

Confidentiality provisions

Confidential information disclosed under the guardianship regime is generally required to be kept confidential. The legislation does this in three ways:

1. The legislation protects confidential information that a person gains through their involvement with the guardianship regime. This includes information gained by those involved in administering the guardianship legislation such as members of the Guardianship and Administration Tribunal and its staff, the Adult Guardian and Public Advocate and their staff, and guardians and administrators.¹ It also includes those people who are acting as attorneys, including statutory health attorneys.²

Information will be regarded as confidential only if it could reasonably be expected to identify the person involved. However, care must be taken in disclosing information because it may still identify a person even if he or she has not been named. For example, the identity of a person may be revealed if someone tells a story which refers to 'my son'.

2. The legislation prohibits people publishing information about a proceeding that occurred before the Guardianship and Administration Tribunal.³ This includes information about who was involved in a proceeding (such as witnesses or parties to an application), information given before the Tribunal, matters in documents before the Tribunal and the Tribunal's decision or reasons for its decision.

3. Sometimes, the Tribunal may additionally make a specific 'confidentiality order' about the proceedings (for example, protecting a document because it would only be given in confidence).⁴ A specific order that particular information not be disclosed must also be followed.

Queensland Law Reform Commission

Post: PO Box 13312
George Street Post Shop
Brisbane Qld 4003

Phone: (07) 3247 4544

Fax: (07) 3247 9045

Email: qlrcguardianship@justice.qld.gov.au

Web: www.qlrc.qld.gov.au/guardianship

1. *Guardianship and Administration Act 2000* (Qld) s 249.
2. *Powers of Attorney Act 1998* (Qld) s 74.
3. *Guardianship and Administration Act 2000* (Qld) ss 112 and 80G.
4. *Guardianship and Administration Act 2000* (Qld) s 109.