

Assessing Risk in Guardianship Decision Making

Assess risks and benefits of proposed decision - the delegated adult guardianship officer (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. AGO's 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, a risk assessment template is available to assist the analysis.

The section below provides further guidance in assessing risk.

Implement the decision - the AGO will prioritize advising the represented person and interested parties 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 party. The decision must be documented clearly, providing details of the whole decision making process and reasons for the decision.

Assessing Risk in Guardianship Decision Making

Risk in guardianship decision making refers to risk to the represented person's personal and social wellbeing. This broad definition includes:

1. The adult's human rights (as defined in the United Nations Declaration of Human Rights and Convention on the Rights of Persons with Disabilities)
2. Acting in accordance with the *Guardianship of Adults Act 2016* and giving all relevant considerations to the Guardianship Principles
3. The National Standards of Public Guardianship 2016
4. The threshold for unreasonable risk is when the likely outcome would not promote and safeguard the represented person's rights, interests and opportunities.
5. Before determining the risk of possible outcomes of a decision, AGO's must consider the adult's right to self-determination. Making a decision which does not align with the adult's own will and preferences, may negatively impact their self-worth and dignity.
6. Where the represented person's preference is considered to carry a reasonable risk to themselves or others, the AGO should support the adult's own decision, despite the risks present. In these cases, the AGO should clearly document the possible risks, and explain that the benefit of supporting the adults right for self-determination, outweighs the risks. AGO's should also recognize that the importance of self-determination may differ between individuals and may differ depending on the specific decision.
7. For example, an adult may find it more intrusive to have a decision made for them which relates to who they have contact with, but may be comfortable with a delegated AGO making a decision about which service provider to engage with.
8. Each decision must be considered individually, and depending on the type of decision being proposed, different aspects must be considered.

Assessing Risk

1. The delegated AGO should first assess the risk of each possible outcome of all decision options. There may be minimal decision options (e.g. to implement a decision, or to maintain a current arrangement), or multiple options (e.g. more than two locations for the adult to reside).
8. Table 1 provides a risk matrix -this is a tool only, to assist in determining risk. Due to the complex nature of guardianship and differing needs of individuals, the tool will not necessarily function for every decision a delegate guardian may make.
9. By considering the likelihood of an incident occurring, cross referencing the consequence if the incident occurs, a risk rating is provided as low, medium, high or extreme.

The AGO should then balance the resulting risk rating against the benefits of allowing the represented person to make their own decision.

Table 1 - Risk Matrix

Likelihood of	Consequence				
	Insignificant	Minor	Moderate	Major	Catastrophic
Almost Certain	Medium	Medium	High	Extreme	Extreme
Likel	Low	Medium	Medium/High	High	Extreme
Possible	Low	Low	Medium	Medium/High	High
Unlikely	Low	Low	Low	Medium	Medium
Rar	Low	Low	Low	Low	Medium



There are three discrete forms of decision-making which a delegate adult guardianship officer can apply when working with a represented person (Refer to OPGIS Decision Level Guideline).