



# **2020-21 Annual Report**

# 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 OPG's performance for the period 1 July 2020 to 30 June 2021. It contains a record of OPG's activities and achievements for the financial year against our objectives and summarises our future priorities and challenges. While the Annual Report Requirements for Queensland Government Agencies guided the creation of this report, the report has been written for the benefit of all our stakeholders.

For ease of use, a glossary of initialisations and acronyms and a glossary of terms is available near the end of the report.

## Availability and access

### Online

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### Printed copies

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### Interpreter service

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1 October 2021

The Honourable Attorney-General  
and Minister for Justice, Minister for  
Women and Minister for the Prevention  
of Domestic and Family Violence  
1 William Street  
BRISBANE QLD 4000

Dear Attorney-General,

I am pleased to present the Annual Report 2020-21 for the Office of the Public Guardian.

This report is made in accordance with the requirements in section 126 of the *Public Guardian Act 2014* and provides information on the performance of the Public Guardian's functions during 2020-21.

Under section 127 of the *Public Guardian Act*, the Public Guardian is not considered to be a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982* or the *Financial Accountability Act 2009*. Therefore the Public Guardian is not required to comply with the Annual Report Requirements for Queensland Government agencies. The annual report requirements were used to guide the creation of this annual report.

Yours sincerely



Shayna Smith  
Public Guardian

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# Contents

The Public Guardian's message .....	1
Who we are and what we do.....	3
2020-21 in review .....	6
Our key achievements - the year that was .....	7
Our priorities - the year ahead.....	9
Our performance.....	11
Advocating for children and young people .....	14
Advocating for adults with impaired decision-making capacity .....	24
Raising complaints on behalf of our clients .....	43
Strategic policy.....	45
Communication and education .....	48
Our organisation.....	49
Working collaboratively with government and external organisations .....	51
Our people.....	53
Corporate governance .....	57
Our financial performance.....	61
Glossary of acronyms and initialisations .....	62
Glossary of terms.....	63
Appendix 1: Data tables.....	67

# The Public Guardian's message

*"When the world is silent, even one voice becomes powerful."*

This quote by Malala Yousafzai, a Pakistani advocate and activist for female education, is a resounding reminder of why the work of OPG is so important and necessary. In June 2021, I was privileged to be appointed as the Public Guardian and my time over the last six years as both the Deputy Public Guardian and Acting Public Guardian has put me in good stead to lead such an impressive agency.

Our employees are the best advocates I have had the pleasure to work with. They are skilful, courageous, and passionate about the things that matter – the rights and interests of our adult, child and young people clients.

Every year at annual reporting time I'm always in awe of what we have achieved, and the past year has been no different. The work of OPG is extensive – even a brief read of our statistics and stories shows just how much. The COVID-19 public health directives and restrictions were in constant flux throughout the year and impacted on all aspects of our service delivery, especially at disability accommodation and aged care sites. OPG's employees were innovative, resilient, and never lost sight of the importance of maintaining connection to safeguard our clients. Face-to-face visiting often had to change to visits through alternative technology, and staff were sometimes required to work remotely at short notice.

This uncertainty, in conjunction with a sustained increase in demand for all our services, did have an impact on our service delivery targets over the course of the year. As COVID-19 restrictions and lockdowns remain a feature of our lives, this is likely to continue in 2021-22. However, this doesn't overshadow the brilliant work and outcomes achieved over the past year. It is extremely impressive that despite all the challenges that came with the pandemic, our staff still visited 10,203 children and young people and 7,422 adults, provided decision-making support services to 3,795 adults with impaired decision-making capacity and opened 316 investigations into abuse, neglect or exploitation of adults with impaired decision-making capacity. Not to go unnoticed, the following are significant achievements I am also proud to share with you all.

## **Giving clients a voice at a national level**

The advocacy we undertake on behalf of children, young people, and adults with impaired decision-making capacity gives OPG a strong understanding of more systemic issues that may require action. Raising the voices of our clients requires us to speak up for change at both state and national levels. The ongoing Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability has provided OPG with valuable opportunities to make our client's voices heard in relation to the issues that most affect them, and in 2020-21 OPG made four submissions in response to the issues papers released by the Commission. I also appeared at the public hearing into the Royal Commission's examination of the use of psychotropic medication to address behaviours of concern exhibited by people with disability. By contributing to the work of the Royal Commission, the voices of our clients become powerful, so that their experiences are considered in the formulation of future policy or legislation.

## **Taking a future-focused approach to our operations to achieve our vision**

OPG provides services in a range of sectors – including disability, child protection, mental health, youth justice, health and aged care – and their regulatory environments are constantly evolving. We continue to experience increasing demand for our services and, like all public sector organisations, need to ensure those services are efficient, contemporary and sustainable. I am a big champion of harnessing the power of OPG's potential for continuous improvement, as it builds a culture of learning, engagement and innovation. We have put considerable work into this over the last year, with two major projects underway.

The Community Visitor and Advocacy - Service Delivery Design Project will develop a modern operating model for Community Visitor services, to better bridge our objective to promote and protect the rights and interests of clients with our day-to-day operations. Since November 2020 the project has focused on mapping the strategy (the why) and the operations (the how) and is now devising the model for execution. The next financial year will see these initiatives put into action to ensure Community Visitors can maximise the effectiveness of their monitoring and advocacy role for adults, children and young people at visitable locations.

The Organisational Development and Improvement Project continues to take an agency-wide perspective. The project has two objectives: ensuring OPG is well-positioned to continue to meet growth in demand, and that frontline staff have the tools and supports available to provide their vital services. This project has focused on the Corporate and Strategic Services business unit to date, as the teams in this unit provide the essential strategic, governance, finance, information technology and human resource support that enables our frontline staff to perform their roles. The realignment for this business unit is now complete and is underpinned by Service Delivery Statements contributing to service and role clarity. Over the next 12 months the project will focus on the Legal Services and Investigations business unit to create a blueprint for articulating the services we provide and how our resources are organised and supported to deliver on priorities.

## **Optimising and building a strong and resilient workforce**

It is important we offer the right employment conditions for our valued staff. A significant step in 2020-21 was providing coverage for all Community Visitors under an amended version of the *Queensland Government Public Service Officers and Other Employees Award – State 2015*. Our Community Visitors are not public servants and are appointed by the Public Guardian to ensure they remain independent of the government services that they monitor. Award coverage means Community Visitors now have the benefit of many of the employment conditions that most Queensland public servants have had for some time. It is an initiative that has been years in the making so I'm delighted to see it finally come into effect.

This year also saw the implementation of OPG's Learning and Development Framework 2020-2023. Our employees need the appropriate knowledge and skills to fulfil our objectives of protecting the rights, interests and wellbeing of our clients and advocating for their human rights, as well as understanding and fulfilling public service obligations and corporate governance requirements. The Framework outlines OPG's commitment to learning and development and is one contributor to the achievement of a productive, capable and engaged workforce. The Framework is part of OPG's strategic planning process, and it allows us to systematically link learning and development activities with the core competencies and skills required to carry out role responsibilities.

## **A final word**

I'd like to end by acknowledging the tireless work and dedication of OPG staff and the leadership team throughout what has been a challenging year. Their passion and commitment to protecting and promoting the rights of our clients is what makes OPG such a rewarding place to work, and I sincerely thank you all. I am delighted to share this report and I am excited about our priorities for the year ahead. So, we arrive at where we began. One voice is powerful enough, but OPG has many and we intend to use them.



Shayna Smith  
**Public Guardian**

# Who we are and what we do

OPG promotes and protects the rights, interests and wellbeing of:

- children and young people in the child protection system (foster care and kinship care) and those accommodated in disability services, Authorised Mental Health Services (AMHSs), residential health services and youth detention centres, and
- adults with impaired decision-making capacity.

The *Public Guardian Act 2014 (Qld)* establishes the functions and powers of the Public Guardian and OPG as an independent statutory office.

As an independent statutory office holder, the Public Guardian is not subject to the direction of the Attorney-General.

## How OPG advocates for our clients' rights and interests

OPG performs its functions for children and young people in the child protection system by advocating for their rights, access to services, and where appropriate their independence and choice. We strive to ensure their views and wishes are considered when decisions are made that impact them. For adults with impaired decision-making capacity, we advocate for their rights and to have appropriate access to services and autonomy within a structured decision-making and human rights framework.

Advocacy means understanding our clients' lives and views with the aim of promoting and protecting their rights, including their human rights. Advocacy can also mean working to prevent or address discrimination, abuse or neglect. Advocacy does not mean taking over a client's life or problems, undertaking case management or assuming the roles and responsibilities of other government agencies.

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

Our child advocacy functions promote and protect the interests of children and young people in the child protection system or staying at a 'visitable location'. We elevate their voice and participation in the decisions that affect them.

### Community Visitors

Community Visitors promote and protect the rights of children and young people staying in visitable sites (including youth detention, AHMSs and youth residential sites) and visitable homes (i.e. foster and kinship care). Their statutory functions include inspecting a site or home to report on the appropriateness of the accommodation and ensuring that the child/young person knows about their rights, that they are receiving appropriate support services and their needs are being met. It also ensures the delivery of services enhances safety, mitigates risk and supports the wellbeing of children and young people. Community Visitors may advocate for children and young people on matters that affect them and may also raise issues and complaints either directly or on behalf of children and young people through OPG outgoing complaints process.

### Child Advocates

Child Advocates are independent advocates that facilitate the participation of children and young people in decision-making that affects them. They also advocate for decision-makers to consider a child or young person's views and wishes, and to uphold their rights and interests in accordance with relevant legislation, policies and procedures. Child Advocates often participate in court and tribunal proceedings.

Child advocacy functions provided to 'relevant children' include:

- providing information and advice about matters they are concerned about
- supporting the child or young person at, and participating in, court or tribunal conferences, family group meetings and other meetings
- helping the child or young person
  - resolve issues or disputes with others, including disputes about reviewable decisions
  - to make complaints
  - seek or respond to revocation or variation of an order under the *Child Protection Act 1999 (Qld)*
  - initiate, or on their behalf initiate, an application to the tribunal for review of a child protection matter
- supporting the child or young person at a proceeding before a court or tribunal
- for a proceeding before a court relating to a court assessment order or child protection order – making submissions, calling witnesses and testing evidence, including by cross-examining witnesses
- for a proceeding before the Queensland Civil and Administrative Tribunal (QCAT) relating to a child protection matter – making submissions, calling witnesses and testing evidence, including by cross-examining witnesses.

## How we support adults with impaired decision-making capacity

### Guardianship

Our Guardianship team promotes and protects the rights and interests of adults declared by QCAT to have impaired decision-making capacity by making personal and health care decisions and decisions in legal processes that do not relate to financial or property matters. Guardians support adults to participate in decisions about their life and acknowledge their right to live as a valued member of society using a supported decision-making framework, with substitute decision-making used only as a last resort. Guardians also make decisions for adults who have appointed the Public Guardian as their attorney under an Enduring Power of Attorney (EPA).

In addition, Guardians make decisions and provide advice to the Public Guardian about the use of restrictive practices in accordance with the *Guardianship and Administration Act*, the *Disability Services Act 2006 (Qld)* and the *Human Rights Act 2019 (Qld)*, and with OPG's *Restrictive Practices Decision-Making Framework*. Guardians continue to advocate for the reduction and elimination of restrictive practices used on adults with impaired decision-making capacity.

### Community Visitors

Community Visitors perform critical inquiry and complaints functions for adults who live in visitable sites such as AMHSs, level 3 residential accommodation services, forensic facilities and certain sites where NDIS participants live. They act as independent 'eyes and ears' regarding the adequacy and appropriateness of services provided to the adults residing at these sites. Community Visitors ensure these adults know their rights, monitor service provision against relevant standards of service, ensure decisions consider the adult's views and wishes, and that policies, procedures and decision-making consider the adult's human rights.

Community Visitors also inquire into and seek to resolve complaints, refer complaints to external entities for further investigation or resolution and, where applicable, refer matters to the NDIS Quality and Safeguarding Commissioner on behalf of adult.

### Investigations

The Investigations team promotes and protects the rights and interests of adults with impaired decision-making capacity by investigating allegations that an adult has been neglected, exploited or abused, or has inappropriate or inadequate decision-making arrangements in place. OPG provides education to decision-makers about their responsibilities and takes protective action to ensure appropriate and adequate decision-making arrangements are established where required.

The investigations team works closely with public and private sector agencies to provide education and advice on prevention, detection and response strategies to suspected elder abuse. The team have facilitated education sessions with banks and the Queensland Police Service Vulnerable Persons Unit and participated in regional elder abuse panels comprised of government and non-government agencies and services to facilitate information sharing and referral pathways between agencies of complex cases of alleged elder abuse.

## **Corporate Services**

Corporate Services provides specialist and administrative services to OPG staff providing frontline services. Corporate Services also ensures that the human rights of staff are considered and protected, particularly in relation to workplace health and safety and human resources.

## **Strategic Services**

Strategic Services manages OPG's strategic policy function, which involves advocating for our clients on strategic policy and law reform issues impacting their rights and interests. This team prepares formal submissions to government and parliamentary consultation processes, inquiries, legislative processes and Royal Commissions. Strategic Services also identifies and addresses legal and policy issues that have implications for OPG and coordinates our communication and community engagement activities.

## **Corporate and Legal Practice team**

The Corporate and Legal Practice team provides legal advice and assistance to the Public Guardian and the Public Guardian's delegates in the performance of their statutory functions and exercise of statutory powers. They also respond to Right to Information applications and statutory requests for information from external agencies, courts, tribunals and commissions of inquiry.

# 2020-21 in review



OPG made **38,466** visits to **10,203** children and young people.



OPG raised **16,507** issues on behalf of children and young people.



OPG provided individual advocacy for **265** children and young people and attended **784** court/tribunal-related proceedings.



OPG visited **7,422** adults at **1,696** visitable sites.



OPG identified **2,995** issues on behalf of adults living at visitable sites.



OPG provided **1,177 new** people with OPG guardianship services, with a total of **3,795** adults receiving decision-making support from OPG in 2020-21.



OPG worked with **2,356** guardianship clients registered as National Disability Insurance Scheme (NDIS) participants.



OPG opened **316** investigations into reports of abuse, neglect and exploitation of adults with impaired decision-making capacity.



OPG worked with relevant agencies to increase awareness of the rights of children and young people to be kept informed of the decisions that are made about them.



In line with the Australian Government's *Younger People in Residential Aged Care – Action Plan*, OPG continued advocacy for younger adults in, or at risk of being placed in, residential aged care, and successfully supported some clients to transition into supported living arrangements in the community.



OPG enhanced our advocacy for clients by strengthening our formal complaints process to better ensure issues are formally recognised and addressed.



OPG supported our Community Visitors into the future by working with the Together Union, Industrial Union of Employees to bring them under an amended *Queensland Public Service Officers and Other Employees Award – State 2015*.



OPG embedded recent amendments to the *Guardianship and Administration Act 2000* (Qld) into practice and ensured all staff were aware of impacts on their day-to-day work.



OPG continued to support implementation of the National Redress Scheme and to provide appropriate referral pathways for clients to support them to seek justice and receive acknowledgement for the harm they suffered.

# Our key achievements - the year that was

## Strengthened our advocacy through the external complaints process

The *Public Guardian Act* vests the Public Guardian with inquiry and complaint functions for both child and adult clients. While OPG always endeavours to resolve issues for our clients directly with providers, our staff play a critical role in ensuring complaints are escalated externally for resolution, or where attention should be drawn to systemic issues. OPG has focussed on enhancing these procedures, which has principally involved creating a centralised complaints process.

During 2020-21 OPG worked closely with the Department of Children, Youth Justice and Multicultural Affairs (DCYJMA) to review the *Memorandum of Understanding concerning management of complaints between OPG and Child Safety*, to ensure complaints management is child-centred, timely and rights-focused. OPG also worked closely with the NDIS Quality and Safeguards Commission to streamline the referral and resolution of concerns relating to the delivery of NDIS-funded services to our adult clients. This work has achieved some promising outcomes for NDIS-funded adults residing at visitable sites which, in some cases, resulted in the reduction and elimination of the use of restrictive practices.

## Embedded amended guardianship legislation into practice

The *Guardianship and Administration Act* provides for the system of guardianship in Queensland, including exercising power for a matter for adults with impaired decision-making capacity. On 30 November 2020, significant reforms were made to the Act which included enhancing safeguards for people with impaired decision-making capacity, enhancing consistency with human rights, and updating the General and Healthcare Principles and requiring their application in all guardianship matters.

As well as seeing new forms and guides launched for enduring documents, there were also several amendments specific to the Public Guardian's powers. For example, clarification was provided about who the Public Guardian can provide a Community Visitor report to and the circumstances when an investigation into possible abuse, neglect or exploitation of an adult with impaired decision-making capacity can be conducted.

Education and training activities were undertaken internally to ensure staff were aware of the amendments and the impacts on their day-to-day work. Internal policies and practice directions were also updated and distributed to staff to reflect the changes.

## Continued advocacy for younger people in, or at risk of being placed in, residential aged care

In line with the Australian Government's *Younger People in Residential Aged Care - Action Plan* announced in 2019, OPG continued to advocate to move younger people in residential aged care into more appropriate community-based accommodation options.

Where appropriate, OPG advocated for adult clients to receive NDIS plans that supported them to transition to more age-appropriate living and support arrangements and support services. OPG also undertook significant work to educate and advocate to the aged care sector about the rights of younger adults with disability to explore more age-appropriate accommodation.

While this is an ongoing initiative, there have been some early successes. In one region alone, four adults under guardianship moved into supported independent living arrangements, three adults trialled supported independent living and another three adults viewed properties that were sourced on their behalf.

## **Assisting children and young people to know their rights around accessing information about themselves**

This year OPG led an initiative designed to ensure children and young people in out-of-home care understood their right to be kept informed of the reasons for decisions affecting them. A key focus was ensuring young people could access their departmental file. This involved educating stakeholders in both the government and non-government sectors on their obligations to provide this information, and their role in assisting young people to access their records.

OPG also worked with the CREATE Foundation to shape an advocacy agenda on children and young people's entitlements to information and participation to help them better understand their rights. This work continues, with the focus for the upcoming year on improving children and young people's access to information on decisions made about them.

## **Award coverage for all Community Visitors**

In October 2020, all OPG Community Visitors were brought under an amended version of the *Queensland Government Public Service Officers and Other Employees Award – State 2015* to enhance their working conditions. While Community Visitors are not public servants under the Award, the benefits bring their entitlements more in line with other OPG employees, while still being tailored to the unique and important work they do.

## **Removing red tape to streamline business processes**

Unnecessary red tape in business processes can be challenging for staff. In recent years, staff feedback has helped OPG identify options for continuous improvement to enhance workload management and service delivery efficiency. A 'Red Tape Busting' working group was established to examine staff perceptions of red tape across the agency. Staff were empowered to put forward suggestions to contribute to improved business processes. This identified opportunities for further training and education on identifying those processes necessary to support governance and accountability. 2020-21 will focus on embedding the process into all team meetings to support ongoing staff dialogue about efficiencies and improvements.

## **Supporting the implementation of the National Redress Scheme**

The Redress Practice team was established in 2019-20 to coordinate OPG's response to the National Redress Scheme for Institutional Child Sexual Abuse and to integrate recommendations of the Royal Commission into OPG's advocacy work. The team proactively identifies clients of OPG who may be eligible for the scheme to provide appropriate referral pathways to support them to seek justice and receive acknowledgement for the harm that they suffered.

During 2020-21 the team continued this work by continuing to establish relationships with government and non-government stakeholders to support our clients who may wish to consider their redress options. This included commencing information sharing with the Public Trustee of Queensland and Child Safety for our shared clients and liaising with Disability Services regarding clients identified as spending time in their institutions. To support staff to support clients, the team developed redress related practice tools and guidance to embed into frontline practice across OPG. Additionally a learning lunch series was made available to all OPG staff to develop an understanding of trauma.

# Our priorities - the year ahead

## Implement an organisational approach to safeguarding clients

The final report of the Royal Commission into Institutional Responses to Child Sexual Abuse identified ten Child Safe Standards, incorporated into the National Principles for Child Safe Organisations. The National Principles aim to provide a nationally consistent approach to creating organisational cultures that foster child safety and wellbeing.

OPG acknowledges the importance of extending these principles to other vulnerable people such as our adult clients, so in 2021-22 the *Child and Adult Safeguarding: Risk Management Framework* will be rolled out across OPG. It will apply to situations where staff may interact with children, young people, and adults with impaired decision-making capacity. It will also aim to honour the intent of the National Principles while extending their applicability to safeguarding measures for adult clients.

OPG's day-to-day operations already reflect the intent of these principles, but the Framework will formally embrace them by incorporating them into policies, practice directions and other tools.

## Monitoring state and national reforms relating to positive behaviour support and restrictive practices in disability and aged care settings

The Commonwealth, State and Territory Ministers for disability policy have agreed in principle to harmonise laws relating to restrictive practices by developing principles for nationally consistent authorisation arrangements. To prepare for implementation of the national principles, the Queensland Government will review Queensland's authorisation framework for the use of restrictive practices in NDIS and disability service settings over the coming year. OPG will monitor the review closely as it is an important opportunity to increase safeguards and deliver better outcomes for people with disability in accordance with human rights and best practice.

On 1 July 2021, significant enhancements to the national framework regulating the use of restrictive practices in aged care commenced under the *Aged Care Act 1997 (Cth)* and *Quality of Care Principles 2014 (Cth)*. While these enhancements are a welcome development, OPG has concerns that Queensland's restrictive practices legislation requires closer alignment with the Commonwealth framework. OPG will closely monitor the implementation of the new Commonwealth framework and any subsequent impacts on the number of appointments of the Public Guardian for decision-making on the use of restrictive practices in residential aged care.

## Proposed independent inspector of custodial services

OPG welcomes the proposed establishment of an Independent Office of the Inspector of Custodial Services. This aligns with a key recommendation from the Independent Review of Youth Detention and is a positive step to improve oversight in youth detention, particularly around complaints management. OPG has and will continue to actively participate in consultations on the development of the Office, with particular focus on the connection between the Inspectorate role and OPG's visiting function in Queensland's youth detention centres. Oversight of the services being provided to children in detention is a priority for OPG, and it is critical that children in this environment understand the mechanisms that can assist them.

## Strengthening our incoming complaints management system

In February 2021, the Queensland Audit Office (QAO) tabled its *Responding to complaints from people with impaired capacity* report, which examined how well Queensland's guardianship system manages complaints to improve the protection of adults with impaired decision-making capacity. The report recommended several areas for improvement of the accessibility of OPG complaints process for adult clients. OPG has initiated a dedicated project to begin implementing QAO's recommendations, which will continue in 2021-22.

## Implement a reprioritised service delivery model for Community Visiting and Advocacy

OPG is always striving for improvement – not only in improving the lives of our clients, but also improvement in the ‘how’ we do what we do. Challenging ourselves to improve our operating models and processes results in higher quality services and a more engaged workforce.

Having successfully transitioned our Community Visitors to a State Award in 2020, OPG explored the existing community visiting and advocacy operating model to identify potential improvements. This included establishing the Service Delivery Design Project to look at:

- the prioritisation of visits in line with the *Public Guardian Act* to set the appropriate visiting frequency and work allocation to maximise visit time, minimise travel time and realign roles and responsibilities, and
- investing in timely recruitment, reviewing the appointment process, strengthening the onboarding of new staff, and learning and development opportunities.

OPG will pilot the changes in select regions in 2021-22, with a view to rolling out the model across the state. Work will continue to refine the design and implement the new model to ensure Community Visitors are supported, and their visiting and advocacy services are both high quality and sustainable.

# Our performance

## Service Delivery Statements

The following are measures of OPG's effectiveness as reportable to the Queensland Government

Service Standards	2020-21 Target	2020-21 Actual
Percentage of Community Visitor (adult) sites visited in accordance with the designated visiting schedule	90%	73.0%
Percentage of vulnerable children at all visitable sites <sup>1</sup> visited by Community Visitors (child) in accordance with the designated visiting schedule	90%	82.4%
Percentage of vulnerable children in visitable homes <sup>2</sup> visited by Community Visitors (child) in accordance with the designated visiting schedules	80%	72.5%
Percentage of guardianship decisions made in consultation with the client/interested persons	95%	98.5%
Percentage of investigations closed within nine months from commencement for clients aged 65 or older	80%	63.5%

1. See page 65 for the definition of visitable site.

2. See page 66 for the definition of visitable home.

## Performance against strategic plan

### Objective 1: To optimise and build a strong and resilient workforce

Strategy	What we achieved
Give staff better tools to do their job	Implemented the OPG Learning and Development Strategy 2020-23.
Backing up staff to do their job	Continued the roll out of a bespoke trauma debriefing program for all staff, provided by clinicians.
Building a more strategic, flexible executive team	<p>Implemented a governance performance and reporting framework.</p> <p>Continued with fortnightly senior leadership meetings and commenced quarterly strategic senior leadership meetings.</p> <p>Professional development opportunities provided to senior officers to lead projects in different business units, building flexibility and contributing to 'One-OPG'.</p>

## Objective 2: To deliver successful advocacy that achieves positive human rights outcomes for our clients

Strategy	What we achieved
Developing strong relationships of accountability with those who we oversee and work with	<p>Referred 146 complaints on behalf of children, young people and adults - often involving multiple clients and multiple issues - to relevant agencies including the Queensland Ombudsman, NDIS Quality and Safeguards Commission, Queensland Health, Queensland Human Rights Commission (QHRC), Department of Education and DCYJMA and supported positive results and satisfactory outcomes for our clients through our advocacy in these matters.</p> <p>Revised Memorandum of Understanding between OPG and the DCYJMA was signed to ensure complaints are managed in a manner that is child-focused, timely, and promotes the rights and interests of children and young people.</p>
Developing strong relationships with our clients	<p>Created booklets specifically for our guardianship clients to help them better understand how OPG supports their decision-making needs.</p>
Embedding human rights in everything we do	<p>Implemented the human rights decision-making framework and an updated complaints policy and procedure that incorporates human rights complaints.</p> <p>Policy and practice documents were updated to embed human rights considerations in all areas of work.</p> <p>Templates for investigation decision-making and the investigations manual updated to include human rights considerations.</p> <p>Policies, practice directions, templates and data recording methods reviewed to improve referral management and reporting of human rights complaints to other agencies</p>

### Objective 3: To work better as 'one organisation'

Strategy	What we achieved
Better integrating our functions with one another and reducing siloed activity across the organisation	<p>Strengthened internal collaboration and communication between business units through regular structured meetings of managers across the business.</p> <p>Implemented an OPG Business Planning Framework to ensure consistency in planning across the business, regular performance reporting, and alignment of business activities with the OPG Strategic Plan.</p> <p>Business unit specific SharePoint sites were published on the OPG intranet to ensure all staff can access comprehensive and accurate information across business areas.</p>
Streamlined processes and consistency in practice	<p>Establishment of Red Tape Busting Working Group, with representatives from all business units, to identify where processes can be made more efficient.</p> <p>Progressed updates to operational policy, practice and reporting in relation to the performance of OPG's outgoing complaints. The function to forward complaints to external agencies on behalf of clients was also centralised into one team.</p> <p>Policy and practice working group systemically reviewed draft OPG policies and practice directions to give business units the opportunity to provide input.</p> <p>Created tools and resources to embed knowledge on best practice in relation to the <i>National Child Safe Principles</i> and extend their application to our adult clients.</p>

### Objective 4: To educate others on what we do, and how we can help

Strategy	What we achieved
Promoting our role and its independence through every conversation we have	<p>Proactively engaged with key stakeholders to grow awareness and understanding of our roles</p> <p>Created materials staff can use to support the conversations they have about the work of OPG and their own role with our clients and with the family, friends and service providers of clients.</p>
Identifying opportunities to maximise reach about what we do with the people that matter	<p>Developed a tailored presentation for Queensland Hospital and Health Services to educate and engage with this key stakeholder group.</p> <p>Released new and updated publications, including factsheets and guides, to provide valuable information to the community.</p>
Strategically targeting our community education and media	<p>Developed the OPG Community and Stakeholder Communication and Engagement Strategy and supporting annual implementation plan.</p> <p>Attended key conferences, forums and events that offered opportunities to engage with stakeholders to educate on the work of OPG and how all parties can work together to benefit clients.</p>

# Advocating for children and young people

## Overview of our child community visiting and advocacy services

The delivery of a Community Visitor program is a child advocacy function of the Public Guardian. OPG's Community Visitor jurisdiction extends to children staying in visitable locations, namely visitable sites and homes.

Section 56 of the *Public Guardian Act* provides for the functions of a Community Visitor, with the primary focus to inspect visitable sites and visitable homes and report on their appropriateness for a child or young person, and, in the case of visible sites, report on the delivery of services to a child or young person. Community Visitors also inquire into and report on the physical and emotional wellbeing of children and young people at visitable sites and visitable homes.

The promotion and protection of children and young people's rights and interests includes supporting them, and the adults in their lives, to understand what rights they have under the:

- *Child Protection Act* to information and to participate in decision making,
- Charter of Rights and Standards of Care (section 74, section 122 and Schedule 1),
- *Human Rights Act*, and
- legislation and policies that apply to visitable sites and homes.

## Visitable locations

Community visitors visit children and young people in both visitable sites and visitable homes.

### Visitable sites

Section 51 of the *Public Guardian Act* defines a visitable site as including the following places where a child or young person is staying:

- a youth residential facility (which is funded, licensed or administered by a 'prescribed department', namely DCYJMA, DSDSATSIP, Queensland Health, or the Department of Communities, Housing and the Digital Economy). This definition extends to disability respite accommodation funding for respite through their NDIS participant plan.
- a youth detention centre (Brisbane Youth, Cleveland and West Moreton)
- supervised bail accommodation
- a Queensland Police Service watchhouses supported by services funded by youth justice, or permitted by a negotiated protocol, and
- an Authorised Mental Health Service.

### Visitable homes

Section 51 of the *Public Guardian Act* also defines a 'visitable home', for a child under care, as:

- the home or accommodation where a child is staying with a person, where that child is in the custody or guardianship of the chief executive (child safety) under the *Child Protection Act* and under section 82 of that Act has been placed in the care of someone other than a parent of the child; or
- the home or accommodation where a child is staying with another person if the child has been placed in the care of someone other than a parent of the child under a care agreement under the *Child Protection Act*.

This generally refers to the home of a foster carer or kinship carer.

## How we advocate for children and young people

In line with the *Convention on the Rights of the Child* and the principles outlined in the *Public Guardian Act*, OPG is committed to supporting a child or young person's right to express their own views freely and for those views to be given weight in accordance with their age and maturity.

Individual advocacy can empower children and young people. OPG's individual advocacy includes providing the children and young people OPG supports with information about their rights and options, support to speak up and feel heard, and ensuring they are actively included in decision-making that impacts them. It also means that even where the child or young person's preferred decision is not the decision that is made, that they understand the decision and know their views and wishes were considered. Ensuring that a child or young person has the reasons for a decision explained to them, in a manner appropriate to their age and level of understanding and understanding their right to make a complaint or seek a review is also a key part of our advocacy.

OPG's Community Visitors and Child Advocates perform these functions. *Section 13 of the Public Guardian Act* requires that, as far as possible, trusted and supportive relationships are developed with the children and young people OPG supports.

The key child advocate functions performed by OPG include (but are not limited to):

- supporting the provision of advice and information to children and young people about matters they are concerned about
- supporting children and young people at, and participating in, conferences, mediations, family group meetings or other meetings
- helping children and young people to make an official complaint about a matter
- working with government agencies or non-government providers that provide a service to a child or young person
- supporting a child or young person at a court or tribunal hearing.

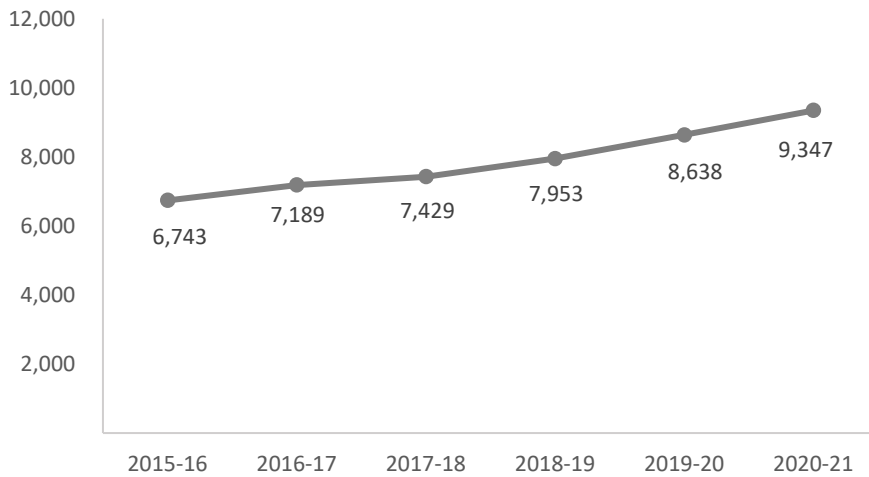
Section 54 of the *Public Guardian Act* requires that when performing child advocate functions, the Public Guardian or any entity performing the functions (such as a Community Visitor or Child Advocate) must seek and consider the child or young person's views and wishes to the greatest extent practicable.

OPG monitors services to be delivered to a child or young person to ensure wherever possible the services are delivered. Staff consider the frameworks and standards relating to those service delivery agencies and determine whether the services meet the child or young person's educational, psychological, physical and cultural needs.

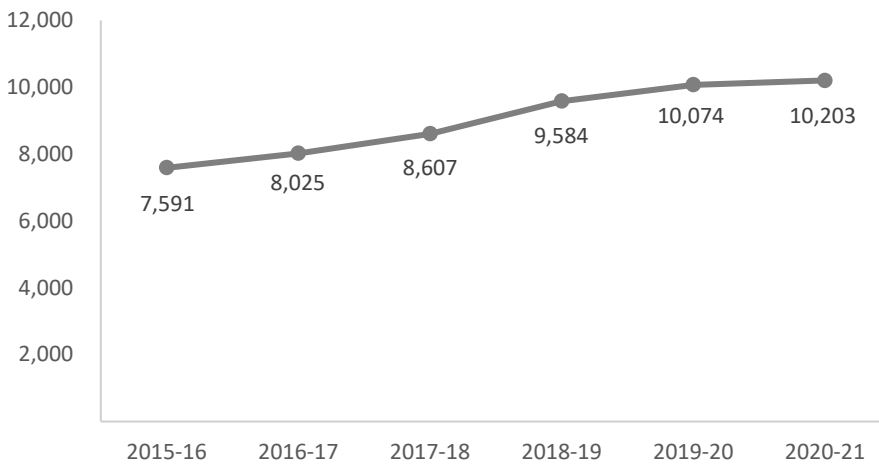
## Number and frequency of visits undertaken by Community Visitors

During 2020-21, OPG conducted 38,466 visits to 5,026 visitable locations, reaching 10,203 children staying at visitable locations. As seen in Figure 1, there were 9,347 children and young people in Queensland classed as 'relevant children' or children staying at visitable sites under the *Public Guardian Act* (and therefore eligible to be visited by OPG). The figures demonstrate continued growth in the number of children and young people eligible to be visited by Community Visitors and the number of children who were visited. This growth can be attributed to an increased number of children and young people entering and remaining in the child protection system.

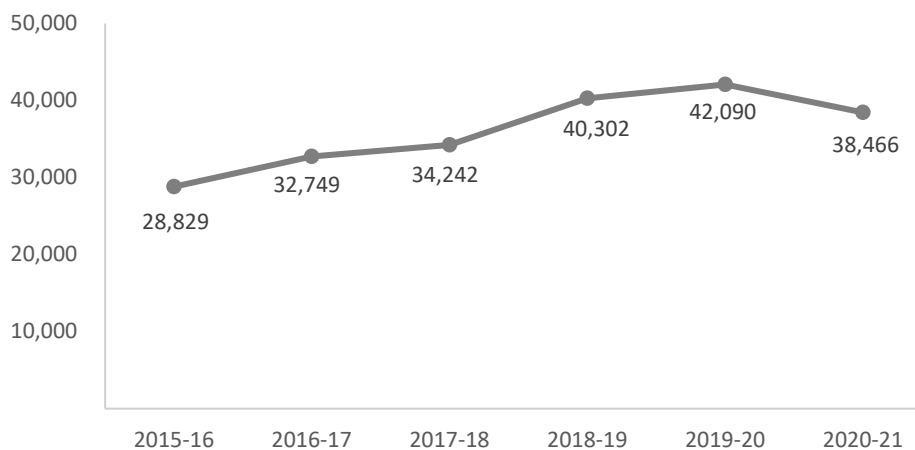
**Figure 1: Number of children and young people eligible to be visited as at 30 June**



**Figure 2: Number of children visited by Community Visitors**



**Figure 3: Number of visits undertaken by Community Visitors**



Despite an increase in the number of children visited between 2019-20 and 2020-21, fewer visits occurred during this period (see Figure 3 above). This may be due to an increase in the number of children being placed at visitable sites where there can be multiple children co-residing, such as in a residential service. The lower number of overall visits could also be attributed to the need to flexibly adapt to COVID-19 public health restrictions. During these times, it was not always suitable or possible to conduct a site visit by alternative methods such as telephone or video.

A child or young person (or a person on their behalf) can also request to meet with a Community Visitor at any time, even outside of the visiting schedule. During 2020-21, 56 children and young people requested a visit from a Community Visitor.

Appendix 1, Table 1 (page 67) presents the number of visits to each type of location. Appendix 1, Table 2 (page 67) presents the number of children and young people in out-of-home care visited by location as at 30 June 2021.

A breakdown of children and young people visited by visiting frequency as at 30 June 2021 can be found in Appendix 1, Table 3 (page 68).

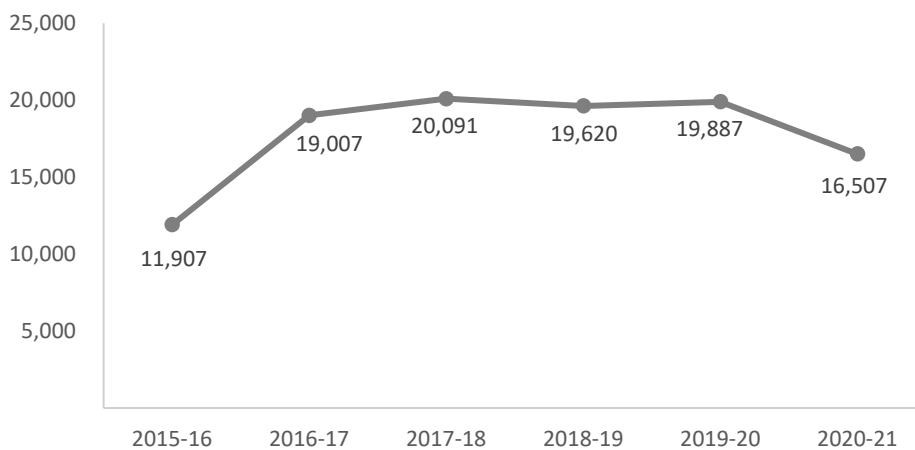
### Visits outside of normal hours

Normal hours are defined in Schedule 1 of the *Public Guardian Act* as 8:00am to 6:00pm. In 2020-21, 18 visits were made to children and young people by Community Visitors outside of the normal hours of visiting.

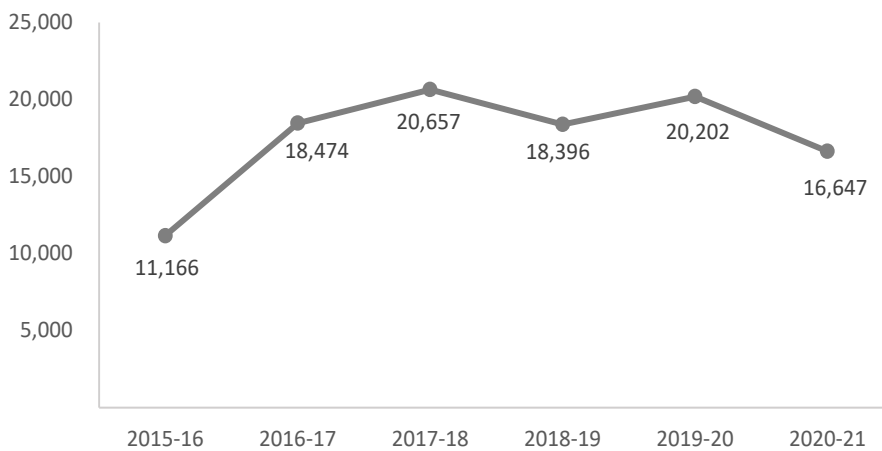
### Issues raised on behalf of children and young people

In 2020-21, Community Visitors raised 16,507 issues on behalf of children and young people. Details of the types of issues raised on behalf of children and young people can be found in Appendix 1, Table 4 (page 68).

**Figure 4: Number of issues raised on behalf of children and young people**



**Figure 5: Number of issues closed**



A total of 16,647 issues were closed in 2020-21: 15,175 were issues raised during the financial year, with the remaining 1,472 raised prior to this period. As shown in Figure 4, this is a decrease in the number of issues raised compared to 2019-20. Of the 16,647 closed issues, 16,207 (97 percent) were locally resolvable.

A 'locally resolvable' issue – also known as a first attempt at resolution process – is one addressed and resolved at the local level e.g. directly with a service provider or a child safety officer. Of the 16,207 locally resolvable issues, 63 percent were closed within 30 days, and 88 percent within 90 days. As at 30 June 2021, 1,343 matters remained ongoing.

A limitation of providing a larger number of visits via alternative technologies in response to COVID-19 restrictions is that fewer issues were raised by children and young people during those visits. It may be more challenging for Community Visitors to obtain a complete picture of a child or young person's circumstances through a virtual visit. As such, OPG will conduct face-to-face visits where possible. However, as the use of technology to visit with children is likely to be periodically required for the foreseeable future, OPG will investigate how to best use it to ensure children and young people feel they are able to continue to raise any issues or concerns they may have.

A reduction in the number of issues raised could also indicate a positive shift in practice and culture in the systems providing direct services to the children and young people visited by Community Visitors. For example, numerous reforms are being implemented in both the child safety and youth justice systems, including OPG's collaboration with the DCYJMA to enhance the Memorandum of Understanding concerning management of complaints between OPG and Child Safety, which could be improving the experiences of some children and young people.

### **Placement issues**

In 2020-21, 16 percent of issues raised by children and young people related to their placement, with many related to the suitability of the placement to meet their needs. This was particularly relevant to children and young people staying at residential facilities, or those without any suitable placement.

The matching of a child or young person with a suitable foster carer or residential care placement remains an advocacy challenge for OPG. The numbers of children and young people in care have increased, but not the number of available foster carers. This has resulted in additional requests for advocacy from OPG about appropriate placement matching. OPG has specific concerns about the displacement of sibling groups, safety in the residential care setting, and the contact with the criminal justice system resulting from police callouts that occur in residential care settings.

### **Contact issues**

Seventeen percent of issues raised in 2020-21 related to contact arrangements for children and young people. These arrangements relate to the level of contact between a child or young person and their parents, siblings or other significant people in their life. Connection to others is a cornerstone of wellbeing for children and young people, particularly those who are most vulnerable and may be subject to multiple placements. Community Visitors work with children to obtain their views and wishes and ascertain whether their contact arrangements promote their rights.

OPG focused on situations where a child or young person expressed a wish to have contact, or increased contact, with family members in another region. In such instances, OPG worked with the relevant Child Safety Service Centre, other departments and carers to advocate for the contact. Where contact issues could not be resolved through local resolution with the Child Safety Service Centre, OPG helped with legal advocacy, including reviews of family decisions in QCAT.

### **Case planning**

Another issue raised on behalf of children and young people in the child protection system was the adequacy of case planning, which is integral to achieving the best outcomes for them. OPG continued to monitor the completion and updating of case plans in relation to children and young people in care, particularly looking at whether, or how, the views of the child or young person have been considered in their development. OPG often identified that a case plan had expired or no longer met a child or young person's unique needs and remains concerned about inconsistent practices in relation to content and timeliness of updated case plans.

OPG also advocated for the participation of children and young people in the development and review of their case plans, particularly for child protection matters before a court. We continue to help children and young people participate in family group meetings where their case plan may be reviewed or developed. In addition to attending family group meetings, OPG supports children and young people to participate

in the review or development of their case plan in a safe and supportive manner by having separate meetings with a family group meetings convenor or with their child safety officer.

### Harm notifications

As mandatory reporters, Community Visitors are required to report any reasonable suspicion that a child or young person has suffered, is suffering, or is at an unacceptable risk of suffering, significant harm caused by physical or sexual abuse. Community Visitors reported 44 harm notifications to DCYJMA in 2020-21.

### The first attempt at resolution process

OPG will usually attempt to resolve issues raised on behalf of children and young people at the local level to support an efficient resolution. However, where necessary, OPG will escalate matters to ensure the voice of the child or young person remains central to decision-making or actions taken. By supporting children and young people to raise issues themselves, OPG promotes self-advocacy and autonomy and helps minimise the power imbalance children and young people may feel as a participant in the child protection or criminal justice systems. More information about how OPG escalates complaints on behalf of children and young people can be found on page 43.

### Issues raised through visiting children in Authorised Mental Health Services

Community Visitors make regular visits to all children and young people staying in AMHSs. Under the *Mental Health Act 2016 (Qld)*, Queensland Health is required to notify OPG when a child or young person is admitted to a high-security unit, or an inpatient mental health unit of an AMHS other than a child and adolescent unit (adult AMHS). In 2020-21, OPG received 291 notifications from Queensland Health, a 106 percent increase on the 141 notifications received in 2019-20. Generally, Community Visitors meet with children and young people admitted to an adult AMHS within 72 hours of being notified by the AMHS.

To better understand the delivery of services to minors and their treatment while staying at an adult AMHS, a Community Visitor may ask for information or records held by the AMHS. Community Visitors can inquire into the appropriateness and responsiveness of the delivery of services to minors in relation to their care, treatment, control and recovery.

In 2020-21, Community Visitors made 178 visits to AMHSs, of which 107 were to children and young people in adolescent and child AMHSs. The remaining 71 visits were to children and young people in an adult AMHS, the same number as 2019-20.

Community Visitors raised 86 issues in 2020-21 across a range of themes, 76 of which were resolved. 22 related to children and young people placed in an adult AMHS, as shown in Figure 6.

**Figure 6: Issues raised for children and young people in Adult AMHSs in 2020-21**

Nature of issue	Total
Health needs	18
Placement	1
General service delivery issues	1
Behaviour management	1
Case plans	1
<b>Total</b>	<b>22</b>

### Seclusion and restraint of children in Authorised Mental Health Services

Under section 274 of the *Mental Health Act*, the Public Guardian must be notified whenever a child in an AMHS is subjected to the use of mechanical or physical restraint and seclusion. Consistent with the statutory functions of a Community Visitor to visit all children and young people in AMHSs, these notifications are reviewed and actioned by a Community Visitor. When a Community Visitor engages with a child or young person admitted to an AMHS, they will review and assess the use of seclusion and restraint.

Analysis of notifications continues to give rise to concerns about the number of children and young people subjected to seclusion and restraint in AMHSs, and OPG questions whether the application of these practices in all cases is compliant with the *Mental Health Act*. Community Visitors continue to review the use of restrictive practices and seek clarification to ensure use is appropriate within the context of the *Mental Health Act* and the relevant policy and practice directions issued by the Chief Psychiatrist. Where the Public Guardian is concerned that the use of seclusion or restraint is inappropriate or unauthorised, the Public Guardian may refer a complaint to the Health Ombudsman.

## Advocacy for children and young people

A Child Advocate is an independent advocate supporting children and young people's participation in the decision-making that affects them. Under the *Public Guardian Act*, a Child Advocate can only provide child advocacy functions to a 'relevant child'. A 'relevant child' is a child or young person who is subject to a care agreement or order under the *Child Protection Act* (such as an assessment order, custody order or child protection order), or an intervention with parental agreement, or an application for a child protection order.

Child Advocates also advocate for decision-makers to consider the child or young person's views and wishes and to uphold their rights and interests in accordance with relevant legislation, policies and procedures. Child Advocates perform child advocacy functions, often in court and tribunal proceedings. A Child Advocate may become involved after a person makes a referral seeking advocacy assistance, such as an OPG Community Visitor, a government department such as DCYJMA, a non-government agency, or the child or young person themselves. A Child Advocate focuses on ensuring the rights and interests of the child or young person are promoted and protected, and on supporting them to participate in decision-making.

Advocacy undertaken by Child Advocates includes supporting a child or young person to:

- seek review of decisions about their education, including decisions to exclude, suspend or refuse to enrol them
- transition to adulthood, particularly their right to information and participation in applications seeking appointment of a guardian or administrator
- participate in child protection proceedings about them
- seek or participate in the review of a decision in QCAT.

Child Advocates also offer complementary youth justice advocacy for relevant children involved in the criminal justice system. They do not act as a direct legal representative for a child or young person but assist a criminal defence lawyer and the court to understand underlying issues impacting on the child or young person's criminalisation, such as involvement in the child protection system and capacity issues.

The youth justice work of Child Advocates includes:

- providing contextual information about the child or young person's experience in the child protection system. This may include placement instability or homelessness, disengagement from education, and availability of meaningful social service supports
- providing information about the child or young person's family background, which may include experiences of trauma, neglect and abuse
- advocating for appropriate placement in the community, along with associated therapeutic and social services to support successful applications for bail
- advocating for assessments of capacity and fitness to plead, including diagnostic assessment to support access to the NDIS
- assisting in negotiations with the prosecution, including the making of public interest submissions by a criminal defence lawyer for children or young people charged with offences such as wilful damage in residential care.

In 2020-21, Child Advocates had 1,048 contacts with children and young people compared to 680 in 2019-20 (54 percent increase). There were also 784 court and tribunal appearances during this period, compared to 526 in 2019-20 (49 percent increase). Additionally, Child Advocates attended 291 stakeholder meetings compared to 117 in 2019-20 (148 percent increase). Appendix 1, Table 5 (page 69) shows the number and types of meetings attended this year by Child Advocates.

These increases in contacts with children and young people, and court and tribunal appearances is reflective of the increase in referrals the Children and Young People Team received during 2020-21.

In addition, the pandemic has impacted the way in which the team attends visits with children and young people and appearances at court and tribunal matters. To adapt to the COVID-19 related restrictions the team implemented the use of tele-conferencing and video-conferencing when attending visits or when appearing in court and tribunal matters. This flexibility increased accessibility to children and young people, and the efficiencies gained from reduced travel time allowed child advocates to undertake more activities on their behalf. In June 2021 the team also completed a file review to ensure consistent practices across the team with a focus on continuously improving the way in which data is recorded.

A total of 338 referrals were received in 2020-21, up from 279 referrals in 2019-20 (21 percent increase). This is approximately an additional five referrals each month. Of the 338 referrals received, 177 (52 percent) were internal referrals from Community Visitors and 161 (48 percent) were from external agencies. This is consistent with trends in previous years.

An increase in referrals for advocacy was observed in the following circumstances:

- children and young people seeking changes to child protection orders from long term guardianship to the chief executive to orders giving guardianship or permanent care to their long-term carer, and
- assistance to support a young person who has themselves become a parent. To support this growth in referrals, in the next financial year OPG will work to develop new practice to help advocate for the rights of these young parents.

In 2020-21, 46 referrals related to more than one child or young person and often involved sibling groups, sometimes living in different locations. Child Advocates also worked on highly complex matters with multiple advocacy needs. For example, one referral sought advocacy for a suitable placement, a child protection intervention and for appropriate supports for a child who had been in hospital for an extended period for behavioural and mental health reasons.

## Key themes in advocacy for children and young people

### Youth justice

OPG Community Visitors visit and speak directly with children and young people in youth detention centres, and conduct visits to children and young people held in police watch houses. OPG also responds to and facilitates the resolution of issues and concerns on their behalf.

The *United Nations Convention on the Rights of the Child* and the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (The Beijing Rules) provide that detention of young offenders pending trial should occur only as a last resort. In a similar vein to previous years, OPG remains concerned by the high proportion of children and young people visited in youth detention who are on remand. Being on remand is often the result of social factors such as lack of appropriate housing or unavailability of an appropriate carer while the child or young person is on bail.

OPG recognises the importance of systems that divert young people away from the criminal justice system and that find alternatives to detention. Children who plead guilty while on remand generally have their matters processed efficiently, while matters coming before a court may take significantly longer to be finalised. Being remanded in detention can be highly stressful for children and young people accused of a criminal offence, with some reporting to OPG feelings of isolation and disruption to their education and family relationships. Queensland currently has only three youth detention centres, two of which are located in the south-east, meaning children from rural and remote areas who are refused bail may be remanded hundreds of kilometres from home. This disproportionately affects Aboriginal and Torres Strait Islander children, as they are more likely to live in regional or remote communities.

In 2020-21, the OPG observed an improvement in NDIS participation rates for children and young people detained in youth detention centres. The advocacy efforts of OPG continued to be focussed on NDIS access and engagement given the likely prevalence of cognitive disability and neuro-developmental delay in this cohort. Access to appropriate mental health and trauma responsive supports is also an ongoing focus for children and young people in these settings.

Transitioning to an appropriate, supported and safe placement upon a child or young person's release from detention remained an ongoing theme of focus for Community Visitors in 2020-21. Some children and young people were remanded in detention due to a risk of homelessness or a decision made by the young person to live in a non-approved placement, risking their bail status due to not having a place to live where they feel safe and supported. This is of particular concern for children and young people in the child protection system where a suitable placement cannot be sourced. OPG continues to advocate and raise issues on behalf of children and young people who, when leaving detention, are deemed by residential service providers to have challenging behaviours that cannot be accommodated through placement. These children and young people are at risk of discrimination where systems for care and support cannot meet their individual needs. Such matters are escalated by OPG to agencies such as the DCYJMA and the Queensland Human Rights Commission (QHRC).

A breakdown of the issues raised by Community Visitors in youth detention centres and watch houses can be found in Appendix 1, Tables 6 and 7 (pages 69 and 70).

### **Education advocacy**

Education is critical to improving outcomes for children and young people, including reducing contact with the youth justice system. OPG has observed young children subjected to suspensions and exclusions from school and even prep, which risks disengagement from the education system from a young age. In 2020-21, OPG made 20 education advocacy referrals (67 percent increase from 2019-20).

Under section 88 of the *Public Guardian Act*, OPG can support a relevant child in meetings, work with the education provider, help the child to make a complaint and help the child to resolve issues and disputes about their education (see page 64 for the definition of 'relevant child'). In 2020-21, OPG assisted children to access education services that:

- met their rights under the Charter of rights for a child in care
- met their rights under the *Human Rights Act*, and
- aligned with their views and wishes.

In 2020-21, OPG staff met with a range of stakeholders to increase awareness of OPG's advocacy in this area with the objective of increasing the numbers of referrals. These stakeholders included the Department of Education, Court Liaison Officers, and a community of practice of advocates for human rights in education. In 2021-22, OPG will endeavour to grow its practice in education advocacy through the continuation of the OPG-established Human Rights Education Advocacy Working Group and ongoing meetings with key education stakeholders.

### **Immigration advocacy**

Immigration advocacy remains an area of both high need and significant complexity. For children and young people who have experienced trauma and are not in the care of their parents, an uncertain immigration status can be a source of anxiety and stress. Some young people are at risk of being returned to a country they have never called home, and where they have little family and social support. These matters are often complicated by intersections with the criminal justice system while they have been in Australia.

OPG continues to collaborate with stakeholders to improve practice responses to children and young people with immigration advocacy needs. This includes advocating for citizenship or permanent residency to be considered early in a child's life and before they transition to adulthood. In 2020-21, Child Advocates supported several young people in ongoing immigration matters. OPG extends its appreciation to the specialist lawyers who provided their time and pro bono assistance to children and young people in these matters.

## **Use of restrictive practices**

As reported last year, the intersection between the NDIS Quality and Safeguard Commission, the Child Safety Policy – Positive Behaviour Support and the use of restrictive practices for children and young people in out-of-home care is a growing area of focus for OPG. While emergency use of reactive practices such as physical restraint and removal of items are allowable in certain circumstances, prohibited practices under the Policy include seclusion, containment, mechanical restraint and chemical restraint.

There is no legislative framework for the planned use of restrictive practices or use of force for children in Queensland, but their use by NDIS-funded service providers is reportable to the NDIS Quality and Safeguards Commission. OPG advocates for the elimination of both prohibited and reactive restraints or use of force by reporting the use of prohibited practices identified to the DCYJMA, and by advocating for positive behaviour support practices that are individualised, person-centred and trauma-informed.

## **Advocating for NDIS participation for eligible children and young people**

OPG worked closely with DCYJMA to identify children and young people who may be eligible to access the NDIS. In 2020-21, Community Visitors focused on children and young people in out-of-home care having an undiagnosed cognitive or intellectual disability that had not previously undergone formal assessment. OPG advocated on their behalf to ensure their child safety officer progressed formal assessments to determine their eligibility for the NDIS.

## **Advocating for children and young people at a national level through the Disability Royal Commission**

During 2020-21, OPG advocated for the collective voice of our child and young person clients with disability to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. OPG made four submissions to issues papers released by the Royal Commission. This was an opportunity for OPG to raise critical issues impacting children and young people with disability. For further detail on OPG's contributions to the Royal Commission, refer to pages 45-47.

## **Aboriginal and Torres Strait Islander children and young people**

As at 30 June 2021, 3,951 (42 percent) of OPG's child clients identified as being Aboriginal and/or Torres Strait Islander. These children and young people are a priority group for OPG. In Queensland, particularly in Far North Queensland, Aboriginal and Torres Strait Islander children and young people are over-represented in the child protection and youth justice systems.

OPG continues to refine practice guidance to support staff to advocate in line with the Child Placement Principle and effective cultural planning. This has included ongoing collaboration with key stakeholders, including the Queensland Aboriginal and Torres Strait Islander Child Protection Peak, independent persons, family participation programs supporting Aboriginal and Torres Strait Islander family-led decision making, local family support services, and cultural practice leaders within DCYJMA. This collaboration aims to ensure advocacy for children and young people includes appropriate consideration of cultural factors and participation by Aboriginal and Torres Strait Islander communities.

In 2020-21, Community Visitors completed 17 visits to discrete Aboriginal and Torres Strait Islander communities. OPG also visited 75 percent of Aboriginal and/or Torres Strait Islander children residing in visitable locations (private homes and visitable sites) in accordance with their visiting schedule. A breakdown of the number of Aboriginal and Torres Strait Islander visitable children by zone can be found in Appendix 1, Table 8 (page 70).

# Advocating for adults with impaired decision-making capacity

OPG advocates for the rights and interests of adults with impaired decision-making capacity (referred to in this section as 'adults').

## Guardianship

A Guardian's role is to support the decision-making of adults that QCAT has determined are unable to make their own decisions due to impaired decision-making capacity. When QCAT has deemed an adult to have impaired decision-making capacity, the Public Guardian can be appointed as an adult's guardian in the following circumstances:

- as guardian of last resort, where there is a need for personal and/or health care decisions to be made and that the adult's needs and interests would not be adequately met without an appointment
- 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 *Guardianship and Administration Act*
- following the suspension of an attorney's powers, or
- by the Supreme Court.

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

- where the adult lives
- who the adult lives with
- 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
- health care for the adult
- who the adult has contact with and/or visits
- the provision of services for the adult
- legal matters not relating to the adult's financial or property matters.

## How we make decisions

When acting as guardian or attorney, the Public Guardian's role is to promote and protect the adult's rights and interests, which the Public Guardian has determined is best achieved through a supported decision-making model.

OPG has a responsibility to try to make the decision the adult would have made for themselves if they could make that decision. This is achieved by ensuring decisions align with the adult's views and wishes as far as possible, supporting them to maintain their dignity and self-determination.

OPG has adopted a supported decision-making approach where guardians make every effort to understand the adult's views and wishes, in recognition that just because a person cannot communicate verbally does not mean they cannot convey their views and wishes to others. Guardians follow practice guidance on engaging with adults who are non-verbal to ensure every effort is made to still obtain their personal views and wishes.

OPG also focuses on ensuring, wherever possible, that existing supportive relationships, whether with friends, family or service providers, are maintained and that if a person cannot truly communicate their views and wishes then those of friends and family are also considered. OPG staff are always guided by the General Principles and Health Care Principle outlined in the *Guardianship and Administration Act*.

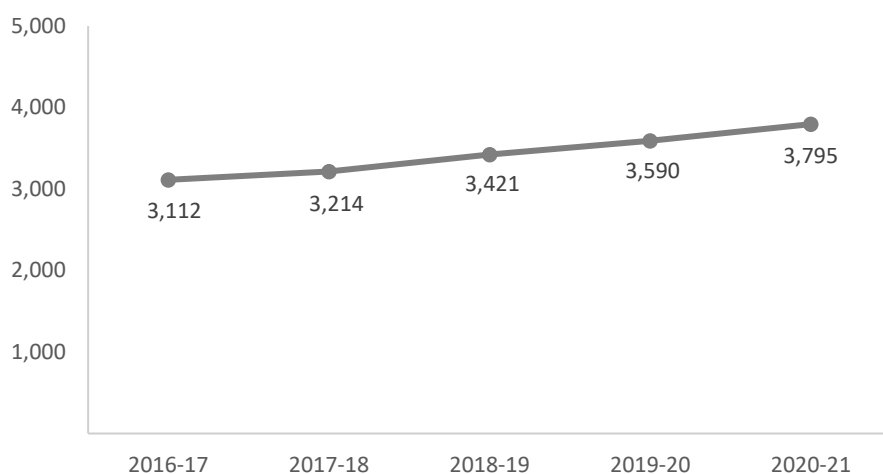
In 2020-21, 98.5 percent of guardianship decisions about personal and healthcare matters were made in consultation with the adult and/or other relevant persons. There are a limited number of situations when the OPG is not able to consult with an adult, for example:

- when an adult is unconscious
- where the adult's impairment is so severe they cannot provide any meaningful views
- when extensive consultation cannot be conducted due to the urgency of a decision, or
- when the adult refuses to engage with the guardian.

## Profile of Guardianship clients

In 2020-21, 3,795 adults received decision-making support from OPG (with the Public Guardian acting as either a guardian or an attorney under an EPA). This continues the year-on-year increase in the number of adults receiving decision-making support.

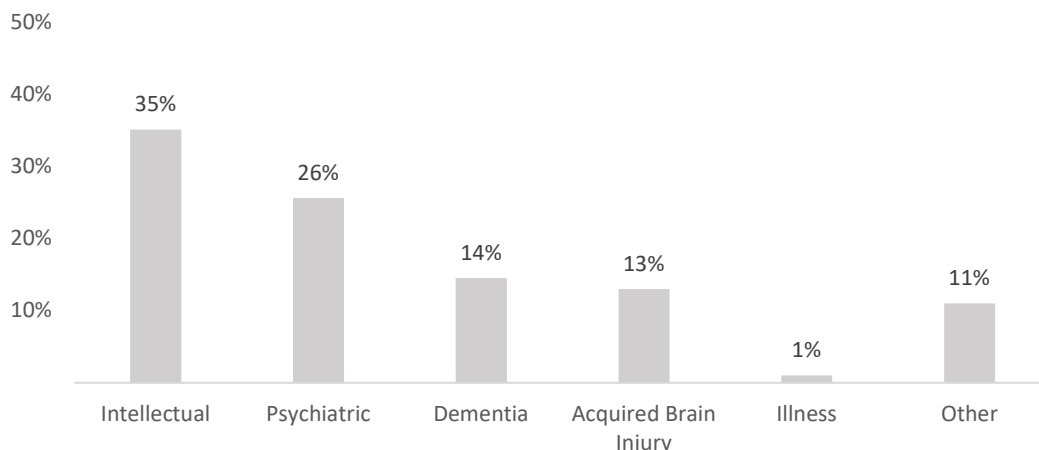
**Figure 7 – Number of adults receiving decision-making support from OPG**



As at 30 June 2021, 58 percent of the adults supported by guardians were male and 42 percent were female. The average age of guardianship clients was 49 years. 16 percent of guardianship clients identified as being Aboriginal or Torres Strait Islander. According to the Australian Bureau of Statistics' 2016 Census Data, 3 percent of the Queensland's adult population identified as being Aboriginal or Torres Strait Islander.<sup>1</sup> This proportion is significantly higher than the proportion of the adult Queensland population who identify as Aboriginal or Torres Strait Islander.

A variety of conditions can impact an adult's decision-making capacity; some are episodic, while others are chronic and can affect the adult for their lifetime. Some adults live with multiple conditions that impact their decision-making capability. These are outlined in Figure 8, below.

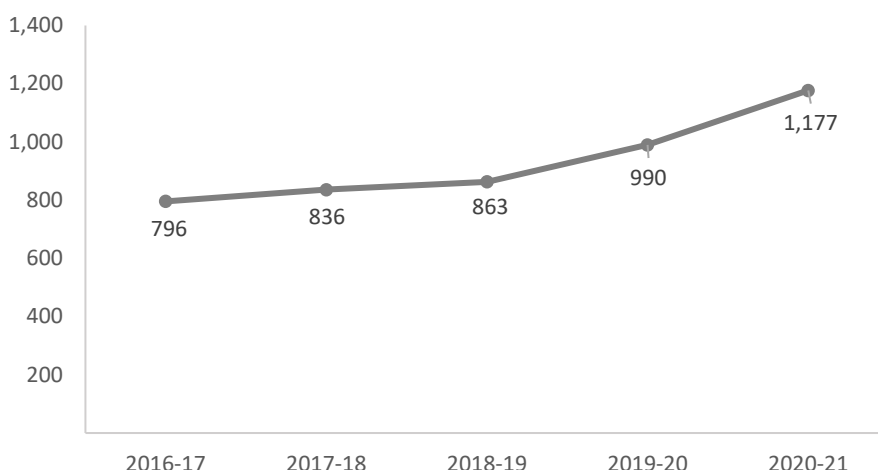
**Figure 8: Primary impairment of guardianship clients as at 30 June 2021**



### Queensland Civil and Administrative Tribunal appointments

In 2020-21, QCAT made 1,117 orders appointing the Public Guardian to act as a guardian of last resort. Of these, 594 orders appointed the Public Guardian to support new adults, and 523 were reappointments for existing clients with expiring guardianship orders. This continues the year-on-year increase in the number of appointments made by QCAT.

**Figure 9: QCAT Guardianship appointments**



1. Australian Bureau of Statistics, Census of Population and Housing: Reflecting Australia-Stories from the Census, 20161.

## OPG's pre-appointment advocacy

When an application has been lodged with QCAT for appointment of the Public Guardian, OPG undertakes pre-appointment advocacy to promote the human rights of vulnerable adults. This primarily involves providing information and education before and during the QCAT hearing. OPG also provides submissions to QCAT regarding the need for a proposed guardianship appointment when an interim (urgent) guardianship appointment of the Public Guardian is sought.

This advocacy is vital. In accordance with the *Guardianship and Administration Act* and human rights principles in the *Human Rights Act*, the Public Guardian is only appointed as a last resort and in the least-restrictive manner. Having a formal substitute decision-maker impacts an adult's human rights so OPG will advocate for less-restrictive approaches where possible, such as informal decision-making support instead of a formal substituted decision-making. Less restrictive approaches include having an adult's existing support network to assist them to make their own decisions or having appropriate family and friends make decisions informally. These approaches are effective in protecting human rights.

During 2020-21, OPG undertook pre-appointment advocacy work in relation to 832 applications for the appointment of the Public Guardian. The OPG attended the hearings for 633 of these applications, of which only 368 hearings (58 percent) resulted in the Public Guardian being formally appointed by QCAT. OPG also advocates for the minimum period of appointment necessary. Of the 368 appointments made to the Public Guardian where pre-appointment advocacy was conducted, only 26 (7 percent) were for a period of three years or more. OPG is committed to advocating to ensure formal guardianship is only ordered when necessary.

Advocacy is also undertaken at QCAT to ensure the Public Guardian is only appointed for areas of decision making that are necessary. Pursuant to section 63 of the *Powers of Attorney Act 1998 (Qld)*, OPG is able to provide consent for health care matters as a person's Statutory Health Attorney (SHA) of last resort. This is a less restrictive approach compared to guardianship and it ensures the person otherwise retains their right to self-determination. Over the past 12 months pre-appointment advocacy resulted in a reduction of the number of decision-making areas the Public Guardian is appointed for, maximising the autonomy of adults with impaired decision-making capacity.

During 2020-21, the Public Guardian was proposed for 2,477 new decision-making areas of appointment for new clients. Through OPG's pre-appointment advocacy work, OPG has achieved less-restrictive appointments based on actual need rather than 'just in case'. As a result, the Public Guardian was appointed for 1,014 individual new decision-making areas across the 594 overall new guardianship appointments.

OPG's pre-appointment advocacy also helped to raise community awareness about the guardianship process and the circumstances when formal appointment is appropriate. OPG can identify when large numbers of applications are made by an agency or service provider, make contact with the service provider and work with them to identify where less-restrictive approaches might be more appropriate. Education sessions are offered to those organisations to help them better understand human rights and the role and functions of OPG. Similarly, discussions with family and friends of an adult for whom a guardianship application has been made can assist them to better understand the decision-making process.

### Appointment types and duration

In 2020-21, 83 percent of QCAT orders appointing the Public Guardian were for a period of three years or less. The remainder of QCAT orders were made for more than three years.

In 2020-21, there were 302 interim guardianship appointments ordered by QCAT due to an immediate risk of harm to an adult's health, welfare or property, including the risk of abuse, exploitation and neglect (including self-neglect). Of the interim orders, 170 appointments (56 percent) were followed by a QCAT decision that the adult should be placed under a longer-term guardianship order.

Consistent with previous years, QCAT appointments for the Public Guardian to make decisions about service provision or accommodation were the most-common, accounting for 69 percent of appointment types. In 2020-21, OPG was appointed for an average of 2.2 different matters per guardianship client. For a detailed breakdown of appointment decision types, see Appendix 1, Table 9 (page 71).

### **Service provision in relation to the NDIS**

In 2020-21, 39 percent of guardianship appointments were for the purpose of service provision and 2,356 guardianship clients were registered NDIS participants. Since the introduction of the NDIS, OPG has seen a progressive increase in the number of applications to QCAT requesting the appointment of the Public Guardian for service provision decisions directly related to NDIS participation and plan management. This was expected in the initial years of the NDIS as the scheme moved to full-scale operation in Queensland; however the increase is still being experienced. Of the 594 new orders appointing the Public Guardian in 2020-21, 296 were for NDIS-related decisions. This represented 50 percent of all new appointments of the Public Guardian in 2020-21.

OPG has observed that some adult NDIS participants have struggled to understand the significance of the decisions they are required to make to implement their NDIS support packages. This creates a risk they may not activate their support plan and funding. When appointed for service provision, OPG will advocate for appropriate levels of support through the planning process.

In the absence of fundamental changes to the operation of the NDIS, the demand for OPG's guardianship services in this area is anticipated to rise further. Due to the ongoing requirement for decisions regarding NDIS service provision, the effect may be to require the Public Guardian to remain in place as decision-maker for more adults on a long-term basis.

### **Acting as a decision-maker under an Enduring Power of Attorney**

Any Queensland adult may appoint the Public Guardian to act as their attorney for personal and/or health care matters under an EPA, but this must be done while they have decision-making capacity. The person to whom the EPA relates is known as the 'principal'. A person the principal nominates to be their decision-maker when they are unable to make their own decisions is known as an 'attorney'.

As at 30 June 2021, OPG held 2,216 inactive EPA documents, and during 2020-21 OPG acted as attorney for 79 adults who had nominated the Public Guardian as their attorney for personal and/or health matters. This is a 10 percent increase on 2019-20.

If OPG becomes aware that a principal may have lost their ability to make their own decisions, the OPG will confirm a loss of capacity with a medical professional. This results in the activation of their EPA, allowing the Public Guardian to assist with decision-making. When acting for an adult with impaired decision-making capacity, OPG provides enduring documents (such as EPAs and Advance Health Directions) to the Office of Advance Care Planning so they can be uploaded on the Queensland Health medical record database. This ensures that medical practitioners can access the documents when required.

In addition to directly supporting the adults who have appointed the Public Guardian to be their attorney, OPG works to increase the knowledge of its staff and the community about the use of enduring documents. For example, OPG conducts training for new and existing employees about enduring documents, and attends conferences and events to distribute information about enduring documents to service providers and medical professionals. Notably, OPG provides community education sessions to service providers in the human services sector and responds to members of the public who contact OPG with enquiries about enduring documents and advance care planning.

## Advocacy and decision-making about restrictive practices

Some adults who live with an intellectual or cognitive disability may exhibit behaviours that, on occasion, can place themselves or others at risk of harm. In some circumstances, restrictive practices are used as a response to these behaviours.

The following forms of restrictive practices exist under Queensland's *Disability Services Act*:

1. Chemical restraint—using medication for the primary purpose of managing the person's behaviours.
2. Mechanical restraint—using a device to restrict the person's free movement, or to prevent or reduce self-injurious behaviour.
3. Physical restraint—using any part of another person's body to restrict the person's free movement.
4. Containment—physically preventing the free exit of the person from premises where they receive services, other than by secluding the person.
5. Seclusion—physically confining the person alone, at any time of the day or night, in a room or area from which free exit is prevented.
6. Restricted access to objects—restricting the person's access to an object at a place where they receive disability services.

As restrictive practices present a significant infringement on a person's human rights, OPG has a strong commitment to the reduction and elimination of restrictive practices across all service sectors (including disability, aged care and health settings).

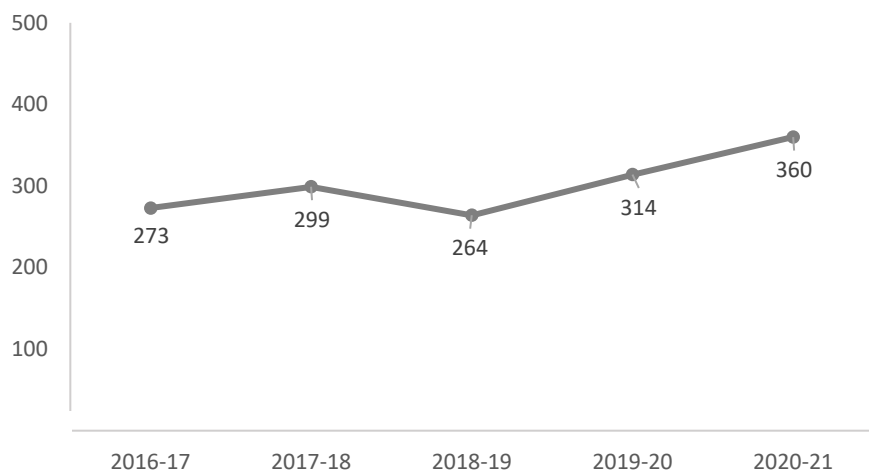
### Restrictive practices advocacy and decision-making

OPG makes decisions and advocates in relation to restrictive practices when the Public Guardian:

- is appointed by QCAT as a decision-maker for restrictive practices (general or respite) used by a disability service provider for an adult receiving funding from the DSDSATSIP or the NDIA
- has been asked to consider an application for a short-term approval for the use of containment and/or seclusion, and other associated restrictive practices by a service provider in relation to an adult receiving DSDSATSIP or NDIA funding
- is appointed to seek help and make representation about restrictive practices for an adult subject to containment and/or seclusion approved by QCAT
- is an active party to all restrictive practices proceedings that occur in QCAT
- is appointed by QCAT under an advanced appointment for a person who is at least 17 ½ years old and who may be subject to the use of restrictive practices prior to turning 18 years old. Decision-making authority does not commence until the person turns 18, however the Public Guardian can make representations on their behalf under this appointment.

There were 360 guardianship clients with a restrictive practice appointment as at 30 June 2021. This included clients for whom either OPG consented to the use of restrictive practices, where QCAT approved the use of containment and/or seclusion and other restrictive practices, or where the client was subject to a short-term approval by DSDSATSIP. This is an increase of 15 percent from 314 clients as at 30 June 2020.

**Figure 10: Restrictive practice appointments as at 30 June**



During 2020-21, 360 restrictive practice decisions were made by the Public Guardian as guardian for restrictive practices (general or respite).

In addition, OPG received 26 applications for short term approvals for the use of restrictive practices, a slight reduction from the 32 received in the previous financial year.

### **How OPG makes decisions about restrictive practices**

OPG is committed to ensuring that restrictive practice decisions made under the *Disability Services Act* and the *Guardianship and Administration Act* are undertaken with a strong focus on the person's human rights. OPG reinforces that only practices evidenced as the least restrictive necessary to prevent harm should be used, and that evidence-based positive behaviour support practices are undertaken first to reduce and eliminate the use of restrictive practices as early as possible. OPG emphasises that restrictive practices must only be used as a last resort, when other less restrictive options have failed.

OPG expects service providers to develop and enact positive behaviour support plans that reflect a strong commitment to sections 139 and 142 of the *Disability Services Act*, which provide safeguards to protect the human rights of people with an intellectual or cognitive disability. OPG encourages all service providers to formulate and execute appropriate reduction and/or elimination plans.

OPG's position on the use of restrictive practices is articulated in its publicly available *OPG Restrictive Practices Policy* and *Restrictive Practices Decision-Making Framework*, and all OPG staff are required to perform their roles relating to decision-making, monitoring and advocacy on restrictive practices in accordance with these documents. OPG's position on evidence-based positive behaviour support practices and safeguarding the human rights of people subject to regulated and unregulated restrictive practices is further strengthened by the *National Framework of Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector*.

When considering requests to approve the use of restrictive practices, OPG must also be satisfied that all other alternatives have been tried and failed, the adult has their fundamental 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 health care and respect from support staff and service providers. The use of restrictive practices is not a substitute for inadequate resources or training, and OPG is of the view that the use of restrictive practices in this circumstance is a contravention of an adult's fundamental human rights.

## Advocacy and decision-making in relation to legal matters

Adults with impaired decision-making capacity can have varying types of involvement with the legal system. They can be:

- charged with criminal offences, presenting issues including:
  - capacity for criminal responsibility, which can intersect with the Mental Health Court and Mental Health Review Tribunal
  - bail applications
  - diversionary programs, when and if appropriate
- parents in child protection proceedings, requiring advocacy around contact with their children, or responding to applications before court for long-term orders to remove children, or
- a participant (applicant or respondent) in applications for domestic and family violence protection orders.

QCAT can appoint the Public Guardian to be an adult's guardian to make decisions relating to their legal matters (excluding legal matters relating to property or finance). During 2020-21, QCAT made 141 new orders for the appointment of the Public Guardian for decisions that included legal matters not relating to property or finance. Of these appointments, 23 were for legal matters only. Guardianship clients will often have several legal matters on foot relating to areas such as criminal matters, mental health, domestic and family violence, child protection or family law. As at 30 June 2021, OPG had 285 guardianship clients who collectively had 611 separate, ongoing legal matters.

Adults with impaired decision-making capacity may have a limited understanding of the justice system and their legal rights, and often lack the ability to locate and engage with support services. Guardians advocate for adults in legal processes as a critical safeguard to ensure their legal rights are not adversely impacted because of their disability or impairment.

Where QCAT appoints the Public Guardian to make decisions in legal matters affecting an adult, OPG supports them by:

- ensuring the adult has appropriate legal representation
- safeguarding the adult's right to give their views about decisions they wish to be made
- supporting the adult by ensuring the legal representative engaged to conduct their matter understands their disability or impairment
- giving their legal representative information about the adult's circumstances, in support of matter resolution
- supporting the adult to understand what is happening (to the greatest extent possible)
- making decisions about the conduct of proceedings that the adult would make if they had capacity, and
- providing instructions to legal representative through a supported decision-making framework. We will support the adult to make their own decisions about the progression of legal matters (which may involve the legal officer consenting to the adult taking a certain course of action) or, if necessary, we may make a substitute decision.

OPG observed increasing complexity in the types of legal matters adults were involved in. In 2020-21, 45 percent of legal matters for adult clients were criminal matters, with the majority heard in the Magistrates Court. A small number of serious matters were heard in the District and Supreme Court. Further, 14 percent related to mental health, including issues around capacity, criminal responsibility and release of information, and 12 percent related to child protection issues. Details about the number and type of legal decisions made by guardians can be found in Appendix 1, Table 10 (page 71).

## Advocacy and decision-making in relation to health matters

Health care providers are obliged to obtain informed consent to carry out health care for adults with impaired decision-making capacity. The Public Guardian can consent to health care matters where appointed by QCAT to make health care decisions, or where appointed as the attorney under an active EPA.

Under the *Powers of Attorney Act*, a Statutory Health Attorney (SHA) has authority to make health care decisions on an adult's behalf if the adult's capacity to make health care decisions is permanently or temporarily impaired. The Public Guardian acts as the SHA of last resort where there is no other appropriate adult available.

During 2020-21, 559 health care consents (41 percent) were provided for clients subject to a guardianship order, 48 (4 percent) were provided pursuant to an EPA, while 756 (55 percent) were provided while acting as the SHA of last resort. Further detail about these categories of health care consents, and the reasons supporting health care consent, can be found in Appendix 1, Tables 11 and 12 (page 72).

OPG operates a health care consent telephone service from 7:00am-7:00pm Monday to Friday, and 9:00am-5:00pm weekends and public holidays. All requests for health care consents come via this service. In 2020-21, OPG:

- provided consent for 1,366 health care matters (a 31 percent increase on the 1,041 consents given in 2019-20)
- provided consent for 189 health care matters after hours
- received 204 health care enquiries after hours, and
- consented to 3 forensic examinations.

This increase in the number of health care consents is partially attributable to the requirement for the OPG to provide consent for COVID-19 vaccinations for adults for whom the Public Guardian has been appointed decision-maker for health care or all personal matters. From the commencement of the vaccine rollout to 30 June 2021, OPG has provided consents for 365 vaccines to be administered. It is anticipated that requests for consents for COVID-19 vaccinations will increase throughout 2021-22 as the COVID-19 vaccine rollout progresses.

## Consents to withhold or withdraw life-sustaining measures

Health care decisions can be made about withholding and withdrawal of life-sustaining measures, if the commencement or continuation of the measure is inconsistent with good medical practice and a range of other legislative and human rights considerations are met.

OPG staff visited hospitals across Queensland throughout the year to provide education and advice to doctors and other medical professionals about its role in relation to these decisions.

In 2020-21, OPG consented to 75 requests to withhold and/or withdraw life-sustaining measures, comprising 5 percent of all health care decisions. This is 11 additional requests compared to 2019-20 (a 17 percent increase).

## Special health care

Consent for special health care for adults with impaired decision-making capacity can only be authorised by QCAT. Special health care matters include:

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

QCAT may appoint the Public Guardian to represent the adult's views, wishes and best interests as part of its deliberations. In 2020-21, the Public Guardian was not appointed by QCAT to be a representative in any matters.

## Decisions under sections 42 and 43 of the Guardianship and Administration Act

Under section 42 of the *Guardianship and Administration Act*, if there is a disagreement between joint guardians or attorneys, or two or more SHAs about a health matter for an adult with impaired decision-making capacity and the disagreement cannot be resolved by mediation, the Public Guardian may exercise power for the health matter by making the requested decision.

If an attorney for health care matters refuses to provide consent for 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 (prescribed by the *Guardianship and Administration Act*).

OPG will ask the attorney how their decision was made and what was considered during the decision-making process (including the adult's views and wishes about a specific treatment). In making a decision, OPG considers information obtained from the attorney and from treating medical professionals, and the Health Care Principle.

Under section 43 of the *Guardianship and Administration Act* the Public Guardian is also empowered to exercise a decision for health care if a guardian or attorney refuses to make a decision about the health matter for an adult and the refusal is contrary to the Health Care Principle, or makes a decision about the health matter and the decision is contrary to the Health Care Principle.

During 2020-21 the Public Guardian did not exercise the power to make a decision under section 42 or 43 of the *Guardianship and Administration Act*.

## Investigations function

Under the *Public Guardian Act*, the Public Guardian has the power to investigate allegations of abuse, exploitation, neglect, and inadequate or inappropriate decision-making arrangements related to adults with impaired decision-making capacity.

Abuse can be physical, sexual, emotional, psychological (including coercive control, belittling behaviour, socially isolating an adult or denying the adult access to important relationships or their community), or financial (misuse of an adult's money). Neglect by another person can include behaviour such as withholding medication, food or access to essential health services.

Many requests for investigation to OPG relate to elder abuse. Increased community awareness about how to identify the signs of elder abuse, including through OPG stakeholder education sessions, has seen an ongoing increase in the numbers of requests for investigation into suspected abuse, neglect or exploitation of older adults. The COVID-19 pandemic has exacerbated the environment that may contribute to elder abuse, with financial stress, loss of employment and emotional stress of family members more prevalent. Referrals for suspected elder abuse over the coming financial year is anticipated to remain in an upward trend as the pandemic continues.

In 2020-21, OPG continued to prioritise direct engagement with stakeholders such as banks and the Queensland Police Service (QPS) to share prevention strategies, awareness of abuse 'red flags', increase understanding of the Public Guardian's investigation function and to support effective referral pathways.

The powers provided by the *Public Guardian Act* to take protective action are unique in Australia. These powers include (but are not limited to):

- requiring people to produce financial records and accounts
- gaining access to any relevant information, such as medical files
- cross examining witnesses
- issuing a written notice ordering a person who is non-cooperative to attend OPG offices at a stated time and place, give information, answer questions and produce documents
- applying for an entry and removal warrant to remove an adult at immediate risk of harm, and
- suspending all or part of an attorney's power.

When a power of attorney is suspended for personal and/or health decisions, the Public Guardian is automatically appointed as attorney for personal and/or health decisions for up to three months. When a power of attorney is suspended for financial decisions, the Public Trustee of Queensland is automatically appointed as attorney for financial decisions for up to three months.

The Public Guardian does not replace the role of QPS in relation to domestic and family violence or suspected criminal behaviour. OPG will refer issues to QPS, who determines whether criminal charges should be laid in the circumstances.

### New investigations

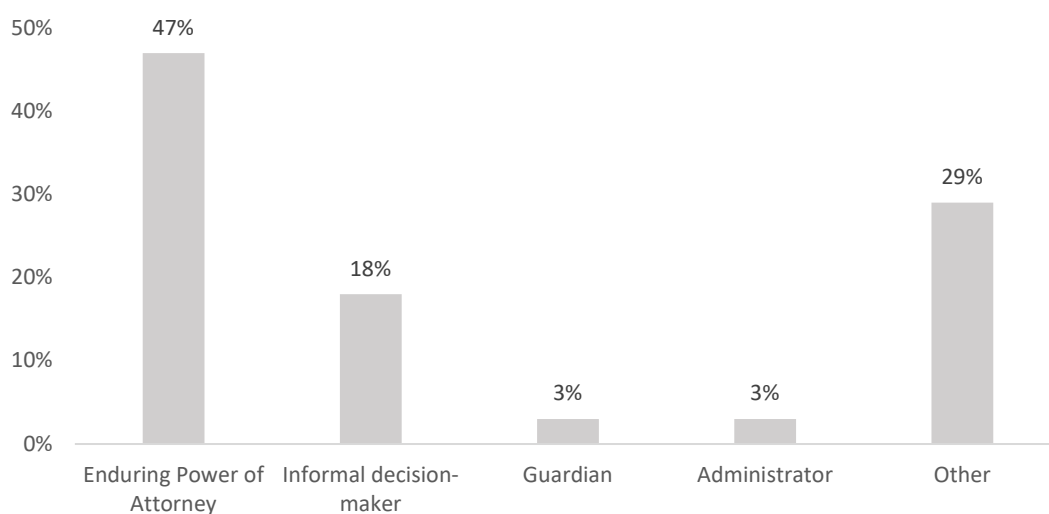
During 2020-21, OPG opened 316 investigations – a seven percent increase on 2019-20 – with 68 percent of those related to people aged 65 or older. As at 30 June 2021, OPG had 373 active investigations, up 27 percent. The average age of an investigations client in 2020-21 was 71.

### Profile of investigations

Service providers were the most common sources for requests for investigation, accounting for 29 percent of all disclosures of potential abuse in 2020-21. This was a slight increase in referrals from this group, likely due to increased awareness of elder abuse and appropriate referral pathways. 24 percent of requests originated from family members and 16 percent from the public. Further detail about the sources for requests for investigations can be found in Appendix 1, Table 13 (page 73).

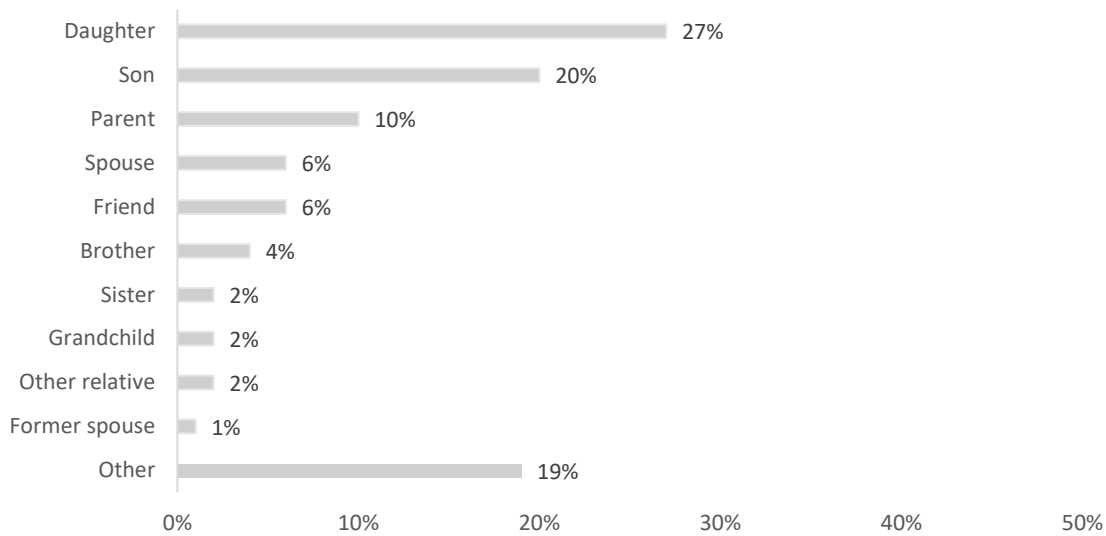
As Figure 11 shows, in 47 percent of cases, the decision-maker being investigated was appointed by an EPA, and 18 percent of investigations focussed on informal decision-makers.

**Figure 11: Decision maker being investigated – investigations opened in 2020-21**



As figure 12 shows, in 47 percent of cases, the decision-maker being investigated was the adult child of the alleged victim. In 10 percent of cases, the investigation focused on the parent of the alleged victim and 6 percent of investigations focused on a spouse.

**Figure 12: Relationship to adult of decision-maker being investigated**



Financial abuse was the most common type of abuse reported, with it being a factor in 187 (78 percent) of the investigations closed in 2020-21. A full breakdown of the types of abuse being reported and the persons being investigated can be found in Appendix 1, Tables 14 and 15 (pages 73 and 74).

### Closed investigations

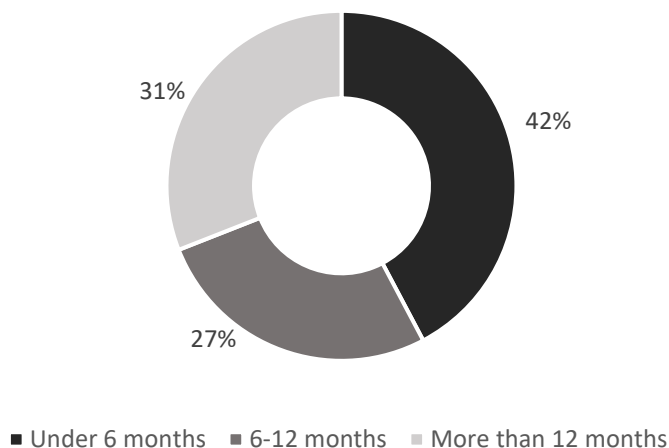
In 2020-21 OPG closed 239 investigations. Of these:

- 68 were closed following an application was made to QCAT, either by OPG or a third party, for the appointment of a guardian and/or administrator,
- 10 were closed after the Public Guardian suspended the attorney, and
- 109 were closed because the matters fell outside OPG’s legislative remit or preliminary inquiries demonstrated insufficient grounds to proceed with a full investigation.

See Appendix 1, Table 16 (page 75 for further detail around all reasons for the closure of investigations.

The complexity of investigations, particularly those into alleged financial abuse, is increasing and the time taken to finalise these cases has also increased. In 2020-21, 63.5 percent of investigations were closed within less than nine months (including those outside of OPG’s legislative remit), but those of the greatest complexity can take up to one year to finalise.

**Figure 13: Length of time to complete investigations**



## Overview of our Adult Community Visiting and Advocacy Services

OPG's Community Visiting and Advocacy services promote and protect the rights and interests of adults residing or being detained at visitable sites. Community Visitors make announced and unannounced visits to ensure adults are being properly cared for, and to make inquiries and lodge complaints on behalf of those adults.

### Visitable sites and frequency

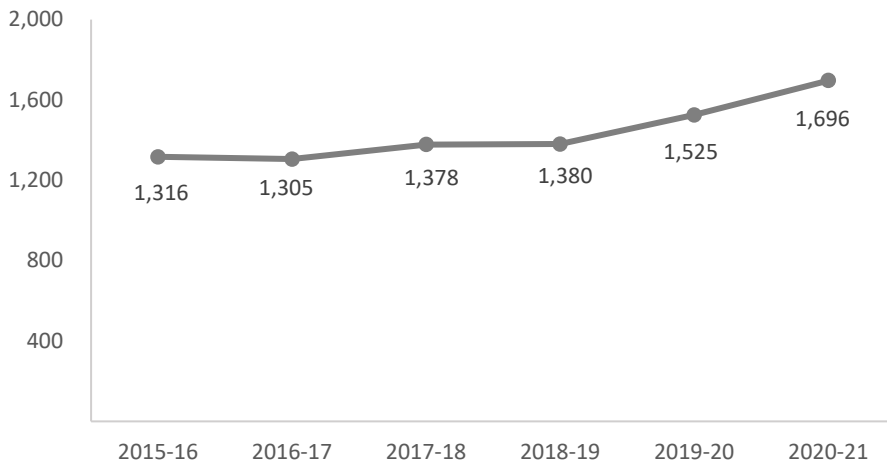
A visitable site is defined under the *Public Guardian Act* as a place, other than a private dwelling house, where an adult or adults with an impairment, or with impaired decision-making capacity, lives, that is also any of the following:

- an Authorised Mental Health Service
- the Forensic Disability Service
- premises where a funded adult participant lives and receives services or supports that are
  - paid for wholly or partly from funding under the NDIS
  - provided under the adult participant's NDIS plan
  - provided by a registered NDIS provider that is registered under the *National Disability Insurance Scheme Act 2013 (Cth)* section 73E to provide a relevant class of supports, and
  - are within the relevant class of supports.
- a place prescribed by regulation, which includes:
  - residential service with level 3 accreditation
  - live-in facilities that are funded or delivered by Queensland Health or DSDSATSIP.

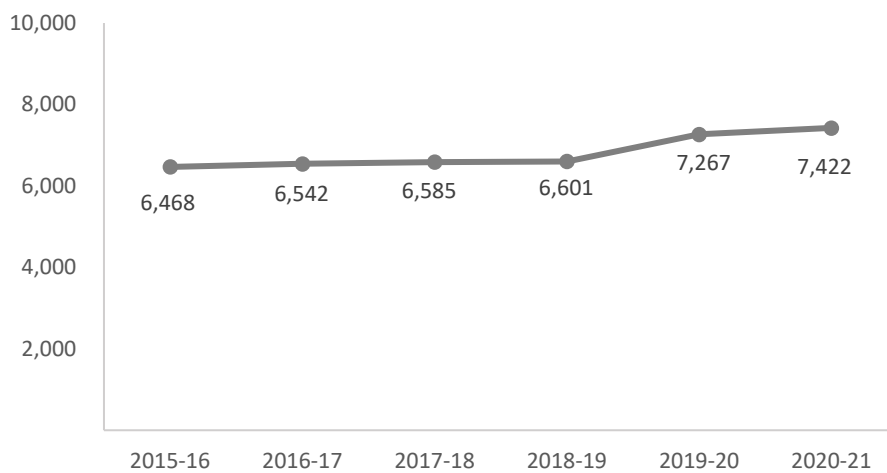
Visits to these sites are quarterly unless otherwise directed by the Public Guardian, or if someone has requested a visit outside the usual schedule (see below). If OPG identifies that more advocacy is required for an adult or adults at a specific site, that site may be visited more frequently. Further detail about the number of visited sites by sector and funded service provider can be found in Appendix 1, Tables 17 and 18 (page 76).

Adults, or a person acting on behalf of an adult, can request a visit from a Community Visitor at any time. This is an important safeguarding mechanism and OPG works with service providers to ensure they understand their obligations to contact OPG if a consumer requests a visit from a Community Visitor. In 2020-21, Community Visitors conducted 31 visits requested by an adult or person acting on their behalf (excluding visits requested by QCAT in relation to restrictive practices, which are noted on page 40).

**Figure 14: Number of sites visited**



**Figure 15: Number of adults in visitable sites**

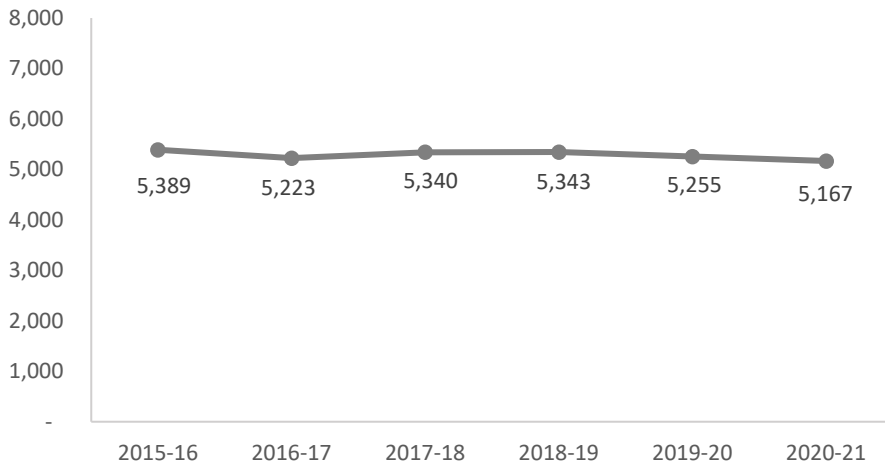


As seen in Figures 14 and 15, the number of visitable sites and the number of adults residing in visitable sites increased in 2019-20 and that trend continued in 2020-21. Between 2018-19 and 2020-21, an additional 244 sites were visited by OPG (a 17 percent increase) and an additional 821 adults resided in visitable sites (a 12 percent increase).

The increase in the number of visitable sites from 2018-19 coincided with the introduction of a legislative requirement for NDIS service providers to self-report to OPG that a site is classified as a visitable site. Furthermore, the NDIS has driven market growth of both disability accommodation and disability support providers, increasing the number of Supported Disability Accommodation and Supported Independent Living sites. As seen in Table 17 (Appendix 1 page 76), in this two-year period the number of visitable sites associated with NDIS service providers increased by 235 sites and the number of Level 3 residential services increased by 171 sites. There was also a slight increase in the number of AMHS sites (up from 84 sites to 90 sites).

As seen in Figure 16, there was a 2 percent reduction in the overall number of visits undertaken in 2020-21 compared with 2019-20. Like visits to children, visits to adults during any COVID-19 health restrictions were conducted by alternative methods such as by telephone or videoconferencing in lieu of face-to-face visits. However, this was not suitable in every case and relied on an assessment of the circumstances and location of each site. During this same period, there was also a marked increase in number of adult visitable sites, placing additional pressures on OPG's Community Visitor resources.

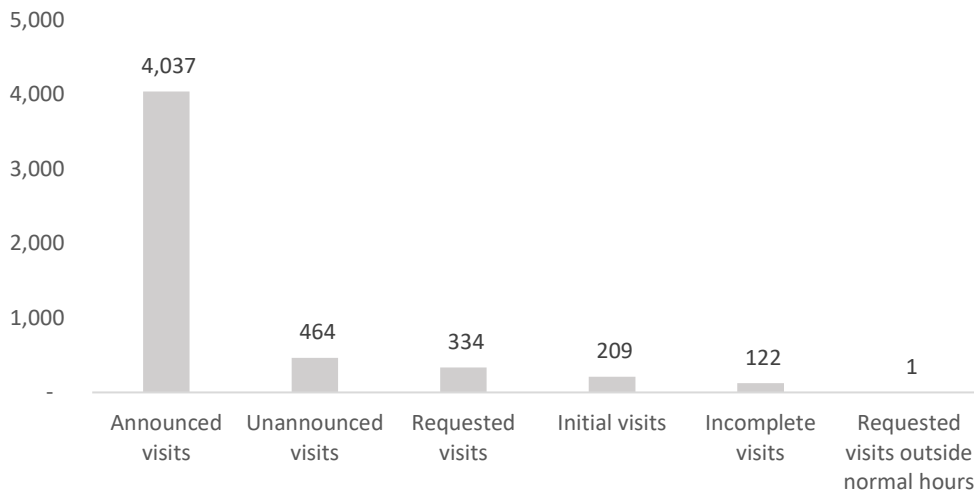
**Figure 16: Number of visits conducted by Community Visitors**



**Announced versus unannounced visits**

The *Public Guardian Act* empowers OPG to utilise both announced and unannounced visits to perform Community Visitor functions. Announced visits increased by 615 visits from 3,422 to 4,037 visits since 2019-20 and unannounced visits decreased by 668 visits from 1,132 to 464 visits. This decline in unannounced visits can be attributed to COVID-19 restrictions, which required visits to be announced for the safety of our staff and clients. Community Visitors were required to ask health and travel related questions of service providers before conducting a visit.

**Figure 17: Types of visits executed in 2020-21**



**Visits outside of normal hours**

In 2020-21, Community Visitors made 33 visits to adults living in visitable sites on weekends and one visit to an adult was made outside of normal hours. Normal hours are defined as 8am-6pm under the Act.

## Issues raised by Community Visitors on an adult's behalf

OPG identified 2,995 issues on behalf of residents at visitable sites, a 29 percent increase on 2019-20.

**Figure 18: Number of issues raised on behalf of adults at visitable sites**

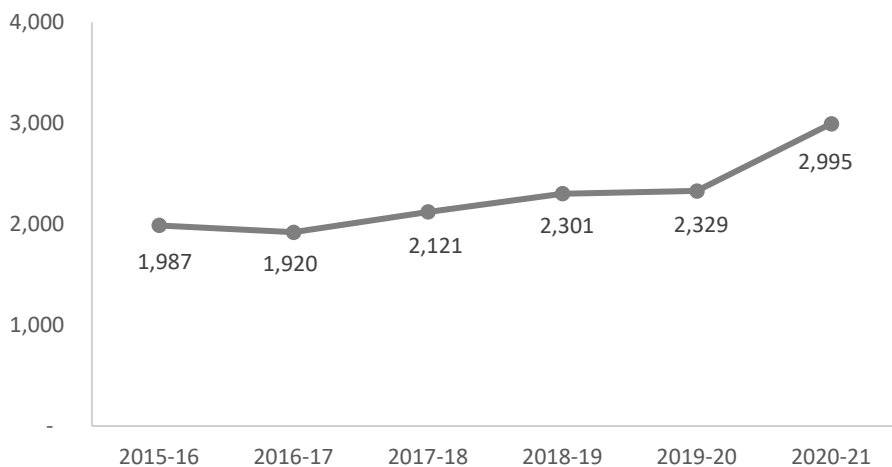
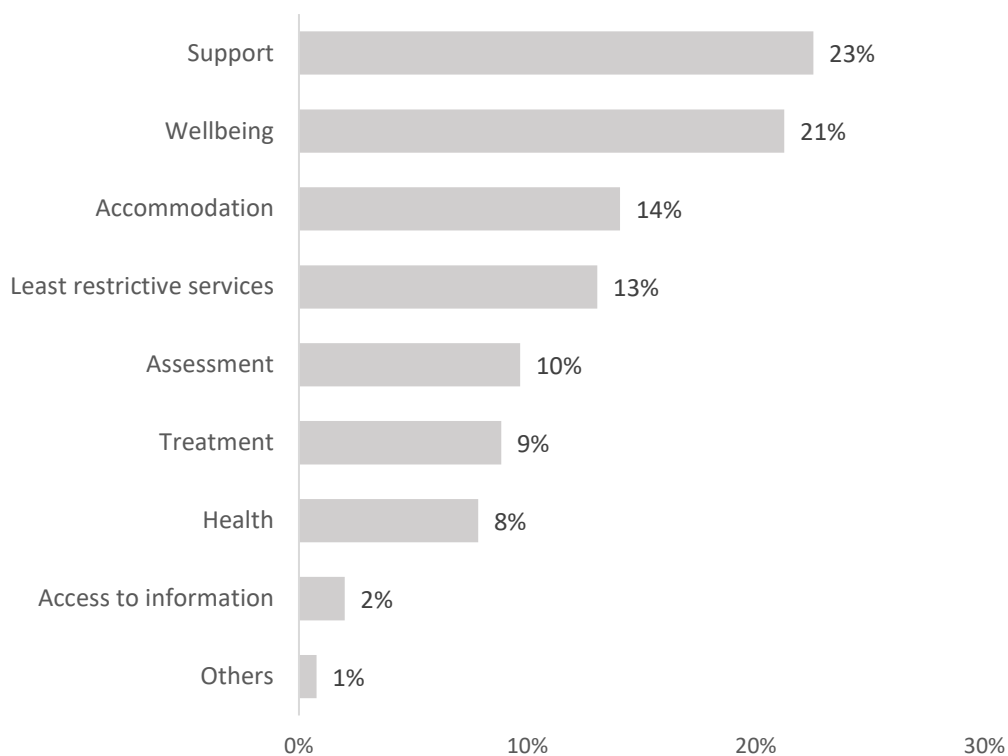


Figure 19 shows the types of issues identified on behalf of adults at visitable sites. For further detail about the types of issues raised by Community Visitors see Appendix 1, Table 19 (page 76).

**Figure 19: Types of issues raised by Community Visitors in 2020-21**



### Appropriateness of accommodation

Consistent with the previous year, 14 percent of the issues raised by OPG on behalf of adults in visitable sites related to the appropriateness of their accommodation. These issues continued to focus on safety or security of the accommodation, or maintenance and furnishings required for the resident. Community Visitors often advocated for additional equipment or furniture to support the development of residents' independence and life skills. Community Visitors observed and reported to service providers matters affecting residents' safety and security, such as broken windows, doors or fencing and the integrity of locks, gates or windows.

## **Monitoring health care needs or treatment plans**

Adults at visitable sites require medical treatment from time to time, and this can include periods of hospitalisation for mental or physical illnesses. During 2020-21, 17 percent of the issues raised by OPG on behalf of adults related to the adequacy of monitoring health care needs and treatment plans by service providers. While the specific nature of these issues was broad, issues raised by Community Visitors included:

- clarification on the purpose of prescribing medication (ensuring it is not a restrictive practice)
- ensuring administered medication/s corresponded to the adult's diagnosis and was being administered at the appropriate dosage
- absence of a recent GP visit
- the need for an updated health assessment and plan and targeted treatment and supports to meet the adult's presenting health needs
- the appropriateness of the discharge plans for people who have returned to their usual accommodation after recently exiting hospital, and the training provided to equip the service providers who support these individuals through delivery of health care supports.

Exploring these issues on behalf of residents supported regular medical review when appropriate and resulted in withdrawal of medications when they were no longer needed.

OPG also raised a significant number of issues regarding the provision of services funded by the NDIS, which are highlighted below.

### **Issues raised in relation to the NDIS**

Community visiting forms part of the NDIS Quality and Safeguarding Framework to ensure safeguards are a priority for the most vulnerable adults with disability in Queensland.

In 2020-21, issues raised by Community Visitors primarily related to NDIS plan funding, plan implementation and adequacy of services delivered by NDIS service providers. In 2020-21, OPG referred 14 formal complaints to the NDIS Quality and Safeguards Commission regarding the delivery of NDIS-funded services, with most related to restrictive practices. As at 30 June 2021, OPG had received confirmation that two matters had been closed and both resulted in satisfactory outcomes OPG clients. As at 30 June 2021, the remaining 12 matters were ongoing.

Community Visitors also reported any detected use of unauthorised restrictive practices to the NDIS Quality and Safeguards Commission.

### **The Forensic Disability Service and Authorised Mental Health Services**

Community Visitors visit the Forensic Disability Service and AMHSs to oversight the services being provided to adults detained at these sites and to advocate, where appropriate, on their behalf to resolve issues. During 2020-21, OPG conducted 403 visits across 90 AMHSs, raising 575 issues on behalf of adults.

Community Visitor advocacy has focused on raising issues such as the transition of residents from involuntary detention back to the community, access to appropriate medical care, and ensuring the use of restrictive practices is approved and in the least restrictive manner possible.

### **Restrictive Practices**

Community Visitors inquire into the adequacy and appropriateness of services to adults at visitable sites in the way least restrictive of their rights. These inquiries also include the appropriateness of restrictive practices. Community Visitors monitor the use of force, restraint and seclusion to advocate for the protection of human rights and interests and to ensure these restrictions are only used with appropriate approval less restrictive options do not exist. Unresolved issues will be referred to the appropriate entity for further investigation or resolution and may be formalised as a complaint.

Community Visitors also conduct visits upon the request of QCAT to report on the use of restrictive practices by service providers at visitable sites and how they administer positive behaviour support to meet clients needs. The Community Visitor reports provide QCAT with greater insight into the environment

and circumstances surrounding the person subject to authorised restrictive practices and may, in some circumstances, influence decisions around the continuation of restrictive practices. During 2020-21, Community Visitors conducted 304 visits at the request of QCAT. The information obtained from these visits directly informed QCAT about applications for approval, or reviews, of restrictive practices at disability sites.

## **Key themes in advocacy for adults with impaired decision-making capacity**

### **Advocating for adults with impaired decision-making capacity to the Disability Royal Commission**

The OPG advocates for our clients on a collective basis by contributing to reforms which impact their rights and interests. During 2020-21, a key focus for OPG was advocating about the experiences and challenges faced by OPG clients to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. OPG made submissions to issues papers released by the Royal Commission on rights and attitudes, restrictive practices, safeguards and quality, and homes and accommodation. In these submissions, OPG presented client case studies (with our client's consent) to shine a light on common experiences and issues and illustrate their personal impacts. The Public Guardian also gave a statement and appeared before the Royal Commission at the public hearing on psychotropic medication, behaviour support and behaviours of concern. OPG's involvement in the public hearing was a key opportunity to illustrate our role in relation to restrictive practices and raise common challenges experienced by OPG clients, including the need for clarity around the purpose of behaviour-modifying medication and consideration of the views and wishes of people who are subject to restrictive practices.

### **Advocating for parents with impaired decision-making capacity in child protection proceedings**

The OPG continued to observe an increase in the number of guardianship appointments for parents with impaired decision-making capacity who are involved in child protection legal proceedings regarding their child or children. These parents face a range of challenges, including access to specialised support services and assessment of how their disability or impairment may impact on their ability to parent. Many parents want to maintain a relationship with their children even when a return to their care is not possible.

However, OPG is aware that stakeholders will often include the fact that an adult has a statutory guardian in their considerations when assessing whether a parent is willing and able to care for their children. In fulfilling our statutory purpose of promoting and protecting the rights and interests of adults, OPG continues to educate stakeholders that an adult's decision-making capacity does not in itself necessarily equate to a negative assessment of their capacity to parent.

OPG continued to work with the child protection sector to improve practice responses to the needs of these parents and their children to maintain their relationship wherever possible and appropriate. Most recently, this involved the development of factsheets to assist legal stakeholders to understand OPG's role in child protection proceedings.

A service delivery gap in the types of supports and interventions available to support these parents remains. This can include a lack of support around contact, engagement with DCYJMA, working towards case plan goals, or appropriate legal representation. This lack of support can impact both a parent's ability to engage in the decisions being made about them and their children, and their ability to maintain a meaningful relationship with their children. OPG is committed to working with parents and the DCYJMA to help identify available supports so that children maintain the best possible relationship with their parents.

## **Transitioning clients detained long-term in the Forensic Disability Service and Authorised Mental Health Services**

In 2020-21, OPG continued its focus on adults detained long-term in the Forensic Disability Service and in AMHSs. Our goal was effective and targeted advocacy to ensure our adult clients' transition from these settings when appropriate, and to prevent a lack of suitable accommodation or service provision from extending their detainment. To facilitate this, OPG guardians dedicated their time on advocacy and stakeholder engagement to support these adults to transition back into community living.

This targeted work has supported OPG in forming collaborative relationships with stakeholders including the NDIA, Office of the Chief Psychiatrist, DSDSATSIP, the Department of Communities, Housing and the Digital Economy, the Forensic Disability Service, and the Director of Forensic Disability. OPG's advocacy has resulted in these clients receiving adequate and appropriate funding through their NDIS plans, finding appropriate housing and service providers and either being able to transition to the community, or being significantly progressed on the pathway to future transition.

## **Improvements to the operation of the NDIS**

The Queensland Government has shifted focus from transitioning people with disability into the NDIS, to ensuring its effective full-scale operation. In a submission to the Queensland Productivity Commission about the operation of the NDIS in Queensland, OPG advocated for several improvements based on the lived experiences of its guardianship clients. These were centred on developing and implementing NDIS plans, increased engagement and education of NDIS planners and the disability sector, and improvements to the availability and use of funding for support coordination. The collective advocacy undertaken via this submission complemented the work OPG undertook to individually support its guardianship clients to access and use the NDIS.

# Raising complaints on behalf of our clients

The *Public Guardian Act* vests the Public Guardian with inquiry and complaint functions for both child and adult clients. OPG plays a critical role in ensuring complaints are escalated externally to agencies including DCYJMA, the NDIS Quality and Safeguards Commission, Queensland Health and DSATSIP for resolution. Referring complaints is a vital part of improving service provision to our clients.

OPG has a centralised complaints process to ensure more effective escalation of complaints from all business areas. Additionally, in 2020-21 OPG continued to strengthen its complaint framework by:

- refining practice guidance to staff
- improving templates for the referral of complaints
- regularly meeting with key stakeholders to streamline complaints processes, and
- improved data analytics to track matters and help identify potential systemic issues for referral and action.

During 2020-21, OPG made or referred 125 formal complaints on behalf of children and young people. 107 of these were made under the *Memorandum of Understanding concerning management of complaints between OPG and Child Safety*, and the remaining 18 were to other agencies including QPS, the Office of the Health Ombudsman and QHRC.

OPG also made or referred 21 formal complaints on behalf of adults. These complaints or referrals were to agencies including the Office of the Health Ombudsman, Queensland Ombudsman and the NDIS Quality and Safeguards Commission.

Lodging a complaint is not a substitute for advocating a matter on behalf of a child, young person or adult, but instead serves to advise agencies to potential problems that require broader attention. As a result, Community Visitors and Child Advocates often make a formal complaint alongside their continued advocacy for a changed outcome for a client.

## Updated Memorandum of Understanding

During 2020-21, OPG worked closely with DCYJMA to review the *Memorandum of Understanding concerning management of complaints between OPG and Child Safety (MOU)*. The objective was to ensure complaints made on behalf of children and young people are managed in a manner that is child-centred, timely, and focused on promoting their rights and interests. This work included the development of an operational policy and procedure, templates for referring complaints, joint training to leadership staff across both agencies, and improved data reporting and reconciliation practices to support the identification of themes arising from complaints. OPG also worked with the Queensland Family and Child Commission and the CREATE Foundation to include the views, wishes and preferences of children and young people in the development of these processes. Work will continue in 2021-22 to further refine the complaints referral process, and with DCYJMA to improve outcomes for children and young people in care.

The 107 formal complaints made or referred under the MOU represented a 282 percent increase compared to 2019-20. This increase can be partially attributed to the implementation of practice guidance and templates for Community Visitors developed alongside the review of the MOU, as this improved the identification and referral process. In 2021-22, OPG will aim to progress further practice improvements to increase the number and quality of responses and improve practice to reduce lodgments of formal complaints.

## **Referral of concerns to NDIS Quality and Safeguards Commission**

OPG worked closely with the NDIS Quality and Safeguards Commission to streamline the referral and resolution of concerns relating to the delivery of NDIS funded services to adults. This work focused on ensuring the timely referral of issues relating to unauthorised use of restrictive practices, to ensure their use by NDIS-funded service providers was least restrictive and compliant with obligations and standard under Queensland and NDIS legislative and policy frameworks. This work has helped to achieve significant outcomes on behalf of adults at NDIS-funded visitable sites including the reduction and elimination of restrictive practices.

This work will continue in 2021-22, including streamlining the referral of notifications by OPG Community Visitors across Queensland to inform the Commission's monitoring and auditing functions, and their role in educating NDIS funded service providers about their restrictive practices obligations.

# Strategic policy

OPG identifies systemic, policy and legislative issues relevant to our clients and advocates for reform on these issues as part of our responsibility to promote and protect the rights and interests of our clients. This includes preparing strategic policy submissions on public and internal government matters which may impact OPG clients and OPG's functions and identifying and advocating for resolution of high-level issues common to our clients.

During 2020-21, OPG worked closely on policy and legislative issues with the Queensland and Australian Governments and other stakeholders on a range of matters impacting OPG clients. OPG's strategic policy work has been targeted toward both public and internal government consultations in a range of areas which significantly affect our clients in accordance with our identified policy priorities.

OPG welcomed the release of the final report of the *Royal Commission into Aged Care Quality and Safety* in March 2021. OPG's advocacy to the Royal Commission was reflected in the final report and recommendations, particularly in relation to rights, restrictive practices, serious incident reporting and complaints. It is hoped that the Australian Government's response to the Royal Commission, which includes significant financial investment in the aged care system, will deliver increased respect, dignity and quality of care to older Australians.

The final report of the Joint Standing Committee on the NDIS inquiry into NDIS planning was released in December 2020. OPG's submission to the inquiry was considered and referenced frequently throughout the final report. OPG's input was reflected in many of the Committee's recommendations, including those relating to the provision of draft plans, the interface between the NDIS and other service systems, planning for participants in rural and remote areas, specialisation of planners, Administrative Appeals Tribunal proceedings, and the provision of information on accessing services outside the NDIS.

## Submissions

During 2020-21, OPG delivered 12 publicly available submissions. These submissions were to the:

August 2020	Legal Affairs and Community Safety Committee on the Child Protection and Other Legislation Amendment Bill 2020
August 2020	Queensland Productivity Commission inquiry into the NDIS market in Queensland
September 2020	<i>Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability</i> issues paper on rights and attitudes
October 2020	NDIA discussion paper on support coordination
October 2020	Independent Review of the National Redress Scheme regarding access for people with impaired decision-making capacity
November 2020	<i>Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability</i> issues paper on restrictive practices
January 2021	Community Support and Services Committee on the Child Protection and Other Legislation Amendment Bill 2020 – joint submission led by the Queensland Family and Child Commission
March 2021	Legal Affairs and Safety Committee on the Youth Justice and Other Legislation Amendment Bill 2021
March 2021	<i>Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability</i> issues paper on safeguards and quality

April 2021	<i>Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability</i> issues paper on violence and abuse of people with disability at home
April 2021	DCYJMA consultation paper on growing child safe organisations in Queensland
June 2021	National Register of EPAs Public Consultation Paper – drafted by the Office of the Public Advocate Victoria and endorsed by some members of the Australian Guardianship and Administration Council including OPG

## Contributions to reform

OPG also actively contributed to Queensland and Australian Government consultations and provided feedback on matters affecting our clients during the past financial year. OPG continues to observe our input and ideas reflected in policy and legislative change. Contributions and influence to matters in the public domain included:

- All Abilities Queensland: Opportunities for All – State Disability Plan 2017-2020 progress update
- Australian Healthcare Associates independent review of legislative provisions governing the use of restraint in residential aged care
- Department Child Safety, Youth and Women consultation on permanency and adoption for children in care
- Department of Communities, Disability Services and Seniors review of Queensland’s framework for authorising restrictive practices
- Department of Communities, Disability Services and Seniors submission to the Joint Standing Committee on the National Disability Insurance Scheme Inquiry into the NDIS Quality and Safeguards Commission
- DJAG National Disability Insurance Scheme Transition and Interface Strategy 2019-20
- DJAG update on implementation of the Australian Law Reform report, Elder Abuse—A National Legal Response (ALRC Report 131)
- Human Rights Act implementation project
- Implementation of Queensland guardianship reforms including new advance health directive and EPA forms and guides, and capacity assessment guidelines
- Implementation of strengthened regulations under the Aged Care Act 1997 and the Quality of Care Principles regarding restrictive practices in aged care
- Legislative processes for the Justice Legislation (COVID-19 Emergency Response—Documents and Oaths) Regulation 2020 amendments, National Redress Scheme for Institutional Child Sexual Abuse Amendment (Technical Amendments) Bill 2020, and Youth Justice Regulation 2016 amendments
- NDIA data sharing arrangements between the NDIA and Australian State and Territory agencies.
- NDIS information sharing arrangements between the NDIS Quality and Safeguards Commission and states and territories – Queensland
- National Plan to Respond to the Abuse of Older Australians (Elder Abuse) 2019-2023 and Implementation Plan to support the National Plan to Respond to the Abuse of Older Australians 2019-2023
- Public Trustee of Queensland nominated person policy
- Queensland Family and Child Commission evaluation of Queensland Child Protection Reform Program (2014-24) outcomes
- Queensland Government Interagency Guidelines for Responding to People who have Experienced Sexual Assault

- Queensland Government submission to the Joint Standing Committee on the NDIS Inquiry into Independent Assessments
- QHRC consultation on case studies
- Queensland Multicultural Action Plan 2019-20 to 2021-22
- Queensland Productivity Commission Inquiry into the NDIS market in Queensland – information and appearance at public hearing
- Reform of the Queensland forensic disability service system
- *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* – statement and appearance at public hearing on psychotropic medication, behaviour support and behaviours of concern.

# Communication and education

OPG has a comprehensive communications plan, which profiles issues of importance for OPG and includes an active engagement program delivering education sessions to the public on our role, operations and functions.

## Stakeholder and community education and engagement

OPG educates service providers and the general public on our role and function by conducting education sessions for government and non-government agencies, attending disability and aged care expos, and delivering presentations to the education, health provision and legal sectors.

During 2020-21, OPG attended 71 stakeholder and community related events. Thirty two percent of stakeholder education and presentations were made to the child protection sector, followed by the disability sector (18 percent), health sector (18 percent), and the aged care/seniors sector (14 percent). We reached a combined total audience of approximately 2,267 people. OPG also participated in a webinar for Suncorp staff on our investigations function. This webinar was mandatory for Suncorp staff and reached around 15,000 staff members.

During the COVID-19 public health restrictions in 2019-20, OPG suspended face-to-face education and engagement events. To support the continuation of public education and engagement, OPG adapted presentations to facilitate interactive sessions. The use of this technology has continued in 2020-21 to allow OPG to engage with a broader range of audiences across Queensland.

OPG also worked on the development and delivery of training programs for stakeholders. A focus was on engaging with NDIS support co-ordinators to educate them on the role Guardians play in ensuring our clients have suitable access to NDIS supports and services, and how support co-ordinators and OPG can effectively work together. Seven events were held, reaching an audience of 377 people.

Another significant focus was elder abuse education, with the OPG participating in forums across Queensland and the Aged Care Assessment Program Statewide Conference to raise awareness on the identification of red flags, appropriate referral pathways, and OPG's Investigation functions. A key component in the prevention of elder abuse is having appropriate enduring documents in place. OPG undertook a range of education and engagement activities highlighting the importance of these documents with our 'Plan Ahead' campaign.

Resources including presentation handouts, resource kits, videos, factsheets and statistical data were developed for OPG staff to use in presentations, and to provide as handouts to event participants.

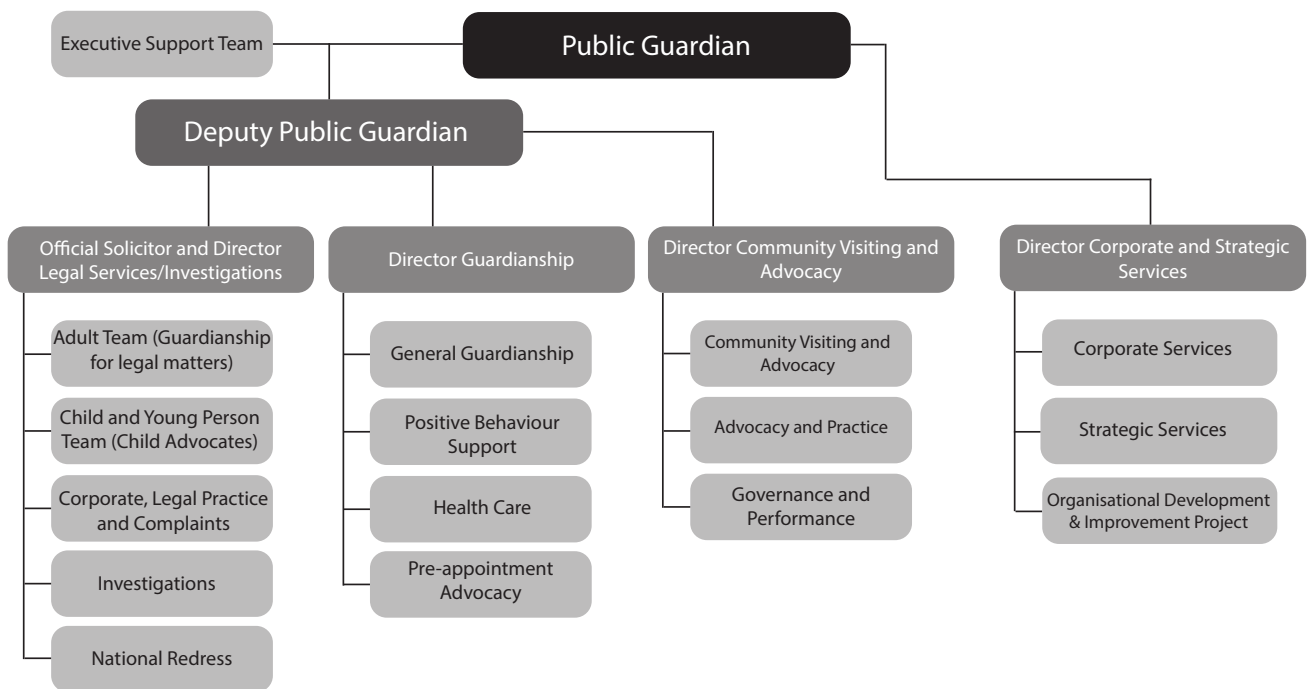
There continued to be significant engagement with Hospital and Health Services. OPG staff visited several Hospital and Health Services within Queensland to deliver a new presentation specifically tailored to this audience to ensure consistent messaging across the state. During the year medical, allied health practitioners and social workers were provided with information on human rights and medical and health care decision-making issues for patients with impaired decision-making capacity. OPG additionally provided education on the areas of guardianship laws relevant to health practitioners, and OPG's investigation functions.

# Our organisation

OPG's structure was based on a core establishment of 277 full-time equivalent (FTE) position and employs 330 people (as at 30 June 2021). OPG consists of both public servants appointed under the *Public Service Act* and casual, home-based Community Visitors appointed under the *Public Guardian Act*.

OPG's workforce is 79 percent female and 21 percent male, with 11 percent of employees engaged on a part-time basis (excluding casual Community Visitors).

## Organisational Structure



## Our leadership as at 30 June 2021

As at 30 June 2021, the OPG leadership was as follows.

Name	Position	Description
Shayna Smith	Public Guardian	<p>Ms Shayna Smith was appointed as Public Guardian on 11 June 2021, having previously been Acting Public Guardian. It is a statutory appointment under the Public Guardian Act. As well as holding the primary functions as powers of the position, Ms Smith is also Chief Executive Officer of the OPG.</p> <p>The Deputy Public Guardian, and the Corporate and Strategic Services and Executive Support report directly to the Public Guardian.</p>
Amelia Barker	A/Deputy Public Guardian	The Guardianship, Legal Services and Investigations, and Community Visiting and Advocacy business units report directly to the Deputy Public Guardian.
Brian Norman Robyn Farley-Sutton was appointed as the Acting Director Corporate and Strategic Services on 28 June 2021.	Director — Corporate and Strategic Services	<p>Corporate and Strategic Services comprises 42 full- and part-time staff members, totalling 39.7 FTE positions.</p> <p>It encompasses Information Support Services, Communications and Engagement, Strategic Policy, Finance, People and Engagement, Central Intake and Referral, and Corporate Administration</p>
Jodie McKellar	A/Director — Guardianship	Guardianship has 95 full- and part-time staff members, totalling 91.5 FTE positions. Staff are located at four regional offices located in Brisbane, Ipswich, Townsville and Cairns.
Michelle Emeleus	A/Director — Legal Services and Investigations	<p>Legal Services and Investigations comprises 46 full- and part-time staff members, totalling approximately 42.7 FTE positions. Staff are mostly located in Brisbane, with Child Advocates also located in regional offices.</p> <p>Legal Services/Investigations has five separate teams: Adult, Children and Young People, Investigations, Corporate and Legal Practice, and Redress Practice.</p>
Catherine Moynihan	A/Director — Community Visiting and Advocacy  Catherine is also the Official Solicitor for OPG.	<p>Community Visiting and Advocacy comprises 135 full- and part-time and casual staff members, including 105 Community Visitors. This comprises of 103.1 FTE positions, which included 75.0 FTE Community Visitor positions.</p> <p>Community Visiting and Advocacy has eight regional offices located in Brisbane, Ipswich, Toowoomba, Sunshine Coast, Rockhampton, Bundaberg, Cairns and Townsville, covering 13 distinct visiting zones, and a specialised Youth Detention and Watchhouse team.</p>

# Working collaboratively with government and external organisations

## Partnering to develop improved strategies to divert children and young people from the criminal justice system

In 2020-21, OPG continued to work with DCYJMA in relation to the rights and interests of children and young people with involvement in the criminal justice system. This aimed to improve collaboration to support children and young people to access suitable placements and supports in the community and to develop improved strategies for diverting young people from the criminal justice system. Specifically, OPG worked with DCYJMA regional leaders to support the implementation of more effective case planning and advocacy strategies that leverage regional practice leadership and promote placement and service delivery outcomes.

## Multi agency approach to transition to adulthood

OPG continued collaborating with stakeholders, including DCYJMA, to improve practices for supporting young people in their transition from care. This included:

- improving cross-agency collaboration with DCYJMA transition officers,
- supporting children and young people to participate in transition planning and access information about their time in care, and
- ensuring young people have access to appropriate support to respond to applications to QCAT for the advance appointment of a formal guardian or administrator.

OPG has also worked with DCYJMA to ensure guidance to departmental staff in the *Child Safety Practice Manual* accurately describes the processes for seeking an advance appointment and the role of the OPG in this process. OPG is also working with the Department to streamline information sharing with OPG where the Public Guardian is appointed as guardian for a young person, to support continuity in decision-making.

## Participation in working and advisory groups

OPG staff participate in numerous working and advisory groups as outlined below.

### Australian Guardianship and Administration Council

This Council is comprised of the statutory appointees of every state and territory Public Advocate, Public Guardian, Guardianship Tribunal/Board and Public Trustee that has a role in protecting Australian adults with impaired decision-making capacity.

### Australian and New Zealand Children's Commissioners and Guardians (ANZCCG)

The ANZCCG comprises national, state and territory children and young people commissioners, guardians and advocates, and aims to promote and protect the safety, wellbeing and rights of children and young people in Australia and New Zealand.

The ANZCCG is supported by a policy officer network which contains representatives from each ANZCCG member agency, including OPG.

### Childrens Court Committees on Youth Justice and Child Protection

These court-chaired groups bring together relevant stakeholders in youth justice and child protection to discuss issues that impact on the operation of court processes in those jurisdictions.

### Elder Abuse Prevention Unit Reference Group

This group is comprised of government and community stakeholders and provides a forum for agencies to highlight emerging and current elder abuse issues, relevant work and initiatives of represented agencies, and joint strategies and actions that may help address issues.

## **G-Force**

OPG continues to actively participate in G-Force, a sector-wide group chaired by CREATE Foundation and comprised of government and non-government organisations. G-Force seeks to support those working with young people in out-of-homecare by sharing practical information, practice wisdom and useful resources, and provides stakeholders with an opportunity to provide feedback about systemic changes that could lead to improved outcomes for young people in out-of-home-care. Young people who are currently, or have previously been, in care play an active role in contributing to and leading the group's work.

## **Joint Coordination Committee**

In July 2020, a Joint Coordination Committee was established to bring together key government departments including OPG, DCYJMA, Department of Communities, Housing and the Digital Economy, Queensland Health, Department of Education and the NDIS Quality and Safeguards Commission. The purpose of the Joint Coordination Committee is to support the coordination of collaborative service delivery to children and young people who are unable to remain in their family home due to complex disability needs and are accessing voluntary out-of-home care arrangements to meet their disability needs.

## **Mental Health Service Planning Working Group**

The group is comprised of stakeholders involved in the mental health service sector, and the legal interface, and includes government and NGOs. It meets quarterly to discuss general engagement for clients and representatives involved in the mental health sector, in particular the Mental Health Review Tribunal. The goal of the group is working towards a systemic solution-based approach for identified barriers, to share experiences and learnings in the sector to support development of representation and the rights of people engaged in the mental health sector.

## **Queensland: An Age-Friendly Community Senior Officers Group**

The group is convened by DSDSATSIP and is comprised of representatives from a range of Queensland Government departments and agencies who discuss, develop and advance the delivery of the age-friendly community strategy in Queensland.

## **Queensland Health COVID-19 Disability and Aged Care Working Groups**

These groups were convened by Queensland Health to ensure the Queensland Government's COVID-19 actions are responsive to people with disability and in residential aged care respectively.

## **Queensland Human Rights Commission Advocates Working Group**

The Queensland Human Rights Advocates Group is comprised of lawyers and advocates with an interest in promoting the human rights of their clients. The group attends periodic meetings convened by QHRC to promote the protection and fulfilment of human rights through sharing information and identifying systemic issues. The group collaborates to build capacity and a culture in Queensland that respects and promotes human rights. The group also provides support to QHRC in the performance of its functions.

# Our people

## COVID-19 safe workplace

OPG is categorised as an essential service and continued to provide services even when community COVID-19 lockdowns were enforced in 2020-21. This presented challenges in providing safe and effective services to OPG clients as well as keeping OPG staff safe while performing their duties. The COVID-19 pandemic resulted in changes to service delivery methods to ensure staff and clients were safe.

- During the period of lockdown, the majority of OPG staff were required to work from home. To support this change, OPG significantly increased its fleet of laptops, remote access devices and software licences that allowed staff to use their own computer equipment to access OPG systems and support.
- Managers regularly checked in with individuals and teams using Microsoft Software as a key tool to maintaining connection with staff.
- Regular communications were sent to staff and uploaded to the intranet about COVID-19 safety measures, including mask wearing requirements, social distancing and the importance of personal hygiene.
- Support tools were developed and uploaded to SharePoint to support staff with flexible work arrangements. This included information such as setting up ergonomic workspaces, how to access IT systems, and mental health tips.
- Flexible work arrangements were accessed by a significantly greater proportion of staff over the past 12 months. Staff continue to make use of compressed hours and working from home options outside of lockdown periods.
- Regular COVID-safe cleaning is conducted in all workplaces throughout the day and overnight.

## Staff safety, health and wellbeing

OPG is strongly committed to our staff's safety, health and wellbeing. All OPG staff are required to make OPG a safe place to work.

Activities undertaken in 2020-21 by OPG to help provide a safe and supportive workplace included:

- reiterating the Public Guardian's statement of commitment to supporting staff experiencing domestic and family violence and including a standalone resources page on the OPG intranet
- representation on the White Ribbon Accreditation working group
- A structured and planned return to work process for any staff undergoing workplace rehabilitation
- Continued implementation of bespoke trauma debriefing and wellbeing services to frontline staff
- Prompt responses to workplace health and safety issues raised by staff
- representation on DJAG Workplace Health and Safety committees within DJAG.

OPG also had a low level of workplace accidents, with 4 Workcover claims lodged in 2020-21. OPG works closely with agencies at our office locations to improve workplace health and safety in shared areas of each building.

## Flexible working arrangements

To help our people balance work, family commitments and recreational time, OPG continued to offer flexible working arrangements such as accrued time, purchased leave, paid maternity leave, and part-time work arrangements to staff.

## Employee Assistance Program

As part of its commitment to a vision of healthy people working in safe and supportive environments, OPG staff continued to have access to Benestar's Employee Assistance Program free of charge.

Benestar focuses on individual wellbeing and workforce wellness. It offers an online health and wellbeing portal called BeneHub that provides access to information and articles, self-assessment tools, videos and podcasts, online counselling and support, a range of financial literacy and learning modules, and many more tools and resources.

Staff can use BeneHub to access health and wellbeing resources anywhere, anytime from their preferred device via the app or the website.

## Psychological support and trauma debriefing

OPG continued to offer staff psychological support and trauma debriefing as part of a preventative, holistic and proactive approach to staff wellbeing. Through this initiative, staff were supported not only to identify workplace stress but also to manage the psychological risks of occupation-based vicarious trauma. The initiative gives staff an opportunity to discuss and reflect on their work-related experiences with a clinician and understand vicarious trauma, self-care and resilience.

OPG psychological support and trauma debriefing has three components

1. Group-based support – facilitated discussions in teams to better understand the strengths, weaknesses and common reactions to pressure of individual team members. This aims to enable better sharing of resources, support for colleagues, normalisation of responses and reactions, and the development of shared self-care plans and work practices.
2. Individual support – individual calls to staff to establish a baseline and conduct a 'wellbeing' check to manage ongoing exposure to trauma. Calls are also used to identify areas of risk for the individual, their work teams and the organisation.
3. Trauma debriefing and support – direct psychological support to staff experiencing or affected by work-related trauma, whether vicarious or otherwise. Acute psychological support is offered to staff when required.

The program will be reviewed in 2021-22 to ensure benefits to staff are maximised.

## Workforce planning, attraction and retention

In September 2020, amendments to the *Public Service Act* came into effect that placed emphasis on the positive and proactive management of employees and their performance. To support this, five new directives and six amended directives were issued.

OPG worked with managers and staff to implement the changes. The key changes include:

- a shorter eligibility period for a review of an employee's fixed-term temporary employment and conversion to permanent employment.
- the ability to be appointed at a higher classification after performing the duties for more than one year
- staff complaints are referred to as individual employee grievances, and
- the implementation of seven positive performance management principles that must be engaged in before disciplinary action can be initiated.

## Training and professional development

OPG developed a Learning and Development Framework that continues to be implemented across the organisation to support ongoing professional growth. OPG adopted the principles of the 70:20:10 philosophy approach to learning and development. This approach recognises that:

- 70% of learning is experiential (action learning) – through daily tasks, challenges and practice
- 20% of learning is social (relationship learning) – with and through other people (e.g. peer interaction between team members), and
- 10% of learning is formal (educative learning) – through structured training courses and programs.

Benefits of the 70:20:10 philosophy include an emphasis on learning in the context of the workplace, increased focus on collaboration, agility in responding to change, change, an increase in the availability and frequency of learning opportunities, and harnessing flexibility and synergy.

OPG remains committed to learning and will recruit a dedicated training officer to support frontline staff in the coming months.

## Performance management

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, which ensures a culture where managers and employees are accountable for the responsibilities of their roles. It is also important that outstanding performance is recognised and valued. Performance management gives staff clarity on what is required for achievement in their roles, and allows for recognition of individual and team contributions. All OPG staff are required to have Expectations Agreements, which are confidential agreements between a staff member and their supervisor that detail:

- 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 ongoing conversation and feedback.

## Employee relations

OPG's Industrial and Employee Relations Framework is governed by existing DJAG workforce policy and procedure. OPG ensures compliance with these policies and procedures and also maintains contemporary knowledge through forums such as:

- Office of Industrial Relations information sessions
- DJAG Community of human resources practitioners, and
- Connect Manager Webinar Series (DJAG People Engagement).

## Workforce diversity

OPG respects and supports diversity and equity in the workplace and the need to reflect the community it serves. OPG continues to work with staff to ensure they interact respectfully and competently with people from all cultural backgrounds, and approximately 90% of current OPG staff have attended Cultural Awareness training. OPG is an Equal Employment Opportunity employer that aims to employ a workforce more representative of the wider community.

## Code of Conduct and ethics

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

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 *Code of Conduct for Queensland Public Service*. The ethics principles and values contained in the Code of Conduct are incorporated into OPG's policies and procedures as well as each employee's Expectations Agreement. All new employees undertake ethics and Code of Conduct training as part of their induction. Existing employees are also required to undertake annual Code of Conduct refresher training annually.

# Corporate governance

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

OPG is committed to the right to safety of children and vulnerable people. We want children and vulnerable people to be safe, happy and empowered. OPG supports and respects all children and vulnerable people, and has zero tolerance for abuse of children and vulnerable people. All allegations and safety concerns will be treated very seriously.

OPG is also committed to promoting culturally appropriate and responsive spaces for Aboriginal and Torres Strait Islander children and vulnerable people, and for children and vulnerable people from culturally and/ or linguistically diverse backgrounds, and a safe environment for those with disability.

OPG:

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

## We are committed to the Human Rights Act

OPG strongly supports the objects and purpose of the *Human Rights Act* to protect and promote the human rights of all Queenslanders. In 2020-21, the *Human Rights Act* was further incorporated into the OPG's day-to-day practice and is now considered a business-as-usual component of our work.

- Upholding human rights is part of our organisational culture.
- All OPG staff complete human rights training.
- All OPG staff consider human rights when making decisions in accordance with our *Human Rights Act Decision-Making Framework*.
- OPG initiates complaints for clients about potential human rights restrictions by external agencies.
- OPG continually reviews its policies, procedures and practices to ensure compatibility with human rights.

## Right to information and the protection of personal information

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

In relation to records held by OPG:

- Section 142 of the *Public Guardian Act* outlines some of the matters the Public Guardian must take into consideration in determining whether or not to release confidential information
- *Schedule 2, Part 2 of the Right to Information Act*: Schedule 2, Part 2 (10) provides that information obtained by the investigation function of the Public Guardian is exempt from the Act, while Schedule 4 sets out additional factors to be considered when determining what's in the public interest

- Section 249(3) of the *Guardianship and Administration Act* 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. Section 140(4) of the *Public Guardian Act* outlines the ways in which a person may make a record of confidential information or disclose it to someone else.

We also publish a publication scheme and disclosure log on our website. Further information about RTI applications relating to the OPG is contained in the DJAG RTI and Privacy Annual Report.

## Complaints to OPG

OPG is committed to delivering high quality services to our clients and stakeholders, and we welcome all types of feedback. OPG has a dedicated team to respond to complaints received about OPG staff or services, which are managed in accordance with the *OPG Complaints Handling Policy*.

Under section 219A(3) of the *Public Service Act 2008 (Qld)*, OPG is required to publish data relating to complaints about OPG. Figure 19 presents a summary of the complaints received by OPG in 2020-2. 120 complaints were received by OPG, and 105 did not require further action after finalising the complaint either through providing an explanation, offering an apology or referring the complaint to another agency. There were no complaints received by children or young people.

**Figure 20: Summary of complaints**

Category	Count
Complaints not requiring further action	105
Complaints requiring further action	9
Complaints still in progress as at 30 June 2021	6
<b>Total complaints received</b>	<b>120</b>

As shown in Figure 21, over half of complaints received by OPG related to service provision and almost a quarter related to an administrative decision by OPG

**Figure 21: Subject of complaints**

Subject	Count
Service delivery	69
Administrative decisions	29
Staff Conduct	14
Policy/procedure	8
Privacy	0
<b>Total</b>	<b>120</b>

Note: Individual complaints can be classified into multiple categories

In 2020-21, almost all complaints received by OPG resulted in the complainant receiving a statement, reason or justification for the OPG's action or decision. Other complaints resulted in an apology to the complainant, the original decision being upheld or referred to another agency, or improvements to services or staff training.

**Figure 22: Complaint outcomes**

<b>Outcome</b>	<b>Count</b>
Explanation	112
Apology	19
Service improvement	6
Reviewed decision - upheld	5
Referred to another agency	4
Staff training	4
Reviewed decision - amended	1
Other (i.e. frivolous/vexatious, withdrawn, rejected, unable to be resolved)	16
<b>Total</b>	<b>167</b>

Note: Individual complaints can be classified into multiple categories

### **Complaints raised under the Human Rights Act**

In 2020-21, OPG received 10 complaints that raised issues relating to human rights. Of these, two were substantiated. In one case the complainant was provided with an apology, and in the second the complainant was provided with an explanation and referral. Seven were found not to involve breaches of human rights by OPG. As at 30 June 2021, three complaints were still active and subject to further investigation.

### **Response to QAO Complaints audit**

In 2021-22, further enhancements will be made to OPG's incoming complaints process to ensure it is fully accessible to our clients in response to the QAO complaints audit: *Responding to complaints from people with impaired capacity – Part 2: The Office of the Public Guardian*, tabled in the Queensland Parliament in February 2021.

Six recommendations were made to make it easier to complain to OPG and improve record keeping to more accurately measure and report on performance and inform improvements.

The recommendations are to:

- measure and monitor complaint response times and report regularly on how many complaints are finalised within target time frames
- make the complaints management system easier to use
- make the Complaints Management Policy and Procedure easier to understand
- ensure all complaints received are recorded accurately and on time, including complaints received and resolved at a local level
- improve complaints management training and support for staff, and
- improve system and process effectiveness.

Implementing these recommendations will ensure that concerns raised by the public, and importantly by adults with impaired decision-making capacity, are heard and appropriately addressed by OPG.

## Risk management

Risk management is an integral part of strategic and business planning. In meeting our objectives, while providing a safe and healthy workplace for staff, OPG has a 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 OPG staff at all levels will:

- minimise 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

OPG maintains business continuity plans, 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 effects of a business interruption
- deliver critical services to the community before full-service resumes, and
- resume business to pre-incident capacity where possible.

OPG's business continuity management is governed by existing DJAG guidelines.

## Information systems and record keeping

OPG is committed to managing its records effectively and meeting its record keeping responsibilities under the *Public Records Act 2002 (Qld)* and other policies and standards.

OPG is obligated to create, maintain, preserve and dispose of records in compliance with legislation, policies and standards. OPG also complies with the *Queensland State Archives General Retention and Disposal Schedule*.

We have clear processes and staff training sessions about:

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

## Mandatory online reporting

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

# Our financial performance

OPG is not a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982 (Qld)* or the *Financial Accountability Act 2009 (Qld)*.

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

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

Financial details relating to OPG's operations are reported in the DJAG Annual Report 2020-21. The summary below provides an overview of OPG's financial performance for 2020-21.

## Overview of financial performance

<b>Income from continuing operations</b>	<b>\$000</b>
Appropriation	32,657
Public Trustee of Queensland Grant	1,213
Other revenue	-4
<b>Total income from continuing operations</b>	<b>33,866</b>

<b>Expenses from continuing operations</b>	<b>\$000</b>
Employee expenses	29,669
Supplies and services	4,020
Grants and subsidies	-
Depreciation and amortisation	177
Other expenses	-1
<b>Total expenses from continuing operations</b>	<b>33,865</b>
Operating result from continuing operations	1

## Expenditure

In 2020-21, the OPG's largest operational expenditure areas were Community Visiting and Advocacy Services and Guardianship Services.

<b>Expenditure 2020-21</b>	<b>\$</b>
Corporate and Strategic Services	7,935,248
Legal Services/Investigations	4,884,921
Community Visiting and Advocacy Services	11,108,008
Guardianship Services	9,936,697
<b>Total</b>	<b>33,864,874</b>

# Glossary of acronyms and initialisations

<b>AHMS</b>	Authorised Mental Health Service
<b>ANZCCG</b>	Australian and New Zealand Children’s Commissioners and Guardians
<b>DCYJMA</b>	Department of Children, Youth Justice and Multicultural Affairs
<b>DJAG</b>	Department of Justice and Attorney-General
<b>DSDSATSIP</b>	Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships
<b>EPA</b>	Enduring Power of Attorney
<b>FTE</b>	Full time equivalent
<b>NDIA</b>	National Disability Insurance Agency
<b>NDIS</b>	National Disability Insurance Scheme
<b>OPG</b>	Office of the Public Guardian
<b>QAO</b>	Queensland Audit Office
<b>QCAT</b>	Queensland Civil and Administrative Tribunal
<b>QHRC</b>	Queensland Human Rights Commission
<b>QPS</b>	Queensland Police Service
<b>SHA</b>	Statutory Health Attorney

# Glossary of terms

<b>Adult</b>	A person aged 18 years or over.
<b>Announced visit</b>	A visit made to an adult visitable site that a Community Visitor has scheduled with site staff ahead of their visit.
<b>Attorney</b>	A person appointed by an Enduring Power of Attorney to act as a legally appointed decision-maker about personal and/or financial decisions for an adult who has lost the capacity to make their own decisions.
<b>Authorised Mental Health Service</b>	A health service, or part of a health service, declared to be an Authorised Mental Health Service under section 329 of the <i>Mental Health Act</i> ; or an Authorised Mental Health Service (rural and remote); or a high security unit.
<b>Child and young person</b>	A person aged under 18 years.
<b>Child Advocate</b>	OPG Child Advocates protect the rights of children and young people in the child protection system, ensuring their voices are heard, particularly when decisions are made that affect them and their care arrangements. Child Advocates can also provide complementary youth justice advocacy for relevant children and young people involved in the criminal justice system. While OPG's Child Advocates are legally trained, they do not act as a direct legal representative for a child/young person.
<b>Child protection system</b>	The set of laws, policies, regulations and services in Queensland designed to support the protection of children from significant harm or risk of significant harm whose parents are unable and/or unwilling to protect them.
<b>Community Visitor (adult)</b>	OPG Community Visitors (adult) independently monitor visitable sites to inquire into the appropriateness of the site and facilitate the identification, escalation and resolution of complaints by or on behalf of adults with impaired decision-making capacity staying at those sites. Community Visitors have the power to refer complaints to an external agency—such as the DCYJMA, Queensland Health, or Housing's Residential Services Unit—where appropriate.
<b>Community Visitor (child)</b>	OPG Community Visitors (child) monitor and advocate for the rights of children and young people in the child protection system including out-of-home care (foster and kinship care), or at a visitable site. They also ensure the delivery of services is being undertaken in an appropriate manner to enhance safety, mitigate risk and support the wellbeing of children and young people who reside at a visitable location.
<b>Elder abuse</b>	An intentional act or a failure to act that causes or creates a risk of harm to an older person. Elder abuse can take various forms such as physical, psychological or emotional, sexual and financial abuse. It can also be the result of intentional or unintentional neglect.
<b>Enduring documents</b>	An Enduring Power of Attorney or Advance Health Directive are legal documents collectively known as enduring documents.
<b>Enduring Power of Attorney</b>	A legal document that allows an adult to appoint another person or people to act as their legal decision-makers (known as their attorney or attorneys) should they ever lose the capacity to make their own personal or financial decisions.

<b>Guardians</b>	Guardians are the delegates of the Public Guardian when appointed by QCAT as decision-maker for an adult with impaired decision-making capacity.
<b>Guardianship order</b>	A legal order from QCAT that appoints another person as a substitute decision-maker for an adult with impaired decision-making capacity. The order outlines what decision-making powers a person has been given for the adult QCAT has appointed them guardian for, including areas of decision making, duration of the order and the date for the review of the guardianship appointment.
<b>Human rights</b>	Human rights recognise the inherent value of each person, regardless of background, where they live, what they look like, what they think or what they believe. Human rights are based on principles of dignity, equality and mutual respect, which are shared across cultures, religions and philosophies. In Queensland, the <i>Human Rights Act</i> protects 23 human rights in law.
<b>Impaired decision-making capacity</b>	<p>The <i>Guardianship and Administration Act</i> and <i>Powers of Attorney Act</i> define capacity as the ability to:</p> <ol style="list-style-type: none"> <li>a. understand the nature and effect of decisions about a matter</li> <li>b. freely and voluntarily make decisions about the matter, and</li> <li>c. communicate the decisions in some way.</li> </ol> <p>If an adult is unable to do least of one of these things regarding a decision, they do not have capacity to make that decision.</p>
<b>Interim guardianship orders</b>	An interim guardianship order can only be made by QCAT for a maximum of three months and will only be made if an adult with impaired decision-making capacity is at immediate risk of harm to their health, welfare or property because of the risk of abuse, exploitation, neglect, or self-neglect. After an interim order is made a tribunal hearing must be scheduled to hear the application.
<b>National Disability Insurance Scheme</b>	The NDIS is a scheme funded by the Australian Government to provide individualised funding packages to eligible people under the age of 65 years with intellectual, physical, sensory, cognitive and psychosocial disability to enable them to access supports and services related to their disability.
<b>Principal</b>	The person to whom an EPA relates is known as the 'principal'. The Principal appoints a person or people they trust (an 'attorney') to make decisions about personal and/or financial matters.
<b>Relevant child</b>	A child or young person who is subject to a child protection intervention (like an Intervention with Parental Agreement or care agreement) or order (from a directive order through to a long-term guardianship order).
<b>Restrictive practices</b>	<p>Practices used to respond to an adult with an intellectual or cognitive disability who exhibits behaviours that may place themselves, and/or others at risk of harm.</p> <p>Under the <i>Disability Services Act</i>, restrictive practices refer to:</p> <ul style="list-style-type: none"> <li>• Containing or secluding an adult with an intellectual or cognitive disability</li> <li>• Using chemical, mechanical or physical restraint on an adult with an intellectual or cognitive disability</li> <li>• Restricting access (of objects) to an adult with an intellectual or cognitive disability.</li> </ul>

**Statutory Health Attorney**

If an adult doesn't have the capacity to make a required health care decision and has not completed an enduring power of attorney or an advance health directive and does not have a guardian for health care matters appointed, a Statutory Health Attorney can make this health care decision. An SHA does not need to be appointed; they assume the position automatically if the need arises.

By law, an SHA is the first available and culturally appropriate person (over the age of 18) from the following:

- a spouse or de facto partner (as long as the relationship is close and continuing)
- a person who is responsible for the adult's primary care but is not the adult's health provider, a service provider for a residential service where the adult is a resident, or a paid carer (although they can be receiving a carer's pension), or
- a friend or relation in a close personal relationship with the adult. Relation can also include a person who under Aboriginal tradition or Torres Strait Islander custom is regarded as a relation

If the medical professional has tried to contact an SHA and is unsuccessful, or there is no one suitable, then the Public Guardian can act in this role as a last resort.

**Unannounced visit**

A visit made by a Community Visitor to an adult visitable site that site staff had not been notified of ahead of the visit.

**Visitable site (adult)**

A visitable site is defined under the *Public Guardian Act* as a place other than a private dwelling house, where an adult or adults with an impairment, or with impaired capacity lives, that is also any of the following:

- Authorised Mental Health Services
- the Forensic Disability Service
- residential services with level 3 accreditation
- premises where a funded adult participant lives and receives services or supports that are:
  - paid for wholly or partly from funding under the NDIS; and
  - provided under the adult participant's plan; and
  - provided by a registered NDIS provider that is registered under the *National Disability Insurance Scheme Act 2013 (Cth)* section 73E to provide a relevant class of supports; and are within the relevant class of supports.

'Relevant classes of supports' means any of the following classes of supports under the *National Disability Insurance Scheme Act*:

- high-intensity daily personal activities
- assistance with daily life tasks in a group or shared living arrangement
- specialist positive behaviour support that involves the use of a restrictive practice
- specialist disability accommodation.

**Visitable location** Community Visitors visit children and young people at visitable locations, which includes visitable sites and visitable homes.

Visitable site, for a child, means:

- a residential facility where the child is staying
- a detention centre where the child is staying
- a corrective services facility where the child is staying
- an Authorised Mental Health Service where the child is staying.

A visitable home is:

- the home or accommodation where a child is staying with a person, where that child is in the custody or guardianship of the chief executive (child safety) under the *Child Protection Act* and under section 82 of that Act has been placed in the care of someone other than a parent of the child; or
- the home or accommodation where a child is staying with another person, if the child has been placed in the care of someone other than a parent of the child under a care agreement under the *Child Protection Act*.

This generally refers to the home of a foster carer or kinship carer.

**Watch house** Watch houses are attached to police stations. Their purpose is hold adults for short periods of time after they are arrested while they wait for their court hearing, or if bail is not granted after a hearing, until transfer can be arranged to a remand centre. Watch houses were not designed to detain children.

# Appendix 1: Data tables

**Table 1: Number of visits to each type of location (child)**

	2018-2019		2019-20		2020-21	
	Count	Percent	Count	Percent	Count	Percent
Visitable home	29,209	72%	30,965	74%	25,923	67%
Visitable site — Residential facility	5,926	15%	7,190	17%	8,448	22%
Visitable site — Youth detention site	1,535	4%	1,478	4%	2,025	5%
Visitable site — Externally supported site	1,643	4%	1,695	4%	1,454	4%
Visitable site — Disability services	345	1%	329	1%	236	1%
Visitable site — Mental health site	235	1%	177	0%	152	0%
Visitable home — Boarding school	174	0%	127	0%	125	0%
Visitable site — Watch House	1,235	3%	129	0%	103	0%
<b>Total number of visits</b>	<b>40,302</b>	<b>100%</b>	<b>42,090</b>	<b>100%</b>	<b>38,466</b>	<b>100%</b>

Notes: For 2018-19 and 2019-20 Watch house relates to Brisbane City Watch house only. The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.

**Table 2: Number of visitable children by type of location**

	30 June 2019		30 June 2020		30 June 2021	
	Count	Percent	Count	Percent	Count	Percent
Visitable home	6,797	85%	7,368	85%	7,788	83%
Visitable site — Residential facility	787	10%	951	11%	1,170	13%
Visitable site — Externally supported site	209	3%	217	3%	234	3%
Visitable site — Youth detention site	50	1%	45	1%	71	1%
Visitable home — Boarding school	31	0%	8	0%	43	0%
Visitable site — Mental health site	18	0%	9	0%	18	0%
Visitable site — Disability services	25	0%	24	0%	16	0%
Visitable site — Watch House	19	0%	N/A	N/A	7	0%
Unknown location	17	0%	16	0%	0	0%
<b>Total</b>	<b>7,953</b>	<b>100%</b>	<b>8,638</b>	<b>100%</b>	<b>9,347</b>	<b>100%</b>

Notes: 'Unknown location' refers to the situation where the child left during the month (e.g. returned to parents, left the location). For 2018-19 and 2019-20 Watch house relates to Brisbane City Watch house only. The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.

**Table 3: Frequency of visits to visitable children and young people**

	30 June 2019		30 June 2020		30 June 2021	
	Count	Percent	Count	Percent	Count	Percent
Monthly	2,521	32%	2,830	33%	2,794	30%
Bi-monthly	1,704	21%	1,585	18%	829	9%
Quarterly	2,569	32%	2,915	34%	3,793	41%
Six monthly	1,092	14%	1,255	15%	1,880	20%
Annual	45	1%	38	0%	38	0%
No visit	22	0%	15	0%	13	0%
<b>Total</b>	<b>7,953</b>	<b>100%</b>	<b>8,638</b>	<b>100%</b>	<b>9,347</b>	<b>100%</b>

**Table 4: Issues raised by children and young people**

	2018-19		2019-20		2020-21	
	Count	Percent	Count	Percent	Count	Percent
Contact arrangements	3,224	16%	3,307	17%	2,766	17%
Placement	3,241	17%	3,207	16%	2,710	16%
Youth detention centres	1,497	8%	1,424	7%	1,459	9%
Health needs	1,570	8%	1,525	8%	1,283	8%
Education needs	1,491	8%	1,425	7%	1,168	7%
High-risk behaviour	1,294	7%	1,597	8%	1,030	6%
Case plans	1,556	8%	1,460	7%	1,007	6%
Other	5,747	29%	5,942	30%	5,084	31%
<b>Total</b>	<b>19,620</b>	<b>100%</b>	<b>19,887</b>	<b>100%</b>	<b>16,507</b>	<b>100%</b>

**Table 5: Types of Child Advocate meetings**

	2018-19		2019-20		2020-21	
	Count	Percent	Count	Percent	Count	Percent
Visits	683	43%	680	49%	1,048	47%
Court appearances	568	36%	431	31%	692	31%
Stakeholder meetings	162	10%	117	8%	291	13%
Family group meetings	93	6%	72	5%	91	4%
Court-ordered conferences	38	2%	53	4%	42	2%
QCAT hearings	9	1%	4	0%	31	1%
Child meeting with Magistrate	14	1%	27	2%	13	1%
Others (court or QCAT matters)	16	1%	11	1%	6	0%
<b>Total</b>	<b>1,583</b>	<b>100%</b>	<b>1,395</b>	<b>100%</b>	<b>2,214</b>	<b>100%</b>

Note: The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.

**Table 6: Issues raised in youth detention centres**

	2018-19		2019-20		2020-21	
	Count	Percent	Count	Percent	Count	Percent
Programs, services	381	22%	335	23%	408	29%
Living conditions	393	22%	240	17%	206	15%
Child Protection Orders	157	9%	203	14%	183	13%
Contact	202	12%	116	8%	128	9%
Staff	64	4%	47	3%	41	3%
Others	557	32%	489	34%	445	32%
<b>Total</b>	<b>1,754</b>	<b>100%</b>	<b>1,430</b>	<b>100%</b>	<b>1,411</b>	<b>100%</b>

Note: The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.

**Table 7: Issues raised at Watch Houses in 2020-21**

<b>Issue type</b>	<b>Count</b>	<b>Percent</b>
In watch houses	30	33%
Programs, services	17	19%
Child Protection Orders	13	14%
Living conditions	10	11%
Contact	10	11%
Other	10	11%
<b>Total</b>	<b>90</b>	<b>100%</b>

*Note: The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.*

**Table 8: Visitable Aboriginal and Torres Strait Islander children by zone**

	<b>30 June 2019</b>	<b>30 June 2020</b>	<b>30 June 2021</b>
	<b>Count</b>	<b>Count</b>	<b>Count</b>
Far Northern	516	610	660
Northern	433	449	494
Central North	359	390	402
Toowoomba and Western	305	323	373
Ipswich	296	310	354
Moreton and South Burnett	259	267	318
Brisbane West and Logan	324	259	311
Central South	215	211	254
Gold Coast	145	190	183
Detentions and Corrections	-	133	162
Sunshine Coast	119	144	160
Brisbane North	132	128	147
Brisbane South	127	151	133
<b>Total</b>	<b>3,230</b>	<b>3,565</b>	<b>3,951</b>

**Table 9: Type of Guardianship appointments**

	2018-19		2019-20		2020-21	
	Count	Percent	Count	Percent	Count	Percent
Service Provision	2,055	33%	2,224	36%	2,419	39%
Accommodation	1,807	29%	1,775	29%	1,827	30%
Health Care	1,091	17%	882	14%	787	13%
Legal	461	7%	423	7%	369	6%
Restrictive Practices	264	4%	290	5%	334	5%
Contact	322	5%	288	5%	274	4%
Others	281	4%	224	4%	175	3%
<b>Total</b>	<b>6,281</b>	<b>100%</b>	<b>6,106</b>	<b>100%</b>	<b>6,185</b>	<b>100%</b>

Notes: An adult client might have a guardianship order that includes more than one appointment type. The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.

**Table 10: Legal decisions made in legal matters 2020-21**

Decision type	Count	Percent
Criminal	447	45%
Release of information	140	14%
Mental health	138	14%
Child protection	121	12%
Domestic and family violence	68	7%
Bail	58	6%
Family law	7	1%
Dangerous prisoner matters	6	1%
Victim of crime	0	0%
Other	19	2%
<b>Total</b>	<b>1,004</b>	<b>100%</b>

Note: The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.

**Table 11: Health care decision by decision making authority**

	2018-19		2019-20		2020-21	
	Count	Percent	Count	Percent	Count	Percent
Acting as statutory health attorney of last resort in accordance with section (63)(2) of the <i>Powers of Attorney Act</i>	655	53%	541	52%	756	55%
Acting as guardian in accordance with section 174(2)(e) of the <i>Guardianship and Administration Act</i>	555	45%	480	46%	559	41%
Acting as personal attorney in accordance with section 174(2)(d) of the <i>Guardianship and Administration Act</i>	16	1%	15	1%	48	4%
Forensic examination pursuant to section 38 of the <i>Public Guardian Act</i>	2	0%	5	0%	3	0%
Exercising power for a health matter in accordance with Section 43 of the <i>Guardianship and Administration Act</i>	1	0%	-	0%	0	0%
<b>Total</b>	<b>1,229</b>	<b>100%</b>	<b>1,041</b>	<b>100%</b>	<b>1,366</b>	<b>100%</b>

Note: The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.

**Table 12: Reasons for health care decisions**

	2018-19		2019-20		2020-21	
	Count	Percent	Count	Percent	Count	Percent
Medical	449	37%	393	38%	697	51%
Surgical	539	44%	477	46%	468	34%
Dental	141	11%	102	10%	122	9%
Withdrawal and withholding life-saving measures	94	8%	64	6%	75	5%
Forensic examination	3	0%	4	0%	3	0%
Allied health	0	0%	-	0%	1	0%
Participation in clinical trial	3	0%	-	0%	0	0%
High level aged care	-	0%	1	0%	0	0%
<b>Total</b>	<b>1,229</b>	<b>100%</b>	<b>1,041</b>	<b>100%</b>	<b>1,366</b>	<b>100%</b>

Note: The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.

**Table 13: Source of a request for an investigation in 2020-21**

Requester	Count	Percent
Service provider	91	29%
Family member	76	24%
Public	52	16%
Solicitor	9	3%
Guardian	5	2%
Community Visitor	4	1%
QCAT	2	1%
Other	77	24%
<b>Total</b>	<b>316</b>	<b>100%</b>

**Table 14: Type of abuse being reported in 2020-21**

Type of abuse	Count	Percent
Financial management	187	31%
Inadequate care	89	15%
Neglect	49	8%
Contact restrictions	38	6%
Decision-maker not acting	38	6%
Emotional abuse	31	5%
EPA validity	31	5%
Self-neglect	28	5%
Verbal abuse	26	4%
Social isolation	20	3%
Physical abuse	16	3%
NDIS-related	8	1%
Testamentary capacity	5	1%
Sexual abuse	2	0%
<i>Mental Health Act</i> decision making	1	0%
Other	36	6%
<b>Total</b>	<b>605</b>	<b>100%</b>

Notes: More than one type of abuse may be reported per investigation. The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.

**Table 15: Decision-maker being investigated in 2020-21**

<b>Accused persons relationship to client</b>	<b>Count</b>	<b>Percent</b>
Daughter	65	27%
Son	47	20%
Parent	24	10%
Friend	15	6%
Spouse	15	6%
Brother	9	4%
Other relative	5	2%
Grandchild	4	2%
Sister	4	2%
Former spouse	2	1%
Grandparent	1	0%
Solicitor	1	0%
Other professional	1	0%
Other	46	19%
<b>Total</b>	<b>239</b>	<b>100%</b>

*Note: The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.*

**Table 16: Reasons for closure of investigations**

	2018-19		2019-20		2020-21	
	Count	Percent	Count	Percent	Count	Percent
QCAT application made/third party	28	15%	24	13%	45	19%
Decline to investigate/adult has capacity	27	14%	36	19%	43	18%
Decline to investigate/adult deceased	16	8%	25	13%	32	13%
Allegation not substantiated	37	19%	22	12%	31	13%
QCAT application made/interim	23	12%	19	10%	13	5%
QCAT application made/normal	9	5%	9	5%	10	4%
Advice given/formal	13	7%	22	12%	10	4%
Referral made to external agency	2	1%	0	0%	9	4%
EPA suspended/QCAT application/normal application	7	4%	14	8%	6	3%
EPA suspended/financial mismanagement	10	5%	5	3%	4	2%
Decline to investigate/not meeting investigation guidelines	1	1%	1	1%	3	1%
Advice given/informal	6	3%	0	0%	1	0%
Decline to investigate/QCAT order made	5	3%	0	0%	0	0%
Decline to investigate/inappropriate referral	1	1%	1	1%	0	0%
EPA suspended/QCAT application/interim application	0	0%	0	0%	0	0%
EPA suspended/QCAT/other	1	1%	0	0%	0	0%
EPA suspended/QCAT application/third-party application	0	0%	0	0%	0	0%
Other	4	2%	8	4%	32	13%
<b>Total</b>	<b>190</b>	<b>100%</b>	<b>186</b>	<b>100%</b>	<b>239</b>	<b>100%</b>

**Table 17: Visitable sites by sector (adult)**

	2018-19		2019-20		2020-21	
	Count	Percent	Count	Percent	Count	Percent
NDIS Service Providers	1,126	88%	1,241	81%	1,361	80%
Level 3 Residential Services	74	6%	200	13%	245	14%
Authorised Mental Health Services	84	7%	84	6%	90	5%
<b>Total</b>	<b>1,284</b>	<b>100%</b>	<b>1,525</b>	<b>100%</b>	<b>1,696</b>	<b>100%</b>

Note: The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.

**Table 18: Visitable sites by funded service provider (adult)**

	2018-19		2019-20		2020-21	
	Count	Percent	Count	Percent	Count	Percent
Non-Government Organisation	1,037	81%	1,324	87%	1,530	90%
Queensland Health	77	6%	76	5%	75	4%
Department of Communities	170	13%	125	8%	91	5%
<b>Total</b>	<b>1,284</b>	<b>100%</b>	<b>1,525</b>	<b>100%</b>	<b>1,696</b>	<b>100%</b>

Note: The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.

**Table 19: Issues identified on behalf of adults at visitable sites**

	2018-19		2019-20		2020-21	
	Count	Percent	Count	Percent	Count	Percent
Support	446	19%	494	21%	674	23%
Wellbeing	595	26%	575	25%	636	21%
Accommodation	338	15%	327	14%	421	14%
Least-restrictive services	290	13%	288	12%	391	13%
Assessment	147	6%	230	10%	290	10%
Treatment	188	8%	204	9%	265	9%
Health	207	9%	146	6%	235	8%
Access to information	76	3%	50	2%	60	2%
Others	14	1%	15	1%	16	1%
<b>Total</b>	<b>2,301</b>	<b>100%</b>	<b>2,329</b>	<b>100%</b>	<b>2,988</b>	<b>100%</b>

Note: The total of some percentages may not add up to 100 percent due to rounding the percentages to whole numbers.

