

## Integrity in Guardianship Decision Making: Applying the Will and Preferences Paradigm

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### Abstract

Guardianship laws have changed significantly over the 20th and 21st centuries to shift from the “best interests” model to the “supported decision-making” model. Such changes reflect the importance of supporting the dignity of risk of persons who lack decision-making capacity for some decisions. Recent changes to the Victorian Guardianship and Administration Act 2019 (Vic) in Australia require guardians to give effect to the “will and preferences” of the represented person, as far as practicable. The changes reveal a compromise between the competing rights to autonomy and to safety. Here, we explore the meaning of “will and preferences” before considering the personal factors that may contribute to the understanding of an individual’s will and preferences. The practical challenge of ascertaining, interpreting, and giving effect to a person’s will and preferences are also discussed. Finally, we consider the practical challenge of identifying when a person needs decision-making support.

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