

Confidentiality

Key questions for people who may need help with decision-making

The Queensland Law Reform Commission has been asked by the Attorney-General to help make Queensland's guardianship laws better. We want to tell you about this and ask for your ideas.

What is the Guardianship Review?

The Queensland Law Reform Commission has been asked to make the guardianship laws better.

We are doing this in three steps. We will look at:

1. The role of **confidentiality** in the guardianship system.
2. The **General Principles** of the guardianship laws. These tell us how to make guardianship decisions.
3. The rest of Queensland's **guardianship laws**.

In this paper we want to ask for your ideas about the first step—**confidentiality**. When should information about you be kept private?

What is guardianship about?

The guardianship laws apply to adults who can't make some or all of their decisions. The law calls this having '**impaired capacity**'.

Most adults with impaired capacity make their decisions **informally**, with the help of family and friends. It is only if there are problems that you or your family or friends might want to get **formal help from the guardianship system**.

This might mean going to the Guardianship and Administration Tribunal. The Tribunal is like a court. It can appoint people, called guardians and administrators, to help you make decisions. The Tribunal will only do this if it is really needed.

What information is confidential?

The guardianship laws keep some information in the guardianship system **confidential**. The laws do this in 3 ways:

1. They stop personal information about you that is shared in the guardianship system from being told to other people.
2. They stop people from reporting what happens at the Tribunal, for example, putting a story in a newspaper.
3. They sometimes let the Tribunal:
 - Stop people from being at a hearing.
 - Stop people from seeing documents the Tribunal is using.
 - Stop people from seeing the Tribunal's decision and the reasons it gives for the decision.

Confidentiality is helpful because...

It helps to protect your rights and interests. In the guardianship system, your personal information might be told in public. Just because you might need help with some decisions may not mean lots of people should know about your private life.

Confidentiality is unhelpful because...

Decisions made in public are usually better decisions. Public decisions also mean that people can know more about the law and how it is made.

It is unfair to make decisions about people without telling them what has been said about them. Everyone should have a chance to have their say.

What questions are we asking?

The Commission is asking you 5 main questions:

1. Should the Tribunal be able to keep people out of a hearing?
2. Should the Tribunal be able to stop people seeing documents the Tribunal is using?
3. Should the Tribunal be able to stop people seeing its decision or reasons for that decision?
4. Should people be able to talk openly about Tribunal hearings outside of those hearings?
5. Apart from Tribunal hearings, should other information that is shared in the guardianship system be kept confidential?

These questions also raise a number of other issues you might want to tell us about.

Tell us what you think

We want to know your ideas about confidentiality in the guardianship system. You can tell us by writing to us. You might want to fill out the enclosed answer sheet. Or you can email us, talk to us on the telephone, or make a time to meet with us.

Postal address: Queensland Law Reform Commission
PO Box 13312
George Street Post Shop Qld 4003

Fax: (07) 3247 9045
[marked 'Attention: Guardianship Review']

Telephone: (07) 3247 4544

Email: qlrcguardianship@justice.qld.gov.au

For more information about the Commission's Guardianship Review or about guardianship generally, you can visit our **website** at: <http://www.qlrc.qld.gov.au/guardianship/>. You might also want to look at a CD-ROM made by the Commission called *Public Justice, Private Lives: A CD-ROM Companion*.

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Answer sheet

Before answering our questions, is there anything you want to tell us?

1. Should the Tribunal be able to keep a person out of a hearing?

Yes / No

Do you have any other comment on this question?

2. Should the Tribunal be able to stop people seeing documents the Tribunal is using?

Yes / No

Do you have any other comment on this question?

3. Should the Tribunal be able to stop people seeing its decision or reasons for that decision?

Yes / No

Do you have any other comment on this question?

4. Should people be able to talk openly about Tribunal hearings outside of those hearings?

Yes / No

Do you have any other comment on this question?

5. Apart from Tribunal hearings, should other information that is shared in the guardianship system be kept confidential?

Yes / No

Do you have any other comment on this question?

If you wish to give the Commission your name, address and phone number, please fill out the section below:

Name: _____

Address: _____

Phone: _____

Email: _____

Please tell us what you think by 31 October 2006.

CONFIDENTIALITY

The Commission may refer to or quote from submissions in future publications. If you do not want your submission or any part of it to be used in this way, or if you do not want to be identified, please indicate this clearly.

The Commission also lists in an appendix the names of those people who have made a submission. Please indicate clearly if you would not like your name to be included in this list.

Unless there is a clear indication from you that you wish your submission, or part of it, to remain confidential, submissions may be subject to release under the provisions of the *Freedom of Information Act 1992 (Qld)*.

Any information you provide in a submission will only be used for the purpose of the Commission's review. It will not be disclosed to others without your consent.