

# Office of the Public Guardian

Annual Report 2016-17



Advocating for the human rights of  
vulnerable Queenslanders

## LETTER OF COMPLIANCE

The Honourable Yvette D'Ath MP  
 Attorney-General and Minister for Justice  
 Minister for Training and Skills  
 1 William Street  
 BRISBANE QLD 4000

Dear Attorney-General,

I am pleased to submit for presentation to the Parliament the Annual Report 2016-17 for the Office of the Public Guardian.

I certify that this Annual Report complies with the detailed requirements set out in the Annual report requirements for Queensland Government agencies. The Office of the Public Guardian is not considered a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982* or the *Financial Accountability Act 2009*.

A checklist outlining the annual reporting requirements can be found in Appendix 6 (page 76).

Yours sincerely



Natalie Siegel-Brown  
 Public Guardian

## ABOUT THIS REPORT

### Communication objective

The Office of the Public Guardian (OPG) advocates for the human rights of our clients. We engage with a diverse range of people from across Queensland.

This annual report presents information about the performance of the OPG for the period 1 July 2016 to 30 June 2017. It contains a record of the OPG activities and achievements for the financial year against our objectives and summarises our future priorities and challenges. While this report is produced under the prescribed requirements of the Annual report requirements for Queensland Government agencies, the report has been written for the benefit of all our stakeholders.

For ease of use, a glossary of terms and index is available at the end of the report.

An easy English summary of this report is available on the Office of the Public Guardian website.

Minor variations exist between several figures appearing in this report and in the DJAG Annual Report due to updates to OPG's client records that occurred between the two publications dates of these annual reports.

### Availability and access

#### Online

The 2016–17 annual report is available online, visit [www.publicguardian.qld.gov.au/about-us/annual-reports](http://www.publicguardian.qld.gov.au/about-us/annual-reports).

#### Printed copies

For a printed copy of the annual report, or for more information, contact:

Principal Communications Officer  
 The Office of the Public Guardian  
 PO Box 13554, George Street  
 Brisbane QLD 4003  
 Phone: 1300 653 187  
 Email: [commed@publicguardian.qld.gov.au](mailto:commed@publicguardian.qld.gov.au)

#### Attribution

Content from this annual report should be attributed as:  
 The State of Queensland (Office of the Public Guardian)  
 annual report 2016-2017

#### Licence

This annual report is licensed by the State of Queensland (Office of the Public Guardian) under a Creative Commons Attribution (CC BY) 4.0 International licence. In essence, you are free to copy, communicate and adapt this annual report, as long as you attribute the work to the State of Queensland (Office of the Public Guardian). To view a copy of this licence, visit <http://creativecommons.org/licences/by/4.0/>.

#### Interpreter service

The OPG is committed to providing accessible services to Queenslanders from all culturally and linguistically diverse backgrounds. If you have difficulty understanding the annual report, you can contact us on 1300 653 187 and we will arrange an interpreter for you, free of charge.



# 2016-17 SNAPSHOT



## VISITING PROGRAM

- 32,749 visits (+14% 2015-16), reaching 8025 children and young people in care (+6% 2015-16)
- 41% of visitable children identified as being Aboriginal and/or Torres Strait Islander
- 19,007 issues advocated for on behalf of children and young people (+60% 2015-16)
- 98% of issues resolved locally for children and young people
- 1305 adult visitable sites visited (-1% 2015-16)
- 6542 adults visited at visitable sites (6512 2015-16)
- 1920 issues were raised by adult community visitors (-3% 2015-16)

## GUARDIANSHIP

- 3112 adults with the Public Guardian appointed as their decision-maker during 2016-17 (+2% 2015-16)
- 818 new guardianship appointments including legal in 2016-17 (-2% 2015-16)
- Average age of guardianship client is 51
- 1151 health care consents provided (-14% 2015-16)
- 98% of guardianship decisions made in consultation with the client



## LEGAL CHILD ADVOCACY



- 339 new issues opened by child advocate-legal officers (-51% 2015-16)
- 304 issues closed by child advocate-legal officers (-51% 2015-16)
- 620 visits and 450 court appearances by child advocate-legal officers (+17% 2015-16)

## INVESTIGATIONS

- 270 investigations commenced (+27% 2015-16)
- 228 investigations closed (+17% 2015-16)
- 121 concluded investigations related to conduct by a financial attorney under an enduring power of attorney (+18% 2015-16)





## TABLE OF CONTENTS

Letter of compliance.....	2
Abut this report.....	2
2016-17 Snapshot.....	3
Message from the Public Guardian.....	5
Our purpose.....	6
Strategic direction.....	8
Our priorities: the year ahead.....	9
Our performance.....	11
Performance highlights.....	14
The community visitor program.....	15
Legal advocacy.....	35
Guardianship services.....	42
Health care.....	49
Restrictive practices .....	52
Investigations.....	54
Strategic policy.....	60
Communications and engagement .....	61
Our organisation.....	63
Our people.....	67
Financial performance.....	69
Appendix 1: Policies and practice directions developed in 2016-17.....	70
Appendix 2: Issue type breakdown.....	72
Appendix 3: Health care principle.....	73
Appendix 4: List of tables.....	74
Appendix 5: Glossary .....	75
Appendix 6: Compliance checklist .....	76

## MESSAGE FROM THE PUBLIC GUARDIAN

**“The standard you walk past, is the standard you accept”. These famous words of Lieutenant General David Morrison have inadvertently become the credo, or should I say ‘reminder’ for my organisation’s work.**

We cannot simply say ‘oh well, that’s the way it has always been’. Our role is to challenge those systems and decisions and to work with our counterparts to change the status quo—even long held statuses quo.

This year has seen extraordinary and unprecedented uplifts in the performance of the Office of the Public Guardian, underpinned by resounding agreement by staff about why we exist: *to advocate for the human rights of our clients*. While this had always been my vision for the purpose to which we should be held accountable – it just wasn’t enough for me alone to think and feel that. I needed to know that was the vision of each of every member of staff, whether guardian, community visitor, legal officer, investigator or corporate support. Earlier in the financial year, I asked the 310 staff of the Office of the Public Guardian what the universal purpose for our being was, and I was met with the same categorical response. For our adult clients, this means advocating for their rights, access to services, independence and choice as part of a supported decision-making model. For our children and young people, this means advocating for their rights, access to services and where appropriate, their independence choice and their participation in decisions made about them.

As I review the achievements of the past 12 months—the challenges and the issues for which we have had to advocate — I am immensely proud to say that I have seen this advocacy produce some exceptional positive life changes for some of our clients. As you read through this Annual Report, you will see stories where children or adults may have become victim of serious human rights abuses, but where our advocacy, or that provided by our partners in the community has changed a person’s life. Very often that advocacy has simply been in the form of supporting a client to advocate for their own views and wishes.

This has made it tough for some of the agencies we work with out in the wide blue yonder of Queensland. Our change in approach may seem confrontational, as we go through the process of challenging decisions made in relation to our clients. But slowly I see a turning of the tide. Government departments and service-providers alike are realising our work is not designed to persecute their work — but to ensure the human rights of our clients are upheld, to forge solutions that may not have before been thought possible, and most of all to give a voice to clients who have never had one. Ultimately, we hope that our partners in this work will see this as our contribution to broader system-improvement.

Just because a Tribunal has deemed you to have ‘impaired decision-making capacity’ in one or two areas of your life, doesn’t mean you are not the most informed and important voice to guide decisions made about you. When given a chance to talk about all they can be, our clients know this better than anyone. In my first year, I have seen adults go on to live lives that no one had imagined possible, all because a window was opened for them to speak (even if non-verbally).

I am in awe of the advocacy some of our clients are able to perform themselves, even at Tribunal level, when we support them to have a voice at the table. They are the real star of the stories here. Clients who have been brave enough and trusting enough to share with us and allow us to elevate their voices. Similarly, I pay tribute to the systemic and individual advocacy agencies both inside and outside government, with whom we unite to try and achieve change for our clients in what may often seem like intractable environments.



I am similarly in awe of the resilience of some of my clients who have withstood tremendous trauma and still hold hope. I am utterly privileged to work with staff who share not just hope – but who press for the vision of a more fulfilling life for our clients. Together we dream of a Queensland where no one is boxed into a category of ‘hopeless’ or ‘helpless’. Sadly we see people walk past not just unacceptable standards, but human possibility.

Achievements of which I am most proud this year most definitely include conducting the highest number of visits to children and young people in the agency’s history, resolving approximately 19,000 issues for children and young people—almost 3000 more than last year. Community visitors are receiving more disclosures from children and young people directly than even at the time the program was located within the previous Children’s Commission. We have also increased the number of investigations commenced into the exploitation and abuse of vulnerable adults by 27 per cent.

In line with a move to making decisions that are ‘supported’ rather than substituted, I am also very proud to report that 98 per cent of guardianship decisions were made in consultation with the client or ‘interested persons’.

These statistics tell you a lot about the direction in which we are headed. Expect to see a lot more human rights advocacy and a lot more supported decision-making coming your way Queensland—combined with a lot more information we have to share with you about how and why we make our decisions.

Can’t wait for another year!

**Natalie Siegel-Brown**  
Public Guardian



## OUR PURPOSE

The purpose of the Office of the Public Guardian is to advocate for the human rights of our clients.

- For our adult clients, this means advocating for their rights, access to services, independence and choice as part of a supported decision-making model.
- For our children and young people clients, this means advocating for their rights, access to services and where appropriate, their independence and choice.
- Advocacy means understanding the lives and views of our clients with the aim of promoting and protecting their human rights. Advocacy can mean working to prevent or address discrimination, abuse or neglect. Advocacy does not mean taking over a client's life or problems. Advocacy does not mean taking over the roles and responsibilities of other government agencies or service providers.

### Who we are and what we do

The OPG was established as an independent statutory office under the *Public Guardian Act 2014*, to provide for a Public Guardian to promote and protect the rights, interests and wellbeing of adults with impaired decision-making capacity, and children and young people in the child protection system and those accommodated in disability services, Authorised Mental Health Services, Youth Detention Centres and 17 year olds in prison. In performing the Public Guardian's functions and exercising the Public Guardian's powers, the Public Guardian is not under the control or direction of the Minister. The Senior Management team (pg. 61) assists the Public Guardian in the management of the OPG.

#### Guardianship Function

The purpose of the guardianship function is to promote and protect the rights and interests of adults with impaired decision-making capacity through the use of advocacy, substituted and supported decision-making. We support adults to participate in decisions about their life and acknowledge their right to live as a valued member of society.

#### Investigations Functions

The purpose of the investigations function is to promote and protect the rights and interests of adults with impaired decision-making capacity by investigating their decision-making arrangements to make sure they are lawful, appropriate and do not expose them to neglect, exploitation or abuse. Where they are not, the role of the investigator is to recommend intercepting these decision-making arrangements to the Public Guardian for action.

#### Community Visitor Function

The purpose of the Community Visiting function is to protect and promote the rights and interests of people located at the sites we visit. As delegates of the Public Guardian, the role of a community visitor is to be a set of independent eyes and ears into systems of care for vulnerable people. Community Visitors monitor and advocate for the human rights of the people they visit.

#### Child Advocacy Function

The purpose of the child advocacy function extends beyond that of visiting to offer person-centred advocacy, which can extend to legal advocacy. The role of a child advocate is to protect and promote the rights and interests of all children and young people in the child protection system (whether they are visited or not), by elevating the voice and participation of the child or young person in the decisions that affect them.

#### Policy and Reporting Function

The purpose of the Policy and Reporting function is to advocate for the collective voice of OPG clients on high level strategic policy and law reform issues that impact upon their rights and interests. Reporting Services provides specialist reporting support to the OPG's business areas, and to report on the performance and activities of the OPG.

#### Corporate Function

The purpose of the Corporate function is to provide specialist and administrative support to frontline business areas, enabling those business areas to provide excellence in client service.

## How we help protect children, young people and adults experiencing vulnerability

### Legal Services and Investigations

**Children and Young People Team:** Ensures an entirely independent voice for children and young people in the child protection system by providing information about their legal rights and supporting their ability to participate in decisions made by agencies, tribunals and courts.

**Adult Team:** Advocates and makes legal decisions for adults with impaired decision-making capacity to protect their rights during legal processes, ensuring access to legal advice/representation to ensure that their impairment does not impact on their access to justice.

**Corporate and Legal Practice Team:** Provides legal advice and assistance to the Public Guardian and their delegates in the performance of their statutory functions and exercise of statutory powers.

**Investigations Team:** Investigates complaints or allegations that an adult with impaired decision-making capacity is being neglected, exploited or abused or has inappropriate or inadequate decision-making arrangements in place.

### Guardianship

**Guardianship Team:** Supports adults with impaired capacity to make decisions about their life, with the adult's best interests in mind and in the least restrictive way possible.

**Positive Behaviour Support (PBS) Team:** advocates for the human rights of adults with impaired capacity and supports adults with impaired capacity to make decisions for themselves where possible. The PBS team also reviews the use of restrictive practices (RP) in accordance with the relevant legislation and the OPG RP decision-making framework. This framework allow us to genuinely pursue reduction and elimination of the use of restrictive practices.

### Community Visiting Program

**Community Visitors (child):** Human rights protection and advocacy, overseeing that the human rights of our clients are being advanced through their own views, wishes and voice, informed through 'visiting' with children and young people in their homes and other residential settings.

**Community Visitors (adult):** Human rights protection and advocacy, overseeing that the human rights of our clients are being advanced through their own views, wishes and voice, informed through 'visiting' with adults residing at visitable sites.

### Policy and Reporting

Develops and promotes the policy position of the Public Guardian based on the collective experience of the OPG's clients on critical issues relating to government policy, law and reform, supported by evidenced based analysis of data recorded by front line staff, with a strong focus on human rights.

### Corporate and Client Services

Supports and guides best practice in service delivery and acts as the interface with our clients while providing specialist and administrative support for frontline business areas.

135  
Community  
Visitor's  
work across  
13 zones  
covering a  
geographic  
area  
of 1.7  
million  
kilometres



## STRATEGIC DIRECTION

What is it that makes us tick? What are the underpinning values that drive the vision and objectives in our Strategic Plan? 2016-17 was the year we revised the question about our singular purpose. After an astounding response rate to an internal survey, as Public Guardian, I was ecstatic to know that staff working at our coal face felt as strongly as me: our job is to advocate for the human rights of our clients. Regardless of the program area within the agency, we all have the same singular purpose. This has become an anchor for all we do but also a source of accountability for our actions.

In line with this mission of transparency, in 2016-17, we began to document our decision-making processes for public view – so that clients, their families, service providers and indeed the wider community understand how and why we make the decisions we make. The first cab off the rank was the development of our mental health consent decision-making framework. This was then followed by consultation on our decision-making framework on consent to mental health treatment and care by the Public Guardian (now published), followed by the use of restrictive practices. In 2017-18, we will follow the publication of this framework by publishing how we make our decisions on the withholding/withdrawal of Life Sustaining Measures and a raft of other guardianship areas of decision-making.

The OPG operates under a Strategic Plan, which guides our work and confirms our vision.

A review of our performance against the Strategic Plan is on pg. 11.

A clear focus of 2017-18 will also be identifying and acting earlier where we identify abuses or potential abuses of human rights. Whether it be through our oversight function in the Community Visiting Program, our Investigations or Guardianship, key human rights issues reveal themselves on a consistent basis. Some of these include the potential for indefinite detention of some clients on Forensic Orders (in particular those with a dual diagnosis of mental illness and disability), a failure to reduce, eliminate or even appropriately use restrictive practices; and the use of restrictive practices on children and young people in care (an area which remains unregulated). This will be buttressed by strong policy submissions and media profiling of issues where the Public Guardian may make an impact on these areas. We will sharpen our focus on not 'walking past' the unacceptable.

The integration of the child guardian and adult function in 2014 occurred a relatively short period ago, so there is still much work to be done regarding how we can integrate these two areas of our agency to

deliver better outcomes in each. After all, many of our guardianship clients have transitioned from the child protection system, or have been part of the child protection system at some point in their lives. This is particularly the case for clients whom we are appointed for decision-makers in respect of restrictive practices.

It is abundantly clear that so many of our clients have arrived in their present circumstances due to having experienced early life trauma; as well as experiencing it in the present. In 2016-17, the OPG reformed much of its work to recognise and respond to (not just be 'informed by') this trauma. It is our role to ensure the systems that care for our clients respond to this too, rather than just 'manage its symptoms'.

At a more functional level, some of the priorities we also focussed on this year included:

- ensuring our community visitors accessed technology to correspond more regularly with their clients
- raising awareness and proactively promoting our services to our stakeholders and clients through the implementation of a formal social media campaign and improved web services
- becoming a child/vulnerable person safe organisation and embedding these principles in daily practice
- implementing supervision frameworks across business areas
- implementing recommendations from Internal Audit, such as remuneration processes
- preparing for a singular case management system to be rolled out across the agency
- the development of an improved and more informative website for clients, their families and stakeholders to access; and
- achieving best practice recruitment and retention.

## OUR PRIORITIES: THE YEAR AHEAD

Advocating for the human rights of our clients is a purpose which leaves no room for complacency. The year ahead will only see us consolidate and elevate efforts and alternative ways to achieve this.

Holding other agencies and people accountable for their actions obliges us to also be more accountable in how we ourselves make decisions. In the 2017-18 financial year, our vision is that every decision-making framework, internal practice direction and policy will be made publicly available. We are passionate about the transparency of the OPG, and about sharing with clients, their families and service providers the rationale for our actions.

The next decision-making framework that will be made available will relate to the field of restrictive practices. This is because the area of restrictive practices is the most vulnerable to human rights abuses and often interfaces with our clients most in need of advocacy. The framework will clearly articulate the underpinning principles that guide Restrictive Practice decision-making by the Public Guardian. The framework is squarely based on the following:

- The human rights of the adult. This includes ascertaining, recognising the voice and prioritising the views of the consumer in all decision-making with respect to Restrictive Practices.
- Vigilant efforts to ensure restrictive practices are reduced or eliminated, in line with the NDIS Quality and Safeguards Framework and the purpose of Positive Behaviour Support under the *Disability Services Act 2006* (s139).
- A focus on the least restrictive option to respond to behaviours of harm.
- Efforts to ensure that behaviours of harm have been properly understood and analysed as to their driving causation (such as past trauma) and triggers, so that restrictive practices are minimised and therapeutic interventions which will ultimately see their reduction and elimination are pursued. This specifically includes understanding and addressing past trauma (particularly childhood trauma) as a cause or catalyst of behaviours of harm. It further includes assessing the communication needs of the adult and also conducting sensory assessments to determine what inputs may be creating pain for the adult.
- The life goals and quality of life of the adult. This relates to the imperative that efforts are being made simultaneously to explore and develop the adult's life aspirations.

Why is it so important to iterate the principles of that framework here? Because they clearly light the way for the priorities the OPG needs to pursue in the coming year – and indeed they highlight ongoing challenges for which we need to remain vigilant. Concerted focus will therefore be prioritised upon:

- scoping the ambitions for our clients together with our clients and insisting on visions for adults in disability and mental health services that see them as capable of being contributing members of society
- supporting our clients to make and/or inform the decisions that impact their lives as a first 'port-of-call', rather than defaulting to 'substituted decision-making' alone (a 'supported decision-making' approach to our work')
- advocating for the devolution of the usage of restrictive practices
- recognising the childhood trauma of many of our clients and the specialist responses this requires to enable their recovery
- ensuring that our staff are not only competent and well-versed in advocating for the views and wishes of non-verbal clients, but that we are causing other people in a person's life to gain the skills to communicate non-verbally with them
- contributing to systemic policy and practice issues both in Queensland and nationally.

Despite challenges,  
we have still  
managed to  
exceed our targets  
and perform better  
than we ever have  
before.

This focus will also, therefore see us hone our efforts to advocate for clients who we believe are at risk of being indefinitely detained in forensic or mental health facilities in Queensland in 2017-18.

Simultaneously OPG will embark on another key priority for 2017-18: preparing the Child Community Visitor Program to respond to the changes brought about by the movement of 17 year olds in correctional facilities into youth detention

centres, the simultaneous movement of 10-13 year old residents out of the current Youth Detention setting, and visiting children and young people in supervised bail accommodation.

While we are excited by these challenges and the dedication that is seen in our staff to take these issues on for our clients, it would be remiss of us to ignore the resourcing challenges that will also accompany the year ahead. In particular:

- the growth of children and young people coming into care has been steeply increasing, which has placed immense pressure on limited community visitor resourcing. Community visitors have recorded more complexity, more issues arising and a greater amount of advocacy for the children they have visited than ever experienced in OPG. There has also been an unprecedented rise in the number of children and young people requiring visitation in rural and remote settings. The need to execute these functions has exceeded the OPG's budget and is only expected to rise.
- steadily growing guardianship appointments.
- sharp increases in cases of abuse and exploitation of adults that require the Public Guardian's investigations power to be invoked. While the campaigning relating to elder abuse is a marvellous thing, this places a strain on the limited resources of investigators. Nonetheless, the team were capable of commencing 27 per cent more investigations than the previous year, and finalise 13 per cent more cases.

**Nonetheless, the Office has shown that despite these challenges, we have still managed to exceed our targets and perform better than we ever have before in so many domains. There is no doubt this upwards trend will continue.**

## OUR PERFORMANCE

### Service Delivery Statements

The Service Delivery Statements (SDS) published in the 2016–17 Queensland State Budget provide information on the objectives, service areas, key strategies and performance of Queensland Government agencies, including the OPG. Our performance against these standards is at Table 1 below. **For the first time in the Office of the Public Guardian's history, we have met and exceeded all of our SDS targets.**

**Table 1: Office of the Public Guardian Service standards**

Public Guardianship	2016-17 Target	2016-17 Actual
<i>Effectiveness measures</i>		
Percentage of Community Visitor (adult) sites visited in accordance with the designated visiting schedule	90%	92%
Percentage of vulnerable children at all visitable sites visited by Community Visitors (child) in accordance with the designated visiting schedule	90%	90%
Percentage of vulnerable children in visitable homes visited by Community Visitors (child) in accordance with the designated visiting schedules	80%	81% <sup>2</sup>
Percentage of guardianship decisions made in consultation with the client/interested persons	90%	98%
<i>Efficiency measure<sup>1</sup></i>		
<p><i>Notes: 1. An efficiency measure is being developed for this service and will be included in a future Service Delivery Statement. 2. The figure of 81% was incorrectly stated as 84.4% in the DJAG Annual Report due to an administrative error.</i></p>		

### Performance against strategic plan

#### Objective 1: Communication and collaboration

Strategy	What we achieved
Clearly articulate, communicate and embed OPG's vision and mission.	<ul style="list-style-type: none"> <li>Held #OneOPG day with all OPG staff to share ideas about improving OPGs processes and procedures</li> <li>Defined a new OPG purpose statement</li> <li>Increase in media profiling and relations to build reputation among general public and raise awareness of key advocacy issues</li> <li>Conducted 134 educational presentations to a combined audience of approximately 10,000 attendees</li> </ul>
Develop feedback mechanisms and strong links to professional supervision frameworks.	<ul style="list-style-type: none"> <li>Supervision frameworks updated to include new purpose statement</li> <li>Informal staff surveys distributed throughout the year to seek input on ways to improve operations</li> <li>Regular and ongoing performance reviews conducted in line with employee Expectations Agreements</li> </ul>
Strengthen communication with regional virtual staff.	<ul style="list-style-type: none"> <li>OPG staff newsletter distributed monthly</li> <li>OPG Community Visitor Update distributed monthly</li> <li>Regional managers invited to virtually attend fortnightly senior management meetings</li> </ul>
Develop OPG materials in a range of different languages.	<ul style="list-style-type: none"> <li>OPG factsheets translated into 17 different languages and available on website</li> <li>Language Services policy developed regarding use of interpreters</li> </ul>
Identify sub-groups of stakeholders.	<ul style="list-style-type: none"> <li>Conducted review of stakeholders and mapped to identify priority groups</li> </ul>
Create accessible and culturally appropriate community engagement strategies.	<ul style="list-style-type: none"> <li>Community engagement strategies developed for <i>Mental Health Act 2016</i> implementation, advocacy for the elderly and Aboriginal and Torres Strait Islander communities.</li> </ul>
Establish reference groups for multi-agency and disciplinary groups.	<ul style="list-style-type: none"> <li>Steering committee established for <i>Mental Health Act 2016</i> implementation</li> <li>Led multi-disciplinary consultation to develop a restrictive practice decision-making framework and mental health decision-making policy</li> <li>Participated in multi-agency reference groups for Our Child Governance group, Missing Children Oversight Advisory Group, Victim Services Interagency Organisation Network, Interdepartmental interpreter working group, Joint Agency Steering Committee, Qld Carers Advisory Council, Child Protection Reform Leaders Group, National Disability Insurance Scheme Reform Leaders Group, Inter Departmental CEO Committee - Child Protection and Domestic and Family Violence, and Aboriginal and Torres Strait Islander Child Protection Service Reform Group</li> </ul>

## Objective 2: Practice and service model

Strategy	What we achieved
Ensure a robust practice framework and tools to support effective service delivery.	<ul style="list-style-type: none"> <li>• For a full list of policies and practice directions developed in 2016-17, refer Appendix 1</li> <li>• Development of mental health framework to guide decision-making under the new <i>Mental Health Act 2016</i> and practice directions for working with mental health clients</li> <li>• Practice direction on escalation</li> <li>• Practice direction on working with non-verbal clients</li> <li>• Policy and Practice direction on information exchange with external parties and also across business areas within the agency</li> <li>• Work commenced to develop a supported decision-making framework for guardianship clients</li> <li>• Restrictive Practices decision-making framework for guardianship clients developed and circulated to stakeholders for feedback</li> <li>• Client action plan and Priority rating tool used to assist guardianship staff in prioritising their work to ensure effective service delivery</li> <li>• Developed a community visitor practice framework</li> <li>• Adult Legal Team developed precedents and practice framework to formalise advice and internal communications</li> <li>• Work commenced to develop a legal practice framework for the children and young people legal team, including a suite of learning modules and precedents.</li> <li>• Development of a professional supervision framework for legal services staff</li> <li>• Practice Direction developed regarding “When and how to escalate client issues and what classifies as a ‘Significant Client Matter’”, providing guidance in the identification and escalation of client issues, concerns or grievances to external stakeholders as an official complaint and to ensure that the client’s rights and interests are promoted, protected and upheld</li> <li>• Trialed and evaluated new community visitor (child) reports allowing for qualitative recording of a child’s experience. These are scheduled to be finalised and implemented in 2017-18</li> </ul>
Develop new and agile service delivery arrangements in response to new and changing service environments.	<ul style="list-style-type: none"> <li>• Practice Direction developed regarding working with NDIS clients</li> <li>• Memorandum of Understanding established between OPG and Department of Communities, Child Safety and Disability Services concerning Management of Child Safety Complaints and Information Exchange</li> <li>• Community Visitor Program commenced new practice of visiting young people via relevant technology where appropriate</li> <li>• Community Visitor Program issuing reports to service providers electronically</li> <li>• Community visitor’s provided data packs for use on smart phones while on visits</li> </ul>
Continually review and improve regional service delivery to maximise cost effectiveness.	<ul style="list-style-type: none"> <li>• Current guardianship regional boundaries and transition team model identified as not working. Consultation undertaken with staff and work has commenced towards a new service delivery model to ensure OPG guardianship is operating the most efficiently and effectively</li> <li>• Community Visitor Program commenced targeted recruitment strategies in remote locations, leading to employment opportunities in Roma and Mount Isa</li> <li>• Staff surveyed to identify suggestions for business improvements. Many of these suggestions were implemented in 2016-17 and due for further implementation in 2017-18.</li> </ul>
Ensure IT arrangements support business needs.	<ul style="list-style-type: none"> <li>• OPG recognised that the two case management systems currently utilised were not functioning to full capacity and only entrenched feelings of divisibility within the agency. A project commenced to reform an existing database into a new, uniform IT system that can do more for the agency to move towards a singular and improved case management system.</li> </ul>
Respond to the needs of Aboriginal and Torres Strait Islander people.	<ul style="list-style-type: none"> <li>• 41 per cent of visitable children identified as Aboriginal and Torres Strait Islander</li> <li>• Community Visitor Program conducted 152 visits to Aboriginal and Torres Strait Islander discrete communities</li> <li>• Advocated to the State and Federal governments regarding the need for culturally appropriate advocacy services for Aboriginal &amp; Torres Strait Islander people under the NDIS.</li> </ul>

### Objective 3: Our Workforce

Strategy	What we achieved
Ensure the attraction, engagement and retention of staff to meet client service delivery demands, and to respond effectively to emerging operational needs.	<ul style="list-style-type: none"> <li>• All role profiles have been updated to better reflect OPG's purpose. Multiple recruitment processes have been undertaken this year, including for Senior Executive roles. This has included a structured and innovative attraction and selection strategy which has incorporated changes to selection statements; psychometric testing; widening of advertising forums.</li> <li>• Promotion and profiling of community visitor role in local media, to build awareness of the role and support recruitment efforts across Queensland, which led to substantial engagement and attraction of suitable candidates</li> </ul>
Ensure appropriate induction and ongoing professional development of all staff.	<ul style="list-style-type: none"> <li>• Creation of new onboarding processes to ensure that all employees have a structured and consistent induction to OPG. Ongoing professional development needs were identified through the implementation of Expectations Agreements across business areas</li> </ul>
Develop workforce planning strategies.	<ul style="list-style-type: none"> <li>• Workforce planning has been identified and is an ongoing objective for OPG</li> <li>• Developed a survey for all guardianship staff to vote and provide feedback as to how best to reform our operating model to be more efficient and effective</li> </ul>
Ensure effective and constructive performance management.	<ul style="list-style-type: none"> <li>• A formalised supervision framework was developed and implemented across all business areas</li> </ul>
Develop our workforce's cultural capability.	<ul style="list-style-type: none"> <li>• Information session delivered to Regional Visiting Managers by Queensland Aboriginal and Torres Strait Islander Child Protection Peak</li> <li>• Information sessions regarding the Department of Communities, Child Safety and Disability Services commitment to the Placement Principal delivered to Cairns community visitors by the Region Indigenous Practice Manager</li> <li>• Information session regarding the role of a Recognised Entity, cultural support plans and other Aboriginal and Torres Strait Islander case management related processes, delivered by a representative from Kalwun</li> </ul>



## PERFORMANCE HIGHLIGHTS

### Visiting program performance *(refer page 15 for further information)*

- As at 30 June 2017, there were 7189 children and young people in visitable locations in Queensland entitled to a visit from a community visitor (excluding those held in adult correctional centres) (+7% 2015-16 [6743]).
- Community visitors conducted a total of 32,749 visits (+14% 2015-16 [28,829]) to 8025 children and young people (+6% 2015-16 [7591]).
- The majority of the 3934 (+8% 2015-16 [3653]) child visitable locations were visitable homes (3441 or 87%) followed by residential care facilities (287) and externally supported sites (115).
- Community visitors opened 19,007 issues on behalf of children and young people (+60% 2015-16 [11,907]) of which 18,182 (98%) of the issues closed were resolved locally (+66% 2015-16 [10,927]).
- Community visitors helped protect the rights and interests of approximately 6542 vulnerable adults, raising 1920 issues on their behalf (-3% 2015-16 [1987]).
- Community visitors conducted 5223 visits (-3% 2015-16 [5357]) to 1305 adult visitable sites.
- 66 per cent of visits conducted to adult visitable sites were unannounced, while 9 per cent were announced.

### Legal advocacy for children and young people *(refer page 35 for further information)*

- In 2016-17, Child Advocate-Legal Officers opened 339 issues (-51% 2015-16 [689]) on behalf of 409 children and young people, and 304 were closed by the end of the financial year -51% 2015-16 [621]).
- More than half of issues closed by Child Advocate-Legal Officers (179 issues or 59%) related to general advocacy (-58% 2015-16 [423]).
- 35 per cent of children assisted by Child Advocate-Legal Officers identified as Aboriginal or Torres Strait Islander (38% in 2015-16).
- The most common age group assisted was the 10 to 14 year age group, with 141 young people (43%) assisted.

### Guardianship (including legal) performance *(refer page 42 for further information)*

- Received 796 new guardianship appointments made by QCAT (-1% 2015-16 [807])
- Provided guardianship services to 3112 people (+2% 2015-16 [3037])
- The average age for new appointments made in 2016-17 was 51 years
- Areas of law for ongoing legal matters include criminal cases (192), mental health cases (79), child protection cases (35)
- 98 per cent of all guardianship decisions were made in consultation with the client

### Investigations performance *(refer page 54 for further information)*

- 270 investigations were commenced in 2016-17 (+27% 2015-16 [213])
- 228 investigations were closed in 2016-17 (+17% 2015-16 [195])
- 62 per cent of investigations were closed within 6 months or less (68% in 2015-16)

### Policy performance *(refer page 60 for further information)*

- Made 6 public submissions for systemic reform
- Contributed to 25 Queensland and Commonwealth government consultations

### Media performance *(refer page 61 for further information)*

- Issued 8 media releases on a range of issues including youth detention, National Disability Insurance Scheme and elder abuse
- Received \$80,000 worth of publicity as a result of 19 mentions in the media, 8 of which were proactively generated (figure based on comparable advertising space rates)



## THE COMMUNITY VISITOR PROGRAM

Queensland's Community Visitor Program (visiting program) forms part of the statutory framework of the *Public Guardian Act 2014*. The program protects the rights and interests of adults living in visitable sites, and children and young people living in visitable locations across Queensland. A visitable location for a child or young person could be a foster home, the home of a kinship carer, a residential care facility, a youth detention or adult correctional centre, disability service or mental health facility.

Queensland's visiting program is the most comprehensive in Australia; 135 community visitors work across 13 zones covering a geographic area of 1.7 million kilometres. A Regional Visiting Manager oversees each zone, providing local support and supervision to community visitors within their zone. Community visitors work from home throughout Queensland, and receive support from policy and practice officers and a centrally based visiting support team in Brisbane.

For adults, community visitors monitor the adequacy and appropriateness of services provided in particular accommodation, referred to as 'visitable sites'. Community visitors make announced and unannounced visits to ensure consumers are cared for, make inquiries, and lodge complaints for, or on behalf of, consumers. Community visitors have the power to refer complaints to an external agency—such as the Department of Communities, Child Safety and Disability Services, Queensland Health, or the Residential Services Unit in the Department of Housing and Public Works—where appropriate.

For children and young people in care, community visitors monitor and promote their rights and interests, and advocate that the services are provided in accordance with the standards of care and charter of rights. The charter of rights under the *Child Protection Act 1999*, section 74 and Schedule 1 describes the core rights that apply to every child and young person who is subject to the custody or guardianship of our department. Community visitors are available whenever a child or young person needs their help; providing advocacy, support and information about any matter that is concerning them.

### Our approach

Since the advent of the *Public Guardian Act 2014* and the transfer of the Children's Commission and Office of the Adult Guardian to the OPG, significant work has occurred to transform the role and purpose of community visitors to achieve the right balance between monitoring and advocacy. These functions operate in tandem, drawing from the information we receive and observations we make within our monitoring functions to inform how we advocate for stronger outcomes for clients.

Community visitors provide fundamental human rights protection and advocacy to children and young people, and adults who are vulnerable in the systems that care for them. Our overarching aim is to give a voice to the voiceless, and advocate for change. We do this by listening to our clients and identifying issues they are facing. We give 'teeth' to what we have found by advocating for them. By visiting, we gain our most important source of information: the views and wishes of the clients we visit.

Central to this is our responsibility to build a trusting relationship with our clients, by believing them, and backing them up. The role of a community visitor is to protect and promote the rights and interests of people located at a visitable location or site. As delegates of the Public Guardian, community visitors offer a set of independent eyes and ears into systems of care for vulnerable people.

Since recalibrating the community visitor role to focus on stronger advocacy for our clients, we have elevated the voice of children and young people within their care systems. Consequently, we have witnessed a notable change in the issues young people particularly are raising with us – identifying increasingly complex issues regarding safety and wellbeing particularly.

As an oversight and advocacy program, we identify and disrupt bad decisions—decisions contrary to the parity and rights of our clients, ensuring a client receives a recognised standard of care.

The OPG is creating a culture in Queensland where vulnerable children and young people not only know their rights, and how to access them, but have an actual say in decisions affecting them.

Through our advocacy, including working with children and young people to participate in Queensland Civil and Administrative Tribunal (QCAT) hearings, the OPG is creating a culture in Queensland where vulnerable children and young people not only know their rights and how to access them, but have an actual say in decisions affecting them.

This recalibration of the community visitor role has also brought changes to our adult visiting program. The adult visiting program actively seeks the views, wishes and preferences of our clients regarding their accommodation, care and treatment arrangements. This obligation is outlined within the *Public Guardian Act 2014*, and this year, additional support and direction has been provided to community visitors to help them communicate with clients, particularly those who have complex communication barriers.

We recognise that no decision should be made for those we visit without their input, and we've applied this standard to our own program – ensuring that, where possible, consumers have a say in how they'd like us to raise issues on their behalf and what outcomes they are seeking from their complaint.

### The changing role of a community visitor

When the OPG was formed by combining the roles of the Adult and Child Guardians in 2014, there were two distinct community visitor programs; one for adults and one for children and young people in out-of-home care. As the OPG matures and becomes a single organisation, an increasing number of community visitors are fulfilling a dual role of visiting both sets of clients. This transformation continued throughout 2016-17 and by the end of the financial year, a large proportion of community visitors employed by the OPG (65%) were dual visitors.

Maximising resources to enable more visits was a key reason driving staff in the OPG's Sunshine Coast region who were the first region staffed entirely by dual community visitors. Because of this transition, community visitors are able to cover visiting across all locations in the region, with greater flexibility and capacity to cover the anticipated future needs. Now, having a team with the practical skills, abilities and experience to cover any visiting request has helped the team maintain their high level of visiting performance.

A particular advantage of dual community visitors is the ability for young people with disabilities transitioning out of care to have their community visitor continue to visit and support them into adulthood (when they're transitioning into a visitable site). Two significant benefits of this are the familiarity for the young person particularly during a time of significant change for them, and stronger advocacy as the community visitor has a history of understanding the young person's particular history and support needs. This is vital as we've observed that a young person's child protection history often does not travel with them to the disability service funded to care for them as an adult.

### An independent safeguard in the prevention of harm and abuse

Inquiries such as the Royal Commission into Institutional Responses to Child Sexual Abuse demonstrate the need for ongoing independent monitoring to ensure vulnerable people are heard. Community visitor programs are uniquely placed to monitor and report any harm occurring to vulnerable clients. Often built against a backdrop of institutional harm and abuse, community visitor programs offer independent safeguarding for clients whose voices are otherwise silenced.

Research shows that vulnerable people experiencing abuse will often report first to close family and friends, before confiding in a trusted professional. For some clients however, community visitors are the only constant and trusted person in their life. The visiting program contributes towards the prevention of harm, abuse, neglect and exploitation of clients by:

- Ensuring that children and adults receiving care are made aware of their right to be safe and live free from abuse, harm, neglect and exploitation.
- Working with clients to ensure they're aware of the complaints mechanisms available to them, and they're supported to access those mechanisms if needed.
- Ensuring clients are reminded of the supports available to them to make a complaint – including that a community visitor can support them to raise the issue themselves or that the community visitor can raise the issue on their behalf.

- Ensuring that they are affirmed in the knowledge that a community visitor is an independent person there to represent their views and wishes.

The Community Visitor Program offers universal protection for vulnerable clients. The presence of an independent, client-focused advocate with right of entry may be a general deterrent, meaning that those with a deliberate intention of harming vulnerable people may be deterred from targeting vulnerable people when there is an independent oversight body in place. Additionally the program offers specific deterrence, meaning that community visitors' enquiries aim to produce a higher standard of care from individual carers or workers who otherwise may not be delivering that standard of service.

Despite the ongoing emphasis on the need to protect the safety and wellbeing of vulnerable persons, numerous well-documented barriers for disclosure of abuse exist, including:

- A belief from both children and young people in care and adults with a disability that they won't be believed
- Societal views of people with a disability as being non-sexual persons
- The complexity of family dynamics (the strength of family connection and early trauma, attachment etc)
- Issues relating to power and control (of the institution or the abuser)
- A sense of shame or fear of disappointing others experienced by the victim

These barriers are greater for children, particularly for those in out of home care, and for adults and children in institutional care, and for people with a disability or mental illness.

During 2016-17, community visitors reported 77 harm notifications (on behalf of children and young people) to the Department of Communities, Child Safety and Disability Services. As a mandatory reporter, community visitors are

## Reporting physical abuse by staff member

During a scheduled visit with a disability service provider, a staff member approached the community visitor to disclose that they had witnessed an incident of alleged physical abuse perpetrated by a staff member against an adult client.

The community visitor sought the corresponding incident report and targeted their inquiries based on this. The community visitor established that the service provider had completed an internal investigation which resulted in additional staff training. Further, service management requested that the staff member not provide one-on-one support to that particular consumer.

During their visit the community visitor discovered that the safety plan the service provider had committed to, was not being followed. The staff member was observed in the bedroom with the consumer, contrary to the safety plan. The community visitor escalated this to OPG's Regional Visiting Manager who raised the issue directly with the service provider management, requesting that the matter be referred to the Queensland Police Service, and made a formal complaint to the Department of Communities, Child Safety and Disability Services.



## A day in the life of a community visitor

### *An interview with a Townsville community visitor*

#### **What do you spend most of your time doing?**

No two days are ever the same. As a child visitor, you visit children and young people in foster homes, residential care facilities and other institutions. It's all about building a relationship and talking with them. We talk about things that are going well in their lives, their worries and fears and their wishes and needs. We also advocate for the child if there is a concern for their safety, speaking with their Child Safety Officer or other service providers on behalf of the child.

#### **What are your key responsibilities?**

All community visitors, whether they're visiting children or adults are responsible for visiting, advocating, inspecting and reporting. When visiting, it's all about sitting with the adult or child in their home and listening to what they have to say. Using different tools (such as board games or activities) can help them feel at ease and open up to you. Advocacy is about raising and resolving issues, ranging from simple oversights to complex legal issues including when the person is harmed or at risk. In all our interactions we are also inspecting their surroundings and making sure they have access to everything they need.

#### **What is the most rewarding part of being a community visitor?**

Helping someone feel safe, helping a child change a decision they didn't like, or helping a person get access to the support that they need. It's rewarding to know you've helped make a difference in someone's life. It's also rewarding to see and hear the happiness of a child when they greet you at the door. The client's we visit – both adult and child – need a whole network of people they can confide in and trust, and when they greet you with such excitement you know you are a part of that helping network.

#### **What is the most challenging part of your role?**

It is hard when a decision doesn't go the way a child wanted it to go. Sometimes that happens when what a child wants may not be in their best interests. However that still doesn't discount the importance of giving the child a voice in the process. It is also challenging hearing about the traumatic events these children have experienced. You are continually amazed at the strength and resilience of the children and young people visited.

#### **What is your favourite memory as a community visitor?**

Some of the best memories are when a child starts to trust you and opens up about their thoughts and feelings. When a young child thanks you for being the person who always understands what they are trying to say. Or when you are thanked unexpectedly for all the help you've given someone as their community visitor.

required to report any reasonable suspicions that a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse; and may not have a parent able and willing to protect the child from the harm.

The harm notifications ranged from excessive use of corporal punishment (for example from carers) to allegations of sexual and physical assault occurring either between children or young people in care or at the hands of carers or support staff.

During 2016-17 community visitors have altered their practice to emphasise their independence and focus on the child or young person. There is some evidence to support an increase in reporting of harm directly from children and young people to community visitors, whereas in previous years occurrences of harm were often reported to us through third parties, for example through carers.

There is no mandatory reporting system for harm perpetuated against adults with a disability. Community visitors consequently play a critical role in independently observing, enquiring into and reporting occurrences of abuse, harm, neglect and exploitation with relevant parties. During 2016-17 community visitors raised 36 issues relating to the abuse, neglect or exploitation of an adult within a visitable location.

### **State-wide child Community Visitor Program**

#### **Role of child community visitors**

A child community visitor must visit children and young people in particular sites, including youth detention centres, residential care facilities—including those funded for disability services and authorised mental health services. Our legislation identifies children and young people in these locations as having particular vulnerabilities. We check the appropriateness of these sites in how they treat children and young people to ensure that they follow the law and the policies that guide their work, and inform children and young people about their rights in those sites. We also pay particular attention to children and young people in those sites who are subject to child protection interventions. Further, any child or young person can also specifically request us to visit them at the site either themselves, or through a staff member at the site.

A key aspect to the child advocacy function is the ability of a community visitor to visit children and young people subject to child protection interventions who live with foster carers and kinship carers (as well as in residential care services) outside the location where they live.

It is important to note that as a program that must be dynamic to the changing ways in which children

and young people communicate, our community visitors do not just ‘visit’ children and young people in the everyday sense. Community visitors employ methods to maintain contact that is more regular with children and young people in care, using the technology and social media that they use. Our internal policies and directions regulate how we do this.

We determine how often community visitors visit children and young people based on a matrix of risk and need, underpinned by child protection research and experience. However it is important to note that children and young people (or a person acting for them) can request to meet with a community visitor at any time, even outside of a scheduled visit. Recognising that a lot can occur for a young person in care in a short time, community visitors maintain contact with relevant children outside of visits where appropriate and can seek management approval to conduct additional visits when required.

Our advocacy in foster care and kinship care placement is a critical safeguard to check that the foster carer or kinship carer is meeting the child or young person’s needs in that placement appropriately, and that the Statement of Standards and their charter rights are honoured. The charter of rights under the *Child Protection Act 1999*, section 74 and Schedule 1 describes the core rights that apply to every child and young person who is subject to the custody or guardianship of our department. Our advocacy is informed by our visit to the placement. We inform children and young people about what their rights are in their homes. We ensure they are supported to access those rights, gather information and support them to raise issues, resolve disputes and where necessary make a formal complaint. We also assist them to get information about the decisions made in relation to the placement including carer matching, reunification planning, support for contact and their complaint or review rights about placement decisions.

Our advocacy ensures systems are held accountable. The child advocate function under the *Public Guardian Act 2014* is a more powerful and effective function than the previous ‘monitoring’ role of the community visitor program. Monitoring by itself is powerless to effect change. However, effective advocacy builds trust and relationships through empowering and engaging children and young people to speak out, knowing that when they do, they will be listened to, taken seriously, and action will be taken.

Every child or young person coming into care—or re-entering care—is scheduled to receive a visit from a community visitor. The statutory functions of a child visitor include, but are not limited to:

- inquiring into the degree to which a child or young person has been informed of their rights, and helping the child or young person to understand what that means for them
- helping the child or young person express their views to their Child Safety Officer
- raising any education, health or therapeutic needs of the child or young person with the Child Safety Officer
- raising any concerns with the Department of Communities, Child Safety and Disability Services about the place where the child or young person is living
- assisting the child or young person to seek an internal or external review of any decisions made about them which they don’t agree with
- referring a matter as a complaint to the Department of Communities, Child Safety and Disability Services, or other relevant complaints agency (for example, the Queensland Ombudsman)
- ensuring the child or young person is able to contact their family or child safety officer, and
- assisting with legal matters through an OPG child advocate.

### Community visitors as (child) advocates

There are times when a child or young person requires a greater degree of advocacy from our program. The *Public Guardian Act 2014* prescribes child advocacy functions that extend beyond those provided to community visitors (above). These child advocacy functions are delegable powers, and the Public Guardian has sought to delegate them to community visitors when and as required to advance outcomes for a client.

When acting as a child advocate, community visitors have the authority to enter another place where a relevant child or young person is staying. This power is particularly helpful in responding to children in care who are missing or absent from their placement—for example sleeping rough or residing in a non-approved placement—enabling the child or young person to continue seeing their community visitor during a time of particular difficulty.

Specific child advocacy functions delegated currently to community visitors include:

- to develop a trusting, supportive relationship
- providing advice or information to a child or young person about matters that concern them
- support the child at and participate in family group meetings, or, conferences or meetings ordered by a court or tribunal

- help the child to resolve disputes
- monitor any plan prepared for the child's benefit
- seeking to resolve disputes about reviewable decisions
- helping the child to make an official complaint
- helping the child to seek or respond to any variance or revocation of an order made under the *Child Protection Act 1999*
- help a child to initiate, or initiate on a child's behalf an application to a tribunal
- support the child at a court or tribunal
- help a recognised entity to support a child in referring a matter to a tribunal

But what does this actually mean...? Essentially, its about participation and voice. Informing children and young people about their rights and working alongside them where possible to access and claim those rights. Indeed, advocating for the protection and promotion of rights and interests is a safeguard in itself.

### Refocusing on those most vulnerable children and young people

Queensland's 2012 Child Protection Commission of Inquiry found that children in the child protection system are particularly vulnerable and need to have their voices heard. The Inquiry identified that the support provided to children and young people in the child protection system by the then Commission for Children and Young People and Child Guardian did not have the required focus on individual advocacy for children.

The inception of the *Public Guardian Act 2014* necessitated OPG's visiting program to refocus on providing individual advocacy for relevant children who are residing in out-of-home care and all children who are staying at a visitable site. During 2016-17 the Community Visitor Program focused on operationalising this policy intent as follows.

### Matt's\* right to a safe living environment

A community visitor received a phone call from a residential service provider, regarding the alleged physical assault on a new resident, Matt (aged 16), by another resident, Samantha\* (aged 17). Matt, who had been diagnosed with an intellectual impairment, had allegedly been punched in the stomach by Samantha on his first day in the placement.

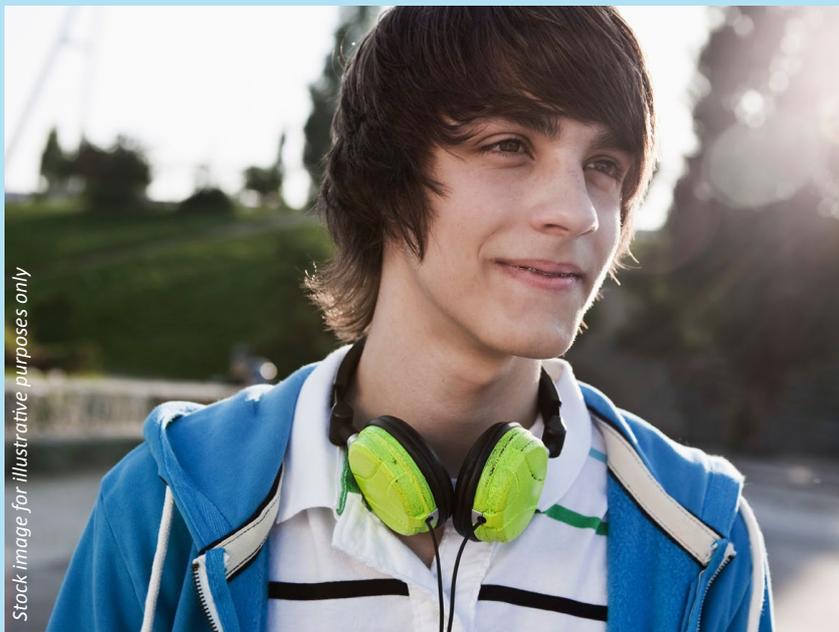
The community visitor found that the alleged assault followed a pattern of behaviour evident in Samantha, who had assaulted five additional young people when they arrived at the placement. The immediate safety of Matt was discussed with the service provider youth workers, who indicated to the community visitor that they could not guarantee his safety.

After the assault, the community visitor was advised that an emergency respite placement was being sought for Matt over the weekend, however he would unfortunately have to be returned to the residential placement. Samantha had continued to make verbal threats towards Matt, and so the youth workers raised their dissatisfaction at this outcome with the community visitor. Matt had indicated to the community visitor that he feared returning, and these concerns along with Matt's right to a safe living environment were conveyed to and discussed with the Department of Communities, Child Safety and Disability Services. The matter was escalated by the OPG to the Child Safety Service Centre Manager.

Over the next few days, the community visitor, residential service provider and Departmental staff worked through the situation and before Matt was due to be returned to the residential placement, a positive outcome was achieved. The Department advised that Samantha would be removed from the placement and placed by herself due to the risk she posed to other young people.

The residential service provider advised that they were very pleased with the outcome for both young people, and the productive collaboration between the agencies.

\*names have been changed



Stock image for illustrative purposes only

### Greater monitoring and advocacy for children and young people in visitable sites

The *Public Guardian Act 2014* recognises the vulnerability of children and young people at visitable sites and accordingly requires community visitors to meet with all children residing at a visitable site, and to ensure that regular visits occur. The Act defines a visitable site as:

- a residential facility where a child or young person is staying, including those funded through Disability Services Queensland
- a detention centre where a child or young person is staying
- a corrective services facility where a child or young person is staying
- an authorised mental health service where a child or young person.

In many of these cases, the children's current primary placement is a funded service where workers are responsible for meeting a child's physical, psychological and social needs (see Table 2). Children at these sites are subject to a set of unique challenges—changing staff and co-tenants impact on an already traumatised child's ability to form a close connection to those around them; and the availability of staff may impact on a child's ability to undertake appointments or extracurricular activities.

**Table 2: Number of visitable locations**

	2014-15		2015-16		2016-17	
Visitable home	3150	88%	3215	88%	3441	87%
Boarding school	22	1%	26	1%	27	1%
Disability services	47	1%	44	1%	36	1%
Externally supported site	91	3%	99	3%	115	3%
Mental Health site	15	0%	12	0%	19	0%
Residential facility	242	7%	248	7%	287	7%
Youth Boot camp	2	0%	n/a*	n/a*	n/a*	n/a*
Youth Detention site	2	0%	2	0%	2	0%
Queensland Corrective Services	7	0%	7	0%	7	0%
<b>Total</b>	<b>3578</b>	<b>100%</b>	<b>3653</b>	<b>100%</b>	<b>3934</b>	<b>100%**</b>

\*The youth boot camp trial ended in October 2015

\*\*Discrepancies may occur due to rounding

Given our requirement to prioritise services to children and young people at residential sites, the Public Guardian has determined that visits will occur monthly to any site where a child is staying. The frequency of visits may increase however depending on the type of site, for example, community visitors attend youth detention centres weekly due to the vulnerability and needs of the young people detained.

Additionally, under the *Mental Health Act 2016*, Queensland Health notifies the Public Guardian whenever a minor is admitted to a high security unit, or an inpatient unit of an authorised mental health service other than a child or adolescent inpatient unit; the community visitors are required through policy to complete a visit to these children within three days of notification.

### Refocused visiting for children and young people in visitable homes

For the children and young people we visit, the vast majority of visitable locations (87%) were private houses or visitable homes. For visitable homes, the Public Guardian may direct a community visitor to visit children in care having regard to a range of matters including the child's age, the number of children staying at the home, the appropriateness of the accommodation and the child's cultural and linguistic background. Accordingly, the frequency of visits to children in foster and kinship homes can range from monthly to annual visits.

Wherever possible the child or young person's views are considered in determining the regularity of visits. Some young people's views were that they'd rather not receive regular visits during 2016-17, instead preferring to make contact with their community visitor via email or text message, requesting a visit only when they require assistance or support. In other instances, annual visits were established for those children and young people who have been in a long-term stable placement and are well supported by their carer(s) and their Child Safety Officer.

As at 30 June 2017, the OPG conducted 32,749 visits, reaching 8025 children and young people in care, representing a visiting increase of seven per cent from 2015-16 (see Table 3, p22). Thirty two per cent of visitable children were visited on a monthly basis and in accordance to our risk profile, representing a slight increase in frequency from last year.

During 2016-17, 81 per cent of children in visitable homes were visited in accordance with their visiting schedule.

**Table 3: Number of visitable children and young people (as at 30 June 2017) by visiting frequency across all sites**

	2014-15		2015-16		2016-17	
Monthly	1744	26%	1912	28%	2280	32%
Bimonthly	1636	24%	1592	24%	1688	23%
Quarterly	2057	31%	1984	29%	2029	28%
Six monthly	958	14%	1031	15%	1032	14%
Annual	156	2%	151	2%	109	2%
No visit	190	3%	73	1%	51	1%
<b>Total</b>	<b>6741</b>	<b>100%</b>	<b>6743</b>	<b>100%*</b>	<b>7189</b>	<b>100%</b>

*\*Discrepancies may occur due to rounding*

### Reporting themes for children and young people

A community visitor's purpose is to raise the voice of the child over all others; in the first instance we support children and young people to raise their concerns directly with the Department of Communities, Child Safety and Disability Services, as their guardian. Where that cannot happen (for example because of the age or maturity of the child), community visitors raise issues with the relevant Department or service provider either on behalf of the child, or on behalf of the Public Guardian.

#### The appropriateness of the placement

Under the *Public Guardian Act 2014*, community visitors have two functions in relation to monitoring the suitability of the placement for children and young people. For a visitable home, community visitors must inspect and report on the appropriateness of the accommodation of the child, and to ensure a child's needs are being met by persons caring for the child at the home.

For a visitable site, community visitors must inspect the site and report on its appropriateness for the accommodation of the child, or the delivery of services to the child, having regard to relevant State or Commonwealth laws, policies and standards. Further, to ensure the child's needs are being met by staff members at the site.

This year, fifteen percent of issues closed (2861) (see Table 4, p24) related to the appropriateness of the placement. Under the charter of rights, children and young people in care have a right to be provided with a safe and stable living environment. Placement issues are typically linked to harm notifications, issues regarding cohabitation, and/or, the appropriateness of the carer or support worker to meet the specific needs of a child.

A community visitor may also raise an issue relating to the placement when a child directly states they are unhappy with the relationship or living conditions at the placement. A typical scenario may be they feel they're being treated differently to others in the home, or they're not free to express themselves in the home.

When an issue regarding the placement occurs, community visitors must always consider whether the Department should be progressing a Standards of Care Review and advocating accordingly.

An emerging theme witnessed this year was the appropriateness of placement matching amongst children and young people, particularly in residential (site) services. Notwithstanding shortages in available foster care homes, the OPG takes a firm view on the need for robust placement matching, as a failure to do this can have disastrous results. We have heard firsthand from young people this year of physical and sexual harm perpetrated against them by other young people in these types of services.

#### Contact with family

The majority of issues resolved relate to contact arrangements between the child/young person and their family (3770 or 20%) or contact with their Child Safety Officer (CSO); of these, almost two-thirds related to contact with parents (43%) and siblings (20%). Nineteen per cent of contact issues raised related to the degree of contact a child or young person was having with their CSO, the majority of these centred on a need for increased contact between a child and their CSO.

The right to maintain contact with family is enshrined in the *Child Protection Act 1999*. This year we frequently encountered situations where that contact was not occurring, or where children and young people were not happy with the frequency of contact, or where the child had not been given sufficient information to understand why contact was not occurring as frequently as they'd hoped. At times, this lack of information resulted in young people being absent from placement as they chose to return to live with their parents without approval from the Department of Communities, Child Safety and Disability Services.

Similarly, children and young people frequently raised with community visitors their grief and confusion regarding a lack of regular contact with siblings. This year we frequently advocated for siblings to be placed together where possible and appropriate, or in placements that could readily facilitate sibling contact. Where these arrangements weren't achieved, on a number of occasions we witnessed contact arrangements fail. Ongoing efforts on behalf of all parties must be made to allow children to maintain their family, community and cultural connections.

### Advocating for Joe's\* safety

Joe was a 13 year old who had recently entered the child protection system and was placed in a residential care facility with two older boys, aged 15 and 17, both with an extended history of criminal, aggressive and antisocial behaviour. Joe alleged that he immediately began experiencing bullying and harassment by the two older boys, which was documented in several Critical Incident Reports. Prior to their first visit to Joe, the community visitor read the reports and had immediate concerns about the placement matching. The community visitor also noted that Joe was incorrectly identified as 15 years of age and that the Department of Communities, Child Safety and Disability Services were sourcing an alternative placement for Joe.

Two days later, the community visitor observed a further Critical Incident Report which disclosed serious concerns and that a safety plan was required. The community visitor contacted the Residential Facility Manager, who advised that measures had been taken to ensure Joe's safety day and night, and that they had also raised their concerns about the placement and their ability to meet Joe's safety needs with the Department.

That afternoon, the community visitor conducted their first visit to the residential facility, using our unannounced visit function, while the two older boys were not home. After explaining the role of the community visitor to Joe, he expressed that he did not feel safe and alleged that he was being continually harassed, with almost daily threats and physical fights. Joe said he tried to keep out of the way of the two older boys, staying in his bedroom while they were home, but that they still harassed him. The community visitor also spoke with the facility's support workers, who expressed concern for Joe's emotional and physical wellbeing, and stated a desire for him to be moved.

The community visitor immediately escalated this information to OPG's Regional Visiting Manager (RVM), who advised her to remain at the residential facility and support Joe to make a formal complaint. The RVM immediately escalated the placement concern by contacting the Child Safety Service Centre Manager to advocate on behalf of Joe in relation to the unsuitable placement.



Stock image for illustrative purposes only

The following day the RVM received advice that Joe's placement was to be moved to another town, which was also closer to Joe's extended family. The community visitor operating in the new town was advised of the move and planned a visit at the earliest convenience. The new community visitor continues to build a trusting relationship with Joe so he is aware of his rights for a safe placement and in making sure that he is involved in decisions that affect his life.

*\*name has been changed*

### Children under twelve years of age placed in residential care

The OPG has particular concerns for children twelve and under residing in visitable sites. This year community visitors paid particular attention to this problem, raising 240 issues with service providers in relation to the suitability of the placement for a child under twelve years of age. As at 30 June 2017, the OPG were aware of around 181 children under twelve having a residential service as their primary placement.

The Department of Communities, Child Safety and Disability Services recognises the vulnerability of children under twelve residing in residential services. Children under twelve can only be considered for a residential placement if a comprehensive assessment indicates their needs may be best met through residential care; or if they are one of a sibling group that would benefit from being placed together (*DCCSDS Residential Care Policy number CPD606-3*). Additionally, the residential service model has to have been explicitly developed and approved for children under twelve years of age. Community visitors play a fundamental role in the monitoring of this, meeting monthly with children in residential care and passing on new information to the Department so that the appropriateness of the placement can be continually considered.

As an independent advocate, children often speak frankly with our visitors, sharing their anxieties and at times particularising threats of harm made against them by other young people at the site. The role of our community visitors is to raise this swiftly with the Department of Communities, Child Safety and Disability Services so that the safety of all children in the residential service can be assured—usually through a placement change, and behavioural supports for all parties.

### The monitoring of case plans

This year community visitors exercised powers under the *Public Guardian Act 2014* to monitor any plan developed for a child or young person's health, education or benefit. Consequently, **community visitors have raised and resolved more than triple the amount of issues relating to case planning than last year (1850 issues)**. Children and young people in care have Charter Rights relating to the sufficiency of case planning including the right to regular reviews. Community visitors advocate for services and outcomes that accord with a child's case plan, raising issues or referring complaints when services are not delivered accordingly.

**Table 4: Primary issues closed** (refer Appendix 2 for issue breakdown)

	2014-15		2015-16		2016-17	
Contact arrangements	2423	22%	2475	22%	3770	20%
Placement	1778	16%	1840	16%	2861	15%
Case plans	525	5%	569	5%	1850	10%
Health needs	1042	9%	968	9%	1641	9%
Education needs	974	9%	870	8%	1518	8%
Behaviour management	707	6%	667	6%	963	5%
Youth detention centres	657	6%	586	5%	663	4%
Transition from care	381	3%	391	4%	680	4%
Other	2647	24%	2800	25%	4528*	25%
<b>Total</b>	<b>11,134</b>	<b>100%</b>	<b>11,166</b>	<b>100%</b>	<b>18,474</b>	<b>100%</b>

\*Other category for 2016-17 includes such issues types as Safety, Reunifications, Intervention, Social needs, Disability needs, Aboriginal and Torres Strait Islander needs and High Risk behaviours.

### Visiting young people in adult correctional facilities and youth detention

Community visitors visit young people held in youth detention and 17-year-olds held in adult correctional facilities. Children and young people in youth detention are visited on a weekly basis—enabling children and young people greater opportunities to approach community visitors at a time when they wish to raise an issue. Community visitors visit 17-year olds in adult corrective services facilities for longer duration than other visitable sites, conditional upon factors such as the number of young people detained at the facility, the length of time of (a young person's) detention, any particular vulnerabilities of the young person, and the nature of issues identified during past visits.

The primary purpose of visiting a detention centre is to inspect the centre and report on the appropriateness of the child's accommodation or the delivery of services to the child, and to ensure the staff at the centre are meeting the child's needs.

During 2016-17 youth detention was under a national spotlight after ABC's Four Corners aired its program Australia's Shame in July 2016. This episode highlighted the shocking experiences of young people (including ten year olds) in a

Northern Territory detention centre, including the use of solitary confinement and mechanical and physical restraint. Following this, the Queensland government established Youth Detention Review (in August 2016) to enable an independent inquiry into the treatment of young people detained in Queensland's youth detention centres. The OPG provided submissions to this report, sharing community visitor reports and participating in consultations.

On 3 November 2016, the Queensland Parliament passed the *Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016* to bring 17-year-olds into Queensland's youth justice system. The new legislation will commence in November 2017.

In 2016-17, community visitors made 67 reports from visits to 17-year-olds held in adult prisons, a 25 per cent decrease on 2015-16, and recorded 176 issues.

**Table 5: Issues raised by 17-year-olds in adult prisons with community visitors**

	2014-15		2015-16		2016-17	
Programs and services	65	37%	47	27%	53	30%
Contact	46	26%	29	17%	31	18%
Safety	17	10%	31	18%	28	16%
Transition to community	19	11%	13	7%	13	7%
Other	27	16%	55	31%	51	29%
<b>Total</b>	<b>174</b>	<b>100%*</b>	<b>175</b>	<b>100%*</b>	<b>176</b>	<b>100%*</b>

\*Discrepancies may occur due to rounding

In 2016-17, community visitors raised 698 issues from 104 visits to the Brisbane Youth Detention Centre and Cleveland Youth Detention Centre, a 19 per cent increase from 2015-16 (see Table 6). Community visitors visited and engaged with 351 children and young people across both centres.

**Table 6: Issues raised in youth detention centres with community visitors**

	2014-15		2015-16		2016-17	
Living conditions	194	29%	217	37%	201	29%
Programs, services	107	16%	90	15%	113	16%
Contact	104	16%	64	11%	91	13%
Staff	65	10%	58	10%	79	11%
Child protection orders	52	8%	28	5%	58	8%
Others	144	22%	128	22%	156	22%
<b>Total</b>	<b>666</b>	<b>100%*</b>	<b>585</b>	<b>100%*</b>	<b>698</b>	<b>100%*</b>

\*Discrepancies may occur due to rounding

### Visiting minors in Authorised Mental Health Services (AMHS)

AMHS' are visitable locations under the *Public Guardian Act 2014*. Given the vulnerability of minors admitted to an AMHS, the Public Guardian has determined that community visitors will complete monthly visits to all children and young people staying in these services.

2016-17 saw the introduction of the *Mental Health Act 2016* with principles designed to strengthen and safeguard patient rights. Within this, there are two key changes that strengthen OPG's oversight of clients in AMHS'. Firstly, under the *Mental Health Act 2016*, Queensland Health is required to notify the OPG when a minor is admitted to a high security unit, or an inpatient mental health unit of an AMHS other than a child and adolescent unit. In 2016-17, 26 notifications of this nature were made to the OPG.

Secondly, the *Mental Health Act 2016* also requires that Queensland Health inform the OPG of any minors who are subject to mechanical or physical restraint or seclusion. This occurs through a formal information sharing protocol, enabling the Community Visitor Program to oversee the application of seclusion and restraint, and to prioritise visits to any AMHS to speak with patients directly if required.

In 2016-17, community visitors made 165 visits to minors in AMHS', raising issues across a range of themes (see Figure 1).

**Figure 1: Themes of issues raised in authorised mental health services**



### Children and young people with a disability

As at 30 June 2017, the Department of Communities, Child Safety and Disability Services had identified approximately 18 per cent (1283 children and young people) of OPG's visitable children (8025) as having a disability. Community visitors pay particular attention to the sufficiency of case planning and supports provided by agencies, and the appropriateness of the carer to meet the unique needs of a child with a disability in care.

**Table 7: Age of children and young people with a disability**

	2014-15		2015-16		2016-17	
0 to 4	126		66		45	
5 to 9	468		390		335	
10 to 14	637		577		572	
15 to 17	308		306		331	
	Total children with disability	Percentage of all children	Total children with disability	Percentage of all children	Total children with disability	Percentage of all children
	<b>1539</b>	<b>23%</b>	<b>1347*</b>	<b>20%</b>	<b>1283</b>	<b>18%</b>

\*Figure is updated from 2015-16 annual report

### Aboriginal and Torres Strait Islander Children and Young People

Aboriginal and Torres Strait Islander children and young people are a priority population group for the OPG. In Queensland and in Far North Queensland particularly, Aboriginal and Torres Strait Islander children and young people are overrepresented in the child protection and youth justice systems. At the end of the 2016-17 financial year, 2,939 (41%) of OPG's child clients identified as being of Aboriginal and/or Torres Strait Islander status.

The community visitor program completed 152 visits to discrete Indigenous communities during this financial year, with an overall visiting performance of approximately 84 per cent visit execution for Aboriginal and/or Torres Strait Islander children in care.

The OPG supports the *Queensland Government's Our Way: A generational strategy for Aboriginal and Torres Strait Islander children and families (2017-2037)* to address the over-representation of Aboriginal and Torres Strait Islander children in Queensland's child protection system.

The OPG also notes the Department of Communities, Child Safety and Disability Services' increased efforts to place Aboriginal and Torres Strait Islander children and young people according to Aboriginal and Torres Strait Islander Child Placement Principles or Indigenous residential services. Additionally, the OPG is committed to ensuring the cultural competency of staff and the provision of culturally accessible services for Aboriginal and Torres Strait Islander children and young people.

**Table 8: Aboriginal and Torres Strait Islander Children visited by zone**

	2014-15	2015-16	2016-17
Brisbane North	100	105	115
Brisbane South	130	119	131
Brisbane West	119	119	137
Central North	266	296	331
Central South	147	152	181
Far Northern	636	541	522
Gold Coast	118	114	131
Ipswich	253	243	263
Logan	170	175	159
Moreton and South Burnett	219	229	217
Northern	371	326	361
Sunshine Coast	99	116	115
Toowoomba and Western	262	259	276
<b>Total</b>	<b>2890</b>	<b>2794</b>	<b>2939</b>

## Statewide adult Community Visitor Program

### Our approach

The role of the adult community visitor program is to promote and protect the rights of interests of adults residing at visitable sites. The program has inquiry and complaint functions to:

- inquire into the adequacy of the services for the assessment, treatment and support of consumers at the visitable site
- inquire into the appropriateness and standard of services for the accommodation, health and wellbeing of consumers at the visitable site
- inquire into the extent to which consumers at the visitable site receive services in the way least restrictive of their rights
- inquire into the access to information given to consumers at the visitable site about their rights
- inquire into the accessibility and effectiveness of procedures for complaint about services for consumers at the visitable site
- inquire into and seek to resolve complaints by consumers, including to refer complaints to the relevant agency.

Community visitors must, to the greatest extent practicable, seek and take into account the views, wishes and preferences of clients in performing their functions. We also recognise and consider the following principles in performing our role:

- Adults are presumed to have capacity.
- All adults have the right to the same basic human rights, and should be empowered to exercise these.
- An adult's right to respect his or her human worth and dignity as an individual.
- An adult's right to be a valued member of society, including by encouraging and supporting the adult to perform valued social roles.
- Adults should be encouraged and supported to live a life in the general community, and take part in activities enjoyed by the general community.
- Adults should be encouraged and supported to achieve their maximum physical, social, emotional and intellectual potential, and to become as self-reliant as practicable.
- An adult's right to participate, to the greatest extent practicable, in decisions affecting the adult's life, including through:
  - support and access to information
  - taking into account views and wishes
  - performing functions in a way least restrictive to rights.
- The importance of maintaining existing supporting relationships.
- The importance of maintaining cultural and linguistic environment and values.
- Exercising power appropriate to an adults characteristics and needs.
- An adult's right to confidentiality.

Community  
visitors  
conducted

5223 visits  
on behalf

of 6542  
vulnerable  
adults living

at 1305  
visitable sites.

The *Public Guardian Act 2014* empowers community visitors to utilise both announced and unannounced visits as an inquiry and monitoring mechanism. This year's annual report reflects the increasing trend for the program to favour announced visits. The benefit of an announced visit includes a higher chance that residents will be there, and the dignity and rights of the resident to have a say in how we visit their home is considered.

There will however, be times when an unannounced visit might offer a greater opportunity to gather accurate information and observations. Unannounced visits are more often used within the program's adult visiting stream and when a community visitor reasonably suspects that an unannounced visit will offer a more accurate glimpse into the regular care of the client in that site.

Community visitors have the powers to view and take copies of any relevant document at a visitable location. These documents can include organisational policies, notes in communication books, behaviour charts, incident reports and medical files held on behalf of an adult client. During a visit to a site, community visitors share their time between reviewing relevant documents, speaking with service staff and speaking directly with consumers at the site to inform their observations and reports.

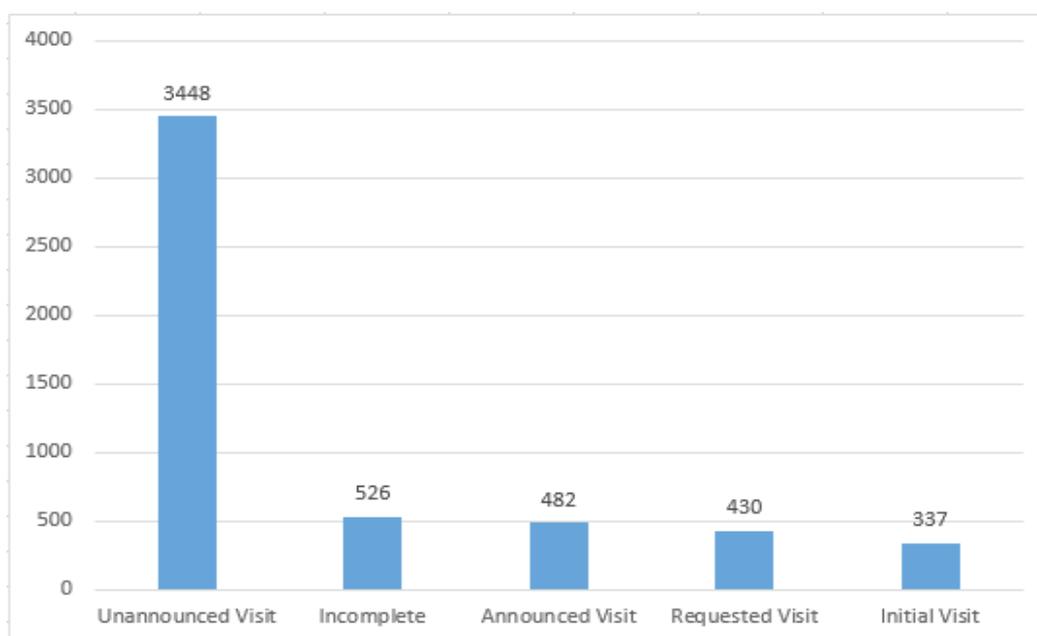
During 2016-17 community visitors conducted 5223 visits on behalf of 6542 vulnerable adults living at 1305 visitable sites. This represents a decrease of 164 visits (3%) from 2015-16, caused through recruitment challenges particularly in regional areas of Queensland. To address this, the community visitor program developed a media strategy to accompany our recruitment campaigns which has resulted in a strong interest from prospective candidates.

Despite this decrease during 2016-17, the visiting program conducted 335 visits requested by the Queensland Civil and Administrative Tribunal, which directly informed applications for—or reviews of—restrictive practices applications. This was an 103 per cent increase on 2015-16.

### Announced versus unannounced visits

The largest proportion of our visits (66%) were unannounced. Of the remaining visits, nine per cent were announced, eight per cent were requested visits (meaning, that an adult consumer or a person acting for the adult requested a visit from a community visitor) and six per cent were initial visits (see Figure 2). 10 per cent of visits to adults in visitable sites were classed as incomplete, commonly as no one was at the location or due to an incident occurring within the site at the time (errors may occur due to rounding).

Figure 2: Breakdown of visit types



Through our visits, community visitors identified 1920 issues on behalf of clients living in the visitable sites (see Table 9); a nine per cent decrease from last year's figures consistent with our reduced visiting capacity.

The issue of co-tenant compatibility continues to be an ongoing area of concern for the Community Visitor Program. Community visitors regularly observe instances where consumers with different interests, values and needs are residing together – sometimes as a result tensions can rise, leading to threats or instances of violence between consumers. Adult consumers have the right to live free from harm and threatening behaviour. Community visitors play an active role in identifying issues around this with the service provider so that alternative solutions are found.

Additionally, the issue of support is raised regularly by adult community visitors (19%) and typically relates to the availability of individual support plans, or the consistency of care and financial management for consumers. The suitability of the accommodation to meet the needs of the client is also an area commonly questioned by community visitors (17%).

**Table 9: Issues identified on behalf of adults at visitable sites**

Issue Category	2014-15	2015-16	2016-17
Wellbeing	575	482	474
Support	599	435	372
Accommodation	345	322	325
Health	219	204	214
Least restrictive services	220	168	205
Treatment	182	127	130
Assessment	263	172	120
Access to information	80	72	70
Effectiveness	4	5	7
Accessibility	4	0	3
<b>Total</b>	<b>2491</b>	<b>1987</b>	<b>1920</b>

## Visitable sites

In the disability sector, consumers are generally in long-term support living arrangements with adults who also live with a disability. Community visitors also visit Authorised Mental Health Services (AMHS) and level three accredited supported accommodation. These visits are quarterly, irrespective of accommodation type unless otherwise directed by the Public Guardian. At 30 June 2017, there were 1326 visitable sites (see Table 10).

**Table 10: Number of sites by service sector**

	2015-16		2016-17	
	Disability	1176	92%	1215
Mental Health	69	5%	71	5%
Supported Accommodation	39	3%	40	3%
<b>Total</b>	<b>1284*</b>	<b>100%</b>	<b>1326</b>	<b>100%</b>

*\*Discrepancies may occur due to change in reporting processes*

82 per cent of visitable sites (accounting for around 70 per cent of residents visited) were non-government disability support organisations' residential facilities (see Table 11, p30). These are services that receive Commonwealth or State funding to provide accommodation services.

**Table 11: Number of sites per sector**

	2015-16		2016-17	
	NGO (Disability support and level 3 hostels)	1047	82%	1085
Department of Communities (Disability support)	169	13%	171	13%
Queensland Health (Mental Health)	68	5%	70	5%
<b>Total</b>	<b>1284</b>	<b>100%</b>	<b>1326</b>	<b>100%</b>

*\*Discrepancies may occur due to rounding*

This year approximately five percent of our total visitable sites were AMHS'. AMHS' present a unique set of issues that the Public Guardian has determined requires more frequent visitation. People residing at an AMHS may be there as a voluntary patient for as little as a few days, or be admitted as an involuntary patient for a number of years.

## Reporting themes in adult visitable sites

### Appropriateness of accommodation

During 2016-17, nearly nine percent of total issues raised by community visitors were in relation to the appropriateness of the accommodation in relation to the safety or security, or in relation to maintenance and furnishings required for the client at the home. This is a broad category, however it is one that speaks to the rights of a client to live in a state of safety, dignity and respect.

Significantly, a person's living environment affects a person's sense of self-respect and dignity. Community visitors frequently also advocated for additional furnishings to support the development of independence and life skills for our clients, for example the purchase of washing machines (so they can develop greater independence) or dining tables and chairs so that they can entertain friends and family who visit. Finally within this theme, community visitors observed and reported to the service provider on matters impacting upon a person's security, such as broken windows, doors or fencing, or issues relating to the integrity of locks, gates or windows.

### Choice and access in leisure and recreation

Services are required to promote the competency, positive image and self-esteem for people with a disability. This is an area of ongoing monitoring and reporting for community visitors. During 2016-17 six percent of total issues raised were in relation to the degree of community access, leisure and recreation that clients were afforded.

People with a disability have their own interests and hobbies, and services in receipt of funding are required to encourage clients to continue pursuing those interests. We find that escalated behaviours can be as a result of boredom, or, being required to participate in activities that they're simply not interested in. At times the barriers associated with a lack of access can be a lack of staff to provide supervision to everyone in the home (for example, staff may be required to go with a client into the community and more staff are required to remain with other residents in the home), or a lack of appropriate transport. A final barrier is the range of activities afforded to people with intellectual disability in the community.

### Monitoring of healthcare needs or treatment plans

Our adult clients frequently require medical intervention including periods of hospitalisation for mental or physical illnesses such as diabetes or epilepsy. During 2016-17, 0.5 per cent of all issues raised by (adult) community visitors related to the adequacy of monitoring healthcare plans by service providers. Many of these issues related to the appropriateness of discharge plans for people exiting hospital, including the degree to which services were trained, briefed and equipped to provide healthcare support to clients discharged from hospital.

Issues further related to the presence of a current CHAP (comprehensive health assessment plan), including observations that people were prescribed and being administered medication for which we could not locate a diagnosis. For example, this year community visitors enquired into the administration of medication for epilepsy despite the person not having this diagnosis. On more than one occasion this advocacy resulted in a medical review and withdrawal of the epilepsy medication.

## Requested visits

The ability for our adult clients, or, a person acting for them to request a visit from a community visitor is an additional safeguarding mechanism. Community visitors promote this feature to consumers in the sites we visit, and continually work with service staff to understand their obligations to contact our program if a consumer requests a visit from us. During 2016-17, 430 requested visits were made with most requests coming from the Queensland Civil and Administrative Tribunal, a consumer, a consumer's family member or service providers.

## Visiting authorised mental health sites

Authorised Mental Health Services (AMHS') provide treatment and care to persons with a mental illness. Services are declared as AMHS' by the Chief Psychiatrist via Gazette notice, and may include services in either the public or private sector. It is not uncommon for the Chief Psychiatrist to declare only a select range of services within a particular health service as an AMHS (most typically in rural and remote locations), however they may be declared an AMHS for the purpose of providing treatment, in which case we are required to have community visitors right throughout Queensland.

Those residing, either temporarily or on a longer-term basis within an AMHS may be there as a voluntary patient, or under a Treatment Authority (previously Involuntary Treatment Order). The Public Guardian has determined that all AMHS' will be visited on a quarterly basis, although there are some AMHS' that are visited on a monthly basis depending on the vulnerability and need of patients at the time.

### Key reporting themes within AMHS

One of the greatest areas of concern for the OPG is the availability of appropriate accommodation options for people with complex mental health needs. During the course of the year, community visitors are asked to enquire into the number of long stay patients residing in the location. Community visitors monitor the discharge of patients, and have observed patients ready and waiting for discharge, who are unable to source appropriate accommodation in the community. This is particularly the case for clients diagnosed with an intellectual disability as well as a mental illness.

This is an area of close observation for the community visitor program as the NDIS is rolled out within Queensland. With services funded for individualised support, as people are admitted for long periods of time into AMHS', services don't have many other options other than to rent out their room to another tenant, leaving the patient without appropriate housing upon discharge.

The OPG continued to observe a lack of accommodation options with adequate support for those who are chronically unwell where they can be secure and safe. In many areas there are little options between secure or acute units (such as an extended treatment and rehabilitation units) and community care units which are less secure given their focus on independent living skills development.

Consequently, we observe a number of people with chronic mental health issues residing in level 3 supported accommodation sites (accredited under the *Residential Services (Accreditation) Act 2002*), whereas our discussions with adults suggests they would prefer to live independently and with appropriate support. We often find that those residing in level 3 accommodation have fluctuating mental health needs, and without available community mental health services, staff may be relied upon to deliver mental health care often without the requisite qualifications.

An area of continual monitoring for the community visitor program is the safety and wellbeing of patients whilst residing (either temporarily or for a longer term) in an AMHS. Patients with diagnosed mental health conditions have particular vulnerabilities in speaking out against harm including sexual harm. Whilst the presence of a mental illness shouldn't prevent a person in speaking out against harm and violence, often there's a societal response that challenges the credibility of their disclosures.

Community visitors ask patients how safe they feel, whether they've experienced threats of harm (either from another patient or staff member) or witnessed behaviours that have made them feel uncomfortable. Community visitors work with patients to determine how issues will be raised with service management, and patients are always offered the support to raise an issue themselves with staff.

During 2016-17 community visitors conducted more than 329 visits across 72 authorised mental health sites in Queensland, raising 207 issues.

## Visits outside of normal hours

Section 126(2) of the *Public Guardian Act 2014* requires that the Public Guardian report on the operations of community visitors during the year, including the number of entries of visitable sites outside normal hours authorised by the Public Guardian. In 2016-17, no visits were made outside of normal hours. Normal hours are defined as 8am-6pm under the Act, however, community visitors made 543 visits to visitable sites on weekends.

## Monitoring the use of restrictive practices

At times, adults who live with an intellectual or cognitive disability may engage in behaviours that place themselves, and/or others at risk of harm, and in some circumstances, restrictive practices are used in response to those behaviours, subject to rigorous legislative protections. There are six types of restrictive practices:

- Containment of an adult with an intellectual or cognitive disability, means physically preventing the free exit of the adult from premises where they receive disability services;
- Seclusion of an adult with an intellectual or cognitive disability means physically confine the adult alone, at any time of the day or night, in a room or area from which free exit is prevented;
- Chemical restraint (both fixed dose, and PRN) of an adult with an intellectual or cognitive disability, means the use of medication for the primary purpose of controlling the adult's behaviour;
- Mechanical restraint of an adult with an intellectual or cognitive disability, means the use, for the primary purpose of controlling the adult's behaviour, of a device to restrict the free movement of the adult or prevent or reduce self-injurious behaviour;
- Physical restraint of an adult with an intellectual or cognitive disability, means the use, for the primary purpose of controlling the adult's behaviour, of any part of another person's body to restrict the free movement of the adult;
- Restricting access to objects of an adult with an intellectual or cognitive disability, means restricting the adult's access, at a place where the adult receives disability services, to an object to prevent the adult using the object to cause harm to the adult or others.

We recognise the use of restrictive practices may be an intrusion on a person's liberties and freedoms, consequently our approach is to ensure that the principles of Part 6 of the *Disability Services Act 2006* are realised for adults who are subject to restrictive practices, namely:

- Restrictive practices are considered and used as a last resort;
- Restrictive practices are regularly reviewed, with reports provided to QCAT;
- Restrictive practices are used only as approved, and are used in a way that is the least restrictive way of ensuring the safety of the adult or others;
- Restrictive practices are not used in lieu of basic human rights being met, for example, a safe environment to live in, appropriate community access opportunities, adequate healthcare and respect from support staff and their service provider(s);
- That efforts are being made to ensure that behaviours have been properly understood and analysed as to their driving causation and triggers;
- That evidence based, positive behaviour support strategies are being used and are appropriate, realistic, and reflect the adult's views and goals;
- Adults that are subject to the use of restrictive practices receive services in a way that maximises the opportunity for positive outcomes and aims to reduce or eliminate the need for the use of restrictive practices.

During 2016-2017, the OPG conducted 335 visits requested by QCAT, which directly informed applications for – or reviews of- restrictive practices applications. **This was an 89 per cent increase on 2015-2016, in which only 165 visits were requested by QCAT.**

Monitoring unauthorised or excessive application of restrictive practices presents one of the greatest concerns for the Public Guardian; given that the application of restrictive practices on people with impaired capacity represents one of the greatest potential infringements of human rights the agency deals with. The Public Guardian is concerned that even greater vigilance will be required in relation to restrictive practice usage by service-providers under the NDIS.

## Areas of reform (adult visiting) 2016-17

### Responding to the sector's electronic record keeping

This year a number of service providers moved towards electronic record management systems. Rather than keeping hard copy personnel records at the house, information is stored electronically, which had an impact on community visitors' ability to inspect records particularly during unannounced visits.

The review of documents and records is an essential aspect of our monitoring and safeguarding function.

To work with this trend, the Community Visitor Program has also changed its approach. Following consultation with some services, community visitors now contact services ahead of our visit and request relevant documents including critical incident forms for our review. The role of a community visitor is to then review these documents, note any areas to follow up and then use the visit to focus their enquiries with staff and consumers.

Early feedback indicates this approach offers greater efficiencies for both the program and service providers who can now prioritise and identify relevant documents.

### Digital provision of visit reports

The Public Guardian is required to provide a copy of the adult visit report to a person in charge of the site as soon as practicable after receiving it from a community visitor. Historically the program has provided these in hard copy, however this year the program has embarked on updating our client management database, allowing us to email the visit reports directly to a senior contact within the organisation.

Service providers have told us how valuable these reports are in feeding back to them the issues we see in their sites, particularly in regional or remote locations. Emailing these reports have saved resources and enabled service providers to get across the issues sooner. The community visitor program will aim in 2017-18 to have eighty percent of its adult site visit reports sent to service providers within ten business days of receipt.

### National Disability Insurance Scheme (NDIS)

At the time of writing this Annual Report, the NDIS was operating throughout Townsville, Hinchinbrook, Burdekin, west to Mount Isa and up to the gulf; Mackay, Isacc and Whitsundays, Toowoomba and west to the borders; and, Ipswich, Lockyer Valley, Scenic Rim and Somerset with state-wide implementation due by 30 June 2019 or July 2019. Community visitor programs form part of the NDIS quality and safeguarding framework, and the program has commenced conversations with State and Federal counterparts regarding how the program will operate post NDIS transition.

To date, the Community Visitor Program has focused on enquiring into the suitability of NDIS plans for participants, ensuring they are comprehensive and appropriate for the support needs of individuals. We have observed the market's response to NDIS, as government-funded services withdraw;

### David\* can see the light at the end of the tunnel

David is 26 years old and has been diagnosed with schizophrenia and autism. He is on a Forensic Order and was visited by an OPG community visitor whilst in a secure Authorised Mental Health Service. The community visitor discovered, from speaking with David, that he had not seen daylight for 115 days. The Nurse Unit Manager advised that David had been without sunlight because the hospital didn't have a secure outside area for the patients to use. The AMHS staff had raised concerns about this and made a submission regarding the construction of a secure outside area, but no information had been provided to them on the timeframes.

The community visitor escalated the issue to the Nursing Director, advocating on behalf of David regarding his right to outside access. The Nursing Director acknowledged the OPG's concerns and informed the community visitor that work was being done to build a secure outdoor area. Two weeks later the Nursing Director advised the community visitor that construction was almost complete, and that David and other patients would have use of the new secure outdoor area shortly.

Through the actions and inquiries of the community visitor, David and other patients' now have the freedom of utilising the outdoor area. *\*name has been changed*



some locations struggle to find service providers available to complete treatments for individuals, for example occupational or speech therapists. Areas of regional Queensland particularly have noticed this gap, and we expect this to continue into 2017-18 as the private market begins to regulate.

During this transition, the Community Visitor Program will continue to refer complaints regarding the delivery of services to individual clients to the Department of Communities, Child Safety and Disability Services in accordance with the state's bilateral agreement with the Commonwealth Government.

### **Future directions for the Visiting Program (2017-18)**

The ability to visit clients via relevant technology is a new function introduced through the *Public Guardian Act 2014*. This function relates to both child and adult clients, and enables community visitors to reach out to clients who may experience isolation either geographically or socially. Visits via relevant technology may be completed over video-chat (such as Skype or Facetime), or through a telephone conversation, however a visit is different to a regular phone call. OPG's policy on this considers our need to observe the appropriateness of a site or placement, and the appropriateness of a carer's or support worker's ability to meet the needs of a client.

A second consideration for our program is a greater emphasis on the matching of community visitor to clients. Central to our role of forming a trusting relationship with our clients lies in our ability to appropriately match their needs to the skills and qualities of our visitors. The Community Visitor Program has commenced a project reviewing the required knowledge, skills and personal qualities of our visitors. In 2017-18 we intend to expand that to review the needs and preferences of our clients when assigning a community visitor.

And finally, a focus for our program during 2017-18 will be the full implementation of the finalised memorandum of understanding between the OPG and the Department of Communities, Child Safety and Disability Services in relation to the referral of complaints from OPG to the Department. This was a recommendation of the Queensland Ombudsman's Office's Management of Child Safety Complaints (July 2016) final report.

## LEGAL ADVOCACY

### Advocacy for children and young people by legal officers

The *Public Guardian Act 2014* sets out the Public Guardian's child advocacy functions. These can be performed in two ways, either by:

- the child community visitor and their manager, or
- if legal advocacy is required, by Child Advocate—Legal Officers (who are legally trained).

The nature of the issue determines which role performs the advocacy function. For example, Child Advocate—Legal Officers—because of their legal training—are best placed to support a child or young person in QCAT or the Children's Court.

Child Advocate—Legal Officers support children and young people in the child protection system by:

- applying on behalf of the child or young person to QCAT or court regarding changes to a placement, contact decisions, or changes to a child protection order
- ensuring children and young people have access to information, and that their views are heard and taken into consideration when decisions are made that affect their care arrangements (for example, reviewable decisions about placement and contact, court or QCAT hearings)
- providing advice about court events, such as court ordered conferences, and assisting children and young people to participate
- assisting children and young people to seek direct legal representation or advocate for the tribunal or court to consider the appointment of a separate representative if appropriate
- responding to the revocation or variation of an order made under the *Child Protection Act 1999*
- helping a child to initiate, or initiating on a child's behalf, an application to QCAT
- supporting a child at proceedings before a court or QCAT
- assisting children and young people to review other government administrative decisions, such as suspensions and exclusions from school.

This includes the ability to make submissions, call witnesses and test evidence.

### Helping Jess\* break the cycle of criminality

Jess had a significant abuse and trauma history and at 14 years old she was taken into care. Jess was placed in a residential care facility, but after a few weeks she left that placement and experienced homelessness, staying for short times at a crisis shelter and frequently being remanded in custody.

Jess was referred to a Child Advocate-Legal Officer. The Child Advocate reviewed Jess's placement history, the periods of homelessness, remand periods in custody and the nature of her criminal offending. They observed that periods of homelessness were proceeding periods of remand and identified placement stability and having appropriate supports in place as critical for Jess.

The Child Advocate-Legal Officer advocated to the Department of Communities, Child Safety and Disability Services in relation to Jess's placement and service provision. They collaboratively worked with a specialist Transition to Independence Child Safety Officer and the Department, and secured specialised funding to support Jess to find a place to live when she was released from custody.

The Child Advocate- Legal Officer provided contextual information to Jess' youth justice lawyer at her sentencing hearing to establish relevant circumstances of mitigation. The sentencing court gave due consideration to these factors in sentencing Jess. She was sentenced to a good behaviour order for six months and was released into her new residential care placement. \*name has been changed



## Kate\* allowed to make decisions for herself

Kate had been in long term guardianship to the Chief Executive of Child Safety (a child protection order), and shortly before her 18th birthday, an application was made to QCAT seeking an advance appointment of the Public Guardian as her substituted decision maker into the future. So Kate could have support to participate in the QCAT hearing, her Child Advocate–Legal Officer sought approval for Kate to remain a ‘relevant child’ beyond her 18th birthday. This means that she could retain a Child Advocate–Legal Officer despite being 18.

Prior to the QCAT hearing, the Child Advocate–Legal Officer met with Kate to explain what was happening and to understand Kate’s views and wishes about the application. At this meeting, Kate advised that she had been making her own decisions in the months since her 18th birthday and felt that she was doing okay and would want to continue this way.

The day before the hearing, Kate was nervous about the process and changed her mind about attending. Her Child Advocate – Legal Officer encouraged Kate to come along so she could have her voice heard, and so she agreed. At the hearing, Kate was initially quiet and agreed with everything that was said, including if she needed help with decision-making. It appeared Kate felt intimidated and would consent to the appointment of a guardian. The Child Advocate–Legal Officer spoke about her earlier meeting with Kate where she had specifically stated she did not want a guardian appointed, and although she recognised she needed some help, Kate was happy to seek it as needed. After this, Kate’s confidence began to grow and she spoke for herself a number of times during the hearing.

The QCAT member said the decision was a difficult one, however at this time a guardianship appointment was not necessary and Kate was making decisions like any 18 year old.

The Child Advocate–Legal Officer explained the outcome to Kate and also sent her an email so she could read and understand the decision in her own time. Not long after, Kate moved to a new town and sent her Child Advocate–Legal Officer a text message thanking them for their support.

If Kate had not attended the hearing, or the Child Advocate–Legal Officer hadn’t been there to support her and ensure her views were put forward, a guardian may well have been appointed to make decisions on Kate’s behalf about her life. Kate would not have felt she was heard, and would not have had the opportunity to make her own decisions as a young adult. *\*name has been changed*

In 2016-17 a trial of a referral pathway was undertaken which provided community visitors and their managers with resources to guide referrals to a Child Advocate–Legal Officer. This trial was reviewed and highlighted further efficiencies which were introduced. The referral pathway was later expanded to include referrals from external stakeholders as it was identified that external referrals could provide greater advocacy opportunities for children and young people in the child protection system. OPG Legal Services’ continues to provide support and education to the Community Visiting Program to proactively support this referral process.

Initially Child Advocate–Legal Officers were based in OPG offices in Brisbane, Ipswich, Townsville and Cairns, operating statewide in collaboration with the child visiting program. During 2015-16, trials of de-centralised regional service delivery began in Beenleigh and Rockhampton, with the aim of offering face to face participation advocacy where appropriate. In 2016-17, we have focused on creating consistent standardised practices throughout the state, and evaluating how the OPG can offer more effective regional service delivery.

### The figures

In 2016-17, Child Advocate–Legal Officers closed 304 cases (see Figure 3, p37) and assisted 327 children and young people, a decrease of 53 per cent from 2015-16 (see Table 12, p37). The age group 10-14 had the highest representation among children and young people requesting Child Advocate–Legal Officer assistance, with 141 or 43 per cent of children and young people.

While considerable, the 49 per cent decrease can be attributed to a number of factors including:

- a focus on opening new files in accordance with the referral pathway
- a significant number of files opened but not closed in 2014-15
- not creating new cases for children/young people who already had an existing open issue or previous issues, instead capturing multiple issues in one case and treating as a client file, rather than an “issue-based activity”
- re-focussing the role of a Child Advocate–Legal Officer and concentrating on adding value by filling gaps in legal advocacy service provision, such as complementary youth justice advocacy, and
- re-defining the scope of the Child Advocate–Legal Officer role, which is highlighted by an increase in court attendance and visits to children and young people.

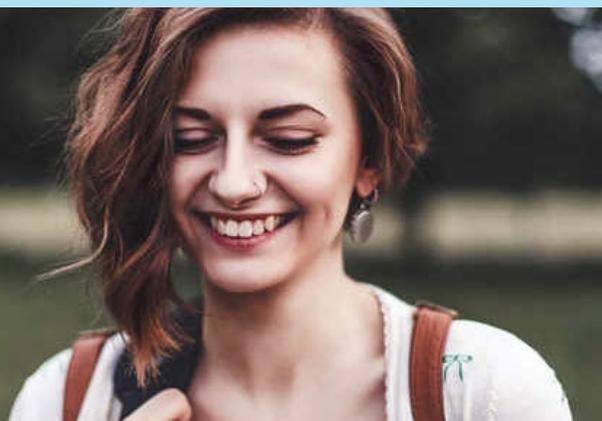


Figure 3: Closed cases

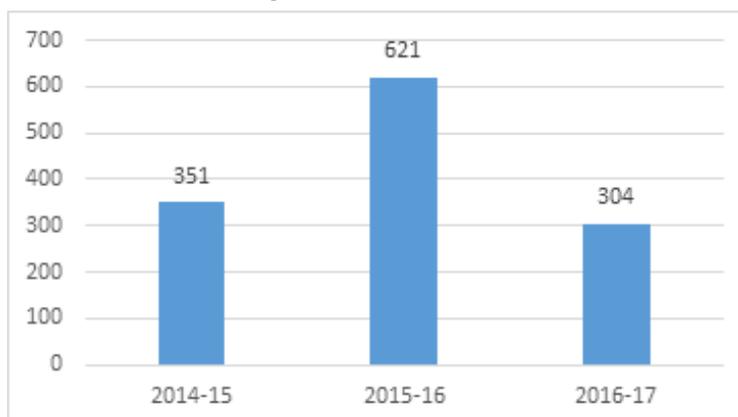


Table 12: Number of children and young people referred to Child Advocate–Legal Officers

	2014-15		2015-16		2016-17	
0 to 4	63	18%	101	15%	25	8%
5 to 9	106	30%	226	33%	84	26%
10 to 14	123	34%	245	36%	141	43%
15 to 17	59	16%	109	16%	77	24%
Unknown	7	2%	8	1%	2	1%
<b>Total</b>	<b>358</b>	<b>100%</b>	<b>689</b>	<b>100%*</b>	<b>327**</b>	<b>100%*</b>

\*Discrepancies may occur due to rounding

\*\*Discrepancies may occur due to counting rules

### Representation of Aboriginal and Torres Strait Islander children and young people

In 2016-17, Child Advocate–Legal Officers assisted 113 Aboriginal and Torres Strait Islander children and young people (see Table 13).

OPG's Children and Young People Legal Team is committed to delivering community education to external stakeholders in regions with high proportions of Aboriginal and Torres Strait Islander children and young people, with the aim of delivering increased levels of individual advocacy to Aboriginal and Torres Strait Islander Children and young people.

Similarly, the OPG's Children and Young People Legal Team aims to offer increased education and support to the Community Visitor Program in relation to a range of issues, which is expected to yield an increase in referrals for relevant issues for Aboriginal and Torres Strait Islander children and young people in the child protection system.

Table 13: Representation of Aboriginal and Torres Strait Islander children and young people

	2014-15			2015-16			2016-17		
Ages of children	Non-Aboriginal and Torres Strait Islander	Aboriginal and Torres Strait Islander	Percentage of Aboriginal and Torres Strait Islander	Non-Aboriginal and Torres Strait Islander	Aboriginal and Torres Strait Islander	Percentage of Aboriginal and Torres Strait Islander	Non-Aboriginal and Torres Strait Islander	Aboriginal and Torres Strait Islander	Percentage of Aboriginal and Torres Strait Islander
0 to 4	37	26	41%	54	47	47%	13	12	52%
5 to 9	61	45	42%	137	89	39%	60	24	27%
10 to 14	67	56	46%	153	92	38%	88	53	39%
15 to 17	40	19	32%	79	30	28%	51	26	31%
Unknown	7	0	0%	8	0	0%	2	0	0%
<b>Total</b>	<b>212</b>	<b>146</b>	<b>41%</b>	<b>431</b>	<b>258</b>	<b>37%</b>	<b>214</b>	<b>113*</b>	<b>35%</b>

\*Discrepancies may occur due to counting rules

The Children's Court, Magistrates Court and QCAT have commended OPG for the actions and assistance of Child Advocate–Legal Officers, both individually and collectively. We have also seen an increase in referrals from the Magistrates Court. The number of Child Advocate–Legal Officer court appearances increased substantially from 2015-16, with 450 court appearances in 2016-17, an increase of 82 per cent (see Table 14, p38).

In 2016-17, Child Advocate–Legal Officers undertook significantly complex litigation regarding children and young people’s participation in Children’s Court’s trials. As with previous years, significant satisfaction has also been expressed by children that, through the Child Advocate–Legal Officers, their ability to participate is enhanced and that views and wishes are being effectively communicated to decision-makers. This is pertinent because the OPG regards the feedback of the children and young people as its most important indicator of performance.

**Table 14: Child Advocate–Legal Officer activity**

	2014-15		2015-16		2016-17	
Visits	309	54%	532	50%	620	47%
Court appearances	103	18%	247	23%	450	34%
Stakeholder meetings	35	6%	91	8%	71	5%
Family group meetings	68	12%	99	9%	84	6%
Court ordered conferences	21	4%	31	3%	47	4%
QCAT hearings	16	3%	25	2%	27	2%
Others (court or QCAT matters)	19	3%	47	4%	19	1%
<b>Total (except n/a)</b>	<b>571</b>	<b>100%</b>	<b>1072</b>	<b>100%*</b>	<b>1318</b>	<b>100%*</b>

*\*Discrepancies may occur due to rounding*

**Table 15: Issues closed by Child Advocate–Legal Officers**

	2014-15		2015-16		2016-17	
General advocacy	196	56%	423	68%	179	59%
QCAT matter	44	13%	80	13%	37	12%
Other legal advocacy	36	10%	79	13%	72	24%
Locally resolvable	72	21%	28	5%	8	3%
Harm related	3	1%	11	2%	8	3%
<b>Total</b>	<b>351</b>	<b>100%*</b>	<b>621</b>	<b>100%*</b>	<b>304</b>	<b>100%*</b>

*\*Discrepancies may occur due to rounding*

Child Advocate-Legal Officers closed **304** cases and assisted **327** children & young people

The challenge ahead is to develop work priorities for the program to ensure a complementary participation advocacy practice that works alongside and in partnership with other forms of legal advocacy and representation for children and young people in the child protection system and can be delivered effectively across the state.

We are continuing to focus on filling gaps and complementary youth justice advocacy (in addition to the direct criminal law advocate) is an area that we are concentrating resources in this regard and have demonstrated a number of successful outcomes for children and young people. The nature of this “dual order” advocacy for children and young people subject child protection orders charged with criminal matters includes:

- advocating with the Department of Communities, Child

Safety and Disability Services for the provision of appropriate accommodation and service provision to support successful bail applications

- advocating about the nature and number of criminal charges preferred against a child or young person in care which has resulted in the downgrading of charges
- assisting in making formal submissions to prosecuting authorities on public interest grounds that charges be withdrawn
- providing contextual information for instructed youth justice defence lawyers about the child or young person’s child protection history including details of placement instability, periods of homelessness and the links to criminal offending for the purposes of assessments around capacity and mitigation factors for sentence.

This will be a significant focus for the Children and Young People team in 2017-2018.

## Advocacy and decision-making for adults

Adults with impaired decision-making capacity may be easily persuaded by others who want to exploit them. They may have a very poor understanding of the justice system and what is required of them should they come into contact with it. They may have little or no understanding of their legal rights, and often lack the ability to locate and engage with services that could support them.

The advocacy for adults in legal processes is a critical safeguard to ensure they are not limited or denied access to their legal rights as a result of their disability or impairment. It also aims to ensure that legal processes adequately take account of the adult's disability or impairment so they understand what is happening and that decision makers are aware of the impact of their disability or impairment on their ability to participate in legal processes or their legal matters. OPG Legal Services Adult Team are legally trained guardians who make legal decisions to progress an adult's legal matters. Guardianship clients can be involved in various areas of law that impact on their rights such as:

- being vulnerable to being charged with criminal offences and being the victim of criminal offences
- as parents in child protection proceedings
- as aggrieved and/or respondents to applications for domestic violence protection orders.

OPG Legal Services' Adult Team legal officers do not provide direct legal representation to clients. They act as guardians for legal matters, and work in collaboration with guardians from OPG's guardianship area who are appointed for health, accommodation and other personal matters. They "stand in the shoes" of the adult to provide instructions to legal representatives.

### Supporting Talia\* through criminal charges

Talia, a guardianship client, is a young adult with an intellectual disability and behavioural disorders. Talia is supported 24/7 to live in the community through a non-government disability service provider, funded by the Department of Communities, Child Safety and Disability Services.

Talia is also subject to restrictive practices. Talia has a history of criminal offending, as due to her diagnosis, Talia is vulnerable and can be easily manipulated by negative peer influence.

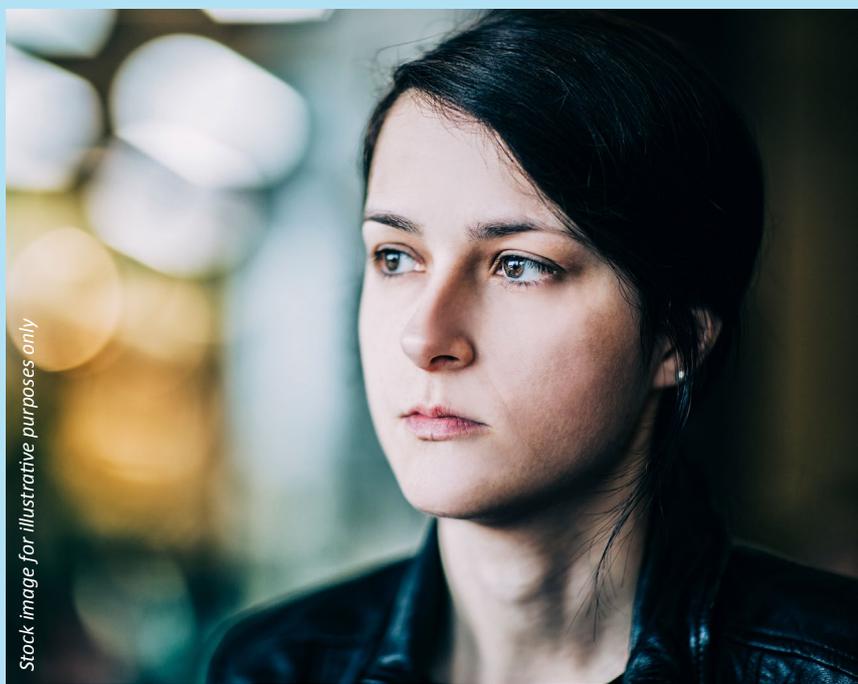
After Talia was picked up by the Queensland Police Service on a serious charge, Talia's service provider immediately contacted the OPG. OPG communicated with police officers to ensure Talia's rights and interests were protected in the process, such as Talia's right to silence. OPG provided QPS with a decision that the OPG did not consent to Talia participating in a record of interview to preserve Talia's right to remain silent given her vulnerabilities.

Despite this communication and Talia's cognitive impairment, Talia still underwent a police interview. Talia was charged and bail was going to be opposed. The OPG considered that due to Talia's cognitive impairments increasing her vulnerability, placing Talia in a correctional facility until such time as the legal matters were finalised, or a successful bail application could be made would place Talia at a serious risk of harm.

Talia was at first instance refused bail in the Magistrates Court. OPG liaised with the instructed criminal lawyer and arranged for an application to be made to the Supreme Court for bail, given her vulnerabilities.

This advocacy on behalf of Talia proved to be successful and Talia returned to live with relevant supports in the community.

*\*name has been changed*



Stock image for illustrative purposes only

When it is identified that a client has a legal matter, a legal officer will ensure that the client has appropriate legal representation. In some situations the client will be entitled to a grant of legal aid, or be eligible for legal assistance from other community legal services. The Public Guardian does not fund legal assistance or representation for clients.

A critical task for each legal officer is to ensure that the legal representative engaged to conduct the client's matter has an understanding of the client's disability or impairment, including how that may impact on the progression of their legal matters and the considerations of relevant decision makers. The legal officer is responsible for briefing the legal representative about the client's story and circumstances, including information that the client sometimes cannot provide. The Legal Officer's role is an acknowledgement of the complexity of providing legal services to clients with impaired decision-making capacity. Legal Officers with the Office of the Public Guardian have the experience and knowledge to provide assistance to both lawyers and vulnerable clients through a variety of legal processes, including mitigation material.

Finally the legal officer will make decisions that a client would make if they had capacity that progress their legal matters and provide instructions to the engaged legal representatives.

At the end of 2016-17, the Adult Legal Team held 256 clients with ongoing legal matters. Of these, there were 192 criminal cases, 79 mental health cases and 35 child protection cases (see Table 16, p41). It should be noted, clients can have multiple legal cases at the same time.

## Ensuring William's\* rights and interests are protected

William is a 61 year old man with a degenerative brain condition. William lived alone and was at risk of becoming homeless as there were proceedings on foot to terminate his residential site agreement as a consequence of his antisocial behaviours. In addition, there were significant concerns that William's general health was not being managed as he had ceased engaging with health, service and support providers. William had been assessed and approved as being eligible for aged care accommodation, respite care and in-home care however, William was refusing to accept any of the support services he was eligible to receive. The Public Guardian had been appointed by the Queensland Civil and Administrative Tribunal (QCAT) as William's guardian for various personal matters.

Various parties had observed that William has significant tremors and reduced mobility and was at risk of having a fall or an accident when crossing the busy roads he navigated twice weekly to go shopping. William had also been charged with criminal offences on three occasions during the last year and was at risk of being charged with further criminal offences as a result of his impairment and lack of insight into his behaviour. The Public Guardian successfully applied to QCAT for an entry and removal warrant in relation to William. The Public Guardian took the following steps to protect William's rights and interests post execution of the Warrant:

- Transportation by the Queensland Ambulance Service directly to hospital for medical assessment and treatment.
- Securing accommodation at an appropriate aged care facility upon discharge from hospital.
- Advocating with service and support providers to re-engage with William.
- Liaising with William's son to encourage him to visit his father at the aged care facility.
- Monitoring and assessing William's needs post admission to the aged care facility.

The aged care facility staff report that William has settled in very well and is enjoying the food a lot. William's son visits him at the facility.

*\*name has been changed*



**Table 16: Types of adult legal cases**

	2016-17
Criminal	192
Mental Health	79
Child Protection	35
Domestic Violence	32
Family Law	9
Victim of Crime	8
Other	29

*\*These figures were extracted on 1 August 2017 and therefore are representative only of the actual number of active legal cases held by the Adult Legal Team as at 30 June 2017*

### Official Solicitor

The Official Solicitor and Corporate and Legal Practice Team provides legal advice and assistance to the Public Guardian and their delegates about the performance of statutory functions and exercise of statutory powers. They also respond to external requests for information and reviews of OPG organisational policy and practice to ensure it is in line with the law.

In 2016-17, the Corporate and Legal Practice Team provided 131 advices to the agency and also assisted in the coordination of requests for information from external agencies such as the Office of the State Coroner and subpoenas issued in court process.

Under section 36 of the *Public Guardian Act 2014*, the Public Guardian has power to apply to QCAT for a warrant to enter a place and remove an adult, if there are reasonable grounds for suspecting that there is an immediate risk of harm, because of neglect (including self-neglect), exploitation or abuse. The Public Guardian applied for and was granted two warrants in the 2016-17 financial year. For the purposes of these applications to QCAT the Corporate and Legal Practice Team worked with Guardianship to progress.



## GUARDIANSHIP SERVICES

### The way in which the Public Guardian is appointed and diversity in its appointment areas

In Queensland, as in other jurisdictions, the role of a guardian is to act as a substitute decision-maker for a person who is unable to make their own decisions due to a deemed lack of decision-making capacity.

Section 14(2) of the *Guardianship and Administration Act 2000* allows only the Tribunal to appoint the Public Guardian as guardian for personal matters only if there is no other appropriate person available for appointment of the matter. The Tribunal must be satisfied that the adult has impaired decision-making capacity, that there is a need for a decision and that the adult's needs and interests would not be adequately met without an appointment. The Public Guardian will only be appointed as a guardian of last resort and will only be appointed where specific decisions are needed. The Public Guardian may also be appointed for seeking help and making representations about the use of restrictive practices for an adult who is the subject of a containment and seclusion approval under chapter 5B of the Act.

QCAT may appoint the Public Guardian to make some or all personal and health care decisions, including:

- where the adult should live
- with whom the adult has contact and/or visits
- health care for the adult
- provision of services for the adult
- day-to-day issues, including, for example, the adult's diet and dress
- whether the adult works and, if so, the kind and place of work and the employer
- what education and training the adult undertakes
- whether the adult applies for a licence or permit
- legal matters (not relating to the adult's financial or property matters).

Alternatively, a person may appoint the Public Guardian as their attorney for personal/health matters under an enduring document.

The Public Guardian may also act as attorney for a person following the suspension of an attorney's powers, or the Supreme Court may appoint the Public Guardian for a person with impaired decision-making capacity.

In addition to its substitute decision-making function, the Public Guardian may also represent a person's rights and interests when appointed as nominated support person under the *Mental Health Act 2016*, or when appointed as a separate representative to help represent a person's views, wishes and interests in a matter before QCAT.

In 2016-17, the Public Guardian provided guardianship services to a total of

**3112** people (up from 3037 in 2015-16).

### The philosophy and framework behind the ways in which the Public Guardian makes its decisions

We believe all of our clients can live full lives, often contributing and realising potential that others may never have imagined. Therefore all our decisions aim to reflect this and are made in accordance with the General Principles set out in the *Guardianship and Administration Act 2000*. We do not believe that a declaration of impaired decision-making capacity by a Tribunal (which may attract the Public Guardian's appointment) means that an adult cannot meaningfully contribute to decisions made about them.

That's why we operate from a framework of supported decision-making for everything we do. This means "the process of assisting a person to make their own decisions, so they can develop and pursue their own goals, make choices about their life and exercise

some control over the things that are important to them". This approach to decision-making attempts to affirm the adult's right to be in charge of their own life." (Definition courtesy of NSW Department of Family & Community Services).

Supported Decision-making as an approach to guardianship has its foundation in the United Nations Convention on the Rights of Persons with Disabilities. Its core principles are that:

1. Every person can express their will and preference
2. A person with disability has the right to make decisions
3. A person with disability can expect to have access to appropriate support to make decisions.

The legislation also prescribes the Public Guardian as guardian of last resort, that is, to be appointed only if there is no other appropriate person available for appointment. The legislation upholds the role and importance of family members and others acting in an informal capacity for a person.

Given this context, the Public Guardian is given formal powers to exercise decision-making on behalf of a relatively small number of Queenslanders with impaired decision-making capacity. In 2016-17, the Public Guardian provided guardianship services to a total of 3112 people (up from 3037 people in 2015-16).

### Queensland Civil and Administrative Tribunal appointments

In 2016-17, we had 3112 active clients, an increase of 9 per cent from the 2014-15 reporting period (see Table 17, p44). This figure includes 29 new enduring power of attorney, allied person, suspension or separate representation appointments of the Public Guardian. As at 30 June 2017, the Public Guardian had 2419 guardianship clients however, the total number of adults who were provided with guardianship services throughout the year reached 3112. There is a significant amount of “turnover” in clients, with 818 new clients and 761 closed client matters throughout the year.

When a guardianship order is due to be reviewed, the Public Guardian actively seeks the revocation of guardianship appointments when a person no longer needs to be subject to a QCAT order as we should only be considered a guardian of last resort. Of the 761 closed client matters in 2016-17, 255 or 34 per cent were the result of a revocation by QCAT of the Public Guardian’s order.

#### Supporting Terry\* at his QCAT hearing

Recently a guardian attended a Queensland Civil and Administrative Tribunal (QCAT) hearing for Terry, a young person who was transitioning from Child Safety into adult guardianship. The guardian submitted to QCAT that it would benefit both Terry and the OPG to attend an initial hearing, prior to the Public Guardian’s appointment. The QCAT member agreed stating it was great to have OPG present for guidance regarding matters and length of the order, as well as the added benefit of Terry’s guardian being present to support him and to play an active role in the hearing.

At the hearing, the QCAT member took the guardian’s recommendations on board, discussed the length of the order and spoke to Terry to explain the least restrictive approach to his decision-making arrangements. This approach was to assist with smooth transition to adulthood. The guardian felt their presence also gave further insight into Terry’s situation prior to receiving the new guardianship order.

“We quite often start off on the ‘back foot’ and have to do a lot of backtracking to get the history of the young person, and the time factor can be critical for many young people leaving the care of the state to allow for effective transition planning and securing accommodation,” the delegate guardian said.

“Being involved at this point gives an enormous amount of information so OPG can start work as soon as possible. For example, I have already been notified of a stakeholder’s meeting being held the day after Terry turns 18. I have had the opportunity to liaise with the advocacy service, and most importantly meet Terry and get to know his views and wishes, and I am aware of critical issues in relation to accommodation and access to appropriate supports that will assist with a successful transition. This has allowed me to start working on this immediately once the Order is active”.

“Attendance at the hearing also means that a guardian can make submissions about the length and areas of the guardianship Order to ensure that the appropriate and least restrictive options are made in the best interests of a young person,” the guardian said. *\*name has been changed*

**Table 17: Guardianship client figures**

	2014-15	2015-16	2016-17
Guardianship clients	2868	3037	3112
New QCAT guardianship appointments	741	807	796
New enduring power of attorney, allied person, suspension or separate representative appointments of the Public Guardian	30	33	29
Guardianship clients as at 30 June	2279	2328	2419
New clients	764	833	818
Closed client matters	637	730	761
Closed client matters as result of QCAT revocation	307	288	255
Percentage of closed client matters as result of QCAT revocation	48%	39%	34%

### Trends in Queensland Civil and Administrative Tribunal appointments

An interim order can be made under section 129 of the *Guardianship and Administration Act 2000* if the Tribunal is satisfied, on reasonable grounds, 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 of, or self-neglect by, the adult.

In 2016-17, there were 293 interim orders issued. Of these, approximately half (153) were immediately followed up by a full order. A large number of these interim orders were made for the purpose of residential aged care placements. Given the delays for hospitals to get a hearing date, a number of applicants sought an interim order in order for the adult to be discharged from hospital.

The majority of QCAT orders were for two years or less (970 orders or 73%). This represents an increase from the 736 (or 64% of full orders) in 2015-16. The remainder of the QCAT full orders in 2016-17 (365 orders or 27%) were for more than two years. This shows a decrease in the percentage of longer term orders from the previous year (36% in 2015-16 to 27% in 2016-17).

Consistent with previous years, appointments for accommodation, service provision and health care continue to be the most common areas of appointment for the Public Guardian in 2016-17 (see Table 18).

**Table 18: Appointment type**

	2014-15	2015-16	2016-17
Accommodation	1645	1725	1821
Service provision	1504	1549	1702
Health care	1407	1429	1443
Legal	443	467	509
Contact	388	384	398
Restrictive Practice - General	297	285	250
All personal matters	188	160	112
Education, training & employment	71	72	69
Seeking help and making representation (General)	65	46	51
Day to day issues	46	47	37
Other	19	12	37
Licence / Permit	28	27	31
Restrictive practice - Seeking help and making representation	16	17	32
Other personal matters	18	13	19
Restrictive practice in respite care	3	3	2
<b>Total</b>	<b>6138</b>	<b>6236</b>	<b>6513</b>
All restrictive practice matters	316	305	273

## Profile of guardianship clients

Males make up the majority of guardianship clients, representing 59 per cent of the client base. It is estimated that just over 300 OPG guardianship clients (or 18%) identify as Aboriginal or Torres Strait Islander, with approximately 71 per cent residing in North or Far North Queensland. The average age of OPG guardianship clients as at the end of 2016-17 was 51 years, consistent with previous years.

Intellectual disability continues to be the most prevalent cause of OPG clients' impaired decision-making capacity, accounting for 38 per cent of all clients (see Table 19), followed by psychiatric disability (24%) and dementia (22%). Sixteen per cent (492) of guardianship clients have both a primary and secondary disability (see Table 20).

**Table 19: Clients by primary disability**

Primary Disability	Number	Percent
Intellectual	1145	38%
Psychiatric	727	24%
Dementia	670	22%
Acquired Brain Injury	430	14%
Other	226	7%
Illness	59	2%
Not determined	20	1%

*\*Discrepancies may occur due to rounding  
Please note: some clients counted in these figures were identified as having more than one primary disability*

**Table 20: Clients with primary and secondary disability**

Primary Disability	Has Secondary Disability		
	No	Yes	Total
Intellectual	917	228	1145
Psychiatric	591	136	727
Dementia	627	43	670
Acquired Brain Injury	330	100	430
Other	209	17	226
Illness	49	10	59

*Please note: some clients counted in these figures were identified as having more than one primary and secondary disability*

## The increasing demand for guardianship services as a result of the NDIS: current and projected impacts

The OPG currently has 260 clients confirmed as registered for the National Disability Insurance Scheme (NDIS). The NDIS is a significant social reform that has the potential to impact positively on the lives of many clients of the Public Guardian and QCAT. Implementation of the NDIS has now commenced, with the full roll-out to be completed in 2019. As a result of the NDIS there has been a sharp, steady increase in guardianship applications to QCAT. This is due to the increased number of people eligible for the NDIS and consequently, an increased number of decisions that need to be made to participate in the NDIS. The Public Guardian has already experienced, and will continue to experience a significant increase in work during the transition period. This work includes arranging access for guardianship clients to the NDIS, participating in the plan preparation process, implementing the approved plan and participating in the review process.

In order to ensure the most efficient and effective use of existing resources, the OPG has already begun to restructure its guardianship operating model so as to manage increasing demand. The OPG has developed a proactive 'pre-appointment advocacy-strategy' (modelled on similar Victorian and NSW concepts). This strategy is based on the premise that a guardianship appointment should only be made where the NDIS participant can't be assisted through the NDIS process by someone within their support network or by an advocate, to ensure the approach taken is the least restrictive of the participant's human rights.

The OPG has therefore already been advocating to have a number of matters referred to non-government advocacy agencies to support the person to participate in the NDIS, as opposed to having a formal guardian appointed as a substitute decision-maker. However a number of these advocacy agencies are now at capacity or have indicated that they have been unable to assist which could increase the number of appointments of a formal guardian (for lack of any alternate avenue). Additionally, the ongoing funding for these advocacy agencies in relation to the NDIS remains unclear post-2019.

The total number of NDIS-eligible existing OPG clients is 1,541. Simply based on the work associated with getting the first plan approved, this would equate to 24,656 hours of NDIS-specific guardianship work over the roll out period beyond existing resources. The total number of staff hours required to carry out the NDIS process work is significant and cannot be achieved within existing resources.

In addition, more positions are needed to advocate and enable prevention of unnecessary guardianship appointments, “the pre-appointment advocacy work”. On average, advocacy in relation to an application to QCAT for an NDIS specific appointment takes a minimum of 4 hours advocacy as opposed to 20+ hours of work if appointed as a guardian.

### Challenges and emerging themes in guardianship

Many of the challenges in guardianship that presented in 2016-17, are the same challenges the OPG and its clients have faced in previous years. For example, the lack of service and accommodation options, unmet disability support needs and social isolation and marginalisation, are issues that have remained constant for these vulnerable adults.

Other significant changes presenting challenges to the guardianship landscape are the commencement of the National Disability Insurance Scheme (NDIS) rollout in Queensland and the *Mental Health Act 2016*, both of which will have a significant impact on the workloads of delegate guardians and the resources of the OPG. This is mentioned in greater detail at page 10.

For those guardianship clients who were not eligible to access the NDIS, it is anticipated that the changes to aged care funding, whereby the system is moving towards consumer directed care, will place similar demands on delegate guardians that is currently being experienced in relation to their clients participating in the NDIS.

### Jerry\* is happy to be living independently

Jerry is a 49 year old man with a mild intellectual impairment, low literacy skills and no positive family support. The OPG was appointed by the Queensland Civil and Administrative Tribunal (QCAT) to make decisions for Jerry in relation to all personal matters.

Jerry had been on the waitlist for social housing and disability support funding for a long time. With the assistance of the guardian, Jerry was supported in his decision-making through the National

Disability Insurance Agency planning process, resulting in a plan which provided funded disability supports. As Jerry had been without support for such a long period of time, he had adapted his lifestyle and increased his independence to better manage for himself.

The guardian's advocacy and negotiation on behalf of Jerry has also resulted in him being offered public housing accommodation. Jerry is extremely pleased with this result and is happy to be moving into his own unit with support services to assist him to live independently in the community. *\*name has been changed*



Pre hearing advocacy work undertaken by the OPG QCAT Liaison Team has been successfully identifying and preventing unnecessary appointments of the Public Guardian, in circumstances where a formal guardianship appointment was not required, not the least restrictive option or where other appropriate persons such as family members had not been properly identified or approached. Factors contributing to these applications for guardianship included:

- increasing instances of aged care facilities and hospital workers seeking the appointment of a guardian to ensure that there is a formal decision maker in place ‘just in case’ there is a decision to be made in the future. This is contrary to the intention of the *Guardianship and Administration Act 2000*, whereby appointments are only to be made where there is a need and there are no less restrictive options available.
- insufficient funding in the disability sector for non-government advocacy services to assist adults with supported decision-making.

The latter of these issues cannot be under-estimated. The Public Guardian holds a genuine fear that a lack of advocacy services, or limitations on the capacity of existing services to accept new clients, will result in an inadvertent and unnecessary ‘forcing’ of people with cognitive impairments into the guardianship system, particularly as the NDIS roll-out picks up pace. This is not only an interference with human rights when a less restrictive option could be made available through the use of an advocate, but would prima facie defeat the ‘choice and control’ ideology on which the NDIS is based.

### Policy and Practice Review

The OPG is currently undergoing a rigorous review of all guardianship policies, practices and procedures to ensure the agency is using best practice and is compliant with all existing and new legislation that is applicable to the Public Guardian’s statutory role and functions. The project includes the development and implementation of a Restrictive Practices Decision Making Framework which is intended to provide transparency to clients and their families, and to guide service providers (particularly services funded by Disability Services or through the NDIS) regarding the decision-making process that the Public Guardian will use to make decisions in relation to their applications for Short Term Approvals and other Restrictive Practices matters. User friendly versions of the framework document are also being developed for the people who may be subject to the use of restrictive practices and their families and support persons.

Whilst this project is time and labour intensive, it has been given priority to ensure that the OPG is able to professionally and diligently protect and promote the rights and interests of adults with impaired capacity.

### How the OPG makes decisions

When acting as guardian or attorney, the Public Guardian’s role is to protect the person’s rights and interests by acting as their substitute decision-maker.

A substitute decision maker is someone who stands ‘in the shoes’ of another person, and tries to make the decision that the person would have made for themselves if they could still make that decision.

The OPG must do this in a way that strikes the best balance between upholding the person’s right to have the greatest possible degree of autonomy in decision-making with their right to appropriate support for decision-making, taking account of their level of impairment and vulnerability.

The Public Guardian has a responsibility to make decisions, and exercise her overall protective role, in a way that upholds the person’s autonomy and places only as much restriction on their lives as is absolutely necessary, while acting in a way that is consistent with the person’s proper care and protection.

The OPG does this by:

- Applying the General Principles of the legislation. The General Principles are set out at Schedule 1, Part 1 of the *Guardianship and Administration Act 2000*. The OPG is required to apply these important principles when exercising all functions for adults with impaired decision-making capacity.
- Being well-informed about the person and seeking their views and wishes. This involves understanding the views and wishes as expressed through their previous actions and decisions (applying the principle of substituted judgement).
- Upholding the person’s right to participate in decision-making and to receive the support necessary to make decisions themselves.
- Involving members of the person’s informal support network (e.g. family and friends), and seeking their participation in, and views/wishes around, any decisions to be made for the person.
- Seeking information from other third parties (e.g. medical professionals) that is relevant to the decision. Under law, a guardian has a legal right to any information that is necessary for them to exercise their function.
- Monitoring the client’s ongoing welfare and taking steps to mitigate any identified risk to their health and wellbeing.

Each client's circumstances are unique, and special circumstances frequently require the exercise of particular skills. For example:

- Guardians routinely navigate situations of high conflict between family members. They may exercise mediation and negotiation skills to broker an outcome that is best for the individual client, while respecting the role and views of family members and maintaining their engagement and relationship with the person.
- Many substituted decisions require the involvement and commitment of other agencies: funding bodies, government service delivery agencies; non-government service providers. In an environment that is becoming increasingly resourced-constrained, guardians are more frequently called on to make representations to these bodies on clients' behalf. The outcomes sought are various: for funding to be freed up, for equitable service access to be granted; or for the delivery of specialised support for a person with impaired decision-making capacity.
- Guardians are increasingly called on to source service options, given the constrained external environment, and the impact of increasing demand on the service sector.

## HEALTH CARE

Queensland is the only state which the Public Guardian is the health care decision-maker of last resort, in accordance with section 62 of the *Powers of Attorney Act 1998* and operates a 24 hours 7 day a week health care consent telephone service, for all health care professionals.

The *Guardianship and Administration Act 2000* confers upon the Public Guardian, significant powers in relation to healthcare. Health Care is defined by the *Guardianship and Administration Act 2000* as a matter relating to health care, or treatment of, or a service or a procedure for the adult:

- to diagnose, maintain, or treat the adult's physical or mental condition; and
- carried out by, or under the direction or supervision of a health provider.

Health care includes the withholding or withdrawal of a life sustaining measure, if the commencement or continuation of the measure is inconsistent with good medical practice. However health care does not include first aid treatment, non-intrusive examinations made for diagnostic purposes, or the administration of over the counter pharmaceutical medications.

Health care providers are obliged to seek consent to carry out health care for adults with impaired decision-making capacity. This consent can be provided:

- under an Advanced Health Directive
- from a guardian appointed by QCAT
- from a personal attorney appointed under an enduring power of attorney (EPA), or advance health directive
- from a Statutory Health Attorney of last resort.

A person acts in the role of statutory health attorney because of their relationship with the adult deemed to have impaired capacity to make their own health care decisions. In accordance with section 63 of the *Powers of Attorney Act 1998*, the statutory health attorney should be the first available and culturally appropriate adult to provide health care consents in the following order of priority:

- a spouse of the adult if the relationship between the adult and the spouse is close and continuing
- a person who is 18 years or more and who has the care of the adult and is not a paid carer
- a person who is 18 years or more and who is a close friend or relation of the adult and is not a paid carer.

If there is no one suitable or available, the Public Guardian acts as the statutory health attorney of last resort for all Queenslanders.

All health care decisions must be made with regard to the Health Care Principle set out in the *Guardianship and Administration Act 2000* (refer Appendix 3).

### Health care consent

During 2016-17, the OPG consented to 1151 health care matters for adults with impaired decision-making capacity. The Public Guardian made 228 after-hours health care consents in comparison to 252 in 2015-16. In 2016-17 the OPG received 591 enquiries after hours. These enquiries provided advice and assistance to health care providers ensuring that health care decisions for adults with impaired capacity were in line with the health care principle of the Guardianship legislation.

The majority of health care consents were provided for surgical procedures (see Table 21, p50). The Public Guardian consented to 87 end-of life matters regarding decisions to withhold and/or withdraw life sustaining measures.

The OPG also provided consent in one case for a forensic examination to be conducted of an adult with impaired decision-making capacity under section 38 of the *Public Guardian Act 2014*. This consent related to alleged sexual and/or physical assault of an adult who did not have capacity to consent to the examination themselves.

**Table 21: Reason for health care consent**

	2014-15	2015-16	2016-17
Surgical	453	569	480
Medical	539	476	430
Dental	187	187	151
Withholding / withdrawal of life sustaining measures	117	103	87
Participation in Clinical Trial	0	2	2
Allied Health	1	0	0
Forensic examination	5	6	1
<b>Total</b>	<b>1302</b>	<b>1343</b>	<b>1151</b>

### Decision-making authority

Table 22 below sets out the number of health care consents given under the different decision-making authorities the OPG operates under. In 2016-17, the majority of consents (653 or 57%) were given while under a guardianship appointment, followed by 482 (42%) while acting as statutory health attorney of last resort under section 63 of the *Powers of Attorney Act 1998*.

**Table 22: Health care consents under decision-making authority**

	2014-15	2015-16	2016-17
Acting as guardian in Accordance with Section 174(2)(e) of the <i>Guardianship and Administration Act 2000</i>	769	743	653
Acting as statutory health attorney of last resort in accordance with Section 63(2) of the <i>Powers of Attorney Act 1998</i>	511	577	482
Acting as Personal Attorney in accordance with section 174(2)(d) of the <i>Guardianship and Administration Act 2000</i>	16	17	15
Forensic Examination Pursuant to Section 198A of the <i>Guardianship and Administration Act 2000</i>	5	6	1
Exercising power for the health matter in accordance with Section 43 of the <i>Guardianship and Administration Act 2000</i> (overriding another attorney or guardian's decision)	1	0	0
<b>Total</b>	<b>1302</b>	<b>1343</b>	<b>1151</b>

### Special health care

Consent for Special Health Care for adults with impaired capacity can only be authorised by QCAT. Special Health Care matters include:

- removal of tissue for donation
- sterilisation
- termination of pregnancy
- special medical research or experimental health care.

The Tribunal may appoint a representative to represent the adult's views, wishes and best interests. In 2016-17, the Tribunal appointed the Public Guardian as representative for Special Health Care on four separate occasions under section 125 of the *Guardianship and Administration Act 2000*.

The role of the guardian in these hearings is to:

- investigate the proposed options
- ensure all relevant information, including expert reports, are available to the Tribunal
- represent the views, wishes and interests of the adult in the Tribunal hearing.

When appointed as a representative, OPG staff meet with the adult, their family and service providers (where applicable). A written submission is made to QCAT to represent the adult's views, wishes and interests regarding the administration of the special health care matter. This submission is independent from the views and wishes of family members, medical professionals and any other third parties.

The OPG had one case which was carried over from the previous financial year, this case involved an application for a termination of pregnancy for an adult with impaired decision-making capacity. In 2016-17, the OPG were appointed as a representative in four matters by QCAT. All of the cases involved the sterilisation of adults with impaired decision-making capacity.

### **Decisions under section 43 of the *Guardianship and Administration Act 2000***

Under section 43 of the *Guardianship and Administration Act 2000*, if there is a disagreement about a health matter for an adult, and the disagreement cannot be resolved by mediation, the Public Guardian may exercise the relevant decision. A disagreement may arise between a guardian or attorney for an adult or another person who is also a guardian or attorney, regarding the way the power for a health matter should be exercised. There may also be disagreement between two or more eligible statutory health attorney for the adult about which of them should be the adult's statutory health attorney or how power for the health matter should be exercised.

If a health care attorney refuses to consent to treatment, a health care provider may ask the Public Guardian to intervene if they believe the adult needs the medical treatment and that the attorney is acting against the health care principle.

The Public Guardian will ask the attorney how the decision was made and the reasons considered as part of that process. For example, the adult may have told the attorney at some time in the past that they would not want to undergo specific treatment.

The Public Guardian then considers the attorney's explanation, information from the doctor and the principles contained in the law. The Public Guardian is empowered to make the health care decisions if the attorney is acting contrary to the Health Care Principle.

During 2016-17, the Public Guardian made no decisions using the power under section 43 of the *Guardianship and Administration Act 2000*.



## RESTRICTIVE PRACTICES

The Public Guardian is aware that at times, adults who live with an intellectual or cognitive disability may engage in behaviours that place themselves, and/or others at risk of harm, and in some circumstances, restrictive practices are used in response to these behaviours.

The Public Guardian is cognisant that engaging in behaviours of concern and/or behaviours of harm is often a function of communication, and is aware that behaviours may arise when an individual's unique communication needs are not being met. As such, when considering requests to approve the use of restrictive practices, the Public Guardian must be satisfied that relevant assessments have been undertaken in relation to communication, and that appropriate strategies are being used to ensure the adult's views and wishes can be sought and understood. When considering requests to approve the use of restrictive practices, the Public Guardian must also be satisfied that the adult has their fundamental basic human rights met, and that the request for approval to use restrictive practices is not in

lieu of a safe environment to live in, appropriate community access opportunities, adequate healthcare and respect from support staff and their service provider(s). The use of a restrictive practice is not a substitute for inadequate resources, and the Public Guardian is of the view that the use of a restrictive practice in this circumstance is a serious contravention of client rights.

The total number of clients with guardianship appointments for restrictive practice matters at 30 June 2017

was **228** (down from 276 in 2015-16).

Clients with guardianship appointments for restrictive practices comprised

**9.6%** of all guardianship appointments (down from 12% in 2015-16).

In addition, we received **30** applications for short term approvals.

The Public Guardian is mindful of the significant role that past trauma can play in triggering behaviours of harm. As a result, the Public Guardian will always query whether such indicia are present for a client, and if so, whether appropriate trauma-responsive, therapeutic interventions (such as counselling and support) have been engaged. This is with a view to determining whether an appropriate long term strategy has been introduced to ensure the causes of behaviours of harm are reduced and that the use of proposed restrictive practices themselves do not trigger further trauma. As such, the Public Guardian views information regarding assessment to identify possible triggers, the development of strategies to address these, and trauma informed care as critical to our decision-making process.

The Public Guardian has an unswerving commitment to an adult's right to participate, to the greatest extent practicable, in decisions affecting the adult's life. Furthermore, the Public Guardian is committed to engaging in supported decision-making, and as such, when making decisions regarding restrictive practices seeks to ensure that the adult's views and wishes, including any objections regarding the use of restrictive practices are included in, and can have an effect on the decision-making process. The Public Guardian believes that a person-centred focus is crucial in the provision of disability services, and that people with a disability are the natural authorities for their own lives and as such, endeavours to recognise this authority at all times.

The Public Guardian is committed to ensuring that restrictive practice decisions are undertaken with a firm focus on least restrictive and evidence based practices, and expects that relevant service providers develop and enact Positive

Behaviour Support Plans that reflect a strong commitment to sections 139 and 142 of the *Disability Services Act 2006*, which provide safeguards to protect the rights of adults with an intellectual or cognitive disability.

The Public Guardian understands that for a significant number of adults that display behaviours of concern and/or harm, it should be possible to eliminate the use of restrictive practices over time by understanding and responding to the issues underlying the behaviours, and expects that relevant service providers formulate and execute appropriate reduction and/or elimination plans.

The Public Guardian has a clear passion for the vulnerable clients that are subject to restrictive practices and has demonstrated this passion by personally appearing at a number of QCAT hearings demonstrating her commitment to advocating for the possible elimination or reduction of the use of restrictive practices for our clients.

### Eliminating restrictive practices for Morris\*

Morris had been placed on a drug for 18 months following low level sexualised behaviour, and the service provider was applying for its continued use for up to another 6 months. The drug Androcur was being used as an anti-libidinal chemical restraint as part of a behaviour management tool, which the OPG considers as having very little (if no) proven clinical evidence and has serious side effects with long term use. The concern was that even if the Public Guardian refused its usage, psychiatrists would insist on its administration because Morris was on a forensic order.

An OPG guardian liaised with the service provider to assist them in understanding the OPG's resistance to the use of this drug, and following this consultation, the service provider agreed with OPG's recommendation to not consent to the use of Androcur on Morris, as it is not the least restrictive option.

At a stakeholder's meeting for Morris, the OPG explained to the treating psychiatrist that the Public Guardian would not consent to the use of Androcur as there was no evidence provided to suggest that Androcur was the least restrictive option for Morris, in line with the OPG's legislative requirements to approve the least restrictive approach.

The psychiatrist advised that he would devise a reduction plan while Morris was still in hospital so that Morris can come off the medication in a safe and planned way. The psychiatrist was also supportive of the strategies outlined by the service provider and Morris' family around sex education and role modelling.

The guardian's approach in educating the service provider about the OPG's legislative consent process led to them supporting the OPG's view, which was crucial for this positive outcome for Morris. The OPG hopes this has set a precedent in the use of Androcur as a behaviour management strategy.

*\*name has been changed*



*Stock image for illustrative purposes only*



## INVESTIGATIONS

People with impaired decision-making capacity are amongst the most vulnerable members of our society. The OPG safeguards their rights and interests by investigating allegations of neglect, exploitation and abuse.

Under the *Public Guardian Act 2014*, the OPG has a discretionary power to investigate any complaint or allegation that an adult with impaired decision-making capacity is being, or has been, neglected, exploited, or abused, or has inappropriate or inadequate decision-making arrangements in place.

To carry out an investigation the OPG must identify that the person in question lacks the capacity to make decisions for the matters in question. The Public Guardian also has the formal protective power to suspend for up to three months the power of an attorney who is suspected on reasonable grounds to not be competent. In 2016-17, the Public Guardian suspended attorneys in 25 matters where immediate protective action was required due to significant financial or personal abuse. This is an increase from 20 suspensions in 2015-16.

We can investigate allegations of harm against people with impaired decision-making capacity. This includes all types of abuse, including:

- physical, sexual, emotional or psychological (the last of which can include name calling or denying the adult access to important relationships or their community)
- financial, such as misusing a person's money
- neglect, such as withholding medication or not providing regular food
- exploitation, such as taking advantage of someone.

The OPG's primary focus in its investigations is the protection of the vulnerable person with an ongoing commitment to address issues in the least intrusive manner for the person, where possible and appropriate.

270 investigations were commenced by the OPG, a 27% increase on 2015-16

The Public Guardian does not replace the important role that the police fulfil in relation to domestic and family violence or criminal behaviour. Our role is to investigate alleged abuse from the perspective of whether the current decision-making arrangements provide an adult with impaired decision-making capacity appropriate assistance or protection from any alleged abuse, neglect or exploitation including whether an application to the Queensland Civil and Administrative Tribunal should be made. A referral to the police will determine whether any criminal charges should be brought against any person in relation to the identified conduct. Some of the complaints we receive are about concerns that someone who is appointed as attorney, for example where a person acting under an Enduring Power of Attorney for a person

with impaired decision-making is not protecting their interests. The OPG will not continue to investigate matters more appropriately investigated by the Queensland Police Service.

Older people with impaired decision-making capacity primarily caused by dementia may be more vulnerable to neglect, abuse or exploitation. Elder abuse, particularly related to financial matters, continues to be the majority of matters referred to the OPG for investigation.

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. Where evidence is gathered which indicates the decision-making arrangements in place for an adult with impaired capacity are not protecting their rights and interests, the OPG will apply to QCAT for the appointment of an alternate decision-maker.

Our investigation will gather evidence to find out whether the allegations can be substantiated on the balance of probabilities. The purpose of an investigation is to identify the level of risk for the vulnerable person and the action needed to best protect them.

Where possible, we try to resolve allegations informally. If necessary, we refer evidence to the police for their investigation or other matters to the Queensland Civil and Administrative Tribunal (QCAT).

## Investigative powers of the Public Guardian

The *Public Guardian Act 2014* provides the Public Guardian with powers to protect adults with impaired capacity and investigate claims of abuse. These include but are not limited to:

- requiring people to produce financial records and accounts
- gaining access to any relevant information, such as medical files
- issuing a written notice ordering a person who has been uncooperative to attend at a stated time and place, give information, answer questions and produce documents
- applying for an entry and removal warrant if a person is at immediate risk of harm
- being able to suspend an attorney's power.

### Attorney's powers suspended, providing protection for Gladys\*

Gladys was a 73 year old woman who had been placed in a nursing home following a dementia diagnosis and subsequent increase in care needs that could not be accommodated through in-home care. Gladys had accumulated significant assets over the years, including four properties that were owned outright, and as such was not eligible to receive a pension. While these properties should have been producing an income for Gladys, two of the properties were occupied rent-free by Gladys' son and daughter and their respective families, and a third property that had been earning a rental income was untenanted, leaving Gladys with no money.

Gladys' son John\* had been appointed as her attorney under an Enduring Power of Attorney, but John was unable to pay her nursing home fees as there was no income available. The nursing home fee arrears quickly reached \$17,000, and rather than making arrangements for income to be earned from her real estate holdings or sell one of the properties, John removed Gladys from the nursing home and placed her in a locked room under the house he lived in.

Not long after Gladys was moved from the nursing home, someone within the community became concerned about her living conditions and contacted the OPG. An investigation was commenced and a review of bank statements indicated that the small rental income that Gladys was receiving, was being spent by John on expenses not associated with the upkeep of the property, rates or Gladys' living expenses. Gladys' dementia had progressed to the point that she needed prompting with daily tasks such as drinking water and using the toilet, and while some services were put in place to provide care for Gladys, service providers frequently arrived mid-morning to find Gladys locked in the room by herself and unable to use the bathroom.

Urgent arrangements were made by the OPG to travel to the regional location where Gladys was living. The day prior to the OPG visit, John and his wife went away on a holiday, leaving Gladys and the children in the care of a young au pair who had no experience caring for a person with dementia. The morning of the OPG visit, a service provider arrived to find Gladys locked in her room and having soiled herself. With no one else at home, an ambulance was called and a decision was made to transport Gladys to the local hospital.

John's powers under the Enduring Power of Attorney were suspended by the Public Guardian, to provide temporary protection for Gladys while the investigation was conducted. During the suspension, the power for financial matters is handled by the Public Trustee of Queensland and the power of personal and health matters is handled by the Public Guardian. The investigation found that John was not managing Gladys' funds appropriately and nor were her care needs being met.

Multiple breaches of the *Powers of Attorney Act 1998* were detected, and so the Public Guardian submitted an application to the Queensland Civil and Administrative Tribunal (QCAT) seeking the appointment of an independent administrator and guardian for Gladys. QCAT appointed the Public Trustee of Queensland as Administrator, with John put in place as guardian for accommodation, health care and service provision for Gladys. QCAT ordered John to report to QCAT on a regular basis in relation to his conduct in this role.

*\*names have been changed*



*Stock image for illustrative purposes only*

## Investigations commenced

In 2016-17, 270 investigations were commenced by the OPG. This represents a 27 per cent increase from 213 investigations commenced in 2015-16. The number of investigations commenced has increased since the OPG's establishment in 2014. This data affirms the importance of maintaining a robust investigation and complaints function to protect vulnerable Queenslanders. As at 30 June 2017, there were 147 active investigations.

## Investigations declined or ceased

OPG may decline to investigate for a number of reasons, such as acquiring evidence that the adult has decision-making capacity, is deceased, or a third party has submitted an application to QCAT in relation to the adult who is the subject of the investigation. Where an investigation is declined, the OPG may have used the investigative power up until the point where the reason to decline the investigation becomes known, at which point there is no jurisdiction to continue.

The majority of declined cases (218) fell under the 'Not meeting investigation guidelines' category (see Table 23, p57). Where an investigation does not meet investigations guidelines, this means the person who initially contacted the OPG raising concerns (the discloser) failed to complete and return the investigations referral form. The completion of this referral form is an important step as it involves the discloser providing information which supports the concerns they

## Improving Maureen's\* health and wellbeing

An elderly woman, Maureen, was reported as allegedly living in squalor with her son Michael who described himself as her carer. It was also alleged Maureen was not receiving basic nutrition, hygiene assistance or health care and was being financially abused.

Maureen was diagnosed with major depression and a mild cognitive impairment. Maureen was considered to have some capacity for making simple decisions but couldn't make complex decisions in most areas of her life.

Public Guardian investigators visited Maureen's unit and found her locked inside with no mobility, surrounded by rubbish and lying on a bed with no clothes. The investigators arranged for a medical team to attend who thought Maureen may never walk again due to her health issues and a broken ankle.

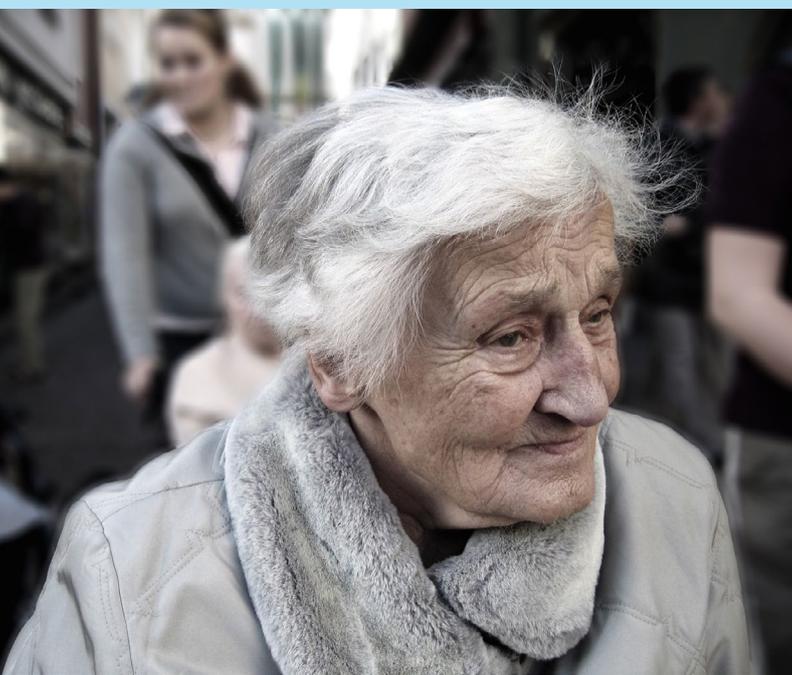
Due to Michael failing to pay the rent and using Maureen's funds inappropriately, he and Maureen were eventually evicted from the unit. Maureen was kept in hospital for an extended stay for rehabilitation and treatment of her health issues.

Maureen has been discharged from hospital and is now able to move with a wheelie walker. Maureen has her own unit in supported accommodation. She does still have to wear a moon boot on each foot but the treating team are hopeful these will come off eventually.

A Public Guardian investigator asked Maureen if she liked her new accommodation. Maureen's comments were: "I love it here and I'm going to give the activities a go even if I'm not good

at craft. I smell nice now I get showered. I can stay cool with air-conditioning. I've got five sets of clothes now and I've never had that before." Although she did say "the TV programs aren't as good here."

The PTQ were appointed under an interim order as administrator for Maureen and have continued to support Maureen in the management of her finances. A QCAT hearing is proceeding for the formal appointment of a guardian and administrator for Maureen. *\*name has been changed*



are raising and justifies the OPG taking the intrusive step of commencing of an investigation. The OPG follows up with each discloser where the referral form has not been returned, to confirm they do not wish to engage further with the OPG investigations function at that time.

**Table 23: Reasons for declining or ceasing investigations**

Not meeting investigation guidelines	218
Adult has capacity	16
Inappropriate referral	12
QCAT order made	8
Adult deceased	2
<b>Total</b>	<b>256</b>

### Reasons for investigation

Most matters investigated related to conduct by a financial attorney under an enduring power of attorney (125 investigations), followed by concerns for other financial matters (35 investigations). A number of investigations included both areas of financial and personal matters (see Table 24).

Since March 2017 the OPG has worked on clarifying the nature of the allegations being investigated and have identified the following categories:

- financial management
- inadequate care
- contact restrictions
- social isolation
- physical abuse
- emotional abuse
- sexual abuse
- verbal abuse
- assault
- neglect
- self-neglect
- decision-maker not acting
- EPOA validity
- testamentary capacity
- NDIS related
- MHA related.
- other.

**Table 24: Decision Maker Type being Investigated (by cases now closed)**

	2014-15	2015-16	2016-17
Financial Administrator - Administrator	7	5	5
Financial Administrator - Attorney	119	106	125
Financial Administrator - Other	23	27	35
	2014-15	2015-16	2016-17
Health Care - Attorney	1	2	2
Health Care - Other	1	1	0
Personal Matters - Attorney	43	29	31
Personal Matters - Guardian	2	1	0
Personal Matters - Other	16	24	30
<b>Total</b>	<b>212</b>	<b>195</b>	<b>228</b>

## Timeframe for investigations

Investigations conducted by the team are varied and can range from simple to complex investigations which can involve multiple stakeholders and sources of information. The Investigations team is focused upon completing investigations in a timely manner, however some circumstances require lengthy investigations to be conducted, in order to ensure a thorough investigation and resolution of the complex matters raised.

During 2016-17, over half of investigations closed (62%) were closed within 6 months or less, 29 per cent of investigations were closed between 6 and 12 months, while 9 per cent of investigations took longer than 12 months to complete (see Table 25).

**Table 25: Investigation duration (months)**

	2014-15		2015-16		2016-17	
<6 months	111	52%	132	68%	141	62%
6-12 months	71	33%	45	23%	67	29%
>12 months	30	14%	18	9%	20	9%
<b>Grand total</b>	<b>212</b>	<b>100%*</b>	<b>195</b>	<b>100%*</b>	<b>228</b>	<b>100%*</b>

*\*Discrepancies may occur due to rounding*

## Investigation closures

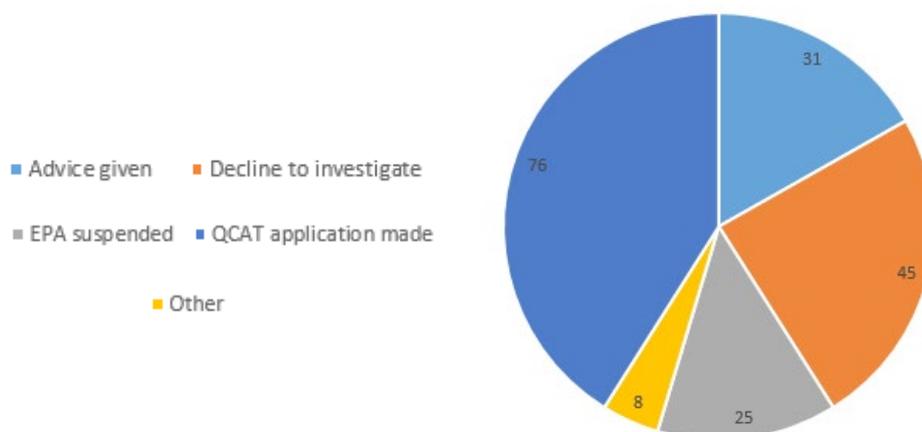
Seventy six investigations were closed on the basis that a QCAT application was made, either by the OPG for the appointment of a guardian and/or administrator, or by a third party (see Table 26). Twenty five of the investigations were closed after the Public Guardian suspended the attorney. The Investigations team ceased to investigate a matter on 38 occasions, primarily as the matter was outside of the investigative powers of the OPG or a preliminary inquiry revealed there were insufficient grounds to proceed with a full investigation.

**Table 26: Reason for closure (Primary and secondary reason)**

	2014-15	2015-16	2016-17
Advice Given\Formal	2	0	15
Advice Given\Informal	23	11	16
Allegation not substantiated	48	56	43
Decline to Investigate\Adult deceased	18	13	12
Decline to Investigate\Adult has capacity	27	27	31
Decline to Investigate\Inappropriate referral	3	0	1
Decline to Investigate\Not meeting investigation guidelines	0	0	1
Decline to Investigate\QCAT order made	4	1	0
EPA Suspended\Financial mismanagement	0	1	3
EPA Suspended\QCAT application\Interim application	0	1	1
EPA Suspended\QCAT application\Normal application	25	18	20
EPA Suspended\QCAT application\Third party application	1	0	1
Other	5	7	8
QCAT application made\Interim	10	14	11
QCAT application made\Normal	22	22	27
QCAT application made\Third Party	23	23	38
Referral made to external agency	1	1	0
<b>Total</b>	<b>212</b>	<b>195</b>	<b>228</b>

On 31 occasions, advice was given to the decision-maker at the conclusion of the investigation. Advice may be provided where it is appropriate for the decision-maker to remain in place but there is a need for some changes to be made in the way they are carrying out their role to ensure compliance with the legislation (see Figure 4).

**Figure 4: Reason for closure (Primary reason)**



The OPG closed 228 investigations during 2016-17. Of these, 44 per cent (100) related to clients who were aged 85 years or over. Adults aged 65 and over accounted for 81 per cent (183) of these investigations (see Table 27).

**Table 27: Age of adult alleged to have been neglected, exploited or abused, or has inappropriate or inadequate decision-making arrangements**

	Number	Percentage
<25	7	3%
25-34	7	3%
35-44	4	2%
45-54	13	6%
55-64	14	6%
65-74	27	12%
75-84	56	25%
>85	100	44%
Total	228	100%*

*\*Discrepancies may occur due to rounding*



## STRATEGIC POLICY

The OPG has a responsibility to promote and protect the rights and interests of adults with impaired decision-making capacity for a matter, relevant children and children staying at a visitable site. As part of this responsibility, the OPG identifies issues relevant to our clients and advocates for reform. This includes preparing strategic policy submissions on matters which may impact the OPG's functions, and identifying and advocating for resolution of high level issues common to OPG clients.

Our policy priorities include:

- advocating for the rights of clients detained in forensic mental health and disability facilities
- highlighting barriers for clients living with psychosocial disabilities or who have a dual diagnosis of intellectual disability and mental illness in accessing and transitioning into the NDIS and their advocacy needs
- issues relating to elder abuse
- regulation of the use of restrictive practices for children and young people
- reform more generally in the area of restrictive practices.

During the past financial year, the OPG has worked closely on policy and legislative issues with the Queensland and Commonwealth governments, and other stakeholders on a range of matters.

### Submissions during 2016-17

- Submission to the Department of Housing and Public Works on the future directions for housing and homelessness in Queensland (July 2016)
- Submission to the Australian Law Reform Commission Issues Paper on Elder Abuse (August 2016)
- Submission to the Queensland Family and Child Commission on the Review of the Foster Care System discussion paper (December 2016)
- Submission to the Department of Communities, Child Safety and Disability Services on *The next chapter in child protection legislation for Queensland: Options paper* (January 2017)
- Submission to the Australian Law Reform Commission on *Elder Abuse Discussion Paper 83* (March 2017)
- Submission to the Joint Standing Committee on the NDIS inquiry into the provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition (March 2017).

The OPG has also actively contributed to Queensland and Commonwealth government consultations and provided feedback on a number of matters affecting our clients during the past financial year, including:

- *Adoption Act 2009* review
- *Child Protection Act 1999* review
- Commonwealth Aged Care Legislative Review
- Commonwealth consultations on aged care quality standards and framework
- *Criminal Law (Historical Homosexual Convictions Expungement) Bill 2017*
- Easy English National Standards of Public Guardianship
- *Forensic Disability Act 2011* review
- *Guardianship and Administration Act 2000* review
- National Disability Insurance Scheme Mainstream Interface Working Arrangements
- National Disability Insurance Scheme Quality and Safeguards Framework
- National Disability Insurance Scheme Queensland legislative review
- National Disability Insurance Scheme (Supports for Participants) Rules 2013
- National Standards of Public Guardianship
- Office of the Public Advocate paper, *Legal frameworks for the use of restrictive practices in residential aged care: An analysis of Australian and international jurisdictions*
- Queensland consultation on a new state disability plan, *Towards an all abilities Queensland*
- Queensland Family and Child Commission Blue Card and Foster Care Systems Review
- Queensland Family and Child Commission information kit, *Finding out about child protection in Queensland*
- Queensland Family and Child Commission Recommendation 28 Supplementary Review
- Queensland Review of Youth Detention Centres
- Queensland working group for the Commonwealth ratification and implementation of the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*
- Queensland Youth Strategy
- State Penalties Enforcement Registry Work and Development Orders project.

The OPG routinely works with government and non-government agencies and consults with internal and external stakeholders to inform our work and share our knowledge and learnings.

## COMMUNICATIONS AND ENGAGEMENT

One of the objectives of the OPG is to increase public awareness of our functions, legislation and the need for, and responsibilities that come with, enduring documents. In delivering on this objective, the OPG maintains a comprehensive communications plan to profile issues of importance for the Public Guardian, and an active engagement program delivering educational sessions to the public.

### In the media

The OPG recognises that the media plays an important role in increasing awareness and understanding of the functions and responsibilities of the Public Guardian, and can also provide a platform for bringing issues of importance to the public and assisting in the advocacy role that the office plays. The OPG endeavours to engage with, and be responsive to, the media concerning issues of public interest which fall within the Public Guardian's responsibilities.

During the year:

- nine proactive media releases were distributed to Queensland media outlets
- three interviews were held with radio stations (ABC Radio National and ABC Radio Hobart)
- 38 stories about OPG were published/broadcast (26% as a direct result of the distribution of proactive media releases).

Issues focused on by the Public Guardian in 2016-17 included:

- alleged abuse in youth detention centres
- supporting the Public Advocate's call for greater regulation of the use of restraints and restrictive practices in aged-care facilities to prevent elder abuse
- highlighting the criticality of advocacy-support to the human rights of many people entering the NDIS
- raising concern about the lack of regulation of chemical restraints used for children and young people in care.

### Community education

The OPG is committed to educating and advising the public about its operations, the role and function of community visitors and child advocates, how the guardianship system works, and how to plan for the future in the event that a person is unable to make decisions about their life. This includes educating service providers and the general public by conducting education sessions for government and non-government

agencies, child advocacy groups, attending disability and aged care expos, and making presentations at educational institutions, hospitals and accommodation facilities.

Resources are continually reviewed or developed to provide as handouts to participants, with some of the materials developed in 2016-17 including:

- presentation handouts
- resource kits
- factsheets
- training schedules
- statistical data.

During 2016-17, the OPG conducted 134 presentations to the community. The child protection (27%), health (15%) and disability (14%) sectors were the largest sectors targeted. The child sector includes community engagement events that were provided to foster carers, service providers and stakeholders from the Department of Communities, Child Safety and Disability Services (the Department), CREATE Foundation and numerous other non-government organisations supporting children and young people in care. Community engagement events had a combined audience of 6,549 people.

OPG participated in many community expos and forums throughout Queensland, including NAIDOC's Musgrave Park family fun day, Carers Queensland Expo in Roma, the Fresh Futures Market in Ipswich, the 2016 Australian STOP Domestic Violence Conference, Zillmere Community Expo, Older Safer Wiser Forum in Bribie Island, ADA's Human Rights and Social Justice Conference, and the NDIS Provider Expo in Townsville.

During 2016-17, OPG staff also took part in a wide variety of community education events across the state.

The Communication and Engagement team assisted in coordinating activities associated with the development and delivery of training programs to stakeholders. For example, information training sessions and forums for Justices of the Peace and Commissioners for Declarations provided information and guidance about witnessing legal enduring documents, such as Enduring Powers of Attorney and Advance Health Directives. The OPG also participated in a variety of public exhibitions and events, providing information to the community about the OPG's role in the child protection system, guardianship and personal planning for the future. At these events, the OPG had the opportunity to reach a vast number of people from a variety of cultural backgrounds, and answer a variety of questions about the roles and functions of the OPG.

The OPG also facilitated information sessions to a

number of services who have clients who are subject to restrictive practices, and are required to develop positive behaviour support plans. Under the *Disability Services Act 2006* and the *Guardianship and Administration Act 2000*, the OPG plays an important role in regulating and monitoring the application of restrictive practices to persons with impaired decision-making capacity. The OPG worked closely with a number of services who use restrictive practices with their clients, to help them understand the legislative requirements and ensure that these requirements were being met.

There was also significant engagement with hospitals and health services in 2016-17. The OPG health care team visited several hospitals and health services within Queensland. During the year they have provided medical and allied health practitioners with information on medical and health care decision-making issues for patients with impaired decision-making capacity, and provided education on the implications of guardianship laws for health practitioners.

The Public Guardian also personally provided numerous education sessions to Mental Health Review Tribunal members, the medical profession, disability service providers and the Department of Communities, Child Safety and Disability Services.

### Regional Queensland

In 2016–17 we used a range of community education sessions and information channels to reach those in regional areas.

We delivered information sessions to, and participated in expos with:

- Participated in the CREATE Speak Up Panel in Rockhampton
- Delivered an information session to the Department of Housing and Public Works – Toowoomba Housing Service Centre.
- Participated in the CREATE Transition to Independence Launch in Townsville
- Delivered a conference presentation and participated in an expo at James Cook University Townsville
- Provided an information session to Marabidja in Mackay

### Our work with others

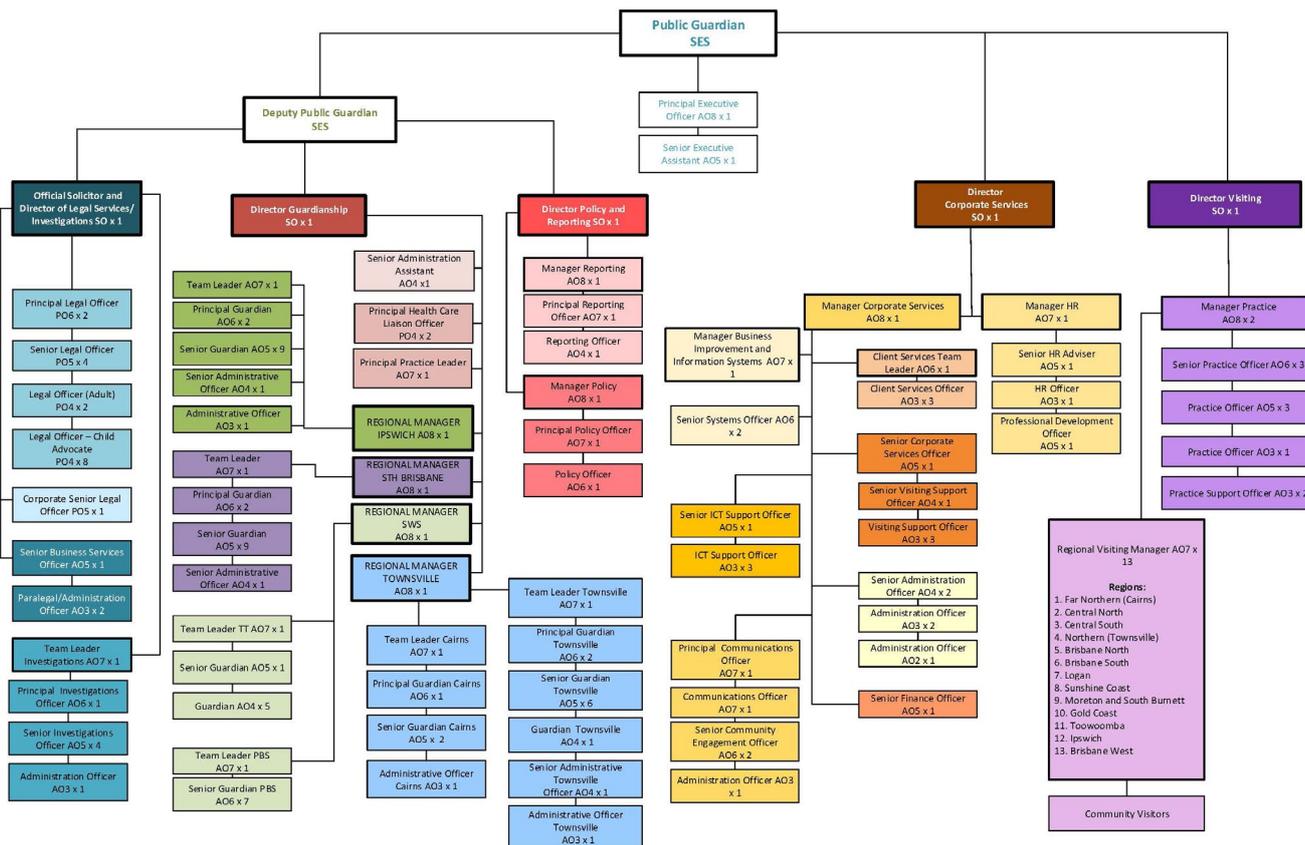
The Office of the Public Guardian is involved with a range of networks and committees including:

- Regional Child and Family Committees
- Cherbourg Interagency Network
- The Australian Children’s Commissioners and Guardians Network
- G Force Participation Committee
- Interdepartmental interpreter working group
- Our Child Governance group
- Aboriginal and Torres Strait Islander Child Protection Service Reform Group
- Victim Services Interagency Organisation Network
- Missing Children Strategic Oversight Advisory Group
- NDIS network meeting
- Youth Advisory Group (Create foundation)
- SCAN Review Senior Executive Advisory network
- National Community Visitors network
- Joint Agency Steering Committee
- Queensland Family and Children’s Commission Community of Practice meetings
- Elder Abuse Prevention Unit Reference Group
- Queensland Law Society – Elder Law Committee
- Enduring Power of Attorney Reference Group
- Interagency Child Protection Symposium Working Group
- Children’s Court Committee
- Cleveland Youth Detention Centre Resident Consultative Committee meeting
- Australian Guardianship and Administration Council
- Older Safer Wiser (Queensland Police Service) Working Group
- Queensland Law Society – Advance Care Planning Working Group
- Queensland Law Society Health and Disability Law Committee
- Queensland Carers Advisory Council

## OUR ORGANISATION

### Organisational structure

The OPG’s structure as at 30 June 2017 was comprised of 310 people. The full-time equivalent (FTE) for OPG was 211.36. The structure is made up of both public servants appointed under the *Public Service Act 2008* and home based casual community visitors who are appointed under the provisions of the *Public Guardian Act 2014*. The Office’s workforce is 80 per cent female and 20 per cent male with 7.3 per cent of the Office’s workforce engaged on a part-time basis.



### OPG Leadership

#### Public Guardian



- Natalie Siegel-Brown is the Queensland Public Guardian, an independent statutory appointment, and also operates as CEO of the Office of the Public Guardian

#### Deputy Public Guardian



- Shayna Smith is the Deputy Public Guardian.

The OPG has five business areas who work under the leadership of the Public Guardian and Deputy Public Guardian.

### Visiting



- Led by Jonty Bush, Director Visiting
- Has eight regional offices located in Brisbane, Ipswich, Toowoomba, Sunshine Coast, Rockhampton, Bundaberg, Cairns and Townsville
- Comprises 157 staff, including Queensland's state wide Community Visitor Program with 135 community visitors and 13 Regional Visiting Managers, executing visits to nearly 13,000 individuals throughout Queensland
- Responsible for protecting the rights and interests of adults residing at a 'visitable site', and children and young people in care.
- Community visitors conduct regular visits and make robust and probative inquiries into the standard and adequacy of services being provided to persons experiencing vulnerability in accordance with functions outlined in the *Public Guardian Act 2014* and the policies and procedures of the OPG
- Community visitors also play a critical role in the identification and referral of formal complaints to relevant agencies, ensuring greater visibility and oversight

### Guardianship



- Led by Amelia Barker, Director Guardianship
- Comprises 78 staff
- Has four regional offices located in Brisbane, Ipswich, Townsville and Cairns
- Delivers guardianship services to around 3,100 adults across the State for whom the Public Guardian has been appointed as substitute decision maker
- Encompasses Health Care, Positive Behaviour Support Team and QCAT (pre-advocacy team)
- The primary role is to act as substitute decision-maker for personal matters on behalf of adults with impaired decision-making capacity under an order of the Queensland Civil and Administrative Tribunal (QCAT) or an enduring appointment
- Guardians are required to make healthcare decisions as guardian, attorney or statutory health attorney of last report—both in and out of business hours.

### Official Solicitor, Legal Services/Investigations



- Led by Catherine Moynihan, Official Solicitor and Director of Legal Services/Investigations
- Comprises 24 staff
- Corporate and Legal Practice Team provides legal services to the Public Guardian and her delegates
- Children and Young People Team performs child advocacy functions for approximately 330 children and young people in the child protection system
- Adult Team advocate and make decisions as delegate guardians for legal decisions in legal matters for approximately 260 adults
- Investigations investigates decision-making arrangements for approximately 150 adults with impairments



### Corporate Services

- Led by Brian Norman, Director Corporate Services
- Comprises 32 staff
- Provides business support to front line staff and the executive management team
- Encompasses Information Technology, Communications and Engagement, Finance, Human Resources, Visiting Support, Client Services and Corporate Administration.



### Policy and Reporting

- Led by Marion Byrne, Acting Director Policy and Reporting
- Comprises 6 staff
- Provides strategic and organisational advice and services relating to the Public Guardian's statutory functions and powers

## We are committed to being a child and vulnerable person safe place

The Office of the Public Guardian is committed to the safety of children and vulnerable people. We want children and vulnerable people to be safe, happy and empowered. We support and respect all children and vulnerable people, as well as our staff. We are committed to the safety, participation and empowerment of all children and vulnerable people.

We have zero tolerance for abuse of children and vulnerable people, and all allegations and safety concerns will be treated very seriously and consistently with our robust policies and procedures. We are committed to promoting cultural safety for children and vulnerable people from culturally and/or linguistically diverse backgrounds, including those of Aboriginal and Torres Strait Islander descent, and to providing a safe environment for those with a disability.

We will:

- be preventative rather than reacting to incidents after they occur
- have clear boundaries and guidelines set for the behaviour of all staff, stakeholders and clients, with a clearly stated zero tolerance of abuse and harm
- be open to people outside the organisation raising questions, comments and concerns
- have disciplinary processes and grievance procedures in place
- have rigorous recruitment strategies, supervision and ongoing training and education
- provide support and guidance to clients, families and staff when concerns are expressed.

## Corporate governance

The OPG's corporate governance framework guides the way we manage our business, minimise our risks and meet our legislative obligations. The OPG follows the DJAG corporate governance framework in relation to business planning, work health and safety, risk and disaster management. Internally OPG has implemented several committees to ensure corporate governance requirements are met. Including:

- Professional development working group
- Information Communication Technology (ICT) business partnerships committee
- Human Resource management working group
- Policy and Procedure working party

## Strategic planning

The OPG Strategic Plan is reviewed annually and describes our vision, objectives, strategies and performance indicators. The plan informs the development of our business plan, which details the activities we need to undertake to achieve our strategic objectives.

## Mandatory online reporting

Information on our use of interpreters, consultants engaged by the OPG and any overseas travel undertaken is published through the Queensland Government's Open Data website – visit [qld.gov.au/data](http://qld.gov.au/data).

## Employee Relations

OPG Industrial and employee relations framework is governed by existing Department of Justice and Attorney General (DJAG) workforce policy and procedure. The OPG ensures compliance with these policies and procedures and also maintains contemporary knowledge through forums such as:

- Public Service Commission (PSC) Community of Practice
- Office of Industrial Relations (OIR) information sessions
- DJAG Community of HR practitioners

## Workforce diversity

The OPG respects, and is supportive of, diversity and equity in the workplace and the need to reflect the community it serves. The OPG continued to work with staff to ensure they interact respectfully and competently with people from all cultural backgrounds. The OPG is an Equal Employment Opportunity (EEO) employer that aims to employ a workforce more representative of the wider community.

## Code of conduct and ethics

Staff of the OPG are required to make ethical decisions, be accountable for their actions and demonstrate integrity.

The OPG is also committed to maintaining a positive organisational culture that values and promotes ethical leadership and strong ethical decision-making.

All employees are required to observe the Queensland Public Service Code of Conduct. The ethics principles and values contained in the Code of Conduct are incorporated into the OPG policies and procedures as well as each employee's performance plan. All new employees undertake ethics and code of conduct training as part of their mandatory induction. Existing employees are required to undertake annual code of conduct refresher training.

## Workplace health and safety

The management and staff of the OPG are committed to providing and maintaining a safe, healthy and supportive work environment at all times. Information about health and wellbeing is regularly communicated to staff members who are required to actively participate in consultation and communication with supervisors and management regarding health, safety and wellbeing issues.

The OPG continues to have a low level of workplace accidents with only two WorkCover claims being lodged in 2016–17. The OPG works closely with collocated agencies at all our office locations to improve workplace health and safety in shared areas of each building.

### Risk management

Risk Management is an integral part of strategic and business planning, and the everyday activities of the OPG. The OPG is committed to the implementation of risk management strategies that ensure efficiency and effectiveness in meeting the OPG's objectives, while at the same time providing a safe and healthy workplace for staff. The OPG has statutory responsibility for ensuring appropriate risk management and mitigation processes are in place. Our risk management framework assists in achieving consistent risk management practices across the organisation. In applying risk management principles, it is expected that staff of the OPG at all levels will:

- minimise the OPG's vulnerability to both internal and external threats
- maximise opportunities to enhance service delivery and create value
- contribute to effective corporate governance by supporting the flow of timely and effective information to and from key decision makers.

### Business continuity management

The OPG maintains business continuity plans (BCPs) including a current risk management framework which enables us to perform the following during a business interruption due to a disaster or crisis event:

- manage the immediate impacts of a business interruption;
- deliver critical services to the community before full service resumes; and
- resume business to pre-incident capacity, where possible

The OPG business continuity management is governed by existing DJAG guidelines.

### Information systems and record keeping

The OPG is committed to managing its records effectively and meeting its recordkeeping responsibilities under the *Public Records Act 2002* and other legal and administrative requirements.

The OPG has an obligation to create, maintain, preserve and dispose of records in compliance with legislation, policies and standards. The OPG also complies with the Queensland State Archives General Retention and Disposal Schedule.

The OPG has clear processes and staff training sessions around:

- creating and capturing records
- finding, using and sharing records
- storing and securing records
- keeping, archiving and destroying records.

### Right to information and the protection of personal information

Consistent with the *Right to Information Act 2009* and *Information Privacy Act 2009*, the OPG provides access to information unless, on balance, it is contrary to the public interest to provide the information. To assist staff in understanding and discharging their obligations extensive training is provided in both RTI and IP principles.

In relation to records held by the OPG, legislation determines the actions of this office:

- *Public Guardian Act 2014* s142 outlines some of the matters the Public Guardian must take into consideration in determining whether or not to release confidential information.
- *Right to Information Act 2009*: Schedule 2, Part 2 (10) of the RTI Act provides that information obtained by the investigation function of the Public Guardian is exempt from the RTI Act, while Schedule 4 sets out additional factors to be considered when determining the public interest.

*Guardianship and Administration Act 2000* s249 (3) outlines the protected use of confidential information. The Public Guardian has the discretion to release confidential information if it is considered that the release of information is necessary and reasonable in the public interest. The *Public Guardian Act 2014* s140 (4) outlines the ways in which a person may make a record of confidential information or disclose it to someone else.

In 2016–17, the OPG participated in Privacy Awareness Week and Right to Information Day. The OPG also publishes a publication scheme and disclosure log on our website.

## OUR PEOPLE

### Our commitment to addressing domestic and family violence

OPG is strongly committed to the safety, health and wellbeing of its people. It is recognised that employees sometimes face difficult situations in their work and personal life, such as domestic and family violence (DFV), that may affect their attendance, performance at work or safety.

All OPG staff are committed to making OPG a safe place to work. DFV is unacceptable in any setting, including the workplace. Any OPG employee who perpetrates violence and abuse from the workplace, including by telephone, fax, mail, email, internet or social media will be subject to disciplinary action. All employees have a responsibility to model the public service values, which includes behaving in a way that promotes a work environment free from any form of violence and supporting those who are affected by DFV. Fostering a workplace culture where employees affected by DFV are supported in the workplace, contributes to a healthy and safe working environment for all Australians. Activities undertaken by OPG to help provide a supportive workplace included:

- Regular all staff communication – OPG’s Commitment to supporting its staff and clients
- Submission to Australian Law Reform Commission on Elder Abuse
- Media release Elder Abuse - End the unregulated use of restraints and other restrictive practices in aged care facilities.
- OPG has representation on the White Ribbon Accreditation working group
- OPG participation Law Right Legal Walk 2017 right across QLD – let’s walk to support the Not Now, Not Ever campaign
- Mandatory training in Preventing, Recognising and Responding to Violence Training for Managers/Supervisors and HR
- High staff participation in Recognise, Respond, Refer evolve training
- Staff participation in Australia’s CEO Challenge domestic and family violence training program
- Staff newsletters

### Workforce planning, attraction and retention

The OPG recognises the importance of being an employer of choice, and this will continue in 2017-18 by placing a strong focus on attracting and retaining a skilled and diverse workforce. The OPG supports staff to achieve a quality work life balance through the management of a flexible work environment.

The OPG Human Resource area provides strategic and operational direction on human resource and workforce management issues to help maximise the capability of the workforce and oversees safe and supportive workplaces to achieve the goals of the OPG.

During 2016–17 the HR team has continued to progress the priorities identified in the strategic plan in relation to our workforce, including further developing our cultural capability and ensuring appropriate and relevant onboarding and training, for both office based and remote workers.

OPG workforce policy and procedure is governed by policies of the Department of Justice and Attorney General.

No redundancy, early retirement or retrenchment packages were paid during the year.

### Training and professional development

The OPG is committed to developing and maintaining capability for staff to ensure services are delivered efficiently and effectively. In 2016-17, a strong focus was placed on the development and delivery of both broad mandatory professional development, onboarding of new starters and targeted skills-based professional development. OPG staff continued to be supported to complete further studies through the SARAS program and qualifications available through the State Government Departments Certified Agreement.

## Performance management

The OPG is committed to maximising every employee's ability and opportunity to contribute to excellent conduct, high performance and workplace culture that reflects the Public Service Values of:

- Customers first
- Ideas into action
- Unleash potential
- Be courageous
- Empower people.

Central to this commitment is effective and appropriate performance management and development of employees, which ensures a culture where supervisors/managers and employees are accountable for their performance. It is also important that outstanding performance is recognised and valued. Performance management makes sure everyone is on the same page about what is needed to achieve in our roles. It is also about recognising individual and team contribution and commitment. All staff at OPG have Expectations Agreements, which are confidential agreements between a staff member and their supervisor that details:

- performance objectives (which are measurable)
- standards of output and behaviour
- development needs
- career aspirations and/or retirement intentions and
- wellbeing and work life balance needs.

An Expectations Agreement also provides a basis for regular on-going conversations and feedback.

## Work/life balance

### Flexible working arrangements

To help our people balance work, family commitments and outside interests we offer flexible working arrangements such as accrued time, purchased leave, paid maternity leave, and part-time work arrangements.

We also offer scheduled fitness sessions for staff.

### Employee assistance program

As part of its commitment to a vision of healthy people working in safe and supportive environments, staff at the OPG continued to have free access to Optum's Employee Assistance Program, a confidential counselling service for them and their families.

Optum provides:

- free, professional, confidential counselling for employees and their immediate family members
- manager support and advice (manager hotline)
- crisis response services following potentially traumatic events related to work.

## Communicating with staff

With staff located across Queensland, keeping staff informed is a high priority for the OPG. A number of initiatives were undertaken in 2016-17 to improve communication with staff.

Case studies and stories of success are shared by the Public Guardian with all staff on a regular basis, in addition to all-staff emails regarding operational changes when necessary. An all staff newsletter is produced monthly, allowing the business areas to update staff on things that have happened in the past month, new policies and practice directions, health and safety initiatives and case studies. A Community Visitor Update is also sent to the community visitor workforce, providing information and updates on issues specific to this group.

This year, improvements were made to the OPG intranet to encourage and support staff to access information online from a central source. Improvements include restructuring content, simplifying the number of pages and changing the default OPG web browser home page to the OPG intranet.

## Community involvement

Our staff are dedicated to helping the community both personally and professionally. In 2016–17 we supported:

- Vinnies CEO Sleepout
- Day for Daniel
- Pyjama Day
- Animal Welfare League
- Share the Dignity
- RSPCA
- Sane
- Christmas drive for CREATE and GIVIT
- Australia's Biggest Morning Tea for Cancer Council
- Childhood Cancer Awareness Month for the Children's Hospital Foundation and Queensland Tumour Bank
- Movember for men's health issues, such as prostate cancer, testicular cancer and men's suicide.

## FINANCIAL PERFORMANCE

The Office of the Public Guardian is not a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982* or the *Financial Accountability Act 2009*.

Funding for the office is appropriated from Queensland Government as part of the appropriation for the Department of Justice and Attorney-General (DJAG), with the Director-General of DJAG being the accountable officer pursuant to the *Financial Accountability Act 2009*.

In addition to the DJAG appropriation, the Public Trustee of Queensland makes an annual grant towards the operating costs of the OPG.

Comprehensive financial details relating to the operations of the office are reported in the annual report for DJAG.

The summary below provides an overview of OPG's financial performance for 2016-17.

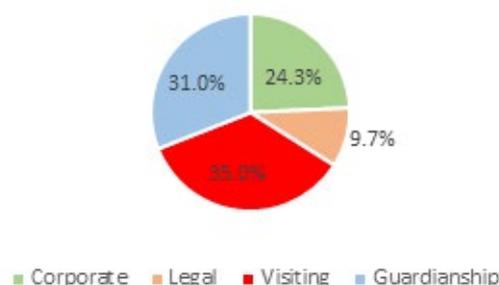
### Overview of financial performance

<b>Income and Expenditure 2016-17</b>	
Income from Continuing Operations	
Appropriation	25,011
Public Trustee Grant	1,132
Total Income from Continuing Operations	26,143
Expenses from Continuing Operations	
Employee expenses	22,379
Supplies and services	3,435
Grants and subsidies	5
Depreciation and amortisation	324
Other expenses	-
Total expenses from continuing operations	26,143
<b>Operating Result from Continuing Operations – Surplus / (Deficit)</b>	<b>Nil</b>

### Expenditure

In 2016-17 the OPG spent \$26,143,545 on its services. The largest operational expenditure areas in 2016-17 were Visiting Services and Guardianship Services.

<b>Expenditure 2016-17</b>	
Area of operation	
Visiting services	9,153,239
Guardianship services	8,100,889
Corporate services	6,346,062
Legal services	2,543,355
Total	26,143,545





## APPENDIX 1: POLICIES AND PRACTICE DIRECTIONS DEVELOPED IN 2016-17

Document name	Policy/practice direction	Date approved
<b>All staff (Operational)</b>		
Distributing legal advice from Legal Services	Practice Direction	01/12/16
Internal information sharing between OPG service delivery areas	Policy	01/12/16
Language services	Policy	28/02/17
Language services - Booking an interpreter	Practice Direction	28/02/17
Language services - Working with interpreters	Practice Direction	28/02/17
Media Engagement	Policy	07/04/17
Media Enquiry Form	Practice Direction	07/04/17
Media Issues and Crisis Management	Policy	07/04/17
Mental Health Review Tribunal for Review of Forensic Orders and Applications for Electro Convulsive Therapy	Practice Direction	01/05/17
Requests for legal advice from OPG Legal Services	Policy	01/12/16
Requests for legal advice from OPG Legal Services	Form	01/12/16
Responding to external requests for confidential client information	Policy	01/12/16
Responding to high priority external requests	Practice Direction	01/12/16
Working with nonverbal clients	Policy	01/06/17
<b>All staff (Human Resources)</b>		
Critical client incident	Practice Direction	01/12/16
Critical incident form	Practice Direction	01/12/16
Legal Advice from Crown Law on HR matters	Practice Direction	01/12/16
<b>Community Visitor Program</b>		
Alternative ways for CV's (child) to perform the Public Guardian's functions	Practice Direction	01/04/17
Assigning and responding to unallocated visitable locations	Practice Direction	31/01/17
Briefing the Public Guardian on significant client matters	Practice Direction	01/12/16
Community Visitor Consent Acknowledgement Books and Forms	Policy	01/02/17
Community Visitor Consent Acknowledgement Books and Forms	Practice Direction	01/02/17
Community Visitor Practice Framework	Framework	01/10/16
Community Visitor Visiting Notebooks	Policy	21/05/17
Community Visitor Visiting Notebooks	Practice Direction	01/02/17
Completing child visit reports and issues	Practice Direction	23/02/17
Legal Services Children and Young People Team File Precedents	Practice Direction	30/06/17
Responding to deaths in care	Practice Direction	31/01/17
Responding to unexecuted visits	Practice Direction	31/01/17
Responding when a child or consumer is absent or missing	Practice Direction	01/12/16
Visiting Frequency Risk Matrix (Child)	Practice Direction	12/01/17
<b>Guardianship</b>		
Accepting appointments as nominated support person under the <i>Mental Health Act 2016</i>	Policy	06/03/17
Attendance at stakeholder meetings	Practice Direction	01/05/17
Client action plan	Practice Direction	01/06/17
Client alerts in Resolve	Practice Direction	01/06/17
Conducting Guardianship client visits	Policy	29/03/17
Conducting Guardianship client visits	Practice Direction	29/03/17

Document name	Policy/practice direction	Date approved
Consent to mental health treatment and care by the Public Guardian	Policy	05/03/17
File closure upon death of a client	Practice Direction	27/03/17
General guideline for requests for consents for pap smears	Practice Direction	16/02/17
Guardianship clients accessing NDIS	Practice Direction	01/06/17
Guardianship Priority Rating Tool – Guide	Practice Direction	04/05/17
NDIS support service agreements	Policy	05/06/17
<b>Health care</b>		
Accepting appointments as nominated support person under the <i>Mental Health Act 2016</i>	Policy	06/03/17
Conducting Guardianship client visits	Policy	29/03/17
Conducting Guardianship client visits	Practice Direction	29/03/17
Consent to mental health treatment and care by the Public Guardian	Policy	05/03/17
File closure upon death of a client	Practice Direction	27/03/17
General guideline for requests for consents for pap smears	Practice Direction	16/02/17
<b>Legal</b>		
Accepting appointments as nominated support person under the <i>Mental Health Act 2016</i>	Policy	06/03/17
Adult Team File Precedents	Practice Direction	27/02/17
Conducting Guardianship client visits	Policy	29/03/17
Conducting Guardianship client visits	Practice Direction	29/03/17
Conflict of duty and competing interests matters	Policy	01/10/16
Conflict of duty and competing interests matters	Practice Direction	01/10/16
Consent to mental health treatment and care by the Public Guardian	Practice Direction	05/03/17
File closure upon death of a client	Practice Direction	27/03/17
Legal Services Children and Young People Team File Precedents	Practice Direction	30/06/17
OPG Legal Services Professional supervision framework	Framework	05/10/16
Responding when a child or consumer is absent or missing	Practice Direction	01/12/16



## APPENDIX 2: ISSUE TYPE BREAKDOWN

Contact arrangements						
	2014-15		2015-16		2016-17	
Parents	981	40%	1104	45%	1610	43%
Siblings	521	22%	492	20%	767	20%
Child Safety Officer	505	21%	437	18%	704	19%
Extended family	288	12%	310	13%	444	12%
Others	128	5%	132	5%	245	6%
<b>Total</b>	<b>2423</b>	<b>100%</b>	<b>2475</b>	<b>100%</b>	<b>3770</b>	<b>100%*</b>

Placement						
	2014-15		2015-16		2016-17	
Conditions	590	33%	627	34%	906	32%
Decision-making	414	23%	466	25%	677	24%
Suitability	437	25%	383	21%	651	23%
Stability	258	15%	286	16%	474	17%
Others	79	4%	78	4%	153	5%
<b>Total</b>	<b>1778</b>	<b>100%*</b>	<b>1840</b>	<b>100%*</b>	<b>2861</b>	<b>100%*</b>

Health needs						
	2014-15		2015-16		2016-17	
Medical	566	54%	572	59%	909	55%
Mental health	228	22%	167	17%	401	24%
Dental	168	16%	124	13%	189	12%
Sexual health	67	6%	91	9%	97	6%
Decision-making	13	1%	14	1%	45	3%
<b>Total</b>	<b>1042</b>	<b>100%*</b>	<b>968</b>	<b>100%*</b>	<b>1641</b>	<b>100%*</b>

Education needs						
	2014-15		2015-16		2016-17	
Services, support	453	47%	369	42%	642	42%
Education support plan	229	24%	208	24%	380	25%
Attendance	79	8%	82	9%	160	11%
Bullying	83	9%	64	7%	111	7%
Others	130	13%	147	17%	225	15%
<b>Total</b>	<b>974</b>	<b>100%*</b>	<b>870</b>	<b>100%*</b>	<b>1518</b>	<b>100%*</b>

Case plans						
	2014-15		2015-16		2016-17	
Plan content	139	26%	144	25%	1021	55%
Not specified	59	11%	126	22%	270	15%
No case plan	66	13%	88	15%	212	11%
Review process, timeframe	128	24%	130	23%	191	10%
Others	133	25%	81	14%	156	8%
<b>Total</b>	<b>525</b>	<b>100%*</b>	<b>569</b>	<b>100%*</b>	<b>1850</b>	<b>100%*</b>

\*Discrepancies may occur due to rounding

## APPENDIX 3: HEALTH CARE PRINCIPLE

Anyone who exercises a function or power under the *Guardianship and Administration Act 2000* in relation to a health matter must apply the Health Care Principle (Schedule 1, Part 2)

### Health care principle

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 public 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 wellbeing; 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 rights—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 public guardian, tribunal or other entity must, to the greatest extent practicable—
  - (a) seek the adult's views and wishes and take them into account; and
  - (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.



## APPENDIX 4: LIST OF TABLES

Table number	Table name	Page
Table 1	Office of the Public Guardian Service standards	11
Table 2	Number of visitable locations	21
Table 3	Number of visitable children and young people (as at 30 June 2017) by visiting frequency across all sites	22
Table 4	Primary issues closed (refer Appendix 2 for issue breakdown)	24
Table 5	Issues raised by 17-year-olds in adult prisons with community visitors	25
Table 6	Issues raised in youth detention centres with community visitors	25
Table 7	Age of children and young people with a disability	26
Table 8	Aboriginal and Torres Strait Islander children visited by zone	27
Table 9	Issues identified on behalf of adults at visitable sites	29
Table 10	Number of sites by service sector	29
Table 11	Number of sites per sector	30
Table 12	Number of children and young people appointed Child Advocate–Legal Officers	37
Table 13	Representation of Aboriginal and Torres Strait Islander children and young people	37
Table 14	Child Advocate–Legal Officer activity	38
Table 15	Issues closed by Child Advocate–Legal Officers	38
Table 16	Types of adult legal cases	41
Table 17	Guardianship client figures	44
Table 18	Appointment type	44
Table 19	Clients by primary disability	45
Table 20	Clients with primary and secondary disability	45
Table 21	Reason for health care consent	50
Table 22	Health care consents under decision-making authority	50
Table 23	Reasons for declining or ceasing investigations	57
Table 24	Decision Maker Type being Investigated (by cases now closed)	57
Table 25	Investigation duration (months)	58
Table 26	Reason for closure (Primary and secondary reason)	58
Table 27	Age of adult alleged to have been neglected, exploited or abused, or has inappropriate or inadequate decision-making arrangements	59
<b>Figures</b>		
Figure 1	Themes of issues raised in authorised mental health services	26
Figure 2	Breakdown of visit types	28
Figure 3	Closed cases	37
Figure 4	Reason for closure (Primary reason)	59

## APPENDIX 5: GLOSSARY

### Decision-making capacity

The ability to make decisions for oneself. A person has capacity when they can go through the process of making their own decisions by:

- understanding the nature and effect of the decision
- freely and voluntarily making a decision
- communicating the decision in some way.

If a person is unable to follow this process and make their own decisions, that person is said to lack capacity.

### Guardianship

May be needed if a person with impaired decision-making capacity cannot make reasonable judgements about their own personal and lifestyle affairs, such as where they will live, and there are concerns about the decisions they are making, or others are making for them.

### Locally resolvable issue

Concerns or grievances raised by community visitors or Child Advocate – Legal Officers that can be managed routinely, including requests for service.

### Visitable location

Either a visitable home or visitable site.

### Visitable home

When a child who is in the custody or guardianship of the chief executive (child safety) is placed in the care of someone other than a parent or other accommodation.

### Visitable site

A residential facility, a detention centre, a boot camp, a corrective services facility or an authorised mental health facility where a child is staying.

### Visiting schedule

In order for the Public Guardian to be highly responsive to the individual needs of children whilst operating effectively to meet its legislative functions, flexible visiting schedules can be implemented. The visiting frequency for children will be determined by the Regional Visiting Manager in consultation with the community visitor.



## APPENDIX 6: COMPLIANCE CHECKLIST

Summary of requirement		Basis of requirement	Annual report reference
Letter of complainece	A letter of compliance from the accountable officer or statutory body to the relevant Minster/s	ARRs - section 7	p2
Accessibility	Table of contents	ARRs – section 9.1	p4
	Public availability	ARRs – section 9.2	p2
	Interpreter service statement	Queensland Government Language Services Policy ARRs – section 9.3	p2
	Copyright notice	Copyright Act 1968 ARRs – section 9.4	p2
	Information licensing	QGEA – Information Licensing ARRs – section 9.5	p2
General information	Introductory information	ARRs – section 10.1	p5
	Agency role and main functions	ARRs – section 10.2	p6
	Operating environment	ARRs – section 10.3	p8
Non-financial performance	Government’s objectives for the community	ARRs – section 11.1	p9
	Other whole-of-government plans / specific initiatives	ARRs – section 11.2	N/A
	Agency objectives and performance indicators	ARRs – section 11.3	p11
	Agency service areas and service standards	ARRs – section 11.4	p11
Financial performance	Summary of financial performance	ARRs – section 12.1	p69
Governance - management and structure	Organisational structure	ARRs – section 13.1	p63
	Executive management	ARRs – section 13.2	p63
	Government bodies (statutory bodies and other entities)	ARRs section – 13.3	N/A
	Public Sector Ethics Act 1994	Public Sector Ethics Act 1994 ARRs – section 13.4	p65
	Queensland public service values	ARRs – section 13.5	p7

Governance - risk management and accountability	Risk management	ARRs – section 14.1	p66
	Audit committee	ARRs – section 14.2	N/A
	Internal audit	ARRs – section 14.3	N/A
	External scrutiny	ARRs – section 14.4	N/A
	Information systems and recordkeeping	ARRs – section 14.5	p66
Governance - human resources	Workforce planning and performance	ARRs – section 15.1	p67
	Early retirement, redundancy and retrenchment	Direction No.11/12 Early Retirement, Redundancy and Retrenchment Direction No. 16.16 Early Retirement, Redundancy and Retrenchment (From 20 May 2016) ARRs – section 15.2	p67
Open data	Statement advising publication of information	ARRs – section 16	p65
	Consultancies	ARRs – section 33.1	p65
	Overseas travel	ARRs – section 33.2	p65
	Queensland Language Services Policy	ARRs – section 33.3	p65
Financial statements	Certification of financial statements	FAA – section 62 FPMS – sections 42, 43 and 50 ARRs – section 17.1	N/A
	Independent Auditor's Report	FAA – section 62 FPMS – section 50 ARRs – section 17.2	N/A