



Introduction

In April 2024, the Hon John Quigley MLA, Attorney General, asked the Law Reform Commission of Western Australia (the Commission) to look at the *Guardianship and Administration Act 1990* (the Act).

The Commission's job is to help keep the law updated so that it meets the needs of the Western Australian people.

The Commission will give the Western Australian Government a list of ideas on how to improve the Act. It will give the Government important information about helping those people who need help to make decisions, like people with a disability and older people, so that they are treated equally.

It will look at other laws and information to get the best ideas about guardianship and administration law. These are some of the other laws and information it will look at:

- the new Australian law called the Aged Care Bill (2024);
- laws about guardianship and administration from around Australia; and
- information about guardianship and administration from other countries.

The Commission will give a report to the Attorney General in 2025.

The Commission's report may include ideas about:

- the best ways to help people who find it hard to make decisions; and
- how to make sure that the interests and needs of people of different cultures and communities across Western Australia are taken into account.

The Commission will give to the Government their ideas on the best way to make sure the law respects people's rights to make decisions for themselves, if possible, and to be treated with dignity.

Who is affected by guardianship and administration law in Western Australia?

In Western Australia the Act says that in some situations, a person can become the guardian or administrator for another person who is unable to make decisions for themselves. A guardian or administrator can make decisions for that other person. Some people that guardianship and administration laws may apply to include:

- people with disability;
- older people with dementia;
- people with a head injury; and
- people with mental illness.

The law says that the State Administrative Tribunal can appoint guardians and administrators to act as decision-makers for people who have difficulty making decisions that affect their lives. It outlines who can be appointed as a guardian or administrator and their roles and responsibilities. Examples of who can be guardians or administrators who make these decisions on behalf of the person with disability may be a family member, a friend or the Public Advocate.

The decisions that can be made on behalf of people by guardians and administrators can range from specific things such as financial decisions; to decisions about almost all areas of life which can include decisions about where to live, who to live with, health and financial decisions like having an surgery, selling a house and all spending decisions.

Since the law started in 1992, there have been changes in the ways society supports people who need help in making decisions about themselves. The Commission's review will consider whether the guardianship and administration laws in Western Australia should be changed to accommodate these more modern views. It will also consider changes to similar laws in other Australian States and Territories.

The Commission will consider:

- how decision-making capacity is defined and assessed;
- whether the law should include a supported decision-making model;
- the roles and responsibilities of guardians and administrators; and
- adequate safeguards for represented people.

Why do we want to talk with people?

It is important for the law to meet the needs of all Western Australians as laws can really affect people's lives.

The Commission wants to talk with as many people as possible who have experience with guardianship and administration issues.

People's stories and viewpoints can show how the law impacts people in their everyday lives. We want to know how people can feel safe and be engaged in their communities.

Next steps

In the next 6 months, the Commission will release a Discussion Paper which outlines the current law in Western Australia and possible ideas for improvements.

The Commission aims to make the Discussion Paper available in easy to access formats and different languages.

People and service providers will be invited to send in their views in writing, or to talk with the Commission about their ideas and opinions. The invitation will also go in newspapers, newsletters and on-line advertisements.

The Commission is committed to meeting with people and families to listen to their stories. This will be in the first half of 2025 when we will also visit country areas.

Also, there will be:

- 2-3 sessions on specific topics about guardianship and administration, called Expert Reference Groups;
- Sessions where individual service providers, community members and people with lived experience can share their unique experiences; and
- An online survey and the option to upload written submissions on the Commission's website.

For further information, including the terms of reference for the review:

Email the Law Reform Commission of Western Australia: lrcwa@justice.wa.gov.au

Phone: (08) 9264 1600

Visit the website:

<https://www.wa.gov.au/organisation/law-reform-commission-of-western-australia>.