

ANNUAL REPORT 2018–19



31 October 2019

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 2018–19 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 112).

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 OPG's performance for the period 1 July 2018 to 30 June 2019. It contains a record of OPG's activities and achievements for the financial year against our objectives and summarises our future priorities and challenges. While 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 2018–19 annual report is available online, visit 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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Interpreter service

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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'Emerging'

By Tracy Brew



This sculpture, titled 'Emerging', symbolises the struggles people with impaired capacity can experience in their lives from abuse, neglect, exploitation, trauma, grief, loss, illness and loneliness. It also depicts how, with the Office of the Public Guardian's (OPG) support and advocacy, they can emerge from these daily struggles to live more meaningful lives where their human rights are recognised and choice and control is returned to them to enjoy quality of life.

The faces on the side of the sculpture depict people's lives during times of distress and trauma where their human rights may not be upheld.

The hands, providing support in this sculpture, symbolise the advocacy and work every area of OPG does in supporting our clients to reach their goals.

The face in the middle of the sculpture depicts the people who have emerged from trauma and are now living quality lives according to their views and wishes. The face also looks towards the future with a sense of purpose and a focus on good things to come.

Over my many years working with people with impaired capacity, I have witnessed the struggles these individuals, both children and adults, have lived and how many have emerged from this. This sculpture was made in honour of all the people with impaired capacity that have lived through traumatic times and for those still experiencing trauma. It is a reminder to us that the role we play in the lives of these people is valuable to them and that we can also offer hope to those who struggle still.

Seeing people for who they can be is powerful, but seeing people emerge to live their best life is truly amazing!

I hope this sculpture raises awareness, celebrates the achievements of the people who have emerged from trauma, provides hope to those still in the midst of challenging and traumatic times, and recognises the positive work the Office of the Public Guardian does.

Photography by Michael Carrello

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2018–19 in review



We made **40,302** visits to **9,584** children and young people.

This is an **18 percent** increase in the number of visits since 2017–18.



Child advocate legal officers received **404** requests for support and advocated for children and young people at **645** court/tribunal related proceedings.



We had **940** new people come under Public Guardian’s guardianship with a total of **3,421** adults under our guardianship in 2018–19.

This is a **ten percent** increase in new clients from 2017–18, and a **six percent** increase in the total number of clients.



We registered **2,085** guardianship clients with the NDIS.

This is a **53 percent** increase in the number of registrations from 2017–18.



Community visitors raised **19,620** issues on behalf of children and young people.

This is a **two percent** decrease since 2017–18.



Child advocate legal officers received **197** external referrals for child advocacy.

This is a **21 percent** increase since 2017–18.



We visited **6,601** adults at **1,380** visitable sites.

We identified **2,301** issues on behalf of people living at these sites. This is an increase of **eight percent** since 2017–18.



We opened **210** investigations into reports of abuse, neglect and exploitation.

Referrals from financial institutions increased by **483 percent** from 2017–18.

What we have done this year

- ✓ Yet again **achieved unprecedented performance** in human rights (for the third year in a row).
- ✓ Raised awareness of OPG’s investigations function among financial institutions, leading to a **483 percent increase in referrals**.
- ✓ Identified more than 100 children who didn’t appear on the Child Safety NDIS access request database who were potentially eligible for NDIS supports, ensuring Child Safety can now **support these children to access the NDIS**.
- ✓ Successfully advocated to ensure community visitors can continue to visit and **advocate for adults at disability sites under the NDIS**.
- ✓ Continued to highlight the human rights abuses suffered by children and young people held in watch houses, and to **advocate for their removal to more suitable accommodation**.

What we do

Queensland’s Public Guardian advocates for the human rights of vulnerable Queenslanders. This is primarily delivered through the work of a committed team of delegate guardians, legal officers, investigations officers and community visitors. Our policy, communications and corporate functions support and amplify this work.



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 affecting them. This could be in regard to matters including placements, contact with family, legal hearings, education and healthcare.



Community visitors also visit adults with impaired decision making capacity residing in certain types of sites to monitor and advocate for their rights and interests, and to make complaints for, and on behalf, of them.



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 our 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.

Next year, we will...

- ✓ Carefully consider our operational model to ensure **we make best use of our increased funding** to meet our ever evolving and growing client base.
- ✓ Monitor the number of children and young people detained in watch houses and, following a change to legislation, **expand our visiting schedule to regional watch houses to advocate for the interests of children and young people detained there**.
- ✓ Focus on **developing a strong relationship with the NDIS Quality and Safeguards Commission** to ensure the human rights of the NDIS participants we visit are protected.
- ✓ **Contribute to both the Aged Care and Disability Royal Commissions**, especially with regard to the use of restraints in an aged care setting.
- ✓ Roll out a **trauma debriefing service to staff** in recognition of the emotional and physical toll their exposure to vicarious trauma can inflict.
- ✓ Ensure we can **meet the enormous demands of supporting clients to enter the NDIS** and take advantage of the opportunities offered by the scheme, in particular to help them exit long-term care.
- ✓ Vigilantly continue to **advocate for the human rights issues faced by Forensic Disability Service clients**; and informing the review of the service system that governs forensic disability clients generally.

“In some service delivery areas, performance has increased by more than 100% since OPG’s inception five years ago.”



The Public Guardian's message

“Human progress is neither automatic nor inevitable... every step toward the goal of justice requires sacrifice, suffering and struggle — the tireless exertions and passionate concern of dedicated individuals.”

Martin Luther King Jr.

This report marks exactly five years since the birth of the Queensland Office of the Public Guardian. It seems fitting then to dedicate this statement to the staff of the Office of the Public Guardian (OPG). Whether they are on the ground working face to face with clients, or in the back office supporting front-line staff, they work tirelessly, day after day, to support vulnerable Queenslanders. But what many of them may not see is that their individual work and advocacy can not only change a single life; it can change the way the world sees that person and, indeed, the way the person sees themselves.

As I write this, I enter my second term as Queensland's Public Guardian. It gives me pause to reflect on the balancing act inherent in my role. I am independent of government, and am legislatively directed to deliver oversight of human rights for almost 20,000 vulnerable Queenslanders. This advocacy for human rights – to amplify the individual voices of my adult and child clients – will always come first and will always drive everything I do. On the one hand, this means I will always seek out opportunities to collaborate with government and non-government agencies to get the best-possible outcomes for these clients. And very often I see a willingness to engage to improve the life of a vulnerable person. On the other hand, there are times when I need to be a critical friend of government. If the issue is important and raises serious human rights concerns, then it is vitally important I say so – because that's my job. Collaboration and independence can

walk hand in hand most of the time, but independence necessarily means there will be times when we won't agree and, in these instances, it is my job to speak up.

Although this annual report also marks only three years for me as Public Guardian, I can see that in the five years since the agency's inception we have not just radically changed lives; in some areas we have changed the human rights landscape. The last three years also gives me pause to reflect upon how much the community in which we advocate for human rights has changed. And in many ways, I think it's for the better. I see some parts of the community seeing beyond preconceptions and stereotypes of vulnerable people. This change of perception is what creates the environment for real human rights change.

Doing more

While statistics never tell the whole story, they nonetheless paint an important picture. What you will see here is that the picture has changed; how much OPG is doing, and that the number of people it served this year has increased well beyond history. In some of our service delivery areas, our staff have increased performance by more than 100 percent since the date of our inception on 1 July 2014. We have, of course, made many changes to the way we do things, which has led to great increases in efficiencies. But the true engine of OPG is our staff's passion and commitment, and this has played an essential role in driving change and letting us do much with what seems like little.

However, one of the most enormous changes to come about this year was the Queensland Government's decision to better resource OPG. I'd like to thank the Queensland Government for recognising the agency's vital work and deciding to increase its funding to expand services to so many more clients. OPG's operating budget will now increase by up to 60 percent over the next four years and I anticipate this will mean hundreds, if not thousands, more Queenslanders experiencing vulnerability will gain a greater voice.

Our most significant human rights foci

OPG's most pointed-focus of advocacy this year has been the issue of children held in Queensland watch houses and the human rights of people held at the Forensic Disability Service. In last year's report I raised the issue of increasing numbers of children and young people being held in watch houses across the state, and our very real concerns that these were highly unsuitable environments to place children. Community visitors commenced visiting the Brisbane City Watch House on a weekly basis in September 2018. Children continue to be held there, and in other watch houses across the State. We will continue to visit the Brisbane City Watch House, and a legislative change means we will now also visit a number of the State's regional watch houses. I, along with other key advocacy bodies, have this year persistently made representations to the Queensland Government about the unsuitability of watch houses for children, and the critical importance of removing all children from these environments as a matter of priority. At the time of writing, the numbers of children held in these watch houses has reduced somewhat, as has their length of stay. But I am strongly of the view that children held for any time beyond 'normal processing' is unacceptable.

In our work with adults, the treatment and legislative regime that governs clients of the Forensic Disability Service has also been a major human rights concern of my office for years. I have a dual role with respect to this Service: I am both the oversight mechanism (through the community visitor function) but I am also the guardian for the vast majority of its clients. At the time of writing, the Queensland Ombudsman released a report documenting and verifying many of the concerns that OPG has been raising for years. We are yet to see change in this area and will continue to press for the human rights of the clients at both a service and systemic level. Again, this is an area in which many other key advocacy bodies have been pressing for reform for a very long time.

Impacts of the National Disability Insurance Scheme on OPG

As always, external factors impact on OPG's work, but this year the effects were seismic. On 1 July 2019 the full scheme roll out of the NDIS began in Queensland, and during 2018–19 we adapted how we work to manage the evolving demands on both our guardianship and community visitor functions. This allowed us to advocate for clients already participating in the scheme, and to prepare for the legislative changes that became effective on 1 July 2019.

Of greatest impact was the Queensland Government's tremendously encouraging decision to retain monitoring and advocacy by community visitors at sites where people receive NDIS funding for residential services, whether they are children or adults.

At the time of writing last year's report, there was serious doubt as to whether the program would be retained following NDIS full scheme roll out. It is no exaggeration to say that the decision to retain the program was one of the best pieces of news I heard all year. Community visitors play a vital safeguarding role in the disability sector, and this continuation recognises that the state-funded scheme is the critical 'eyes and ears' of human rights for people with disability.

This is a view reinforced by the Commonwealth Government-led review in 2018 that recognised the vital role of community visitors in safeguarding human rights under the NDIS.

Changing the narrative

As you read this report, I hope you see how OPG's achievements are increasing year on year, and how OPG staff's 'tireless exertions' and 'passionate concern' are no longer just changing individual lives – they are changing the narrative. I hope that Queenslanders see vulnerability – and the life trajectories of those who experience it – very differently as a result of our work. But I hope even more that Queenslanders see beyond the labels the community attributes to the people we work with and their potential to be successful, resilient, contributing members of our society.

I look forward to the coming year where OPG's human rights efforts are spirited by the *Human Rights Act 2018* and the work of the new Queensland Human Rights Commission.

Team, thank you for making an organisation I am so proud of. I will forever look back on the work of this organisation and the opportunity to lead it, as the highlight of my career.

Lastly, I want to thank you, the reader, for taking an interest in OPG's unique and fundamental work.

Natalie Siegel-Brown

Public Guardian



Our purpose

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

- For children and young people, this means advocating for their rights, access to services and, where appropriate, their independence and choice.
- For adults, this means advocating for their rights, access to services, independence and choice as part of a supported decision-making model.
- Advocacy means understanding our clients' lives and views 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. Nor does it mean taking over other government agencies or service providers' roles and responsibilities.

Who we are and what we do

OPG was established as an independent statutory office under the *Public Guardian Act 2014* to provide 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, residential health services and youth detention centres. 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 for Justice.

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

Advocating for children and young people

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

This is achieved through two different functions at OPG.

- **Community visitors (child):** Community visitors support the delivery of high-quality services for children by responsible agencies. This is to ensure the rights and best interests of children and young people are promoted and protected and that children's views and wishes are sought and considered in making decisions that affect them. Community visitors may also advocate for children on matters as part of the child advocate function.
- **Legal Services' Children and Young People team:** The team performs additional child advocacy functions to ensure an entirely independent voice for children and young people in the child protection system. The team provides information and advice about their rights and supports their ability to participate in, and legally review, decisions made by agencies (government and non-government), tribunals and courts.

Guardianship

Our guardianship function promotes and protects the rights and interests of adults who the Queensland Civil and Administrative Tribunal (QCAT) has declared as having impaired decision-making capacity, and of adults who have appointed the Public Guardian as their attorney under an Enduring Power of Attorney. Our staff achieve this through the use of advocacy. Delegate guardians uphold the human rights of adults by supporting them to participate in decisions about their life and acknowledge their right to live as a valued member of society using a supported decision-making framework, with substitute decision making used only as a last resort.

General Guardianship team: This team supports adults with impaired decision-making capacity to make decisions about their life in the least-restrictive way possible.

Positive Behaviour Support (PBS) team: Our 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.

Pre-Advocacy team: The Public Guardian is an active party to all guardianship hearings at QCAT, so this team undertakes pre-hearing advocacy work with the aim of ensuring the Public Guardian is only appointed as a last resort (and not appointed unnecessarily). This helps promote adults' human rights 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: This team advocates 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 an adult's impairment does not negatively impact their access to justice. The team also instructs legal representatives to progress clients' legal matters.

Adult Community Visitor Program

The Adult Community Visitor Program protects and promotes the rights and interests of people residing at visitable sites, which are authorised mental health services, designated hostels, forensic facilities, long-stay Queensland Health facilities and disability services. As

delegates of the Public Guardian, community visitors act as independent 'eyes and ears' into the care of adults in these systems. Community visitors do this by supporting human rights protective measures, undertaking advocacy, and by making sure our clients' human rights 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 Investigations function promotes and protects the rights and interests of adults with impaired decision-making capacity by investigating complaints or allegations that the adult has been neglected, exploited or abused or has inappropriate or inadequate decision-making arrangements in place, and taking protective action required if substantiated.

Policy and Reporting

Our Policy and Reporting function sees us advocate for our clients' collective voice on high-level strategic policy and law reform issues that impact on their rights and interests. The Policy unit prepares formal submissions and contributions to government consultations, inquiries, legislative processes and royal commissions, and supports OPG's senior executive and business units policy needs. Reporting Services provides specialist reporting support to OPG's business units and reports on OPG's performance and activities to continually improve our service delivery.

Redress Practice team

Our Redress Practice team coordinates OPG's response to the *National Redress Scheme for Institutional Child Sexual Abuse* and integrates recommendations of the *Royal Commission into Institutional Responses to Child Sexual Abuse* into the promotion and protection of our clients' rights and interests.

Corporate Services

Corporate Services provides specialist and administrative support to frontline business areas by enabling best practice in service delivery and supporting those business areas to provide excellence in client service.

Corporate and Legal Practice team

Our Corporate and Legal Practice team provides legal advice and assistance to the Public Guardian and her delegates in the performance of their statutory functions and in exercising their statutory powers.

The best thing about working at OPG is...





Our key achievements: the year that was

Yet again, unprecedented frontline service delivery increases

Despite resourcing remaining largely static, OPG has seen an uplift in performance year on year since its creation and that trend very much continued this year.

We made a total of 40,302 visits to 9,584 children and young people in 2018–19 — 29,383 of these were to the homes of foster or kinship carers (a 24 percent increase in visits since 2015–16), and 10,919 were to residential sites, youth detention, Brisbane City Watch House, authorised mental health services and disability services (an increase of 116 percent since 2015–16).

Demand for our guardianship services has also continued to grow, with the number of new guardianship clients increasing 10 percent on last year to 940, and the total number of clients under guardianship in 2018–19 reaching 3,421 (a six percent increase since 2017–18). This rise in client numbers is also coupled with the increasingly complex demands placed on us by the NDIS, as guardians find themselves more frequently required to advocate for access to the scheme and for adequate plans for clients.

Given this increased demand for our services, the Public Guardian was delighted that the Queensland Government awarded us a significant budget increase over the next four years. This will allow us to meet the ever-increasing demand for our services and ensure we can protect and promote the human rights of even more vulnerable Queenslanders.

Successfully campaigned for an ongoing budget boost to serve even more clients

Significant work was undertaken in 2018–19 to analyse and define just how many Queenslanders might be jeopardised by OPG's inability to meet the demands of an increasing number of vulnerable clients who have no one in their lives to independently advocate on their behalf. The compelling case was put to government, and it was with great relief and celebration that we received the advice that the Queensland Government decided to award increased ongoing funding to the agency. This funding boost will see operating revenue increase by almost 60 percent in 2022–23 from the original budget allocation when the agency commenced in 2014–15. This increase will also allow us to bolster support to our guardianship clients to enter the NDIS.

Raised awareness of OPG's investigations function to banks leading to an almost 500 percent increase in referrals

Banks and other financial institutions are ideally placed to identify the signs of potential financial abuse against adults with impaired decision-making capacity. Unfortunately, many instances go unreported to us due to a lack of knowledge about our investigation function. For this reason, OPG made a concerted effort to forge relationships with these institutions, both at an industry and company level, to increase awareness. As a direct result, we have seen a 483 percent increase in the number of referrals received from banks. Considering that our further investigation of financial abuse often

uncover horrific physical abuse and neglect, this increase in reporting means greater protection for vulnerable Queenslanders. However, we're also aware that there's so much more abuse we aren't seeing, so we will continue to work with financial institutions to explore ways we can expand staff knowledge.

Our unique investigations power became the subject of national and international interest as governments around Australia and the world move to consider adopting the same powers to stop elder abuse.

Introduced initiatives to ensure better access to the NDIS for vulnerable clients

In response to the roll out of the National Disability Insurance Scheme (NDIS) across Queensland, OPG has developed practice guidelines to address the need for advocacy relating to NDIS. In addition, specialist NDIS practice officers are actively supporting regional visiting managers and community visitors to advocate for the right of young people and adults to access and effectively utilise NDIS-funded supports.

A key initiative was facilitating information sharing between OPG and Child Safety to be able to identify children and young people with disability who may be eligible to access the NDIS.

At the end of May 2019, 116 children and young people with disability who did not appear on the NDIS access request kept by Child Safety were identified by the OPG Community Visitor Program as being potentially eligible to enter to the NDIS. Sharing this information with

Child Safety enabled them to make further enquiries to support these children and young people to access the NDIS.

The Community Visitor Program puts the same lens over the sites we visit for both adults and children, including youth detention centres, watch houses and authorised mental health facilities. We anticipate that in the future we will see evidence of similar success in linking eligible individuals to the NDIS who, without OPG's advocacy, might otherwise not gain the access they need.

Drove legislative change to ensure the Community Visitor Program supports relevant NDIS participants

The full scheme roll out of the NDIS in Queensland on 1 July 2019 and the associated proliferation of new providers meant that, under current definitions, not all disability sites would fall under the Community Visitor Program's scope. For this reason, OPG played a key role in scoping and advising on the necessary legislative changes that needed to be made to ensure community visitors can continue to access these sites so they can carry out their vital oversight role. As a result, the definition of a visitable site has been changed in relation to disability sites, including mandating service providers to report relevant sites to OPG. As such OPG is committed over the coming financial year to ensuring service providers are aware of these changes and that clients at these sites have access to the advocacy and support of community visitors.

Successfully advocated for landmark change for clients in relation to the use of chemical restraint for people with disability

OPG's position is that restrictive practices, although sometimes necessary, present an infringement on adults' human rights and we passionately advocate for the reduction and restriction of restrictive practices across all service sectors. The misuse of chemical restraint is of particular concern, and over the course of the year OPG advocated for clients in individual cases to seek less-restrictive means of treatment and care, with the outcomes having the potential to benefit many others in similar positions.

In one particular case, our advocacy saw the Mental Health Court overturn a decision by the Mental Health Review Tribunal. The question arose as to whether a person could be 'chemically restrained' for a behaviour that didn't result from a mental health condition, without all the checks and balances that are applied to using this form of restraint under disability legislation. The Mental Health Court (who found that our client didn't have a mental illness), determined that people under a forensic order with an intellectual disability cannot just be chemically restrained without the usual oversights and permissions, unless the drug is clearly for the purpose of treating a mental illness. This will have a huge impact on Queensland's adults who do not have a mental illness and are subject to a forensic order, and we have already seen medication that would be classed as chemical restraint reduced or withdrawn.

Securing the future of community visits to places where NDIS participants live

Queensland has some of the most robust quality and safeguard requirements in Australia to ensure the safety of people with disability. Community visitors actively monitor and identify violence, neglect and abuse in prescribed residential facilities. A major concern for OPG in the last annual report was the potential discontinuation of the Community Visitor Program at certain disability sites following the full scheme NDIS roll out in Queensland from 1 July 2019. We were concerned that adults with impaired decision-making capacity, many of whom are reliant on care for 24 hours a day and have difficulties with communication, would struggle to access and engage with the NDIS Quality and Safeguards Commission, including making their own complaints.

Without assistance from an independent program such as ours, we feared that vulnerable adults would experience significant barriers to accessing this complaints system. For this reason we made extensive representations both at state and national level, and were delighted when the Queensland Government made the decision in November 2018 to retain the program at disability sites where NDIS participants reside. This will ensure that a mechanism will stay in place to observe and address any abuses of the fundamental rights of these adults.

Rolled out domestic violence training to frontline staff to help them see the signs of clients experiencing domestic and family violence and how to respond

OPG is committed to addressing domestic and family violence as it affects our employees and providing all necessary supports to our staff. However, as an organisation we also recognise that the clients we work with are particularly vulnerable to this type of abuse, and that we need to equip our staff to identify domestic and family violence and provide them with the tools to act. For this reason we engaged a specialist provider and began to roll out targeted training that would enable our staff to recognise the signs of domestic and family violence in clients with impaired capacity. The training also covered how to act, stressing how important it is to include the client in all discussions about options. This program will continue to be rolled out during 2019–20 to ensure staff across Queensland have access to this vital training.



Our priorities: the year ahead

Increase our staff's psychological safety

We are very aware of the vicarious trauma that our staff can be exposed to on a regular basis and the emotional and/or physical toll it can take. Last year we identified that we needed to have strong, tailored clinical debriefing in place to support staff. In 2018–19 we commenced procurement for a specialised trauma debriefing and supervision service that would be fit for purpose for OPG staff's particular needs and would be both proactive and reactive to vicarious trauma. These services have been retained and 2019–20 will see this trauma debriefing service rolled out to staff in a three-pronged approach:

- group setting: facilitated peer supervision and debriefing sessions facilitated by a qualified, registered psychologist with expertise in vicarious trauma
- individual support: regular 'wellbeing checks' and triage for individual debriefing sessions
- trauma debriefing and support: direct psychological support to staff experiencing or affected by work-related trauma, whether vicarious or otherwise.

Use the opportunities and face the demands of a fully rolled-out NDIS

OPG has already seen clients go on and live lives of a quality they had not previously experienced as a result of the opportunities presented by the NDIS; in particular, the opportunities to live outside of institutional care. Given there is still a very large cohort of the Queensland population yet to enter the NDIS, and similarly so for the people under public guardianship, the challenge will be ensuring the agency can meet the enormous demands of supporting people to enter the scheme so they can take advantage of these opportunities.

Deliver services to regional watch houses

The last year has seen large numbers of children and young people held in watch houses across Queensland. OPG's position is that this environment is unacceptable for children's safety and psychological wellbeing, and that they should not be held in watch houses for anything other than processing of offending behaviour in line with a watch house's purpose. During 2018–19 an agreement was made with the Queensland Police Service to enable community visitors to visit the Brisbane City Watch House to monitor the safety and wellbeing of children staying there and to advocate for their interests.

As at 30 June 2019, there were 63 other watch houses across Queensland that community visitors were not able to visit given the definition of what constitutes a visitable location. However, an amendment has been made under legislation to the definition of a 'visitable site', which will enable OPG to visit children and young people staying in any Queensland watch house in 2019–20 where Youth Justice provides funding to the watch house.

OPG will continue to advocate (along with other independent statutory bodies) for the human rights of children held in watch houses, and for urgent mechanisms to be put in place to ensure an end to this practice.

Focus on the organisational change required to support our growth

Demand for OPG's services has grown year on year but our resourcing has, for the most part, remained static. However, the Queensland Government has recognised the vital need for our funding to keep pace with demand and, as a result, our operational budget will increase by 60 percent over the next four years. In the first year alone this will mean 50 new permanent positions, so our immediate focus will be on recruiting staff members and expanding our service

delivery as quickly as possible in response to growing need. However, such a substantial change in size means we need to take a careful, reasoned look at the way we are

structured to make sure we make the most of our new resourcing. This won't happen overnight but will take place over the next four years so we can be sure that our organisational model can meet the evolving needs of our ever-growing client base, and so that changes can be embedded in OPG's culture. We also want to make sure consultation occurs at all levels of the organisation because our front-line staff see the challenges we face first hand and can offer practical suggestions and recommendations for change.

Finalise a major IT project that will unify our data to a single database

OPG has used two systems – Resolve and Jigsaw – since 2014 when the agency was created by unifying two existing agencies. However one of these systems is no longer supported, generating significant risk to us. Therefore this year we will undertake the massive task of modifying our Resolve system so it can record all our child-related information, and migrate all data from the current Jigsaw system. This will create a single

system that will support the current and evolving needs of all areas of the business, as well as allow us to provide an improved service to our clients through better information sharing between business areas. Importantly, with the new Resolve system we will be able to receive live updates to our database from the Department of Child Safety, Youth and Women's IT system. This will ensure we have access to up-to-date information about the children and young people we visit.

Work with the NDIS Quality and Safeguards Commission to protect the human rights of NDIS participants

Effective on 1 July 2019, the NDIS Quality and Safeguards Commission is the body tasked with improving the quality and safety of NDIS supports and services. It offers a vital complaints function, designed to give people with disability the ability to speak up if there are issues with the quality and safety of the supports and services they receive through the NDIS. Many adults we visit will, however, struggle to navigate the formal channels of the complaints process, which is why community visitors play such a vital role in identifying as well as supporting adults to

raise their issues. For this reason in the coming year we will focus on developing a strong working relationship with the Commission. This is to ensure they have a good understanding of the critical role we play in

supporting vulnerable adults to escalate complaints and so the human rights of NDIS participants are protected as strongly as possible.

Contribute to both the Aged Care and Disability Royal Commissions

The Royal Commission into Aged Care Quality and Safety commenced in 2019, and as the inquiry progresses, OPG will take the opportunity to contribute valuable insights and highlight essential areas for reform that need to be implemented to better protect the rights and interests of our clients who live in aged care facilities. One area where we particularly want to see change is in the use of restraints in an aged care setting. We believe it's vital that appropriate, strong and comprehensive regulations are introduced to govern the use of restrictive practices, with their excessive use in aged care presenting one of the greatest potential infringements of human rights this office deals with. We will also continue our call for the implementation of an

oversight body with 'teeth' to identify, investigate and advocate for residents in aged care on all issues relating to abuse, neglect and exploitation. OPG also welcomes the news of a Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and looks forward to the opportunity to contribute to this vital inquiry. A particular focus for us will be highlighting that any inquiry needs to have a broad focus that encompasses sectors such as mental health, education, child protection, youth justice, and corrections, and that it needs to take an overarching approach to address the need for stronger protections of the rights and interests of persons with disability at all stages of their lives.

Embed the Human Rights Act 2019 into everything we do

The *Human Rights Act 2019* will take effect in Queensland on 1 January 2020. As an organisation that fosters a human rights focus regarding protecting and upholding the rights of vulnerable Queenslanders, OPG welcomes the introduction of the Act. However, we also acknowledge that we need to look closely at our policies and practices to ensure we are fully considering the human rights of all who might be affected by the operation of our legislative functions, and to ensure that recognition of human rights is thoroughly embedded in OPG's culture and practice. The first half of the 2019–20 year will see every team at OPG review and revise decision-making frameworks, policies and practices and record keeping to ensure compliance with the Act, ready for its commencement. Importantly, we will also place focus on educating and training staff to embed these changes into their day-to-day working lives so we can be confident we will be transparently carrying out our functions in a way that is compatible with human rights.

Ensure eligible clients have access to the National Redress Scheme

The Commonwealth-run National Redress Scheme (the Scheme) supports people who have experienced institutional child sexual abuse to move forward positively in the way that is best for them in delivering a sense of justice. The Scheme is a recognition of the harm caused by the institutions responsible for the abuse of children in their care and acknowledges the harm that was caused. For eligible persons the acceptance of an offer of redress provides access to three components being a monetary payment, access to counselling and psychological care and a direct personal response.

To implement OPG's commitment to supporting people who have experienced institutional child sexual abuse we have established a Redress Practice Team. The team is reviewing client files in relation to eligibility, and over the coming year will work with OPG frontline staff to increase their understanding of the Scheme whilst also building appropriate referral pathways with government and non-government agencies.

In conversation with...

Karen Central Intake and Referral Team



What does your role involve?

My team delivers customer service to anyone that calls or emails the office with an enquiry, which may include the general public, stakeholders or clients.

What is your professional background?

I have lots of experience in client service and call centre rolls in the airline, insurance and education industries. My experience covers sales, operations, marketing project management and even talent acquisition.

What does your typical work day look like?

My day starts even before the phone lines open as I respond to emails and web enquiries that have come through the previous day and overnight, as well as complete other administrative tasks. Then, when the phone lines open, it's all hands on deck to answer the flood of incoming calls! My four colleagues and I handle all the incoming calls and texts that come through to OPG. These enquiries can be on a range of topics including our adult clients wanting to talk to their guardian or legal officer, to service providers and other professionals wanting information or details about decisions in relation to our clients. Our team also educate referral agencies and the general public about what OPG does and what decisions our staff can make under our legislation.

What challenges have you faced in your role?

We have contact with people from all walks of life, so unfortunately we hear a lot of terribly sad and confronting stories. Coming to terms with these stories is difficult but our team looks out for each other which helps with managing these emotions. However being able to help these callers through providing information or referring them to another agency makes our job worthwhile.

How does your role help promote and protect OPG clients' human rights?

I spend a lot of my day educating callers on the role and functions of this office, so when I provide them with information that could improve their life, or at least put them on the right path for this to happen, it's extremely rewarding.

How many clients and stakeholders do you help everyday?

On average, we get 450 enquires per day which is made up of calls, emails, web enquiries and Enduring Power of Attorney processing. We're a busy team!

What is the best part of your job?

I think the best part of being a Central Intake and Referral Officer is that I learn something new every day, whether it's through talking to another staff member or staff from other agencies. It's a great role for people with curious minds!

Our performance

Service Delivery Statements. The following are measures of OPG’s effectiveness as reportable to Government.

The Office of the Public Guardian service standards		
Public Guardianship	2018–19 Target	2018–19 Actual
<i>Performance measures</i>		
Percentage of community visitor (adult) sites visited in accordance with the designated visiting schedule	90%	94.9%
Percentage of vulnerable children at all visitable sites ¹ visited by community visitors (child) in accordance with the designated visiting schedule	90%	80.9%
Percentage of vulnerable children in visitable homes ² visited by community visitors (child) in accordance with the designated visiting schedules	80%	82.8%
Percentage of guardianship decisions made in consultation with the client/interested persons	90%	96.8%
<i>Effectiveness measures</i>		
Percentage of investigations closed within nine months from commencement for clients aged 65 or older	80%	70.9%
<i>1. See page 31 for the definition of visitable site. 2. See page 31 for the definition of visitable home.</i>		

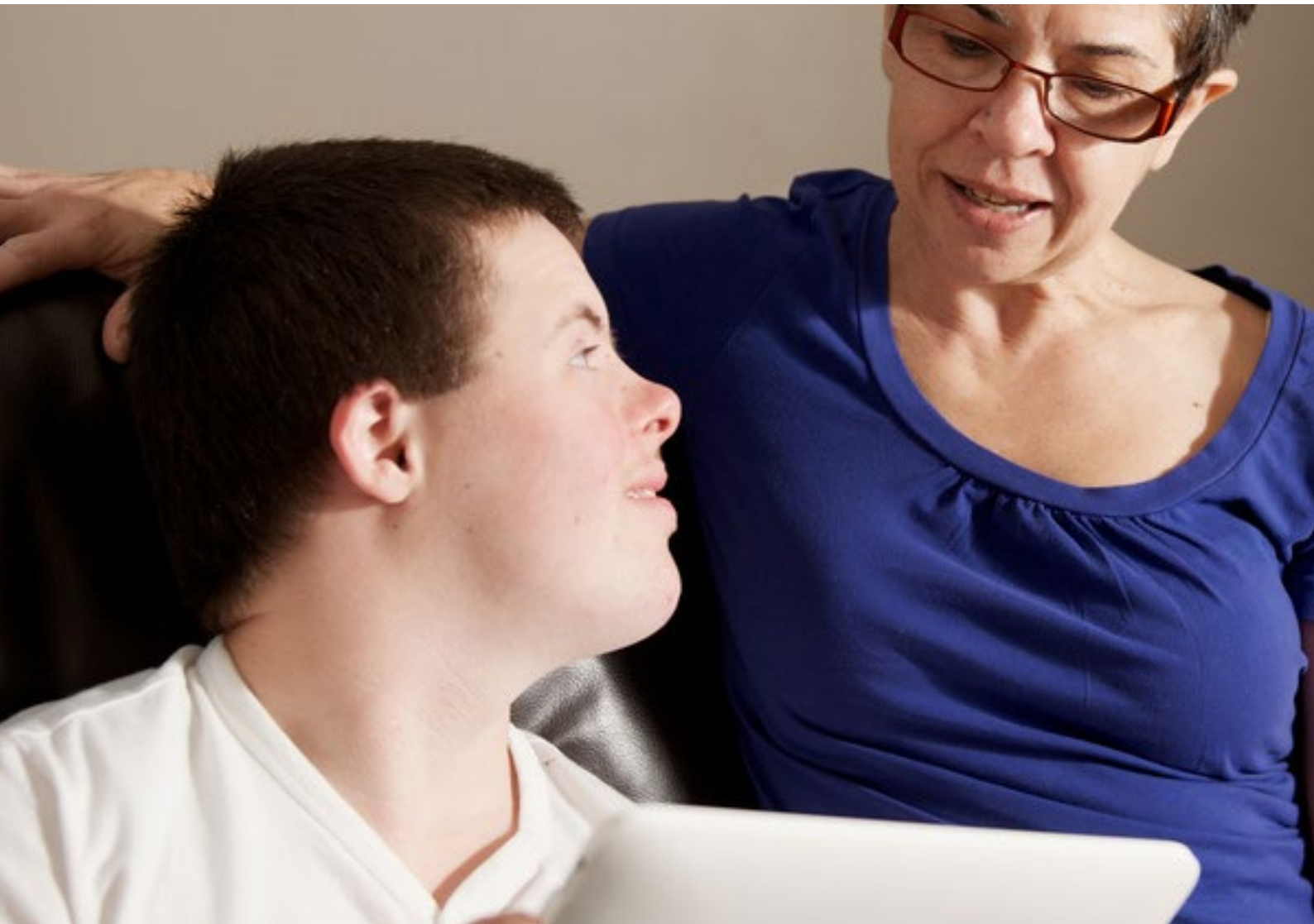
Performance against strategic plan

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">Continued focus on media profiling and relations to build our reputation among the general public and raise awareness of key advocacy issues.Conducted 61 educational presentations to a combined audience of approximately 4200 attendees.Continued our commitment to publish the policies and decision-making frameworks that underpin OPG’s approach to our work and legislative role.
Develop feedback mechanisms and strong links to professional supervision frameworks	<ul style="list-style-type: none">Informal staff surveys distributed throughout the year to seek input on ways to improve operations.Regular and ongoing performance reviews conducted in line with Employee Expectations Agreements.
Strengthen communication with regional virtual staff	<ul style="list-style-type: none">OPG staff newsletter was distributed monthly.Regional managers and regional visiting managers invited to virtually attend fortnightly senior management meetings.Directors, the Deputy Public Guardian and the Public Guardian regularly visited regional offices to engage with staff face to face.
Develop OPG materials in a range of different languages	<ul style="list-style-type: none">OPG’s main factsheet translated into 17 different languages and published on website.
Identify stakeholder sub-groups	<ul style="list-style-type: none">Engaged with stakeholders in the development and publication of policies and decision-making frameworks, including the Withholding and Withdrawal of Life Sustaining Measures – Decision-Making Framework and the Healthcare in Guardianship (excluding mental health) Practice Direction.Identified and consulted with key stakeholder groups as part of the strategic plan process.
Create accessible and culturally appropriate community engagement strategies	<ul style="list-style-type: none">Community engagement strategies developed for <i>Mental Health Act 2016</i> implementation.



Member of reference groups for multi-agency and disciplinary groups	<ul style="list-style-type: none"> Member of, or participated in: Queensland Guardianship Advisory Committee, Australian Guardianship and Administration Council, Australian and New Zealand Children’s Commissioners and Guardians, Youth Detention Oversight Bodies, Legal Aid Queensland-chaired Mental Health Planning stakeholder group, Legal Aid Queensland-chaired Child Protection Legal Stakeholders group, QFCC Strategic Oversight Committee, State Wide Restrictive Practices Working Group, Elder Abuse Prevention Unit Reference Group, National Redress Scheme Direct Personal Response Community of Participation, Peakcare Education Working Group, Children’s Court Committee, QFCC Recommendation 8 – Foster Care Review Discussion, National Disability Insurance Scheme Reform Leaders Group, FDS Steering Committee, Queensland Carers’ Association, RLG Sub-Committee, Health and Disability Law Committee, NDIS Leaders Group Housing Sub-Committee, NDIS Project Management Office; Queensland Law Society-chaired Advance Care Planning Working Group; IDEC Evaluation of the <i>Mental Health Act 2016</i>; Queensland Mental Health Commission Human Rights Project Advisory Group; DJAG Guardianship Implementation Reference Group; DJAG Human Rights Implementation Reference Group; Whole-of-Government NDIS Legislation Review Working Group; NDIS Decision-Support Pilot Advisory Committee.
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Objective 2: Practice and service model

Strategy	What we achieved
Ensure a robust practice framework and tool to support effective service delivery	<ul style="list-style-type: none"> A number of policies and practice directions were developed or revised. including: <ul style="list-style-type: none"> Forensic Examination of adults with impaired capacity practice direction Service Provider use of Section 169 <i>Disability Service Act 2006</i> practice direction Health Care in Guardianship (excluding mental health) practice direction Withholding and Withdrawal of Life-Sustaining Measures — decision-making framework (adult) Aged Care in Guardianship practice direction Visiting adults, children and young people who may be eligible for, or are accessing, the NDIS practice direction Legal Services/Investigations — Adult Team Priority Rating Tool practice direction Responding to high-priority external requests for information practice direction Legal Services/Investigations — Adult Team File Precedents practice direction Children and Young People Team priority rating tool practice direction Advocacy for adults entering and living in the Forensic Disability Service practice direction General guideline for requests to consent to fresh blood and blood products transfusions practice direction Health Care Decision Making Framework (adult) Making complaints relating to supports and services provided by an NDIS provider practice direction Recording of complex and non-complex decisions practice direction. All teams in Legal Services and Investigations uploaded practice guidance to internal systems, making it user friendly and accessible for staff. The Legal Services’ Children and Young People team developed a substantial volume of practice tools and precedents to guide the role of child advocate legal officers in areas such as education, youth justice, QCAT and the Children’s Court.

Strategy	What we achieved
Ensure a robust practice framework and tool to support effective service delivery	<ul style="list-style-type: none"> The Legal Services' Adult Team developed practice guidance in criminal law and mental health and the participation by delegate guardians in the Mental Health Review Tribunal. The Legal Services Corporate and Legal Practice Team reviewed the practice guidance for external requests for information and developed detailed guidance on advocacy for clients entering the Forensic Disability Service and in relation to the Public Guardian's role in consenting to Forensic Examinations. Investigations identified priority areas for further development in their practice guidance for 2019–2020. The Redress Team identified Sharepoint site map information to develop in 2019–20 and guide future practice and established the Redress Reference Group. The Community Visitor Program commenced a review of its structures and frameworks. To strengthen financial reporting, a focus was put on ensuring regional visiting managers were equipped to review budgets, and monthly reporting was initiated.
Develop new and agile service delivery arrangements in response to new and changing service environments	<ul style="list-style-type: none"> The Community Visitor Program developed new practice guidance around the inclusion of NDIS within core business. In September 2018, community visitors commenced weekly visits to children and young people detained in the Brisbane City Watch House. The focus of visits is centred on the appropriateness of the environment and service delivery, and the safety and wellbeing of the children and young people detained. Advocacy regarding identified issues and concerns around delivery of human rights and services as well as timely movement from the watch house to a youth detention centre or to an appropriate community placement has emerged as common individual advocacy from OPG.
Continually review and improve regional service delivery to maximise cost-effectiveness	<ul style="list-style-type: none"> The Children and Young People Team and Investigations have both prioritised travel to regional areas to support direct client engagement.
Ensure IT arrangements support business needs	<ul style="list-style-type: none"> OPG recognised that the two agency's case management systems were siloing information and creating duplication. It was also recognised that neither system was functioning to full capacity and could be vastly improved for the benefit of client outcomes and the agency's information exchange with agencies outside OPG. The project to reform an existing database into a new, uniform IT system for OPG has commenced with all business and functional requirements of the system modifications documented, and all project governance requirements implemented. The project has now entered the development phase, with an expected go-live date for the new system of 1 September 2020. Excitingly, this will include a live data platform to obtain information from the Department of Child Safety, Youth and Women to enhance our child visiting and advocacy.

Strategy	What we achieved
Respond to Aboriginal and Torres Strait Islander people's needs	<ul style="list-style-type: none"> We identified 41 per cent of visitable children as Aboriginal and Torres Strait Islander. The Community Visitor Program conducted 51 visits to discrete Aboriginal and Torres Strait Islander communities. We participated in the Honouring Practice Forum for Aboriginal and Torres Strait Islander practice in child protection.

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"> Legal Services continued to support students to complete their Practical Legal Training, providing placements for five students this financial year, including two from the College of Law, two from QUT and one from UQ. Promoted working with OPG at high profile events such as NAIDOC and Ipswich Fresh Futures Market. Encouraged and supported flexible work practices such as telecommuting, condensed hours and part-time arrangements. Introduced a corporate on-boarding planner for new staff. The Community Visitor Program explored innovative ways to recruit community visitors across the state. This involved broader state wide recruitment initiatives and focused information provision about the program in regional and remote areas.
Ensure appropriate induction and ongoing professional development of all staff	<ul style="list-style-type: none"> 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 their role.
Develop workforce planning strategies	<ul style="list-style-type: none"> An independent review was completed to identify and inform OPG's workforce planning into the future and the best ways to support the workforce. This was formulated with input from staff and analysis by an independent consultant. In 2019–20 OPG will start to implement strategies in line with the report findings. Some of the changes recommended by staff commenced in 2018–19.
Ensure effective and constructive performance management	<ul style="list-style-type: none"> Supervision frameworks are now implemented across OPG and are used as a tool in all regular performance reviews.
Develop our workforce's cultural capability	<ul style="list-style-type: none"> We actively advertised positions in Aboriginal and Torres Strait Islander media. All frontline staff are required to attend Indigenous Cultural Education training. This training is also available to non-frontline staff.

In conversation with...

Kaitlyn

Guardianship Training and Development



What does your role involve?

My role is to design, develop and deliver guardianship — specific training and resources. I work collaboratively with the principal practice leader and other staff within the office to identify training needs and improve current practices.

What is your professional background?

I graduated with a postgraduate diploma in psychology almost ten years ago. My first professional job was actually here at OPG as a delegate guardian as I've always had an interest in advocating for those in society who are considered vulnerable and marginalised. I initially started at OPG for some experience and then enjoyed the work so much I haven't left!

What does your typical work day look ?

On a typical day I am either working on developing training or delivering training to new delegate guardians. I work collaboratively to develop new practices and processes in guardianship to keep up with delegate guardians' ever expanding and diversifying work load. I then create training or practice documents to support this. While I don't work directly with our clients, I remain client focused in the development of training and guardianship practice.

What challenges have you faced in your role?

The biggest challenge has been balancing the competing priorities for training needs. There are so many facets to guardianship and a delegate guardian's role is so diverse that it's a balancing act to prioritise areas of need when we are building a program, especially from scratch.

How does your role help promote and protect OPG clients' human rights?

My role really helps get new delegate guardians into the right frame of mind and thinking from a human rights perspective before they start in their role and working with our clients and other stakeholders. It's a chance to really embed in new staff the importance of being least-restrictive in our practice as delegate guardians, as well as being mindful of the impact our role and office has in the lives of our clients and their friends and family.

What have you achieved in the past year?

We achieved an OPG first this year! I internally developed two online training modules that are now used in our online training program. This is a huge step forward for the office in keeping up with current training needs. One of the areas I focused on was record keeping practices for guardians with face-to-face, online and practice documents. The guardianship induction program is also continually improving as new training and material is being developed to assist guardians in performing their role.

What is the best part of your job?

I am quite process driven so planning and developing training in line with our policies and guardianship practice is really enjoyable. I have worked at OPG in guardianship for a long time so it is great to put my knowledge and experience to a different use. I also really enjoy talking with new staff and educating them, answering their questions and providing them with a base on which to build their skills.



Advocating for children and young people

How we advocate for children and young people

During the past few years, OPG has focused on strengthening and empowering the voice of children and young people within systems in which they have historically been silent. Through advocacy, OPG is creating a culture in Queensland where vulnerable children and young people know their rights and how to access them, and are listened to and taken seriously.

Individual advocacy can empower a child or young person, not just by having someone speaking up for them, but also by providing them with information about their rights and options. At OPG, our focus is on ensuring children and young people are involved in decisions made about them and their lives. The decision may not always go the way they want it to but knowing their views and wishes were heard and considered is empowering in itself. Our advocacy can also involve making sure the reasons for decisions are explained to the child.

Advocacy also means ensuring that children and young people's rights and interests are promoted and protected through supporting the delivery of high-quality services from responsible agencies.

OPG fulfils our vital advocacy role through our community visitors and our child advocate legal officers.

Overview of the child Community Visitor Program

Every child or young person entering — or re-entering — a visitable location (see below) 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. First and foremost a community visitor will check that services that are supposed to be delivered are, in fact being delivered, and that these services meet the child or young person's needs in relation to education, mental, emotional and physical health, relationships, and cultural needs.

Additionally, community visitors listen to children and young people and give voice to their concerns, by advocating for them and providing them with the support, advice and information that they need to exercise their own rights and have a say in decisions made about them.

Community visitors also assist children and young people in care to receive and understand information about decisions made in relation to their placements (including the appropriateness of those), reunification planning, support for contact, and their complaint or review rights about placement decisions.

When executing their functions, community visitors essentially provide oversight that the standards of care found in section 122 of the *Child Protection Act 1999* are being adhered to and, if not, appropriately raising and escalating these issues until remedied.

In short, community visitors ensure systems are held accountable, and are a critical safeguard to make sure the child or young person's needs are being met appropriately in their placement.

As at 30 June 2019, OPG had 106 community visitors visiting children and young people. Of these, 40 are child-only visitors, and 66 are dual visitors (meaning they also visit adults under the Adult Visiting Program).

Visitable locations

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

Visitable sites

In 2018–19¹, the *Public Guardian Act 2014* defined a visitable site as:

- a residential facility where a child or young person is staying, including disability respite accommodation funded by the Department of Communities, Disability Services and Seniors or where people are funded under the National Disability Insurance Scheme

- a detention centre where the child or young person is staying
- a correctional facility² where the child or young person is staying
- an authorised mental health service where the child or young person is staying.

1. Note: the *Youth Justice and Other Legislation Amendment Bill 2019* amended the definition of visitable site in 2019–20 so that police watch houses that receive any funding from the Department of Youth Justice and Supervised Bail Accommodation will be included within the definition.

2. The Queensland Government removed all 17 year olds from corrective services facilities during 2017–18.

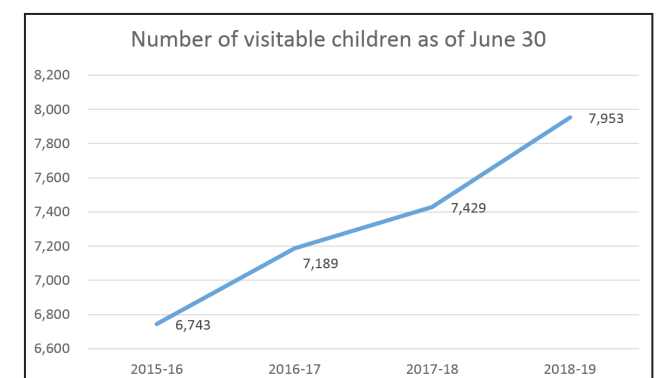
Visitable homes

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.

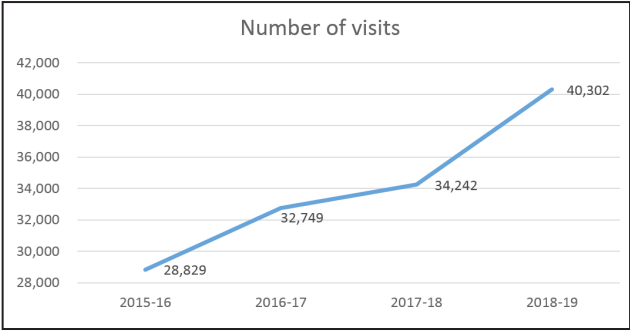
Appendix 2, Table 1 (pg. 104) shows a full breakdown of the number of visits to each type of location, while Appendix 2, Table 2 (pg. 104) breaks down the number of children and young people in out-of-home care visited by location type as at 30 June 2019.

Number of visits undertaken

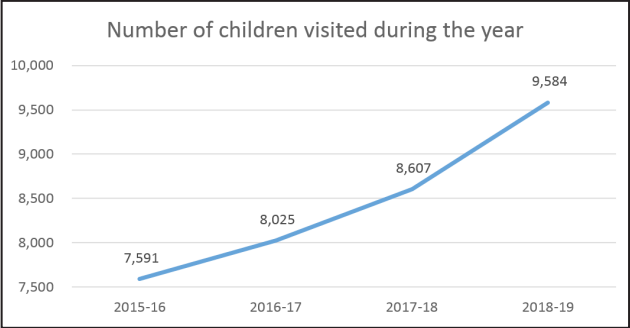
During 2018–19, OPG conducted 40,302 visits, reaching 9,584 children in care or staying at visitable sites. As at 30 June there were 7953 children and young people in Queensland classed as visitable children. This continues the increasingly upward trend of both the number of children and young people eligible to be visited by community visitors and the number of visits undertaken, as shown in the graphs below and on the following page.



Number of visits



Number of children visited during the year



Visiting frequency

OPG uses a matrix based on risk and need to inform how often children and young people in foster or kinship care are visited. Depending on the child, this can generally vary from monthly to annual visits. During the 2018–19 reporting period, 81 percent of children in visitable sites and 83 percent of children in visitable homes were visited in accordance with their visiting schedule. The majority of children visited received visits monthly, bi-monthly or quarterly.

It is important to note that children and young people (or a person acting for them) can request to meet with a community visitor at any time, even outside of a scheduled visit. During 2018–19, 63 children and young people requested an unscheduled visit from a community visitor.

In instances where a face-to-face visit 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 by telephone or text message. Technology is only usually used in limited circumstances, including where it may not be possible for a visit to be conducted in person and it is considered important that the child is contacted rather than a visit not occur. Examples include events such as flooding making visitable locations inaccessible by road.

A breakdown of children and young people visited by visiting frequency as at 30 June 2019 can be found in Appendix 2, Table 3 (pg. 105).

Visitable sites

The Public Guardian prioritises services to children and young people at visitable sites due to the potential risks to children and young people at these sites and, accordingly, visits occur monthly.

Due to the specific vulnerability of children and young people in youth detention and the Brisbane City Watch House, visits occur up to twice weekly at these locations.

Visitable homes

Frequency can vary from monthly to annual visits, depending on the needs and risks assessed in relation to the child or young person's circumstances. Wherever possible, the child or young person's views are considered in determining the regularity of visits. In 2018–19, some young people's views were that they'd rather not receive regular visits, instead preferring to make contact with their community visitors via email or text message, requesting a visit only when they required particular forms of assistance or support.

Visits outside of normal hours

Section 126(2) of the *Public Guardian Act 2014* requires that the Public Guardian reports 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 2018–19, 97 visits were made to children and young people outside of normal hours.

Advocacy for children and young people in relation to legal matters

OPG staff with legal training perform certain child advocate functions relating to legal matters. In these instances, community visitors, a range of other stakeholders or the child/young person themselves will refer the matter to a child advocate legal officer.

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

Demand for child advocacy relating to legal systems has continued to be strong, with many referrals received as understanding and awareness of the child advocate legal officer's role grows. This year, referrals from stakeholders outside OPG have increased by 21 percent (197 external referrals, compared with 163 in 2017–18).

In 2018–19, 231 internal referrals and 197 external referrals were received for legal child advocacy. Many of these referrals related to more than one child, and often involved sibling groups, sometimes across different placements.

A total of 404 requests were made for legal support for a child or young person, an average of about 1.6 new requests for legal assistance per business day. This equates to 13.5 full caseloads, which far exceeds the capacity of the child advocacy legal team of nine officers. This demonstrates the strong demand for advocacy in legal matters for children and young people and the high volume of work undertaken by our relatively small team.

Child advocate legal officers attended 1,583 meetings in the year, including 683 visits with children and 568 court appearances.

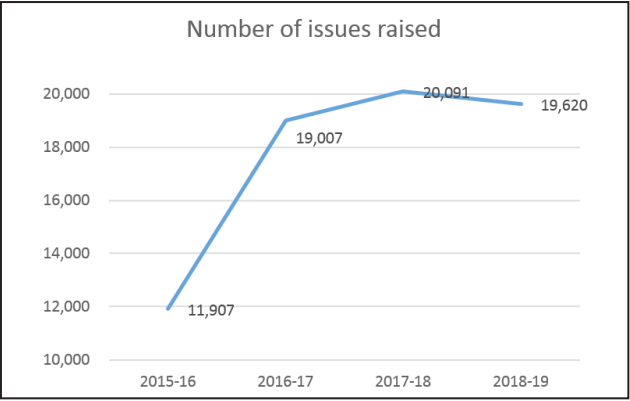
Appendix 2, Table 4 (pg. 105) shows a breakdown of the number of child advocate meetings held by type of meeting. This table shows that visits and court appearances increased this year. Child advocates had direct contact with children and young people 683 times this year compared to 671 in 2017–18 (two percent increase) and conducted 568 court appearances compared to 528 in 2017–18 (eight percent increase). This means that children and young people had the benefit of a child advocate legal officer providing advocacy to and for them and listening to their views and wishes more often in relation to legal systems. Additionally, child advocate legal officers have advocated for a child's rights and participation in courts on more occasions than in the previous year.

Issues raised on behalf of children and young people

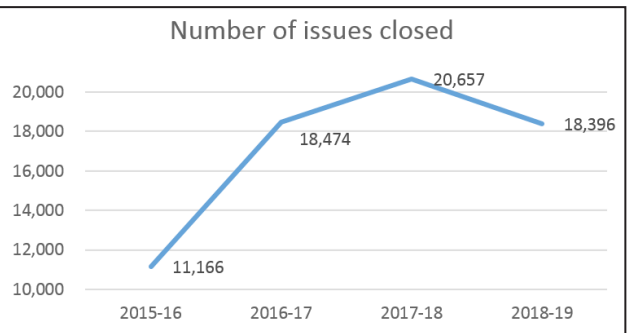
The increasing focus on empowering children and young people to have their views and wishes listened to and considered means the past few years have seen a notable change in the issues young people are raising with OPG, and increasingly complex issues regarding safety and wellbeing (particularly in regard to placement) are being identified.

In 2018–19, community visitors raised 19,620 issues (a two percent decrease from 2017–18). A total of 18,396 issues were closed: 16,716 were issues raised in 2018-19, with the remaining 1,679 raised prior to this period. Of locally resolvable issues, 53 percent were closed within 30 days, and 81 percent within 90 days.

Number of issues raised



Number of issues closed



Of the issues raised this year, 17 percent related to placement issues, and another 16 percent related to contact arrangements. Contact arrangements can include the degree of contact between a child and their parents, siblings or other significant people in a child's life. Issues raised relating to placement often relate to the suitability of the placement to meet that child or young person's unique needs. This is particularly relevant to children staying at residential sites.

Another significant issue raised on behalf of children and young people in the child protection system was case planning. Often OPG identifies that a case plan has expired or no longer meets a child or young person's unique needs. Education and health needs both represent eight percent of 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 child or young person's changing needs.

Additionally, as mandatory reporters, 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 2018–19, community visitors reported 89 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 Appendix 2 , Table 5 (pg. 106).

In conversation with...

Lynda

Community Visitor



What does your role involve?

The role of a community visitor (child) is to visit children and young people and to advocate for them based on their views and wishes. Community visitors also have a monitoring role in ensuring that the Charter of Rights¹ for children and young people is upheld and that they are receiving services appropriately as per their entitlements and human rights. The role also involves raising complaints.

What is your professional background?

I have a background in early education which led me to have a special interest in children placed in foster care. I then ran a large foster care program for many years. I started working as a community visitor many years ago with the Commission for Children and Young People and Child Guardian before it became the Office of the Public Guardian. In 2016 I relocated to Far Northern Queensland to be closer to my grandchildren and I immediately wanted to become a community visitor again due to my knowledge and my previous work with children and young people.

What does your typical work day look like?

My days are normally organised in the same way to ensure I'm working efficiently. In the mornings I read any reports or notes about children or young people I am scheduled to visit that afternoon. I also document my visits from the previous afternoon and follow up with child safety officers or other relevant agencies about any concerns that the children or young people have raised with me at the visit. Doing all of this in the morning allows me to have as much time as possible in the afternoons to visit children and young people when they return home from school.

What challenges have you faced in your role?

As I live in Far North Queensland, the main challenges are related to our unpredictable weather and being able to visit children and young people who live in rural and remote areas. Some other challenges include visiting young people with serious mental health issues. It takes many visits to build rapport and trust but, through my persistence and compassionate nature, I have developed some wonderful relationships and achieved great outcomes; and this is so rewarding.

When have you played an integral role in promoting and protecting your clients' human rights?

I visited a 17-year-old young person who was living in residential care who was very unhappy and had been self-harming. I was able to establish, through trusted communication with the young person, that this was mainly because they were placed in the same suburb where they had been assaulted a few months before. The young person expressed to me that they really didn't like this situation. I strongly advocated for their views and wishes to request a move to a different placement and suburb. My advocacy directly resulted in a positive outcome where the young person was quickly moved to another setting. I continued to visit this young person until they were 18 years old and I was very proud of them and what they achieved after the move to the new placement. This included going back to study and having positive relationships with their peers. As a result of these positive changes, the young person's health also improved. It's a good example of where listening to what an individual needs to live well brings about positive results.

What is the best part of your job?

The best part of my job is the relationships I have with the children and young people I visit and knowing what I do matters to them and makes a difference to their lives. I'm also inspired by my colleagues in the Far Northern region, who are professional, committed, and supportive of each other.

1. The Charter of Rights is outlined in the *Child Protection Act 1999*.

The resolution process

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

Issues raised through visiting children 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 OPG when a child is admitted to a high-security unit, or an inpatient mental health unit of an AMHS other than a child and adolescent unit. In 2018–19, OPG received 165 notifications of this nature, which is a 109 percent increase on the 79 notifications received in 2017–18. Community visitors meet with children and young people admitted to an adult AMHS generally within 72 hours of being notified by the AMHS.

In 2018–19, community visitors made 208 visits to an AMHS, of which 147 were to children and young people in adolescent and child AMHS. The remaining 61 visits were to children and young people in adult AMHS, which is an increase of 15 per cent on the 53 visits in 2017–18.

From these visits, community visitors raised 59 issues across a range of themes. During the same period, 56 issues were resolved. A large majority of the issues raised related to children and young people placed in the adult AMHS (41 of 59 issues raised).

The nature of these 41 issues raised for children and young people in adult AMHS are shown in the table below.

Nature of issue	Total
Health needs	18
Placement	9
Behaviour management	5
Social needs	3
Safety	2
Intervention	2
General service delivery issues	1
Disability needs	1

Seclusion and restraint of children in authorised mental health services

Under section 274 of the *Mental Health Act 2016*, the Public Guardian is required to be notified whenever a child 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 required to be reviewed and followed up by a community visitor whenever any issues are identified. When a community visitor engages with a child admitted to an AMHS, they will review and assess the use of seclusion and restraint. However in practice the notifications are provided to the Public Guardian monthly, and often individual young people to whom a notification applies have already been discharged from the AMHS before OPG received this information. In 2019–20, OPG will continue to work with the Chief Psychiatrist to increase the frequency of these reports so that the we can send a community visitor to see the child or young person and ensure their human rights are being protected, in particular where restraint is being used.

That said, an analysis of the notifications to date have given rise to concerns about the number of children and young people who are being subjected to such practices in AMHS, and whether the application of these practices is appropriate under the *Mental Health Act 2016*. Community visitors will review the instances of the use of restrictive practices and seek clarification to ensure use is appropriate within the context of the *Mental Health Act 2016* and the relevant policy and practice directions issued by the Chief Psychiatrist. Where the Public Guardian is concerned that the use of seclusion or restraint is inappropriate, the Public Guardian may refer the matter to the Health Ombudsman.

This year the Community Visitor Program focused on how OPG uses information gained from reviewing episodes of seclusion and restraint of children in an AMHS. This is a key area of focus for OPG, and community visitors will be more deeply involved in interrogating and advocating on these issues on behalf of children and young people in 2019–20.

Key themes in advocacy for children and young people

As well as the issues discussed above, there are a number of key areas that continue to be a focus for our teams focused on child advocacy.

Youth justice

Community visitors visit and speak directly to children in Queensland’s two youth detention centres in Brisbane and Townsville. Community visitors also currently visit the Brisbane City Watch House (visits commenced in September 2018) to independently monitor safety and wellbeing and to advocate for the rights and best interests of children and young people.

Until November 2018, community visitors also visited 17 year olds held in adult correctional facilities. However OPG is not aware of any 17 year olds being held in these facilities since this date, when we were advised that they had all transitioned either back to youth detention centres or out of adult facilities. On that basis, no visits have occurred to adult facilities since November 2018.

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. OPG remains concerned by the high proportion of children visited in youth

detention who are on remand, meaning they are detained without their case having been finalised, in many cases because there is no one to care for them within the community.

In addition to visiting children in youth detention centres and the Brisbane City Watch House, community visitors also conducted 83 visits to supervised community accommodation services. Supervised Community Accommodation (SCA) locations include Townsville, Carbrook and Logan Reserve. These facilities offer eligible young people who have been charged with an offence the opportunity to receive the support they need to attend school or vocational education, complete rehabilitation programs, adhere to curfews and meet other conditions.

Community visitors remain particularly concerned about the lack of access to the NDIS for children and young people both in youth detention centres and in watch houses, given the high prevalence of intellectual disability and neuro-developmental delay. Access to appropriate post-trauma support and mental health support are also key concerns for children and young people in these settings.

A breakdown of the issues raised by community visitors to youth detention centres and Brisbane City Watch House can be found in Appendix 2, Tables 6 and 7 (pg.106).



Watch houses as places of detention

The use of watch houses to detain children and young people on remand has been publicly acknowledged since the practice began in March 2018. After that period, the numbers of children held and the period of their detention reached alarming numbers, and stays regularly exceeded three weeks, with one child held in the Brisbane City Watch House for as long as 42 days. At the time of writing this report, numbers of children and their length of stay has significantly decreased, however it remains the case that Watch houses across the state are being used to detain children and young people for periods longer than what is acceptable.

The focus of visits to watch houses by OPG community visitors is centred on advocating for the human rights and interests of every child held. OPG has continued to focus on pro active and supportive advocacy regarding appropriate service delivery to support needs, fair and humane treatment, and the timely transfer or release from a watch house environment.

OPG continues to assert that the watch house environment is against the best interests of children and young people and can jeopardise their safety and psychological wellbeing. By design, a watch house is not appropriate to meet children's needs. This is particularly relevant in view of the over-representation of Aboriginal and Torres Strait Islander young people, and the prevalence of trauma and disability among these children. OPG is currently engaged in a range of advocacy strategies to increase the ability to independently monitor safety and wellbeing of children and young people detained in watch houses and advocate for their best interests with service providers in the child safety and youth justice systems.

Overall youth justice themes

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

The over-representation of Aboriginal and Torres Strait Islander young people in care and in the youth justice system continues to dominate OPG's concerns.

Complementary youth justice advocacy

Similarly, a strong area of focus for the Legal Services Children and Young People team this year has been advocating for children and young people involved in the criminal justice system. Child advocate legal officers support the work of a direct legal representative (criminal defence lawyer). In many cases, this means advocating for the young person to have a place to live with appropriate supports to assist in their application for release on bail.

The work of child advocate legal officers includes:

- providing contextual information about the child/young person's experience of the child protection system. This may include placement instability, periods of homelessness, disengagement from education, and availability of meaningful social service supports.
- providing information about the child/young person's family background. This may include experiences of trauma, lack of supervision, neglect or abuse.
- advocating for appropriate placement in the community along with associated therapeutic and social services to support successful applications for bail.
- advocating for assessments of capacity and fitness to plead, including diagnosis to support access to the NDIS.
- assisting in negotiations with the prosecution, including making public interest submissions for children/young people charged with offences such as wilful damage in residential care.
- supporting direct lawyers, where relevant, to make arguments of *doli incapax*, that the child is not capable (by reason of age or capacity) of being held criminally responsible.

Work to reduce preventable police call-outs to residential care services

In 2019, the Queensland Family and Child Commission, OPG, the Department of Child Safety, Youth and Women, Queensland Police Service, Queensland Health and non-government representatives committed to improving responses to children living in residential care by addressing the issues that result in the unnecessary involvement of police, and providing strategies to prevent police involvement where other responses are more appropriate. The resulting Joint Agency Protocol (the Protocol), recognises that children can rightfully expect to be cared for within a trauma-responsive system that does not criminalise behaviours resulting

from previous experiences of neglect or abuse. Children should receive responses that do not stigmatise them, label their behaviours as criminal, or adopt a criminal response to actions that would not be criminalised in a family home.

During 2018–19 the Legal Services Children and Young People team have worked to embed the Protocol to reduce preventable police call-outs to residential care services' into their complementary youth justice advocacy. This has included:

- supporting advocacy for children/young people not to be charged or charges discontinued or dismissed when the Protocol has not been followed
- supporting advocacy for police interviews to be held inadmissible where the child/young person's rights were not met (for example, where a residential service worker was the support person for the young person in the interview and was also the witness or complainant in the matter)
- raising awareness of the Protocol, its intentions and content
- writing letters in support of residential services and individual workers where the Protocol has been followed
- making formal complaints where the Protocol is not being followed.

Education advocacy

When children and young people are unable to access education due to a decision made by a government school to, for example, suspend, exclude or refuse to enrol a child who is also in the child protection system, the child advocate legal officer can assist to seek a review of that decision, including to appeal or review long suspensions, exclusion or decisions not to enrol.

OPG's aim is to increase referrals received for education advocacy, and this will continue to be a focus for the Child Advocate Legal team in 2019–20. To achieve this, the Children and Young People Team will work on clarifying and streamlining the referral process, building stakeholder relationships, and increasing awareness of the child advocate legal role.

This work has commenced, with participation in the PeakCare Education Working Group and connection with BOOST meetings regionally. BOOST is a collaborative steering group established to gather and analyse baseline data and scan existing research and evidence relating to systemic and practice issues impacting on education outcomes for students in out-of-home care — the 'Boosting Educational Outcomes for Children in Out-of-Home Care Team'. As a result, OPG has

already seen significant positive outcomes in education advocacy, allowing young people to enrol or remain in the school of their choice.

Immigration advocacy

The Children and Young People Legal Team is collaborating with stakeholders to look into improving practice responses to children and young people with problematic immigration status. Failing to clarify immigration status has an impact on the ability of a child from another country in the child protection system to legally remain living in Australia and to access government assistance. When a child is taken into protection and is not an Australia resident, the child protection system has an obligation to address their immigration status. While referrals for these issues aren't high in volume, they are extraordinarily complex and, importantly, have a significant impact on the rights and interests of children and young people.

For this reason, OPG will continue to focus on this matter in response to the recent child protection legislative reforms in relation to permanency/stability and transition to adulthood. Work has begun on developing practice guidance to support children and young people affected by this complex area of law. Over the next year, OPG will look to implement this practice guidance and strengthen stakeholder relationships to assist affected children and young people in a timely way.

Health needs advocacy

Throughout the 2018–19 period the Community Visitor Program advocated for an improvement in health outcomes for children in out-of-home care. Of particular concern was the inconsistent approach to informing foster carers of appointments for children, as the result is missed appointments and a subsequent delay in the child's treatment. On occasions the delay in treatment was extensive.

Monitoring case plans

The Community Visitor Program continues to monitor the completion and updating of case plans in relation to children and young people in care, particularly looking at whether or how the views of the child or young person have been considered in their formulation. Case planning is an integral element of achieving the best outcomes for the child. OPG is concerned about inconsistent practices in relation to both the content and timeliness of updated case plans for children in care.

In conversation with...

Sally

Child Advocate Legal Officer



What does your role involve?

As a child advocate I advise children about their rights and assist them to participate in decisions and legal proceedings that affect them. I ensure their voices are heard in meetings and in court and tribunal proceedings and help them make complaints if they feel their rights have not been respected or honoured.

What is your professional background?

I studied law and became a commercial litigation lawyer in a large national law firm before working at the Australian Competition and Consumer Commission. After a career break to have children, I became interested in the law which affected children. So I began working with the Youth Advocacy Centre which then led to the opportunity to become a child advocate legal officer at OPG.

What does your typical work day look like?

In the morning you will mostly find me out of the office visiting children and young people in the child protection system to talk about any legal issues they have. My role is listen to their views and wishes and then to advocate for those to be considered in the decisions made about their life. I might meet them in their home before they go to school or, if they are in youth detention, I will travel to visit them there. After my visits, I grab some lunch on the way back to the office and then my afternoons are usually spent following up with clients after school or making appointments to visit them, gathering information from other professionals and negotiating with decision makers. There are always new referrals to review, emails to process and admin tasks to complete.

What challenges have you faced in your role?

I find it hard not to get too emotionally involved! We are privy to a lot of detail about the trauma that our children or young people have experienced, which is challenging emotionally. It is important to maintain work-life balance and look after yourself so you can continue to advocate successfully.

What is the most inspiring thing you've seen or been part of at OPG?

Experiencing the moment where a young person 'finds their voice' and speaks out about what they think and want to happen in their lives. They are almost always nervous beforehand but visibly empowered afterwards. There is a view among some adults that children need to be 'protected' from involvement in decisions about them, particularly if the children have experienced trauma. However, children are experts in their own lives and we need to listen to what they have to say. It can only improve the decisions being made if we understand what they are thinking and where they are coming from.

When have you played an integral role in promoting and protecting our clients' human rights?

I had a client recently who was referred to me because a decision had been made which resulted in him not being allowed to visit his brother who was living with a different foster carer. My client was upset about this decision as he was worried that his brother was being mistreated by his foster carers. So I supported my client to apply to the Queensland Civil and Administrative Tribunal to review this decision. This was reviewed by Child Safety and a decision was made to allow his brother to live with my client and his foster carer. Now he gets to see his brother every day!

What is the best part of your job?

Getting to work with wonderful children and young people. They inspire me daily with their courage and bravery in spite of the challenges they face.

Appropriate placement matching

The appropriate matching of the child or young person with a suitable foster carer or residential care placement continues to present as an ongoing advocacy challenge for OPG. The increasing number of children in care, along with a relatively static number of available foster carers, has resulted in increased advocacy for OPG about appropriate placement matching. We have specific concerns about the displacement of sibling groups, safety in the residential care setting, and the criminal behaviour occurring in residential sites.

Contact arrangements

Community visitors discuss the children and young people's views and wishes to ascertain that their human rights are being upheld in regard to their contact arrangements. This includes contact with parents, siblings, family members and other important people in their lives. This is key for the Community Visitor Program given the importance of connection for children and young people, particularly those who are most vulnerable and may be subject to multiple placements.

OPG continues to focus on situations where children and young people have expressed a wish to have contact or increased contact with their siblings in another region. In such instances, community visitors have worked with the relevant Child Safety Service Centre, other departments and the foster carers to advocate for the contact to occur.

Working with external bodies to advocate for children and young people

Referral of complaints for children and young people

In July 2017 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 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 is to manage child safety issues and complaints raised by OPG. It also recommended adopting a coordinated approach by Child Safety and OPG towards capturing child safety complaints data so trends and systemic issues are easily identified.

The MOU's ongoing purpose is to detail an agreed understanding and process of:

- what matters should OPG refer to the department as complaints
- how OPG formally refers complaints to the department and how they are actioned under the department's and OPG's existing complaints management framework
- how complaints are recorded in the department and OPG's respective data systems to ensure data comparability 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 2018–19, OPG made or referred 133 formal complaints on behalf of children and young people under the MOU.

It is critically important to note that advocating a matter for a child or young person cannot be substituted by making a formal complaint on their behalf. The agency's legislative remit is to advocate for an outcome for the child. Raising a complaint with the agency's central unit at the same time is a way of alerting management to problems within the system that require broader attention. As a result, community visitors and child advocate legal officers will often raise a complaint as well as continue to advocate for a changed outcome for a child.

Sharing information for better outcomes

At OPG we understand that the ability to better share relevant information between key agencies can only be of benefit to the children and young people we are all working together to support.

Better systems for obtaining information from the Department of Child Safety, Youth and Women (DCSYW)

OPG is currently undertaking a significant IT project to combine our child and adult data into a single data base – Resolve. An important aspect of this project will be the capability for DCSYW to transmit information directly from their child safety (ICMS) database to Resolve. We currently receive it manually from DCSYW which means information can take a week or two to be entered into our system, and may be incomplete. When the new system is up and running, our data will be updated almost in real time, which will allow community visitors

to have greater visibility over issues they are trying to resolve, and receive timely alerts on matters impacting the children and young people they are advocating on behalf of.

OPG's participation in the 'Our Child' database

The Our Child Project was established as a result of a recommendation accepted by Government in response to the Queensland Family and Child Commission whole-of-government systems review and report of arrangements in place for children missing from care (*When a child is missing, Remembering Tiahleigh – A report into Queensland's Children missing from out-of-home care*).

The 'Our Child' project's purpose was to establish a platform enabling specific government agencies to share and access relevant and timely information held by these agencies about an individual child when that child is reported as missing to police. This culminated in the Our Child database.

OPG is committed to achieving the Our Child Project's intended purpose as an imperative to promoting and protecting the safety and wellbeing of Queensland's children and young people. This extends to ensuring that children and young people's legal rights are not inadvertently compromised as a result of this platform. OPG is also committed to the sharing of information

wherever possible to support the wellbeing and administration of human rights to children and young people.

Strengthening our processes to better support children and young people

Practice framework and practice guidance development

The Legal Services Children and Young People Team has created a comprehensive internal framework to guide practice. An enormous amount of work has been done to deliver a suite of tools, templates, precedents and a 'how to' guide for the child advocate role. The team uses this guidance on a daily basis to improve practice quality and consistency. These resources allow a clear foundation to build awareness and understanding of this unique role, both for new starters and for internal and external stakeholders. The next steps are to complete this project, to consult and share findings, and to update and maintain resources as legislation changes. The framework has already been presented to the GForce Participation Forum, with positive feedback received particularly from the CREATE Young Consultants. A challenge for the next year will be incorporating the requirements of the new *Human Rights Act 2019* into our practice framework.



Aboriginal and Torres Strait Islander children and young people

Aboriginal and Torres Strait Islander children and young people are a priority population group for 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. As at 30 June 2019, 3,230 (41 percent) of OPG’s child clients identified as being of Aboriginal and/or Torres Strait Islander status.

An internal workshop was held on the extensive child protection legislative reforms relating to safe care and connection and in the coming year the Children and Young People Team will be working on developing practice guidance to support child advocate legal officers to advocate in line with the Indigenous Child Placement Principle and in relation to effective cultural planning.

Aboriginal and Torres Strait Islander children and young people clients as a percentage of all children and young people assisted

Age group	Aboriginal and Torres Strait Island people	Non-Indigenous people	% of children and young people assisted
0-4	3	1	75%
5 to 9	9	18	33%
10 to 14	55	87	39%
15 to 17	41	60	41%
Unknown	0	3	0%
Total	108	169	39%

The Community Visitor Program completed 51 visits to discrete Indigenous communities during this financial year. Throughout the year, OPG visited 84 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 Appendix 2, Table 8 (pg. 107).

Child advocate legal officers assisted 108 Aboriginal and Torres Strait Islander children and young people in 2018–19. A breakdown of our representation of Aboriginal and Torres Strait Islander children and young people as a percentage of all children and young people assisted is shown in the table below.



Advocating for adults with impaired decision-making capacity

Queensland’s Public Guardian advocates for the human rights of adults with impaired decision-making capacity by giving a voice to those who are too often silenced.

OPG does this through three key functions: Guardianship, Investigations and the Adult Visiting Program. But while our staff may have different titles, they work together with the common goal of promoting and protecting the human rights of vulnerable adults, and preventing or addressing discrimination, abuse and neglect.

Overview of the Guardianship function

In Queensland, as in other jurisdictions, a guardian’s role is to promote and protect the rights of adults who the Queensland Civil and Administrative Tribunal (QCAT) have declared are unable to make their own decisions due to a lack of decision-making capacity. When QCAT has deemed an adult to have impaired decision-making capacity, the Public Guardian can be appointed an adult’s guardian only 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*
- 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 lives
- 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
- day-to-day issues, including, for example, the adult's diet and dress
- health care for the adult
- with whom the adult has contact and/or visits
- provision of services for the adult
- legal matters (not relating to the adult's financial or property matters).

An adult can also nominate the Public Guardian to act as their attorney for personal/health matters under an enduring power of attorney.

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.

OPG has a responsibility to try to make the decision that the person would have made for themselves if they could still make that decision. This is achieved (wherever possible) by making sure decisions are in line with the adult's views and wishes, which in turn allows OPG to help them maintain their dignity and self-determination.

For this reason, delegate guardians make every effort to understand the person's views and wishes. Just because a person cannot communicate verbally does not mean there is an impediment to this communication occurring. In such situations, delegate guardians are obliged to follow practice guidance on engaging with clients who are non-verbal.

OPG also focuses on ensuring existing supportive relationships, whether with friends, family or service providers, are kept in place and that, if a person cannot truly communicate their views and wishes, then the views and wishes of friends and family are also taken into account. At all times staff are guided by the General Principles and Health Care Principle of the *Guardianship and Administration Act 2000*.

OPG applies 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.

In the 2018–19 reporting period, 96.8 percent of guardianship decisions on personal and healthcare matters were made in consultation with the client/interested persons. There are sometimes situations when we aren't able to consult with an adult. Examples

would be when they are unconscious, the impairment is so severe they can't provide any meaningful views, the decision is so urgent that there is no time for full consultation, or the adult may refuse to engage with us at the time the decision needs to be made.

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). In 2018–19, 3,245 adults in Queensland were under the guardianship of the Public Guardian, as appointed by QCAT. Of these, 863 were new guardianship appointments.

Appointment types and duration

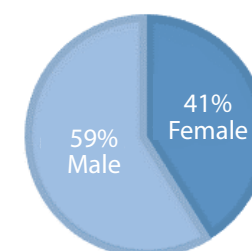
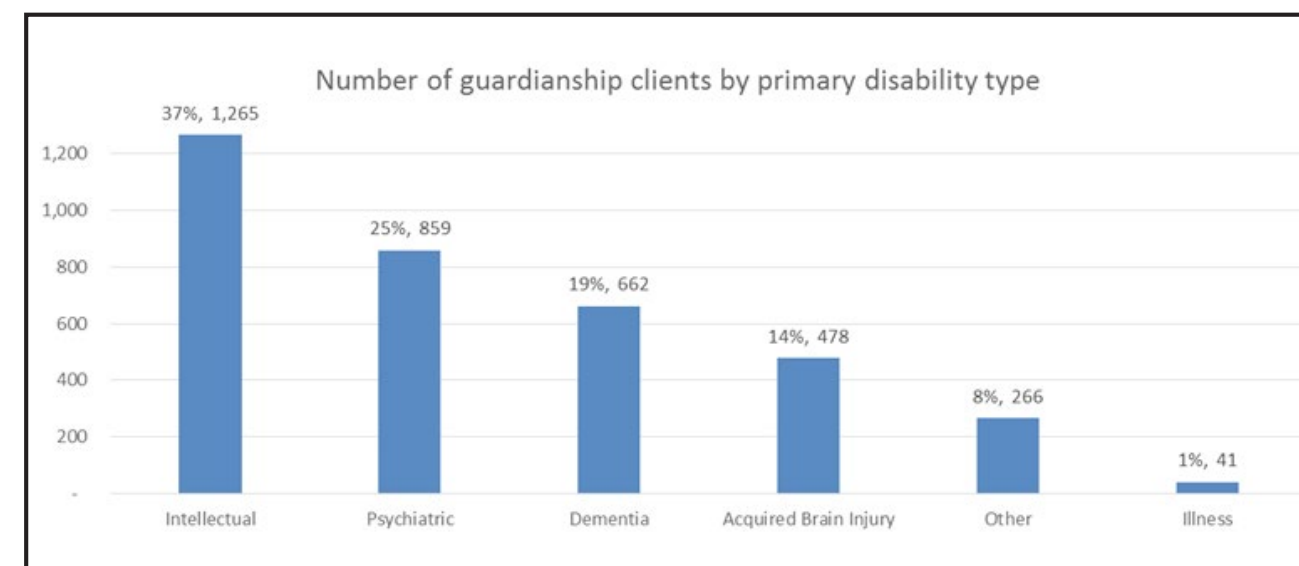
The majority of QCAT appointments were for three years or less (90 percent). This represents an increase on the 86 percent of full orders (that is, any order that isn't an interim order) made for three years or less in 2017–18. The remainder of the QCAT orders in 2018–19 were for more than three years, demonstrating a decrease of four percent of longer-term orders since the previous year.

In 2018–19, there were 331 interim appointments issued due to an immediate risk of harm to the adult's health, welfare or property, including risk of abuse, exploitation, neglect (including self-neglect).

Of the new interim appointments, approximately half (168) were immediately followed by a QCAT hearing decision that the person should be under a

longer-term guardianship order. A large number of the interim appointments 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 receive a QCAT hearing date, a number of applicants sought an interim appointment for the adult to have decisions made so they could be discharged from hospital. This last issue is a particularly concerning one for OPG. Firstly we believe this circumnavigates the intended processes set out in the *Guardianship and Administration Act 2000*, which are that interim orders are to be used in genuine emergencies. Secondly it has an unintended but very significant impact on OPG's resourcing as guardians need to be reassigned from other clients to respond to the interim order (as the interim order is prefaced on the need for urgent action). When in fact the adult subject to the order is actually quite safe. Guardianship resources are then also needed to prepare for and attend the full hearing, which follows soon after.

Profile of Guardianship clients



Gender of guardianship clients



Average age of guardianship clients



Percentage of guardianship clients who identify as Aboriginal or Torres Strait Islander



In conversation with...

Shelli Pre-Advocacy Team



What does your role involve?

My role monitors the flow of incoming orders into OPG by providing education to people involved in QCAT hearings and working with alternative decision-making frameworks to ensure the least-restrictive orders are made. I also oversee the Pre-Advocacy Team and implement the QCAT strategy across the office.

What is your professional background?

I studied psychology and worked for a not-for-profit organisation prior to joining OPG 12 years ago. In my previous job I had a great deal of exposure to people with impaired decision-making capacity, so I decided that I'd like to work with the Adult Guardian (now known as the Public Guardian) to further explore this. At OPG I have spent time in general guardianship, as well as many years in the restrictive practices/positive behaviour support team, before recently taking on my role with the pre-advocacy team.

What does your typical work day look?

A typical day in my role consists of attending and coordinating the team to attend multiple QCAT hearings either via phone or in person to advocate for the rights and interests of adults for whom the Public Guardian has been proposed as a decision maker. I can attend up to five hearings per day, and in this space provide Tribunal Members with advice and recommendations about the legislative requirements of the roles and functions of the Public Guardian. Our presence at QCAT hearings also includes an education aspect for other hearing attendees to emphasise that the Public Guardian should only be appointed for necessary personal and/or health matters as a last resort.

What is the most inspiring thing you've seen or been part of at OPG?

One of the most inspiring things I have seen in recent times is one of our staff members become an expert in attending matters about child safety referrals for young adults about to exit out-of-home care. To watch their passionate advocacy around ensuring the least-restrictive orders are being made for these young people and getting outcomes with limited need for involvement is truly what this team is all about.

When have you played an integral role in promoting and protecting OPG clients' human rights?

Just recently, OPG was proposed as a decision maker by a nursing home for an elderly man named Allan (not his real name). Allan expressed to the nursing home staff that he was worried about what his daughter was doing with his money. When the care staff started asking the daughter questions about Allan's money, the daughter quickly removed Allan from the nursing home and the daughter's husband then became his full-time carer and claimed the carers' allowance.

At the QCAT hearing I attended, it was evident that Allan was being influenced by his daughter and his son-in-law and Allan was not being given the opportunity to voice his own views. So I requested that the matter be adjourned and that the Tribunal member appoint an advocate for Allan so he could express his views and wishes without his daughter's influence. However, at the second hearing it was evident that the daughter and son-in-law deliberately obstructed and refused to allow the advocate to engage with Allan. Although this case is ongoing, I am determined to ensure Allan's voice is heard and to make recommendations about his needs regarding decisions and appropriate decision-making pathways for him to ensure he is protected in his final years of life.

What is the best part of your job?

Being part of a tight-knit team that consistently ensures that the rights, interests and wellbeing of people with impaired decision-making capacity are adequately and appropriately debated and held to a standard of scrutiny. This ensures that they are protected in a way that they deserve and are given every opportunity to have the same freedom of choice and human rights like the rest of society. I love walking out of a hearing knowing that my actions and representations have led to an adult having greater control over what they are capable of managing on their own, and ensuring that they are adequately protected when needed.

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 formal guardianship by the Public Guardian as the Public Guardian should only be considered a guardian of last resort. This action is taken to ensure the least-restrictive approach and shortest impact on a person's human rights from the imposition of a substituted decision-maker.

Consistent with previous years, QCAT appointments to make decisions about accommodation, service provision and healthcare continue to be the three most-common areas of appointment for the Public Guardian in

2018–19, making up 79 percent of appointment types. For a detailed breakdown of appointment decision types, please see Appendix 2, Table 9 (pg.108).

The role of the Pre-Advocacy Team

The Public Guardian is a party to all guardianship hearings at QCAT. The role of the Pre-Advocacy Team is to promote vulnerable people's human rights by providing information before the hearing to QCAT applicants who have applied for the appointment of the Public Guardian. They also provide submissions to QCAT on behalf of the Public Guardian regarding the need for the guardianship appointment. This is a vital advocacy role because it is designed to ensure that, in accordance with the *Guardianship and Administration Act 2000* and human rights principles, the Public Guardian is only appointed as a last resort and in the least-restrictive manner. OPG recognises that having a formal decision maker can impact an adult's human rights so, wherever possible, the Pre-Advocacy Team will advocate for less-restrictive measures (for example, informal decision-making support instead of a formal substituted decision maker) in line with the legislation. Less-restrictive measures include 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 during 2018–19, with the Pre-Advocacy Team attending 750 hearings, of which only 369 (49 percent) resulted in the Public Guardian being formally appointed by QCAT. The team also focuses 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 four percent decrease in appointments over three years. OPG is committed to ensuring formal guardianship is only ordered when absolutely necessary due to the human rights implications of removing a person's autonomy to make their own decisions.

Additionally, the Pre-Advocacy Team also advocates at QCAT to ensure the Public Guardian is only appointed to make decisions for necessary personal matters. For example, it is often unnecessary for the Public Guardian to be appointed to make decisions in the area of health care, as OPG can already provide consent for health care matters as a person's Statutory Health Attorney pursuant to section 63 of the *Powers of Attorney Act 1998*. A Statutory Health Attorney is less-restrictive than formal guardianship, and ensures the person otherwise retains their right to self-determination. During the past 12 months, this work has seen a significant decrease in the Public Guardian being appointed in unnecessary decision making areas, resulting in greater protection and promotion of the human rights and autonomy of vulnerable people.

The Pre-Advocacy Team's work is also helping to raise community awareness about the guardianship process, and when formal appointments are appropriate. This is because the team is able to identify when large numbers of applications are made by a particular agency or service provider. The team then makes direct contact with them to discuss the reasons for the large number of applications, and identifies where less-restrictive measures might be a better solution. The team will also offer and provide education sessions to the organisations, so they gain a better understanding of human rights and the role and functions of OPG. Similarly, by having discussions with family and friends of an adult for whom a guardianship application has been made, they can help those people better understand the decision-making process.

Acting as a decision maker under an Enduring Power of Attorney

The Enduring Power of Attorney Project initiated by the Guardianship division was tasked with reviewing all Enduring Power of Attorney documents and Advance Health Directives appointing the Public Guardian as the attorney (decision maker) should the principal lose decision-making capacity. The project was completed in the 2018–19 financial year, resulting in the formation of a position which is housed with OPG's specialist Pre-Advocacy team to proactively manage the ongoing currency and accuracy of these enduring documents.

As at 30 June 2019, OPG holds 2,326 inactive Enduring Power of Attorney documents, and during 2018–19 we had 65 active clients who had nominated the Public Guardian as their attorney for personal/health matters.

Advocacy and decision making for adults in relation to legal matters

QCAT can appoint the Public Guardian to support a person's decision making about legal matters (not relating to the adult's financial or property matters).

During 2018–19, QCAT ordered 104 new appointments of the Public Guardian for guardianship decisions regarding legal matters, and 357 legal matters were closed for 102 guardianship clients. At the end of 2018–19, there were 226 guardianship clients with 450 ongoing legal matters. As the graph shows, the majority of these were criminal matters, followed by mental health and child protection issues. It should be noted that adults under Public Guardianship can have multiple legal matters being progressed at the same time.

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. OPG's advocacy for adults in legal processes is a critical

safeguard to ensure vulnerable people's rights are upheld and 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 affect their rights, such as being:

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

Where QCAT appoints the Public Guardian for legal matters affecting an adult, OPG will work with the adult to make decisions to progress their legal matters (other than those relating to financial issues). Delegate guardians do not provide direct legal representation. However, they are legally trained and work in collaboration with other delegate guardians from OPG's general guardianship area who are appointed for health care, accommodation and other personal matters.



When it is identified that a client has a legal matter, OPG will:

- ensure that the person has appropriate legal representation and that the legal representative engaged to conduct their matter has an understanding of their 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; particularly so they can present their point of view about what decisions they would like made
- support them to understand what is happening (to the greatest extent possible)
- make decisions about the conduct of proceedings that a client would make if they had capacity, and provide instructions to the engaged legal representatives. To the greatest extent possible this is done in line with the client's own expressed views and wishes.

Additionally, the Adult Team has worked on recording decisions across 2018–19. The most decisions for legal matters relate to criminal matters, with the next-highest area of decision making relating to child protection legal matters. A full breakdown on the number of decisions made by type can be found in Appendix 2, Table 10 (pg. 108).

Overview of the investigations function

People with impaired decision-making capacity are among 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, and 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 work of OPG's investigations team is predominantly focused on investigations into elder abuse, with increasing numbers of referrals being received due to raised community awareness of this issue. The team has prioritised direct community engagement with stakeholders such as financial institutions and the Queensland Police Service to improve understanding of the role of the team and to support effective referral pathways.

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:

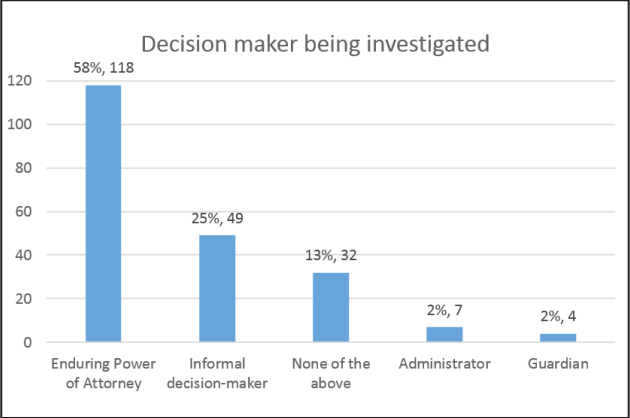
- requiring people to produce financial records and accounts
- gaining access to any relevant information, such as medical files
- cross examining witnesses
- issuing a written notice ordering a person who has been uncooperative to attend OPG offices at a stated time and place, give information, answer 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. When 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; our role is complementary to it. A referral to the police will determine whether any criminal charges should be brought against any person in relation to identified conduct.

Investigations opened

During 2018–19, 210 investigations were opened and, as at 30 June 2019, there were 181 active investigations. As the graph below shows, in more than half the cases the decision maker being investigated held an Enduring Power of Attorney. Seventy nine percent of investigations related to people aged 65 or older.

Decision maker being investigated

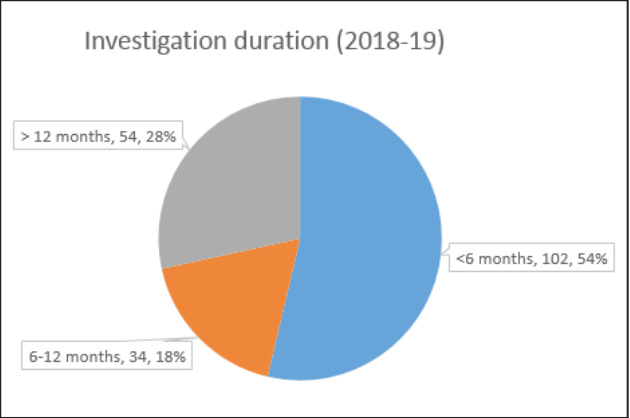


Investigations closed

OPG closed 60 investigations on the basis that a QCAT application was made, either by 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 18 investigations were closed after the Public Guardian suspended the attorney. The Investigations team ceased investigations on 50 matter because the matters were outside of OPG's investigative powers or a preliminary inquiry revealed there were insufficient grounds to proceed with a full investigation. For a full breakdown of reasons for closure, see Appendix 2, Table 11 (pg.109).

Almost 55 percent of investigations were closed in less than six months (including investigation closed because they were outside of OPG's investigative scope), but the complexity of many cases the investigations team receive means investigations can take up to a year or longer. OPG is seeing an increase in the number of complex cases and, therefore, more cases are taking longer to finalise.

Time frame for investigations



Overview of the Adult Community Visitor Program

The Adult Community Visitor Program promotes and protects the rights and 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 NDIS Quality and Safeguards Commission; the Department of Communities, Disability Services and Seniors (DCDSS); the Department of Child Safety, Youth and Women; Queensland Health; or the Residential Services Accreditation Unit in the Department of Housing and Public Works.

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 disability transitioning out of care where their community visitor can continue to visit and support them into adulthood (when they're transitioning to live at a place which is classified as 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 2019, OPG had 72 community visitors visiting adults. Of these, six are adult-only visitors and 66 are dual visitors.

Visitable sites

Visitable sites fall into six categories:

- disability accommodation provided or funded by the DCDSS or places where people receive funding to live from the NDIS
- 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.

In conversation with...

Vanessa Investigator



What does your role involve?

As senior investigations officer I conduct investigations into allegations of abuse, neglect or exploitation of adults with impaired decision-making capacity and undertake protective activities and advocacy on their behalf. I also undertake investigations into the actions of personal and financial attorneys appointed under an Enduring Power of Attorney, or persons acting as informal substitute decision makers.

What is your professional background?

I hold a Bachelor of Behavioural Science (Psychology) and I have completed Honours in Psychology. For as long as I can remember I have had a genuine passion and interest in human rights and am driven to support others to 'find their voice', particularly when they have faced various adversities and challenges in life. I previously worked at Child Safety. I ended up at OPG because I felt that it was an organisation that truly valued its clients and protected their rights.

What does your typical work day look like?

My day will change depending on whether I am in the office or out on visits for my investigations. If I am in the office, I am often writing investigation reports, responding to emails and requesting copious amounts of information in order to investigate concerns raised within a case. When I am out of the office, I visit adults and their carers or attorneys to ensure the adult is safe, happy and their rights are protected. I will often speak with adults alone (if they are comfortable with this) to ensure they are able to speak openly and honestly with me about any worries they have. If the adult is non-verbal, I will change my approach to align with how the adult communicates.

What are some challenges you've faced?

Our team has a large number of active investigations so I am often faced with the challenge of completing many, many tasks in a short amount of time. If an adult is at immediate risk of harm, however, this investigation becomes my priority to ensure they are safe and their interests are protected. It is essential that I manage my time effectively to ensure each investigation is completed in a timely manner and to a high standard.

What is the most inspiring thing you've seen or been part of at OPG?

The first thing that comes to mind is a colleague of mine working endlessly to support a client to leave a situation where they were being physically, emotionally and verbally abused. Unfortunately, due to the high-risk situation, this required the execution of a warrant. However, my colleague implemented the warrant in such a thoughtful and innovative way which resulted in minimal to no stress for the client. My colleague developed a respectful and genuine working relationship with the client, and he truly trusted her to do her job and help him. The client is now living elsewhere and is excited to be learning new skills and gaining independence.

When have you played an integral role in promoting and protecting OPG clients' human rights?

Quite recently, I conducted an investigation in relation to a gentleman in his early 60s called Ian (not his real name). Ian was diagnosed with an intellectual disability and he was residing with a carer who was not providing him with enough things to do, nor were they arranging adequate support services for him. There were also concerns about physical assault, and he desperately wanted to make new friends. After visiting Ian, I applied to QCAT for an interim order seeking the appointment of the Public Guardian for his personal and health care decisions and the Public Trustee regarding his finances. Thankfully, this was granted. Through collaboration with my colleagues in guardianship, this lovely man is now residing in a supported independent living arrangement and he is reportedly happy and doing well.

What is the best part of your job?

It sounds corny but the best part of my job is making a meaningful difference in someone's life. There's no better feeling. It's that simple.

Visiting frequency

Visits to these sites are quarterly unless otherwise directed by the Public Guardian, or if someone has requested a visit outside the usual schedule (see below). A full breakdown of number of visited sites by sector and service sector can be found in Appendix 2, Tables 12 (pg.109) and 13 (pg. 110).

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 OPG continually works with service staff to understand their obligations to contact the Community Visitor Program if a consumer requests a visit from us.

During 2018–19 community visitors conducted 5,343 visits to 6,601 adults at 1,380 sites.

Announced versus unannounced visits

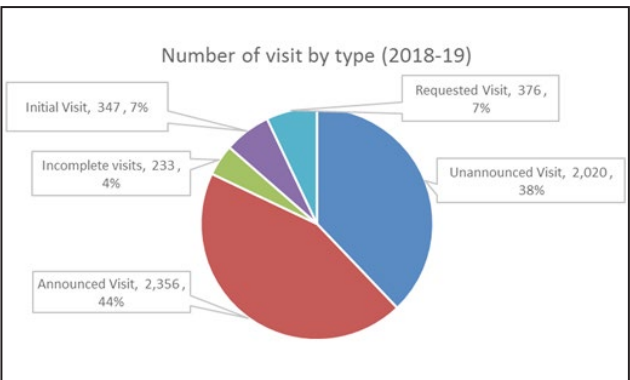
The *Public Guardian Act 2014* empowers community visitors to utilise both announced and unannounced visits to perform the community visitor's functions. This year's annual report reflects a sharp increase in the number of announced visits conducted by community visitors (more than double the number of announced visits conducted than in the previous financial year). This approach has resulted in the following positive outcomes:

- an increased likelihood of the residents being home when the community visitor visits
- increased capacity to uphold an individual's human rights through the increased ability to expressly obtain their views and wishes about decisions and matters affecting them
- increased levels of understanding relating to an individual's daily routines and demonstrated respect for an individual's right to privacy (noting the residence is considered to be an individual's home)
- site information that may be necessary to form an accurate account of a situation or issue is easier to gather.

While the number of unannounced visits has, therefore, declined during the reporting period, unannounced visits are still considered vital to the community visitor function and helps OPG gather accurate information and observations as required. For example, a community visitor will conduct an unannounced visit when it is considered that this approach may offer a more accurate perspective of the appropriateness of regular support or personal care, or to support understanding of the wellbeing of an individual residing in that site. An unannounced visit might also be considered to verify claims made during announced visits relating to services

being provided or if the community visitor has concerns about the services being provided, or an individual's wellbeing.

Number of visits by type (2018-19)



Note: a visit is generally classed as incomplete if no one was at the location or if, upon the community visitor's arrival 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 reports 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 2018–19, no 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 245 visits to visitable sites on weekends.

Issues raised by community visitors on an adults' behalf

Through our visits, community visitors identified 2,301 issues on behalf of residents at visitable sites. This is an eight percent increase on last year's figures. For a detailed breakdown of issues identified on behalf of adults at visitable sites see Appendix 2, Table 14 (pg. 110).

Additionally, during 2018–19 community visitors conducted 545 visits across 84 authorised mental health services, raising 496 issues.

Appropriateness of accommodation

This year 15 percent of issues raised by community visitors were in relation to the appropriateness of 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 a one percent decrease on last year. Community visitors frequently also advocated for additional equipment or furniture to support the development of our clients' independence and life skills. Finally, community visitors observed and reported to the service providers on matters affecting a person's

security, such as broken windows, doors or fencing, or issues relating to the integrity of locks, gates or windows.

Monitoring health care needs or treatment plans

The adults that OPG frequently visits often require medical intervention, including periods of hospitalisation for mental or physical illnesses. During 2018–19, nine percent of all issues raised by community visitors related to the adequacy of monitoring healthcare needs and treatment plans by service providers. This represents a substantial increase on the previous year's data. While the specific nature of these issues was broad, some examples of common issues noted and matters community visitors consider part of visits include:

- prescribing medication and clarifying the purpose of prescribing the medication
- absence of a recent GP visit
- the need for a updated health assessment and plan and targeted treatment and supports to meet the adult's presenting health needs
- the appropriateness of discharge plans for people exiting hospital and training to equip providers to deliver healthcare supports upon discharge from hospital
- that there is a diagnosis-matching medication being administered.

This type of advocacy has the positive benefit of supporting regular medical review when appropriate, and encouraging the withdrawal of medications to minimise restrictions or interventions on individual's lives where possible.

Community visitors have also raised a significant number of issues regarding the NDIS, which are highlighted on page 74.

Complaint outcomes for forensic disability sites and authorised mental health units

Community visitors have continued to schedule regular visits to the Forensic Disability Service (FDS) to engage with detained individuals to obtain their explicit views and wishes and to advocate where appropriate on their behalf. During the 2018–19 reporting period the Community Visitor Program raised one formal complaint in relation to forensic disability sites. Seventy issues were also raised for resolution by community visitors.

Additionally, during the 2018–19 period, the Community Visitor Program raised two formal complaints in relation to authorised mental health services. 496 issues for resolution were also raised by Community Visitors.

The institutionalisation of clients at the FDS has raised some of the most persistent and serious concerns arising in the Adult Community Visitor Program.

Concerns about the human rights of people detained at the Forensic Disability Service

Complaints and advocacy relate to lack of transition of clients, the use of restraint, access to medical assistance and concerns about transparency.

These are matters that are observed by both the delegate guardian for clients residing at the FDS, and the Community Visitor who regularly attends the service to oversee and advocate for the human rights of its clients.

Working with independent patient rights advisors to better benefit patients

The Community Visitor Program has continued to build and sustain relationships with independent patient rights advisers (IPRAs) employed under the provision of the *Mental Health Act 2016*. Community visitors engage with the IPRA to ensure, as far as is possible, that a patient staying at an authorised mental health service has access to information about their rights. Community visitors may also advocate on behalf of the patient to give voice to their individual views and wishes.

In conversation with...

Peter Community Visitor



What does your role involve?

My role as a community visitor (adult) is to protect and advocate for the rights of adults with impaired decision-making capacity. This entails visiting adults in their home, listening to their views and wishes, and consulting with service providers and other stakeholders. I also review relevant documentation relating to the adults so that they receive what they are entitled to and live their lives their way wherever possible. The role also includes raising enquiries or responding to complaints.

What is your professional background?

I have degrees in both education and business and have worked in the disability field for 35 years in many Commonwealth and State public sector roles. Before becoming a community visitor I was the North Coast Regional Director for Disability Services for more than ten years. While I enjoyed this job, I wanted to get back to working directly with people with a disability before I retired so I became a community visitor. I love my job so much I still haven't retired after seven years!

What does your typical work day look like?

A typical day would be planning up to three visits in one day, including both announced and unannounced visits. A typical visit will take 1.5 — 2.5 hours depending on the number of adults residing at each disability site and the extent of concerns or queries they have. A visit will include talking to the adults residing at the site and support staff about any concerns or issues, and reviewing relevant documentation at the site to assess the environment and services being delivered. After the visit I will make follow-up phone calls and emails with service provider managers to enquire or clarify outstanding queries or issues. I then like to get my visit reports written while the information is still fresh in my mind and so the service providers receive them in a timely manner after the visit.

What are some challenges you've faced?

Some of the challenges I face when conducting visits include learning to communicate with non-verbal clients, dealing with challenging behaviours at times and managing my time at each visit. At some sites I have a lot of adults residing there which means that it can be difficult to get uninterrupted time to speak with the adults and review their documentation. However, there is always the option to reassess my visiting frequency to a site whenever needed to ensure all the concerns at the site are addressed.

When have you played an integral role in promoting and protecting OPG clients' human rights?

I was involved in a matter recently where a woman with a degenerative neurological condition was having great difficulty swallowing and getting enough nutrients and fluid into her body. The woman needed a percutaneous endoscopic gastrostomy (PEG) which would allow her to get the nutrients she needs directly into her stomach, but her elderly parents would not consent to this treatment. It was my role to advocate for her, so I obtained advice from a number of staff at OPG and it was found that the parents were an informal decision-making support rather than legal guardians. This means that while their view is valued when making a decision, their view only makes up part of the full decision considerations. It also means that their views don't immediately mean that they can stop the client receiving treatment. Fortunately, the woman was able to indicate her consent so she was referred to Queensland Health to have the PEG inserted. This is a great story and I'm glad that I was involved and played a part to improve her quality of life through advocating for her views and wishes.

What is the most inspiring thing you've seen or been part of at OPG?

The most inspiring thing for me is seeing people with a disability achieve their goals and overcome great challenges. At a site I visited recently, a young man with severe autism has gone from not being able to leave the house due to high levels of anxiety to now being able to go for walks, do his shopping, visit his mum and be a part of his local community. Being a CV is really rewarding.

What is the best part of your job?

The best part of my job is when I feel I have made a positive difference to someone's life even if it is a small change. I have been visiting some adults for seven years and have built many friendships which I value greatly. Seeing the smile on some of their faces when I visit is fantastic. The autonomy and flexibility is also great as it means I can achieve a great balance between work and life.

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

Increasing inability to meet demand for investigations

OPG has worked hard during 2018–19 to increase community awareness and understanding of elder abuse. Financial institutions have been a particular focus, and raising awareness among bank staff of their ability to report suspected financial abuse to OPG has seen a 483 percent increase in the number of referrals from financial institutions. While this is a really positive development for the protection of vulnerable people, sadly it suggests that elder abuse is widely under reported because this spike in reporting coincided with an OPG awareness campaign targeted specifically at banks.

Obviously such a huge increase in referrals for investigation has major resourcing implications. However, it is not just the number of investigations that have increased but also the complexity of the matters. This has resulted in an increase in the amount of time needed for an investigation to be finalised, further compounding the 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 interviewed in the course of an investigation are all factors affecting an investigator's ability to resolve a matter. During the investigation, an adult can remain at risk 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. Where it is determined that there is an immediate risk to the adult or their financial assets, urgent action by way of application for a warrant to enter, suspension of the attorney or application for an interim order can be made.

As the community increases its understanding of the signs of elder abuse and takes proactive steps to report them, the Investigations Team will continue to see an increase in referrals and demand for investigations to be opened. This is a positive for the protection of vulnerable adults, but also a challenge in the form of the workload increases facing the team in the new financial year.

Additionally, on the 26 March 2018 amendments were passed by the Queensland Parliament to the *Guardianship and Administration Act 2000* which will allow the public guardian to continue or commence an investigation into a complaint, or allegation of abuse, neglect or exploitation of an adult with impaired capacity, even after an adult's death. While there is no confirmed date for commencement of this change, we are expecting it to take effect at some point in early

2020. However no additional resourcing has been made available to OPG to respond to the anticipated increase in number of investigations that will arise from this amendment, which will place additional workload pressure on the Investigations team.

The impact of child protection proceedings

There has been a significant increase in the number of guardian appointments for parents involved in child protection proceedings. Parents in child protection proceedings face a range of challenges including access to specialised support services and appropriate assessment of how their disability/impairment may impact on their ability to parent. Many parents want to maintain a relationship with their children even when full reunification is not possible. The appointment of a statutory guardian is a factor for consideration in assessing whether a parent is willing and able to have care of their children; however, OPG is endeavouring to educate stakeholders that decision-making capacity issues do not in and of themselves amount to a fulsome assessment of capacity to parent.

In light of the recent child protection legislative reforms focused on ensuring permanency and stability over the life of a child, OPG is dedicated to working with the child protection sector to improve practice responses to the needs of these parents and their children to maintain their relationship where possible. There is a service delivery gap in the types of supports and interventions available to parents with impaired capacity (whether it is mental health, intellectual impairment or other) and this can often impact both a parent's rights and their ability to maintain a meaningful relationship with their children. OPG is dedicated to working with parents, and helping identify what supports are available so children maintain the best-possible relationship with their parents.

Intersect of adults with intellectual disability in the criminal justice system

For many OPG clients who are involved in the criminal justice system there are significant concerns raised about their capacity to be held criminally liable. Recent amendments to the *Mental Health Act 2016* have led to a significant change to the way 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. There is, however, still a significant amount of investment required from stakeholders across the sector to ensure that vulnerable people in the mental health system are supported and protected.

There is often even less access to services for clients with intellectual disability, and it will often fall to mental health care services to provide care or even involuntary detention for persons who have intellectual disability, are subject to a mental health order and present a risk to the community.

Additionally, current NDIS systems have created complex pathways for adults in custody to apply for and access NDIS supports. A successful transition from custody back into the community for adults with an intellectual disability relies on support services being involved as early possible before release to obtain information and plan appropriate arrangements. However while the NDIS is able to assess an adult's support needs while they are in custody, a funded plan appropriate for the adult can only be provided at the time of the planning meeting, which doesn't occur while an adult is in custody.

Essentially, an adult deemed to have impaired decision-making capacity can't have a planned transition from custody without an appropriately funded NDIS plan in place, but an appropriate NDIS plan cannot be provided while the adult is in custody. OPG continues to advocate collaboratively with Corrections and the National Disability Insurance Agency (NDIA) to ensure funded supports are available immediately upon release from custody.

The continued increase of decision making required in mental health matters

OPG has continued to see an increase in the number of mental health matters for adults where there is a legal appointment. Unfortunately there is an increased risk of exposure to the criminal justice system for those with mental health and/or intellectual disability. OPG is working with the mental health sector to positively encourage practice responses that seek to appropriately balance the adults' rights/interests with the management of risk for dual diagnosis adults with mental health and an intellectual impairment.

National Disability Insurance Scheme

The roll out of the National Disability Insurance Scheme (NDIS) continued to have an impact on OPG's advocacy, specifically for our Guardianship and Community Visiting functions. See page 74 for further commentary on how OPG intersects with the NDIS.

Strengthening partnerships to help prevent abuse of adults with impaired decision-making capacity

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

During 2018–19, OPG increased the focus on promoting awareness among financial institutions of the ability to report suspected abuse to us. This included forums with representatives from larger banks and the Customer Owned Banking Association. In addition, the Public Guardian has worked directly with the Australian Banking Association to make banks aware that they should be reporting financial abuse of Queensland customers to OPG. This work has resulted in a 483 percent increase in referrals.

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 OPG until the arrears are significant (with one matter as high as \$50,000). Looking ahead, OPG will increasingly focus efforts on raising awareness among aged care providers to make earlier referrals.

Referral of abuse to the Queensland Police Service

OPG's investigations team will always refer matters to the Queensland Police Service where appropriate. In the past year this has resulted in the successful prosecution of several cases of fraud and financial abuse.

In conversation with...

Pamela Legal Officer



What does your role involve?

As a senior legal officer in the Adult Legal Team, I work in a supported decision-making framework assisting clients with impaired decision-making ability to make decisions about their personal legal matters. I do this for clients who are under public guardianship for decisions about legal matters.

What is your professional background?

I studied a Bachelor of Laws/Bachelor of Arts (Justice Studies) and started my professional career at the Public Trustee of Queensland doing various roles within the Official Solicitors Office there while completing my practical legal training. After being admitted as a lawyer in 2008 I worked for the Public Trustee before moving to Scotland to work as an Investigations Officer with the General Teaching Council of Scotland. I also worked in private practice but it wasn't for me! I wanted a role with purpose which would allow me to help people which then lead me to OPG.

What does your typical work day look like?

My days are extremely varied and very busy with a lot of cases where I help people with legal issues, many with more than one legal problem. The primary purpose of my role is to help people make decisions regarding their legal matters; typically in criminal law, bail, domestic violence, child protection, family law and mental health-related legal issues. I engage legal representatives for my clients and then assist them to instruct their lawyers and ensure they understand and comprehend the advice they are given or, if they don't understand, I can progress legal matters on my clients' behalf. On a typical day I attend court to provide information and assistance about how the Court should deal with a client's matter. I also regularly attend client meetings where I assist clients in understanding advice from their lawyer and provide consent for them to take certain actions, such as enter a plea of guilty to criminal charges.

What are some challenges you've faced?

There are always challenges when you are advocating for the rights of vulnerable adults who are frequently in trouble with the law for behaviours related to their disability or mental health issues. In particular, I find it challenging having to continually fight the unhelpful mythology that because an adult has an impairment

they are deemed unable to be a parent. I have seen clients who have done nothing but be born with a disability have their children removed from their care. This is something that I find challenging in my role as a legal officer but I regularly advocate for my clients to prevent this from happening or, where it does happen, to ensure that a relationship can be supported and maintained where it's safe to do so. I am hoping that recent legislative changes in child protection can support more parents to maintain relationships with their children whether they end up being reunified to their care or not.

When have you played an integral role in promoting and protecting OPG clients' human rights?

Late in 2018 I was involved in a family law matter where I was assisting a client to instruct her lawyer regarding an agreement with her former partner around spending time with her four children who lived very far away from her. This client suffers anxiety and can't travel long distances so hadn't seen her children for more than two years. I spoke with my client and assured her that I would be involved along the way in court proceedings. I took steps to assist her lawyer to file legal documents and advocate on her behalf so that the client could see her children over Christmas. When the matter came

before the judge, she was very sympathetic towards my client's position and it was agreed that the father bring the children to see my client for two weeks over Christmas. My client was thrilled! My client wouldn't have continued with the legal proceedings if OPG wasn't involved, so it was a good feeling to know that our role was crucial to give her an opportunity to see her children again and hopefully many more times in the future.

What is the best part of your job?

I love to interact with my clients and see that I can help them move past their legal matters so they don't have those issues hanging over their head. It is rewarding to know that the work I do is valuable to the most disadvantaged people in society, even if they don't know what I do behind the scenes or see me face-to-face.

Strengthening our processes to better support adults with impaired decision-making capacity

Supporting delegate guardians to ensure consistency in practice

The Guardianship Division continues to see an increase in the complexity of guardianship matters, often as a result of clients receiving services from numerous agencies concurrently. As guardianship clients become more involved in various sectors, delegate guardians are expected to gain knowledge of more systems and procedures to best provide guardianship services. Depending on each clients' individual circumstances, a guardian may need to have a thorough understanding of sectors such as aged care, NDIS, housing, health care, immigration, child protection, mental health, corrective services, courts and tribunals.

This increasing complexity has resulted in a growing list of guardianship policy and process documents. To support delegate guardians in their role and to ensure consistency in practice across Queensland, the online *Guardianship Practice Manual* has been developed. This tool can be accessed remotely through any web browser so is easily accessible to delegate guardians across Queensland. In addition to accessible guardianship policy and procedure documents, the practice manual provides quick summaries, FAQs, templates and training material in an easy-to-read, categorised format. The manual also allows for regular live updates and user feedback. Staff have found the manual to be a significant improvement in how guidance material is presented and accessed.

Additionally, a need for a comprehensive guardianship training package was identified to work alongside the *Guardianship Practice Manual*, which led to the creation of the Guardianship Training and Education Officer position. This role focuses on developing innovative training specific to delegate guardians. Training is being designed for both online and in-person delivery, and to date, two online learning modules are operational and being utilised by delegate guardians. These are a huge step forward to ensure the Guardianship Program is keeping up with contemporary training needs and that delegate guardians' skills continue to be developed throughout their career.

Importantly, this sees OPG honing its efforts to make sure that all clients get equivalent quality of service delivery.

Legal practice guidance

During 2018–19, the Adult Legal Team (guardianship) developed a framework to guide practice. This saw the delivery of a suite of tools, templates, precedents and a 'how to' guide for the legal officer role. This framework is being used by the team on a daily basis to improve practice quality and consistency. These resources build awareness and understanding of this unique role, both for new starters and for internal and external stakeholders.



Restrictive practices (the use of restraint)

OPG 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 under disability legislation in Queensland:

1. Chemical restraint—using medication for the primary purpose of managing the adult's behaviours.
2. Mechanical restraint—using a device to restrict the person's free movement, or to prevent or reduce self-injurious behaviour.
3. Physical restraint—using any part of another person's body to restrict the person's free movement.

4. Containment—physically preventing the free exit of the person from premises where they receive services, other than by secluding the person.
5. Seclusion—physically confining the person alone, at any time of the day or night, in a room or area from which free exit is prevented.
6. Restricted access to objects—restricting the person's access to an object at a place where they receive services.

OPG believes that restrictive practices presents an infringement on adults' human rights, as a result, OPG is a passionate advocate for the reduction and elimination of restrictive practices across all service sectors.

In conversation with...

Melissa

Positive Behaviour Support Team



What does your role involve?

As a team leader of the Positive Behaviour Support (PBS) Team I directly supervise my team of guardians who provide specialised decision making in relation to the use of restrictive practices in conjunction with positive behaviour support. Our team's main focus is advocating for our clients' rights and interests and the reduction and elimination of the use of restrictive practices.

What is your professional background?

I have qualifications in community services and social science. Before I started at OPG I worked as a support and advocacy worker for many years, supporting people living with a mental illness who resided in hostels and boarding houses. This role exposed me to the role of OPG and I decided that I'd like to work with the agency so I applied for a role in guardianship before moving to a PBS role, and now I'm the PBS team leader.

What does your typical work day look like?

My days are very varied which is what I love about the team leader role. I can spend the day reviewing positive behaviour support plans for consent, attending complex QCAT hearings with my team, meeting individually with guardians to discuss complex or challenging cases to workshop our approach to ensure our clients' rights and interests are met, speaking with stakeholders to provide information about OPG's role in positive behaviour support and restrictive practices and so much more!

What are some challenges you've faced?

A challenge my team and I face is ensuring that the community understands OPG's role in relation to restrictive practices decision making. It is really important that all stakeholders understand our legislative and policy commitment to advocating for the reduction and elimination of restrictive practices.

What is the most inspiring thing you've seen or been part of at the OPG?

One of the most inspiring things I've witnessed and been part of is attending a QCAT hearing for the approval of containment and seclusion for one of OPG's clients. My role at the hearing was to advocate for the clients' rights and interests, and to ensure only the least-restrictive option was approved. The client attended the hearing and did an amazing job of speaking for himself and advising the Tribunal of his views and wishes and negotiating the outcome of the hearing. I will always remember the powerful feeling of seeing someone who was deemed to lack capacity for decision making stand up and so articulately and logically put their argument forward; so much so that the Tribunal agreed with him and the outcome that day reflected his views and wishes!

When have you played an integral role in promoting and protecting OPG clients' human rights?

This case might seem like something small and insignificant, but the outcome has really improved the client's quality of life.

I had a client, Rory (not his real name), who was subject to a forensic order which had conditions stating that Rory could not drink alcohol. After getting to know Rory I found that he likes to go the pub on a Friday and have a light beer, so not being allowed to do this made him unhappy. I looked into Rory's history and found that his previous behaviour and challenges were never alcohol related and it seemed the condition on the forensic order may have been applied as a 'blanket' condition given to most people. So I advocated for Rory at the Mental Health Review Tribunal hearing by assisting him to raise this matter with the Tribunal. Due to my advocacy, the Tribunal altered the conditions of the order to allow Rory to have a beer once a week which he is extremely happy about. Now Rory can engage in a normal activity – just having a beer at the pub!

What is the best part of your job?

The best part of my job is having the privilege of working with some of the most vulnerable people in our community and knowing that I am making a difference to their lives every day.

Making decisions about restrictive practices and advocacy

The Guardianship division makes decisions and advocates in relation to restrictive practices when:

- the Public Guardian is appointed as a substitute decision maker for restrictive practices (generally respite) for an adult receiving funding from the Department of Communities, Disability Services and Seniors (DCDSS) or the National Disability Insurance Agency (NDIA)
- 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 DCDSS or NDIA funding
- the Public Guardian is appointed to seek help and make representation about restrictive practices for an adult subject to containment and/or seclusion approved by QCAT
- the Public Guardian is an active party to all restrictive practices proceedings that occur in QCAT; therefore, should the Public Guardian direct them to, the Public Guardian's delegates may appear as an active party in any restrictive practice proceedings
- the Public Guardian is appointed under an advanced appointment 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. Decision-making authority does not commence until the individual turns 18, however the Public Guardian can make representations on behalf of the individual under this appointment.

The total number of OPG clients with a restrictive practice-related appointment (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) as at 30 June 2019 was 264 (down from 299 as at 30 June 2018). During the 2018–19 year, the Public Guardian was revoked for 25 restrictive practices matters (either due to restrictive practices no longer being in use or a more appropriate decision maker was appointed). More than 200 restrictive practice decisions were made by the Public Guardian as guardian for restrictive practices (general or respite).

In addition, OPG received 15 applications for short-term approvals for the use of restrictive practices. OPG is particularly concerned about anti-libidinal medications being used as chemical restraint due to the implications it has on a person's human rights. Since January 2019,

OPG has successfully advocated for the reduction and/or cessation of anti-libidinal medications for five clients and provided advocacy regarding the use of restrictive practices on behalf of ten non-guardianship related matters.

How the Public Guardian makes decisions about restrictive practices

OPG is committed to ensuring that restrictive practice decisions made under the *Disability Services Act 2006* and the *Guardianship and Administration Act 2000* are undertaken with a firm focus on promoting a person's human rights. OPG reinforces that only practices evidenced as the least-restrictive necessary to prevent harm should be used, and that evidence-based positive behaviour support practices are undertaken first and foremost to reduce and eliminate the use of restrictive practices as soon as possible. Therefore OPG 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 human rights of adults with an intellectual or cognitive disability. Ultimately, OPG believes that wherever possible service providers should be formulating and executing appropriate reduction and/or elimination plans.

OPG's position on the use of restrictive practices is articulated in its publicly available OPG Restrictive Practices Policy and Restrictive Practices Decision Making Framework, and all OPG staff are required to perform their roles relating to decision making, monitoring and advocacy in the area of restrictive practices in accordance with this policy and framework. OPG's position on evidence-based positive behaviour support practices and safeguarding the human rights of people subject to regulated and unregulated restrictive practices is further strengthened by the National Framework of Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector. Additionally, the commencement of the NDIS Quality and Safeguards Commission and the Queensland Human Rights Commission on 1 July 2019 give further weight to this position.

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 adult's unique communication needs because 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, OPG 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 restrictive practices is not a substitute for inadequate resources, and OPG is of the view that the use of restrictive practices in this circumstance is a serious contravention of client rights.

Working with external bodies to advocate for adults with impaired decision-making capacity

Working collaboratively to reduce and eliminate restrictive practices

Our staff work with the Restrictive Practices and Positive Behaviour Support Team (Department of Communities, Disability Services and Seniors) to advocate for the reduction and elimination of containment and seclusion where there is no evidence to support the use of these restrictive practices in relation to behaviours of harm.

OPG works closely with Queensland Advocacy Incorporated (QAI), an independent, community-based legal advocacy organisation for people with disability, with respect to complex matters involving clients who have proceedings before the Mental Health Court (MHC) or are subject to reviews of forensic orders or treatment authorities through the Mental Health Review Tribunal (MHRT).

In the past financial year, OPG and QAI worked together on a notable case that became a published judgement of the MHC. This matter related to the improper use of restrictive practices for a client with an intellectual disability who was being prescribed a drug with serious side effects to treat a mental illness or mental condition for which there was no diagnosis. OPG and QAI advocated strongly for the rights of this client, over an extended period, culminating in the MHC decision

that the treatment amounted to unlawful chemical restraint. This decision provided the grounds to work with the treating team on the immediate reduction, and eventual elimination, of restrictive practices being applied to this client.

Oversight of the use of restrictive practices: the Community Visitor Program's role

One of the functions of a community visitor is to monitor the use of restrictive practices in all visitable sites, including mental health and disability services and level 3 residential service hostels.

The use of restrictive practices in NDIS-funded services or sites where clients receive NDIS funding is subject to legislative regulation. Restraint and seclusion in authorised mental health services are not expressly referred to as restrictive practices under the *Mental Health Act 2016*; however, it does make provisions for safeguards around their use, prescribing that such practices are only used as a last resort where less-restrictive interventions have been unsuccessful or determined infeasible.

Regardless of setting, community visitors monitor the use of restraint and seclusion so as to advocate against ensuing human rights issues and to ensure these restrictions are only used with appropriate approval where no less-restrictive option exists.

In situations where the use is considered contrary to legislated provisions, the community visitor will raise any identified concerns locally with the relevant service provider for resolution. Where it is considered that there is a potential breach of human rights, this will be raised through the Public Guardian with the appropriate external entity. Where it is identified that there has been an unapproved use of restrictive practices, the community visitor will raise any identified concerns with a delegate of the Public Guardian or private guardian wherever appropriate. Importantly, OPG will also raise the matter with the prescribed regulatory body.

Community visitors regularly visit adults detained at the Forensic Disability Service (FDS) at Wacol. A key focus is the monitoring of the use of restraint (including mechanical restraint and seclusion of individuals). Where identified, these are monitored to ensure that they have been authorised appropriately under the *Forensic Disability Act 2011*. Community visitors provide critical oversight under article 16(3) of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and consider any potential for breaches of an individual's fundamental human rights and review, where possible, the rationale for associated decisions of the FDS decision makers to confirm they are sound. Identified issues around the use of restraint and seclusion are routinely raised with the FDS during visits and are actively followed up to ensure an individual's rights and wellbeing are in line with appropriate service delivery requirements, policy and law. When raising an issue for an individual, a community visitor will always take into account, and advocate for, among other things, the adult's rights under the CRPD to:

- life (article 10)
- equal recognition under the law (article 12)
- access to justice (article 13)
- liberty and security of the person (article 14)
- freedom from torture, or cruel, inhuman or degrading treatment or punishment (article 15)
- freedom from exploitation, violence and abuse (article 16)
- protection of the integrity of the person (article 17)
- live independently and be included in the community (article 19)
- rehabilitation and rehabilitation.

How the Queensland Civil and Administrative Tribunal and the Community Visitor Program intersect

In the context of services receiving funding from State Disability Services or through an NDIS participant, approval for the longer-term use of seclusion, containment and other restrictive practices used simultaneously is determined by the Queensland Civil and Administrative Tribunal (QCAT). During 2018–19, community visitors conducted 321 visits requested by QCAT. These visits directly informed applications for (or reviews of) restrictive practices at disability sites relating to most forms of restrictive practices that QCAT can authorise.

The Community 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 practices visits are specifically requested by QCAT, however, OPG 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 OPG and QCAT members with 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.



Health care decisions as guardian, EPOA or SHA of last resort

Health care providers are obliged to seek informed consent to carry out health care for adults with impaired decision-making capacity. OPG can consent to health care matters where the Public Guardian has been appointed as 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 an adult's behalf if the adult's capacity to make health care decisions is permanently or temporarily impaired. An SHA will make decisions about an adult's health care if they 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 2018–19, 555 (45 percent) of health care consents were given for a person under a guardianship order, 16 (one percent) were given pursuant to an enduring power of attorney, while 657 (53 percent) were given while acting as an SHA of last resort. A full breakdown of which decision-making authorities OPG used to give health care consents, and the reasons those health care consents were given, can be found in Appendix 2, Tables 15 and 16 (pg. 111).

During 2018–19, OPG operated a 24-hour, 7-day a week health care consent telephone service, through which we:

- consented to 1,229 health care matters
- made 253 after-hours health care consents (between 5pm to 9am)
- received 646 enquiries after hours
- provided three consents for forensic examination.

In conversation with...

Rhonda

Enduring Power of Attorney Project



What does your role involve?

My role entails acting as attorney for clients who have lost decision-making capacity and have nominated the Public Guardian to make personal and health decisions under an Enduring Power of Attorney or Advance Health Directive document. For adults who still have decision-making capacity, I maintain periodic contact to ensure that their wishes to appoint the Public Guardian as attorney remain current.

What is your professional background?

I had a very diverse and interesting career before commencing at OPG, including working in the banking industry, health care sector and the private sector. I also moved to London and worked as a companion to the elderly to enable them to remain living in their homes. This job planted the seed and I knew one day I would return to making a difference to the older generation. This opportunity arose in 2016 where I started at OPG, working in both the Cairns and Brisbane offices. Now I am a senior practice officer where I work with clients who have appointed the Public Guardian to act as their attorney for personal/health matters under an Enduring Power of Attorney.

What does your typical work day look?

A portion of my day involves updating details of clients who have appointed the Public Guardian under an Enduring Power of Attorney, either by speaking with them directly or talking to a family member, friend, health professional or service provider. I may also spend some time planning the next visits to these clients which can see me travelling throughout Queensland. During the day I can receive phone calls or emails from people involved in an adult's care to advise that the adult has lost decision-making capacity. I then ensure we have appropriate evidence that the Public Guardian needs to activate the Enduring Power of Attorney document the adult has signed. I also assist adults who have previously appointed the Public Guardian as attorney to revoke that document after they have made arrangements for friends or family members to act as their attorney instead.

When have you played an integral role in promoting and protecting OPG clients' human rights?

One of my favourite recent decisions was helping a lady in her mid-90s move to aged care. Angela (not her real name) had lost a lot of mobility after a fall and could no longer safely live in her own home. I chatted to Angela at length about what she wanted, and found her a lovely facility with a view overlooking a beautiful courtyard. Although Angela's mobility is restricted she spends time every day looking at the beautiful view. Angela is as bright as a button and grateful that her wishes were heard.

How does your role help promote and protect OPG clients' human rights?

I have a direct role in promoting and protecting our clients' human rights. When an Enduring Power of Attorney is activated, as a nominated attorney I endeavour to always respect the adults' rights and wishes while ensuring they are appropriately supported and cared for. Part of this is ascertaining in the least-intrusive way whether the adult is happily living their life or vulnerable and at risk of abuse or exploitation. I also ensure I adhere to the General Principles which are the rules we have to follow when making decisions on an adult's behalf.

What is the best part of your job?

The best part of my job is getting to talk to adults about their lives and how they want to live. I am entrusted with very personal information and it allows me to make decisions about their lives as if I was making a decision for a loved one. I find this unique and very special.

Consents to withhold or withdraw life-sustaining measures

Health care decisions also include making decisions about 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 other medical staff regarding withholding and withdrawing life-sustaining measures.

In 2018–19, OPG consented to 94 requests to withhold and/or withdraw of life-sustaining measures, comprising eight 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 2018–19, the Public Guardian was appointed by QCAT as a representative in three matters. All cases involved the sterilisation of an adult with impaired decision-making capacity.

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 between family members or joint statutory health attorneys about a health matter for an adult, and the disagreement cannot be resolved by mediation, OPG 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 attorneys 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 OPG 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).

OPG will ask the attorney how their 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.

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

During 2018–19, the Public Guardian made one decision using the power under section 43 of the *Guardianship and Administration Act 2000*.

OPG and the NDIS: trends and issues

The National Disability Insurance Scheme (NDIS) continued to roll out across Queensland during 2018–19, with full scheme implementation occurring on 1 July 2019. OPG's Guardianship and Community Visitor Programs intersect with the NDIS, resulting in both areas having significant demand on their resources.

Advocating for adults and children within the NDIS

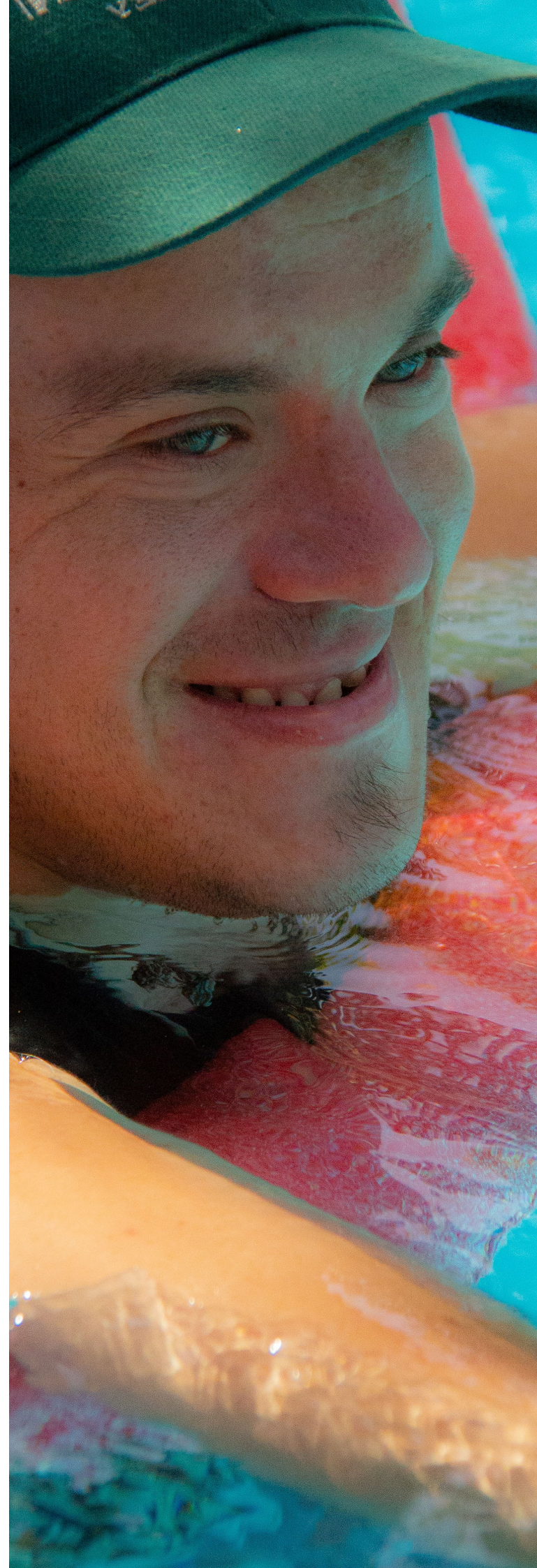
The major challenge for both our delegate guardians and community visitors is ensuring that vulnerable adults are getting the access they need to supports and services through the NDIS.

OPG is aware of the particular challenges that adults we visit have in navigating systems such as the NDIS. Community visitors have this year paid particular attention to the needs of clients at visitable locations to make sure they receive appropriate support during the development of their NDIS plans, and we have advocated for the National Disability Insurance Agency (NDIA) to meet with (rather than phone) participants during the planning process.

It is evident that many adults need advocacy to ensure they are getting the support they need from the NDIS, or even to enter the NDIS, however it doesn't mean they require a substitute decision maker. Unfortunately, due to a lack of adequate resourcing of the advocacy sector, OPG fears the Public Guardian is being appointed as a persons guardian simply to help them access the NDIS. This in itself contradicts the principle of 'choice and control'.

It is clear, however, that advocacy support for clients is vital because, 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 than when they previously had no support.

Additionally, there are children and young people in care who are eligible for NDIS, with a particular area of focus for community visitors being children and young people with an undiagnosed disability or cognitive impairment who are not being assessed by the NDIS and who may need to be.



Through working with Department of Child Safety, Youth and Women, OPG has identified a number of children and young people who are accessing or may be eligible to access the scheme. Community visitors are then advocating on their behalf 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. Our advocacy has also seen children accessing the scheme who had not been previously referred.

The Guardian's evolving role within the NDIS

During the NDIS transition period, up to 30 June 2019, OPG has registered 2,085 clients with the NDIS, an increase of 725 since 2017–18. Additionally, of the average of 82 adults who come under the Public Guardian's guardianship every month, approximately 26 are people needing support to enter the NDIS. These supports include:

- 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 clients' needs are clearly understood by the NDIA
- 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.

However, it is becoming apparent that the impacts on guardianship workloads are extending far beyond the initial work to get clients entered into the scheme. The NDIA 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 funded support. In these instances, again what our clients need is advocacy to ensure they are receiving the right supports in their plan, rather than direct decision-making support which is obviously having a negative impact on their human rights.

Additionally, some areas within the system still needing clarity are affecting OPG resources. For example, delays in appointing new support coordinators have resulted in delegate guardians effectively taking on this role to source provider options and consider funding packages until a support coordinator is available.

Working collaboratively with the NDIA to support clients to live as contributing members of the community

Many OPG clients living with mental illness and disability find themselves in long-term institutional care, often treated as passive observers in their own lives. Our goal is to assist these adults, wherever possible, to live in and become a contributing part of the community by advocating for appropriate supports and services. By developing collaborative relationships between different OPG teams and external stakeholders to identify barriers and implement strategies to overcome these barriers, we are seeing more successful outcomes for our clients.

A key part of this is advocating to ensure clients have the support they need from the NDIS for a successful transition out of institutionalised care, and access to the right professionals with in depth understanding of disability needs who can make appropriate recommendations so they can access these supports. We do this by working collaboratively with the NDIA and escalating, where appropriate, to obtain better plans for clients. These are all time-consuming processes, but the benefits they realise for our clients are immeasurable.

Issues raised in relation to the NDIS

As the NDIS continued to roll out in 2018–19, 130 issues were raised by community visitors in relation to matters arising out of the NDIS transition for adults. One area of note is where government-funded services have ceased and the market has taken time to self-correct, leading to a lack of available services.

Another problem is that there can be a time lag between an NDIA plan being approved and support coordinators being assigned to 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 removed in the next plan as 'not needed'.

A similar concern exists where NDIS plans are under-utilised due to lack of available service providers. Community visitors have been advocating for clients across the state to ensure that when an NDIS plan is in place, the participant is receiving effective assistance to fully utilise the funding.

OPG and the NDIS Quality and Safeguards Framework

In 2018, the Queensland Government committed to continuing the functions of the Community Visitor Program during the full roll out of the NDIS to ensure safeguards are a priority for the most vulnerable adults with disability in Queensland. Amendments to the *Public Guardian Act 2014* have seen the definition of a visitable site broadened to encompass accommodation services funded by NDIS. Community Visitor Program staff will be working to build awareness among disability accommodation providers about the legislative changes and the onus on service providers to inform OPG of the location of visitable sites.

As the Community Visitor Program forms part of the NDIS Quality and Safeguards Framework, OPG has continued conversations with State and Federal counterparts regarding our interface with the NDIS Quality and Safeguards Commission. In 2018–19, the Community Visitor Program referred eight 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. New practice guidance is being developed to assist community visitors to effectively escalate complaints to the NDIS Quality and Safeguards Commission.

In addition, the intersection between OPG's function and powers in relation to restrictive practices and those of the NDIS Quality and Safeguards Commission will need to be refined in the immediate future.

Strengthening our processes to meet NDIS demands

In response to the roll out of the NDIS across the state, OPG has developed new practice directions specific to NDIS advocacy. In 2018, community visitors were provided with a practice framework for visiting adults, children and young people who may be eligible for or are accessing the NDIS. With the transition of the complaints process from Department of Communities, Disability Services and Seniors to the NDIS Quality and Safeguards Commission, work is underway to develop a framework for making complaints relating to supports and services offered by an NDIS provider.

Additionally, OPG has appointed NDIS practice officers to assist the Community Visitor Program to educate service providers about our oversight, identify clients who should be receiving NDIS support but are not, and build the program's capacity to engage with NDIS mechanisms.

Strategic policy

As part of OPG’s responsibility to promote and protect our clients’ rights and interests, we identify systemic, policy and legislative issues relevant to our clients and advocate for reform. This includes preparing strategic policy submissions on public and internal government matters which may impact OPG’s functions, and identifying and advocating for resolution of high-level issues common to our clients.

Our policy priorities include:

- advocating for legislative reform in key focus areas including human rights, youth justice, aged care and the National Disability Insurance Scheme (NDIS)
- securing the continuation of the Community Visitor Program at disability sites after the full roll out of the NDIS
- advocating for systemic reforms in mental health services and forensic mental health and disability facilities
- highlighting barriers for clients and their advocacy needs in accessing and transitioning into the NDIS
- raising critical issues relating to elder abuse and the experiences of our clients in aged care
- advocating for the regulation of restraint in all systems that care for children, particularly in the mental health system
- seeing an end to the detention of children and young people in police watch houses
- advocacy to greatly reduce the use of restrictive practices by driving greater understanding of the causes of behaviour and the concept of dignity of risk
- implementing the recommendations of the Queensland Family and Child Commission (QFCC) 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.

During the past financial year, 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 OPG clients’. OPG’s strategic policy during this period has been targeted toward internal government consultations in a range of areas which significantly affect our clients. These include the NDIS, restrictive practices, elder abuse and aged care.

Submissions during 2018–19

OPG made the following submissions during the 2018–19 reporting period:

- submission to the Queensland Parliament Legal Affairs and Community Safety Committee on the *Human Rights Bill 2018* (November 2018)
- submission to the Queensland Parliament Education, Employment and Small Business Committee on the *Disability Services and Other Legislation (NDIS) Amendment Bill 2019* (April 2019)

Contributions to reform during 2018-19

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. OPG was delighted to see so much of its input and ideas reflected in policy and legislative change. Contributions and influence included:

- Australian and New Zealand Children’s Commissioners and Guardians website and table of functions
- Australian Guardianship and Administration Council Elder Abuse National Project – Enduring Powers of Attorney (Financial) Options Paper
- Australian Guardianship and Administration Council Elder Abuse National Project – Best Practice Resource on Enduring Appointments
- Commonwealth Attorney-General’s Department consultation on Elder Abuse Service trials
- Commonwealth Department of Social Services for the Disability Reform Council, Council of Australian Governments report, *Community Visitor Schemes Review*
- Commonwealth Department of Social Services National Disability Advocacy Program (NDAP) Decision Support Pilot for people interacting with the NDIS who have limited decision-making capacity and no effective next of kin
- Commonwealth Government development of a regulatory framework for restrictive practices including nationally consistent minimum standards
- Department of Child Safety, Youth and Women Strategic Plan 2019–2023



- Department of Communities, Disability Services and Seniors consultation on reshaping the *Disability Services Act 2006*
- Department of Communities, Disability Services and Seniors development of the Queensland Disability Advocacy Strategy
- Department of Justice and Attorney-General Cultural Capability Action Plan 2019–2023
- Department of Justice and Attorney-General review of advance health directive and enduring power of attorney forms, and development of capacity guidelines
- *Human Rights Act 2019* implementation project
- Information Sharing between the NDIS Quality and Safeguards Commission and states and territories
- Justice Services Division Stakeholder Reference Group Disability Inclusion project on equal employment opportunities and disability
- Legislative processes for the *Disability Services and Other Legislation (NDIS) Amendment Bill 2019*, *Youth Justice and Other Legislation Amendment Bill 2019* and *Public Guardian Regulation 2014* amendments
- Memorandum of Understanding with the Office of the Public Advocate, *Key systems impacting adults with impaired capacity monitoring project*
- *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* review and preparation for full scheme implementation
- *National Plan to Respond to the Abuse of Older Australians (Elder Abuse) 2019-2023; Stocktake of elder abuse awareness, prevention and response activities in Australia, March 2019; and Implementation Plan to support the National Plan to Respond to the Abuse of Older Australians 2019–2023*
- NDIS Partner in the Community Program (Local Area Coordinators and Early Childhood Early Intervention) full scheme strategy
- Queensland Audit Office report, *Access to the National Disability Insurance Scheme for people with impaired decision-making capacity* (Report 2: 2018–19) — feedback on report and implementation of recommendation 2

- Queensland Family and Child Commission report, *Keeping Queensland's children more than safe: Review of the foster care system* – implementation of recommendations 3, 4, 37, 38, 39 and 40
- Queensland Family and Child Commission report, *Keeping Queensland's children more than safe: Review of the foster care system* – contribution to implementation of recommendations 6 and 8
- Queensland Family and Child Commission report, *Recommendation 28 Supplementary Review: A report on information sharing to enhance the safety of children in regulated home-based services* — implementation of recommendation 28.9
- Queensland Health evaluation of the *Mental Health Act 2016* implementation
- Queensland Mental Health Commission consultation on the development of a new Queensland Suicide Prevention Plan
- Queensland whole-of-government legislative review for implementation of full-scheme NDIS
- Queensland Youth Housing Coalition review of the *Supporting Young People Under 16 Years of Age: Guidelines for Good Practice for Specialist Homelessness Services*
- Royal Commission into Aged Care Quality and Safety — feedback on terms of reference and formal response
- Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability — feedback on terms of reference
- *Supporting Families, Changing Futures 2019–2023: The Queensland Government's plan for helping children, young people, parents and families experiencing vulnerability*

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

The Public Guardian is also a member of the Australian and New Zealand Children's Commissioners and Guardians (ANZCCG) and a director of 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 Australian Guardianship and Administration Council (AGAC) is comprised of the statutory appointees of every jurisdiction's Public Advocate, Public Guardian, guardianship Tribunal/Board, and Public Trustee who 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.

OPG has been actively involved in supporting two linked AGAC national projects arising from the ALRC inquiry into elder abuse being led by the Office of the Public Advocate (Victoria). The first project involved the development of an options paper regarding possible national consistency in enduring appointments, laws and practices, and the second project concerned the development of a best practice resource concerning enduring documents for financial decisions. As a member of the AGAC National Projects Governance Group, OPG has engaged enthusiastically with the projects, and has contributed extensive feedback to inform the development of both the options paper and the resource, which is anticipated to be ready for publication by the end of 2019.



In conversation with...

Kelly Policy Team



What does your role involve?

My role involves providing strategic policy advice to the Public Guardian and coordinating and developing written policy submissions on matters relating to OPG's functions to promote and protect vulnerable people's rights and interests.

What is your professional background?

I am a lawyer with degrees in law and arts, but I began my career at the Office of State Revenue (OSR) where I worked with the administrative review unit for more than two years. I was encouraged to apply for a policy role at OPG by a former colleague who knew about my work at OSR and my home life helping my parents to care for my younger brother with a disability. I immediately recognised this as a fantastic opportunity and a perfect match for my professional background and lived experience as a carer. As they say, the rest is history! It is extremely rewarding to work for an organisation that is so focused on supporting and protecting the rights and interests of vulnerable Queenslanders, including people like my brother.

How does your role help promote OPG clients' human rights?

OPG's purpose is to advocate for our clients' human rights and this is deeply embedded in my job in the policy unit. We are responsible for developing and promoting the Public Guardian's strategic policy position on matters impacting our clients. Our unit's primary function is to advocate for our clients on a collective basis through submissions to the State and Federal Governments and other relevant non-government entities. The purpose of these submissions is to promote our clients' human rights, highlight critical issues affecting our clients, challenge proposals that will adversely affect our clients, identify opportunities for reform, and advocate for changes that will benefit our clients. We influence government and non-government decision making on the basis of our clients' rights, interests, experiences and inclusion.

What does your typical work day look like?

A typical day begins with an assessment of the day's priorities which are ever-changing due to the unpredictability of urgent requests which may arrive from government and non-government entities at any given time. After that, my day usually involves a lot of writing, seasoned with research, business unit collaborations, external stakeholder interactions and executive consultations. My role is characterised by strong working relationships with both the business units at OPG and external stakeholders with whom I engage with on a daily basis to seek and share information. I also provide policy support to the business units as needed.

What are some challenges you've faced?

One of the main challenges is that OPG has such a broad range of responsibilities for both our adult clients and children and young people, so our team has to be across a lot of issues and respond to all sorts of government and non-government consultations. As a result, our team has to work collaboratively and quickly to be able to respond in a timely manner.

Another challenge is being patient as the results of our strategic policy work are not always immediately evident. These things don't happen overnight but they eventually do happen and this is something I always look forward to.

What is the best part of your job?

The best part of my job is seeing the fruits of my labour first-hand, where OPG's collective advocacy through strategic policy submissions has resulted in a positive outcome for our clients. This is what drives me to do my best and is the ultimate reward for a job well done.

Also at a personal level my role at OPG has taught me to be a better carer and advocate for my brother, which I feel speaks strongly to OPG's purpose in advocating for our clients' human rights.



Communication and education

One of OPG’s objectives is to increase public awareness of our functions, legislation and the need for and responsibilities that come with enduring documents. To achieve these objectives OPG’s comprehensive communications plan profiles issues of importance for OPG and includes an active engagement program delivering educational sessions to the public.

In the media

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

During the year:

- eight proactive media releases were distributed to Queensland media outlets
- three interviews were held with radio stations
- 188 stories featuring OPG were published/broadcast (11 percent as a direct result of the distribution of proactive media releases).

Issues the Public Guardian focused on in 2018–19 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
- children and young people being held in watch houses for prolonged periods of time
- welcoming the announcement of The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
- supporting the calls to raise the age of criminal culpability
- calling for a national community visitor program for the aged care sector
- raising awareness among financial institutions of their ability to report suspected abuse of adults with impaired decision-making capacity to OPG.

Community education and engagement

OPG is committed to educating the public about human rights, our 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, and to legal stakeholders.

During 2018–19, OPG conducted 61 presentations to the community. Twenty-five percent of presentations were made to the child protection sector, followed by the aged care/seniors sector (23 percent), the health industry (15 percent), and disability sector (13 percent). Community engagement events attracted a combined total audience of almost 4,200 people.

During 2018–19, OPG staff took part in a wide variety of community education events across Queensland.

Our Communication and Engagement team assisted in coordinating activities associated with the development and delivery of training programs for stakeholders. For example, information training sessions for Child Safety Officers, and a youth detention centre stall providing information about OPG’s role in promoting human rights and the views and wishes of children within the child protection system and the role of community visitors. OPG also participated in a variety of exhibitions and events, providing information to the community about human rights, personal planning for the future, OPG’s role in the child protection system, and guardianship matters for adults with impaired-decision making capacity. At these events, OPG reached a vast number of people from a variety of cultural backgrounds, and answered a range of questions about OPG’s roles and functions.

The team also developed resources for OPG staff to use in presentations, and to provide as handouts to event participants. Materials included:

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

There was also significant engagement with hospitals and health services in 2018–19. OPG’s Health Care Team visited several hospitals and health services within Queensland. During the year they provided medical, allied health practitioners and social workers with information on human rights and 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

OPG is involved with a range of networks and committees including:

- Queensland Guardianship Advisory Committee
- Australian Guardianship and Administration Council
- Australian and New Zealand Children’s Commissioners and Guardians
- Youth detention oversight bodies
- Legal Aid Queensland-chaired Mental Health Planning stakeholder group
- Legal Aid Queensland-chaired Child Protection Legal Stakeholders group
- QFCC Strategic Oversight Committee
- National Redress Scheme Direct Personal Response Community of Practice
- State-wide Restrictive Practices Working Group
- Elder Abuse Prevention Unit Reference Group
- Peakcare Education Working Group
- Children’s Court of Queensland Court Committee (Youth Justice) and Court Case Management Committee
- QFCC Recommendation 8 — Foster Care Review Discussion
- National Disability Insurance Scheme Reform leaders group
- FDS Steering Committee
- Queensland Carers’ Association
- RLG Sub-Committee
- Queensland Law Society’s Children’s Law Committee, Elder Law Committee and Health and Disability Law Committee
- NDIS Leaders Group Housing Sub-Committee
- NDIS Project Management Office
- Queensland Law Society-chaired Advance Care Planning Working Group
- IDEC Evaluation of the *Mental Health Act 2016*
- Queensland Mental Health Commission Human Rights Project Advisory Group
- Department of Justice and Attorney General Guardianship Implementation Reference Group
- Department of Justice and Attorney General Human Rights Implementation Reference Group
- Whole-of-Government NDIS Legislation Review Working Group
- NDIS Decision-Support Pilot Advisory Committee.

In conversation with...

Rachel

Community Engagement Team



What does your role involve?

I develop and maintain effective working relationships with the office's stakeholders and look for innovative ways to promote our work. My role includes coordinating community education events and identifying key engagement activities.

What is your professional background?

I have a Bachelor of Arts with a double major in psychology and started my career in retail and human resources before joining the Adult Guardian (now OPG) in the Community Visitor Program. I worked in a number of roles while at the Adult Guardian but in 2014 when the Office of the Public Guardian was established, I started working with the Communications and Engagement team. I coordinate our involvement in conferences, expos and information sessions, and determine how to promote our office's role and responsibilities to our clients, their family and carers, and stakeholders.

What does your typical work day look like?

Each day varies and can often take a path of its own! A typical day would be liaising with various stakeholders, such as Queensland Health, Anglicare, Carers Queensland, Child Safety, and the Queensland Police Service to work out ways we can best meet our clients and staff's educational needs. I also provide guidance and support to OPG staff who conduct information sessions, and create presentations and collate resources. At a strategic level, I am working on a number of initiatives with my team to educate a wider audience on the office's role and functions.

What are some challenges you've faced?

The biggest challenge is promoting key messages about OPG and our many roles and functions to a very wide-ranging audience. It is always a juggle trying to ensure our key messages are promoted while not putting too much pressure on our frontline staff who already have so much on their plate advocating for our clients.

How does your role promote and protect our clients' human rights?

I educate the community and our stakeholders about how OPG advocates for our clients' rights and considers their views and wishes about decisions that affect their lives. I also promote networking opportunities for our staff to assist them in building positive working relationships with stakeholders for the common good of our mutual clients.

What have you achieved in the past year?

The past year has been really productive! I've established partnerships with government departments to develop specific, targeted educational material for their staff about our role and how we work together. This material will be distributed through their department's induction and training channels, meaning we can reach a wider audience and reduce pressure on our frontline staff. I've also identified where further stakeholder groups can be included in existing education sessions to broaden reach, and encourage information sharing between stakeholder groups.

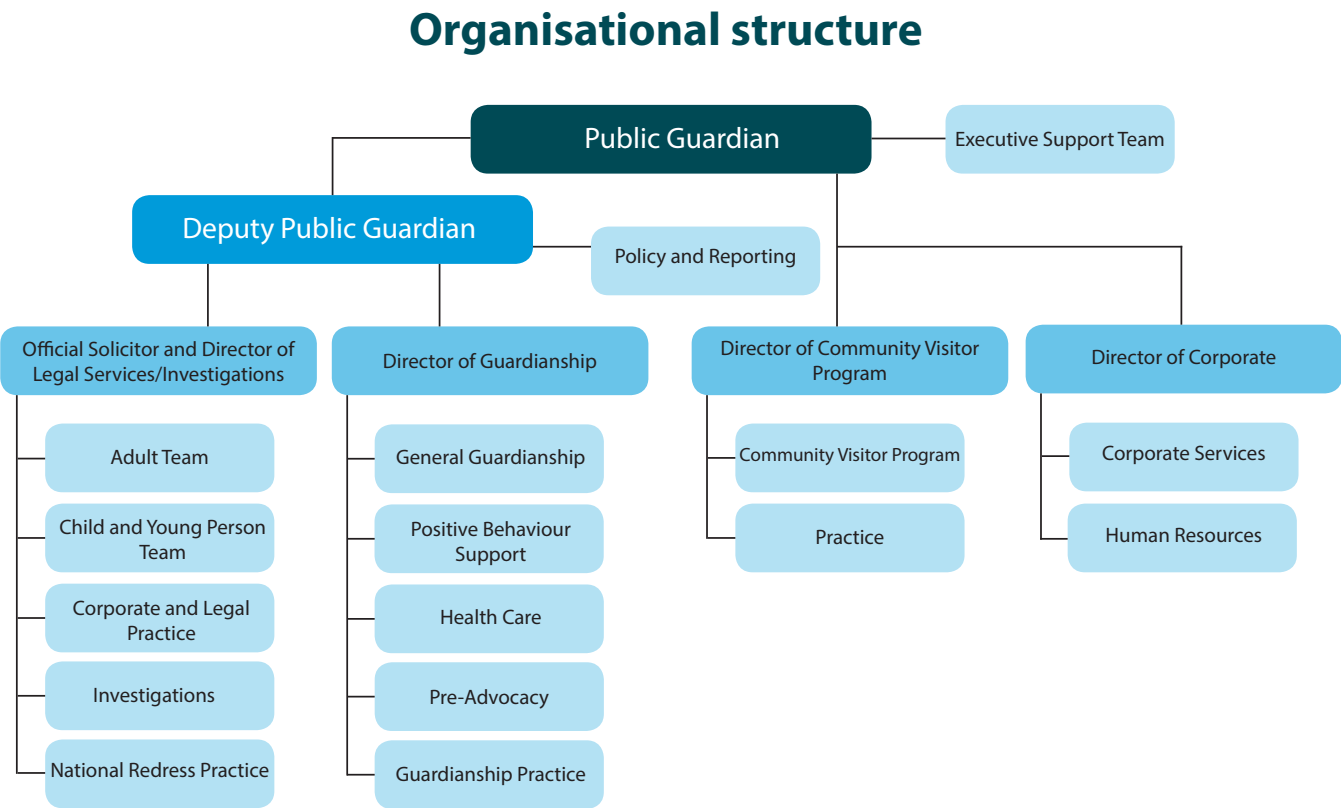
What is the best part of your job?

I like establishing great working relationships with our fabulous staff and meeting people from other agencies and government departments to enhance OPG's working relationships. I also enjoy coming up with ideas and strategies which proactively promote our role and functions, and foster innovation.

Our organisation

Organisational structure

OPG's structure as at 30 June 2019 comprised 312 people. The core establishment of OPG is 244, however, the agency retained part-time community visitors to fulfil the equivalent of one core position which is why headcount exceeds the core number. OPG's structure is made up of both public servants appointed under the *Public Service Act 2008* and home-based, casual community visitors appointed under the provisions of the *Public Guardian Act 2014*. OPG's workforce is 80 per cent female and 20 per cent male, with 17 percent of the Office's workforce engaged on a part-time basis.



Pictured below: OPG's 2018 Staff Excellence Award winners. Queensland's Human Rights Commissioner Scott McDougall (pictured front row, fourth from right) presented OPG staff with their awards.



Our Leadership



Natalie Siegel-Brown
Public Guardian

- As the Queensland Public Guardian, Natalie is an independent statutory appointment holding the primary functions and powers of the Office. She also operates as the CEO of the Office of the Public Guardian.
- The Deputy Public Guardian, the 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.



Brian Norman
Director — Corporate Services

- Corporate Services comprises 34 staff and provides business support to frontline staff and the executive management team.
- It encompasses Information Technology, Communications and Engagement, Finance, Human Resources, Central Intake and Referral, and Corporate Administration.



Amelia Barker
Director — Guardianship

- The areas has 85 staff located at four regional offices located in Brisbane, Ipswich, Townsville and Cairns.
- It comprises several specialised teams covering Health Care, Positive Behaviour Support, Pre-Advocacy and the EPOA project.



Catherine Moynihan
**Official Solicitor and
Director — Legal Services/
Investigations**

- This area comprises 35 staff who are mostly located in Brisbane, with child advocate legal officers also located in regional offices.
- It has five separate teams: Adult, Child and Young Person, Investigations, Corporate and Legal Practice, and Redress Practice.
- The Corporate and Legal Practice Team provides legal services to the Public Guardian and her delegates.



Karen Jabbour
**Acting Director —
Community Visitor Program**

- This area comprises 146 staff, including 112 active community visitors (of which 40 are child visitors, six are adult only visitors, and 66 are dual visitors).
- The program has eight regional offices located in Brisbane, Ipswich, Toowoomba, Sunshine Coast, Rockhampton, Bundaberg, Cairns and Townsville, covering 13 distinct visiting regions, and a specialised Youth Justice Team to oversight youth detention and watch houses where children and young people are detained.

Official Solicitor

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

In 2018–19, the Corporate and Legal Practice Team provided 102 legal advices to the agency regarding the carriage or undertaking of its duties and powers, and also assisted in the coordination of 52 high-priority requests for information from external agencies such as the Office of the State Coroner and subpoenas issued in court processes.

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 there is an immediate risk of harm because of neglect (including self-neglect), exploitation or abuse. The Public Guardian applied for and was granted four warrants in the 2018–19 financial year. The Corporate and Legal Practice Team worked with the Guardianship and Investigations areas to progress these applications to QCAT.

Our commitment to client input into the way we operate

OPG exists to advocate for our clients and promote their human rights, so it is appropriate that, wherever possible, their input is sought into the way OPG operates. During 2018–19 OPG started developing our next five-year strategic plan and sought input from a range of client groups on how OPG functions.

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

OPG is committed to the right to safety of children and vulnerable people. We want children and vulnerable people to be safe, happy and empowered. OPG supports and respects all children and vulnerable people, as well as our staff. OPG has zero tolerance for the abuse of children and vulnerable people, and all allegations and safety concerns will be treated very seriously. We are committed to promoting culturally appropriate and responsive spaces for Aboriginal and Torres Strait Islander children and vulnerable people, and for children and vulnerable people from culturally and/or linguistically diverse backgrounds, as well as to providing a safe environment for those with a disability.

OPG will:

- be preventative rather than reacting to incidents after they occur
- have clear boundaries and guidelines 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
- support and guide clients, families and staff when concerns are expressed.

Corporate governance

OPG's corporate governance framework guides the way we manage our business, minimise risks and meet legislative obligations. 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:

- Senior Leadership Group
- Critical Client Incident Review panels
- Professional Development Working Group
- Information Communication Technology (ICT) Business Partnerships Committee
- Human Resource Management Working Group
- Policy and Practice Working Group

Mandatory online reporting

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

Employee relations

OPG's Industrial and Employee Relations Framework is governed by existing Department of Justice and Attorney-General (DJAG) workforce policy and procedure. 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

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

Code of conduct and ethics

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

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

All employees are required to observe the Queensland Public Service Code of Conduct. The ethics principles and values contained in the Code of Conduct are incorporated into OPG's policies and procedures as well as each employee's 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

OPG's management and staff 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, OPG continues to have a comparatively low level of workplace accidents. Only four WorkCover claims were lodged in 2018–19. 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 OPG's everyday activities. We are committed to the implementation of risk management strategies that ensure efficiency and effectiveness in meeting our objectives, while at the same time providing a safe and healthy workplace for staff. 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 OPG staff at all levels will:

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

Business continuity management

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

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

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

In conversation with...

Tony

Corporate and Legal Practice Team



What does your role involve?

My role is to manage the Corporate and Legal Practice Team whose function is to provide specialist legal advice and assistance to the Public Guardian and her delegates about the performance of statutory functions and exercise of statutory powers.

What is your professional background?

I began my legal career in 1997 as a law clerk for the Public Trustee of Queensland. After obtaining my law degree I worked as a legal officer for the Public Trustee until I moved into private practice. While in private practice I specialised in trusts and estates law, elder law and commercial law. I later took up the role of an in-house lawyer with the Guardianship and Administration Tribunal, which is now the Queensland Civil and Administration Tribunal (QCAT). Almost ten years ago now I transferred to the Adult Guardian, which later became the Office of the Public Guardian.

What does your typical work day look like?

My role is to provide legal advice and assistance directly to the Public Guardian and her staff about the offices' statutory functions and powers. So my typical day consists of meetings with the Public Guardian and her staff to discuss any legal matters that have arisen, researching legal issues and preparing legal

advice. I may also attend stakeholder meetings with or on behalf of the Public Guardian, as well as attend contentious court or tribunal hearings. The Corporate and Legal Practice Team is also responsible for coordinating responses to subpoenas, along with high-priority external requests for information from other organisations such as the Coroners Court or Child Safety. As you can see, my role is diverse so my typical day can be filled with all types of different legal tasks!

What are some challenges you've faced?

Having such a wide and varied role means I have to be across many areas of law which is a big responsibility and can be demanding at times. I also need to be aware of current trends in government policy and reform issues at both State and Commonwealth level, particularly in relation to aged care, the National Disability Insurance Scheme (NDIS) and youth justice. This is a challenge I face regularly because there are a lot of issues I need to be aware of.

What is the most inspiring thing you've seen or been part of at OPG?

I have been fortunate to have been involved in matters where achieving a positive outcome for clients has been dependant on OPG staff from various business units working together, even though we have very different statutory roles and functions. One example is our combined approach to ensure that all eligible OPG clients have access to the National Redress Scheme.

When have you played an integral role in promoting and protecting our clients' human rights?

There is a specific case that comes to mind where the Public Guardian was made aware of a relatively wealthy 93-year-old woman called Martha (not her real name) who had impaired decision-making capacity and was being subject to undue influence, financial abuse and neglect by her son who also resided with her in the run down family home. Martha had been assessed and was eligible for permanent residential aged care and in-home support. However, her son was preventing her from receiving this support due to his aggressive and intimidating behaviour towards service provider staff.

The Public Guardian was satisfied that Martha was at immediate risk of harm from her son. My role was to work with other OPG staff to draft an application for an Entry and Removal Warrant. I also attended a contested hearing and successfully advocated to have QCAT issue this warrant to immediately remove Martha from her risky environment at home. The great news is that Martha now resides in an aged care facility where all her health care and service needs are being met, and arrangements were put in place so her other family members could visit her in a safe environment.

What is the best part of your job?

It's pretty simple. It's knowing that I am able to make a direct contribution to OPG's work in advocating for our clients' human rights.

Information systems and record keeping

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

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

We have clear processes and staff training sessions about:

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

Right to information and the protection of personal information

Consistent with the *Right to Information Act 2009* and *Information Privacy Act 2009*, 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 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) provides that information obtained by the investigation function of the Public Guardian is exempt from the Act, while Schedule 4 sets out additional factors to be considered when determining the public interest
- *Guardianship and Administration Act 2000* section 249 (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* section 140 (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 and on our website.



In conversation with...

Jackson

Information Technology Team



What does your role involve?

As the Team Leader in Information Services I manage our client management and record keeping system, Resolve. I also act as a liaison between the OPG and the Department of Justice and Attorney-General's IT team, participating in a number of reference and partnership groups.

What is your professional background?

I have been in the IT profession my whole working career – that's 45 years! I have a degree in Business Administration with a major in Business Analysis, and a Masters degree in Information Management. I started as a computer operator and have worked in IT all areas including computer programming, systems analysis, a data modeller, and eventually I entered the information management field. I am currently working in the Resolve Project Team as a systems expert while still being responsible for Resolve system administration.

What does your typical work day look like?

I spend most of my days assuring OPG systems are healthy, up and running, and efficiently assisting OPG fulfil its purpose. This means developing new functions, running system tests, fixing bugs and researching possible improvements. But my day doesn't just involve me and a computer! A considerable part is spent interacting with staff, also known as 'system users' — a part I really enjoy.

What are some challenges you've faced?

Resolve is required to run in a state wide network 24/7. Sometimes unknown problems can cause serious system crashes or make the network unresponsive. Investigating the causes and coordinating the involved parties can be challenging, particularly knowing that the whole organisation depends on my ability to bring the system back online within a minimal length of time and disruption.

How does your role help promote and protect OPG clients' human rights?

Accuracy, timeliness and completeness are just three dimensions of good data. OPG staff require timely access to quality data for their day-to-day assessments and decision making to protect our clients' human rights. I am responsible for assuring that such access is available through a performing network, and systems efficiently capable to capture, store, and provide access to data.

What has your team achieved in the past year?

Establishing the Resolve Project Team will see the migration of child-related data from the Jigsaw database to the Resolve database so all of OPG's client data can be stored and accessed in one central place. Also, we have upgraded Resolve, which has led to a number of improvements.

What is the best part of your job?

The part I most enjoy is when I work closely with colleagues in the business areas to analyse their needs and provide IT-based solutions. In fact "walking in their shoes" and identifying how to help them is the exciting part for me, which opens opportunities to apply my knowledge, creativity and experience.

Our people

Our commitment to addressing domestic and family violence

OPG is strongly committed to our people's safety, health and wellbeing. We recognise that employees sometimes face difficult situations in their work and personal lives 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 public service values, which include behaving in a way that promotes a work environment free from any form of violence and supporting those 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. OPG's work also involves recognising and responding to domestic and family violence in our clients' lives.

Activities undertaken in 2018–19 by OPG to help provide a supportive workplace included:

- reiterations of the Public Guardian's statement of commitment to supporting staff experiencing DFV and available resources for assistance as a standalone inclusion to OPG's Intranet
- application of OPG Policy — *Obligations to recognise and respond to a client experiencing domestic and family violence*
- application of OPG policy — *Mandatory reporting of significant harm to a child or young person*
- staff participation in training and events relating to elder abuse
- training for staff to help them see the signs of clients experiencing domestic and family violence and how to respond
- OPG representation on the White Ribbon Accreditation working group
- OPG staff participation in the Darkness to Daylight Challenge organised by Australia's CEO Challenge
- Staff fundraising for the Darkness to Daylight Challenge

- mandatory training in preventing, recognising and responding to violence for managers/ supervisors and HR
- continuation of mandatory online training in domestic violence and the workplace for all other staff
- frontline staff participation in training to assist them to recognise and respond to domestic and family violence in our clients' lives
- coverage of DFV information and support options in induction activities.

Workforce planning, attraction and retention

In 2019 OPG continued its annual internal staff excellence awards program which recognised staff performance and achievements. The awards focused on recognising and rewarding professional excellence and high standards in the categories of advocacy, fostering innovation, excellence in performance, excellence in leadership, and changing the lives of clients. The awards and recognition promote and inspire best management practice and continuous improvement in the workplace.

Additionally, a senior guardian from our Townsville team was a finalist in the Justice Services Divisional Awards and won a Highly Commended Award for going above and beyond for one of her clients.

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

OPG is committed to developing and maintaining staff capability to ensure services are delivered efficiently and effectively. In 2018–19, we focused 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 and this financial year it concentrated on skills and knowledge relevant to frontline staff and Indigenous cultural awareness programs.

Performance management

OPG is committed to maximising every employee's ability and opportunity to contribute to excellent conduct, high performance and workplace culture that reflects the public service values of:

- customers first
- ideas into action
- unleash potential
- be courageous
- empower people.

Central to this commitment is effective and appropriate performance management 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 knows what is needed to achieve in our roles. It is also about recognising individual and team contribution and commitment. All OPG staff have Expectations Agreements, confidential agreements between a staff member and their supervisor that detail:

- performance objectives (which are measurable)
- standards of output and behaviour
- development needs
- career aspirations and/or retirement intentions
- 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, OPG offers flexible working arrangements such as accrued time, purchased leave, paid maternity leave, and part-time work arrangements.

OPG also offers scheduled work/team/office-based fitness 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, OPG staff have access to Benestar's Employee Assistance Program — free of charge.

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

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

Communicating with staff

With staff located across Queensland, keeping staff informed is a high priority for 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 business areas to update staff on events 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

OPG staff are dedicated to helping the community, both personally and professionally. In 2018–19, OPG supported:

- Darkness to Daylight Domestic Violence
- *The Big Issue*
- The Pyjama Foundation
- Givit Christmas Gift Drive
- Camp Quality
- White Cloud.

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 the 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 OPG’s operating costs.

Comprehensive financial details relating to OPG’s operations are reported in the DJAG Annual Report. The summary below provides an overview of OPG’s financial performance for 2018–19.

Overview of financial performance

Income and expenditure 2018–19

	\$000
Income from continuing operations	
Appropriation	29,667
Public Trustee Grant	1,172
Other revenue	29
Total income from continuing operations	30,868
Expenses from continuing operations	
Employee expenses	26,317
Supplies and services	4,066
Grants and subsidies	5
Depreciation and amortisation	470
Other expenses	9
Total expenses from continuing operations	30,867
Operating result from continuing operations	1

Expenditure

In 2018–19 OPG spent \$30,736,568 on its services. The largest operational expenditure areas in 2018–19 were Visiting Services and Guardianship Services.

Expenditure 2018–19	\$
Corporate Services	7,495,864
Legal Services/Investigations	3,510,669
Visiting Services	10,913,192
Guardianship Services	8,946,996
Total	30,866,721



Appendix 1: Glossary

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

Appendix 2: OPG data tables

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

	2016–17		2017–18		2018–19	
Visitable home	26,819	82%	26,910	79%	29,209	72%
Visitable home — Boarding school	275	1%	214	1%	174	0%
Visitable site — Residential facility	4,246	13%	4,809	14%	5,926	15%
Visitable site — Externally supported site	696	2%	1,206	4%	1,643	4%
Visitable site — Youth detention site	418	1%	599	2%	1,535	4%
Visitable site — Disability services	232	1%	375	1%	345	1%
Visitable site — Mental health site	63	0%	129	0%	235	1%
Visitable site — Brisbane City Watch House	N/A		N/A		1,235	3%
Total number of visits	32,749	100%	34,242	100%	40,302	100%

Table 2: Number of visitable children by location type as at 30 June 2019

	2016–17		2017–18		2018–19	
Visitable home	6,327	88%	6,403	86%	6,797	85%
Visitable home — Boarding school	38	1%	25	0%	31	0%
Visitable site — Disability services	24	0%	27	0%	25	0%
Visitable site — Externally supported site	152	2%	201	3%	209	3%
Visitable site — Mental health site	12	0%	19	0%	18	0%
Visitable site — Residential facility	577	8%	674	9%	787	10%
Visitable site — Youth detention site	48	1%	54	1%	50	1%
Visitable site — Brisbane City Watch House	N/A		N/A		19	0%
Unknown location*	11	0%	26	0%	17	0%
Total number of visits	7,189	100%	7,429	100%	7,953	100% ¹

1. Figures add up to 99% due to rounding.

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 2019

	2016–17		2017–18		2018–19	
Monthly	2,280	32%	2,264	30%	2,521	32%
Bi-monthly	1,688	23%	1,843	25%	1,704	21%
Quarterly	2,029	28%	2,207	30%	2,569	32%
Six monthly	1,032	14%	1,018	14%	1,092	14%
Annual	109	1%	69	1%	45	1%
No visit	51	0%	28	0%	22	0%
Total	7,189	100%	7,429	100%	7,953	100%

Table 4: Child advocate meetings held by type of meeting

	2016–17		2018–19	
Visits	671	40%	683	43%
Court appearances	528	32%	568	36%
Stakeholder meetings	249	15%	162	10%
Family group meetings	110	7%	93	6%
Court-ordered conferences	71	4%	38	2%
QCAT hearings	12	1%	9	1%
Child meeting with Magistrate	-	-	14	1%
Others (court or QCAT matters)	22	1%	16	1%
Total	1,663	100%	1,583	100%

Table 5: Issues raised by children and young people

	2016–17		2017–18		2018–19	
Contact arrangements	3,768	20%	3,493	17%	3,224	16%
Placement	3,045	16%	3,412	17%	3,241	17%
Case plans	1,952	10%	2,149	11%	1,556	8%
Education needs	1,557	8%	1,653	8%	1,491	8%
Health needs	1,618	9%	1,586	8%	1,570	8%
Youth detention centres	723	4%	1,031	5%	1,497	8%
High-risk behaviour	992	5%	1,013	5%	1,294	7%
Others	5,352	28%	5,754	29%	5,747	29%
Total	19,007	100%	20,091	100%	19,620	100% ¹

1. Figures add up to 101% due to rounding

Table 6: Issues raised in youth detention centres

	2016–17		2017–18		2018–19	
Living conditions	201	29%	278	25%	393	22%
Programs, services	113	16%	213	19%	381	22%
Contact	91	13%	171	16%	202	12%
Staff	79	11%	92	8%	64	4%
Child Protection Orders/ Transition in 2015-16	58	8%	83	8%	157	9%
Others	156	22%	261	24%	557	32%
Total	698	100%	1,098	100%	1,754	100% ¹

1. Figures add up to 101% due to rounding

Table 7: Issues raised at Brisbane City Watch House

	2018–19	
Programs, services	138	22%
Remand	137	22%
Living conditions	83	13%
Contact	60	10%
Others	198	32%
Total	658	100% ¹

1. Figures add up to 99% due to rounding

Table 8: Aboriginal and Torres Strait Islander visitable children by zone as at 30 June 2019

	2016–17	2017–18	2018–19
Brisbane North	115	115	132
Brisbane South	131	140	127
Brisbane West	137	129	139
Central North	331	364	359
Central South	181	201	215
Far Northern	522	514	516
Gold Coast	131	126	145
Ipswich	263	264	296
Logan	159	162	185
Moreton and South Burnett	217	237	259
Northern	361	379	433
Sunshine Coast	115	109	119
Toowoomba and Western	276	284	305
Total	2,939	3,024	3,230

Table 9: Guardianship appointment type

	2016–17		2017–18		2018–19	
Accommodation	1,821	28%	1,893	29%	1,807	29%
Service Provision	1,702	26%	1,858	28%	2,055	33%
Health Care	1,443	22%	1,320	20%	1,091	17%
Legal	509	8%	500	8%	461	7%
Contact	398	6%	371	6%	322	5%
Restrictive Practices	273	4%	299	5%	264	4%
Others	367	6%	302	5%	281	4%
Total	6,513	100%	6,543	100%	6,281	100%¹

1. Figures add up to 99% due to rounding

Table 10: Legal decisions made by type

	2018–19	
Criminal	551	51%
Child protection	164	15%
Domestic and family violence	86	8%
Mental health	86	8%
Release of information	61	6%
Family law	55	5%
Bail	39	4%
Other	18	2%
Dangerous prisoner matters	8	1%
Victim of crime	2	0%
Total	1,070	100%

Table 11: Reasons for closure of investigations

Reason for closure	2016–17	2017–18	2018–19
Advice given/formal	15	19	13
Advice given/informal	16	2	6
Allegation not substantiated	43	33	37
Decline to investigate/adult deceased	12	34	16
Decline to investigate/adult has capacity	31	23	27
Decline to investigate/inappropriate referral	1	2	1
Decline to investigate/not meeting investigation guidelines	1	0	1
Decline to investigate/QCAT order made	-	8	5
EPA suspended/financial mismanagement	3	2	10
EPA suspended/QCAT application/interim application	1	0	0
EPA suspended/QCAT/other	-	-	1
EPA suspended/QCAT application/normal application	20	22	7
EPA suspended/QCAT application/third-party application	1	0	0
Other	8	4	4
QCAT application made/interim	11	17	23
QCAT application made/normal	27	10	9
QCAT application made/third party	38	14	28
Referral made to external agency	-	0	2
Total	228	190	190

Table 12: Visitable sites by sector (adult)

	2016–17		2017–18		2018–19	
Disability	1,215	92%	1,118	91%	1,126	88%
Mental Health	71	5%	73	6%	84	7%
Supported Accommodation	40	3%	42	3%	74	6%
Total	1,326	100%	1,303	100%	1,284	100%¹

1. Figures add up to 101% due to rounding

Table 13: Visitable sites by service sector (adult)

	2016–17		2017–18		2018–19	
Department of Communities	171	13%	170	13%	170	13%
NGO	1,085	82%	1,061	81%	1,037	81%
Queensland Health	70	5%	72	6%	77	6%
Total	1,326	100%	1,303	100%	1,284	100%

Table 14: Issues identified on behalf of adults at visitable sites

	2016–17		2017–18		2018–19	
Wellbeing	474	25%	512	24%	595	26%
Support	372	19%	418	20%	446	19%
Accommodation	325	17%	341	16%	338	15%
Health	214	11%	238	11%	207	9%
Least-restrictive services	205	11%	227	11%	290	13%
Assessment	120	6%	155	7%	147	6%
Treatment	130	7%	146	7%	188	8%
Access to information	70	4%	74	3%	76	3%
Others	10	1%	10	0%	14	1%
Total	1,920	100%	2,121	100%	2,301	100%

Table 15: Health care consent by decision making authority

Decision-making authority	2016–17		2017–18		2018–19	
Acting as guardian in accordance with section 174(2)(e) of the <i>Guardianship and Administration Act 2000</i>	653	57%	722	55%	555	45%
Acting as personal attorney in accordance with section 174(2)(d) of the <i>Guardianship and Administration Act 2000</i>	15	1%	26	2%	16	1%
Acting as statutory health attorney of last resort in accordance with Section (63)(2) of the <i>Powers of Attorney Act 1998</i>	482	42%	556	42%	655	53%
Exercising power for a health matter in accordance with Section 43 of the <i>Guardianship and Administration act 2000</i>	1	0%	2	0%	1	0%
Forensic examination pursuant to section 38 of the <i>Public Guardian Act 2014</i>	0	0%	3	0%	2	0%
Total	1,151	100%	1,309	100%	1,229	100%¹

1. Figures add up to 99% due to rounding

Table 16: Reasons for health care consents

Reason for health care consent	2016–17		2017–18		2018–19	
Surgical	480	42%	591	45%	539	44%
Medical	430	37%	468	36%	449	37%
Dental	151	13%	138	11%	141	11%
Withdrawal and withholding life-saving measures	87	8%	103	8%	94	8%
Forensic examination	1	0%	7	1%	3	0%
Participation in clinical trial	2	0%	1	0%	3	0%
Allied health	-	0%	1	0%	0	0%
Total	1,151	100%	1,309	100%	1,229	100%

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
	Table of contents	ARRs – section 9.1	p5
	Public availability	ARRs – section 9.2	p3
Accessibility	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	p14
Non-financial performance	Government’s objectives for the community	ARRs – section 11.1	p17
	Other whole-of-government plans/specific initiatives	ARRs – section 11.2	N/A
	Agency objectives and performance indicators	ARRs – section 11.3	p22
	Agency service areas and service standards	ARRs – section 11.4	p23
Financial performance	Summary of financial performance	ARRs – section 12.1	p102
Governance — management and structure	Organisational structure	ARRs – section 13.1	p89
	Executive management	ARRs – section 13.2	p90
	Government bodies (statutory bodies and other entities)	ARRs section – 13.3	N/A
	<i>Public Sector Ethics Act 1994</i>	Public Sector Ethics Act 1994 ARRs – section 13.4	p93
	Queensland public service values	ARRs – section 13.5	p8

Summary of requirement		Basis of requirement	Annual report reference
Governance — risk management and accountability	Risk management	ARRs – section 14.1	p93
	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	p100
	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	p100
	Statement advising publication of information	ARRs – section 16	p96
Open data	Consultancies	ARRs – section 33.1	p92
	Overseas travel	ARRs – section 33.2	p92
	Queensland Language Services Policy	ARRs – section 33.3	p92
Financial statements	Certification of financial statements	FAA – section 62 FPMS – sections 42, 43 and 50 ARRs – section 17.1	N/A
	Independent Auditor’s Report	FAA – section 62 FPMS – section 50 ARRs – section 17.2	N/A

