

- HUMAN RIGHTS 
- JUSTICE 
- INCLUSION 
- EVERYONE 
- ALWAYS 

# Annual Report

## 2011–2012



adult guardian

The Honourable Jarrod Bleijie MP  
Attorney-General and Minister for Justice  
State Law Building  
Brisbane Qld 4000

31 October 2012

Dear Attorney,

It is my pleasure to present to you the Adult Guardian's thirteenth annual report for the financial year ended 30 June 2012.

The report is made in accordance with the requirements of section 206 of the *Guardianship and Administration Act 2000*.

The report details the work of the office during the year and gives a statistical and descriptive overview of the discharge of the Adult Guardians' statutory responsibilities in protecting the rights and interests of adults with impaired capacity.

Yours sincerely,



*Lindsay Irons*

Acting Adult Guardian (May 2011 – August 2012)

## Table of Contents

Adult Guardian – review	4
Our role	7
Community Visitors	8
Investigating allegations of abuse, neglect and exploitation	12
Substitute decision-making	18
Making health care decisions	25
Protecting the legal rights of clients	27
Other activities: 2011-12	31
Appendix 1 Performance	32
Appendix 2 Organisational chart	33
Appendix 3 Statutory roles and functions	34
Appendix 4 General Principles	36
Appendix 5 Health Care Principle	38
Contacting the OAG and CVP	39

## Adult Guardian's review: 2011-12

This year marks the thirteenth Annual Report of the Adult Guardian tabled to the Queensland Parliament. The position of the Adult Guardian was initially created under the *Powers of Attorney Act 1998* and now derives its functions and powers from both this Act and the *Guardianship and Administration Act 2000*.

The Adult Guardian role, and the office which supports it, occupies an important place within the framework of human rights protection in Queensland. It serves to protect the rights and interests of a highly marginalised and disadvantaged segment of the Queensland population: people with impaired decision-making capacity.

### Streamlining the delivery of frontline services

During 2011-12, the Office of the Adult Guardian embarked on a process to streamline and strengthen the delivery of frontline services. A range of measures were put in place to:

- update and refine the OAG's client risk assessment approach, to ensure that resources are devoted to areas of greatest need
- proactively identify and pursue the revocation of Tribunal appointments, where it is considered that guardianship is no longer required for a person
- enable the OAG's participation in certain external events to be more effective and outcomes-focussed (such as generic client stakeholder meetings)
- pursue tangible client outcomes from the full range of activities which staff undertake: for example, locating services for, or advocating on behalf of, our clients
- enhance the transparency and consistency of third-party consultation processes around guardianship decisions.

The operational improvements are underpinned by the following principles:

1. Responsiveness to client need and risk
2. Alignment with both the intent and provisions of guardianship legislation
3. Consistency of practice across teams
4. Continuous quality improvement in service delivery
5. Efficient and effective use of resources.

### Staff conference

The office held its third staff and Community Visitor conference in February 2012, with the theme of *Rights Protection – looking to the future*. Its purpose was to strengthen the skills-base of staff, expand their knowledge of key issues, and build the capacity of teams to adapt to a rapidly changing environment. This event is also important for strengthening a sense of teamwork across the office, given the decentralised nature of the office.<sup>1</sup> Workshop sessions included:

<sup>1</sup> Almost one-third of all staff positions are based in regional offices, and Community Visitors operate from their homes across Queensland.

- *Understanding the experiences of older people* (Val French OAM)
- *Human rights, guardianship and disability* (Phillip French)
- *Evidence-based practice* (Queensland's Chief Practitioner Disability)
- *Communications training – handling difficult interactions* (Rachel Collis)
- *Working with Indigenous clients* (Aboriginal & Torres Strait Islander Legal Service)
- *Rights protection: the Victorian experience* (Public Advocate – Victoria)
- *Nonviolent crisis intervention* (Crisis Prevention Institute)
- *Working well with advocates* (Queensland Aged & Disability Advocacy)
- *Acquired brain injuries and decision-making* (Acquired Brain Injury Outreach Service).

### **Staff excellence awards**

In December 2011 the Director-General presented the *OAG Staff Excellence Awards* to recognise outstanding achievements by staff in the course of their work over the year. The 2011 awards acknowledged staff who made a sustained or significant contribution that clearly protected the human rights of, or resulted in justice for, people with impaired capacity, or achievement which had enhanced the reputation of the Office of the Adult Guardian.

### **Client information management system**

The OAG's new client information management system was launched in late 2011. A considerable amount of work was required in data cleansing and migration, and in the creation of new work modules for each functional area of the office. Structural enhancements to the system are continuing in order to enhance its performance and functionality. However the system has already significantly improved the office's reporting capability, and is streamlining the day-to-day work of frontline staff.

### **Staffing structure**

Five new Team Leader positions were created in 2011 – four in guardianship and one in investigations. These positions were filled in late 2011 and early 2012. The Team Leader roles are an important part of the operational delivery of guardianship and investigation services through the oversight of front-line staff, the management of contentious or complex client matters, and their support to management in the delivery of the Adult Guardian's strategic outcomes.

### **Community Visitor Program**

The reform process of the CVP, commenced in 2010-11, continued this year – the tenth anniversary of the commencement of the Program. Of particular note was the recruitment and induction of a new team of Community Visitors across the State and a renewed policy focus on escalation of complaints, assessment of client risk in visitable sites, and strengthening the impact of Community Visitor reports for delivering change across services. Community Visitors continued to detect and progress many issues of concern, including some serious complaints and allegations about the mistreatment of vulnerable people with impaired capacity.

### ***OAG Client Profile – joint project***

The delivery of the *OAG Client Profile*, a joint Public Advocate-Adult Guardian project, was expected in 2011-12 but was delayed due to unforeseen circumstances. However the findings are expected to articulate a number of significant trends:

- an unsustainable (projected) increase in demand on the guardianship system
- a large (and increasing) Indigenous client base
- a higher level of social isolation for guardianship clients than either the general population or those who receive specialist disability services
- a high proportion of *interim* guardianship orders
- a large number of lengthy orders (e.g. 5 years) and a low rate of revocations
- the activation of the guardianship system by the health and disability systems, and the transfer of legal risk for service decisions to the guardianship arena.

### ***Alignment with the new priorities of Government***

Of particular importance in the coming financial year will be the future discharge of the Adult Guardian's statutory obligations within a policy, fiscal and social environment which is undergoing rapid and significant change.

- The impact of funding constraints across all sectors of government is likely to see reduced access for people with impaired capacity to a range of specialist and generic community services. The range of options available in relation to clients' healthcare, disability support, housing and legal representation is likely to change.
- The Government's fiscal priorities will also impact the Office of the Adult Guardian – for example, expenditure on travel. Although client visits throughout the State are essential to the proper discharge of the Adult Guardian's functions, the office made a commitment in 2011-12 to identify efficiencies in travel expenditure. As a result, travel expenditure for the OAG (exclusive of Community Visitors' travel) was reduced by more than 20 per cent from the previous financial year. Further cuts may significantly impact on the delivery of client services by the Adult Guardian.
- Over time, the policy settings of Government may change with respect to key social policy and legal issues which impact on the rights and interests of adults with impaired decision-making capacity. Some of these issues include the way in which restrictive practices are used and approved, the diversion of people with disability from the criminal justice system, and the commitment to supporting people with significant disabilities in community settings.
- The Law Reform Commission completed its review of guardianship legislation in Queensland in late 2010. However to date the new Government's position with regard to Queensland's existing legislative framework, policy direction and level of resourcing for the guardianship system is unknown.

Lindsay Irons  
Acting Adult Guardian (May 2011 - August 2012)

## Our role

The role of the Adult Guardian is to protect the rights and interests of adults who have impaired capacity for a matter. The Adult Guardian does this by:

- ⇒ *Protecting from neglect, exploitation or abuse*
- ⇒ *Investigating abuse, neglect and exploitation*
- ⇒ *Substitute decision-making (as attorney, guardian or statutory health attorney)*
- ⇒ *Approving the use of restrictive practices*
- ⇒ *Consenting to a forensic examination*
- ⇒ *Seeking help and making representations*
- ⇒ *Educating, advising and conducting research*
- ⇒ *Mediating and conciliating*

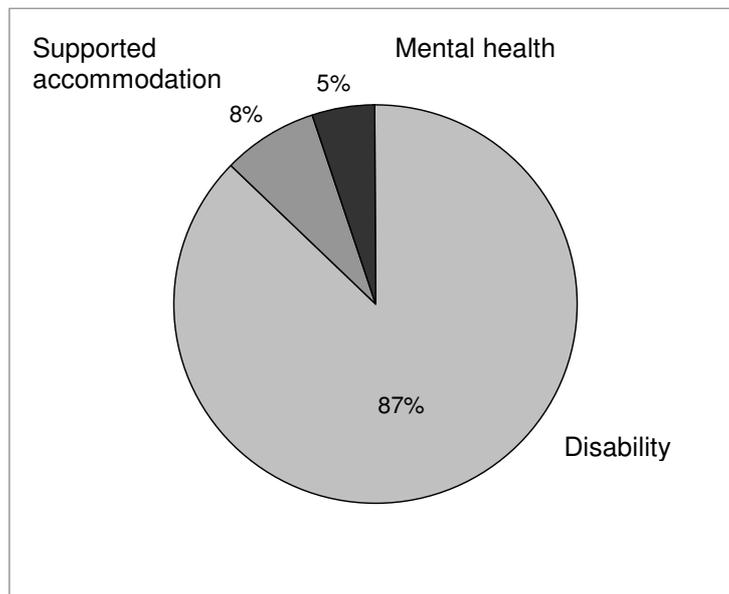
The Adult Guardian also oversees the Community Visitor Program

- ⇒ *Safeguarding the interests of vulnerable adults*

## Community Visitors<sup>2</sup>

During 2011-12, Community Visitors helped to protect the rights and interests of almost **8,000 vulnerable people** who were living in residential facilities. Community Visitors did this by making some **4,300 visits** to approximately 1,100 government-funded disability services, authorised mental health services (both public and private), and privately-funded supported accommodation services regulated under the *Residential Services (Accreditation) Act 2002*. (Figures current as at June 2012.)

### Type of facilities



### Operating agencies

Operating agency		Proportion of all sites	Proportion of all consumers
Queensland Health	*	7 %	26 %
Department of Communities	**	21 %	10 %
Non-government agencies	***	72 %	64 %

\* *mostly authorised mental health services (public)*

\*\* *services for people with significant disabilities*

\*\*\* *private supported accommodation, mental health services (private) and funded disability support providers (both NGO and for-profit).*

<sup>2</sup> *Due to changes in data collection methodology, comparisons in statistics between 2011-12 and previous years may not be accurate, except where previous figures are provided.*

Community visitors conducted **4,300 visits** to these sites. Of these visits:

Visit types	
80 %	Unannounced visits
15 %	Scheduled visits
5 %	Requested visits

Most visits undertaken by Community Visitors are “unannounced”. However, a number of visits each year are pre-arranged (“scheduled visits”). These are regular liaison meetings between Community Visitors and the management of each service. These meetings provide an opportunity for concerns to be escalated, and so that progress towards resolving existing complaints can be reviewed. Scheduled visits are critical in achieving the objectives of the Community Visitor Program.

Under s.226 of the *Guardianship and Administration Act 2000*, a consumer at a visitable site (or a person acting for them) may request that a Community Visitor visit the service. Where this occurs, the Community Visitor has an obligation to visit. In 2011-12, more than 200 visits were requested by consumers or other parties.

*Geographic distribution of CVP sites \**

Brisbane North	176	Wide Bay	63
Brisbane South	213	Rockhampton	40
Gold Coast	90	Mackay	18
Ipswich	190	Townsville	52
Toowoomba	37	Cairns	49
Sunshine Coast	59		

(\* Current as at September 2012)

***Progress of the Community Visitors Program***

In late 2011, a State-wide recruitment process was undertaken as part of the ongoing reform of the Community Visitor Program.<sup>3</sup> 21 Community Visitors were engaged on a three-year contract to perform the role. The successful candidates, half of which are new to the role, come from a variety of different backgrounds. It is expected that in late 2012, an additional 5 - 7 Visitors will be engaged to meet existing demands.

Since the commencement of the new Community Visitors in February 2012, there has been a renewed focus on induction, skills development, supervision and performance management of Visitors. The small CVP team (staff of the Office of the Adult Guardian) provide extensive support and advice to Visitors in the field.

Progress has also been made in other critical areas of the CVP, for example:

- Work has been undertaken to improve the quality of the reports which they are required to deliver at the completion of each site visit. These reports are critical for driving change throughout each service and the broader sector.

<sup>3</sup> Refer to the *Office of the Adult Guardian 2010-11 Annual Report*, pp13-14.

- Development of policy instruments in relation to frequency of site visits and the assessment of consumer risk at visitable sites.
- There has been a concerted effort to build productive working relationships with a few key service providers in specific locations across the State, with good outcomes to date for residents and for the Program.

### *Examples of Community Visitor outcomes*

#### Quality of service delivery – highly complex clients

In early 2012, a Community Visitor visited the home of a person with multiple disabilities and severe behaviours of concern. The Visitor found a dwelling which was poorly suited to their needs and in a state of significant disrepair. The house was devoid of all personal items and did not have a functional kitchen or bathroom.

The complexity of the person's needs and behaviour clearly presented challenges for both support staff and clinicians. The service was unable to either maintain the person's home in an appropriate state, or to deliver holistic disability support in a way that was appropriate to their needs. The person's health was also severely compromised, as they required regular medical attention but could not access doctors.

The Community Visitor immediately raised their concerns with the service provider and the clinical team. The Visitor escalated the matter to the CVP Manager, and the Adult Guardian convened an urgent meeting with OAG guardianship and CVP staff.

A shared approach was implemented to respond to the concerns: representations were made to the relevant agencies and support provided to the client's family. Additional disability support and clinical resources were made available to the client, and the Visitor and guardian both continued to have a close involvement over time. Although the person is still highly vulnerable, their situation is now improving considerably.

#### Responding to physical abuse

A Visitor became aware of allegations of serious physical and emotional abuse of vulnerable residents at a visitable site. The service was reported to have previously investigated the matter, however no findings were made or action taken.

The Visitor worked closely with the disclosers over a period of weeks to support them to provide written statements of the allegations – they had previously not been prepared to provide these to their employer. There was information to suggest that some of the disclosers and residents had been subject to threats of reprisal.

The Adult Guardian made a Public Interest Disclosure, referring the matter to the appropriate government agencies for urgent investigation. The Community Visitor continued to closely monitor the situation, given the vulnerability of the residents and disclosers. The Adult Guardian made representations to the CEO of the service to ensure the ongoing protection of residents from further abuse or reprisals and to ensure that other clients of the service were not subject to similar abuse. Fresh investigations were commenced by the relevant agencies, and are progressing well.

Unmet dental care needs

A systemic inquiry was conducted on a sample of visitable sites in the funded disability sector in early 2012. Community Visitors gathered data at these sites about the unmet dental care needs of all clients who lived at the service. The results showed a very high rate of clients who did not have a dental health plan, who did not have regular dental checks as required, and/or did not have support plans in place to enable them to visit the dentist.

---

*I am pleased to congratulate the Community Visitor Program within the Office of the Adult Guardian as it marks its 10th anniversary today.*

*Community Visitors safeguard the rights and interests of adults with impaired decision making capacity who reside in supported accommodation facilities and mental health acute units across the state.*

*Since commencing operations in February 2002 Community Visitors have conducted thousands of site visits to inquire into and resolve complaints, ensuring the standard of services provided by government and non-government organisations is appropriate.*

*As such the Community Visitor Program contributes to the department's strategic objective to better protect the rights and interests of Queenslanders. In ten years the number of consumers of this vital service has grown to almost 8,000 Queensland adults who live in some 1,100 sites across the State.*

*Community Visitors negotiate with service providers to safeguard consumers' rights and highlight risks of abuse, neglect and exploitation. At each visit they potentially change a consumer's life for the better by, for example, identifying:*

- *financial exploitation*
- *the need for preventative health assessments*
- *staff training needs to ensure adequate support*
- *inappropriate accommodation that limits a consumer's ability to achieve their full potential*
- *the right of consumers to make informed choices within the degree of their capacity*
- *physical abuse by support staff*
- *the need for referral to address acute health needs.*

*A recent reform process has resulted in improved practices across the Program which will enable Community Visitors to provide even greater safeguards in the future.*

*Please join me in congratulating the Community Visitor Program office staff and dedicated team of Community Visitors on this significant milestone.*

*– Director-General, Department of Justice and  
Attorney-General, 13 February 2012*

---

*In 2011-12, the Community Visitor Program was delivered at a cost equivalent to \$24 per consumer per month.*

## Investigating allegations of abuse, neglect or exploitation<sup>4</sup>

### Snapshot 2011-12

	2011-12	2010-11
New investigations commenced	224	151
Investigations concluded	263	203
Active investigations at 30 June 2012	118	101
Average length of investigations (weeks) – <i>actual</i>	25.6	*
– <i>target</i>	23.9	

\* *new reporting figure for 2011-12.*

The number of new investigations which were commenced in 2011-12 increased by 48 per cent over the previous financial year. The number of investigations concluded during the year also increased by 30 per cent.

A new performance indicator was used for investigations this year: the average length of investigations, for which a target of 5.5 months was set. The actual duration of all matters closed during the year was 5.9 months (a variance of 7 per cent). This is a significant achievement given the much larger number of matters closed relative to the previous financial year. The increasing complexity of investigations will continue to challenge the Adult Guardian's timeframes.

### Investigations undertaken by the Adult Guardian

There are distinct aspects of an investigation undertaken by the Adult Guardian into allegations that a person with impaired decision-making capacity has been abused, neglected or exploited, or has inappropriate decision-making arrangements in place.

- The purpose of an investigation is to protect the vulnerable person. Although investigation material may be provided to external entities for their lawful use (e.g. the Public Trustee or the police), the focus of an investigation is not on the pursuit or prosecution of an "offender".

The primary purpose is to determine the level of risk and ensure that appropriate arrangements are in place to protect the adult from abuse or exploitation. Where there are multiple allegations, a finding of substantiation may not be needed on every issue in order to achieve this overarching objective and enable swift protective action to be taken.

- In many cases, there is a focus on ascertaining whether the decision-making arrangements in place for a person are appropriate and sufficient to protect their rights. In some cases, formal decision-making arrangements may be

<sup>4</sup> *Due to changes in data collection methodology, comparisons in statistics between 2011-12 and previous years may not be accurate, except where previous figures are provided.*

sought if there are none in place, or if the decision-making arrangements currently in place are not protecting the person's rights.

- In line with the principle of least intrusion, the Adult Guardian seeks to resolve issues of concern through informal means where possible. More formal intervention, such as seeking the removal of an appointed attorney, are used as a last resort only.
- Priority is given to matters which pose the greatest level of risk and urgency, in line with the Adult Guardian's responsibility to devote scarce public resources to areas of greatest need.

### *Investigation outcomes*

#### Formal findings

In some cases, an investigation will proceed until the veracity of the allegations have been fully determined. After careful consideration of the available evidence, a formal finding will be made. The allegations will be determined to be *substantiated* or *not substantiated* on the balance of probabilities.

#### Formal findings made – allegations substantiated

Where the allegations have been substantiated, the matter may be resolved in a number of different ways.

Where possible, and unless there is significant risk to the person, staff will attempt to resolve the concerns informally, often by providing the parties with advice in relation to their responsibilities for the vulnerable person (e.g. the legislative obligations of an attorney appointed for financial matters). Informal resolution may involve:

- mediating between conflicting parties/attorneys
- providing advice or information to a referent to assist them to resolve the matter themselves
- providing advice or directions to a decision-maker to enable them to satisfactorily remedy a breach of their responsibilities.

In resolving a matter informally, the Adult Guardian is able to protect the person with minimal intrusion into their life (and that of their family), and without the need for more formal intervention by the system. However, achieving an informal resolution can demand considerable time and effort. It frequently requires extensive liaison and advice to multiple parties, and a high level of communication and conflict resolution skills.

In other cases, informal resolution will not be possible. If there are concerns about the appropriateness of the decision-making arrangements in place for the adult, the Adult Guardian may apply to the Queensland Civil and Administrative Tribunal for the appointment of a guardian and/or administrator. (The Adult Guardian does not seek his own appointment; this decision is made by the Tribunal, independent of the Adult Guardian.)

In some cases, where the investigation reveals an immediate risk of harm to the health, welfare or property of an adult, the Adult Guardian may seek the immediate appointment of a guardian and/or administrator under an *interim order*, pursuant to s.129 of the *Guardianship and Administration Act 2000*.

Where the Adult Guardian reasonably suspects that an appointed attorney is not competent, the Adult Guardian may suspend all or part of the attorney's decision-making powers, pursuant to s.195 of the *Guardianship and Administration Act 2000*.

### Formal findings not made

In some cases, no formal finding of substantiation will be made in an investigation matter. This could occur for several reasons.

In some cases, medical evidence may be received to indicate the adult does not have impaired capacity for the matters in question, or did not have impaired capacity at the time the alleged abuse occurred. In these cases, any investigations on foot will cease. However, it is recognised that in many of these cases, the adult may still be highly vulnerable, so the Adult Guardian will attempt to make appropriate referrals to external agencies.

In some cases, a third party may apply to the Tribunal for the appointment of a guardian and/or administrator part-way through an investigation. If the matter is not high-risk or urgent, and if it is considered that the appointment of a decision maker will address the adult's exposure to abuse or exploitation, the Adult Guardian may elect to discontinue an investigation at this point, as it cannot contribute anything further to the protection of the person.

In other cases, the matter will be referred to other external agencies which can more appropriately investigate the concerns, and which have separate legislative powers to seek a remedy. For example – the Queensland Police Service, the Health Quality and Complaints Commission, or the Complaints Unit of the Department of Communities, Child Safety and Disability Services.

In other cases, investigations may not proceed where it is determined that the Adult Guardian does not have jurisdiction to investigate.

Occasionally, an investigation will be discontinued because the adult has passed away. In 2011-12, there was a small number of adults who died before an investigation was concluded. The average age of these adults was 85 years.

### ***Statistical snapshot of investigations***

The following tables provide an overview of the activities and outcomes of the Adult Guardian's investigations team in 2011-12.

*All investigations concluded*<sup>5</sup>

**Findings made – 44 % of all investigations**

<i>Allegations substantiated</i>	61 %
<i>Allegations not substantiated</i>	39 %

**Findings not made – 56 % of all investigations**

<i>Adult did not lack capacity</i>	42 %
<i>Inappropriate referrals</i>	21 %
<i>QCAT application by a third party</i>	18 %
<i>Adult deceased</i>	15 %
<i>Referrals to external agencies</i>	4 %

*Substantiated allegations only*

**OAG action taken to resolve the matter**

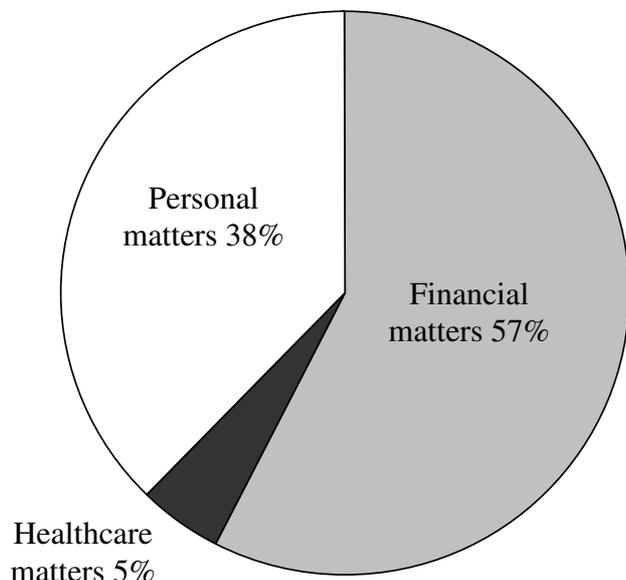
<i>QCAT application lodged</i>	38 %
<i>Provision of advice or directions</i>	35 %
<i>QCAT application (interim) lodged</i>	19 %
<i>Suspension of attorney's power</i>	8 %

In 2011-12, there were 5 cases in which an attorney's powers were suspended by the Adult Guardian in relation to an investigation matter. Suspensions occur under s.195 of the *Guardianship and Administration Act 2000*. Under the legislation, a suspension may occur only if the Adult Guardian reasonably suspects that an attorney is not competent: for example, if they have neglected their duties, abused their powers, or failed to adequately protect a person.

The suspension of an attorney's powers represents the overriding of a person's expressed choice of substitute decision-maker. Such decisions are not taken lightly; they occur only when there are no less intrusive means of protecting a person's rights and interests. An attorney's powers may be suspended for up to three months. During this period, the Public Trustee acts as attorney for financial matters and/or the Adult Guardian acts as attorney for personal/ health matters.

<sup>5</sup> *Approximate figures*

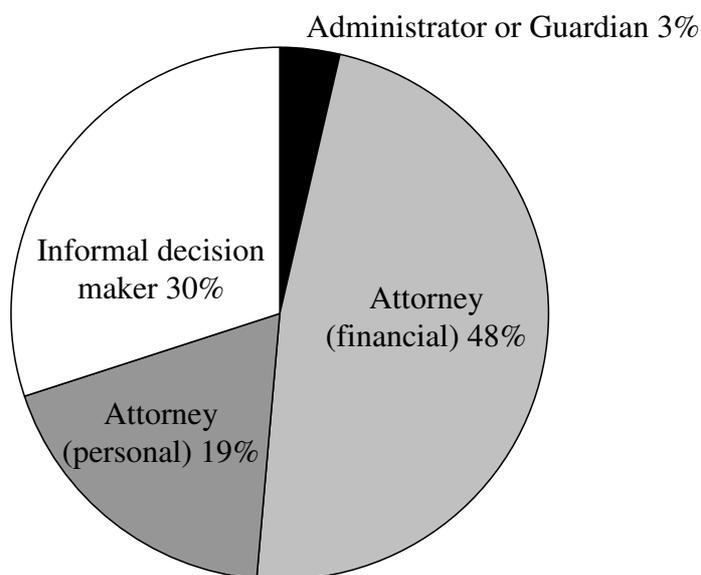
*Nature of the allegations investigated \**



*\* many investigations cover both financial and personal matters. This chart shows the nature of the primary allegations.*

Allegations relating to “personal matters” include abuse (physical, sexual, emotional), neglect or self-neglect, restricting an adult’s contact with significant others, or inappropriate decision-making in other areas of a person’s life (for example accommodation decisions). It may also include conflict between attorneys.

*Respondents to the investigation*



### Notable trends in investigations by the Adult Guardian

*Investigations which have as a primary focus the high level of conflict between two or more appointed attorneys, such that the attorneys cannot work together to make future decisions for the adult.*

---

*Increasing complexity of financial arrangements and sophistication of financial abuse, usually in cases where the adult has significant financial assets.*

---

*Investigations which have as a primary focus the reported social isolation of the adult, often as a result of an attorney restricting the person's contact with other family members or friends.*

---

During 2011-12, work commenced on strengthening investigations policy/procedure, as part of the development of comprehensive workflow processes necessary for the implementation of the new OAG client information management system.

A *Team Leader – Investigations* position was also created and filled in 2011-12. This position is adding considerable value to the work of the investigations team, particularly in providing staff oversight and in the updating of policy/procedure.

## Substitute decision-making<sup>6</sup>

### *Client base*

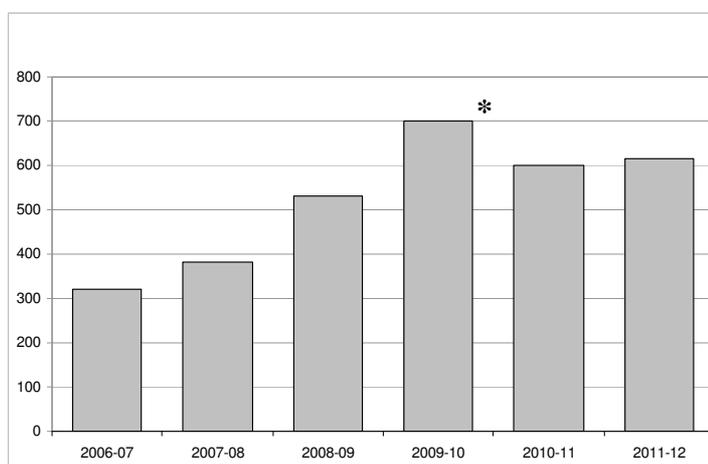
As at 30 June 2012 there were **2,041 guardianship clients** of the Adult Guardian. During 2011-12 there were **615 new guardianship appointments** to the Adult Guardian by the Queensland Civil and Administrative Tribunal.

*Section 14(2) of the Guardianship and Administration Act 2000 allows the Tribunal to appoint the Adult Guardian as guardian for personal matters only if there is no other appropriate person available for appointment.*

During the year, guardianship services were provided to a total of **2,407 adults**.

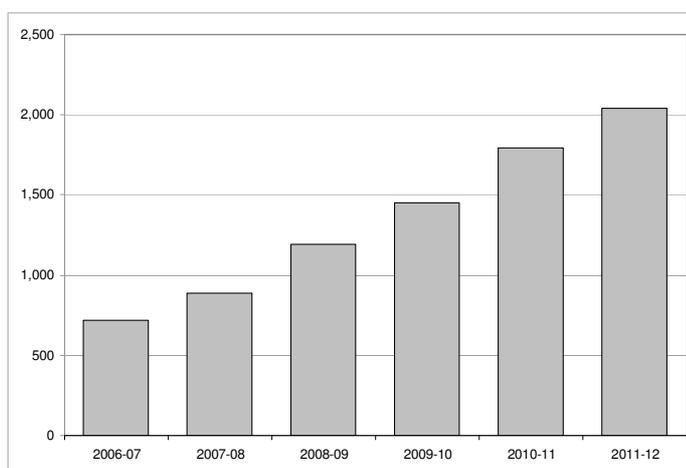
The following graphs show 5-year trends in appointments and total client base.

### *New appointments 2007 to 2012*



\* The significant increase in appointments in 2009-10 was largely due to the implementation of the restrictive practices regime.

### *Total client base 2007 to 2012 (as at 30 June)*



<sup>6</sup> Due to changes in data collection methodology, comparisons in statistics between 2011-12 and previous years may not be accurate, except where previous figures are provided.

There were **366 guardianship files closed** by the Adult Guardian during the year, resulting in a net increase in the total client base of **249** (or 14 per cent). The number of files closed in 2011-12 was more than 20 per cent higher than in the previous year.

Of the 366 closed cases there were:

152	orders expired (41%)
108	orders revoked (30%)
106	deceased clients (29%)

The ratio of **closed files** to **new cases** was **3:5**.

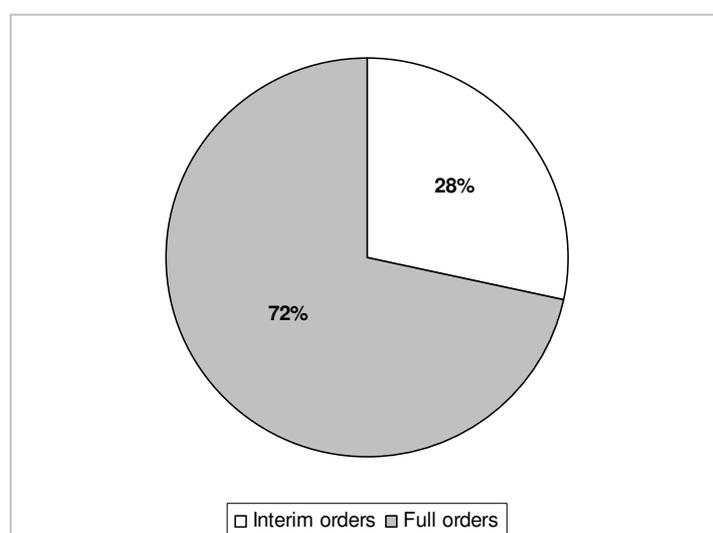
Client revocations may occur because the Tribunal determines a person no longer requires a guardianship order, or because another person is more appropriate to act as their guardian. The Adult Guardian routinely seeks the revocation of orders when it is considered that guardianship is no longer appropriate for the client.

### *Interim orders*

During 2011-12, a significant number of *interim orders* were received. An interim order can be made under s.129 of the *Guardianship and Administration Act 2000* if the Tribunal is satisfied, on reasonable grounds, that there is an immediate risk of harm to the health, welfare or property of the adult, including because of the risk of abuse, exploitation or neglect (including self-neglect) of the adult.

An interim order may be granted without the Tribunal hearing and deciding the proceeding, and may be granted for a maximum of three months. The intention of the guardianship legislation is that interim orders be granted only when urgent action is required to protect a person's rights and interests. It represents a departure from usual process in that interim orders are generally granted "on the papers" without a formal hearing. When received by the Adult Guardian, an interim order receives urgent attention. In most cases a visit to the client and a decision occurs quickly in order to safeguard the person's health and welfare.

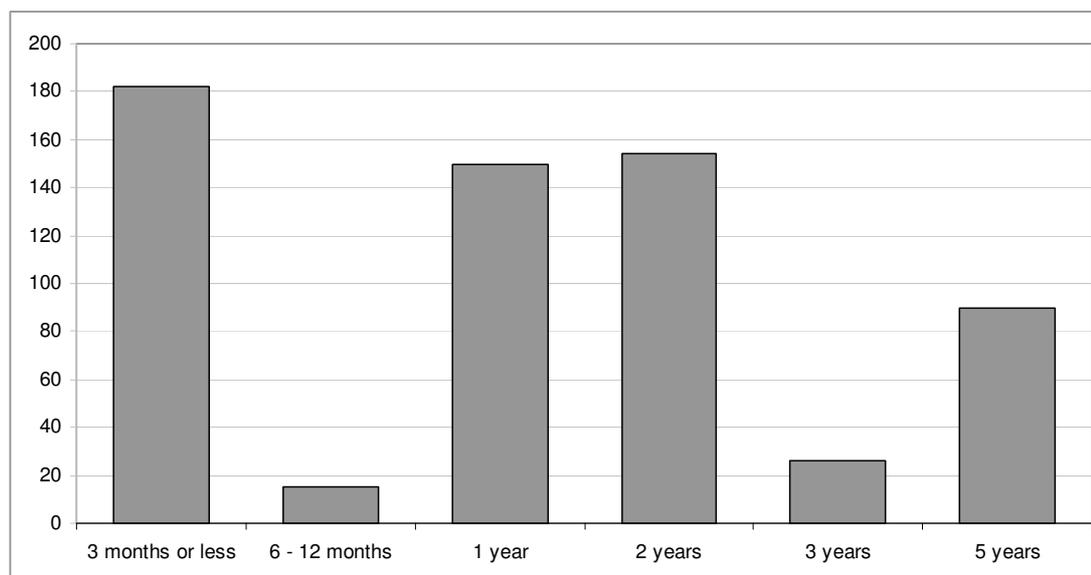
### *Interim orders received by the Adult Guardian 2011-12*



Of all interim orders received, more than **70 per cent** went on to become long term guardianship appointments to the Adult Guardian.

As the bar chart below shows, almost 30 per cent of all orders were for 3 months or less (mostly interim orders). One-year and two-year orders comprised a further 50 per cent, while 5-year orders accounted for 15 per cent of all guardianship appointments.

#### *Duration of new guardianship appointments 2011-12*



Average duration of orders:

All orders **20 months**

Non-interim orders **27 months**

#### ***Client characteristics***

**56 per cent** of current guardianship clients are male and **44 per cent** are female.

Consistent with previous years, people with a **primary diagnosis of intellectual disability** represent the largest proportion of the Adult Guardian's client groups, followed by psychiatric disability and dementia. This trend is in contrast to other Australian jurisdictions, in which older people with dementia represent the largest client group, primarily due to the ageing population and rates of dementia.

#### *Primary Disability type*

Intellectual	39 %
Dementia	23 %
Psychiatric	21 %
Acquired brain injury	11 %
Other *	5 %

\* e.g. medical or neurological condition

Just over one-quarter of all guardianship clients have two or more disability types. The most common secondary disability is psychiatric (31%).

#### *Number of disability types*

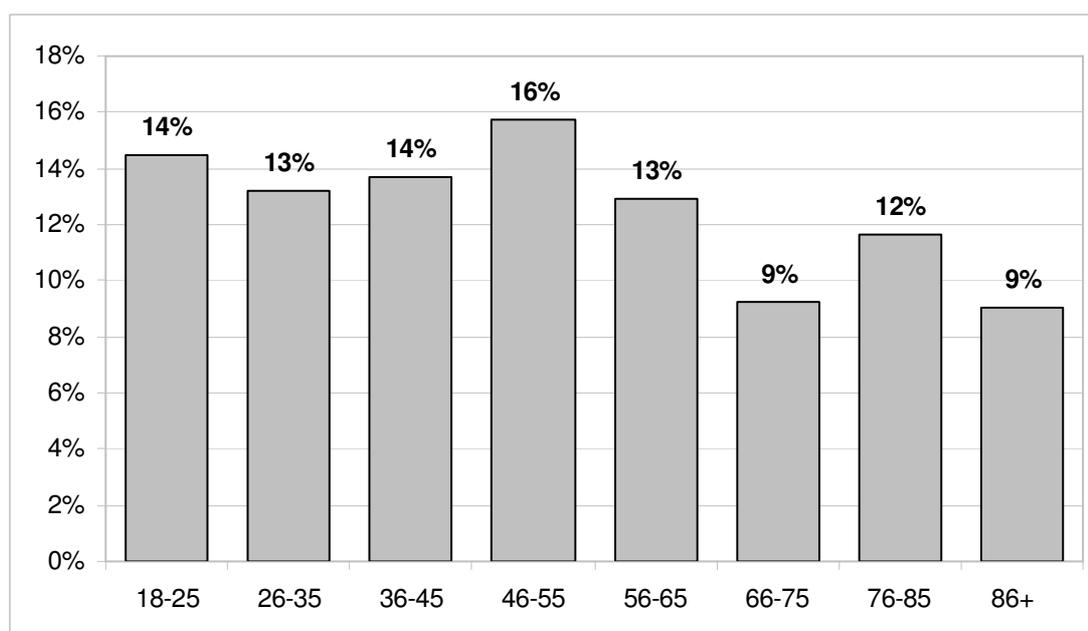
1 disability type	74 %
2 disability types	25 %
3 disability types	1 %

#### *Proportion of clients who have secondary disabilities*

Primary disability type	% with secondary disability
Acquired brain injury	37 %
Intellectual disability	28 %
Psychiatric disability	24 %
Dementia	9 %

The average age of guardianship clients is **52 years**.

#### *Client ages*



As can be seen from the following table, there has been a slight ageing of the guardianship client base from the previous year.

*Age distribution 2011-12*

	2011-12	2010-11	% change
< 26 years	14 %	17 %	- 18 %
26 – 45 years	27 %	26 %	+ 4 %
46 – 65 years	29 %	28 %	+ 4 %
65 + years	30 %	29 %	+ 3 %

*Areas of appointment*<sup>4</sup>*Appointment types for 2011-12*

Accommodation	25 %
Service provision	21 %
Health care	21 %
Restrictive practices	11 %
All personal matters	6 %
Contact matters	6 %
Legal matters	6 %
Other *	3 %

\* “Other” includes:

*Education, training & employment*

*Seeking help & making representations*

*Day-to-day matters*

*Applying for a licence or permit*

As at the end of the year, the Adult Guardian held **plenary appointments** (i.e. decision-making for all personal matters) for almost 200 people (10 per cent of the total client base). This is down from 300 in the previous year.

As at 30 June 2012, there were **307** clients for whom the Adult Guardian was appointed as guardian to approve the use of restrictive practices. In **136** of these cases (44 per cent), the Adult Guardian also held guardianship appointments for other areas of personal decision making in addition to restrictive practices.

<sup>4</sup> Most guardianship clients have two or more areas of decision making under a Tribunal appointment.

The Adult Guardian was also appointed for a number of clients for **seeking help and making representations** in relation to the use of containment and seclusion. In these cases, the Adult Guardian can exercise no power with respect to the approval of restrictive practices, as this requires the consent of the Queensland Civil and Administrative Tribunal. However, it is recognised by the Tribunal that this group of individuals are particularly vulnerable, and that the Adult Guardian may be able to effect positive change in their lives through the use of statutory advocacy.

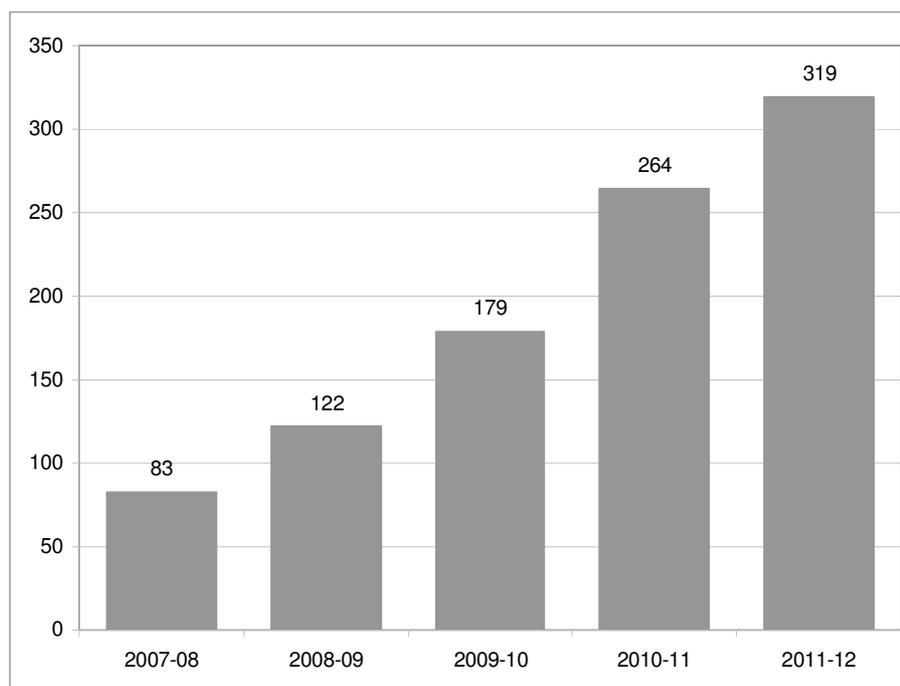
### *Appointments as attorney*

In addition to guardianship appointments by the Tribunal, the Adult Guardian can also exercise substituted decision making powers as attorney for a personal or health matter under an Enduring Power of Attorney or an Advance Health Directive. In these cases, a person elects to have the Adult Guardian as their substitute decision maker, in the event that the person loses their decision-making capacity at some point in the future.

As at the end of 2011-12, the Adult Guardian was acting as attorney for 24 clients. During the year, the Adult Guardian accepted **319 new appointments** as attorney, bringing the total number of appointments now held by the Adult Guardian to **1675**. This represents a potential future demand on the Adult Guardian for decision making.

Appointments to act as attorney have increased significantly in recent years: the 5-year trend graph below shows that the number of appointments increased fourfold between 2007-08 and 2011-12. Almost **20 per cent** of all current appointments were received in the last financial year.

#### *5-year trends in new appointments as attorney*



***Acting as Allied Person***

The Adult Guardian can also be appointed under ss.341-2 of the *Mental Health Act 2000* to act as an Allied Person for a person who is subject to the involuntary provisions of the Act. The function of an Allied Person is to help the person to represent their views, wishes and interests relating to their assessment, detention, treatment and care under the Act. In 2011-12, the Adult Guardian acted as Allied Person for very small number of adults.

## Making health care decisions<sup>8</sup>

During 2011-12, staff of the Office of the Adult Guardian made **1,101 health care decisions** for adults with impaired decision making capacity, both clients and non-clients. This is slightly down from 2010-11 (1,160 health care decisions). Approximately **20 per cent** of these health care decisions were made after hours.

There were **94** requests received by medical practitioners in relation to **end-of-life decisions** (i.e. seeking consent to the withdrawal and/or withholding of life-sustaining measures). This number is down some 28 per cent from the previous year. Consent was granted by the Adult Guardian in **79** of these cases.

The Adult Guardian received **9 requests** from medical professionals to make a health care decision where a guardian or attorney had either refused to make a decision and the refusal was contrary to the Health Care Principle, or had made a decision which was contrary to the Health Care Principle (i.e. under s. 43 of the *Guardianship and Administration Act 2000*).

The Adult Guardian **did not exercise decision-making powers** in any of these 9 cases, as these matters were able to be resolved through the provision of information, advice, support or mediation with medical professionals and/or family members to facilitate an informal resolution. (In the previous year, the Adult Guardian had exercised decision-making powers under s.43 in 7 cases.)

In 2011-12, the Adult Guardian was not requested to exercise powers under s. 42 of the *Guardianship and Administration Act 2000* to make a health care decision where there was disagreement between guardians or attorneys.

During 2011-12, there were 7 matters on foot in which the Adult Guardian was appointed under s.125 of the *Guardianship and Administration Act 2000* to represent an adult's views, wishes and interests in relation to a **special health care matter**. All 7 cases were sterilisation matters. Six of the adults were female.

- One s.125 appointment was carried over from 2010-11, and was resolved during 2011-12 with consent being given by the Tribunal.
- Five new s.125 appointments were made to the Adult Guardian in 2011-12. Tribunal consent was provided for the special health care in two of these cases. The adult in question was found to have capacity for the special health care matter in a third, and two matters are still before the Tribunal.

The Adult Guardian provided consent in **5 cases** for a **forensic examination** to be conducted under s.198A of the *Guardianship and Administration Act 2000*. These cases were in relation to the alleged sexual assault of a person with impaired capacity. (In 2010-11, two such consents were given.)

<sup>8</sup> Due to changes in data collection methodology, comparisons in statistics between 2011-12 and previous years may not be accurate, except where previous figures are provided.

Consistent with previous years, **60 per cent** of health care decisions were made on behalf of a person for whom the Adult Guardian held a guardianship appointment. Some **39 per cent** of decisions were made by the Adult Guardian as Statutory Health Attorney of last resort under s. 63(2) of the *Powers of Attorney Act 1998*. (There were 421 health care decisions made as Statutory Health Attorney of last resort, in relation to 327 different individuals.) The remaining 1 per cent of decisions were made by the Adult Guardian as attorney appointed for health matters.

As illustrated below, most health care decisions were made in relation to medical and surgical procedures, consistent with previous years.

Medical	50%
Surgical	28%
Dental	13%
End-of-life decisions	7%
Other *	2 %

\* *this includes forensic examinations, participation in clinical trials and high-level aged care placements.*

Requests for the Adult Guardian to override the wishes of families or other decision-makers with respect to end-of-life health care decisions are particularly complex. In 2011-12, the Adult Guardian was able to successfully resolve each of the 9 requests he received without the need to exercise this overriding power.

Each of these cases took many hours to resolve, and required careful consultation with doctors, social workers, families and other parties such as religious or cultural leaders. In considering these matters, there are some important principles:

- The immediacy of the medical situation is taken into account. Where a decision is not needed urgently, the family should be given ample time and opportunity to work through the issues with the necessary advice and support.
- Before the Adult Guardian gets directly involved, it should be satisfied that the hospital staff have exhausted all efforts to mediate and resolve the issue.
- Other than in exceptional circumstances, no decisions should be made without first visiting the adult and meeting with their doctors and family members.
- The Adult Guardian must always be sensitive to the important role the family plays in the adult's life, the impact of the situation on a family's capacity to communicate and collaborate together to make good decisions, and the role that culture and religion frequently play in these events.
- Consistent with the principle of 'last resort', the overriding powers should only be exercised where it is impossible to pursue less intrusive alternatives (such as mediation) or where these have failed. The powers should only be used when they are absolutely necessary to protect the person's best interests.
- If a decision is made to override a family's wishes, they should be advised of their right to challenge the decision and seek a ruling from the Tribunal.

## Protecting the legal rights of clients<sup>9</sup>

### *Guardianship clients with legal matters*

During 2011-12, the Adult Guardian received legal appointments for some 166 individuals, either new or existing guardianship clients. Most legal appointments received were in conjunction with other appointments. In a small number of cases the Adult Guardian was appointed for legal matters only; as at 30 June 2012, there were 25 legal-only clients.

A total of **148 guardianship clients** had active legal matters on foot at the end of 2011-12, although the monthly average was higher (164). This represents **8 per cent** of all guardianship clients, slightly lower than the previous year (**10 per cent**).

	2012	2011
Clients with legal matters on foot		
– at 30 June 2012	148	172
– monthly average	164	178
Legal-only appointments (at 30 June)	25	23
New legal files opened (full year)	125	159

### *Legal matters on foot as at 30 June 2012 \**

	%	Number
Criminal justice	71 %	105
Child protection	7 %	11
Family law (relating to children)	5 %	7
Domestic violence	7 %	11
Victims of crime	2 %	3
Civil matters/guardianship/mental health	3 %	4
Other	5 %	7

*\* this is largely consistent with 2010-11*

Although the majority of legal matters on foot related to criminal justice matters, most of these were decided in the Magistrates Court, and related to relatively minor offences. Only a very small number of legal matters related to serious criminal offences.

<sup>9</sup> Due to changes in data collection methodology, comparisons in statistics between 2011-12 and previous years may not be accurate, except where previous figures are provided.

*Client matters before Court and Tribunals*

In 2011-12, clients of the Adult Guardian had a total of almost 1,100 separate Court/Tribunal events. As shown below, matters before the Magistrates Court accounted for around one half of all court events. When hearings of the Queensland Civil and Administrative Tribunal are removed, this figure rises to around 80 per cent.

*Court events 2011-12*

	<i>including</i> QCAT	<i>excluding</i> QCAT
Magistrates Court	52 %	81 %
QCAT	36 %	---
Children's Court	4 %	6 %
Mental Health Court	2 %	3 %
District Court	2 %	3 %
Federal Magistrates Court	1 %	2 %
Special Circumstances Court	1 %	2 %
Supreme Court	1 %	2 %
Other *	1 %	1 %

\* *includes the Mental Health Review Tribunal*

Almost **300 Court/Tribunal events** were attended by OAG staff during the year. Of these events, 84 per cent were attended by non-legal staff of the OAG and the remaining 16 per cent by legal staff.

- More than **230 QCAT hearings** were attended by OAG staff. Of these hearings, 98 per cent were attended by non-legal staff of the OAG.
- There were **62 non-QCAT Court/Tribunal events** attended by OAG staff. Of these events, 29 per cent were attended by non-legal staff of the OAG.

Of all non-QCAT Court events, over **90 per cent were mentions**. Of the remainder, more than one-third were hearings. There were also 5 family group meetings for clients, 4 committal hearings and 4 sentencing hearings.

Of all QCAT hearings attended by OAG staff, **46 per cent** were for the purpose of **reviewing the Adult Guardian's appointment**, 31 per cent were for the purpose of appointing a guardian, and a further 9 per cent for the purpose of appointing an administrator.

A small legal team operates within the office. In addition to overseeing many of the client cases with active legal matters, legal officers work closely with the delegated guardians, and provide support and advice to the guardians in protecting the legal rights of their clients.

As indicated above, both legal and non-legal staff of the Office of the Adult Guardian attend Court/Tribunal events as a delegate of the Adult Guardian. The role they play will vary from case to case, however it includes:

- seeking the assistance of duty lawyers for clients, and briefing lawyers on the nature of the client and their impairment
- advocating for the rights and interest of clients, and helping to express their views and wishes before the Court/Tribunal
- providing information and advice to clients' legal representatives
- ensuring that all relevant information is before the Court (e.g. regarding the role of the Adult Guardian, the nature of the client's impairment, and the treatment/support/accommodation options available for the client)
- providing information to QCAT about how the Adult Guardian has discharged its role as decision-maker for a client, and providing advice on the need for a guardianship appointment, at QCAT's request
- making submissions as a friend of the court in respect of future options available to the Adult Guardian for protecting the rights and interests of the client
- acting on behalf of the Adult Guardian in court proceedings.

Although OAG staff do not act as clients' legal representatives in Court and Tribunal proceedings, the role they play can have a significant and positive impact on client outcomes, including on:

- the Court's understanding of the client's impairment and vulnerabilities, and the impact of this on their offending behaviour
- whether a client is sentenced, and the nature of the sentence they receive
- the ability of the client's legal representative to discharge their role
- whether a client can maintain contact with a child who has been placed in care
- whether a client will be granted bail.

Much of the critical work undertaken by staff with respect to clients' legal matters occurs outside of Court proceedings. Staff routinely:

- advocate for clients to receive grants of aid from Legal Aid Queensland
- source legal representation for clients (including *pro bono* representation)
- advise legal representatives, to ensure they have all relevant information necessary to represent their client

- participate in family group meetings/conferences to help represent the client's interest in child protection matters
- liaise and negotiate with service provider representatives in relation to the provision of clinical and non-clinical services for the client, insofar as this relates to the client's legal matters.

The Adult Guardian faces significant challenges in exercising his role to advance the rights and interest of clients in relation to legal matters. These challenges include:

- a lack of understanding of the client group and the implications of impaired capacity on clients' behaviour
- a lack of appreciation for the extent of clients' vulnerabilities within both the criminal justice and correctional systems
- challenges in accessing legal aid, given the level of demand on public resources
- a lack of understanding of the human rights dimensions of matters such as the use of restrictive practices and the loss of custody/guardianship of children
- the availability of appropriate, skilled legal representation for client matters
- clients' access to clinical and non-clinical services in the community, insofar as these can have a significant impact on offending behaviour and recidivism.

## Other activities: 2011-12

Under the *Guardianship and Administration Act 2000*, the Adult Guardian has a responsibility to educate and advise people about the operation of the guardianship system. During 2011-12, staff of the office conducted or participated in a wide range of community education events throughout the State. These included:

- Training sessions for the Justices of the Peace Branch (Department of Justice and Attorney-General)
- Attendance at relevant disability and aged care expos.
- Presentations at educational institutions and hospitals
- Presentations at aged care, disability and advocacy services.

The Adult Guardian has a responsibility to conduct research into the guardianship legislation. During 2011-12 the Office of the Adult Guardian participated in a number of research projects, including an ARC Linkage Project: *Withholding and Withdrawing Life-Sustaining Treatment for Adults Lacking Capacity: enhancing medical decision-making through doctors' compliance with the law*. This project is led by the Queensland University of Technology.

## Appendix 1: Performance

### Non-financial performance measures

There were two non-financial performance measures for the Office of the Adult Guardian in 2011-12.

<i>Measure</i>	<i>Target</i>	<i>Actual</i>
Average time to complete investigations	5.5 months	5.9 months
Percentage of quality assurance audits of the delivery of guardianship services that meet targets	80 %	84 %

### Financial statement

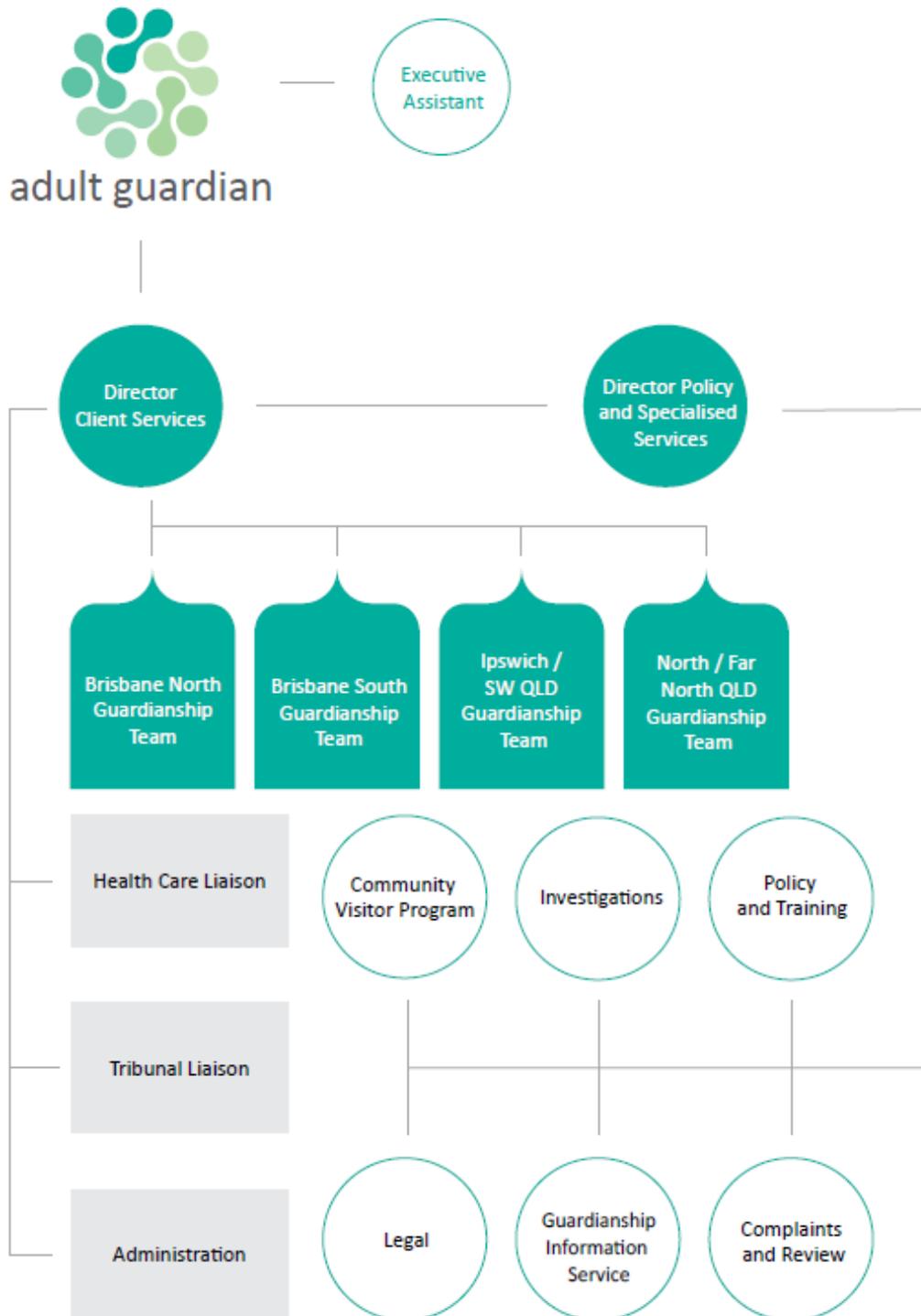
The operations of the Office of the Adult Guardian are funded from the Queensland Government's Consolidated Fund and by the Public Trustee of Queensland. The contribution from the Public Trustee of Queensland has been in place since the inception of the office, on unconditional terms and without any impact on the independence of the Office of the Adult Guardian from the Office of the Public Trustee. The Director-General of the Department of Justice and Attorney-General is the Accountable Officer pursuant to the *Financial Administration and Audit Act 1977*. The full financial details relating to the operations of the office appear in the Annual Report of the Department of Justice and Attorney-General for 2011-12.

#### *Financial summary* \*

<i>Actual</i>	<i>(000s)</i>
Income	11,739
Employee expenses	9,685
Supplies and services	1,461
Grants and subsidies	5
Depreciation	262
Total operating expenditure	11,413
Operating result	326

\* include Office of the Adult Guardian and the Community Visitor Program

**Appendix 2: Organisational chart** (as at 30 June 2012)



### Appendix 3: The Adult Guardian’s statutory role and functions

The Adult Guardian was established as an independent statutory officer under the *Powers of Attorney Act 1998*, now contained in the *Guardianship and Administration Act 2000*. The *Mental Health Act 2000* added a power to act as allied person<sup>8</sup> for an adult with a mental illness who is under an involuntary treatment order.

The staff of the Office of the Adult Guardian are public servants. The office is a business unit of the Department of Justice and Attorney-General. Officers are given statutory delegations from the Adult Guardian to make certain decisions and accordingly represent the Adult Guardian in the fulfilment of their duties.

The statutory role of the Adult Guardian is to protect and promote the rights and interests of adults with impaired decision-making capacity for a matter. Adults with impaired decision-making capacity may have:

- an intellectual disability
- an acquired brain injury
- a psychiatric disability or
- an organic or deteriorating condition that affects capacity (such as dementia).

The statutory functions are set out in section 174 (and other relevant sections) of the *Guardianship and Administration Act 2000* and include –

- protecting adults with impaired capacity from abuse, neglect or exploitation
- investigating allegations of abuse, neglect or exploitation of adults with impaired capacity
- investigating complaints about the actions of attorneys under Enduring Powers of Attorney, guardians or administrators
- acting as guardian of last resort under an order of the Queensland Civil and Administrative Tribunal where there is no family or friends available or appropriate to act
- as Statutory Health Attorney<sup>9</sup> of last resort

<sup>8</sup> The function of an “allied person” is set out in the *Mental Health Act 2000* Chapter 9 Part 1: “The function of an involuntary patient’s allied person is to help the patient to represent the patient’s views, wishes and interests relating to the patient’s assessment, detention and treatment under this Act”.

<sup>9</sup> The *Powers of Attorney Act 1998* defines a Statutory Health Attorney as the first, in listed order, of a range of people who is readily available and culturally appropriate to make decisions about a health matter. In order these are spouse in continuing relationship, unpaid carer, close friend or relative, and Adult Guardian as last resort.

- as personal attorney of last resort when the Adult Guardian has accepted an appointment under an Enduring Power of Attorney or Advance Health Directive
- making representations or seeking assistance from agencies on behalf of adults with impaired capacity
- informally mediating or conciliating disputes between attorneys and between private guardians or between attorneys and guardians and others, including health care disputes, if the Adult Guardian considers this appropriate to resolve issues
- educating and advising people about the two Acts, and in particular on the role of the Adult Guardian.

The Adult Guardian also administers the Community Visitor Program on behalf of the Department of Justice and Attorney-General.

## Appendix 4: The General Principles

*(Guardianship and Administration Act 2000)*

### 1. **Presumption of capacity**

An adult is presumed to have capacity for a matter.

### 2. **Same human rights**

- (1) The right of all adults to the same basic human rights regardless of a particular adult's capacity must be recognised and taken into account.
- (2) The importance of empowering an adult to exercise the adult's basic human rights must also be recognised and taken into account.

### 3. **Individual value**

An adult's right to respect for his or her human worth and dignity as an individual must be recognised and taken into account.

### 4. **Valued role as a member of society**

- (1) An adult's right to be a valued member of society must be recognised and taken into account.
- (2) Accordingly, the importance of encouraging and supporting an adult to perform social roles valued in society must be taken into account.

### 5. **Participating in community life**

The importance of encouraging and supporting an adult to live a life in the general community, and take part in activities enjoyed by the general community, must be taken into account.

### 6. **Encouragement of self-reliance**

The importance of encouraging and supporting an adult to achieve the adult's maximum physical, social, emotional and intellectual potential, and to become as self-reliant as practicable, must be taken into account.

### 7. **Maximum participation, minimal limitations and substituted judgment**

- (1) An adult's rights to participate, to the greatest extent practicable, in decisions affecting the adult's life, including the development of policies, programs and services for people with impaired capacity for a matter, must be recognised and taken into account.
- (2) Also, the importance of preserving, to the greatest extent practicable, an adult's right to make his or her own decisions must be taken into account.
- (3) So, for example –
  - (a) the adult must be given necessary support, and access to information, to enable the adult to participate in decisions affecting the adult's life; and

- (b) to the greatest extent practicable, for exercising power for a matter for the adult, the adult's views and wishes are to be sought and taken into account; and
  - (c) a person or other entity in performing a function or exercising a power under this Act must do so in the way least restrictive of the adult's rights.
- (4) Also, the principle of substituted judgment must be used so that if, from the adult's previous actions, it is reasonably practicable to work out what the adult's views and wishes would be, a person or other entity in performing a function or exercising a power under this Act must take into account what the person or other entity considers would be the adult's views and wishes.
- (5) However, a person or other entity in performing a function of exercising a power under this Act must do so in a way consistent with the adult's proper care and protection.
- (6) Views and wishes may be expressed orally, in writing or in another way, including, for example, by conduct.

## 8. Maintenance of existing supportive relationships

The importance of maintaining an adult's existing supportive relationships must be taken into account.

## 9. Maintenance of environment and values

- (1) The importance of maintaining an adult's cultural and linguistic environment, and set of values (including any religious beliefs) must be taken into account.
- (2) For an adult who is a member of an Aboriginal community or a Torres Strait Islander, this means the importance of maintaining the adult's Aboriginal or Torres Strait Islander cultural and linguistic environment, and set of values (including Aboriginal tradition<sup>10</sup> or Island custom<sup>11</sup>) must be taken into account.

## 10. Appropriate to circumstances

Power for a matter should be exercised by a guardian or administrator for an adult in a way that is appropriate to be the adult's characteristics and needs.

## 11. Confidentiality

An adult's right to confidentiality of information about the adult must be recognised and taken into account.

<sup>10</sup> Aboriginal tradition means the body of traditions, observances, customs and beliefs of Aboriginal people generally or of a particular community or group of Aboriginal people, and includes any such traditions, observances, customs and beliefs relating to particular persons, areas, objects or relationships – see *Acts Interpretation Act 1954*, section 36.

<sup>11</sup> Island custom, known in the Torres Strait as Ailan Kastom, means the body of customs, traditions, observances and beliefs of Torres Strait Islanders generally or of a particular community or group of Torres Strait Islanders, and includes any such customs, traditions, observances and beliefs relating to particular persons, areas, objects or relationships – see *Acts Interpretation Act 1954*, section 36.

## Appendix 5: The Health Care Principle

*(Guardianship and Administration Act 2000)*

1. The health care principle means power for a health matter, or special health matter, for an adult should be exercised by a guardian, the adult guardian, the tribunal, or for a matter relating to prescribed special health care, another entity –
  - (a) in the way least restrictive of the adult’s rights; and
  - (b) only if the exercise of power –
    - (i) is necessary and appropriate to maintain or promote the adult’s health or well-being; or
    - (ii) is, in all the circumstances, in the adult’s best interests.

Example of exercising power in the way least restrictive of the adult’s right –  
If there is a choice between a more or less intrusive way of meeting an identified need, the less intrusive way should be adopted.

2. In deciding whether the exercise of a power is appropriate, the guardian, the adult guardian, tribunal or other entity must, to the greatest extent practicable –
  - (a) seek the adult’s views and wishes and take them into account;
  - (b) take the information given by the adult’s health provider into account.
3. The adult’s views and wishes may be expressed –
  - (a) orally; or
  - (b) in writing, for example, in an Advance Health Directive; or
  - (c) in another way, including for example, by conduct.
4. The health care principle does not affect any right an adult has to refuse health care.
5. In deciding whether to consent to special health care for an adult, the tribunal or other entity must, to the greatest extent practicable, seek the views of the following person and take them into account–
  - (a) a guardian appointed by the tribunal for the adult;
  - (b) if there is no guardian mentioned in paragraph (a), an attorney for a health matter appointed by the adult;
  - (c) if there is no guardian or attorney mentioned in paragraph (a) or (b), the Statutory Health Attorney for the adult.

***Office of the Adult Guardian***

Postal Address: PO Box 13554, George Street  
Brisbane QLD 4003

Street Address: Level 3, Brisbane Magistrates Court  
363 George Street  
Brisbane QLD 4000

Telephone: (07) 3234 0870  
1300 653 187 (outside Brisbane)

Facsimile: (07) 3239 6367

Email: [adult.guardian@justice.qld.gov.au](mailto:adult.guardian@justice.qld.gov.au)

Internet: [www.justice.qld.gov.au/guardian](http://www.justice.qld.gov.au/guardian)

***Community Visitor Program***

Postal Address: GPO Box 149  
Brisbane QLD 4001

Street Address: Level 3, Brisbane Magistrates Court  
363 George Street  
Brisbane QLD 4000

Telephone: (07) 3406 7711  
1300 302 711 (outside Brisbane)

Facsimile: (07) 3109 9179

Email: [community.visitorprogram@justice.qld.gov.au](mailto:community.visitorprogram@justice.qld.gov.au)

***North Queensland Regional Office***

Postal Address: PO Box 1283  
Thuringowa Central QLD 4817

Street Address: 8 Black Hawk Blvd  
PO Box 1238  
Thuringowa Central QLD 4817

Telephone: (07) 4760 9688

Facsimile: (07) 4760 9680

***Ipswich Regional Office***

Postal Address: PO Box 999  
Ipswich QLD 4305

Street Address: Ipswich Tower Central  
114 Brisbane Street  
Ipswich Qld 4305

Telephone: (07) 3884 6650

Facsimile: (07) 3884 6672



adult guardian

Annual Report 2011–2012  
[www.justice.qld.gov.au](http://www.justice.qld.gov.au)