the represented person to make their own decision and all the interests and opportunities in the relevant considerations.

substituted judgment refers to ascertaining the represented person's likely views and wishes by considering the represented person's previous decisions, views or actions.

2. Acronyms

The following acronyms are used in this document

Acronym	Full form
AGO	Adult Guardianship Officer
OPG	Office of the Public Guardian
OPGIS	Office of the Public Guardian Information System
The Act	<i>Guardianship of Adults Act 2016</i>
The Tribunal	Northern Territory Civil and Administrative Tribunal
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities

3. Purpose

This document aims to strengthen the Office of the Public Guardian's commitment to respect the freedom of decision and action and self-determination of each represented person. It emphasises the Adult Guardianship Officer's (AGO) knowledge of the represented person and their views and wishes, with the intention that this knowledge must guide how AGOs determine what is in the best interests of each

represented person in circumstances where the represented person has not made an advance care statement or there is a legislated reason to not give effect to the advance care statement¹.

It will assist AGOs to:

- support the represented person to be involved in decision-making to the greatest extent possible with their views and wishes being prioritised in alignment with the United Nations Convention on Rights of Persons with Disabilities (UNCRPD)
- make decisions within their decision-making authority, and in accordance with the guardianship principles in the *Guardianship of Adults Act 2016* (the Act) and the National Standards of Public Guardianship
- record decisions and reasons for decisions thoroughly, accurately and consistently.

4. Policy Statement

Decision-making capacity is decision specific and a represented person may have capacity to make many of their own decisions.

All of the Public Guardian's decision-making will take place within a human rights framework of the guardianship principles, the UNCRPD and the National Standards of Public Guardianship.

AGOs will exercise their decision-making authority within this human rights framework and in accordance with the guardianship principles will make decisions that:

- give effect to an advance care statement of the represented person
- if the represented person has not made an advance care statement, or there is a legislated reason to not give effect to the statement, AGOs will make decisions in the best interests of the represented person and give consideration to:
 - the represented person's current and previously stated views and wishes
 - what is least restrictive of the represented person's freedom of decision and action, as is practicable
 - provides the represented person with as much support as is practicable for the represented person to make their own decisions.

Understanding the represented person's views and wishes will guide AGOs to determine what the guardianship principles and best interests mean for the represented person in their unique circumstances.

5. Target Audience

All OPG staff, particularly delegated AGOs.

6. Policy

This section includes policy in relation to:

- [Authority of the Public Guardian](#)
- [The Act and the guardianship principles](#)
- [The UNCRPD](#)
- [National Standards of Public Guardianship](#)
- [Decision-making authority of the guardian as specified in the order](#)
- [Guardianship decision-making delegations](#)

¹ See section 4(7) *Guardianship of Adults Act 2016* and section 23(2) *Advance Personal Planning Act 2013*.

- [Decision-making with a joint guardian](#)
- [Other relevant OPG policy and procedure](#)
- [Standardised record keeping](#)

6.1. Authority of the Public Guardian

The Northern Territory Civil and Administrative Tribunal (the Tribunal) may appoint the Public Guardian as guardian of last resort for a represented person where there is no individual who is eligible for this appointment. The Public Guardian may delegate their powers and functions as guardian to an AGO.

6.2. The Act and the guardianship principles

Guardianship is a restriction of an adult's autonomy of decision and action. The Act minimises this inherent restriction of guardianship by recognising the overall wellbeing, human rights and fundamental freedoms of persons with impaired decision-making capacity and align with the UNCRPD.

The Act reflects the paradigm shift in Australia and overseas of guardianship legislation being fundamentally protective and paternalistic to it maximising the participation of adults with impaired decision-making capacity in decisions affecting them².

The guardianship principles recognise the importance of respecting the adult's views, wishes and beliefs by providing that if the adult has made an advance care statement (detailed in an advance personal plan), a guardian must exercise their decision-making authority to give effect to this statement even if doing so is not in the represented person's best interests, unless:

- the represented person, having capacity to do so, states that they do not want that statement to be given effect, or
- a circumstance detailed in section 23(2) of the *Advance Personal Planning Act 2013* exists so that the AGO is excused from exercising substituted judgment.

When there is no advance care statement or a legislated reason exists to not give effect to the statement, the guardianship principles guide guardians in the exercise of their decision-making authority to make decisions in the best interests of the represented person. What is in the represented person's best interests will be unique to their individual circumstances.

To determine what is in the represented person's best interests the AGO must:

- take into account the represented person's current views and wishes
- take into account all relevant considerations (defined in the Act) and give them the appropriate weight in the circumstances.

The guardianship principles mandate that in determining what is appropriate in the circumstances the AGO's authority must be exercised in a way that:

- is least restrictive of the represented person's freedoms of decision and action as is practicable
- provides the represented person with as much support as is practicable to make the represented person's own decisions.

6.3. The UNCRPD

Australia signed and ratified the UNCRPD, which came into force for Australia on 16 August 2008.

² Mr John Elferink, Second Reading Speech: Guardianship of Adults Bill 2016

The UNCRPD's purpose is to "promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity".³ The Act seeks to align with the UNCRPD⁴ and the Public Guardian has a direct role in implementing the obligations and protecting the rights prescribed under it. In particular, ensuring the right of persons with impaired capacity to make their own decisions, that respect their will, preferences, and rights and that the person be provided with decision-making support where needed, to exercise their right to make their own decisions.

6.4. National Standards of Public Guardianship

The Australian National Standards of Public Guardianship (2016) draw on the UNCRPD and set 10 standards for guardianship decision-making. There are two standards that are fundamental to this policy:

1. Support decision-making capacity
Staff providing a guardianship service will ensure that all reasonable efforts are made to support represented persons to exercise their own decision-making capacity to the greatest extent possible under relevant legislation.
2. Ascertain will and preferences⁵
Staff making legal decisions, will endeavour to:
 - make decisions that accord with the represented person's will and preferences wherever possible
 - override the person's will and preferences only where necessary to protect the person from significant risk to their personal or social wellbeing⁶
 - if the represented person objects to the proposed decisions, make reasonable attempts to ascertain the reasons for their objection and consider possible ways to meet their wishes or resolve any disputes.

These standards must be applied within the parameters of the guardianship principles.

6.5. Decision-making within the guardianship principles, the UNCRPD and the National Standards

In accordance with the guardianship principles, the Public Guardian will exercise decision-making authority in accordance with any advance care statement of the represented person, or where there is no advance care statement or there is a legislated reason to not give effect to the statement, in the best interests of the represented person in their unique circumstances.

Making decisions in the best interests of the represented person means understanding and being guided by the represented person's views and wishes and that decision-making, including how relevant considerations are weighed, must be done in the context of having significant knowledge of the represented person.

To align this decision-making with the UNCRPD and the National Standards of Public Guardianship AGOs will:

- know and understand the views and wishes of the represented person
- provide the represented person with support to make their own decisions
- wherever possible, make decisions that are consistent with the current views and wishes of the represented person or with their previously stated views and wishes.

³ United Nations *Convention on the Rights of Persons with Disabilities* Article 1

⁴ Mr John Elferink, Second Reading Speech: Guardianship of Adults Bill 2016

⁵ The term 'will and preference' is compatible with 'views and wishes' used in the guardianship principles.

⁶ Protection of the adult's personal or social wellbeing is compatible with various of the 'relevant considerations' detailed in the guardianship principles.

6.6. Authority of the Public Guardian is specified in the order

The Public Guardian's authority is subject to the terms of the guardianship order and the Act.

The Tribunal will specify in the guardianship order the personal matters or financial matters, or both, for which the Public Guardian has authority.

The Tribunal may have:

- imposed restrictions on the Public Guardian's authority
- imposed requirements to be complied with by the Public Guardian
- given directions to the Public Guardian.⁷

An AGO must make decisions for the represented person only in relation to the matters for which the Public Guardian has authority under the guardianship order when such decisions are required.

Decision-making capacity is decision specific and therefore a represented person's decision-making capacity needs to be considered for each and every decision. If a represented person has decision-making capacity to make a decision there is no requirement for the AGO to exercise their decision-making authority. However, if the decision falls within the Public Guardian's decision-making authority, the AGO still has a role to ensure the represented person's decision is informed and to document the represented person's decision, including any support that may have been provided to the represented person to make an informed decision.

The authority of the Public Guardian includes that the AGO must also advocate for the represented person in relation to the matters for which the Public Guardian has authority under the guardianship order.

6.7. Guardianship decision-making delegations

The Public Guardian has decision-making authority for all represented persons under the guardianship of the Public Guardian. AGOs are delegated with authority for specific decisions by the Public Guardian (see Guardianship decision-making delegations). This delegation does not affect the Public Guardian's decision-making authority.

The OPG Guardianship Delegations guidelines and AGO Guide identify the decisions AGOs can make without supervisor approval and which decisions require the approval of the Team Manager, the Director Guardianship and/or the Public Guardian.

All AGOs must familiarise themselves with these delegations and act accordingly. If an AGO is uncertain if a decision falls within their delegated authority, they must discuss the matter with their Team Manager.

6.8. Decision-making with a joint guardian

If the Public Guardian is appointed jointly with a private guardian, the AGO must exercise their decision-making authority in agreement with the joint guardian. The AGO must endeavour to collaborate with the joint guardian during the decision-making process and any decision reached must be unanimous.

If a unanimous decision cannot be agreed between the AGO and the joint guardian, the AGO should:

- discuss the decision with their Team Manager
- explore options to reach a unanimous decision with the private guardian
- consider making an application to the Tribunal for a variation to the represented person's guardianship order in relation to the joint appointment.

6.9. Other relevant OPG policy and procedures

Decisions about specific personal matters may attract additional legislative requirements, restrictions or considerations for AGOs to take into account in their decision-making process (for example when making

⁷ Section 17 of the Act

decisions about health care actions). AGOs must comply with these legislative requirements and refer to the relevant OPG policies and procedures for guidance and direction in relation to decision-making for these matters.

6.10. Standardised record keeping

All information in relation to a represented person must be recorded in the represented person's Office of the Public Guardian Information System (OPGIS) file.

In accordance with the National Standards for Public Guardianship, AGOs will:

- record guardianship decisions at the time of making the decision and in a way that also notes the views of the represented person, joint guardian and other relevant parties, as well as timeframes, conditions and the reasons for decisions
- record significant information that has been obtained, including details of key contacts that have been identified.

7. Procedures

These procedures relate to when a represented person does not have an advance care statement, or there is a legislated reason to not give effect to the advance care statement, and the AGO must exercise their decision-making authority in the best interests of the represented person .

If the represented person has an advance personal plan, refer to the policy and procedure When the represented person has an Advance Personal Plan.

The following section includes procedures for:

- [The decision-making process](#)
- [Making decisions within the guardianship principles](#)
- [Recording decisions and reasons for decisions](#)

7.1. The decision-making process

The decision-making process helps the AGO determine the decision-making approach that is required for a decision.

7.1.1. Identify the need for a decision

The AGO may be notified by the represented person or an interested person of the need for a decision. The AGO may also identify the need for a decision, through the course of regular enquiries around the represented person's health or well-being.

7.1.2. Ascertain the views and wishes of the represented person

Understanding the represented person's views and wishes will guide the AGO to determine what the guardianship principles mean, and what is in the best interests of the represented person in their unique circumstances.

The AGO must first attempt to gain the views and wishes from the represented person directly. Views and wishes may be expressed orally, in writing, sign language, augmentative communication or in another way, such as by conduct, body language and behaviour. It is recognised that nonverbal techniques can be valid forms of communication.

AGOs should consider the need to use an interpreter to ascertain the views and wishes of the represented person.

The represented person should be provided with any information or support necessary to make an informed preference about the required decision. Where the represented person cannot provide their own views,

consideration should be given to whether it is reasonably practicable to determine the represented person's likely views and wishes from their previous actions.

If the represented person objects to a proposed decision, the AGO must make reasonable attempts to ascertain the reasons for their objection, and consider possible ways to meet their wishes or resolve any disputes.

7.1.3. Gain views of interested persons

In accordance with the guardianship principles, AGOs must consider the views of interested persons who may provide further details to help inform the decision making process. Interested persons will differ according to the decision being made. Generally, an interested person is someone who has an ongoing relationship with the represented person, and has an interest in, or will be impacted by, the decision being made. In circumstances where an individual is not to be consulted, reasons should be documented clearly.

The principles of natural justice and procedural fairness also require that any parties who may be impacted by the proposed decision, should be consulted for their views on the decision.

7.1.4. Assess risks and benefits of proposed decision

The AGO must determine the likely outcome of the proposed decision. This outcome will assist the AGO to take into account all relevant considerations, and give them the weight that is appropriate in the represented person's circumstances. In particular, whether allowing the represented person's preference to be implemented would involve significant risk to the represented person, for example, of harm, neglect, abuse or exploitation.

In some cases it may be necessary for the AGO to override the represented person's views and wishes, to safeguard their rights, interests and opportunities, and thereby make a decision in their best interests. This must be balanced with the represented person's dignity of risk. AGOs must acknowledge that the right to make decisions is fundamental to the represented person's inherent dignity, and allowing the represented person to make their own decisions can be a benefit in itself. The consideration of the risks and benefits of a proposed decision will determine which decision-making approach will be followed (that is, support the adult's decision or override their views and wishes in their best interests).

To assist in the risk and benefit assessment, the risk assessment tool must be completed for complex, high risk and conflicted view decisions. The AGO will consult with their Team Manager if unsure if the risk management tool is required.

7.1.5. Implement the decision

As a priority, the AGO will advise the represented person and interested persons of the decision and, where requested, will provide reasons for the decisions. Depending on the specific decision, implementation of the decision may be undertaken by the AGO, represented person, service provider, health professional or other interested person. The decision must be documented clearly, providing details of the whole decision making process and reasons for the decision.

Decision making is the central role of an AGO and all decisions can be reviewed by an external party. Therefore, the rationale and information recorded in relation to a decision needs to be fully documented to enable a review of decision to occur if required. Refer to the [OPG Reviewing a Public Guardian decision fact sheet](#).

7.2. Making decisions within the guardianship principles

AGOs will exercise decision-making authority in the best interests of the represented person for their unique circumstances, giving consideration to the represented person's views and wishes and all relevant considerations, so that any decision made is least restrictive of the represented person's freedom of decision and action, and supports the represented person to make their own decisions.

How an AGO weighs the relevant considerations, should be done in the context of a significant understanding of the represented person's individual circumstances and their current and previously stated views and wishes. It is within this context that an AGO can exercise their decision-making authority in the best interests of the individual represented person.

An AGO can apply three approaches to decision-making within the guardianship principles. The least restrictive are:

- Support the represented person to make their own decision, and
- Make a decision in accordance with the represented person's previously stated views and wishes, known as substituted judgment.

Wherever possible, these are the preferred approaches.

The third approach, to make a best interests decision that overrides the represented person's views and wishes, is the most restrictive and is justified when the identified risks mean the other relevant considerations should be weighted to override the RA's current or previously stated views and wishes.

The flowchart at Appendix B outlines the decision-making process to ensure decisions are least restrictive of the represented person's freedom of decision and action.

The Best Interest Decision-Making Checklist should be consulted for all decisions about a represented person. If at any time an AGO has concerns about what is in the best interest of the represented person, they should discuss the matter with their Team Manager.

7.2.1. Support the represented person to make their own decision

Allowing a represented person to make their own decisions recognises their dignity and can increase independence and confidence.

Having regard to all relevant considerations, the AGO will provide the adult with as much support as is practicable for the represented person to exercise their own decision-making capacity.

While supporting the represented person to make their own decision the AGO will ensure the represented person:

- has access to all necessary information to make an informed decision
- has access to the necessary supports to make an informed decision, including where applicable the use of an interpreter
- is not subject to undue influence.

The AGO may also need to formalise the decision by the represented person. Depending on the services or agencies involved, others may request notification of the decision by the AGO.

The AGO should ensure the represented person is provided with any necessary information, in a manner which suits their abilities and needs. This may be undertaken by the AGO or another party that is better suited to provide the information. For example, a guardian with financial decision-making authority would be the most appropriate party to advise the represented person of any information about their finances.

The represented person may indicate their views and wishes in relation to a decision through nonverbal communication methods. These nonverbal means are considered valid and meaningful. AGOs should ensure that the represented person has access to any necessary tools or support to communicate effectively.

In addition to ascertaining the views and wishes of the represented person, the AGO must consult with interested persons to obtain their views on the proposed decision of the represented person. If new relevant information is obtained during this process, the AGO may need to consult again with the represented person to ensure they have all the necessary information.

Based on all relevant information received, the AGO will consider the risks and benefits of allowing the decision to proceed, in accordance with the represented person's views and wishes, and taking into account all other relevant considerations.

If identified risks to the represented person are of reasonable likelihood and severity, and the proposed outcome promotes and safeguards the represented person's rights, interests and opportunities, the AGO can proceed with the decision making process, allowing the represented person to make their own decision. In some circumstances, the AGO may need to provide formal consent to other parties to allow for the decision to be implemented.

If identified risks are determined to be unreasonable, or the proposed outcome is not likely to promote and safeguard the represented person's rights, interests and opportunities, the AGO should consult with the represented person and relevant interested persons to explore any additional actions which should be undertaken to mitigate the risks to a reasonable level.

Only after full exploration of options, and if the identified risks determine that the relevant considerations should be weighted in favour of overriding the represented person's views and wishes, should the AGO consider an alternative decision. The AGO must obtain approval from the Team Manager to proceed with a decision that overrides the represented person's views and wishes. The Team Manager will advise the Director Guardianship of the proposed decision, prior to approval or otherwise being given to the AGO. The decision must be recorded in accordance with this policy.

7.2.2. Ascertain previously stated views and wishes and exercise substituted judgment

Consideration of a represented person's previously stated views and wishes is one of the relevant considerations, and provides further opportunity for the AGO to fully understand the represented person, their views and wishes, and what decision is in the best interests of the represented person in their unique circumstances.

Wherever possible, and having consideration to the guardianship principles, an AGO must ascertain the represented person's likely views and wishes by considering the represented person's previous decisions, views or actions. This is known as exercising substituted judgment.

Substituted judgement should only occur when all communication strategies to ascertain the represented person's current views and wishes have been exhausted. Views and wishes expressed through non-verbal means are considered valid and meaningful.

Previously stated views and wishes may be an important consideration when the represented person is unconscious, or if their condition is so severe that meaningful views cannot be expressed by the represented person (including through nonverbal means).

If through substituted judgement, the likely views and wishes of the represented person are obtained, the AGO should then consult with any interested persons and should assess the risks and benefits of the proposed decision.

If the risks identified are reasonable, the AGO should give the appropriate weight to all relevant considerations in accordance with the guardianship principles and, if possible, make a decision based on the principle of substituted judgment.

If the identified risks are unreasonable or do not promote or safeguard the represented person's rights, interests and opportunities, the AGO, represented person (where possible) and relevant interested persons, should discuss the matter further to explore any additional actions which should be undertaken to mitigate the risks to a reasonable level.

In situations where the represented person's views and wishes are not able to be ascertained, the AGO should make the decision based on all other relevant considerations in accordance with the guardianship principles.

7.2.3. Make a best interests decision that overrides the represented person's views and wishes

Overriding the represented person's views and wishes is the most restrictive form of decision-making and should only be considered when all other less restrictive options have been exhausted.

AGOs will only override the represented person's views and wishes where it is in the best interests of the represented person, having regard to all relevant considerations and giving each consideration the weight that is appropriate in the circumstances to:

- be least restrictive of the represented person's freedom of decision and action as is practicable
- provide the represented person with as much support as is practicable for the represented person to make their own decisions.

If an AGO believes it is in the best interests of a represented person to override their views and wishes, the AGO must seek approval for the decision from their Team Manager prior to the decision being made. The Team Manager will advise the Director Guardianship of the proposed decision prior to approval, or otherwise, being given to the AGO.

7.3. Recording decisions and reasons for decisions

Decision-making is the central role of an AGO and all decisions can be reviewed by an external party. Therefore, the rationale and information recorded in relation to decisions needs to be fully documented to enable a review of decision to occur if required. The AGO Decision-Making Tool, in the Office of the Public Guardian Information System (OPGIS), guides AGOs through the process of recording decisions and reasons. Decisions must be recorded into OPGIS at the time of making the decision.

When completing the AGO Decision-Making Tool, AGOs should also consult with the Best Interest Decision-Making Checklist to ensure the decision has been made in accordance with this policy and in the best interests of the represented person.

For further information in relation to the review of a decision refer to the [OPG Reviewing a Public Guardian decision fact sheet](#).

7.3.1. What information to include when recording a decision

The AGO Decision-Making Tool will prompt the AGO to include the following necessary information:

- date of the decision
- decision-making power the AGO relied on
- views and wishes of the represented person
- if the decision is consistent with the views and wishes of the represented person
- reasons for the decision (risks and benefits)
- views of joint guardian/s
- views of interested persons
- to whom the decision and reasons for the decision need to be distributed, and the method of communication (this information is to be documented in OPGIS)
- that the AGO has had discussions with their Team Manager about the decision (if applicable), the reasons for the decision and the process involved
- that it has been recorded on the represented person's file in OPGIS
- review date for the decision to assess if the outcome of the decision has been in the represented person's best interest, or if the decision needs to be reviewed.

As a general rule, the AGO should consider if someone can look at the represented person's file when the AGO is on leave or has left the organisation, and be able to explain the decision and the reasons for it.

7.3.2. When a decision does not adhere to the guardianship principles

If at any time the AGO has concerns about whether a particular decision adheres to the guardianship principles, the AGO should revisit the decision and consider what steps must be taken in order to ensure the principles are observed, and immediately discuss the situation with their Team Manager.

7.3.3. Recording the views and wishes of the represented person and interested persons

Recording the views and wishes of the represented person and interested persons in the decision making process can be challenging, as the wishes and views of people are not necessarily static or always clear. A person's views might be limited by their knowledge of options or because they only hold part of the relevant information. It takes skill to open up the lines of communication and create a rapport with an individual, but in doing so it provides the AGO with a situation in which they can obtain the relevant information to make a decision in the best interests of the represented person.

Example of how to record the represented person's views

"Mrs XXX has stated firmly and repetitively that she will never go into an old person's home. She says there is nothing wrong with her and that her family should look after her. When I explained her daughter DXXX is moving to Sydney and will no longer be able to provide the day-to-day care she has been getting for the past several years, Mrs XXX said that she has a son as well and it was his turn to make himself useful. Mrs XXX said she did not recall ever visiting an aged care facility and declined the offer to visit some, so she could have a clearer picture of life in these facilities. Mrs XXX denied that she is not managing at home and said everything is in perfect order. On the second visit to Mrs XXX she had no recollection of my previous visit. She was unaware of her daughter's plans to move to Sydney and she could not recall the name of her son. When a mouse ran across the half-empty boxes of the rotting Meals on Wheels meals, Mrs XXX screamed and said she was terrified of rodents and could not sleep at night for fear of them. She also complained about being lonely, now that all her friends had died and the neighbours had all moved away. When I suggested she might feel more secure in an aged care facility and to have some company, she became agitated and said 'no-one is going to put me away in one of those places just to rot and die', etc., etc."

Example of how to record an interested person's views:

AGOs should avoid simply stating an interested person's position in relation to a prospective decision. For instance, "Mr. SXXX is opposed to his mother residing in aged care" is not helpful. This might indicate the person's position on the decision, but does not articulate their views on what they think is in their mother's best interests. It would be more useful to note this level of detail:

"Mr SXXX says that he could not tolerate his mother being in an aged care facility. He says he would never agree to live in such a place himself. He recalls his mother saying that she could not understand families who would allow their loved ones to wither away in those types of places. He admits he has not visited his mother for 5 years and only calls her on special days. He was unaware that she had been diagnosed with dementia. When I put to him that his sister, DXXX, who visits their mother daily had reported her extreme concern about her living conditions, he responded that his mother had never been much of a housekeeper and everyone is entitled to die in their home". This level of detail makes it easier to understand the situation and weigh the various options. This also ensures that if another AGO takes over the file, they have sufficient detail to understand (and explain, if necessary) the decision that was made. The detailed information enables a review of a decision to be undertaken.

7.3.4. Note about expert opinion

A health care or other professional's views must be weighed in view of all the information gathered by the AGO. For instance, a GP may consider that Mrs XXX can manage at home; however, a hospital treating team might recommend she be discharged to residential care. The AGO must consider the various expert assessments, along with the views and wishes of the represented person and interested persons, in order to

determine what is in the represented person's best interest. The expert, or any individual, may not be aware of other information the AGO has obtained, and therefore is making their assessment with incomplete information. Where possible, the AGO should obtain expert or professional views in writing and file in OPGIS. In matters where there are competing views, the risk assessment tool is to be completed to assist in identifying further actions or gaps in information.

8. Review

This document is next due for review in January 2022. However, we are committed to continuous improvement and welcome feedback about our policy documents at any time.

If you have a suggestion about how to improve this document, please email the Policy Team at Secretariat.OPG@nt.gov.au.

9. Document Quality Assurance

Document	Decision Making and Recording Policy
Contact Details	Secretariat.OPG@nt.gov.au
Approved by	Public Guardian
Date approved	11 May 2020
Document review	At least Biennially and after significant changes to relevant legislation or agency structure
TRM Number	EFILE2019/35939/0010~0001

10. Legislative Basis and Related Documents

Key Legislation, By-Laws, Standards, Delegations, Aligned & Supporting Documents	<p>Guardianship of Adults Act 2016</p> <p>Advance Personal Planning Act 2013</p> <p>National Standards for Public Guardianship</p> <p>OPG Reviewing a Public Guardian decision fact sheet</p> <p>When the Represented person has an Advance Personal Plan - EFILE2019/35939/0011~0001</p> <p>AGO Decision-Making Guide - EFILE2019/35939/0010~0002</p> <p>OPG Guardianship Delegations guidelines - EFILE2019/35939/0010~0003</p> <p>AGO Decision-making Tool - EFILE2019/35939/0010~0004</p> <p>Best Interest Decision-Making Checklist - EFILE2019/35939/0010~0005</p> <p>OPG Risk Assessment Tool - EFILE2019/35939/0010~0006</p>
References Acknowledgements	<p>Structured Decision Making Framework Policy 2017, Queensland Office of the Public Guardian</p> <p>Public Guardian: Decision Making Guideline 2015, New South Wales Public Guardian</p>

11. APPENDIX A

Section 4(5) *Guardianship of Adults Act 2016*

relevant considerations include, but are not limited to, the following:

- (a) *the adult's current views and wishes and previously stated views and wishes;*
- (b) *any views and wishes stated by an interested person for the adult;*
- (c) maintenance of the adult's freedom of decision and action to the greatest extent practicable;
- (d) the ability of the adult to be as independent as is practicable;
- (e) protection of the adult from harm, neglect, abuse and exploitation;
- (f) the provision to the adult of appropriate care, including health care;
- (g) promotion of the adult's happiness, enjoyment of life and wellbeing;
- (h) the ability of the adult to achieve the adult's maximum physical, social, emotional and intellectual potential;
- (i) the ability of the adult to live in the general community and take part in community activities;
- (j) maintenance of the adult's right to be treated with dignity and respect;
- (k) the ability of the adult to maintain the adult's preferred living environment and lifestyle;
- (l) maintenance or creation of a support network for the adult;
- (m) protection of the adult's property and financial resources from loss, damage or misuse;
- (n) protection of the adult's right to confidentiality of information about the adult.

