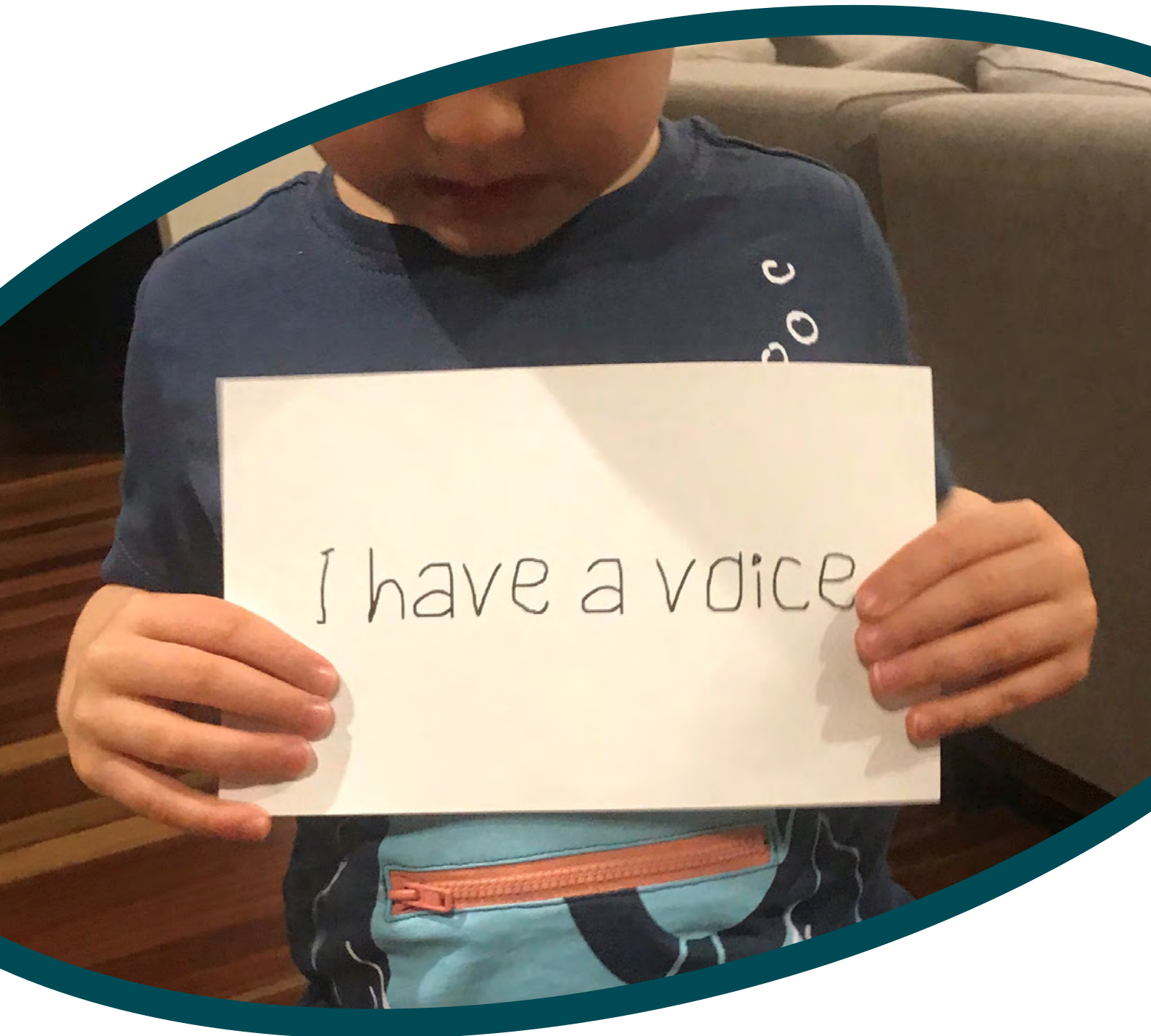


# 2017/18

## Annual Report



10 October 2018

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

Dear Attorney-General,

I am pleased to submit for presentation to the Parliament the Annual Report 2017-18 for the Office of the Public Guardian.

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

A checklist outlining the annual reporting requirements can be found in Appendix 3 (page 92).

Yours sincerely



Natalie Siegel-Brown  
Public Guardian

# About this report

## Communication objective

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

This annual report presents information about the performance of the OPG for the period 1 July 2017 to 30 June 2018. It contains a record of the OPG activities and achievements for the financial year against our objectives and summarises our future priorities and challenges. While this report is produced under the prescribed requirements of the *Annual report requirements for Queensland Government agencies*, the report has been written for the benefit of all our stakeholders.

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

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

## Availability and access

### Online

The 2017–18 annual report is available online, visit [www.publicguardian.qld.gov.au/about-us/publications/annual-reports](http://www.publicguardian.qld.gov.au/about-us/publications/annual-reports).

### Printed copies

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

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### Attribution

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### Interpreter service

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

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***“Advocating for the human rights of adults and young people.”***



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# 2017-18 in review



We made **34,242** visits to **8,607** children and young people.

This is a **5 percent** increase in the number of visits since 2016-17, and a **19 percent** increase since 2015-16.



Child Advocate Legal Officers opened **344** new issues and and advocated for children and young people at **633** court/tribunal-related proceedings.

This is **90** more proceedings than last year.



We had **858** new people come under the guardianship of the Public Guardian with a total of **3214** adults under our guardianship in 2017-18.

This is a **5 percent** increase in new clients from 2016-17, and a **3 percent** increase in the total number of clients.



We gave **1,309** health care consents.

This is a **14 percent** increase from 2016-17.



Community Visitors raised **20,091** issues on behalf of children and young people.

This is a **6 percent** increase from 2016-17 and a **69 percent** increase since 2015-16.



**98 percent** of the issues closed for children and young people were resolved at a local level.

This is a **11 percent** increase from 2016-17, and an **85 percent** increase since 2015-16.



We visited **6,585** adults at **1,378** disability services, mental health units and hostels.

This is a **1 percent** increase in adults visited and **6 percent** increase in sites visited from 2016-17.



We opened **211** investigations into reports of abuse, neglect and exploitation.

## What we have done this year

- ✓ Yet again increased performance across all areas of human rights advocacy to **achieve unprecedented performance** (for the second year in a row).
- ✓ Helped **even more clients get access through the National Disability Insurance Scheme** to the supports they need to improve quality of life
- ✓ Repeatedly saw submissions from OPG directly reflected in **national policy and legislation**.
- ✓ Launched the **Public Guardian Excellence Awards** to recognise service providers who uphold the human rights of their clients and act in ways that are 'uncharacteristic' of 'regular' practice, in the mental health, disability and child protection sectors.
- ✓ Acted on our **commitment to total transparency** in our decision making by publishing our policies and decision-making frameworks.
- ✓ Helped more children, young people and adults than ever before to **participate in decisions** made about their lives.

## What we do

Queensland's Public Guardian advocates for the human rights of vulnerable Queenslanders. This is done through a committed team of Delegate Guardians, Legal Officers, Investigations Officers and Community Visitors.



**Community Visitors** and **Child Advocate Legal Officers** help young people by making sure their voice is heard, and advocating on their behalf to raise and resolve issues that are affecting them. This could be in regard to placements, contact with family, legal hearings, education and healthcare, and much more.



**Community Visitors** also visit adults with impaired decision making capacity residing in certain types of sites to monitor and advocate for the rights and interests of people living at these sites, and make complaints for, and on behalf of, these adults.



**Delegate Guardians** make personal and legal decisions for people who do not have the capacity to do this themselves. Wherever they can, they make these decisions together with the person. They advocate for their clients and encourage them to have a say in decisions about their lives



**Investigations Officers** have extensive powers to investigate allegations of abuse (including financial abuse) exploitation or neglect against adults with impaired decision making capacity, and are able to take a range of actions to ensure the adult is protected.

## What we will be doing next year

- ✓ **Intensifying our efforts** to ensure all eligible guardianship clients not only enter the **National Disability Insurance Scheme**, but get the best results possible from it.
- ✓ Questioning how agencies are truly **identifying and responding to trauma**, as opposed to just responding to the behaviours that stem from it. We will take this approach in relation to our adults under guardianship and the **children and young people for whom we advocate**.
- ✓ Consistently advocating for the **'dignity of risk'** to be a primary consideration in the recovery and treatment of our clients.
- ✓ Promoting the **psychological safety of staff** by introducing trauma debriefing and resilience programs.
- ✓ **Profiling our unique powers** of investigation and intervention with respect to **elder abuse**. We will also continue to take a strong stance regarding the treatment of people by the aged care sector.
- ✓ **Increasing our oversight** on the use of restraints in authorised mental health services, particularly their use on children and young people.

***"2017-18 saw more issues raised and resolved on behalf of children and young people than at any other time in the history of the child guardian function."***





## Public Guardian's message

**“You have to act as if it were possible to radically transform the world. And you have to do it all the time”.**

*(Angela Y. Davis, 2014).*

I believe that if there is one sentiment that drives people who work in our field, it would have to be this. It's certainly the war cry of our office, and living this ethos has led to what has been arguably our most successful year yet.

Fighting for the human rights of our clients is at the core of what we do. However I am constantly awestruck by the staunch advocacy I see every day from my Delegate Guardians, Community Visitors, Investigators, and Child Advocates Legal Officers. Their refusal to take 'it's impossible' for an answer, and commitment to always look for a better option, has led to outcomes that have truly changed lives.

### Fulfilling their potential

It might sound fanciful to compare the transformation I have seen in some of our clients to a butterfly emerging

from a chrysalis, but it's truly no exaggeration. I have seen children and adults go on to lead lives that are more fulfilling than they ever dreamed possible. I have watched people with a disability who were treated as passive observers of their own lives – who were discounted as 'unable' by many – to flourish and become active contributors in society as they transition from long-term institutional care to supported living in the community. This is because my delegate guardians and advocates can see that recovery is possible; that people with disability can do and live so much more than they are often 'expected' – and that 'dignity of risk' is pivotal to this. That is, the principle that self-determination and the right to take reasonable, positive risks are essential to dignity, self-esteem and ultimately the capacity to live an independent, fulfilling life.

These stories are the sort that don't make the news cycle, but they are ones I take inspiration from, and take great pride in sharing around the agency every month. I also personally learn a great deal from our clients. Many have endured and risen from unimaginable circumstances, yet still manage to smile and believe in a braver future despite the odds.

### Giving a voice to more Queenslanders than ever before

Why do I think this has been our most successful year to date? Well the numbers do in fact tell part of the story. We raised more issues on behalf of children and young people – and resolved more of those issues than ever before in both our history and that of the agency's predecessor – The Commission for Children, Young People and the Child Guardian.

And it's a similar story when it comes to adults. We visited more adults residing in disability services, mental health units and hostels than in the previous year, and also acted as guardian for a greater number of adults with impaired decision making capacity. What all this adds up to is even more vulnerable Queenslanders having their voice heard, and being made to feel that they matter.

Of course none of this is possible without the dedication of all my frontline staff, but I also have to give a shout out to our support staff who help make it all happen, especially given how much leaner our back office operations are compared to many other agencies. I also must pay tribute to the Department of Justice and Attorney-General, who support me and my Office to achieve these goals.

### Recognising excellence in promoting human rights

What is very important to note however, is that we can't do all this alone. There are many individuals and teams in the community services, health and mental health sectors who work tirelessly to promote the rights and interests of our joint clients. This is why 2017 saw the launch of the Public Guardian Excellence Awards.

But these awards do more than just acknowledge and reward those people who do so much for our clients. By shining a spotlight on those who model exemplary practice, I believe we can drive even greater sector change than would be possible through our legislative oversight alone.

### A clear path forward

In last year's Annual Report I spoke of the challenges many agencies faced as we shaped and breathed life into our stronger advocacy remit, born of the 2014 legislation and the Carmody Inquiry.

To borrow a well-worn management cliché, we'd gone through 'forming', and were very much in 'storming' mode. However I am pleased to say that I think we are now very much into the 'norming' phase of our life. This year has seen protocols for how we conduct this advocacy developed and consolidated. The Memoranda of Understandings we have with agencies to ensure

real action is taken on the issues we raise for our clients are also giving life to the legislation and the Carmody Inquiry recommendations.

And on the subject of 'clarity of path', last year I committed to make public the pathway of our decision-making and advocacy at OPG. I am pleased to say that we have made good on that promise. I invite you to take a browse of our (new and vastly improved) website containing all our policies and practice frameworks. While the legislation is the bedrock of how we operate, these policies and frameworks show you *how* we activate our role in practice.

### A final word

As I reflect on the past year I take great pride in what we have achieved, and even greater pride in the people at OPG who made it all possible. So if you are reading this I thank you for taking an interest in our work – I am delighted to share what's inside this report with you. Radically transforming the world may be outside our remit, but transforming the lives of some of those who live in it, is something that will drive everything we do.

Natalie Siegel-Brown

Public Guardian





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# Our purpose

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

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

## Who we are and what we do

The OPG was established as an independent statutory office under the *Public Guardian Act 2014*, to provide for a Public Guardian to promote and protect the rights, interests and wellbeing of adults with impaired decision-making capacity, and children and young people in the child protection system and those accommodated in disability services, Authorised Mental Health Services, Youth Detention Centres and 17 year olds in prison.

In performing the Public Guardian's functions and exercising the Public Guardian's powers, the Public Guardian is not under the control or direction of the Minister. The Senior Management team (pg. 74) assists the Public Guardian in the management of the OPG.

## Who we are and how we help protect children young people and adults experiencing vulnerability

### Advocating for children and young people

The purpose of the child and young person advocacy functions is to promote and protect the interests of children and young people in the child protection system or staying at a visitable site, and to elevate their voice and participation in the decisions that affect them.

This is achieved through two different functions at OPG.

- **Community Visitors (child):** The focus for this team is human rights protection and advocacy, and overseeing that the human rights of our clients are being advanced through their own views, wishes and voice. This is informed through 'visiting' with children and young people in their homes and other settings. They conduct advocacy for children and young people that is not related to legal matters.
- **Legal Services' Children and Young People Team:** The focus of this child advocate team is to ensure an entirely independent voice for children and young people in the child protection system by providing

information and advice about their rights and supporting their ability to legally participate in and review decisions made by agencies, tribunals and courts.

## Guardianship

The purpose of the Guardianship function is to promote and protect the rights and interests of adults who have been declared by the Queensland Civil and Administrative Tribunal (QCAT) to have impaired decision-making capacity. This is achieved by our staff through the use of advocacy, and substituted and supported decision-making. We support adults to participate in decisions about their life and acknowledge their right to live as a valued member of society.

**General Guardianship Team:** The focus of this team is to support adults with impaired decision-making capacity to make decisions about their life, with the adult's best interests in mind and in the least restrictive way possible.

**Positive Behaviour Support (PBS) Team:** The focus of this team is to advocate for the human rights of adults with impaired decision-making capacity. The PBS team supports the Public Guardian to determine whether she should approve the use of restrictive practices in accordance with the relevant legislation and the OPG Restrictive Practices Decision-making Framework with the aim of reducing and eliminating restrictive practices.

**QCAT Liaison Team:** As the Public Guardian is an active party to all guardianship hearings at QCAT, the focus of this team is to undertake pre-hearing advocacy work with the aim of ensuring the Public Guardian is only appointed as a last resort. They do this by identifying where a formal guardianship appointment is not required or is not the least restrictive option, or where there is another appropriate guardian.

**Health Care Team:** This team provides high-level advice to the Public Guardian to support the delivery of high quality health care decision making for adults with impaired decision-making capacity and to carry out complex specialised health care matters.

**Legal Services Adult Team:** The focus of this team is to advocate for adults with impaired decision-making capacity to protect their rights in legal processes, and to support them to make legal decisions. The team ensures clients have access to legal advice and representation so that an adult's impairment does not negatively impact their access to justice. The team also provide instructions to legal representatives to progress legal matters.

## Adult Community Visitor Program

The purpose of the Adult Community Visitor Program is to protect and promote the rights and interests of people located at the sites we visit, being authorised mental health services, designated hostels, forensic facilities, long-stay Queensland Health facilities and disability services. As delegates of the Public Guardian, the role of a Community Visitor is to be a set of independent eyes and ears into systems of care for vulnerable people. Community Visitors do this through human rights protection and advocacy and by overseeing that the human rights of our clients are being advanced through their own views, wishes and voice. This is informed through 'visiting' with adults residing or detained at visitable sites.

## Investigations

The purpose of the Investigations function is to promote and protect the rights and interests of adults with impaired decision-making capacity by investigating complaints or allegations that an adult with impaired decision-making capacity is being neglected, exploited or abused or has inappropriate or inadequate decision-making arrangements in place – and then intervening where these complaints have been substantiated.

## Policy and Reporting

The purpose of the Policy and Reporting function is to advocate for the collective voice of OPG clients on high level strategic policy and law reform issues that impact upon their rights and interests. Reporting Services provides specialist reporting support to the OPG's business areas, and reports on the performance and activities of the OPG, so that we can continually benchmark how to improve our service delivery.

## Corporate Services

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

## Corporate and Legal Practice team

The purpose of the Corporate and Legal Practice team is to provide legal advice and assistance to the Public Guardian and her delegates in the performance of their statutory functions and exercise of statutory powers.



# A day in the life of the Public Guardian



## 2.00am

It's my week to be the Executive on call after hours, and I'm woken by a call from one of our delegate guardians who has received a call to our healthcare line, which we operate 24 hours a day, 365 days a year.

It's a doctor from a hospital up north who is seeking consent to withhold CPR for an adult who is sadly dying, and unlikely to survive CPR. The adult is unconscious, has no known family or friends and has previously verbalised that they would not like life support to continue if they were in a state like this.



## 8.00am

Unfortunately I've already had four shots of coffee. I quickly review any urgent matters relating to clients that mean I might need to rearrange my day.



## 9.00am

First up is a meeting with my colleagues at the Department of Corrections about how we can jointly facilitate Guardianship clients obtaining immediate access to National Disability Insurance Scheme (NDIS) supports on their release from correctional facilities.

It's a situation we're taking very seriously at OPG, as it is proving very difficult for clients in correctional facilities to meet with NDIS case planners, meaning these clients are not getting access to the scheme. In some cases this can impact on their release, as there are no disability supports for them in place outside of the correctional facility.

It's a complex problem, but our conversation was productive, and I'm hopeful that if we continue to work together we can find a solution.



## 10.30am

Time to head to the Queensland Civil and Administrative Tribunal (QCAT) to attend a hearing for a client. Mr M is a 31 year old gentleman supported one on one by a service provider 24/7 in the community.

I am appointed as guardian to seek help for and make representations on behalf of Mr M in relation to restrictive practices. Currently he is subject to 24/7 containment, which means he cannot leave his home unless supported for community access by his service provider.

At this hearing I raise concerns there was limited evidence to support the need for containment and that the excessive use of containment impacted on Mr M's quality of life and skills development and is a breach of his human rights.

Thankfully the outcome of this hearing was that QCAT only approved containment for times when he was not able to leave his house when he was escalated and posed a risk to himself or others.



## 1.30pm

I review an investigations file to decide whether I need to exercise my protective powers to step in and suspend an enduring power of attorney. It's a case that was first brought to our attention by a nursing home when a resident's fees had fallen substantially into arrears.

The investigations officer working on this particular case had been able to liaise with the lady's bank to discover that the substantial amount of money that should have been in her account was no longer there.

The interim finding in the report finds that on the balance of probabilities, her son – who has enduring power of attorney – is responsible for the missing money. I set in motion the process to have his power of attorney suspended to protect her remaining funds while we continue to look into the matter. This means the Public Trustee will act as her administrator until the matter can be considered by QCAT.



## 2.00pm

Another meeting, this time with representatives from the Queensland Police Service. We have come together to discuss the ongoing situation of children and young people being held in watch houses due to over-crowding in youth detention centres.

This is a matter that is of real concern to me, as our Community Visitors aren't able to visit all watch houses in Queensland, so we need to work with the police to determine what arrangements can be put in place to ensure we can oversee the rights of these young people.



## 3.30pm

It's time for one of my favourite things to do – present a Public Guardian Excellence Award! These awards acknowledge those external service providers that go above and beyond to protect and advocate for the human rights of our clients.

For this particular award I head to a non-government Advocacy Service to recognise the work of a lawyer whose persistence and dedication played a huge role in the decision by the Mental Health Court to not consent to the continuation of ECT treatment for a client who had repeatedly and consistently stated they did not want this treatment. It was great to have the opportunity to talk to the lawyer in person, hear her story, and thank her for her exceptional work.



## 5.00pm

It's been a hectic day, so what better way to wind down than with a workout? I'm a great believer in offering staff the opportunity to incorporate exercise into their workday, as physical wellbeing is a big contributor to improved mental wellbeing.

I always try and join in a lunchtime Pilates class when I can, but today it's the after-hours stair running group. Not only is it a great way to blow off a bit of stress, but I love catching up with some of the staff in the office in a more informal setting, and hearing what they've been doing to help our clients.

Then it's time to head home to spend some time with my family and sit down to a night of emails and meeting follow-up.



# A year in the life of OPG



Public Guardian Staff Excellence Awards, Brisbane, April 2018



Transition to Independence Month, Rockhampton, November 2017



'The Something Something's', July 2017



Formal recognition, Queensland Police Award, February 2018



Australian Children's Commissioners and Guardians (ACCG) meeting, Perth, May 2018



Queensland Health presentation, May 2017



Fundraising for National Pyjama Day, July 2017

International Women's Day, Cairns, March 2018



NAIDOC Week, Cairns, July 2017



Natalie Siegel-Brown, 1 year anniversary at OPG, July 2017



Filming for a guardianship information video, June 2018



OPG's first live webinar EPOA and capacity guidelines, December 2017



Mental Health Week Achievement Awards, October 2017



## Our key achievements – the year that was

### Advocated successful outcomes for vulnerable children and young people

OPG has continued to put an increasing focus on making sure that children in the child protection system and at visitable sites have a voice, and are able to take an active role in the decisions that are made about them and their situation. This year we raised 20,091 issues on behalf of children and young people - the highest number of issues ever raised by Community Visitors. This represents an increase of 69 percent over a two year period. Most importantly, 98 percent of all issues resolved were done so at a local level, which is an 85 percent increase over the same period.

There was also a steady increase in the number of issues opened by Child Advocate Legal Officers, who also made 90 more court related appearances than last year, with a total of 633 attendances. This is indicative of the growth in demand as understanding and awareness of this function grows.

To ensure our advocacy function is as effective as it possibly can be, 2017-18 also saw OPG negotiate and finalise two Memoranda of Understanding with the Department of Child Safety to improve how complaints raised on behalf of children and young people by OPG are escalated and resolved, and to provide better and consistent data exchange with the department.

### Unprecedented frontline service delivery successes

Yet again, the OPG has seen more uplifts in performance over the two previous years.

We made more visits than ever before to children and young people in care, in youth detention centres and adult correctional facilities, in authorised mental health services and in disability services. Despite the growth in these populations, we have increased the amount of visits we have made over two years by 19 percent to 34,242 for 8,607 children and young people.

Much like the demand for our oversight and advocacy, we saw large growth in the demand for our adult guardianship. This year 858 new people came under the Public Guardian's guardianship for personal decision-making (5 percent increase from 2016-17), and we were asked to provide 1,309 health care consents (a 14 percent increase from 2016-17). Despite this demand we still ensured that 97 percent of guardianship decisions were made in consultation with the adult.

Of course numbers do not tell the whole story, but the sharp incline in demand across the board for the OPG's frontline services will challenge us to maintain this level of achievement in the near future.

### Increased client access to the National Disability Insurance Scheme

The roll out of the National Disability Insurance Scheme (NDIS) continued across Queensland in 2017-18, and as at 30 June 2018, OPG had 1,360 clients registered – a 24 percent increase on 2016-17. Involvement with the NDIS has seen our guardians in these instances primarily provide advocacy rather than decision making supports for clients. They are playing a key role both in ensuring clients are entered into the scheme and that their funding needs are met in subsequent reviews.

Currently around 70 percent of eligible clients have been registered for the NDIS, and with the help of OPG they have generally obtained the funding and support required to meet their needs. And in a number of cases, OPG clients who previously had no support are now receiving high levels of funding, greatly improving their quality of life.

### Influenced thinking at a state and national level to benefit vulnerable people everywhere

The Policy team at OPG has always been active in contributing submissions on a range of strategic issues, basing input on the experience of our child and adult clients. However increasingly their work is being actively sought by policy makers at both a state and national level. We were ecstatic to see the input of OPG directly reflected in national policy and legislation, particularly in relation to the NDIS Quality and Safeguards.

As an oversight body for the child protection system, disability service system and mental health system, OPG regularly finds itself advocating against 'undesirable' practice, or practice that infringes the human rights of clients. This means that more often than not, OPG is exercising the 'stick' rather than 'carrot' approach to change behaviours in these sectors. While doing so is critical to the execution of its role, this year the Public Guardian determined that an optimal way to drive human rights oriented behaviours in these systems is to award and reward examples that can be promoted to peers in these systems. The Public Guardian therefore established the Public Guardian Excellence Awards, which was awarded to staff across the mental health, disability and child protection sectors who demonstrated how they uphold the human rights of their clients and act in ways that are 'uncharacteristic' of 'regular' practice.

### Greater transparency in how OPG works

We made a commitment in 2016-17 that we would be totally transparent in publicising how we make decisions. To this end we have developed foundational documents stepping out the processes by which we arrive at decisions, what matters we identify for advocacy, and our modes of practice. The views of our client groups and our stakeholders were also taken into account in the development of these documents.

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Right now, anyone can view on our website our policies and approach to decision-making on:

- Guardianship (Structured Decision Making)
- Handling complaints
- Consent to mental health treatment and care by the Public Guardian
- Forensic examinations of adults with impaired capacity
- Key functions of a Community Visitor (child)
- Language services
- Mandatory reporting of significant harm to a child or young person
- Monitoring and advocating for the rights and interests of persons staying in Authorised Mental Health Services
- Obligations to recognise and respond to a client experiencing domestic and family violence
- Public interest disclosure
- Restrictive practices.

### Protecting adults from abuse, neglect and exploitation

Adults with impaired decision making capacity are sadly very vulnerable to mistreatment, and over the year we opened 211 investigations into reports of abuse, neglect and exploitation of an adult. Almost 90 percent of these cases were for adults over the age of 65.

The Public Guardian has extensive powers in these scenarios to investigate whether there is any wrong doing, and to be able to take action to protect the vulnerable adult. In 2017-18, OPG conducted one cross examination of a person suspected of mistreating an adult, and suspended 24 enduring power of attorneys to prevent further abuse. In addition, the Public Guardian executed two warrants to remove an adult from a harmful situation.

### Focussed on improving organisational culture and increasing staff satisfaction

Joining two offices together, as happened in 2014 to create OPG, will always bring internal challenges. For this reason organisational culture has been a huge focus for OPG in recent years, with range of actions and initiatives implemented. And in 2017-18 we saw the fruits of this, with the agency scoring highly across a number of workplace climate areas in the Queensland Government's Employee Opinion Survey, in particular when viewed against our 2016 results.

- **Leadership and engagement:** Staff reflected increased perceptions of their manager creating a 'sense of purpose' and in being able to 'draw the best out' of them. Notably, there was a 22 point increase from 2016 in people's perception of high quality leadership and culture.
- **People and relationships:** There was a 9 point increase from 2016 in staff's perception about the level of respect that their colleagues show each other in their day to day work, both inward and outward facing.
- **Performance and development:** Most notably there was a 17 point increase in staff perception of the agency's commitment to their development and a 19 point increase in the perception of the agency's dedication to fostering staff to pursue opportunities. Additionally, there was an 11 point increase in perceptions of staff that their performance is being assessed against clear criteria.



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## Our priorities: the year ahead

### Responding to the continued roll out of the National Disability Insurance Scheme

The National Disability Insurance Scheme (NDIS) is scheduled to complete its entire roll out across Queensland by the end of the 2018-19 year. This means we will need to re-double our current efforts to ensure that our eligible guardianship clients not only have access to the scheme, but that they get the funding and supports they need to realise their potential.

Full scheme roll out by 30 June 2019 also means that, by that time, there must be clarity around how OPG will intersect with the National Quality and Safeguards Commission. A priority for OPG over 2018-19 will therefore be to ensure that the role of the Community Visitor is, among other things, recognised as a vital avenue for complaints and a critical source of information in terms of regulating the disability service sector. Our work in this area will also need to include an exploration of how OPG's regulation of restrictive practices will interface with the role of the National Quality and Safeguards Commission.

### Focusing our advocacy on how agencies are responding to client trauma

At OPG, we recognise that all too often agencies that work with our clients focus on responding to the behaviours clients exhibit as a symptom of trauma they have faced in their lives – in particular childhood abuse and neglect, rather than treating or responding to the trauma itself. This happens across a range of situations and scenarios, including youth detention, mental health, and the use of restrictive practices in disability services.

We need to go beyond simply seeking and advocating for trauma informed practice. We need to see a move towards actions that respond to trauma. Otherwise vulnerable people will continue to be caught in an endless cycle where they may be punished for the symptoms of situations to which they have previously been victim.

### Increasing oversight of the use of restraints in authorised mental health services

This is an area we will be putting an even greater focus on in 2018-19, particularly their use on children and young people. Under the *Mental Health Act 2016*, the OPG now receives more comprehensive data about the use of restraint against children and young people when they reside in authorised mental health services. This



data is informing the questions we ask and the advocacy we perform when monitoring and overseeing the rights and interests of children and young people staying at these services.

Doing more with less

Demand for our services is growing across the board. We have more children and young people needing us to give them a voice, more adults coming under our guardianship, and an ever increasing number of investigations to undertake. And we are doing it all with a budget that remains static. However that doesn't mean we are reducing services to clients. Rather we need to ensure that our service delivery and advocacy continue to go from strength to strength. To do that we will continue to look for innovative, cost effective ways to use technology to expand our services and keep up with demand.

Contributing more to systemic advocacy

While the focus of the OPG is on individual advocacy, we know that the system-wide barriers we encounter for our clients needs to feed change. For this reason we will further increase our engagement with our counterparts responsible for systemic advocacy to investigate and take action on trends we are seeing in a range of sectors that are consistently impeding on the human rights of not just our clients, but on certain sections of the wider Australian population.

“ Demand for our services is growing across the board. We have more children and young people needing us to give them a voice, more adults coming under our guardianship, and an ever increasing number of investigations to undertake.”

A particular focus for us is the treatment of people in aged care, especially in relation to restrictive practices, and we will continue to engage in the national debate on this topic.

Take action to promote the psychological safety of staff

Our staff can be exposed to vicarious trauma, and of course this can often take an emotional or psychological toll. So this year we will be instituting trauma debriefing and resilience programs to ensure our staff are as mentally equipped as possible to deal with this trauma, and do as much as we can to protect them from burnout. This year we brought yoga, Pilates, running and walking groups into the office – and going forward we will continue to focus on physical wellbeing as a key source of mental wellbeing.

Our performance

Service Delivery Statements - the following are measures of OPG’s effectiveness reportable to Government

Office of the Public Guardian service standards		
Public Guardianship	2017-18 Target	2017-18 Actual
Effectiveness measures		
Percentage of Community Visitor (adult) sites visited in accordance with the designated visiting schedule	90%	91.6%
Percentage of vulnerable children at all visitable sites visited by Community Visitors (child) in accordance with the designated visiting schedule	90%	85.5%
Percentage of vulnerable children in visitable homes visited by Community Visitors (child) in accordance with the designated visiting schedules	80%	78.6%
Percentage of guardianship decisions made in consultation with the client/interested persons	90%	97.2%
Efficiency measure 1		
Notes: 1. An efficiency measure: 'Percentage of investigations closed within 9 months from commencement for clients aged 65 or over' will be in effect for 2018/19 and will be included in a future Service Delivery Statement.		



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Performance against strategic plan

Objective 1: Communication and collaboration

Strategy	What we achieved
Clearly articulate, communicate and embed OPG’s vision and mission.	<ul style="list-style-type: none"><li>Continued increase in media profiling and relations to build reputation among general public and raise awareness of key advocacy issues.</li><li>Conducted 121 educational presentations to a combined audience of approximately 5,500 attendees.</li><li>Published the policies and decision-making frameworks that underpin OPG’s approach to its work and legislative role.</li></ul>
Develop feedback mechanisms and strong links to professional supervision frameworks	<ul style="list-style-type: none"><li>Informal staff surveys distributed throughout the year to seek input on ways to improve operations.</li><li>Regular and ongoing performance reviews conducted in line with Employee Expectations Agreements.</li></ul>
Strengthen communication with regional virtual staff	<ul style="list-style-type: none"><li>OPG staff newsletter distributed monthly.</li><li>OPG Community Visitor Update distributed monthly.</li><li>Regional Managers and Regional Visiting Managers invited to virtually attend fortnightly senior management meetings.</li></ul>
Develop OPG materials in a range of different languages.	<ul style="list-style-type: none"><li>OPG factsheets translated into 17 different languages and available on website.</li></ul>
Identify sub-groups of stakeholders	<ul style="list-style-type: none"><li>Conducted review of stakeholders and mapped to identify priority groups</li><li>Engaged with stakeholders in the development and publication of policies and decision-making frameworks.</li></ul>
Create accessible and culturally appropriate community engagement strategies.	<ul style="list-style-type: none"><li>Community engagement strategies developed for <i>Mental Health Act 2016</i> implementation.</li></ul>
Member of reference groups for multi- agency and disciplinary groups	<ul style="list-style-type: none"><li>Senior Executive member of Inter Departmental CEO Committee - Child Protection and Domestic and Family Violence, Aboriginal and Torres Strait Islander Child Protection Service Reform Group, Child Protection Reform Leaders Group, National Disability Insurance Scheme Reform Leaders Group, and Queensland Family and Child Commission’s Child Protection Systems Review Advisory Group.</li><li>Participated in multi-agency reference groups for GForce Participation Forum, Children’s Court Committee, Court Case Management Committee, QFCC led Joint Agency Protocol for reducing unnecessary police call out to residentials, Elder Abuse Prevention Unit Reference Group, Gold Coast Elder Abuse Response Panel.</li></ul>

Objective 2: Practice and service model

Strategy	What we achieved
Ensure a robust practice framework and tools to support effective service delivery.	<ul style="list-style-type: none"><li>OPG Legal Services’ Children and Young People team began the development of a Practice Framework, including a range of tools and precedents to support the efficient and effective delivery of legal advocacy.</li><li>Investigations Team implemented the use of Cogniview software and developed a Practice Manual.</li><li>A number of policies and practice directions were introduced, including:<ul style="list-style-type: none"><li>Practice Direction on Escalation</li><li>Guardianship Structured Decision Making Practice Direction</li><li>Restrictive Practices Decision Making Framework and associated Policy</li><li>Community Visitor Practice Direction on Visiting Mental Health Services</li><li>Community Visitor Practice Direction on Chemical Restraints</li><li>Critical Client Incident Review Process and Governance Practice Direction</li><li>Obligations to Recognise and Respond to a Client Experiencing Domestic and Family Violence policy</li><li>Community Visitor Practice Framework</li><li>Making Child Safety Complaints to DCCSDS Practice Direction</li><li>Making or Referring a Complaint on Behalf of a Client policy</li><li>Approval of PBS Plans for Mechanical Restraint, Physical Restraint and Restricted Access to Objects Practice Direction.</li><li>Community Visitors Access to OPG Client Information Practice Direction</li><li>Conducting Guardianship Client Visits Practice Direction</li><li>Consent to Client Travel Practice Direction</li><li>Delegate Guardians’ Access to Community Visitor Visit Details Practice Direction</li><li>Guardianship Clients Accessing NDIS Practice Direction</li><li>Guardianship Supervision Framework</li><li>Healthcare Decision Making Framework (Excluding Mental Health)</li><li>Making Accommodation Decisions Practice Direction</li><li>Seeking Adult’s Views in Relation to Restrictive Practices Practice Direction</li><li>Seeking Access to Child Safety Client Related Information</li><li>General Guidelines for Requests to Consent to Dental Treatment</li></ul></li></ul>



Strategy	What we achieved
Develop new and agile service delivery arrangements in response to new and changing service environments.	<ul style="list-style-type: none"> <li>Community Visitor Program issuing reports to service providers electronically.</li> <li>An arrangement has been put in place with the Department of Communities, Disability Services and Seniors' Centre of Excellence for Community Visitors to report unauthorised or inappropriate use of restrictive practices.</li> </ul>
Continually review and improve regional service delivery to maximise cost effectiveness.	<ul style="list-style-type: none"> <li>Legal Services Children and Young People team allocated resources to improving service delivery in the Central and Central North regions.</li> </ul>
Ensure IT arrangements support business needs.	<ul style="list-style-type: none"> <li>OPG recognised that the two case management systems currently utilised were not functioning to full capacity and could be vastly improved to improve client outcomes and the agency's information exchange with others. A project is in train to reform an existing database into a new, uniform IT system for OPG</li> </ul>
Respond to the needs of Aboriginal and Torres Strait Islander people.	<ul style="list-style-type: none"> <li>41 per cent of visitable children identified as Aboriginal and Torres Strait Islander.</li> <li>Community Visitor Program conducted 109 visits to discrete Aboriginal and Torres Strait Islander communities.</li> <li>Participated in a multi-agency stakeholder engagement opportunity in Mount Isa to promote the work of the Investigations Team in Aboriginal and Torres Strait Islander communities.</li> </ul>

Objective 3: Our workforce

Strategy	What we achieved
Ensure the attraction, engagement and retention of staff to meet client service delivery demands, and to respond effectively to emerging operational needs.	<ul style="list-style-type: none"> <li>Profiled the role of the Community Visitor in print media and radio coverage to increase awareness of the role and encourage applications for these roles.</li> <li>The OPG sponsored a student internship from TAFE Queensland, who undertook supporting work to implement the QFCC Foster Care Review recommendations during a four week placement with the Policy and Reporting team.</li> <li>Legal Services has continued to support OPG staff studying law to complete their Practical Legal Training. This year Legal Services also supported two student placements for UQ and QUT.</li> <li>Promoted working with OPG at high profile events such as NAIDOC, Townsville Career Expo, Townsville Community Networking Forum and Ipswich Fresh Futures Market.</li> </ul>
Ensure appropriate induction and ongoing professional development of all staff.	<ul style="list-style-type: none"> <li>Our workplace continues to provide a supportive on-boarding process for new staff, which includes the creation of Expectations Agreements, mentoring, and the identification of future professional development opportunities appropriate to the role.</li> </ul>
Develop workforce planning strategies.	<ul style="list-style-type: none"> <li>An independent review was completed to identify and inform OPG's workforce planning into the future and the best ways to support the workforce.</li> </ul>
Ensure effective and constructive performance management.	<ul style="list-style-type: none"> <li>Work began to review some supervision frameworks.</li> <li>Managers were trained in performance management.</li> </ul>
Develop our workforce's cultural capability.	<ul style="list-style-type: none"> <li>Began discussions with universities to recruit from Aboriginal and Torres Strait Islander graduate schools.</li> <li>Actively advertised positions in Aboriginal and Torres Strait Islander media.</li> </ul>







## Advocating for children and young people

Over the past few years, the OPG has put a focus on strengthening and empowering the voice of children and young people within the systems in which they have historically been silent. Through advocacy, OPG is creating a culture in Queensland where vulnerable children and young people not only know their rights, and how to access them, but are listened to.

Our overarching aim is to give a voice to the voiceless, and advocate for change. We do this by listening to our clients and identifying issues they are facing. We give 'teeth' to what we have found by advocating for them. By directly interacting with these children and young people, we gain our most important source of information: their views and wishes.

OPG fulfils this vital role through two key teams; our Community Visitors and our Child Advocate Legal Officers.

## State Wide Child Community Visitor Program

### The role of Child Community Visitors

Every child or young person coming into – or re-entering – a place where we visit (known as a visitable location) is scheduled to receive a visit from a Community Visitor.

As a delegate of the Public Guardian, a Community Visitor acts as a set of independent eyes and ears into systems of care for vulnerable people. Community Visitors listen to children and young people and give voice to their concerns, by advocating for them and providing them with the advocacy support, advice and information that they need to exercise their rights and have a say in decisions made about them.

We also assist children and young people in out of home care to get information about the decisions made in relation to the placement including its appropriateness, reunification planning, support for contact and their complaint or review rights about placement decisions. Where needed, a Community Visitor can help a child to initiate an application to a tribunal (or help a recognised entity to support a child in referring a matter to a tribunal), and support the child at a court or tribunal.

When executing their functions, Community Visitors are essentially providing oversight that the standards of care found in section 122 of the *Child Protection Act* are being adhered to and, if not, appropriately raising and escalating these issues until remedied.

In short, our Community Visitors ensure systems are held accountable and are a critical safeguard to ensuring the child or young person's needs in their placement are being met appropriately.

As at 30 June 2018 we had 112 Community Visitors visiting children and young people. Of these, 49 are child-only visitors, and 63 are dual visitors (meaning they also visit adults under our Adult Visiting Program).

### Visitable locations

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

#### Visitable sites

*The Public Guardian Act 2014* defines a visitable site as:

- a residential facility where a child or young person is staying, including those provided or funded through Disability Services Queensland
- a detention centre where a child or young person is staying
- a corrective services facility where a 17-year old is detained
- an authorised mental health service where a child or young person is staying.

#### Visitable homes

A visitable home is a private home where a child or young person in the custody or guardianship of the Chief Executive, Department of Child Safety, Youth and Women, or on a care agreement, is placed in the care of someone other than a parent. Both visitable sites and visitable homes are categorised as a 'visitable location'.

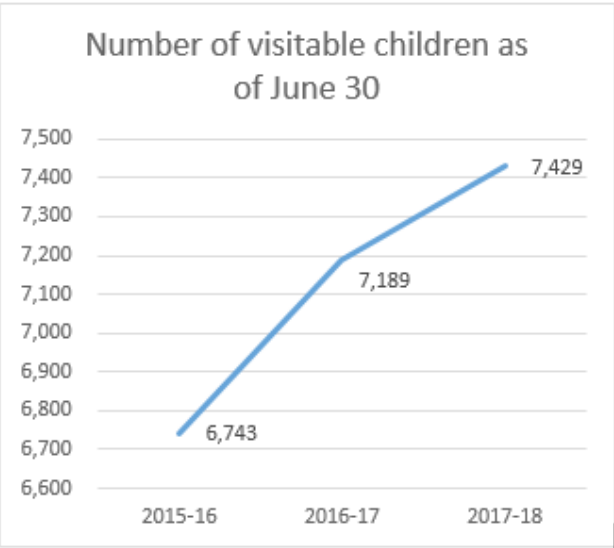
Table 1, appendix 2 shows a full breakdown of the number of visits to each type of location, while table 2, appendix 2 breaks down the number of children and young people we visit by location type as at 30 June 2018.



Number of visits undertaken

During 2017-18, the OPG conducted 34,242 visits, reaching 8,607 children in care or staying at visitable sites. This continues the increasing upward trend of both the number of children and young people eligible to be visited by Community Visitors, and the number of visits we make, as shown in the graphs below.

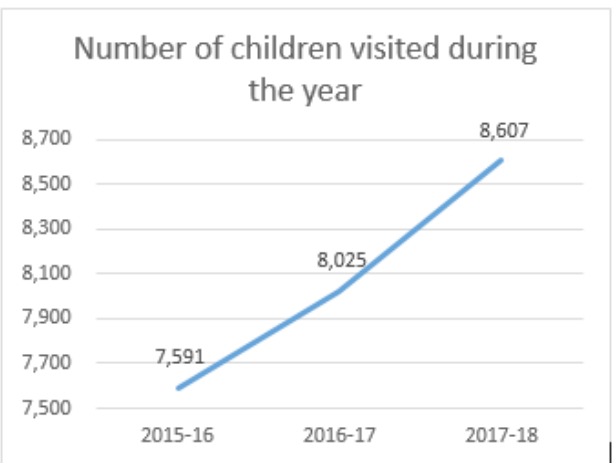
Number of visitable children as of June 30



Number of visits



Number of children visited during the year



Visiting frequency

We use a matrix of need to determine how often children and young people are visited, so depending on the child this generally varies from monthly to annual visits. During 2017-18, 85.5 percent of children in visitable sites and 78.6 percent of children in visitable homes were visited in accordance with their visiting schedule. The majority of children we visit are receiving visits monthly, bi-monthly or quarterly.

It's also important to note that children and young people (or a person acting for them) can request to meet with a Community Visitor at any time, even outside of a scheduled visit.

In instances where a face to face visit just isn't possible, Community Visitors are also permitted to contact a child or young person at a visitable home or visitable site by using technology such as their work mobile phone. Technology isn't to be used in place of a visit (except in very limited circumstances), and is only used in the case that it is not possible for a visit to be conducted in person and it is considered important that the child is contacted urgently by other means.

A breakdown of visitable children and young people by visiting frequency as at 30 June 2018 can be found in table 3, appendix 2.

Visitable sites

The Public Guardian recognises the potential risk to children and young people in visitable sites and accordingly requires Community Visitors to meet with all children residing at a visitable site, and to ensure that regular visits occur. Given our requirement to prioritise services to children and young people at visitable sites, visits occur monthly.

However, due to the vulnerability of children and young people in youth detention centres and 17 year olds held in adult correctional facilities, visits occur weekly at these sites.

Visitable homes

Frequency can vary from monthly to annual visits, depending on the needs and risks assessed in relation to the circumstances of the child or young person. Wherever possible the child or young person's views are considered in determining the regularity of visits. Some young people's views were that they'd rather not receive regular visits during 2017-18, instead preferring to make contact with their Community Visitors via email or text message, requesting a visit only when they require assistance or support.

Issues raised by Community Visitors on behalf of children and young people

Since recalibrating the Community Visitor role to focus on stronger advocacy for our clients (in line with the *Public Guardian Act 2014*), we have imbued the philosophy of the Carmody inquiry recommendations. This means we don't just 'visit for the sake of visiting'. Rather we have prioritised raising issues on behalf of children and young people – and making sure they are addressed.

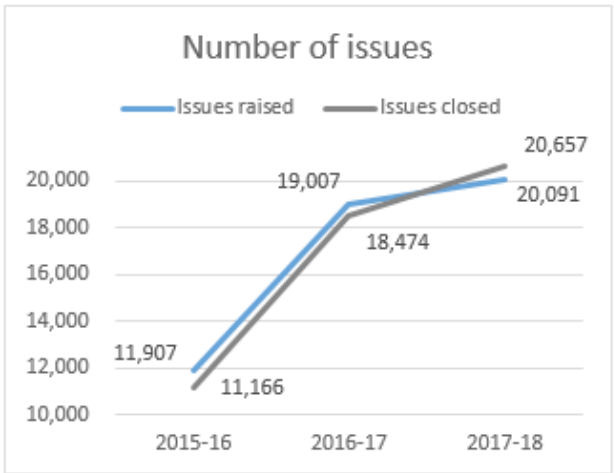
Community Visitors advocate on behalf of children and young people by listening to, giving voice to, and facilitating the resolution of, the child or young person's concerns and grievances. Community Visitor advocacy often takes the form of short to medium term, non-legal, issue-based advocacy support.

Individual advocacy can offer a child or young person empowerment, by speaking up for them and through providing them with information about their rights and options, as well as participating in the decisions being made about them as early as possible in their life. This means that they can enforce their rights if they choose and self-advocate. Through advocacy, the OPG is creating a culture in Queensland where vulnerable children and young people not only know their rights and how to access them, but are listened to and taken seriously.

Consequently, we have witnessed a notable change in the issues young people are raising with us, and increasingly complex issues regarding safety and wellbeing are being particularly identified.

In 2017-18, Community Visitors raised 20,091 issues (a 6 percent increase from 2016-17) and closed 20,657 issues (some of these were issues raised in the previous year). Of locally resolvable issues, 55 percent were closed within 30 days, and 81 percent within 90 days.

Number of issues raised and closed over time



Of the issues raised this year, 17 percent related to contact arrangements, and another 17 percent related to placement. Contact arrangements can include the degree of contact between a child and their parents, siblings or other significant people in a child's life – including their Child Safety Officer. Issues raised relating to placement often relate to the suitability of the placement to meet the unique needs of that child or young person.

Another significant issue raised on behalf of children and young people in the child protection system was case plans. Often we identify that a case plan has expired or no longer meets the unique needs of a child or young person. Education and health needs both represent eight percent of the issues raised, again often as a result of a Community Visitor identifying that there is no education support plan or health plan in place, or that they need to be updated to meet the changing needs of a child or young person.

Additionally, as a mandatory reporter, Community Visitors are required to report any reasonable suspicions that a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse; and may not have a parent able and willing to protect the child from the harm. During 2017-18, Community Visitors reported 112 harm notifications (on behalf of children and young people) to the Department of Child Safety, Youth and Women.

A full breakdown of the types of issues raised can be found in table 4, appendix 2.

The resolution process

Local resolution is a principle that underpins all regulatory work. That means that we will always start at the local level to ensure the voice of the child is central to decision making, and will only escalate when it becomes necessary. Additionally, by supporting children and young people to raise issues themselves, we can help minimise the power imbalance children and young people often face in the system.



Issues raised through visiting minors in Authorised Mental Health Services

Community Visitors complete monthly visits to all children and young people staying in authorised mental health services (AMHS). Under the *Mental Health Act 2016*, Queensland Health is required to notify the OPG when a minor is admitted to a high security unit, or an inpatient mental health unit of an AMHS other than a child and adolescent unit. In 2017-18, 79 notifications of this nature were made to the OPG.

In 2017-18, Community Visitors made 174 visits to minors in AMHS, raising 41 issues across a range of themes. During the same period 55 issues were resolved (some of these were issued raised in the previous year). The nature of the issues that were closed are shown in the table below.

Nature of issue	Total
Health needs	17
Placement	11
General service delivery issues	2
High risk behaviours	3
Behaviour management	5
Programs and services in youth detention centres	1
Child protection orders	1
Contact with parents	1

Meeting with children and young people in AMHS is an area the program continues to expand into with the additional obligations set out for us in the *Mental Health Act 2016*. In the next year the program will also interrogate the use of restraints against children and young people in AMHS more closely.

Seclusion and restraint of minors in Authorised Mental Health Services

Under section 274 of the *Mental Health Act 2016*, the Public Guardian is required to be notified whenever a minor in an AMHS is subjected to the use of mechanical or physical restraint and seclusion. In keeping with the statutory functions of a Community Visitor to visit all children in AMHS, these notifications are reviewed and followed up by a Community Visitor whenever any issues are identified. However, in practice, as the notifications are provided to the Public Guardian monthly, often individual young people to whom a notification applies have been discharged from the AMHS before we receive this information, so rather than playing a primary individual advocacy role, the Community Visitor Program has been playing a primary monitoring role in relation to these notifications.

An analysis of these notifications has given rise to concerns not only about the numbers of young people being subjected to such practices in AMHS, but also the percentage of children under the age of 10 years being subjected to these practices and whether the application of these practices are appropriate under the *Mental Health Act 2016*. These concerns were initially raised with the Chief Psychiatrist in September, 2017 and subsequently with the Mental Health Commissioner and the Queensland Family and Child Commissioner.

Since that time, while we have seen a number of cases where we have successfully advocated for a review of treatment, the notifications continue to support prevalence in the use of physical restraint and seclusion for young people staying in an AMHS. What remains deeply concerning is the risk of psychological trauma (including re-traumatisation) and physical injury that using such practices on these highly vulnerable young people can bring, and the potential for significant negative impacts on their long term health, mental health and wellbeing.

This year the Community Visitor Program focused on using the information we gained from reviewing the application of seclusion and restraint of minors in AMHS to prioritise our visits and target our lines of enquiry with children and young people. This is a key area of focus for the Public Guardian, and we will be more deeply involved in interrogating and advocating these issues on behalf of children and young people in 2018-19.

Referral of complaints for children and young people

In July 2017 the OPG and the former Department of Communities, Child Safety and Disability Services entered into a Memorandum of Understanding (MOU) concerning the management of complaints. The MOU was developed in response to a recommendation made by the Queensland Ombudsman in its report, *Management of child safety complaints* (July 2016), regarding the child safety complaints management processes within the former Department of Communities, Child Safety and Disability Services. The report recommended that the Director-General of Child Safety and the Public Guardian establish a protocol relating to how child safety issues and complaints raised by the OPG are to be managed by Child Safety. It also recommended that there be a coordinated approach between Child Safety and the OPG in capturing child safety complaints data so that trends and systemic issues are easily identified.

The purpose of the MOU is to detail an agreed understanding and process of:

- what matters should be referred by OPG to the department as complaints
- how complaints are formally referred to the department by the OPG and actioned under the department’s existing complaints management framework
- how complaints are recorded in the respective data systems of the department and the OPG to ensure comparability of the data for recording and reporting purposes.

Referring a complaint to a department or other service provider is an important part of improving the provision of services to the children and young people we visit. *The Public Guardian Act 2014* states that the Public Guardian may make a complaint, or refer a complaint on behalf of a child or young person about services provided or not provided to a complaints agency or other government service provider. During 2017-18 the OPG made or referred 58 formal complaints on behalf of children and young people under the MOU (note: this is different to raising and advocating issues for a child or young person). Over 60 percent of these were closed within 90 days as a result of active follow up with the relevant agency.

Key themes for the Child Community Visiting program

As well as the issues discussed above, there are a number of key areas that continue to be a focus for the Child Community Visitor Program.

Children and young people in detention

Community Visitors visit children in detention and adult custodial environments to independently monitor their safety and wellbeing and advocate for their rights and interests.

The Community Visitor Program plays an important role in independently monitoring the standard of care provided to these children and young people and responding to and facilitating the resolution of issues and concerns on their behalf. Our Community Visitors speak directly with children and young people in youth detention. We often see how problems that arise while children are in care, their exclusion from school, their past trauma and feelings of abandonment, predicate offending behaviours. We are further concerned by the high proportion of children in youth detention we visit who are on remand, meaning they are detained without their case having been heard, often because there is no-one to care for them within the community.

One particular current area of focus for Community Visitors are issues regarding children and young people with an undiagnosed disability or cognitive impairment, or where it is identified that they are not receiving access to the interventions needed to support them.

Community Visitors also continue to strongly advocate on themes such as the continued criminalisation of children and young people in the child protection system, particularly those young people who are charged with offences while they are staying in residential care that are relatively minor, children with cognitive disability, and those with significant mental health needs which are resulting in a police response rather than a therapeutic mental health response.

In addition to a large proportion of children and young people known to the child safety system, themes of ongoing lengthy remand times, inappropriate accommodation available to go to whilst on bail or on youth justice orders and the over-representation of Aboriginal and Torres Strait Islander young people continue to dominate our concerns when we visit..

Breakdowns of the issues raised in youth detention centres and by 17-year olds in adult correctional facilities can be found in tables 5 and 6, appendix 2.



### Inclusion of 17 year olds in the youth justice system

Coming into effect on 12 February 2018, the *Youth Justice and Other Legislation Amendment Act 2016* was designed to ensure young offenders aged 17 would now be dealt with in the youth justice system. This also means that eligible young people detained in adult correctional centres can be transitioned from prison to youth detention – a move supported by the Public Guardian. However capacity concerns in youth detention and ongoing transitional arrangements means that some 17-year olds are still being held in adult corrective facilities.

This means as at 30 June 2018, Community Visitors were still visiting these facilities. Community Visitors have increased their advocacy for individual young people who have requested assistance in navigating the process to be transitioned to youth detention. It therefore remains critical that the OPG continue to focus on the actualisation of the transitional arrangement processes and the ongoing impacts on 17 year olds in adult correctional centres.

### The use of watch-houses as places of detention

The use of watch-houses to detain children and young people on remand was reported publicly by the media towards the end of the 2017-18 financial year. As a result of overcrowding in Queensland's two youth detention centres, along with significant changes in the youth justice system, watch houses across the state are being utilised contingently to detain children and young people for periods longer than what is deemed ordinarily acceptable.

The OPG asserts that this environment is not conducive to the safety and psychological wellbeing of children and young people, and by design is not appropriate to meet their specific needs. This is particularly relevant in view of the over-representation of Aboriginal and Torres Strait Islander young people, those under child protection orders and those with trauma histories in custody. The OPG is currently engaged in a range of advocacy strategies to increase our ability to independently monitor their safety and wellbeing and advocate for their interests with service providers in the child safety and youth justice systems. The OPG continues to advocate a visiting strategy, along with strong advocacy by the Public Guardian with other oversight agencies with youth justice remit.

### Opening of supervised community accommodation

A percentage of children and young people on remand in youth detention are there because they have no suitable and stable accommodation to go to whilst on bail or on youth justice orders. This was an area of concern raised by advocacy agencies including the OPG, and one of the Queensland Government strategies to address this was the introduction of supervised community accommodation (SCA) during 2017-18. These accommodation services offer bail alternatives for courts, whilst affording young people an accommodation option within the community.

The OPG recognises this initiative as a positive step to reduce the numbers of children and young people on remand held in detention, allowing them the opportunity to access individualised programs of support within the community. Unfortunately, an overwhelming majority of young people in detention continue to be on remand, meaning the OPG's Community Visitors within detention centres are actively seeking opportunities for advocacy on behalf of young people who may be eligible for placement at SCA.

SCA falls within the definition of a visitable site under the *Public Guardian Act 2014*, and Community Visitors conduct regular visits to these sites.

### The future of children and young people in disability sites

The future operation of the Community Visitor Program at disability-related visitable sites (disability sites) is uncertain. The role of the program in relation to the National Disability Insurance Scheme (NDIS) at full scheme roll out has yet to be confirmed, pending an independent review commissioned by the Commonwealth to examine the role of Community Visitors in full scheme NDIS, including its interface with the Quality and Safeguarding Framework, and decisions to be made by the Queensland Government. If the Community Visitor Program is discontinued in disability sites it will affect at least 35 respite care facilities for children and young people which are currently visited on a monthly basis. Community Visitors are an indispensable part of an effective disability complaints process and provide a vital safeguard for vulnerable Queenslanders residing in disability sites.

### Advocating for children and young people within the National Disability Insurance Scheme

There are children and young people in care who are eligible for funding through the National Disability Insurance Scheme (NDIS). Another role of the Community Visitor therefore, is to advocate for these children to make sure they are receiving all they need to be engaged in the NDIS in a timely manner, and are receiving the supports they need through the scheme. Going forward, as the NDIS continues to roll out across Queensland, OPG will need to make sure we can continue to identify which children and young people may be eligible so that Community Visitors are aware of their needs and can advocate accordingly.

### Refocusing our advocacy in light of the implementation of the child protection reforms

Over 2017-18 the Community Visitor Program reviewed its current practice framework. This involved reviewing the advocacy goals of a Community Visitor and supporting the program's new framework with the development of a suite of policies and practice directions. This work was in part informed by recent reports and its recommendations by the Queensland

Family and Child Commission such as the *When a child is missing: Remembering Tiahleigh – a report into Queensland's children missing from out of home care (2016)* and the *Review of the Foster Care system (2017)*.

One particular dedicated practice direction currently being finalised is around the actions to be taken should a Community Visitor identify or form a belief that a foster or kinship carer is, or may be, providing other regulated home-based services from the visitable home, such as a family day-care service.

The Community Visitor Program also continues to share information with relevant agencies when notified a child or young person in care is absent or missing. The advocacy goal of offering this information is just another way Community Visitors add to the on-going safety and well-being of those children and young people staying at visitable locations.



Stock image for illustrative purposes only



# A day in the life of a child Community Visitor



## 8.30am

My day starts by jumping in my car and heading off to a residential care facility (child protection) to visit a young woman, April\*. At my last visit she mentioned she wasn't being given her medication on time.

On inspecting site documents I could see there were no record sheets, meaning that there was no information about what medication had been given to April or when – which is especially concerning where there are staff shift changes at the site.

Following that visit I had emailed both the Child Safety Officer and the Residential Coordinator outlining my concerns about medication safety practices. When I got to the site today I asked to see the same documentation, and was very pleased to see it now contains a medication policy, and record sheets marked with the time, date and initial of staff members dispensing medications.

## 10.30am

A Child Safety Team Leader returns my call in relation to a young person I'd visited at a site recently. Cooper\* was waiting for a Child Safety Officer to visit him to discuss where he would be living when he exits care, and what help he needs before then to meet his transition goals.

Cooper was especially worried about managing a household budget as he hadn't done this before. We talk about Cooper's transition to adulthood and my concerns that Cooper has limited time to access the life skills programs he needs to live independently, and around the lack of general planning about where he will live at the end of the year. The call ends well, with the Team Leader advising me that a Child Safety Officer will meet with Cooper this week to write a transition from care plan.

## 11.30am

It's time to head to another residential site – this time a child and youth mental health service – to visit a young nine year old girl named Willow\*, who is being treated for a variety of diagnoses, including post-traumatic stress disorder. There had been concerns raised about Willow's treatment, and in reviewing records at the site I could see that over a period of approximately two weeks, Willow had experienced a high number of instances of physical restraint. Half of these had occurred whilst staff at the service were trying to 'enforce' seclusion, and more than half also involved the use of psychotropic medication.

I found such a wide ranging use of restrictive practices in such a short period of time to be highly concerning, and raised the possibility of re-traumatisation. There also appeared to be no indication that Willow has the opportunity to access therapeutic support in the form of psychological and counselling services either now or upon her discharge. My actions from here will be to advocate on behalf of Willow by escalating these concerns through my manager so they can be raised in writing with the Service. To complement this I will refer Willow to an OPG Child Advocate Legal Officer so they can work with Willow to ensure she understands her ongoing legal rights surrounding her treatment.

## 1.30pm

After taking a break for lunch I take some time to write up my phone calls and emails about the earlier issues.

## 3.30pm

A change of pace now, as I'm visiting a foster home where there are two young children from the same family, Stacey and Crystal.\* Stacey and Crystal have a lot of brothers and sisters, both older and younger than them, living in a number of different placements. Last time I visited, I'd contacted their Child Safety Officer to discuss Stacey's and Crystal's wishes to see their siblings more often. The contact had been irregular and at times there had been months between contact visits.

The children and I talk while we all colour some pictures I brought to the visit. Stacey tells me that they got to go to the park to see their brothers and sisters, and all were there except their brother Thomas. Crystal tells me she wishes Thomas could be there next time. Stacey and Crystal's foster carer Robert tells me later in the visit that the Child Safety Officer and carers had all worked together to work out a schedule for regular sibling contact visits. Robert stated that the transport arranged by Thomas' carer fell through, and that for the next visit Robert is going to offer to pick Thomas up so he doesn't miss out.

## 4.30pm

Time to head home. Tomorrow I won't have as many visits in the day, as I have blocked out time to complete a child report for each of the children I have seen today.

I have a list of calls to make to Child Safety, to discuss the matters that have been raised today, and I can close off some issues as we've had great results.

It's highly rewarding to see the impact of our work, resulting in positive changes in the lives of the vulnerable children and adults we visit.

*\*All names have been changed to protect identities.*



## Advocacy for children and young people in relation to legal matters

Certain child advocate functions relating to legal matters are performed by staff with legal training. In these instances, Community Visitors and other stakeholders will refer the matter to a Child Advocate Legal Officer.

Child Advocate Legal Officers are lawyers who advocate for the legal rights of individual children and young people. Legal advocacy undertaken by Child Advocate Legal Officers complements the advocacy undertaken by Community Visitors. For example they assist young people to file or respond to review applications in the Queensland Civil and Administrative Tribunal (QCAT), and can also appear in the Children's Court – both in the child protection and youth justice jurisdictions if the matter involves a relevant child (as defined in the *Public Guardian Act 2014*).

What has become very clear over the past year is that demand for child advocacy relating to legal systems has continued to increase as understanding and awareness of the role of the Child Advocate Legal Officer grows. In 2017-18 OPG saw a 22 percent increase in the number of children we assisted to 398, and we also closed 32 percent more advocacy cases than the previous financial year, with a total of 402.

Table 7, appendix 2 shows a breakdown of the number of child advocate meetings held by type of meeting.

### Key themes in Child Legal Advocacy

An overarching focus for this year was working on appropriate referral pathways between the Community Visitor and Child Advocate Legal Officer roles to ensure vulnerable children and young people were receiving the legal advocacy they needed, and that referrals to Child Advocate Legal Officers were appropriate. Additionally there are a number of key areas that continue to be a focus for the Child Advocate Legal Team.

### Complementary youth justice advocacy

In performing child advocacy functions Child Advocate Legal Officers have advocated for children and young people in the child protection system who are involved in the youth justice system. This advocacy supports the instructed youth justice lawyer in their work by:

- providing valuable contextual information about the child/young person's experience of the child protection system including placement instability, periods of homelessness, disengagement from education and the availability of social service supports and the impact that experience may have

had on any criminal offences they face

- advocating for appropriate placement along with associated therapeutic and social services to support successful applications for bail
- providing information and advocating to ensure that appropriate assessments of capacity and fitness to plead are undertaken in the course of resolving their criminal matters
- assisting in negotiations with prosecutions about the criminal charges, including making public interest submissions for children/young people charged with offences like wilful damage in residential care.

### Advocacy and support for children and young people in child protection proceedings

This year has seen a notable increase in the proportion of children and young people seeking advice and assistance to review decisions made by Child Safety in QCAT. The Child Advocate Legal Officers have provided legal advocacy, and supported children and young people to exercise their right of review and to access direct legal representation through Legal Aid Queensland for the conduct of the proceedings. The Child Advocate Legal Officers continue to receive regular referrals from a variety of sources seeking advocacy support for children participating in child protection proceedings, and in QCAT applications brought by other parties. The team is developing a practice framework that supports the focus of resources on the matters that most need our involvement, to ensure that services reach the most vulnerable children and young people.

### Regional service delivery

This year has also seen increased regional service delivery to the central zones, with Child Advocate Legal Officers doing regional "road trips" to visit children and young people in more remote locations. The distribution of Child Advocate Legal Officers has changed, with some resources diverted from central to regional positions. This has allowed service delivery to reach more children and young people located in North Queensland and Far North Queensland, with Community Visitors in these locations benefiting from having a Child Advocate Legal Officer team member co-located.

### Effective mental health management

The effective management of children and young people's mental health is a matter of ongoing concern. Mental health issues can impact on the resolution of criminal matters and also required advocacy in relation to effective case planning and tribunal/court proceedings. Child Advocate Legal Officers work with Community Visitors to support children and young people in accessing mental health services and to understand decision making made about their treatment and ongoing supports.

### Educational advocacy

Education advocacy will continue to be a focus for the Child Advocate Legal team. It is a service delivery priority area where Child Advocate Legal Officers can support children and young people to appeal or review long suspensions, exclusion or decisions not to enrol.

### Strengthening frameworks to better support children and young people

There has also been considerable work done in 2017-18 on improving practice frameworks and supporting resources and documents, and this is something that will continue to be a focus looking forward. This will support the team to focus advocacy where it is most

needed, with a view to targeting service provision to children and young people who are most vulnerable and most in need of legal advocacy and assistance. It will also allow us to better link with other service providers – particularly in the education advocacy space – who can provide related support to children and young people, with the aim of improving referral pathways and collaborative working relationships.

### Child advocacy for children and young people not under a child protection order

The *Public Guardian Act 2014* describes the children and young people who are able to access child advocacy by the Public Guardian. This includes children who remain in the family home who are subject to Intervention with Parental Agreement and Care Agreements, which are arrangements that do not involve an application to the Children's Court for a child protection order. We currently receive referrals for these children and young people from a variety of sources, including the Community Visitor Program, Child Safety Officers, youth justice stakeholders, community workers, lawyers and young people. However over the coming year we will be looking more closely at how we can increase our access to these children and young people more effectively advocate on their behalf.





# A day in the life of a Child Advocate Legal Officer



## 8.30am

My day starts with a meeting with Child Safety about a 13 year old – Jack\* – who has recently been charged with unlawful use of a motor vehicle. After spending most of his early childhood in a dysfunctional home that saw him neglected and exposed to emotional and physical abuse, Jack has spent the last few years moving through various short term placements.

This combination of developmental trauma and lack of stability is often at the root of the behaviours that see these young people criminally charged. Stakeholders need to address the underlying issues to minimise the risk that the young person will continue to cycle through the youth justice system, and then ultimately into the adult criminal justice system. If we can advocate for the appropriate supports to be put in place early for Jack, there is a real chance he can break the cycle and go on to lead a productive life.

The purpose of my meeting is to advocate for Jack to have access to a stable place to live, more frequent and consistent contact with members of his family and social peers so that he can have more supportive social attachments, to be supported to return to school to continue his education, and to be linked in with therapeutic interventions to provide support around his history of trauma.



## 11.30am

I am now in the Children’s Court advocating for Taylah’s\* views and wishes about a child protection order. Taylah experienced a lot of physical and emotional abuse from her father when she was young, and was placed with a foster carer at a very young age.

She still has some contact with her mother, but she thinks of her foster carers as her parents as she has lived with them most of her life and they have always made her feel like part of the family. The Director of Child Protection Litigation (DCPL) applied to the court for a long term guardianship order granting guardianship to the Chief Executive of the Department of Child Safety.

However Taylah wanted the court to make a long term order granting guardianship to her foster parents, not Child Safety, because she has always thought of her foster carers as her parents and she does not want to be known as a “child in care” anymore. Taylah did not want to go to court herself, so I have been advocating for Taylah’s views and wishes at court to have the order changed so that her foster carers would be her guardians, not Child Safety.

I received an email recently from the DCPL lawyer confirming that they have agreed to change the application to grant long term guardianship to Taylah’s carers, so today we are going to court for the Magistrate to make these final orders. Later this week I will go out to visit Taylah again to give her the good news.



## 1.00pm

I am writing to Child Safety on behalf of a young girl, Dee,\* who I visited earlier in the week at a Youth Detention Centre. Child Safety is appointed as Dee’s guardian until she turns 18.

Dee has been refused bail because she currently does not have a placement, and the Magistrate felt she should not be released from detention until she has an appropriate and safe placement to live in. I’m currently advocating for Child Safety to provide an appropriate placement for Dee.

After Child Safety have provided her with a placement, I will work with her criminal lawyer to have a bail application brought on early with the hope she can get out on bail, and into a safe and stable environment, instead of remaining in detention.



## 4.00pm

Time to get out of the office and meet with Hannah.\* Hannah goes to school, so the only time I can visit her is late in the afternoon after school. Hannah is placed with her Aunty because she lives closer to Hannah’s mother, but she does not feel safe living here. Hannah wants to live with a cousin on the Sunshine Coast.

Hannah feels that Child Safety is not listening to her views and wishes, so I am helping her to make an application to the Queensland Civil and Administrative Tribunal (QCAT) to review this placement decision. I am also helping Hannah to complete an application to have a lawyer represent her at QCAT. Hannah was really grateful that I came out to speak with her about this, because she feels that we are one of the first people that have actually listened to her and are trying to help her.

I finished the day on a bit of a high after I received a text message from a young person I had been advocating for. Rory had been placed in a very unstable residential placement with older boys, where he was very unhappy, and felt unsafe, due to conflict with the other boys that often led to the police being called.

We spoke with Child Safety to get Rory moved to another residential placement, and in his text message Rory talked about how thankful he was for everything we did for him, and how happy he is in his new placement. My job can be tough sometimes, but it’s things like this that make it all worthwhile.

*\*All names have been changed to protect identities.*





Stock image for illustrative purposes only

**Aboriginal and Torres Strait Islander Children and young people**

Aboriginal and Torres Strait Islander children and young people are a priority population group for the OPG. In Queensland and in Far North Queensland particularly, Aboriginal and Torres Strait Islander children and young people are over-represented in the child protection and youth justice systems. At the end of the 2017-18 financial year, 3,024 (41 percent) of OPG's child clients identified as being of Aboriginal and/or Torres Strait Islander status.

The Community Visitor Program completed 109 visits to discrete Indigenous communities during this financial year. Throughout the year we visited 81 percent of Aboriginal and/or Torres Strait Islander children residing in visitable locations (private homes and visitable sites) as per their visiting schedule. A breakdown of the number of Aboriginal and Torres Strait Islander

visitable children by zone can be found in table 8, appendix 2.

Child Advocate Legal Officers assisted 146 Aboriginal and Torres Strait Islander children and young people in 2017-18. A breakdown of our representation of Aboriginal and Torres Strait Islander children and young people can be found in table 9, appendix 2.

**State wide Adult Community Visitor Program**

The role of the Adult Community Visitor Program is to promote and protect the rights of interests of adults residing or being detained at visitable sites (see below for definition of a visitable site).

Community Visitors make announced and unannounced visits to ensure residents are cared for, make inquiries, and lodge complaints for, or on behalf of, residents. Community Visitors have the power to refer complaints to an external agency— such as the Department of Communities, Disability Services and Seniors, the Department of Child Safety, Youth and Women, Queensland Health, or the Residential Services Accreditation Unit in the Department of Housing and Public Works—where appropriate.

Many of our Community Visitors are 'dual visitors', which means they visit children and young people as well as adults. This feature is especially valuable in the case of some of the young people with disabilities transitioning out of care where their Community Visitor can continue to visit and support them into adulthood (when they're transitioning into a visitable site). This means the Community Visitor has an understanding of the young person and their needs, which provides better continuity.

As at 30 June 2018 we had 72 Community Visitors visiting adults. Of these, 9 are adult-only visitors, and 63 are dual visitors.

**Visitable sites**

Visitable sites fall into six categories:

- disability accommodation provided or funded by the Department of Communities and Disability Services and Seniors or places where people receive funding from the National Disability Insurance Scheme,
- relevant Queensland Health facilities
- authorised mental health facilities,
- Community Care units (mental health)
- private hostels (with 3 level accreditation under the *Residential Services (Accreditation) Act 2002*)
- Forensic facilities, such as the Forensic Disability Service.

**Visiting frequency**

Visits to these sites are quarterly, unless otherwise directed by the Public Guardian. A full breakdown of

number of sites by sector and service sector can be found in tables 10 and 11, appendix 2.

Adults, or a person acting on behalf of an adult are able to request a visit from a Community Visitor at any time. This is an important safeguarding mechanism, and we continually work with service staff to understand their obligations to contact our program if a consumer requests a visit from us.

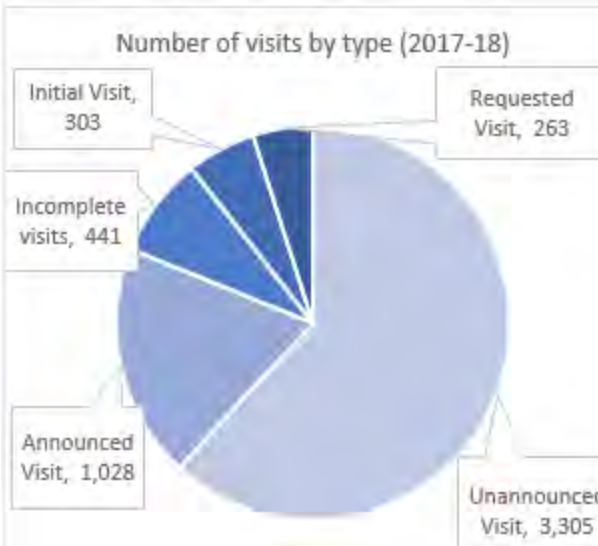
During 2017-18 Community Visitors conducted 5,340 visits to 6,585 adults at 1,378 sites.

**Announced versus unannounced visits**

The *Public Guardian Act 2014* empowers Community Visitors to utilise both announced and unannounced visits as an inquiry and complaint mechanism. This year's annual report reflects the continuing trend for the program to favour unannounced visits, however there is significant growth in the number of announced visits from previous years. The benefit of an announced visit includes a higher chance that residents will be there, and a greater weight given to privacy.

However unannounced visits can offer a greater opportunity to gather accurate information and observations. Unannounced visits are more often used when a Community Visitor reasonably suspects that an unannounced visit will offer a more accurate perspective of the regular care of a person in that site.

**Number of visits by type (2017-18)**



Note: a visit is generally classed as incomplete if no one was at the location, or if upon the arrival of the Community Visitor there were valid reasons as to why it wasn't appropriate for the visit to be carried out at the site at the time.



## Visits outside of normal hours

Section 126(2) of the *Public Guardian Act 2014* requires that the Public Guardian report on the operations of Community Visitors during the year, including the number of entries of visitable sites outside normal hours authorised by the Public Guardian. In 2017-18, 0 visits were made outside of normal hours. Normal hours are defined as 8am-6pm, seven days per week under the Act. However, it should be noted that Community Visitors made 205 visits to visitable sites on weekends.

## Issues raised by Community Visitors on behalf of adults

Through our visits, Community Visitors identified 2,121 issues on behalf of residents at the visitable sites. This is a 10 percent increase from last year's figures. For a detailed breakdown of issues identified on behalf of adults at visitable sites see table 12, appendix 2.

Additionally, during 2017-18 Community Visitors conducted more than 396 visits across 76 authorised mental health services, raising 253 issues.

## Appropriateness of accommodation

This year sixteen percent of total issues raised by Community Visitors were in relation to the appropriateness of the accommodation. These issues were primarily about the safety or security of the accommodation, or the maintenance and furnishings required for the client at the home. This represents an almost 5 percent increase from last year, which may reflect the greater focus that was paid to a person's living environment during the year. Community Visitors frequently also advocated for additional furnishings to support the development of independence and life skills for our clients. Finally within this theme, community visitors observed and reported to the service provider on matters impacting upon a person's security, such as broken windows, doors or fencing, or issues relating to the integrity of locks, gates or windows.

## Monitoring of healthcare needs or treatment plans

The adults we visit frequently require medical intervention including periods of hospitalisation for mental or physical illnesses. During 2017-18, 11 per cent of all issues raised by Community Visitors related to the adequacy of monitoring healthcare plans by service providers, representing a substantial increase from last year. Many of these issues related to the appropriateness of discharge plans for people exiting hospital, including the degree to which services were trained, briefed and equipped to provide healthcare support to clients discharged from hospital. Issues further related to the presence of a current comprehensive health

assessment plan, including observations that people were prescribed and being administered medication for which OPG could not locate a diagnosis. On more than one occasion this type of advocacy resulted in a medical review and withdrawal of the medication.

## Restrictive practices

Restrictive practices can include chemical, mechanical or physical restraint, containment, seclusion or restricted access to objects. The use of restrictive practices is subject to rigorous legislative protections, and is only authorised to manage 'behaviours of harm' in adults with a cognitive or intellectual disability, where that behaviour could cause harm to themselves and others. At OPG we strongly promote the reduction and, where possible, the elimination of restrictive practices, and believe that where restrictive practices are necessary the least restrictive intervention should be used in order to support freedoms, choice and personal control for individuals.

Community Visitors monitor the use of restrictive practices in all visitable sites, including mental health and disability services and level 3 residential service hostels. The 'rigorous legislative protections' referred to above, only relates to the use of restrictive practices in disability funded services or sites where clients receive NDIS funding (outside of an authorised mental health service). However Community Visitors nonetheless monitor restraints in all settings so as to advocate against the ensuing human rights issues, even where their use is unregulated.

## Role of the Queensland Civil and Administrative Tribunal in the use of restrictive practices

In the context of services receiving funding from State Disability Services or through an NDIS participant, decision-making relating to the longer term use (beyond six months) of seclusion, containment and other restrictive practices used simultaneously, is given to the Queensland Civil and Administrative Tribunal (QCAT). During 2017-18, Community Visitors conducted 199 visits requested by QCAT, which directly informed applications for – or reviews of – restrictive practices applications at disability sites, relating to seclusion and containment.

The Adult Visiting Program has reviewed and is in the process of implementing a new approach to the way in which restrictive practices are reported to QCAT. Currently, restrictive practice visits are specifically requested by QCAT, however our program will more frequently review how service providers manage the restrictive practices placed upon clients and how they manage a client's positive behaviour support needs. This will provide us and QCAT Members a greater insight into

the environment and circumstances surrounding the client and may in fact influence whether the client will continue to need restrictive practices approved.

## A more robust reporting framework

Over the past year the Community Visitor Program has had an increased focus on targeted enquiries specifically in regards to the use of restrictive practice and service provision. To better inform this advocacy, Community Visitor Program staff attended training around the use of restrictive practices delivered by the Centre of Excellence for Clinical Innovation and Behaviour Support (COE). A more rigorous approach to reporting unauthorised or inappropriate use of restrictive practices to the COE has also been adopted as part of the practice framework.

As a result, the Community Visitor Program and Guardianship (particularly the Positive Behaviour Support Team) have forged an even closer relationship to ensure a collaborative approach exists across programs. Although these targeted enquiries have not resulted in formal complaints, the information that the Community Visitor Program receives during visits has allowed us to provide this information to external decision makers where positive outcomes have occurred. Under our legislation the program has been able to share information to external parties including both QCAT and COE which has allowed them the opportunity to have additional information to assist with their decision making process.

Monitoring unauthorised or excessive application of restrictive practices presents one of the greatest concerns for the Public Guardian; given that the application of restrictive practices on people with impaired capacity represents one of the greatest potential infringements of human rights the agency deals with. The Public Guardian is concerned that even greater vigilance will be required by Community Visitors in relation to restrictive practice usage by service providers under the NDIS, as adults will potentially have more than one service provider, and disability services will no longer be the overarching funding body.

## Key themes for the adult visiting program

As well as the issues previously discussed, there are a number of key areas that continue to be a focus for the Community Visitor Program.

## The needs of National Disability Insurance Scheme participants we visit

The Community Visitor Program forms part of the National Disability Insurance Scheme (NDIS) Quality and Safeguarding Framework, and the program has started the conversation with State and Federal counterparts regarding how the program will operate post full-scheme roll out.

To date, Community Visitors have observed the market's response to NDIS. As government-funded services withdraw some locations struggle to find service providers available to complete allied health responses to individual needs.

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

OPG is aware of the particular challenges that those we visit have in navigating systems such as the NDIS. Our Community Visitors have this year paid particular attention to the needs of clients receiving appropriate support during the development of their NDIS plans, and have advocated for the National Disability Insurance Agency (NDIA) to meet with (rather than phone) participants during the planning process, in addition to advocating for supported decision-makers where required, to bolster safeguards for clients around the planning process.

Additionally there can be a time lag between an NDIA plan being approved and support co-ordinators being assigned to then implement plans. As the plan is technically in place but not being facilitated, the funds aren't being used, which means there is a risk they are then moved in the next plan as 'not needed' as they weren't used in the previous plan.

## Investing more in the Visiting Program

During the past twelve months the OPG has been reviewing the adult visiting program performance in light of changing sector responses to the NDIS. We have invested in updating induction and training packages, and these will be finalised in early 2018-19. This initiative was based upon internal feedback from the existing workforce and changes to legal and policy frameworks.



We have also seen the appointment of five temporary Regional Practice Officers (NDIS). Our aim is that these resources will lead our changing practice development, cultivate local working relationships, and seek out solutions for maintaining accurate site details given the dynamic nature of the sector currently.

### Strengthening our reporting processes

This year we provided all Community Visitors with training in relation to the completion of our adult visit reports. Collaboration with service providers, who expressed the importance of our reports in relation to monitoring and improving their service standards for clients, was undertaken as part of this initiative. Their feedback recommended improvements regarding our consistency in reporting, and highlighted the need to also identify things that service providers are doing well for individuals. We've listened to this feedback and hope that the service providers recognise the improvements made to OPG practice into the future.

### Complaint referral pathway

The latter half of the year witnessed the Community Visitor Program strengthen its complaint referral pathway, particularly through the notification of reportable deaths to the State Coroner's office and the referral of potential unauthorised use of restrictive practices to the COE. During 2018-19 we will extend those relationships to the formal complaints channels of approved providers, ensuring that complaints are both resolved locally but also recorded formally to support continuous quality improvement within the disability sector in Queensland and at OPG.

### Providing precise guidance around visiting adults in authorised mental health services

During 2017-18, we developed new, strong practice guidance for Community Visitors specifically about how we should visit and advocate for the rights of people staying in authorised mental health services. During the development of the Policy and Practice Direction: *Monitoring and advocating for the rights and interests of adults a, children and young people staying in authorised mental health facilities*, targeted consultation was undertaken with a range of external stakeholders including the Mental Health Commission. Equally important, direct consultation was had with a number of people who had their own lived experience staying in an authorised mental health facility. The gathering of their views and insights and incorporating these into the final Policy and Practice Direction was considered vital to arriving at a best practice framework. The Policy can be found on our OPG website.



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## The future intersection of visiting disability sites with the Quality and Safeguards Commission

The Adult Community Visitor Program is facing an uncertain future as all States and Territories consider the future scope of their Adult Community Visitor Programs in light of the development of a nationally consistent quality and safeguards framework. The National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission is a new independent Commonwealth body, designed to promote safety and prevent harm of people with a disability in Australia who are receiving funding from the National Disability Insurance Agency. However it is our experience that many of those we visit would experience significant barriers to accessing this complaints mechanism without the assistance from an independent program such as ours.

In 2017-18, OPG Community Visitors made 4,781 visits to disability sites in which they identified 1,788 issues. A significant proportion of these matters related to personal safety and security, including complaints of abuse or assault. Further, Community Visitors identified large numbers of issues

relating to the inappropriate use of restrictive practices. Quite simply these matters would not have been brought to the attention of local area coordinators or a Complaints Commission, without the vehicle of a Community Visitor Program. It is feasible to assume that the abuse of the fundamental human rights of adults with impaired capacity identified in these cases would neither be observed, nor addressed without the presence of Community Visitors in these facilities.

It should also be noted that our practice and complaints processes will need to be reviewed and realigned with the NDIS Quality and Safeguard Framework in the lead up to full scheme roll out in July 2019.



# A day in the life of an Adult Community Visitor



## 8.30am

I begin the day at my computer, as there are new emails waiting. I find one from my manager letting me know that there has just been a successful outcome in a Queensland Civil and Administrative Tribunal (QCAT) hearing for a gentleman called Victor.\*

Victor lives at a site I regularly visit, and I first became concerned about his situation last year when it became apparent that his mother, who was his informal decision maker for financial matters, appeared to be spending his money, and that Victor had no access to the account it was being held in.

I had many conversations with the service provider over a period of time, and they agreed that if Victor's mother wouldn't agree to apply to QCAT for a formal administrator to be appointed, that they would make the application themselves. His mother did agree to apply to QCAT, and so my manager submitted a letter to QCAT outlining my concerns about apparent financial mismanagement.

The email from my manager was to tell me that QCAT had just appointed the Public Trustee as financial administrator for Victor, which means his money is protected.



## 10.00am

I arrive at my first site of the day, and after greeting support staff I go and chat with the residents. We speak about their recent activities and things that make them happy, their carers and how they are being looked after, their health and any big plans they have coming up.

One lady excitedly tells me about a cruise holiday she is about to go on. I often have to use a variety of communication methods, including picture books, iPads and communication aids, but today I have to rely on sign language with one gentleman.

This is always a bit of a challenge, as my sign language skills are fairly rudimentary, but at least he gets a laugh from my efforts. Pleasingly, there are no issues that need following up today with this site.



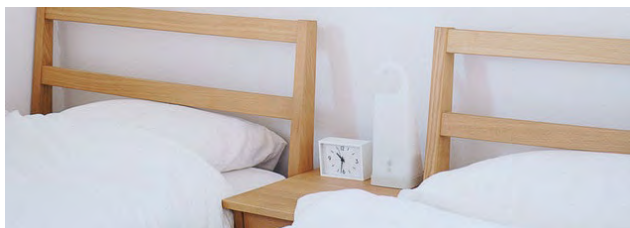
## 11.30am

The next visit of the day is at a level 3 accredited residential services hostel. After checking in with staff, I wander out to the balcony where the majority of residents usually sit and they all greet me warmly because I have been visiting them for the last four years.

After chatting to them for a while I discover that one of the two washing machines is out of order, which is impacting on their ability to keep their clothes clean.

I head to the office to chat to staff about this issue, and while there I notice that the medications are not being properly stored, so I also speak to staff about medication administration and storage and clarify their processes.

After making sure I've had the opportunity to speak to all of the available residents, I bring the visit to an end.



## 1.00pm

After grabbing some lunch, I call the service provider that manages the site I just visited to discuss the medication issue, and what protocols need to be updated, and note to follow up with an email that can be included in my report.

I check my email on my phone and notice a message regarding a facility I'd reported an infestation of bedbugs at a couple of weeks earlier. I had raised the issue with the manager straightaway, who told me he was in the process of spraying all beds with a commercially bought spray.

I was unconvinced that this was the most effective treatment, so after my visit finished I had phoned my manager to discuss. She immediately escalated the issue, and a letter was sent to the Residential Services Unit in the Department of Housing and Public Works highlighting our concerns. I had already heard that as a result of this, the Unit would be going to the site to investigate, and this message was letting me know that they had instructed the manager to remove and discard of all contaminated mattresses, bedding and furniture, which is a great outcome for the residents.



## 3.30pm

Time for my last site visit of the day. After talking with some of the residents (and pleasantly sitting with a lady to read her new book with her), I go to check in on Marie,\* who is living with autism.

On my last visit it was apparent there was an issue as Marie was often becoming agitated when staff couldn't understand what items she was asking them to get for her. I spend some time going through Marie's records, and chatting with one of her support workers as to whether a speech therapist had been engaged to help develop a communication plan.

Talking with the site manager today to follow up on the communication plan I find out that an National Disability Insurance Scheme plan has just been completed for Marie that contains funding for therapeutic services, and as a result a speech therapist will be engaged on an ongoing basis.



## 4.30pm

Time to head home and spend a couple of hours in my home office catching up with paperwork.

I want to go through documents from the sites I visited today to get a better picture of how they are operating to be as sure as I can be that there are no further concerns for the safety and wellbeing of all residents.

I then get a start on my site reports, and start planning for another busy day tomorrow.

*\*All names have been changed to protect identities.*



# Guardianship services

In Queensland, as in other jurisdictions, the role of a guardian is to promote and protect the rights of adults that the Queensland Civil and Administrative Tribunal (QCAT) have declared are unable to make their own decisions due to a lack of decision-making capacity.

Where an adult is deemed to have impaired decision making capacity by QCAT, the Public Guardian can be appointed an adult's guardian in the following circumstances:

- As a guardian of last resort where it is determined there is a need for personal 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 2000*.
- Where a person has appointed the Public Guardian as their attorney for personal/health matters under an enduring document.
- Following the suspension of an attorney's powers, or where the Supreme Court appoints the Public Guardian for a person with impaired decision-making capacity.

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

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

## How we make decisions

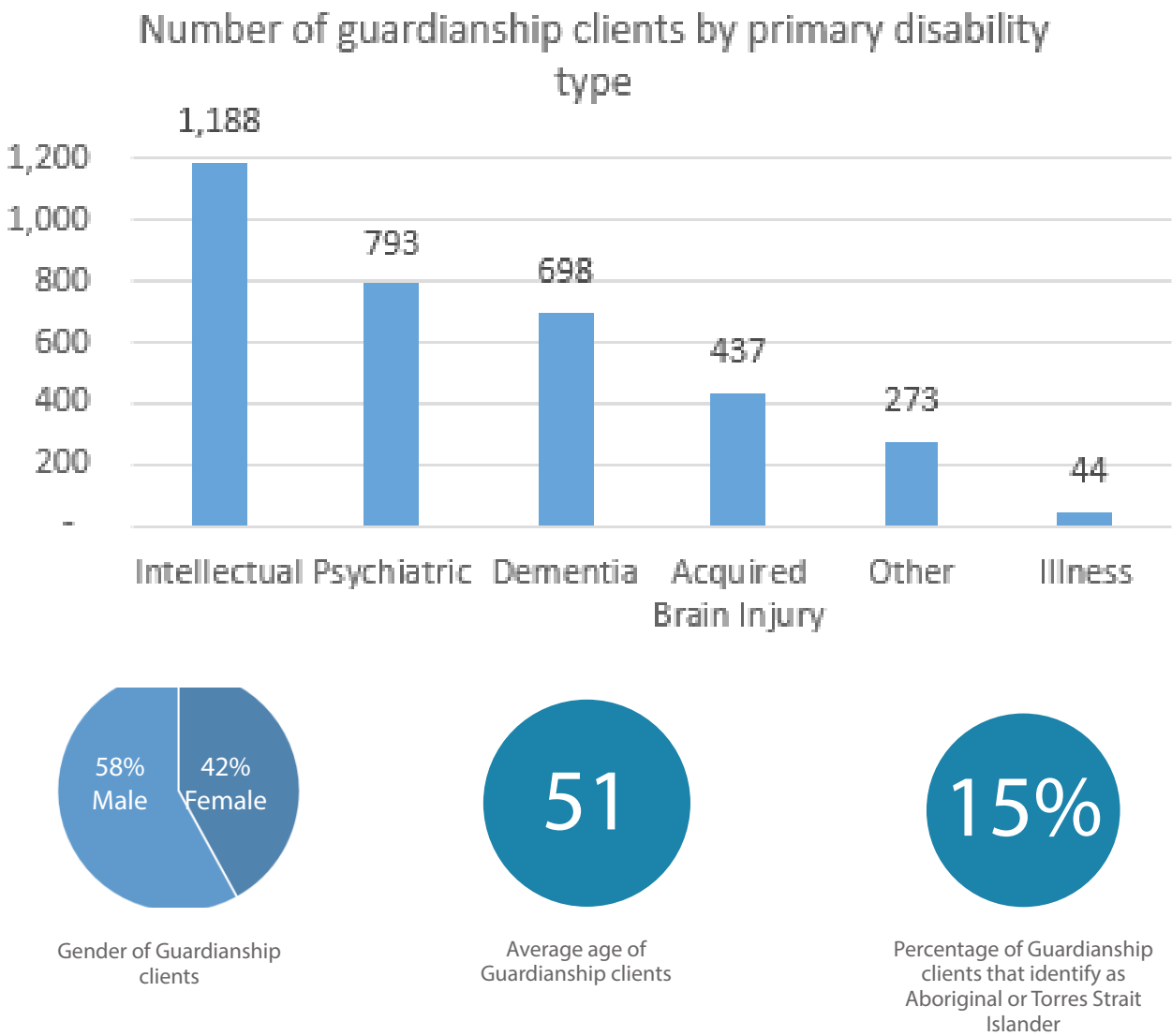
When acting as guardian or attorney, the Public Guardian's role is to protect the person's rights and interests through a supported decision making model.

We have a responsibility to try to make the decision that the person would have made for themselves if they could still make that decision. We do this by (wherever possible) making sure our decisions are in line with the adult's views and wishes, which in turn allows us to help them maintain their dignity and self-determination. We also put a focus on making sure existing supportive relationships, whether with friends, family or service providers, are kept in place. At all times we are guided by the General Principles and Health Care Principle of the *Guardianship and Administration Act 2000*.

To further assist our Delegate Guardians, 2017-18 saw OPG develop a structured decision making framework that promotes and prioritises a 'least restrictive decision making model'. This framework is used by all OPG Guardians in their decision making process to ensure that all reasonable efforts are made to support adults to exercise their own decision-making capacity to the greatest extent possible under relevant legislation. The framework is also available on the OPG website for anyone interested to view.

In 2017-18, 97 percent of Guardianship decisions were made in consultation with the client/interested persons.

## Profile of Guardianship clients





## Queensland Civil and Administrative Tribunal appointments and trends

Adults only come under the guardianship of the Public Guardian by an appointment from the Queensland Civil and Administrative Tribunal (QCAT). 3,149 adults in Queensland were under the guardianship of the Public Guardian in 2017-18, as appointed by QCAT. (A further 65 adults who had appointed the Public Guardian as their 'Enduring Power of Attorney' and had lost capacity – therefore activating the appointment – were also under overseen by staff in the guardianship program.) During 2017-18, the Public Guardian received 836 new guardianship appointments made by QCAT.

### Appointment types and duration

The majority of QCAT orders (interim and full) were for three years or less (86 percent). This represents an increase from the 79 percent of full orders in 2016-17. The remainder of the QCAT orders in 2017-18 were for more than three years. This shows a decrease of 7 percent in the percentage of longer term orders from the previous year.

In 2017-18, there were 333 interim orders issued due to an immediate risk of harm to the health, welfare or property of the adult, including because of the risk of abuse, exploitation or neglect of, or self-neglect by, the adult.

Of these, approximately half (165) were immediately followed by a QCAT decision that the person should be under a longer term guardianship order. A large number of the interim orders were made for the purpose of supporting an adult's decision-making in relation to residential aged care placements. Given the delays for hospitals to get a QCAT hearing date, a number of applicants sought an interim order in order for the adult to have decisions made so they could be discharged from hospital.

When a guardianship order is due to be reviewed, the Public Guardian actively seeks the revocation (asks leave to withdraw) of guardianship appointments when a person no longer needs to be subject to a QCAT order as we should only be considered a guardian of last resort.

Consistent with previous years, appointments for accommodation, service provision and health care continue to be the most common areas of appointment for the Public Guardian in 2017-18, making up 78 percent of appointment types. For a detailed breakdown of appointment type, please see table 13, appendix 2.

### The role of the QCAT Liaison Team

As the Public Guardian is an active party to all guardianship hearings at QCAT, the role of the OPG QCAT Liaison Team is to provide information to QCAT applicants who have applied for the Public Guardian to be appointed as guardian for an adult, and also to provide submissions to QCAT on behalf of the Public Guardian.

This is a vital role as it is designed to ensure that, in accordance with the *Guardianship and Administration Act 2000*, the Public Guardian is only appointed as a last resort and in the least restrictive manners. The Public Guardian recognises that having a formal decision maker can impact on an adult's human rights, so wherever possible the QCAT Liaison Team will advocate for less restrictive measures, in line with the legislation. Less restrictive measures includes allowing the adult's support network to support the adult in making their own decisions, or having appropriate family and/or friends make decisions informally.

This strategy has been incredibly effective over 2017-18, with the QCAT Liaison Team attending 574 hearings, of which only 247 resulted in the Public Guardian being formally appointed by QCAT. The team is also focused on advocating for shorter appointment terms to prevent the Public Guardian being appointed for longer terms than strictly necessary, and as noted above, this year has seen a seven percent decrease in appointments over three years.

The QCAT Liaison Team also advocates at QCAT to ensure the Public Guardian is only appointed for necessary personal matters. For example, the Public Guardian is often not required to be appointed for health care matters as the Public Guardian can provide consent for health care matters as Statutory Health Attorney pursuant to section 63 of the *Powers of Attorney Act 1998*. Over the past 12 months, this work has seen a significant decrease in the decision making areas of appointment of the Public Guardian.

The work of the QCAT Liaison Team is also helping to raise community awareness around the guardianship process, and when formal appointments are appropriate. This is because the team is able to identify where large number of applications are coming from a particular agency or service provider, then make contact to discuss the reasons behind this, and identify where less restrictive measures might be a better solution. Similarly, by having discussions with family and friends of an adult for whom an application has been made, they can help those people better understand the decision making process.



### Role of the Public Guardian in supporting clients within the National Disability Insurance Scheme

The full scheme implementation of the National Disability Insurance Scheme (NDIS) is set for mid 2019. The number of clients the OPG has registered with the NDIS is steadily increasing, and at 30 June 2018 stood at 1,360 – an increase of 1,100 clients from 2016-17. Additionally, of the average of 72 adults who come under the Public Guardian's guardianship every month, approximately 26 are people needing support to enter the NDIS. This means workloads are also increasing, with each client needing significant assistance to enter and utilise the scheme. This assistance includes:

- liaising with the client, their support network, health professionals and service providers to register the client with the NDIS
- arranging the necessary assessments and collating information to ensure the needs of the client are

clearly understood by the National Disability Insurance Agency

- attending NDIS planning meetings with the client
- subsequently working with the client to help them to utilise their NDIS plans and choose their own service providers.

From looking at the emerging pattern, we can see that while many of these clients need advocacy to ensure they are getting the support they need from the NDIS, it doesn't mean they require a decision maker. However due to a lack of adequate advocacy services, the Public Guardian is being appointed as their guardian to ensure they access the NDIS.



# A day in the life of a Delegate Guardian



## 9.00am

I'm starting the day at a Mental Health Review Tribunal (MHRT) hearing for one of my clients, Eric.\* This is a very complex issue that has involved working with our legal services team, community visitors, and a lawyer from an external non-government advocacy organisation. Eric is subject to long periods of seclusion, and significant amounts of electro-convulsive therapy (ECT).

Eric has repeatedly and consistently stated that he doesn't want ECT, and over the past two years we have been advocating for Eric and questioning both his diagnosis and the treatment he is receiving. What is particularly concerning is that there seems to be a lack of investigation by his treating team into alternative conditions that might be impacting on Eric's health and wellbeing. The hearing is a success and as a result of our joint advocacy, the MHRT didn't consent for ECT to continue. This isn't the end of the road for Eric, but we can now work with the relevant medical professionals to ensure alternate diagnosis are explored for Eric, and his rights and interests are protected.



## 11.30am

Back at the office, it's time to check my email. I see one from a Community Visitor who has just visited a residential disability site where one of my clients, Jane\* is residing. She tells me she sighted a document that Jane has signed stating, among other things, that Jane would take responsibility for costs over and above the hours of service provision she uses above her NDIS funding, and she would give reasonable notice if she wished to cease the agreement. The Community Visitor was pretty sure that Jane wasn't legally able to sign the document as the Public Guardian is appointed as decision maker for service provision. I put in a call to the service provider asking them to immediately address the situation, and to make sure they were aware that decisions like this should come to me as Jane's formally-appointed Delegate Guardian.



## 12.00pm

Time to attend a National Disability Insurance Scheme (NDIS) planning meeting on behalf of my client Monica.\* Monica has a mild intellectual disability and poor literacy skills, and has been on the waitlist for disability support services since 2014. I have been supporting her through the NDIS planning process for some time. This afternoon's meeting is with the NDIS Local Area Coordinator and the outcomes are very positive. Monica now has a Support Co-ordinator and will receive eight hours a week in house support, plus funding for needed therapies, which will allow her to live more independently as part of the community. When I go back to the office I will need to complete a decision for the Support Co-ordination service that the client and I selected and send them a letter of consent.



## 2.00pm

I grab a sandwich, and while checking my emails I discover that one of my clients, Graeme,\* has been involved in a critical incident where he has damaged property and has been evicted from his accommodation. Graeme receives treatment from an authorised mental health service and is subject to a Forensic Order. As a result I need to urgently organise a mental health review, so I get right on to contacting his Mental Health Case Manager for review of Graeme's treatment and assistance to locate new accommodation.



## 2.30pm

I've just finished resolving that issue, when I get a phone call from Disability Services, but this time it's good news. It's regarding my client John,\* whom the Public Guardian was appointed for very recently. John was living with his mother and his partner, and information from his service provider suggested he was at serious risk of neglect. They had organised a respite care placement for him, which was to be actioned immediately should the Public Guardian be appointed. However we discovered that John's mother had taken him to New South Wales where she was looking to relocate. I managed to get the respite place held for John, and persuade his mother to return to their Queensland home so I could visit.

Because of the risk of continuing neglect if John's mother returns to New South Wales with him, I knew it was important to get the accommodation decision made quickly. I organised with the service provider at short notice to meet me at John's home to support him into respite care. When I arrived at John's home, I discovered four adults living in a one bedroom property, and that John was sleeping in a small tent outside. We were able to get him into his respite placement that night. The call I just received was letting me know that John has just been offered a permanent place in accommodation with shared support with two other gentlemen.



## 3.00pm

For the rest of the afternoon I'm rostered to be on the OPG health care phone line, which means I'll be required to consider requests for consents for health care treatments both for our clients, and for non-clients with impaired decisions making capacity where there is no one else to make decisions and we are the statutory health attorney of last resort.

I could be asked to provide consent for procedures to diagnose a health condition of a patient, perform an operation to repair a fracture or for someone's end of life care (although this last one would be referred to a member of the Executive team).

I finish the day by entering all of my client records and pulling together a rough schedule for tomorrow – it looks like it's going to be another busy one!

*\*All names have been changed to protect identities.*



Advocacy and decision making for adults in relation to legal matters

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

The advocacy for adults in legal processes is a critical safeguard to ensure they are not limited or denied access to their legal rights as a result of their disability or impairment.

- Guardianship clients can be involved in various areas of law that impact on their rights such as:
- being vulnerable to being charged with criminal offences and being the victim of criminal offences
  - as parents in child protection proceedings
  - as aggrieved and/or respondents to applications for domestic violence protection orders.

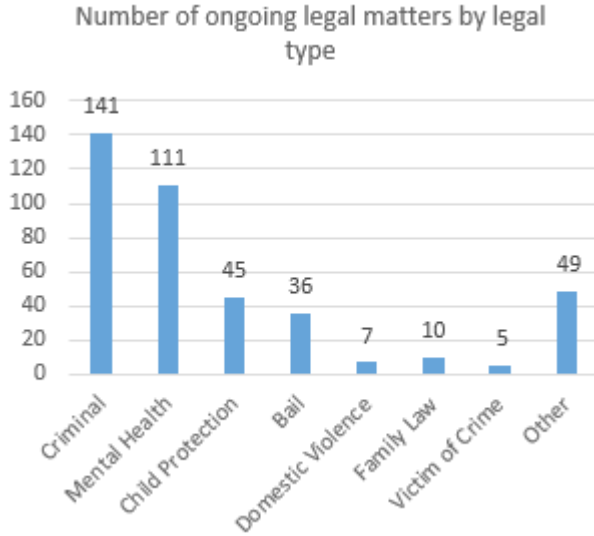
OPG’s Legal Services Adult Team are legally-trained guardians who make decisions to progress an adult’s legal matters (other than those relating to financial issues) – but do not provide direct legal representation to adults. They work in collaboration with Delegate Guardians from OPG’s general Guardianship area who are appointed for health, accommodation and other personal matters.

Our legally-trained guardians become involved when the Queensland Civil and Administrative Tribunal (QCAT) has appointed the Public Guardian as someone’s decision for (non-financial) legal matters.

- When it is identified that a client has a legal matter, a legal officer will:
- Ensure that the client has appropriate legal representation and that the legal representative engaged to conduct the client’s matter has an understanding of the client’s disability or impairment, including how that may impact on the progression of their legal matters.
  - Give their legal representative information about their circumstances to assist in the resolution of their legal matters; in particular so that they can present their point of view as to what decisions they would like made
  - Assist the adult to understand what is happening (to the greatest extent possible).
  - Make decisions as to the conduct of proceedings that a client would make if they had capacity, and provide instructions to the engaged legal

representatives. This is done in line with the client’s own expressed views and wishes, to the greatest extent possible.

During 2017-18, 108 new appointments of the Public Guardian were made by QCAT for decision making in legal matters, and 296 legal matters were closed for 112 Guardianship clients. At the end of 2017-18, there were 204 Guardianship clients with 404 ongoing legal matters. As the graph shows, the majority of these were criminal matters, followed by mental health and child protection. It should be noted that guardianship clients can have multiple legal matters being progressed at the same time.

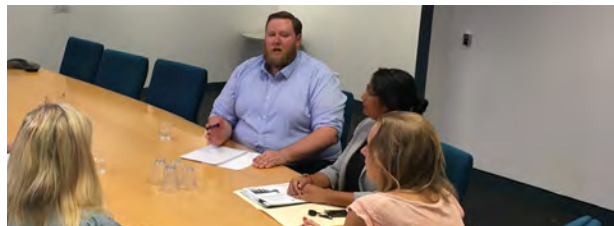
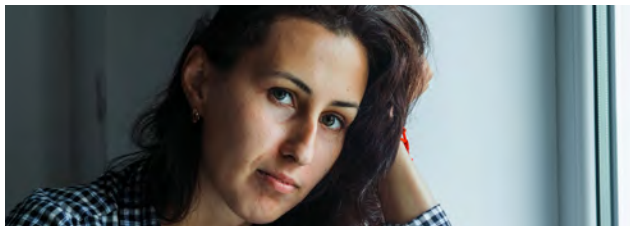


With many clients involved in the criminal justice system there are significant concerns raised around their capacity to be held criminally liable. Recent amendments to the *Mental Health Act 2016* have led to a significant change to the way in which vulnerable people access justice. This process has allowed for many clients who are either of ‘unsound mind’ or unfit for trial to have simple offences dealt with in a timely manner.

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# A day in the life of a Legal Officer - Adult Legal Team



## 9.00am

I get a phone call from the duty lawyer at Legal Aid Queensland (LAQ) regarding my client, Dan.\* Dan’s solicitor withdrew from his criminal law matter yesterday, and it is listed for mention today.

I sent an urgent request to LAQ yesterday to ask them to request an adjournment, and also to refer the matter to another solicitor. The duty lawyer is calling to let me know that the Magistrate is requesting my urgent attendance.

I head straight to court to appear as a ‘friend of the court’ to explain the role of the Public Guardian as a decision maker for Dan in legal matters and to request the adjournment to enable Dan to access alternate legal representation.

## 10.30am

Back at the office I take the chance to catch up on some paperwork, as I have five Legal Aid applications that have to be completed today to ensure my clients have legal representation this week.

## 12.00pm

Just as I finish my paperwork the phone rings again. This time it’s to let me know that one of my clients, Johnnie,\* has been remanded in custody. Johnnie, who has a full scale IQ of 47, is in a relationship with another OPG client, Lucy, and together they have a child who is currently in foster care.

Due to their disabilities, both Johnnie and Lucy have difficulties expressing themselves. Both experience frustration with each other’s communication style, and this can often lead to verbal altercations. As there is a Domestic Violence Order (DVO) in place between them, these altercations can result in Johnnie breaching his DVO, which is what has led to his most recent arrest.

I head down to court to explain the situation, however bail is refused for Johnnie, who lives in a level three accredited residential services hostel and has seven hours of disability support a week. When I talk to Johnnie in the watch-house after the hearing, he has a black eye. Johnnie says that he has been assaulted in custody. Johnnie also discloses to me that he has been raped. I go back to my desk to make phone calls to Prison Mental Health and to the General Manager of the prison to raise my concerns about Johnnie’s immediate safety, and to help ensure that all appropriate action is taken.

I also arrange to speak with Johnnie’s Guardian in OPG’s general Guardianship division so we can formulate a strategy to advocate for better support and more appropriate accommodation for Johnnie. An increase in support and accessing more stable accommodation may help Johnnie to make a successful bail application and be released from custody as well as getting the support he needs to keep Lucy safe and have the best possible chance of a stable relationship with Lucy and their child.

## 2.30pm

Phone calls made, I take the opportunity to write an affidavit in support of a Supreme Court Bail Application for a client, and take it over the road to the offices of her new lawyer. Nancy\* has been a classified patient of a mental health ward for over 12 months now, and has been charged with some vagrancy and public nuisance type offences. As Nancy’s previous lawyer had not taken timely action towards having these charges dismissed under the provisions of the *Mental Health Act 2016*, I had made the decision to provide instructions to a new lawyer for Nancy.

I made this decision a few days ago and then had an urgent case meeting with Nancy’s Delegate Guardian for non-legal matters and her treating team. As a result of this meeting, Nancy’s consultant agreed to write a letter of support for Nancy to obtain bail, on the basis that while she is unwell, she can be managed under a Treatment Authority. Her new lawyer now has all the relevant paperwork, and I am confident he will be able to secure bail for Nancy.

## 3.30pm

My final appointment of the day is attending a contact review meeting regarding my client Hannah. Hannah has an intellectual disability and receives 24/7 support. She has two children who were both removed from her care after birth and placed in kinship care. Hannah faces a number of challenges and currently also has domestic violence and criminal proceedings in process. An application has now been made for long term guardianship orders for Hannah’s children, meaning the children would remain out of Hannah’s care until they are 18 years old.

Hannah feels that with support, she should be given a further chance to parent her children. I made the decision to instruct a lawyer to represent Hannah at a Court Ordered Conference, where the lawyer argued on Hannah’s behalf that the children should be subject to less intrusive orders. Ultimately, short term orders were made for both children, giving Hannah two more years to show that she can look after her children and work towards their reunification to her care. At today’s contact review meeting I advocate on Hannah’s behalf that Hannah should be able to have contact in her home with her children, without the carer present. Hannah reports that the carer is often verbally abusive to her.

The Department of Child Safety, Youth and Women agree to this request, which is a great outcome for Hannah. For the first time in two years she will not be required to see her children in a public place like a park or at the local McDonald’s. Hannah is pleased that now she can have contact with her children in her own home.

*\*All names have been changed to protect identities.*



## Key themes in Guardianship

Sadly there are always prejudices that our guardianship clients face – and these only continue. The lack of service and accommodation options, unmet disability support needs and social isolation and marginalisation, are issues that have remained constant for these vulnerable adults. However there are some additional challenges that emerged in 2017-18, some of which are only likely to continue constraining our ability to deliver.

### Increasing demand for guardianship services

The OPG is subject to increasingly complex cases and higher levels of demand. Much of the demand is being driven by the roll-out of the National Disability Insurance Scheme (NDIS) and increasing prevalence of the abuse of elderly people, combined with the ageing population, increasing rates of dementia and instances of mental health issues.

The number of people with dementia is expected to increase to 536,164 by 2025 and 1,100,890 by 2056. Dementia is the single greatest cause of disability in Australians aged 65 years or older and the third leading cause of disability burden overall. People with dementia account for 52 percent of all residents in residential aged care facilities.

The service demand projections, the increasing complexity of client needs, and the operating environment indicate that there are significant risks to the wellbeing of Queensland's most vulnerable people if the resourcing of the OPG remains misaligned with the guardianship services needed to be delivered.

### National Disability Insurance Scheme

The roll out of the National Disability Insurance Scheme (NDIS) continued to have an impact on OPG. As at 30 June 2018, most regions in Queensland had transitioned to the scheme, with only the Moreton Bay, Noosa, Sunshine Coast and Gympie local government areas remaining.

However it is becoming apparent that the impacts on workloads are extending far beyond the initial work taken to get clients entered into the scheme. The National Disability Insurance Agency is in many cases applying further scrutiny on the ongoing needs for individual funding, and plan reviews often require stronger evidence to demonstrate the need for ongoing support.

In these instances what our clients need is advocacy to ensure they are receiving the right supports in their plan, rather than direct decision making support. This means our continued involvement with the NDIS has seen the role of Guardians with the OPG evolve to

meet our clients' needs, and introduced the need for additional training for staff. It is clear, however, that this advocacy support for clients is vital, as with the assistance of OPG, Guardianship clients have generally obtained NDIS funding and supports sufficient to meet their needs. In fact many are receiving higher levels of funding when they previously had no support.

### Enduring Power of Attorney Project

In 2017, the Guardianship division identified the need to conduct a review of all Enduring Power of Attorney's and Advance Health Directives held that appoint the Public Guardian if they become active, with a view to developing recommendations for their future management. This is a time and resource intense project that will extend into the 2018-19 financial year, but maintaining up-to-date details of principals of these documents will ensure best practice business processes going forward. It will also ensure we are well placed to activate these legal instruments in the event that a principal does lose decision making capacity.

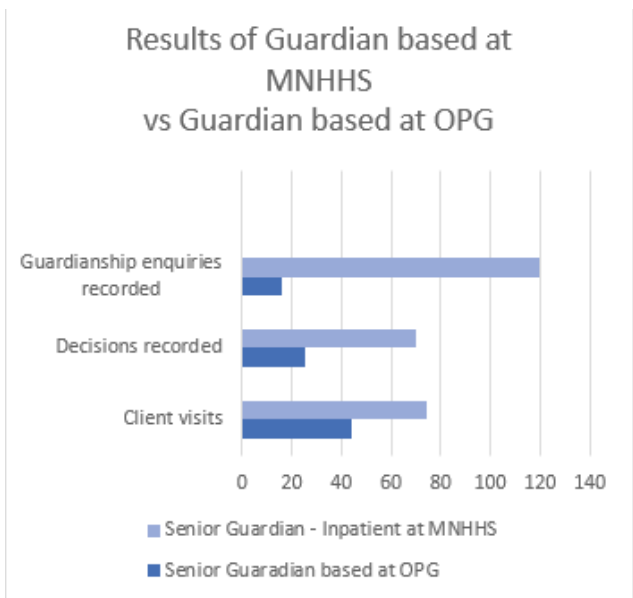
### Metro North Hospital and Health Service Hospital Project

In July 2016, the Queensland Civil and Administrative Tribunal (QCAT) and the Metro North Hospital and Health Service (MNHHS) launched a project to trial hospital-based hearings for patients in the Metro North Hospital District needing a guardian and/or administrator to be appointed. The project aimed to:

- reduce the wait time experienced by hospitals for hearing dates
- ensure decision makers were appointed to facilitate appropriate transition out of hospital to increase hospital bed capacity.

Subsequently, in June 2017 we established a Memorandum of Understanding with MNHHS which included funding for a dedicated Senior Guardian Inpatient to be based in MNHHS. The intention of this position was to create better outcomes for adults by providing an on the ground service to stakeholders, MNHHS and, most importantly, the adult.

With the Senior Guardian role now in place for just over 12 months, a review of the effectiveness of this position was undertaken. The review took into account factors such as decisions made, hearings attended and the outcomes of these, enquiries with key stakeholders, visits conducted and resolution of guardianship matters.



All stats are approximate, and based over a 12 month period.

MNHHS surveyed its staff across the different hospital and health services. The survey results revealed significant satisfaction with having an onsite guardian, specifically that patients received optimal outcomes, there is strong advocacy and respect for the rights of patients, improved communication between the OPG and MNHHS staff, decisions are made in a timely manner and information is available to patients.

## Restrictive practices

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

- Chemical restraint—using medication, other than for the proper treatment of a diagnosed mental illness or physical condition.
- Mechanical restraint—using a device to restrict the free movement of the person, or to prevent or reduce self-injurious behaviour.
- Physical restraint—using any part of another person's body to restrict the free movement of the person.
- Containment—physically preventing the free exit of the person from premises where they receive services, other than by secluding the person.
- 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.
- Restricted access to objects—restricting the person's access to an object at a place where they receive services.



Stock image for illustrative purposes only



Areas where the Guardianship division has interface with restrictive practices include:

- when the Public Guardian is appointed as a substitute decision maker for restrictive practices (general, and/or respite) for an adult receiving funding from the Department of Communities, Disability Services and Seniors (DCDSS) or the National Disability Insurance Agency (NDIA)
- when the Public Guardian 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 in relation to an adult receiving funding from the DCDSS or the NDIA
- when the Public Guardian is appointed to seek help and make representation (restrictive practices) for an adult who is subject to containment and/or seclusion
- when the Public Guardian is an active party to all restrictive practices proceedings that occur in the Queensland Civil and Administrative Tribunal; therefore, should the Public Guardian direct them to, the Public Guardian's delegates may appear as an active party in any restrictive practice proceedings
- when the Public Guardian is appointed as a substitute decision maker for an adult who resides in an aged care facility who may use restrictive practices in that facility
- when the Public Guardian is appointed as a substitute decision maker for an individual who is at least 17 ½ years old who may be subject to the use of restrictive practices prior to turning 18 years old

The total number of OPG clients with restrictive practice in place (where either the Public Guardian has consented to the use of restrictive practices or where QCAT has approved the use of containment and/or seclusion and other restrictive practices under legislation) at 30 June 2018 was 299 (up from 273 in 2016-17). In addition we received 17 applications for short-term approvals for the use of restrictive practices.

The number of Guardianship appointments relating to the use of restrictive practices comprised 5 percent of all guardianship appointments (up from 4 percent in 2016-17).

### How the Public Guardian makes decisions about restrictive practices

The Public Guardian is aware that restrictive practices presents an infringement on the human rights of adults, and the OPG is a passionate advocate for the reduction and elimination of restrictive practices across all service sectors.

For this reason, OPG is committed to ensuring that restrictive practice decisions are undertaken with a firm focus on those practices that are evidenced as the least restrictive necessary to prevent harm, and that evidence based positive behaviour support practices are undertaken first and foremost to reduce and eliminate the use of restrictive practices as soon as possible. The OPG therefore expects that relevant service providers develop and enact Positive Behaviour Support Plans that reflect a strong commitment to sections 139 and 142 of the *Disability Services Act 2006*, which provide safeguards to protect the rights of adults with an intellectual or cognitive disability. Ultimately the Public Guardian believes that wherever possible service providers should be formulating and executing appropriate reduction and/or elimination plans.

The position of the Public Guardian on the use of restrictive practices is articulated in the OPG Restrictive Practices Policy, effective January 2018, and all OPG staff are required to perform their roles relating to decision making, monitoring and advocacy in the area of restrictive practices in accordance with this policy. Additionally OPG this year developed a Restrictive Practices Decision Making Framework, which is intended to guide service providers (in particular those funded by Disability Services or through the National Disability Insurance Scheme) regarding the decision making process the Public Guardian will use to make decisions in relation to restrictive practices.

When being asked to make a decision to approve the use of restrictive practices, the Public Guardian will always make sure the following are addressed:

- Whether the relevant assessments have been undertaken in relation to the unique communication needs of the adult, as behaviours of concern or harm are often a function of communication.

- Whether the behaviour is a symptom of unaddressed past trauma, as this can play a role in triggering behaviours of harm, and if so whether appropriate trauma-responsive, therapeutic interventions (such as counselling and support) have been engaged.
- That the adult's views and wishes, including any objections to the use of restrictive practices, are part of the decision making process.

When considering requests to approve the use of restrictive practices, the Public Guardian must also be satisfied that the adult has their fundamental basic human rights met, and that the request for approval to use restrictive practices is not in lieu of a safe environment to live in, appropriate community access opportunities, adequate healthcare and respect from support staff and their service provider(s). The use of a restrictive practice is not a substitute for inadequate resources, and the Public Guardian is of the view that the use of a restrictive practice in this circumstance is a serious contravention of client rights.

### Health Care decisions

Health care providers are obliged to seek consent to carry out health care for adults with impaired decision-making capacity. The OPG can consent to health care matters where the Public Guardian has been appointed as a Guardian for health care decisions by the Queensland Civil and Administrative Tribunal (QCAT), or where she has been appointed as someone's attorney under an enduring power of attorney document.

Additionally, Queensland is the only state in which the Public Guardian is the health care decision maker of last resort. A statutory health attorney (SHA) is someone with authority to make health care decisions on your behalf if you are an adult whose capacity to make health care decisions is permanently or temporarily impaired. A SHA will make decisions about your health care if you are too ill or incapable of making them. The Public Guardian acts as the SHA of last resort where there is no other appropriate adult available.

During 2017-18, 722 (55 percent) of health care consents were given for a person under a guardianship order, 26



Stock image for illustrative purposes only



(2 percent) were given pursuant to an enduring power of attorney, while 556(42 percent) were given while acting as a SHA of last resort. A full breakdown of which decision making authorities we gave health care consents under, and the reasons we gave health care consents, can be found in tables 14 and 15 in Appendix 2.

The OPG operates a 24 hour 7 day a week health care consent telephone service. During 2017-18 the OPG

- Consented to 1,309 health care matters
- Made 248 after-hours health care consents (between 5 pm to 9 am)
- Received 671 enquiries after hours
- Provided 7 consents for forensic examination.

### Consents to withhold or withdraw life sustaining measures

Health care decisions also include making decisions around the withholding and/or withdrawal of a life sustaining measure, 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 throughout the year to provide education and advice to doctors, and the Public Guardian presented to, and engaged with, senior Intensive Care and Emergency Department doctors at their statewide conference about the legislation and its operation.

In 2017-18 OPG consented to 103 requests to withhold and/or withdraw of life sustaining measures, comprising 8 percent of all health care decisions.

### Special health care

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

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

QCAT may appoint a representative to represent the adult's views, wishes and best interests. In 2017-18, the Public Guardian was appointed as a representative in two matters by QCAT. The cases involved the sterilisation of an adult with impaired decision-making capacity and the termination of a pregnancy.

### Disagreement between family members or joint statutory health attorneys about a health matter: Decisions under section 43 of the Guardianship and Administration Act 2000

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

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

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

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

During 2017-18, the Public Guardian made no decisions using the power under section 43 of the *Guardianship and Administration Act 2000*.



## Investigations

People with impaired decision-making capacity are amongst the most vulnerable members of our society. Under the *Public Guardian Act 2014*, the Public Guardian is provided with the power to investigate allegations of abuse, neglect, exploitation, inadequate or inappropriate decision-making arrangements related to adults with impaired capacity.

This includes all types of abuse, including:

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

The powers provided by the *Public Guardian Act 2014* to take protective action are unique in Australia and, as far as we are aware, the rest of the world. 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 has been uncooperative to attend at a stated time and place, give information, answer questions and produce documents
- applying for an entry and removal warrant if a person is at immediate risk of harm
- being able to suspend an attorney's power – where a power of attorney is suspended, the Public Guardian is automatically appointed under legislation as attorney for health and personal matters for up to three months.

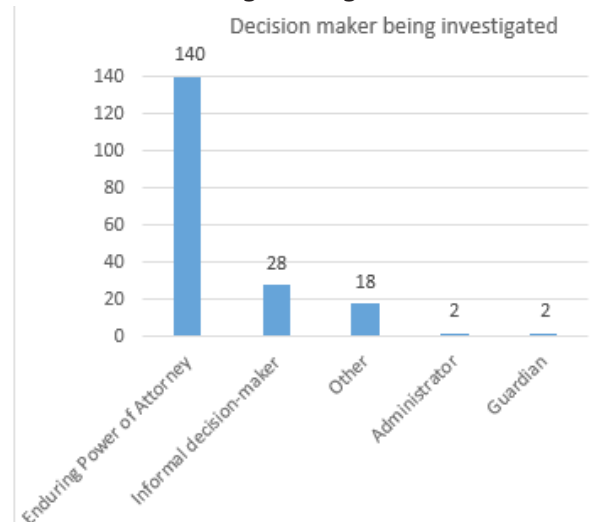
The Public Guardian does not replace the important role that the police fulfil in relation to domestic and family violence or criminal behaviour. A referral to the police will determine whether any criminal charges should be brought against any person in relation to the identified conduct. The OPG will not continue to investigate matters more appropriately investigated by the Queensland Police Service.



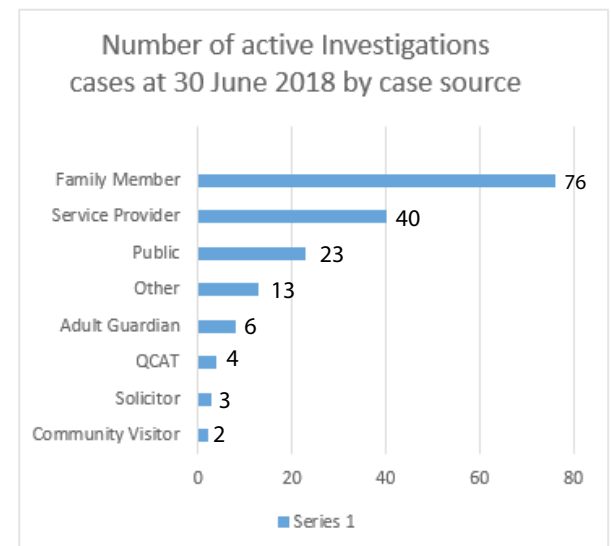
Investigations opened

During 2017-18, 211 investigations were opened, and as at 30 June 2018 there were 167 active investigations. As the graphs below show, almost half of referrals came from a family member of the adult, and in nearly all cases the decision maker being investigated held an Enduring Power of Attorney. 81 percent of these related to people aged 65 or over.

Decision maker being investigated



Relationship of investigation referrer to adult



Investigations closed

The OPG closed 41 investigations on the basis that a QCAT application was made, either by the OPG or a third party, for the appointment of a guardian and/or administrator, or for the consideration of the adult’s decision-making arrangements. Another 24 investigations were closed after the Public Guardian suspended the attorney. The Investigations team ceased to investigate a matter on 67 occasions, primarily because it was outside of the investigative powers of the OPG or a preliminary inquiry revealed there were insufficient grounds to proceed with a full investigation. For a full breakdown of reasons for closure, see table 16, appendix 2.

Almost half of investigations were closed in less than six months, but the complexity of many of the cases we receive mean investigations can take up to a year, or longer. We are seeing an increase in the number of cases which are complex, and therefore more of our cases are taking longer to finalise the result

Time frame for investigations



Key themes in investigations

Older people with impaired decision-making capacity primarily caused by dementia may be more vulnerable to neglect, abuse or exploitation. Elder abuse, particularly related to financial matters, continues to be the majority of matters referred to the OPG for investigation, with 88 percent of adults who were the victim of abuse being 65 or older.

Increasing inability to meet demand

Increased community awareness and understanding of elder abuse has resulted in a 15 percent increase in the number of investigations being conducted since 2013-2014. In the 2016-17 period, the team experienced a significant spike in new investigations without a corresponding increase in resources at that time.

It is not just the increase in the number of investigations but it is also the time it takes for an investigation to be finalised that is a resourcing issue. Seeking medical information, the increased complexity of asset pools, the need to review financial transactions and the number of people who need to be spoken to in the course of an investigation are all factors impacting on the ability of an investigator to resolve a matter. During that time an adult can remain at risk of not having their daily needs and health issues responded to appropriately and their assets may be vulnerable to further exploitation. The Investigations Team applies a priority risk matrix to ensure high risk matters are responded to as quickly as possible.

However as the community increases its understanding of the signs of elder abuse and takes proactive steps to report it the Investigations Team will continue to see an increase in its work.

Challenges in encouraging timely referrals from banks and aged care facilities

Banks and aged care facilities are often ideally placed to identify the early signs of financial mismanagement and abuse, but in many cases these referrals are not made to us, or are not made in a timely manner.

The Investigations Team often receives referrals from residential aged care facilities when fees are in arrears meaning that the adult’s funds are not being used for their own care. However these issues are often not referred to the OPG until the arrears are significant (with one matter as high as \$50,000). The OPG is proactively looking at strategies to encourage age care facilities to identify and refer these sorts of matters early as this can assist in identifying elder abuse and allowing protective action to preserve the person’s assets before they are all gone.

While some banks have effective strategies in place to identify and report financial abuse, few actually go on to make the referral to us. More often than not, the banks who do not refer to us when they should, are the banks who are based outside of Queensland and may not be aware of our function. To this end the Public Guardian has engaged with the Australian Banking Association to raise awareness about the role banks can play in assisting the identification of elder abuse. This is generally where they suspect a customer has impaired decision-making capacity and are under pressure by a family member or friend to access their bank account. We will continue to implement strategies to raise this awareness.



# A day in the life of an Investigations Officer



## 9.00am

It's a busy day ahead, so I take some time now to check my email. The most important thing to pop up is a referral from a bank regarding one of their elderly customers, Gerald.\*

The bank became suspicious when Gerald's son, Jamie, who held an Enduring Power of Attorney (EPoA), applied to break one of Gerald's term deposits to pay the arrears on fees for Gerald's nursing home. On further investigation, they found significant withdrawals totalling \$12,000, many of which were out of character for a resident of an aged care facility.

The bank has frozen all Gerald's accounts, and we will now begin an investigation to determine if Jamie is financially abusing Gerald, and should have his financial powers under the EPoA suspended pending a formal decision from the Queensland Civil and Administrative Tribunal (QCAT).

## 9.30am

Time to head to QCAT for a hearing. This is another case where the allegations originated from a bank. In this case staff were concerned about a customer in her 90s, Joan, who often came into the branch with her son Len. She had frequently commented to staff that she didn't want Len accessing her funds, but one day he came in with an EPoA granting him immediate power for financial matters. Bank staff told Len they would need to check the validity of the EPoA and then immediately contacted us.

Through our investigation, which also involved talking with Joan's social worker, we determined that Joan was unable to make decisions freely and voluntarily due to Len's influence, and were able to suspend his financial powers under the EPoA, with the Public Trustee stepping in as financial administrator in the interim. The purpose of the hearing today is to request that the Public Trustee is formally appointed as Joan's administrator for financial matters. The hearing concludes with QCAT appointing the Public Trustee, effectively curtailing Len's access to his mother's funds.

## 11.30am

Back in the office, and I have a small window to catch up on a few things and grab some lunch before heading out on a visit this afternoon.

I get some good news when I discover the outcome of a criminal case that was finalised in court yesterday. I conducted an investigation into the actions of a woman, Michelle,\* who was acting under an EPoA for her mother, Linda.\*

It transpired that Michelle was using her mother's money for her own purposes, which left her mother in dire neglect. So as well as suspending her financial power of attorney, we referred her case to the Queensland Police Service. Michelle has just been found guilty of fraud, and sentenced to 18 months imprisonment.

## 1.00pm

I meet up with my colleague, and we head out to a client visit. For safety reasons we always go out on visits in pairs, as you never know what exactly you might encounter. The exception would be if we are visiting a client in a residential facility, such as a nursing home.

I would also generally plan ahead so that I can visit several clients in one outing, but this is an urgent case requiring an immediate visit. Concerns have been raised that a 45 year old woman, Sarah, is living in a home environment that is unsafe and a health hazard due to vermin, and she isn't receiving adequate services at home.

Sarah lives in her home with her daughter Alina. Alina is her primary care giver, but there is no formal decision maker appointed. Before we enter the house we meet up with the Mental Health Support facilitator and representatives from the council and the RSPCA, and are briefed by a representative from Centacare Community, who raised the issue with us.

When we enter the house we find it in a state of absolute squalor, with rubbish such as rotting food, empty drinks cans and bottles, takeaway wrappers and dirty clothes piled up knee high in some places. Access to the cupboards, dishwasher, oven and fridge is obstructed by the rubbish, and the cat litter tray extremely dirty.

## 3.00pm

After getting back to the office I start work on an urgent interim application to QCAT. I am recommending that the Public Guardian is appointed as Sarah's guardian, as there is an immediate and continuing risk to Sarah's health if the home is not maintained in a hygienic way.

If the Public Guardian is appointed, we will be able to consent to an extensive clean to remove what could well be excess of two tonnes of rubbish from Sarah's home. We'll also be able to be sure that a cleaner is engaged on a regular basis – in the past Sarah had withdrawn consents at the last minute when services were made available.

An appointment of the Public Guardian will mean that going forward Sarah's needs will be adequately met and her interests protected.

*\*All names have been changed to protect identities.*



# Strategic policy

As part of the Public Guardian’s responsibility to promote and protect the rights and interests of the people for which the Office advocates, the Public Guardian identifies issues relevant to our clients and advocates for reform. This includes preparing strategic policy submissions on public and internal government matters which may impact the Public Guardian’s functions, and identifying and advocating for resolution of high level issues common to our clients.

Our policy priorities include:

- implementing the recommendations of the Queensland Family and Child Commission (QFCC)’s report, *Keeping Queensland’s children more than safe: Review of the foster care system as lead agency* for recommendations 3, 4, 37, 38, 39 and 40
- advocating for the rights of clients detained in forensic mental health and disability facilities
- highlighting barriers for clients in accessing and transitioning into the National Disability Insurance Scheme and their advocacy needs
- issues relating to our elder abuse investigations and our clients in aged care
- regulating the use of restrictive practices on the children and young people that we visit, particularly those in authorised mental health services
- seeing an end to the detention of children and young people in police watch houses instead of youth detention centres
- reform to greatly reduce the use of restrictive practices by driving greater understanding of the causes of behaviour and the concept of dignity of risk.

During the past financial year, the OPG has worked closely on policy and legislative issues with the Queensland and Commonwealth governments, and other stakeholders on a range of matters that impact the clients of the OPG. The OPG’s strategic policy during this period has been targeted toward internal government consultations in a range of areas which significantly impact our clients, including the NDIS and the forensic disability service.

## Submissions during 2017-18

- Submission to the Australian Human Rights Commission on the Optional Protocol to the Convention Against Torture Consultation Paper (July 2017)

- Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into transitional arrangements for the NDIS (August 2017).
- Submission to the Senate Community Affairs References Committee inquiry into the effectiveness of the Aged Care Quality Assessment and accreditation framework for protecting residents from abuse and poor practices, and ensuring proper clinical and medical care standards are maintained and practised (August 2017)

The OPG has also actively contributed to Queensland and Commonwealth Government consultations and provided feedback on a number of matters affecting our clients during the past financial year. The OPG was delighted to see so much of its input and ideas reflected in policy and legislative change. Contributions and influence included:

- Australia’s Combined Second and Third Periodic Report under the Convention on the Rights of Persons with Disabilities
- Australian Children’s Commissioners and Guardians Statement on Conditions and Treatment in Youth Justice Detention
- Australian Human Rights Commission consultation on violence against people with disability in institutional settings
- *Child Protection Reform Amendment Bill 2017* and implementation of the *Child Protection Reform Amendment Act 2017*
- Commonwealth review of community visitor schemes in the NDIS context
- Department of Communities, Disability Services and Seniors consultation on family agreements
- Department of Communities, Disability Services and Seniors consultation on the impact of domestic and family violence on people with disability
- *Forensic Disability Act 2011* review
- *Guardianship and Administration and Other Legislation Amendment Bill 2018*
- Joint Standing Committee on the National Disability Insurance Scheme public hearing and response regarding restrictive practices for the inquiry into transitional arrangements for the NDIS
- National Disability Insurance Scheme (Code of Conduct) Rules 2018



Stock image for illustrative purposes only

- National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018
- National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018
- National Disability Insurance Scheme (Protection and Disclosure of Information – Commissioner) Rules 2018
- National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018
- National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018
- National Disability Insurance Scheme Queensland legislative review
- National Disability Strategy 2016 Progress Report
- Public Service Regulation 2018
- Queensland Age-Friendly Community Action Plan
- Queensland Audit Office performance audit regarding Access to the NDIS for people with impaired decision-making capacity
- Queensland Family and Child Commission Residential Care Review
- Queensland Family and Child Commission review into the blue card & foster care system
- Queensland Health evaluation of the *Mental Health Act 2016*
- Queensland interagency guidelines for responding to sexual assault
- Queensland Mental Health Commission human rights project
- Queensland Strategy for Social Infrastructure
- Queensland working group for the Commonwealth ratification and implementation of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- Standing Committee on Health, Aged Care and Sport public hearing for the inquiry into the quality of care in residential aged care facilities in Australia
- University of Queensland TC Beirne School of Law Pro Bono Centre Research Report, Declared unfit to plead
- Youth Justice supervised bail accommodation services
- *Youth Justice (Transitional) Regulation 2018*.



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

The Public Guardian is also a member of the then Australian Children's Commissioners and Guardians (now the Australian and New Zealand Children's Commissioners and Guardians (ANZCCG)) and the Australian Guardianship and Administration Council (AGAC). 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. Similarly, the AGAC is comprised of public advocates, guardians, boards, tribunals and trustees that have a role in protecting adults in Australia who have a disability that impairs their capacity to make decisions. The Public Guardian's involvement in these biannual national forums provides a unique and invaluable opportunity to collaborate and work with other jurisdictions to address shared issues affecting our clients.



Presenting the Public Guardian Excellence Award for Excellence in Elevating the rights and/or aspirations of a person in disability funded services' to Mercy Services Townsville's Kris Hood

# Communication and education

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

## In the media

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

During the year:

- nine proactive media releases were distributed to Queensland media outlets
- two interviews were held with radio stations (ABC Radio Brisbane and Cairns FM89.1)
- 59 stories featuring OPG were published/broadcast (37 percent as a direct result of the distribution of proactive media releases).

Issues focused on by the Public Guardian in 2017-18 included:

- Supporting the Public Advocate's call for greater regulation of the use of restraints and restrictive practices in aged-care facilities to prevent elder abuse
- Our international human rights obligation to give a voice to the voiceless
- Applauding youth justice changes, including focus on supervised bail accommodation.
- Public Guardian Excellence Awards

## External awards

A real focus for us has always been to influence positive practice across the child protection, disability services and mental health systems. This year we shone a spotlight on exceptional examples of upholding the human rights of our clients through the inaugural Public Guardian Excellence Awards. These awards acknowledged staff in these sectors who modelled exemplary behaviours, and provided a platform to promote this behaviour to their peers. Award Categories were:

- Excellence in promoting the voice of a child or young person in decision-making
- Excellence in approaches that promote the rights



- and/or aspirations of a person in an authorised mental health service
- Excellence in the reduction and/or elimination of the use of restrictive practices by an NGO
  - Excellence in elevating the rights and/or aspirations of a person in disability funded services
  - Public Guardian Special Award – Going above and beyond for client rights

Winners came from a range of non-government organisations in child protection and disability support, and from Queensland Health (mental health sector), and are located in regions across Queensland. The awards will be biennial, with the next awards to occur in 2020.

## Community Education

The OPG is committed to educating the public about its operations, the role and function of community visitors and child advocates, how the Queensland guardianship system works, and how adults can plan for their future in the event they are unable to make decisions about their life. This includes educating service providers and the general public by conducting education sessions for government and non-government agencies, child advocacy groups, attending disability and aged care expos, and making presentations at educational institutions, hospitals and accommodation facilities.

During 2017-18 the OPG conducted 121 presentations to the community. The largest sector (21 percent) in which presentations were made was the disability sector, followed by the health industry (19 percent), the aged care/seniors sector (17 percent), and child protection (16.5 percent). Community engagement events for the year had a combined total audience of over 5500 people.

During 2017-18, OPG staff took part in a wide variety of community education events across Queensland.

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

backgrounds, and answer a range of questions about the roles and functions of the OPG.

The team also developed resources for OPG staff to use in presentations, and to provide as handouts to participants. Some of the materials developed include:

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

There was also significant engagement with hospitals and health services in 2017-18. The OPG health care team visited several hospitals and health services within Queensland. During the year they have provided medical, allied health practitioners and social workers with information on medical and health care decision-making issues for patients with impaired decision-making capacity, and provided education on the implications of guardianship laws for health practitioners.

## Our work with others

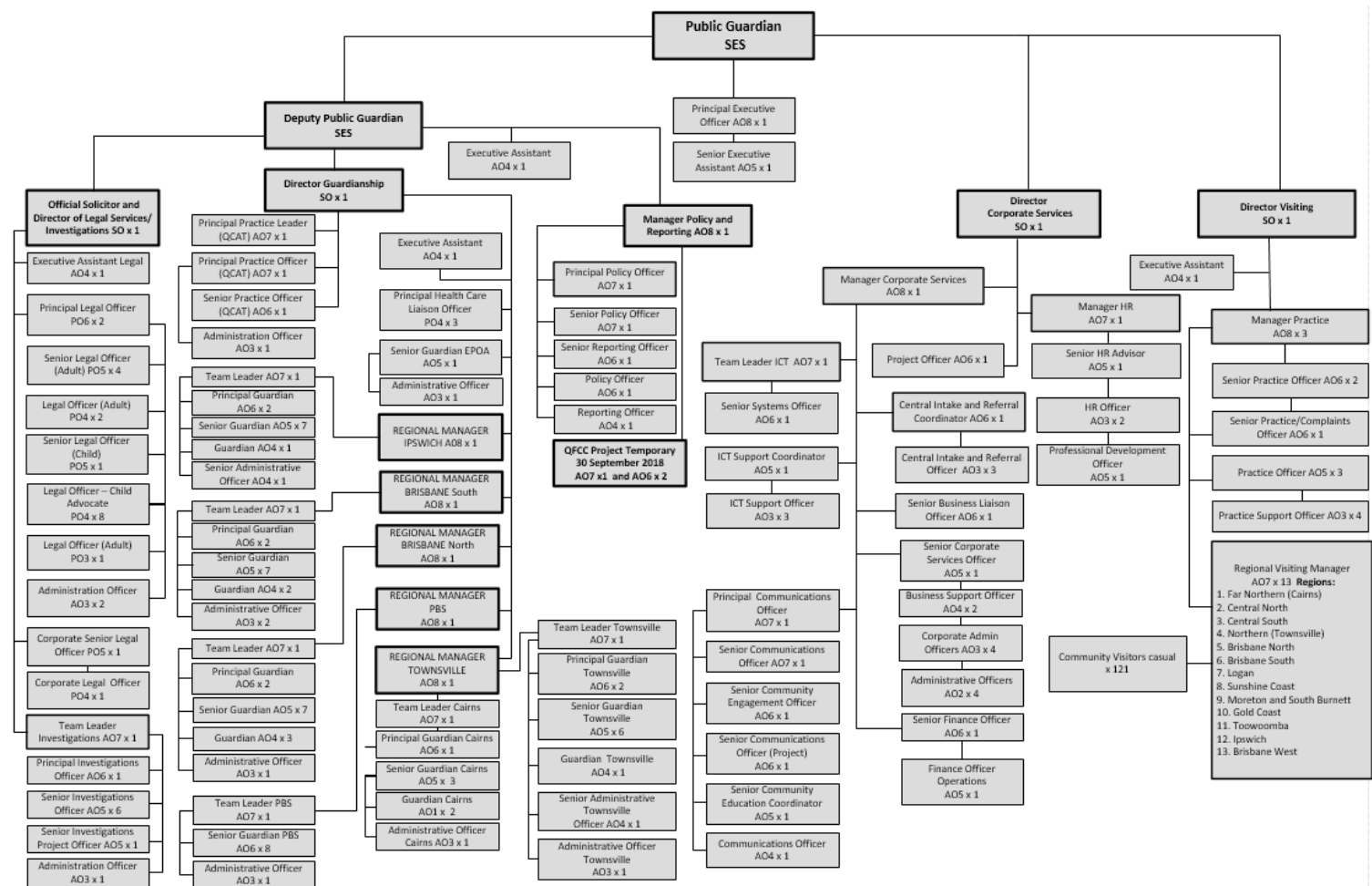
The Office of the Public Guardian is involved with a range of networks and committees including :

- Aboriginal and Torres Strait Islander Child Protection Reform Group
- Age-friendly Community Action Plan
- Child Protection System Reviews Advisory Group
- Children's Court Committee
- Court Case Management Committee
- Elder Abuse Prevention Unit Reference Group
- GForce Participation Forum
- Interdepartmental Interpreter Working Group
- Interdepartmental CEO Committee – Child Protection and Domestic Family Violence
- Missing Children Oversight Advisory Group
- National Disability Insurance Scheme Reform Leaders Group
- National Disability Insurance Scheme Reform Leaders Group – Housing sub-committee
- Our Child Governance Group
- Peakcare Education Group
- QFCC Sub-committee on Police Callouts
- Queensland Child Protection Week Committee
- Victim Services Interagency Organisation Network

# Our organisation

## Organisational structure

The OPG's structure as at 30 June 2018 was comprised of 332 people. The core establishment of the OPG is 227.75, however the agency held a number of positions over its establishment and retained multiple Community Visitors to fulfil the hours of one core position - which is why its headcount exceeds this number. The structure is made up of both public servants appointed under the *Public Service Act 2008* and home-based casual community visitors who are appointed under the provisions of the *Public Guardian Act 2014*. The Office's workforce is 80 per cent female and 20 per cent male with 8.5 percent of the Office's workforce engaged on a part-time basis.





Our Leadership



**Natalie Siegel-Brown**  
**Public Guardian**

- The Queensland Public Guardian. Natalie is the independent statutory appointment holding the primary functions and powers of the Office. Natalie also operates as the CEO of the Office of the Public Guardian.
- The Deputy Public Guardian, Community Visiting Program and Corporate areas report directly to the Public Guardian.



**Shayna Smith**  
**Deputy Public Guardian**

- The Guardianship, Legal Services and Investigations and Policy and Reporting areas report directly to the Deputy Public Guardian.



**Jonty Bush**  
**Visiting**

- Has eight regional offices located in Brisbane, Ipswich, Toowoomba, Sunshine Coast, Rockhampton, Bundaberg, Cairns and Townsville, covering 13 distinct visiting regions.
- Comprises 157 staff, including 121 active Community Visitors (of which 49 are child visitors, 9 are adult only visitors, and 63 are dual visitors).



**Amelia Barker**  
**Guardianship**

- Comprises 90 staff
- Has four regional offices located in Brisbane, Ipswich, Townsville and Cairns
- Encompasses Health Care, Positive Behaviour Support Team, QCAT liaison team and EPOA project.



**Catherine Moynihan**  
**Official Solicitor, Legal Services/Investigations**

- Comprises 35 staff
- Corporate and Legal Practice Team provides legal services to the Public Guardian and her delegates.



**Brian Norman, Director**  
**Corporate Services**

- Comprises 50 staff
- Provides business support to front line staff and the executive management team
- Encompasses Information Technology, Communications and Engagement, Finance, Human Resources, Central Intake and Referral and Corporate Administration.



## Official Solicitor

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

In 2017-18, the Corporate and Legal Practice Team provided 164 legal advices to the agency regarding the carriage or undertaking of its duties and powers, and also assisted in the coordination of requests for information from external agencies such as the Office of the State Coroner and subpoenas issued in court process.

Under section 36 of the *Public Guardian Act 2014*, the Public Guardian has power to apply to QCAT for a warrant to enter a place and remove an adult, if there are reasonable grounds for suspecting that there is an immediate risk of harm, because of neglect (including self-neglect), exploitation or abuse. The Public Guardian applied for and was granted three warrants in the 2017-18 financial year. For the purposes of these applications to Queensland Civil and Administration Tribunal the Corporate and Legal Practice Team worked with the Guardianship and Investigations areas to progress them.

## Our commitment to client input into the way we operate

We exist to advocate for our clients, so to us it seems only right that wherever possible we seek their input into the way we do things. In 2018-19 we will be doing the groundwork to prepare our next five-year strategic plan. This will involve seeking the views of our clients and all our staff about what it should entail. In 2017-18 we also consulted with clients on some major projects.

- During the development of our new website, we consulted extensively with our external stakeholders, including young people at Brisbane Youth Detention centre and CREATE, to make sure it was meeting their needs.
- While progressing a number of key policies and practise directions, the Community Visitor Program consulted heavily with the people we visit to ensure their insights around what they expect from their Community Visitor could be appropriately reflected in the documents.

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

The Office of the Public Guardian is committed to the safety of children and vulnerable people. We want

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

We will:

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

## Corporate governance

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

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

## Mandatory online reporting

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

## Employee Relations

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

- Public Service Commission Community of Practice
- Office of Industrial Relations information sessions
- Department of Justice and Attorney General Community of HR practitioners.

## Workforce diversity

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

## Code of conduct and ethics

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

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

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

## Workplace health and safety

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

Although zero WorkCover claims is the organisation's desired goal every year, the OPG continues to have a comparatively low level of workplace accidents. Only

four WorkCover claims were lodged in 2017-18. The OPG works closely with co-located agencies at all our office locations to improve workplace health and safety in shared areas of each building.

## Risk management

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

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

## Business continuity management

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

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

The OPG business continuity management is governed by existing Department of Justice and Attorney General guidelines.

## Information systems and record keeping

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

The OPG has an obligation to create, maintain, preserve and dispose of records in compliance with legislation, policies and standards. The OPG also complies with



the Queensland State Archives General Retention and Disposal Schedule.

The OPG has clear processes and staff training sessions around:

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

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

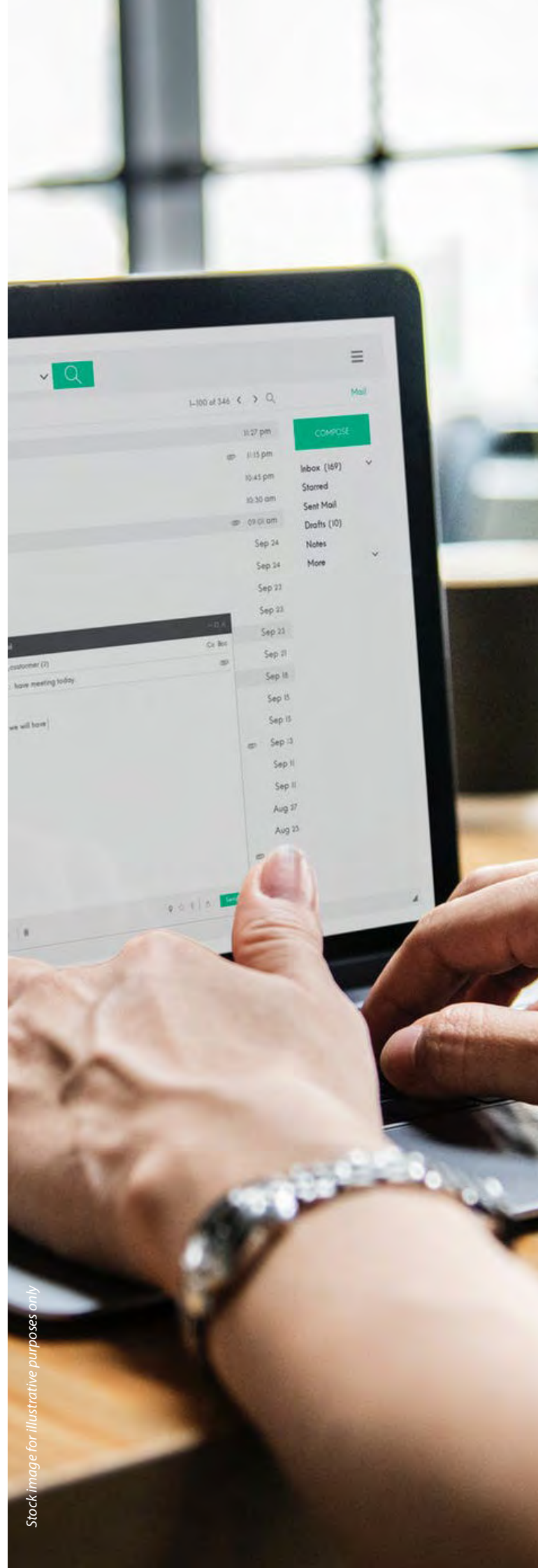
Consistent with the *Right to Information Act 2009* and *Information Privacy Act 2009*, the OPG provides access to information unless, on balance, it is contrary to the public interest to provide the information. To assist staff in understanding and discharging their obligations extensive training is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

In relation to records held by the OPG:

- *Public Guardian Act 2014* section 142 outlines some of the matters the Public Guardian must take into consideration in determining whether or not to release confidential information.
- *Right to Information Act 2009*: Schedule 2, Part 2 (10) of the RTI Act provides that information obtained by the investigation function of the Public Guardian is exempt from the RTI Act, while Schedule 4 sets out additional factors to be considered when determining the public interest.
- *Guardianship and Administration Act 2000* s249 (3) outlines the protected use of confidential information.

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

We also publish a publication scheme and disclosure log on our website.



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## Our people

### Our commitment to addressing domestic and family violence

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

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

- Public Guardian's statement of commitment to supporting staff experiencing domestic and family violence and available resources for assistance as a standalone inclusion to the OPG Intranet
- OPG Policy - *Obligations to recognise and respond to a client experiencing domestic and family violence*
- Written direction by the Public Guardian to all service delivery areas regarding their *Obligations to recognise and respond to a client experiencing domestic and family violence*
- OPG Policy - *Mandatory reporting of significant harm to a child or young person*
- Submission to Australian Law Reform Commission on Elder Abuse
- OPG representation on the White Ribbon Accreditation working group
- OPG participation in Law Right Legal Walk 2017 to support the Not Now, Not Ever campaign
- Mandatory training in Preventing, Recognising and Responding to Violence Training for Managers/ Supervisors and HR
- Mandatory training Recognise, Respond, Refer: Domestic violence and the workplace training by

Department of Justice and Attorney General

- Staff participation in Australia's CEO Challenge domestic and family violence training program

### Workforce planning, attraction and retention

In 2018 the OPG continued its annual *internal* staff excellence awards program which recognised the performance and achievements of staff (as opposed to the earlier mentioned external awards). The awards focused on recognising and rewarding professional excellence and high standards in the categories of Customer Focus, Fostering Innovation, Excellence in Leadership, Improvement in business processes and an individual Community Visitor Award. The Public Guardian also presented an award that highlights "above and beyond" service. The awards and recognition of staff promote and inspire best management practice and continuous improvement in the workplace.

Additionally ten OPG staff members were finalists in the Justice Service Awards, with two of these staff members winning awards, and two receiving high commendations. The two winners – a Child Advocate Legal Officer and a Senior Investigations Officer, went on to the wider Department of Justice and Attorney General Departmental Excellence Awards, where our Child Advocate Legal Officer received the Customer Focus Award.

OPG workforce policy and procedure is governed by the policies of the Department of Justice and Attorney General. No redundancy, early retirement or retrenchment packages were paid during the year.

### Training and professional development

The OPG is committed to developing and maintaining capability for staff to ensure services are delivered efficiently and effectively. In 2017-18, a strong focus was placed on the development and delivery of both broad mandatory professional development, on-boarding of new starters and targeted skills-based professional development. Professional development is overseen by the internal Professional Development Working Group. This financial year professional development was concentrated on skills and knowledge relevant to frontline staff and Indigenous cultural awareness programs. OPG staff continued to be supported to complete further studies through the SARAS program and qualifications available through the State Government Departments Certified Agreement.



## Performance management

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

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

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

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

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

## Work/life balance

### Flexible working arrangements

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

We also offer scheduled work/team/office-based fitness and activities such as walking groups, running groups, yoga and Pilates sessions for staff.

### Employee assistance program

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

Optum provides:

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

On 1 July 2018 the employee assistance program will be provided by Benestar. The new provider has a strong focus on individual wellbeing and workforce wellness.

Benestar 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.

## Communicating with staff

With staff located across Queensland, keeping staff informed is a high priority for the OPG.

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

## Community involvement

Our staff are dedicated to helping the community both personally and professionally. In 2017–18 we supported:

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



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# Financial performance

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

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

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

Comprehensive financial details relating to the operations of the office are reported in the Annual Report for DJAG. The summary below provides an overview of OPG’s financial performance for 2017-18.

## Overview of financial performance

### Income and Expenditure 2017-18

	\$,000
<b>/Income from Continuing Operations</b>	
Appropriation	28,646
Public Trustee Grant	1,152
<b>Total Income from Continuing Operations</b>	<b>29,798</b>
<b>Expenses from Continuing Operations</b>	
Employee Expenses	24,858
Supplies and Services	4,616
Grants and subsidies	5
Depreciation and amortisation	319
Other expenses	7
<b>Total Expenses from Continuing Operations</b>	<b>29,805</b>
<b>Operating Result from Continuing Operations</b>	<b>7</b>

## Expenditure

In 2017-18 the OPG spent \$29,805,713 on its services. The largest operational expenditure areas in 2017-18 were Visiting Services and Guardianship Services.

Expenditure 2017-2018	\$
Corporate Services	6,818,255
Legal Services/Investigations	3,324,724
Visiting Services	10,207,886
Guardianship Services	9,454,848
<b>Total</b>	<b>29,805,713</b>



# Appendix 1: Glossary

<b>Decision-making capacity</b>	The ability to make decisions for oneself. A person has capacity when they can go through the process of making their own decisions by: <ul style="list-style-type: none"><li>• understanding the nature and effect of the decision</li><li>• freely and voluntarily making a decision</li><li>• communicating the decision in some way.</li></ul> If a person is unable to follow this process and make their own decisions, that person is said to lack capacity.
<b>Guardianship</b>	May be needed if a person with impaired decision-making capacity cannot make reasonable judgements about their own personal and lifestyle affairs, such as where they will live, and there are concerns about the decisions they are making, or others are making for them.
<b>Locally resolvable issue</b>	Concerns or grievances raised by Community Visitors or Child Advocate Legal Officers that can be managed routinely, including requests for service.
<b>Visitable location</b>	Either a visitable home or visitable site.
<b>Visitable home</b>	When a child who is in the custody or guardianship of the chief executive (child safety) is placed in the care of someone other than a parent or other accommodation.
<b>Visitable site</b>	A residential facility, a detention centre, a boot camp, a corrective services facility or an authorised mental health facility where a child is staying.
<b>Visiting schedule</b>	In order for the Public Guardian to be highly responsive to the individual needs of children whilst operating effectively to meet its legislative functions, flexible visiting schedules can be implemented. The visiting frequency for children will be determined by the Regional Visiting Manager in consultation with the Community Visitor.



# Appendix 2: OPG data tables

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

	2015-16		2016-17		2017-18	
Visitable Home	23,518	79%	26,819	82%	26,910	79%
Visitable Site - Boarding School	247	1%	275	1%	214	1%
Visitable Site - Residential Facility	3,811	14%	4,246	13%	4,809	14%
Visitable Site - Externally Supported Site	512	4%	696	2%	1,206	4%
Visitable Site - Youth Detention Site	510	2%	418	1%	599	2%
Visitable Site - Disability Services	212	1%	232	1%	375	1%
Visitable Site - Mental Health Site	19	0%	63	0%	129	0%
Total number of visits	28,829	100%	32,749	100%	34,242	100%

Table 2: Number of visitable children by location type as of 30 June 2018

	2015-16		2016-17		2017-18	
Visitable Home	6,053	90%	6,327	88%	6,403	86%
Visitable Site - Boarding School	40	1%	38	1%	25	0%
Visitable Site - Disability Services	21	0%	24	0%	27	0%
Visitable Site - Externally Supported Site	88	1%	152	2%	201	3%
Visitable Site - Mental Health Site	1	0%	12	0%	19	0%
Visitable Site - Residential Facility	492	7%	577	8%	674	9%
Visitable Site - Youth Detention Site	32	0%	48	1%	54	1%
Unknown location*	16	0%	11	0%	26	0%
Total number of visits	6,743	100%	7,189	100%	7,429	100%

Note: \* Child left during the month (returned to parents, left the location)

Table 3: Visitable children and young people by visiting frequency as at 30 June

	2015-16		2016-17		2017-18	
Monthly	1,912	28%	2,280	32%	2,264	30%
Bimonthly	1,592	24%	1,688	23%	1,843	25%
Quarterly	1,984	29%	2,029	28%	2,207	30%
Six monthly	1,031	15%	1,032	14%	1,018	14%
Annual	151	2%	109	2%	69	1%
No visit	73	1%	51	1%	28	0%
Total	6,743	100%	7,189	100%	7,429	100%

Table 4: Issues raised by visitable children and young people

	2015-16		2016-17		2017-18	
Contact arrangements	2,580	22%	3,768	20%	3,493	17%
Placement	1,869	16%	3,045	16%	3,412	17%
Case plans	695	6%	1,952	10%	2,149	11%
Education needs	973	8%	1,557	8%	1,653	8%
Health needs	1,078	9%	1,618	9%	1,586	8%
Youth detention centres	579	5%	723	4%	1,031	5%
High risk behaviour	679	6%	992	5%	1,013	5%
Others	3,454	29%	5,352	28%	5,754	29%
Total	11,907	100%	19,007	100%	20,091	100%



Table 5: Issues raised in youth detention centres

	2015-16		2016-17		2017-18	
Living conditions	217	37%	201	29%	278	25%
Programs, services	90	15%	113	16%	213	19%
Contact	64	11%	91	13%	171	16%
Staff	58	10%	79	11%	92	8%
Child Protection Orders/ Transition in 2015-16	32	5%	58	8%	83	8%
Others	124	21%	156	22%	261	24%
<b>Total</b>	<b>585</b>	<b>100%</b>	<b>698</b>	<b>100%</b>	<b>1,098</b>	<b>100%</b>

Table 6: Issues raised by 17 year olds in adult correctional facilities

Issues raised by classification	2015-16		2016-17		2017-18	
Programs, services	47	33%	53	30%	67	33%
Contact	29	22%	31	18%	44	22%
Living conditions	10	15%	17	10%	30	15%
Safety	31	8%	28	16%	16	8%
Child Protection Order	17	5%	14	8%	10	5%
Others	41	17%	33	19%	34	17%
<b>Total</b>	<b>175</b>	<b>100%</b>	<b>176</b>	<b>100%</b>	<b>201</b>	<b>100%</b>

Table 7 - Number of child/young person related meetings (by type) in 2017-18

	Number	Percentage
Court appearances	528	53%
Stakeholder meetings	249	25%
Family group meetings	110	11%
Court ordered conferences	71	7%
QCAT hearings	12	1%
Others (court or QCAT matters)	22	2%
<b>Total</b>	<b>992</b>	<b>100%</b>

Table 8: Aboriginal and Torres Strait Islander visitable children by zone as of 30 June 2018

	2015-16	2016-17	2017-18
Brisbane North	105	115	115
Brisbane South	119	131	140
Brisbane West	119	137	129
Central North	296	331	364
Central South	152	181	201
Far Northern	541	522	514
Gold Coast	114	131	126
Ipswich	243	263	264
Logan	175	159	162
Moreton and South Burnett	229	217	237
Northern	326	361	379
Sunshine Coast	116	116	109
Toowoomba and Western	259	276	284
<b>Total</b>	<b>2,794</b>	<b>2,939</b>	<b>3,024</b>



Table 9: Aboriginal and Torres Strait Islander (ATSI) children and young people assisted by Child Advocate Legal Officers

	2015-16			2016-17			2017-18		
	ATSI	Non-ATSI	% ATSI within age group	ATSI	Non-ATSI	% ATSI within age group	ATSI	Non-ATSI	% ATSI within age group
0 to 4	47	54	47%	12	13	48%	7	10	41%
5 to 9	89	137	39%	24	60	29%	16	26	38%
10 to 14	92	153	38%	53	88	38%	61	119	34%
15 to 17	30	79	28%	26	52	33%	55	85	39%
Unknown	0	8	0%	0	2	0%	7	12	37%
Total	258	431	37%	115	215	35%	146	252	37%

Table 10: Visitable sites by sector (adult)

	2015-16		2016-17		2017-18	
Disability	1,176	92%	1,215	92%	1,118	91%
Mental Health	69	5%	71	5%	73	6%
Supported Accommodation	39	3%	40	3%	42	3%
Total	1,284	100%	1,326	100%	1,303	100%

Table 11: Visitable sites by service sector (adult)

	2015-16		2016-17		2017-18	
Department of Communities	169	13%	171	13%	170	13%
NGO	1,047	81%	1,085	82%	1,061	81%
Queensland Health	68	6%	70	5%	72	6%
Total	1,284	100%	1,326	100%	1,303	100%

Table 12: Issues identified on behalf of adults at visitable sites

	2015-16		2016-17		2017-18	
Well-being	482	24%	474	25%	512	24%
Support	435	22%	372	19%	418	20%
Accommodation	322	16%	325	17%	341	16%
Health	204	10%	214	11%	238	11%
Least restrictive services	168	8%	205	11%	227	11%
Assessment	172	9%	120	6%	155	7%
Treatment	127	6%	130	7%	146	7%
Access to information	72	4%	70	4%	74	3%
Others	5	0%	10	1%	10	0%
Total	1,987		1,920		2,121	100%

Table 13: Guardianship appointment type

	2015-16		2016-17		2017-18	
Accommodation	1,725	28%	1,821	28%	1,893	29%
Service Provision	1,549	25%	1,702	26%	1,858	28%
Health Care	1,429	23%	1,443	22%	1,320	20%
Legal	467	7%	509	8%	500	8%
Contact	384	6%	398	6%	371	6%
Restrictive Practices	305	5%	273	4%	299	5%
Others	377	6%	367	6%	302	5%
Total	6,236	100%	6,513	100%	6,543	100%



Table 14: Health care consent by decision making authority

Decision Making Authority	2015-16		2016-17		2017-18	
Acting as guardian in accordance with section 174(2)(e) of the <i>Guardianship and Administration Act 2000</i>	743	55%	653	57%	722	55%
Acting as statutory health attorney of last resort in accordance with Section (63)(2) of the <i>Powers of Attorney Act 1998</i>	577	43%	482	42%	556	42%
Acting as personal attorney in accordance with section 174(2)(d) of the <i>Guardianship and Administration Act 2000</i>	17	1%	15	1%	26	2%
Forensic examination pursuant to section 198A of the <i>Guardianship and Administration Act 2000</i>	6	0%	1	0%	2	0%
Forensic examination pursuant to section 38 of the <i>Public Guardian Act 2014</i>	-	0%	-	0%	3	0%
<b>Total</b>	<b>1,343</b>	<b>100%</b>	<b>1,151</b>	<b>100%</b>	<b>1,309</b>	<b>100%</b>

Table 15: Reasons for healthcare consents

Reason for health care consent	2015-16		2016-17		2017-18	
Surgical	569	42%	480	42%	591	45%
Medical	476	35%	430	37%	468	36%
Dental	187	14%	151	13%	138	11%
Withdrawal and Withholding life saving measures	103	8%	87	8%	103	8%
Forensic Examination	6	0%	1	0%	7	1%
Participation in Clinical Trial	2	0%	2	0%	1	0%
Allied Health	-	0%	-	0%	1	0%
<b>Total</b>	<b>1,343</b>	<b>100%</b>	<b>1,151</b>	<b>100%</b>	<b>1,309</b>	<b>100%</b>

Table 16: Investigations reasons for closure

Reason for closure	2015-16	2016-17	2017-18
Advice Given\Formal	0	15	19
Advice Given\Informal	11	16	2
Allegation not substantiated	56	43	33
Decline to Investigate\Adult deceased	13	12	34
Decline to Investigate\Adult has capacity	27	31	23
Decline to Investigate\Inappropriate referral	0	1	2
Decline to Investigate\Not meeting investigation guidelines	0	1	0
Decline to Investigate\QCAT order made	1	-	8
EPA Suspended\Financial mismanagement	1	3	2
EPA Suspended\QCAT Application\Interim Application	1	1	0
EPA Suspended\QCAT Application\Normal Application	18	20	22
EPA Suspended\QCAT Application\Third Party Application	0	1	0
Other	7	8	4
QCAT Application Made\Interim	14	11	17
QCAT Application Made\Normal	22	27	10
QCAT Application Made\Third Party	23	38	14
Referral made to external agency	1	-	0
<b>Total</b>	<b>195</b>	<b>228</b>	<b>190</b>



# Appendix 3: Compliance checklist

Summary of requirement		Basis of requirement	Annual report reference
Letter of compliance	A letter of compliance from the accountable officer or statutory body to the relevant Minister/s	ARRs – section 7	p2
Accessibility	Table of contents	ARRs – section 9.1	p5
	Public availability	ARRs – section 9.2	p3
	Interpreter service statement	Queensland Government Language Services Policy ARRs – section 9.3	p3
	Copyright notice	Copyright Act 1968 ARRs – section 9.4	p3
	Information licensing	QGEA – Information Licensing ARRs – section 9.5	p3
General information	Introductory information	ARRs – section 10.1	p8
	Agency role and main functions	ARRs – section 10.2	p10
	Operating environment	ARRs – section 10.3	p16
Non-financial performance	Government’s objectives for the community	ARRs – section 11.1	p19
	Other whole-of-government plans/specific initiatives	ARRs – section 11.2	N/A
	Agency objectives and performance indicators	ARRs – section 11.3	p21
	Agency service areas and service standards	ARRs – section 11.4	p20
Financial performance	Summary of financial performance	ARRs – section 12.1	p83
Governance - management and structure	Organisational structure	ARRs – section 13.1	p73
	Executive management	ARRs – section 13.2	p74
	Government bodies (statutory bodies and other entities)	ARRs section – 13.3	N/A
	Public Sector Ethics Act 1994	Public Sector Ethics Act 1994 ARRs – section 13.4	p77
	Queensland public service values	ARRs – section 13.5	p10

Summary of requirement		Basis of requirement	Annual report reference
Governance - risk management and accountability	Risk management	ARRs – section 14.1	p77
	Audit committee	ARRs – section 14.2	N/A
	Internal audit	ARRs – section 14.3	N/A
	External scrutiny	ARRs – section 14.4	N/A
	Information systems and record keeping	ARRs – section 14.5	p77
Governance - human resources	Workforce planning and performance	ARRs – section 15.1	p79
	Early retirement, redundancy and retrenchment	Direction No.11/12 Early Retirement, Redundancy and Retrenchment Direction No. 16.16 Early Retirement, Redundancy and Retrenchment (From 20 May 2016) ARRs – section 15.2	p79
	Statement advising publication of information	ARRs – section 16	p78
Open data	Consultancies	ARRs – section 33.1	p76
	Overseas travel	ARRs – section 33.2	p76
	Queensland Language Services Policy	ARRs – section 33.3	p76
	Certification of financial statements	FAA – section 62 FPMS – sections 42, 43 and 50 ARRs – section 17.1	N/A
Financial statements	Independent Auditor’s Report	FAA – section 62 FPMS – section 50 ARRs – section 17.2	N/A



