

# Responding to proposals concerning a person living an "at risk" lifestyle

A person under guardianship may engage in what some may consider to be 'at risk' behaviours, or have a lifestyle which places them at some risk of harm or disadvantage. Sometimes there is conflicting advice from service providers as to the appropriateness of intervention, or the type of intervention required. The Public Guardian may face a dilemma in determining whether or not to consent to intervention.

**Definition:** The term 'at risk' can include a lifestyle characterised by serious drug or alcohol abuse, homelessness, itinerancy, contact with the criminal justice system and usually includes a high risk of harm to the person. These circumstances may seriously affect the person's health, welfare, relationships and acceptance by the community.

## RELEVANT LEGISLATION

### Guardianship Act 1987

- the welfare and interests of such persons should be given paramount consideration;
- the freedom of decision and freedom of action of such persons should be restricted as little as possible;
- such persons should be encouraged as far as possible to live a normal life in the community;
- the views of such persons in relation to the exercise of those functions should be taken into consideration;
- such persons should be protected from neglect abuse and exploitation.

### Public Health Act 1991

### Crimes Act 1900

### Mental Health Act 1990

### Inebriates Act 1912

## POSITION STATEMENT

It is the policy and practice of the Public Guardian that, as far as possible, a person under guardianship is given every opportunity to make decisions about his/her lifestyle. This includes the options and alternatives available and the associated benefits and risks. It is essential that while promoting this freedom of decision making the person is protected, as far as possible, from potential abuse, neglect and exploitation. The Public Guardian will advocate strongly for appropriate options for the person where the Public Guardian considers that the 'at risk' lifestyle choices of the person are not acceptable.

## FACTORS CONSIDERED BY THE PUBLIC GUARDIAN BEFORE MAKING A DECISION

### Views available:

- has the person's situation in relation to this lifestyle been discussed with her/him and his/her view sought?
- what is the view of service providers and others important in the person's life as to the person's lifestyle and its potential risks?

## INFORMATION FROM SERVICE PROVIDERS CONCERNING:

- a plan to respond should the person be placed at serious risk of harm or injury given their current lifestyle?
- an identified service provider to implement the plan?
- appropriate support that might be available to the person within their current lifestyle?

**OTHER RELEVANT ISSUES:**

- is there evidence of a risk of injury or harm to the person or others?
- the impact on the person if there are limitations on access to her/his current lifestyle;
- is the lifestyle imposed on the person by a lack of services or a refusal by agencies to provide services?
- what advocacy has been undertaken to address any lack of services or support?
- does the person's lifestyle restrict her/his opportunity to form meaningful social relationships or to participate in the community?
- what impact do family and cultural issues have on the person's lifestyle and choices?

**OTHER RELATED OPG POSITION STATEMENTS**

Determining whether to consent to an intervention and support plan concerning a person's behaviour

Determining whether to consent to treatment proposed for a person with an eating disorder

Determining whether to consent to a proposal concerning access to a person under guardianship

Valuing the cultural, linguistic and religious background of the person under guardianship