

Supported Decision Making and Guardianship Reform

November 2025



“You need to give us more options, including information and supports – not just guardianship, because that’s supposed to be the last resort.” - CID Member

Goal: For NSW Guardianship law to be reformed so that people with intellectual disability are provided with the support and adjustments they need to be legally recognised as decision makers.

What CID wants

- 1. Supported decision making:** An amendment to current Guardianship laws to include the right to **supported decision making (SDM)**.
- 2. Proof of SDM before Guardianship:** Before the **NSW Civil and Administrative Tribunal (NCAT)** can make a guardianship order, the applicant must present evidence of the SDM strategies they have tried.
- 3. The development of a SDM framework:** The Ageing and Disability Commissioner and the Department of Communities and Justice should work together and develop a SDM framework that includes policy and practice guidance on key concepts including decision making capability, will and preference, risk enablement, and cultural safety.
- 4. Investigation of increasing NCAT Guardianship orders:** For DCJ to investigate the increase in NCAT Guardianship orders, including the causes of this increase, with input from stakeholder groups, and the co-design of solutions.

5. Build confidence, skills and capability of all who provide support for decision making: The NSW Government should invest in alternatives to substitute appointments, including complex case support, education, and practice tools such as holistic individualised plans and support agreements.

Where things stand

- People with intellectual disability, particularly First Nations people, experience high rates of guardianship and financial management.
- PWID are not presumed to have decision making capability or given the support they need to maximise their autonomy or understand their will and preferences.
- Informal and formal supports are not recognised for their capacity to build a person's decision making capacity, nor are they provided with guidance on good SDM practice.
- Due to a lack of resources and knowledge, many disability, health, legal and financial systems force people with intellectual disability into legal guardianship and financial management.

Case study

Sally has intellectual disability and has always lived with her mum. With the support of her best friend, neighbours and care providers, Sally has lived with her mum in their long-term home and managed all their bills and finances, maintaining a good relationship with her local bank manager.

When Sally's mother passes away, Sally's cousin makes an application for her money and estate to be managed by the NSW Trustee and Guardian (NSWTG). The cousin says he's worried Sally will be financially exploited without protection and feels that she should not live in the unit on her own. Sally's service providers are reluctant to challenge a family member, and members of her informal support network were not told about the application.

Sally does not understand why she has to go to a Tribunal. At the hearing, she is too distraught to express her confusion. NCAT makes a guardianship order, just in case she is at risk of being exploited or a move was required. Even though Sally is known well by her local bank, they can now no longer speak to her without first speaking with the NSWTG. This is very confusing for Sally.

A supported decision making approach would consider Sally's recent bereavement and allow for more time to explore what Sally wants, and who could help her with big financial decisions. In considering Sally's decision making ability, her circles of support (including friends and neighbours) would be included. As a result, it would be assumed that Sally can continue to make her own decisions with their support.

Furthermore, if Sally's service providers and banks have a standard Supported Decision Making framework available to guide their practice, it can help them to consider safeguards that are less restrictive, and a substitute decision maker may not be needed at all.

☑ **CID's key achievements**

- Strong advocacy on supported decision making and Guardianship law reform.
 - Co-production of an evidence based Supported Decision Making Framework.
 - The creation of a Supported Decision Making hub with research and resources to guide practice.
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📌 **Where to from here**

CID will continue to work with the Attorney General, the Minister for Disability Inclusion, the Department of Communities and Justice, Ageing and Disability Commissioner and other key leaders in the sector to ensure that Guardianship laws are reformed to incorporate supported decision making.

“When you make your own decisions, you are free.”
- CID Project Worker