

2019-20 Annual Report

23 October 2020

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

Dear Attorney-General,

I am pleased to submit for presentation to the Parliament the Annual Report 2019-20 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 69).

Yours sincerely



Shayna Smith
Acting 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 2019 to 30 June 2020. 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 2019-20 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:

Principal Communications Officer
Office of the Public Guardian
PO Box 13554, George Street
Brisbane QLD 4003
Phone: 1300 653 187
Email: comms@publicguardian.qld.gov.au

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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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2019-20 in review

- ✓ OPG made **42,090** visits to **10,074** children and young people. This is a **4 percent** increase in the number of visits since 2018-19.
- ✓ OPG raised **19,887** issues on behalf of children and young people. This is a **1 percent** increase since 2018-19.
- ✓ OPG provided individual advocacy for **218** children and young people at **526** court/tribunal-related proceedings.
- ✓ OPG visited **7,267** adults at **1,525** visitable sites. This is a **10 percent** increase in the number of adults visited and an **11 percent** increase in the number of visitable sites since 2018-19.
- ✓ OPG identified **2,329** issues on behalf of people living at visitable sites. This is an increase of **1 percent** since 2018-19.
- ✓ OPG had **1,115** new people provided with OPG guardianship services, with a total of **3,590** receiving decision-making support from OPG in 2019-20. This is a **19 percent** increase in new clients from 2018-19, and a **5 percent** increase in the total number of adults receiving decision-making support.
- ✓ **2,301** guardianship clients were NDIS registered. This is a **10 percent** increase in the number of NDIS registered clients in 2018-19.
- ✓ OPG opened **294** investigations into reports of abuse, neglect and exploitation of adults with impaired decision-making capacity. This is a **40 percent** increase since 2018-19.

What we have done this year

- ✓ Maximised efficiency to increase service delivery to meet unprecedented demand for our services.
- ✓ Supported our staff’s emotional and psychological wellbeing by introducing a tailored trauma and debriefing service.
- ✓ Adapted to the challenges of the COVID-19 pandemic by successfully introducing technological solutions to stay connected to clients when face-to-face visits are unable to occur.
- ✓ Proactively engaged and educated service providers to ensure locations of visitable sites were reported to OPG.
- ✓ Implemented the Organisational Development and Improvement Project to ensure OPG can operate effectively and efficiently as demands on our services continue to increase.

Next year, we will...

- ✓ Ensure OPG staff have the right skills and knowledge to support our client’s effectively by implementing a three-year Learning and Development Framework.
- ✓ Work with relevant agencies to increase awareness of the rights of children and young people to be kept informed of the decisions that are made about them.
- ✓ Focus on advocacy for younger adults that ensures they receive appropriate NDIS plans that support them to transition to live at age appropriate accommodation rather than aged care facilities.
- ✓ Strengthen our processes for making complaints on behalf of clients to better ensure their issues are formally recognised and addressed.
- ✓ Support our community visitors into the future by working with the Together Union, Industrial Union of Employees to bring them under the ambit of the *Queensland Public Service Officers and Other Employees Award – State 2015*.

The Public Guardian's message

Well I think it's safe to say this has been a year like no other! When I stepped into this role in March 2020, I certainly didn't expect what the following months would bring. But, I have to say that despite the immense challenges we experienced, I was so impressed by the initiative and commitment I saw by OPG staff to ensure we could continue to deliver vital frontline and oversight services to some of Queensland's most vulnerable people.

Although the challenges brought by the COVID-19 pandemic were certainly unprecedented, we can't let them overshadow the great things that OPG achieved during 2019-20.

As the figures in this report show, our service delivery has increased almost across the board, with community visitors visiting more adults, children and young people than ever before, greater numbers of adults coming under public guardianship and another year of increased investigations into abuse, exploitation and neglect of adults with impaired decision-making capacity.

Empowering staff to empower clients

This continued upward trend in demand for our services demonstrates why it is so important to support our staff so they can deliver. It's an ethos that is central to our *Strategic Plan 2019-2024*, which hinges on our ambition to give "...a voice to the voiceless through staff that feel empowered to do so."

Equipping our staff with the right tools and support is what ultimately changes the lives of our clients. So much work has been done this year on reinforcing the foundations staff need to perform the vital work of upholding and advancing the human rights of our clients.

Underpinning this is the Organisational Development and Improvement Project, which was initiated in July 2019 to ensure OPG is in the best possible operational position to effectively meet current and future demand and give staff these all-important tools. Over the past year the project has focused on setting the priorities and core objectives and commenced reform on the

organisation's governance framework. Over the next three years a comprehensive range of operational improvement initiatives will be rolled out. There's more information about this project on page 10 of this report.

Initiatives to support staff

One of our key priorities is to improve the quality of working life for staff, and an issue we have long been aware of is the vicarious trauma staff can be exposed to because of the nature of their work. We knew this had to be addressed, so I was delighted that in late 2019 OPG launched a bespoke clinical support/trauma debriefing service for all staff.

Unfortunately the onset of the pandemic meant the face-to-face debriefing meetings have been slow to roll out, but I have been very pleased to see that many staff have taken advantage of the telephone wellbeing check-ins with a psychologist, with this service being well received so far.

A significant initiative this year was the work undertaken to include our community visitors as employees under the *Queensland Public Service Officers and Other Employees Award – State 2015*. Negotiations have proceeded with the Together Queensland, Industrial Union of Employees on amendments to the Award tailored to the unique and valued work that our community visitors do. The aim is to receive the Queensland Industrial Relations Commission's endorsement of the amended Award and transition community visitors to it in the next reporting period, which will provide them with a range of generic industrial entitlements.

Additional resources to support clients to access the NDIS

The National Disability Insurance Scheme (NDIS) recently reached full scheme roll out, and continues to have a significant impact on OPG resources and service delivery. Both community visitors and delegate guardians play an important role ensuring vulnerable children, young people and adults are accessing the disability supports and services they need.

Thankfully this vital work was recognised by the Queensland Government, and OPG successfully secured some recurrent funding in the 2019-20 Budget. This led to the permanent recruitment of frontline staff that had previously been temporarily appointed to service the increase in demand. This will ensure OPG can continue to help clients to access the disability funding they need from the NDIS to live their lives to their full potential.

Advocating for systemic change at a national level

Our staff perform advocacy at an individual level every day, but often these issues are indicators of much larger systemic issues. That's why it is important that OPG raises the voices of its clients at a national level and takes every opportunity to make those voices heard. So I'm very pleased that this year, OPG has had the opportunity to contribute to both the Royal Commission and Federal Parliamentary Inquiry into Aged Care, and the Disability Royal Commission.

In both aged care arenas we called for the regulation of restraint to replicate the comprehensive authorisation regime for the use of restrictive practices that we have for funded disability service providers in Queensland. We also called for the establishment of a federal, paid community visitor scheme with legislative powers to oversee the rights and interests of people living in aged care. These are areas that are crucial to the safety and security of Australians residing in aged care. Going forward, OPG will use every opportunity to keep raising this important issue until we see comprehensive safeguarding change happen. In response to the Disability Royal Commission, OPG has thus far contributed to the issues papers on both health care and the criminal justice system – these are both areas where OPG was able to raise the experiences and challenges our clients face every day.

The impacts of COVID-19 on our clients

As I noted above, we can't let the COVID-19 pandemic overshadow our achievements, but it is also important to acknowledge the impact it has had on our clients. Many of our adult clients reside at residential sites and at the early stages of the health restrictions, they suddenly found that they couldn't leave their accommodation or receive visitors. As many lacked the ability to understand the complex health advice and restrictions, some became distressed and felt isolated. Additionally, there were challenges in ensuring the continuity of vital services to them, as the safety and welfare of staff was also important during this time.

Contact restrictions resulted in many children and young people in out of home care or youth detention being unable to have face-to-face contact with

family members. This not only led to psychological and emotional health issues, but also in some cases, there was an unintended impact on the progress of reunification processes, which is something OPG continues to monitor.

The ongoing uncertainties of what the pandemic may bring is one of the biggest challenges OPG faces over the next year. An economic downturn has the potential for a large increase in referrals to OPG to investigate financial or other abuse against adults with impaired decision-making capacity. Economic and social impacts of the pandemic may also see a greater number of children and young people entering the child protection system, which in turn, will increase the number of children and young people our community visitors visit and child advocate-legal officers support. The constantly changing circumstances require OPG to be flexible and agile in its models of service delivery, but it is a challenge we will face head on.

Introduction of the Human Rights Act

A more welcome development in 2020 was the commencement in its entirety of the *Human Rights Act 2019* on 1 January 2020. The protection of human rights is fundamental to our work every day at OPG. We have formalised this commitment by reflecting the new legislation in the policy and procedures that shape our service delivery at the frontline. More information on how we are incorporating the Act can be found on page 17 of this report.

A thank you to the outgoing Public Guardian

I'd like to express my deep thanks to Natalie Siegel-Brown, who stepped down as Public Guardian in June 2020 after almost four years of bold stewardship. Her achievements as Public Guardian have embedded a lot of positive change and have provided a solid foundation that we are all proud to take forward. I know all OPG staff join me in wishing her well with her future endeavours.

Last, but very definitely not least, on behalf of the senior leadership team I want to acknowledge everything the staff of this agency have done this year. The work you do is complex, but the way you all adapted to the unique challenges of the latter part of this financial year and your dedication and commitment to putting the needs of clients front and centre is inspiring, so thank you.



Shayna Smith
Acting 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 by ensuring their views and wishes are considered when decisions are made.
- For adults, this means advocating for their rights, appropriate access to services, independence and choice as part of a supported decision-making model and human rights framework.
- 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 independent to the control and direction of the Attorney-General.

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

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 location and elevate their voice and participation in the decisions that affect them.

This is achieved through two different roles at OPG.

- **Community visitors (child):** Community visitors inquire into the delivery of high-quality services for children by responsible agencies and as part of service provision at visitable locations. 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. It is also to ensure the delivery of services is being undertaken in an appropriate manner to enhance safety, mitigate risk and support the wellbeing of children and young people who reside at a visitable location. Community visitors may also advocate for children and young people on matters, and raise issues and complaints through the OPG complaints role both on issues they noted or on behalf of the children and young people they visit.

- **Child advocate-legal officers:** Child advocate-legal offices perform child advocacy functions in relation to legal issues. Their advocacy is focused on supporting children and young people to understand their rights, access information and ensure decisions being made consider the child or young person's rights, interests and their own views and wishes. This can include:
 - supporting them to review decisions about placement and contact at the Queensland Civil and Administrative Tribunal (QCAT)
 - helping them to participate in court proceedings that deal with making a child protection order
 - reviewing decisions to cancel their enrolment or to suspend or exclude them from school.

Guardianship

Our guardianship function promotes and protects the rights and interests of adults who 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 personal decisions about their life in the least-restrictive way possible. They support adults with decision making in areas appointed by QCAT.

Positive Behaviour Support team: This team makes decisions and provides advice to the Public Guardian about 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 used on adults with impaired decision-making capacity.

Pre-Advocacy team: The Public Guardian is an active party to all guardianship hearings at QCAT, so this team undertakes pre-hearing and in-hearing advocacy and education with the aim of promoting the adult's human rights to ensure the least restrictive orders are made. This includes advocating where a formal guardianship appointment is not required or is not the least-restrictive option, or where there is another appropriate guardian or decision-making framework that can be relied upon. They ensure the Public Guardian is only appointed as a last resort.

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. They are also the guardians for all clients where the Public Guardian has been appointed to make health care decisions only.

Legal Services Adult team: This team supports adults with impaired decision-making capacity to make decisions in legal processes that do not relate to financial or property matters. The team ensures clients have access to legal advice and representation so an adult's impairment does not negatively impact on their access to justice. The team also instructs legal representatives to progress clients' legal matters.

Adult Community Visitor Program

Adult community visitors perform a critical inquiry and complaints function for adults who live in visitable sites such as Authorised Mental Health Services, level 3 residential accommodation services, forensic facilities and certain sites where NDIS participants live. They act as independent 'eyes and ears' regarding the adequacy and appropriateness of services provided to the adults residing at the site. Community visitors do this by ensuring adults know their rights, checking whether the standards of service provision are being met and that policies, procedures and decision-making consider the adult's views, wishes and human rights.

Investigations

The Investigations function promotes and protects the rights and interests of adults with impaired decision-making capacity by investigating allegations that the adult has been neglected, exploited or abused, or has inappropriate or inadequate decision-making arrangements in place. They provide education to decision makers about their responsibilities and take the protective action required if the investigation finds the allegations are substantiated.

Policy and Reporting

Our Policy and Reporting function advocates for our clients' collective voice on high-level strategic policy and law reform issues that impact on their rights and interests. The Policy team 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. The Reporting team provides specialist support to OPG's business units and reports on OPG's performance and activities to continually improve service delivery.

Redress Practice team

The 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. This is a time-limited team who will wrap up their project work during 2020-21, leaving significant informed and considered resources to support all business units to respond to the needs of OPG clients who may be eligible for the scheme over the ten years it will be available.

Corporate Services

Corporate Services provides specialist and administrative support to frontline client-facing business units by enabling best practice in service delivery and supporting those business units to provide excellence in client service. Corporate Services also ensure that the human rights of staff are considered and protected, particularly in relation to workplace health and safety, and other human resources areas.

Corporate and Legal Practice team

The 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.

Our key achievements: the year that was

Implemented an Organisational Development and Improvement Project

A continuous improvement culture ensures OPG is operating efficiently and effectively and means we are never satisfied with the status quo. In July 2019, OPG initiated a long-term organisational improvement program to implement a comprehensive range of organisational development initiatives in response to detailed feedback received from staff. The initial focus for the year was the establishment of the project, scoping of proposed program of work and comprehensive consultation with managers and staff in relation to the issues raised and proposed solutions.

Three foundational initiatives were subsequently commenced. These focused on re-energising and refocusing governance and business planning across the organisation, reviewing corporate services functions to support the development of a clear service delivery statement, and initiating a review of data reporting across OPG. Together these three initiatives create a detailed knowledge base of the current state of OPG governance and corporate functioning and set the direction from which wider agency improvement and development can occur.

Supported our staff's psychological safety

At OPG we are aware that through the nature of their work, our staff can often be exposed to vicarious trauma, which can have both an emotional and physical toll if not addressed. For that reason, this year we rolled out a bespoke trauma and debriefing service tailored for OPG staff.

Unfortunately, due to the COVID-19 pandemic, for a few months we were unable to operationalise the full program of support, particularly the face-to-face team assistance aspects of this service. However, staff participated in regular individual wellbeing phone calls with a psychologist. This service is aimed at providing employees with an opportunity to discuss and reflect on their work-related experiences as well as to understand vicarious trauma, self-care and resilience. The purpose of the call is to conduct a 'wellbeing' check to manage ongoing exposure to trauma.

These calls allow OPG to take a preventative and proactive approach to employees' wellbeing. We are in the process of re-scheduling the face-to-face team debriefing components of the program, but of course this will be dependent on pandemic-related health advice and any restrictions.

Incorporated the Human Rights Act into everything we do

The *Human Rights Act 2019* took effect in its entirety on 1 January 2020. The Act protects 23 human rights and requires all Queensland public sector organisations to make decisions and take actions compatibly with these rights.

OPG has always put the human rights of our clients at the heart of everything we do, but a big focus for the first part of 2020 was ensuring the Act was embedded into all aspects of the agency. A full description of the work we have undertaken in this space can be found on page 17 of this report, but some of the initiatives undertaken to date include the development of a new human rights decision-making framework, a new complaints management policy and procedure, and ensuring all staff complete human rights training.

Continued to advocate for children and young people held in watch houses

OPG continues to advocate to ensure children and young people are not detained in watch houses unless absolutely necessary, and is pleased to see the numbers of children and young people held in these environments drop dramatically. Additionally, OPG has developed a protocol that allows community visitors access to watch houses across Queensland where a child or young person may be detained, as previously we were only able to visit Brisbane City Watch House.

Successfully implemented strategies to stay connected with clients via technology

Much of our work at OPG relies on meeting face-to-face with our clients – something that is particularly important for our safeguarding function. Therefore one of the biggest challenges we faced due to restrictions introduced as a result of the COVID-19 pandemic was the inability to visit clients face-to-face for a period of time.

OPG quickly devised and introduced alternative methods of communication and monitoring, much of it revolving around digital technology. This was not without its challenges, especially for non-verbal clients, but staff demonstrated tremendous innovation and adaptability in continuing to be able to communicate with clients and monitor their safety and wellbeing. Some young people engaged so well via electronic means that our relationship with them grew stronger.

As at 30 June 2020 we had been able to recommence most face-to-face visiting. However, OPG will take stock of what we have learnt and consider how we can integrate alternative technologies in the way we work into the future, where it would be appropriate and beneficial to the client.

Developed tools to assist service providers to notify OPG of visitable sites

In 2019, amendments to the *Public Guardian Act 2014* meant that some registered NDIS service providers were now required to report the location of any visitable site they operate to OPG.

OPG embarked on a proactive and educational approach to promote this change to NDIS service providers, and also developed a tool to help them to determine whether the NDIS-funded supports they provided at a particular location met the definition of a visitable site.

During 2019-20 the number of adult visitable sites being visited by community visitors increased by **11 percent**.

Gave our clients a voice at a national level at the Disability Royal Commission

The Disability Royal Commission was established in April 2019 in response to community concern about widespread reports of violence against, and the neglect, abuse and exploitation of, people with disability.

Given OPG's commitment to protecting the rights and interests of people with impaired decision-making capacity, we have a keen interest in the work of the Commission. In 2019-20, OPG provided submissions to both the health care and criminal justice system issues papers. OPG's response to the health care issues paper highlighted the importance of preventative health care, the supports needed to improve health outcomes for people with impaired decision-making capacity and issues around the use of restrictive practices in health care settings. OPG's criminal justice system submission raised issues such as the importance of preventative

measures and diversionary strategies being built into the criminal justice system. It also raised the need for greater consideration of the experiences of children and young people with a trauma history and adults with impaired decision-making capacity who come to contact with the criminal justice system.

OPG has also responded to requests for information from the Commission.

Established business practices to support the Redress scheme

The Redress Practice team was established in March 2019 to implement OPG's commitment to supporting clients who have experienced institutional child sexual abuse to access the National Redress Scheme. During this time the team has developed practice guidance, procedures and tools to help OPG staff proactively identify clients who may be eligible to apply for redress through the scheme. The team has also designed professional development opportunities for staff relating to trauma-informed practice, with a focus on those who have experienced living in an institutional setting.

These resources will ensure that when the Redress Practice team project concludes in the next reporting period, all staff will have an understanding of the scheme. Additionally, the appropriate referral pathways to support our clients will be embedded across OPG for the ten year period that the scheme will be in operation.

Our priorities: the year ahead

The ongoing COVID-19 situation means that we enter 2020-21 in an environment of some uncertainty. The below priorities are what OPG plans to focus on delivering, but we will need to be flexible and adapt to any ongoing impacts of the pandemic.

Continued focus on organisational development and improvement

The better OPG performs, the more our clients benefit. OPG's Organisational Development and Improvement Project is an ongoing process of continuous improvement and over the next year it will focus on:

- developing comprehensive Service Delivery Statements for each significant function in the agency
- continuing to strengthen our corporate governance and decision making
- improving our reporting capability and efficiency to enhance our understanding of our business
- reducing unnecessary bureaucracy and excessive red tape to streamline our operations.

The child protection, mental health, justice and disability service systems are complex and can be confusing and frustrating for both users and providers of services. By establishing clear and concise statements of what role OPG plays and how we operate, we will deliver greater certainty and confidence to our stakeholders, with the goal of streamlining referrals and access to services. Improved reporting will facilitate deeper understanding of our clients and business processes, which in turn will support improved service delivery and enable the red tape reduction program to target those processes that add least value to our service delivery.

Award coverage for community visitors

The *Public Guardian Act 2014* allows for the appointment of community visitors (they are not public servants). It is important to note that this employment arrangement is derived from the need for community visitors to be the independent 'eyes and ears' into systems of support and care for vulnerable children and adults located at visitable locations. Community visitors have not derived the benefits of other public service employees through coverage from an industrial award.

OPG values its staff and remains committed to gaining Award coverage for community visitors to provide a range of general and specific employment conditions and other entitlements to support them into the future. The Award will include specific provisions regarding the spread of ordinary hours and minimum engagement provisions tailored for the work of community visitors. OPG looks forward to achieving this reform in 2020-21.

Implementing a learning and development framework for staff

Learning and development is defined as the process of acquiring new knowledge, skills and experience to enhance the ability to meet current and future job requirements and achieve continuous improvement. Our employees need to have the appropriate knowledge and skills to fulfil our objectives of protecting the rights, interests and wellbeing of our clients and advocating for their human rights, as well as understanding and fulfilling their public service obligations and corporate governance requirements.

In the coming year, OPG will release the *Learning and Development Framework 2020-2023*. This will outline our commitment to learning and development and is one contributor to the achievement of a productive, capable and engaged workforce. The framework is part of OPG's strategic planning process. Its purpose is to link learning and development activities systematically with business needs and to establish priorities and plans for activities and a limited learning and development budget. With this in mind, all learning and development activities will support OPG's business objectives, delivered on a value-for-money basis, and focused on the development of the necessary core competencies required to enable individuals to perform to the best of their ability.

Strengthen processes for making a complaint on behalf of clients

While OPG will endeavour to resolve issues for clients locally with the relevant service providers, wherever possible, it is also critical that, where appropriate, we lodge formal complaints so that systemic issues can be identified and addressed, and organisations can be accountable for their decisions and actions.

A report from the Queensland Ombudsman identified that there were opportunities to improve the way both OPG and the Department of Child Safety, Youth and Women record and monitor complaints. As a result the Memorandum of Understanding between the agencies on complaints will be reviewed and improved.

Increase awareness for children and young people on their right to be kept informed

OPG is an active participant in a multi-agency working group that focuses on ensuring that young people with experience in out-of-home care play an active role in contributing to the work of participating agencies. OPG has taken a lead role in an initiative that will ensure children and young people understand their right to be kept informed about why decisions are made. This year we have focused on making sure OPG staff understand the child and young person's right to be kept informed and participate in decisions made about them, and advocated for children and young people to receive information on these rights.

Going into 2020-21 we will continue to work with other agencies to look at ways to make children and young people aware of their rights to be informed, and also on educating other agencies about their obligations to provide information to children and young people and ensuring they have an opportunity to participate in decisions made about them.

Advocate for younger people in, or at risk of being placed in, aged care

On 22 March 2019, the Commonwealth Department of Social Services issued the *Younger People in Aged Care – Action Plan* which was designed to minimise the need for younger people to live in aged care facilities.

OPG is committed to working towards the Australian Government's action plan. We will continue to proactively review and advocate for relevant clients to receive appropriate NDIS plans that provide the opportunity to transition to more age-appropriate accommodation, or to access additional services.

Our performance

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

Office of the Public Guardian service standards		
Public Guardianship	2019-20 Target	2019-20 Actual
Percentage of community visitor (adult) sites visited in accordance with the designated visiting schedule	90%	84.9%
Percentage of vulnerable children at all visitable sites ¹ visited by community visitors (child) in accordance with the designated visiting schedule	90%	86.0%
Percentage of vulnerable children in visitable homes ² visited by community visitors (child) in accordance with the designated visiting schedules	80%	84.9%
Percentage of guardianship decisions made in consultation with the client/interested persons	90%	98.0%
Percentage of investigations closed within nine months from commencement for clients aged 65 or older	80%	60.3%

1. See page 31 for the definition of visitable site.

2. See page 31 for the definition of visitable home.

Performance against strategic plan

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

Strategy	What we achieved
Give staff better tools to do their job	<ul style="list-style-type: none"> Developed an organisational training and development framework. Invested in practice guidance and precedents.
Backing up staff to do their job	<ul style="list-style-type: none"> Implemented a clinical support and trauma debriefing program for all staff.
Building a more strategic, flexible executive team	<ul style="list-style-type: none"> Focused the work of all teams unitedly through the development of strengthened planning and decision-making documents and policy.

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

Strategy	What we achieved
Developing strong relationships of accountability with those who we oversee and work with	<ul style="list-style-type: none"> Developed and provided NDIS service providers with the tools to effectively assess and report visitable sites to OPG, assisting service providers to meet their reporting obligations and increasing the numbers of adult clients being visited. Raised 194 significant matters to the formal attention of agencies such as the Ombudsman, National Disability Insurance Agency, NDIS Quality and Safeguards Commission, Disability Services, Youth Justice, Crime and Corruption Commission and Child Safety and supported positive outcomes for clients through these matters.
Developing strong relationships with our clients	<ul style="list-style-type: none"> Maintained a high level of client engagement during COVID-19 health restrictions by utilising relevant technologies to complete virtual visits.
Embedding human rights in everything we do	<ul style="list-style-type: none"> Established the OPG Human Rights Implementation Working Group to oversee a comprehensive project plan for implementing the <i>Human Rights Act 2019</i>. Developed a new human rights decision-making framework and new complaints policy and procedure incorporating human rights complaints. Ongoing review and update of policy and practice documents to embed human rights considerations in all areas of work. Multi-stage training of all staff on the <i>Human Rights Act 2019</i>.

Objective 3: To work better as 'one organisation'

Strategy	What we achieved
Better integrating our functions with one another and reducing siloed activity across the organisation	<ul style="list-style-type: none"> Strengthened internal collaboration and communication between the different frontline business units through facilitating meetings of managers across the business to share information and collaborate on common issues. Celebrated our successes through initiatives such as the OPG Staff Excellence Awards, and all-staff emails highlighting client good news stories resulting from the services that we deliver.
Streamlined processes and consistency in practice	<ul style="list-style-type: none"> Policy and practice working group systemically reviewed draft OPG policies and practice directions so all business units are given the opportunity to provide input. Reforms are underway to centralise OPG's outgoing complaints function on behalf of clients. Created tools and resources to embed knowledge in OPG staff on best practice in relation to the National Redress Scheme and its intersect with our clients.

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

Strategy	What we achieved
Promoting our role and its independence through every conversation we have	<ul style="list-style-type: none"> Created materials, including videos, that staff can use to support the conversations they have about the work of OPG and their own role.
Identifying opportunities to maximise reach about what we do with the people that matter	<ul style="list-style-type: none"> Worked with major stakeholders to develop education packages for induction and ongoing training. Produced information booklets targeted specifically at guardianship clients to help them better understand how we will work with them. Released new and updated publications, including factsheets and guides, to provide valuable information to the community.
Strategically targeting our community education and media	<ul style="list-style-type: none"> Attended key conferences, forums and events that offered opportunities to engage with stakeholders.

OPG and the Queensland Human Rights Act

The *Human Rights Act 2019* (the Act) commenced in full on 1 January 2020. Its main objects are to:

- protect and promote human rights
- help build a culture in the Queensland public sector that respects and promotes human rights, and
- help promote a dialogue about the nature, meaning and scope of human rights.

The Act contains 23 sections which list the human rights protected by the Act, and places obligations on the public sector to take actions and make decisions compatibly with human rights.

OPG has always been committed to respecting and recognising the human rights and interests of our clients in the performance of our functions, and in ensuring a human rights culture governs our service delivery. The commencement of the Act has been an opportunity to formalise this commitment in all of the decisions we make and actions we take on behalf of our clients.

Section 97 of the Act requires OPG to report each year on the following:

- actions taken to further the objects of the Act
- human rights complaints received by OPG, including the number and outcome of complaints and any other information prescribed by regulation
- reviews of policies, programs, procedures, practices or services undertaken for compatibility with human rights.

Actions taken to further the objects of the Act

Protect and promote human rights

Rights-based decision making is the cornerstone of the work performed by OPG, and an integral element in protecting and promoting the human rights of our clients. To assist OPG staff to consider, understand and recognise a person's human rights in every decision they make, OPG introduced the *Human Rights Act 2019 Decision-Making Framework*. The framework provides staff with the tools to ensure human rights have been appropriately considered when decisions are made by OPG staff. It also represents an assurance to the community that OPG's services are underpinned by compliance with the Act and provide for transparent and accountable services.

Ensuring staff have the information and understanding about human rights, the Act and their obligations under it, was recognised as integral to the protection and promotion of human rights by OPG. There has been regular communication to staff, both in the lead up and on an on-going basis since commencement, about OPG's obligations under the Act, as well as the distribution of education materials and training opportunities. Updates were made to both OPG's intranet and external website to provide information on the Act and OPG's human rights obligations. In addition to compulsory training, staff have also been encouraged to attend various internal and external human rights awareness events.

OPG recognised that our clients are often those most vulnerable to human rights abuses, yet could experience greater challenges with understanding the protections and processes provided for under the Act. In recognition of the varied needs and capacities of our clients, OPG-specific plain English human rights guides for children and adults are in development to ensure that, regardless of age or capacity, a person can understand their rights under the Act and the avenues available should their rights be infringed upon.

Build a culture that respects and promotes human rights

OPG has an established culture centred around the promotion and respect of human rights. Building on this foundation, OPG created an internal human rights implementation oversight group with regular reporting to senior management on progress against the objectives of the Act. A human rights implementation management plan was also developed with focused deliverables, actions and timelines against which all business areas are accountable.

To further build on culture that respects and promotes human rights, all OPG staff participated in mandatory human rights training, and additional role-specific training was provided for officers with specific responsibilities critical to OPG's obligations under the Act. These include the Complaints Officer, the Queensland Human Rights Commission Contact Officer and the policy and practice officers tasked with reviewing policies and practice directions for compliance with the Act. Induction for all new staff now includes information on the Act, and a targeted human rights module is also being developed as part of the community visitor induction framework that provides a specific context and application for community visitors.

Embedding a human rights culture has involved progressively updating OPG role descriptions through recruitment processes to reflect the Act. OPG is also ensuring all human resources briefs include consideration of an employee's human rights when decisions are being made that will affect them or their employment status.

Promote a dialogue about the nature, meaning and scope of human rights

OPG recognises the invaluable opportunity provided by the Act to open meaningful dialogue about human rights. To this end, OPG has taken advantage of several opportunities to engage with other entities to work towards a greater understanding of human rights. For example, OPG has been liaising with the Queensland Human Rights Commission (QHRC) to provide case studies illustrating how the Act has been used to advocate for human rights to assist QHRC with annual reporting requirements. OPG also has a representative on the Queensland Human Rights Commission Advocates Working Group.

Human rights complaints received

OPG has not received any eligible complaints that raise human rights issues since the commencement of the Act on 1 January 2020.

In the event a complaint is lodged against OPG, a *Complaints Management Policy and Procedure (external complaints)* is in place to assist staff to consider, understand and respond to complaints raised by clients and people about OPG and its staff. The policy sets out the principles that underpin how OPG considers and actions complaints, and the processes that are in place to properly respond to them. While the policy sets out the preferred and quickest means of submitting a complaint, OPG has adopted a 'no wrong door' policy with regards to receiving complaints.

Accordingly, complaints can be lodged through other mechanisms as required, including telephone conversations or in face-to-face settings.

While OPG has not received any complaints about OPG, staff of OPG have facilitated complaints that raise human rights issues on behalf of OPG clients against external agencies.

Reviews of policies, programs, procedures, practices or services undertaken for compatibility with human rights

OPG's existing internal policies are significantly advanced when it comes to recognising and upholding human rights. However, to formalise the promotion and protection of human rights in practice, OPG is undertaking a comprehensive review of all internal policies, procedures, frameworks and other practice documents to incorporate the Act. For example, guardianship decision reports now include references to the Act – with detailed reasons and justification – where rights have been limited, and investigations advice on proposed protective actions now include references to the Act. Reviews have also involved updating OPG template documents to include a prompt to the Act where relevant.

Given the significance of complaints handling to the objects of the Act, OPG has undertaken a detailed review of our framework for making complaints to other agencies on behalf of clients. The revised framework will account for escalating complaints already made to government agencies to the QHRC as part of an external review, and for recording data in relation to human rights complaints raised on behalf of clients.

Impact of COVID-19

The commencement of the Act was closely followed by the declaration of a public health emergency in response to COVID-19 on 29 January 2020. In recognition of the impact the pandemic and the associated social distancing requirements could have on OPG's vulnerable clients, OPG proactively implemented measures to protect and promote human rights. For example, where social distancing inhibited face-to-face interactions, OPG staff connected with clients using alternative contact methods such as phone, email and video conferencing. OPG also contributed to the drafting of legislative amendments to accommodate social distancing in the services provided by OPG. Additionally, OPG challenged services taking excessively restrictive actions against clients under the veil of COVID-19, and as such, protected clients' continued housing and accommodation and access to services.

Further to this, OPG continued to build on our culture that respects and promotes human rights by ensuring human rights information and resources were shared with the internal OPG working group overseeing OPG's implementation of the Act, in lieu of physical meetings.

Advocating for children and young people

How we advocate for children and young people

At OPG, we know 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. OPG's focus is on ensuring children and young people are involved in decisions made about their lives. The decision may not always go the way they want, but knowing their views and wishes were heard and considered, and understanding why a decision was made, is empowering in itself. Our advocacy also includes ensuring the reasons for a decision are explained to the child or young person in a way that is appropriate to their age and level of understanding.

OPG performs child advocate functions under section 13 of the *Public Guardian Act 2014*. The Act requires OPG staff responsible for undertaking child advocacy functions do so through trusted and supportive relationships developed with the child or young person, and by supporting the provision of advice and information on the issues that are important to them. The Act also requires that when performing child advocate functions OPG staff must, to the greatest extent practicable, seek and consider their views and wishes. OPG also supports children and young people at family group or stakeholder meetings and conferences or mediations ordered or facilitated by a tribunal or court.

Under the Act, OPG monitors services that are supposed to be delivered to an individual to ensure, wherever possible, that they are delivered. OPG does so by considering the frameworks and standards relating to the various service delivery agencies that they oversight, then considering whether these services meet the child or young person's needs. This includes things like education, psychological, emotional and physical health, relationships, and cultural needs.

OPG's child advocacy functions are performed by community visitors and child advocate-legal officers.

Overview of our child Community Visiting and Advocacy services

Every child or young person entering or residing at a visitable location (see page 20) is scheduled to receive a visit from a community visitor.

Community visitors act as a set of independent 'eyes and ears' on the frontline into systems of care and support for vulnerable people.

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 and information they need to exercise their own rights and to have a say in decisions made about them.

Community visitors also assist children and young people in out-of-home care to receive and understand information about decisions made in relation to areas of their lives, including their placements and the appropriateness of these placements, reunification planning, support for contact with family members, and their complaint or review rights about decisions.

When executing their functions under section 56 of the *Public Guardian Act 2014*, community visitors – through their observations, review of documents and conversations with service providers, carers and clients – ascertain whether care givers of children and young people are adhering to the *Human Rights Act 2019* and the *Child Protection Act 1999* (particularly the charter of rights in section 74 and schedule 1, and the standards of care found in section 122). Where the rights or standards of care do not appear to be upheld, community visitors appropriately raise and escalate these issues until remedied, including by lodging formal complaints. Community visitors also visit children in designated sites such as youth detention centres and adult or child mental health services.

In short, community visitors ensure systems appropriately uphold the fundamental rights of children and young people, and are a critical safeguard to make sure the child or young person's rights and needs are being met appropriately at their location.

As at 30 June 2020, OPG had **49.3** budgeted FTE community visitors spread over a headcount of **116** employees. Of these **116, 30** are child only visitors, **81** are dual visitors (meaning they also visit adults under the Adult Community Visitor Program) and **5** are adult only visitors.

Visitable locations

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

Visitable sites

In 2019-20, the *Public Guardian Act 2014* defined a visitable site as:

- a residential facility where a child or young person is staying, which is funded, licensed or administered by Department of Child Safety Youth and Women; the Department of Communities, Disability Services and Seniors; Queensland Health; Department of Housing; or Department of Youth Justice
- disability respite accommodation where children receive funding for respite through their National Disability Insurance Scheme participant plan
- a detention centre where the child or young person is staying
- supervised bail accommodation
- an Authorised Mental Health Service where the child or young person is staying.
- watch houses where they fall into the definition of a visitable site or where OPG is invited to visit as is the current case through a protocol with Queensland Police Service.

Visitable homes

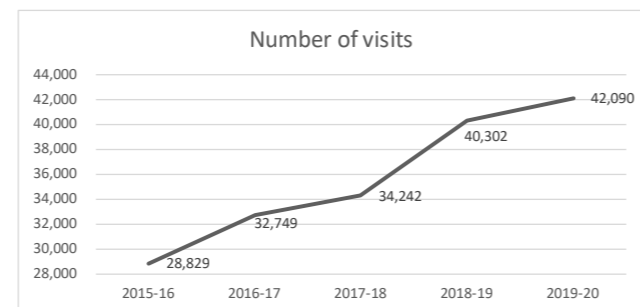
A visitable home is a private home where a child or young person in the custody or guardianship of the Chief Executive, Department of Child Safety, Youth and Women – or who is on a care or other agreement – is placed in the care of someone other than a parent.

Appendix 2, Table 1 (page 60) shows a full breakdown of the number of visits to each type of location, while Appendix 2, Table 2 (page 60) breaks down the number of children and young people in out-of-home care visited by location type as at 30 June 2020.

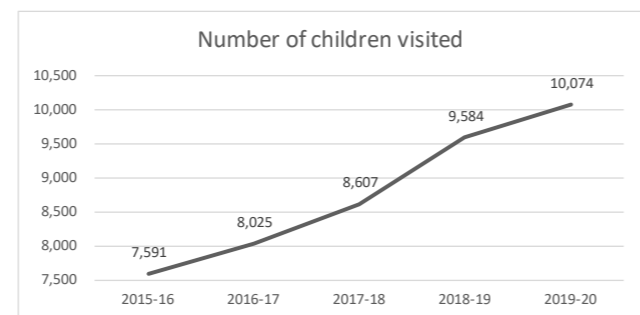
Number of visits undertaken

During 2019-20, OPG conducted **42,090** visits to **5,069** visitable locations, reaching **10,074** children in care or staying at visitable sites. As at 30 June 2020 there were **8,638** children and young people in Queensland classed as visitable children. This continues the year on year 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 following graphs.

Number of visits in 2019-20



Number of children visited during 2019-20



Visiting frequency

OPG uses a matrix based on risk and need, to inform how often children and young people in out-of-home care are visited. Depending on the child, this can generally vary from monthly to annual visits. During the 2019-20 reporting period, **86 percent** of children in visitable sites and **85 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 2019-20, **47** children and young people requested an unscheduled visit from a community visitor.

In instances where a face-to-face visit is not possible, community visitors are also permitted to contact a child or young person at a visitable home or visitable site using technology, such as by telephone, video conferencing or text message. Previously, technology was generally used only in limited circumstances, including where it may not be possible for a physical 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.

The COVID-19 health restrictions, however, required community visitors to stop face-to-face visiting for a short period of time. As a result, the use of alternate technologies became essential to continue visiting with our clients. The challenges posed by the pandemic saw creativity and innovation from frontline staff to ensure that oversight of services being delivered to clients and community visitor advocacy functions were able to remain operating in the best way possible considering the circumstances. Whilst not as comprehensive as face-to-face visits, staff utilised video conferencing programs along with phone calls and other forms or digital technology to maintain meaningful contact with children and young people.

Face-to-face visiting naturally remains the preferred way to visit as it allows OPG to visually assess the care environments where clients live. Encouragingly, community visitors have reported that some young people have engaged particularly well via video conference, with the relationship strengthening. However some community visitors have reported that it was challenging to build trust with children and young people who were new to care during this period, as in these cases, community visitors had not had a previous opportunity to build a rapport face-to-face.

A breakdown of children and young people visited by visiting frequency as at 30 June 2020 can be found in Appendix 2, Table 3 (page 61).

Visitable sites

OPG visits children and young people at visitable sites monthly due to the higher degree of potential risk to them at these locations.

Due to the specific vulnerability of children and young people in youth detention centres, visits have been undertaken up to twice weekly at these locations. During Queensland's COVID-19 health restrictions, community visitors were not permitted to attend youth detention centres. Community visitors arranged to conduct virtual visits using technology, and while this had some challenges, it allowed for a degree of oversight and supports to continue in lieu of face-to-face visits.

In recognition of the vulnerability of young people placed in visitable sites, measures were enacted to prioritise the recommencement of face-to-face visiting at sites in accordance with the *Queensland COVID-19 Road Map* easing of restrictions in late June 2020. Restrictions on visits to youth detention centres were still in place at 30 June 2020, and therefore face-to-face visits to these facilities had not yet recommenced at this date.

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 2019-20, some arrangements were made to support preferences of individual children and young people, who additionally were able to contact a community visitor via email or text message, or request a visit when they required particular forms of assistance or support.

Visits outside of normal hours

Section 126(2) of the *Public Guardian Act 2014* requires the Public Guardian to report on the operations of community visitors during the year, including the number of entries of visitable sites outside normal hours authorised by the Public Guardian. In 2019-20, **39** visits were made to children and young people outside of normal hours. Normal hours are currently defined under the Act as 8am-6pm seven days a week.

Advocacy for children and young people in relation to legal matters

Child advocate-legal officers perform child advocate functions relating to a child or young person's legal matters. A child advocate-legal officer may become involved after a community visitor, a stakeholder such as Child Safety, a non-government agency or a court/tribunal, or the child/young person themselves refers for advocacy assistance in relation to a legal issue. A child advocate-legal officer's advocacy is focused on ensuring the rights and interests of the child or young person are promoted and protected, and on supporting them to participate in decision-making.

A child advocate-legal officer can only support a 'relevant child'. A 'relevant child' is a child or young person who is subject to an intervention (like an Intervention with Parental Agreement or care agreement) or on a child protection order (from a directive order through to a long-term guardianship order).

Advocacy undertaken by child advocate-legal officers may include:

- assisting children and young people to file and/or participate in applications in the Queensland Civil and Administrative Tribunal (QCAT) to review contact and placement decisions made by Child Safety

- supporting children and young people to participate in Childrens Court proceedings relating to an application for a child protection order, including supporting them to attend court and meet with a Magistrate to express their views and wishes
- supporting children and young people to challenge decisions made by other government agencies, such as decisions by the Department of Education or an independent school to suspend or exclude them from a school.

Child advocate-legal officers also advocate for relevant children and young people involved in the criminal justice system, however they do not act as a direct legal representative for a child/young person. Rather, they support the work of a criminal defence lawyer by assisting their direct legal representative and the court to understand underlying issues that may be impacting on their criminalisation, including submissions on capacity issues related to criminal responsibility and mitigating factors for consideration in sentencing.

In this context 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 details of their experiences of trauma, neglect and abuse.
- advocating for appropriate placement in the community along with associated therapeutic and social services to support successful applications for bail.
- advocating for assessments of capacity and fitness to plead, including diagnosis to support access to the NDIS.
- assisting in negotiations with the prosecution, including the making of public interest submissions by a criminal defence lawyer for children/young people charged with offences such as willful damage in residential care.
- supporting a criminal defence lawyer, 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.

This year the team has undertaken work to ensure that referrals received for child advocacy are appropriate and, where possible, include consent of the child or young person. A total of **279** referrals were received in 2019-20. Although a reduction from the **428** referrals received in 2018-2019, this reflects both a newly streamlined referral process and the impacts of the COVID-19 pandemic.

Many of the referrals received for child advocacy services related to more than one child/young person, and often involved sibling groups, sometimes living in different locations. Additionally, child advocate-legal officers continue to work on highly complex matters with multiple advocacy needs.

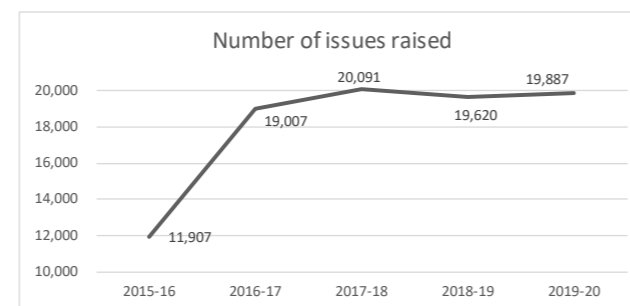
Appendix 2, Table 4 (page 61) shows a breakdown of the number of meetings attended by type of meeting. Child advocate-legal officers had contact with children and young people **680** times this year compared to **683** in 2018-19 and conducted **526** court and tribunal appearances compared to **645** in 2018-19 (an **18 percent** decrease). The decrease in court and tribunal appearances is likely due to the reduction in court activity resulting from the COVID-19 pandemic.

There was a significant increase (**93 percent**) in children and young people being supported by child advocate-legal officers to meet with the magistrate from **14** in 2018-19 to **27** in 2019-20. The child or young person was supported to speak to the judicial member who would ultimately make the decision in their legal proceeding, a decision likely to have a significant impact on their life.

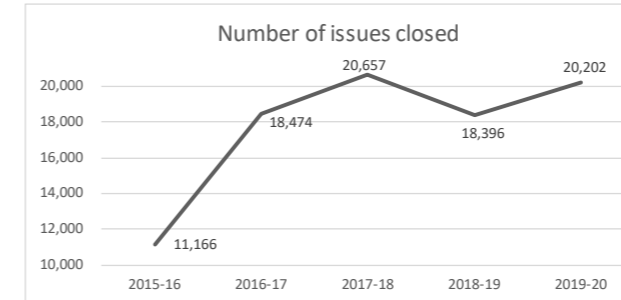
Issues raised on behalf of children and young people

In 2019-20, community visitors raised **19,887** issues (a **one percent** increase from 2018-19). A total of **20,202** issues were closed: **18,438** were issues raised in 2019-20, with the remaining **1,764** raised prior to this period. As at 30 June 2020, **1,494** matters raised in 2019-20 remain ongoing. Of locally resolvable issues, **65 percent** were closed within 30 days, and **87 percent** within 90 days.

Number of issues raised



Number of issues closed



A full breakdown of the types of issues raised can be found in Appendix 2, Table 5 (page 62), and commentary around the most common issues raised is provided below.

OPG staff also use complaints mechanisms to formally escalate issues through the appropriate channels, and we saw strong results for children and young people as a result of these escalations. OPG is continuing to strengthen its complaint frameworks and to track matters to help inform the identification of potential systemic issues across systems for referral and action.

Placement issues

Of the issues raised this year, **16 percent** related to placement and often related to the suitability of the placement to meet that child or young person's unique needs. This is particularly relevant to children and young people staying at residential sites, or those without any suitable placement.

The appropriate matching of the child or young person with a suitable foster carer or residential care placement continues to present an ongoing advocacy challenge for OPG. The increasing number of children and young people in care, along with a relatively static number of available foster carers, has resulted in increased advocacy by OPG about appropriate placement matching. We have specific concerns about the displacement of sibling groups, safety in the residential care setting, and the contact with the criminal justice system resulting from high rates of police callouts that occur in residential care settings.

Contact issues

Another **17 percent** of issues raised this year 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.

Community visitors discuss the children and young people's views and wishes to ascertain that their human rights are being upheld regarding their contact arrangements. This includes contact with parents, siblings, family members and other important people in

their lives. This is key for OPG 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 work with the relevant Child Safety Service Centre, other departments and their carers to advocate for the contact to occur.

Case planning

Another significant issue raised on behalf of children and young people in the child protection system was the adequacy of case planning, which is integral to achieving the best outcomes for the child or young person. OPG is concerned about inconsistent practices in relation to both the content and timeliness of updated case plans and often identifies that a case plan has expired or no longer meets a child or young person's unique needs.

Community visitors continue to monitor the completion and updating of case plans in relation to children and young people in care, particularly looking at whether, or how, the views of the child or young person have been considered in their development.

Harm notifications

As mandatory reporters, community visitors are required to report any reasonable suspicions that a child or young person has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse. During 2019-20, community visitors reported **51** harm notifications to the Department of Child Safety, Youth and Women.

The issue resolution process

OPG will usually attempt to resolve any issues raised on behalf of children and young people at the local level, for example with their child safety officer, so matters can be addressed as quickly as possible. OPG will escalate matters when necessary, or to support the voice of the child or young person remaining central to decision making or actions taken. Additionally, by supporting children and young people to raise issues themselves, OPG promotes self-advocacy and autonomy for the child or young person and can help minimise the power imbalance children and young people often face or feel in the systems they find themselves in.

Making complaints on behalf of children and young people

Referring a formal 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 complaint agency or other government service provider. During 2019-20, OPG made or referred **63** formal complaints on behalf of children and young people under the Memorandum of Understanding with the Department of Child Safety, Youth and Women.

Lodging a complaint is not a substitute for advocating a matter on behalf of a child or young person. Rather it is a way of alerting the agency to potential problems that require broader attention. As a result, community visitors and child advocate-legal officers will often make a formal complaint alongside their continued advocacy for a changed outcome for a child.

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 or young person is admitted to a high-security unit, or an inpatient mental health unit of an AMHS other than a child and adolescent unit. In 2019-20, OPG received **141** notifications of this nature, which is a **15 percent** decrease on the **165** notifications received in 2018-19. Community visitors meet with children and young people admitted to an adult AMHS generally within 72 hours of being notified by the AMHS.

To gain a better understanding of the delivery of services to minors and their treatment whilst staying at an adult AMHS, a community visitor may ask for information or records held by the AMHS. Community visitors can inquire into the appropriateness and responsiveness of the delivery of services to minors in relation to their care, treatment, control and recovery.

In 2019-20, community visitors made **190** visits to AMHS, of which **119** were to children and young people in adolescent and child AMHS. The remaining **71** visits were to children and young people in adult AMHS, which is an increase of **16 percent** on the **61** visits in 2018-19.

From March 2020, the COVID-19 pandemic impacted on the ability of community visitors to engage in face-to-face visits. During this period, community visitors conducted visits using alternative technology (e.g. video conferencing) so they could continue to engage with young people staying in child and adolescent AMHS. Video calls were often facilitated by the Independent Patient Rights Advisors (IPRA) which enabled community visitors to continue to establish and build rapport by engaging with young people as either a group or on a one-on-one basis.

Community visitors raised **70** issues in 2019-20 across a range of themes. During the same period, **68** issues were resolved. Of the issues raised, **25** related to children and young people placed in an adult AMHS.

The nature of these **25** issues raised for children and young people in adult AMHS are shown in the table below.

Nature of issue	Total
Health needs	16
Social needs	3
Disability needs	2
High risk behaviours	1
Placement	1
Case plans	1
Behaviour management	1
Total	25

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 and young people 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 or young person admitted to an AMHS, they will review and assess the use of seclusion and restraint.

This year OPG worked closely with the Office of the Chief Psychiatrist to ensure reports regarding the use of mechanical restraint, seclusion or physical restraint of a person under 18 years of age were provided on a consistent basis to OPG. This supported our monitoring

and inquiries made of the AMHS to ensure that the child or young person's human rights and best interests are being met. OPG receives these reports on a monthly basis, which allows us to identify data that raises potential concerns and work with the child or young person to ensure they are aware of their human rights and they understand how to make a complaint if they have any concerns that they wish to raise.

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 in accordance with the *Mental Health Act 2016*. Community visitors continue to 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 or not properly authorised, the Public Guardian may refer the matter to the Health Ombudsman.

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 performing child advocacy functions.

Youth justice

OPG plays an important role in independently monitoring the standard of care provided to children and young people in Queensland's watch houses and two youth detention centres and responding to and facilitating the resolution of any issues and concerns on their behalf. Once a decision has been made to charge a young person with a criminal offence, the authorities have to determine whether the child should be detained prior to the court hearing or whether they may be bailed and his or her attendance at court secured by way of mechanisms such as a summons. Any child denied bail is detained on remand either at a police watch house or a youth detention centre.

Community visitors visit and speak directly with children and young people in Queensland's two youth detention centres located in Brisbane and Townsville, and regularly visited Brisbane City Watch House in the first part of the year. No visits have occurred since 23 January 2020 as no children or young people have been detained at the Brisbane City Watch House.

The *UN Convention on the Rights of the Child* (CROC) and the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (The Beijing Rules) provide that detention of young offenders pending trial should be a measure of last resort. OPG remains concerned by the high proportion of children and young people visited in youth detention who are on remand given that remand can be the result of broader social problems such as lack of appropriate housing or nobody appropriate to care for the child or young person whilst they are on bail awaiting their legal matters to be determined.

OPG recognises the importance of systems diverting young people away from the formal processes of the criminal justice system and wherever possible to find alternatives to detention, particularly for offending behaviour that is not of a violent nature. Children who plead guilty whilst on remand are generally dealt with reasonably quickly whereas it may take much longer for other matters to come before a court. Being remanded in detention can have serious consequences for accused children. Further, children report feeling isolated and it can disrupt education and family relationships. Given that Queensland currently has only two youth detention centres, children from rural and remote areas who are refused bail may therefore be remanded hundreds of kilometres away from their homes. This situation affects Indigenous children in particular, as they are more likely to live in remote communities.

In addition to visiting children and young people in youth detention centres, community visitors also conducted **89** visits to supervised community accommodation services. Supervised community accommodation 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 while they are waiting for their legal matters to be finalised.

OPG has noted relatively low engagement rates in the NDIS for children and young people detained in youth detention centres and continues to advocate for access and engagement. This is an important area of focus given the likely prevalence of cognitive disability and neuro-developmental delay noted in this cohort of children and young people. The introduction of justice liaison officers by the NDIS to work across state and territory justice systems to coordinate support for NDIS participants in youth and

adult justice systems is welcomed by OPG. Whilst still being rolled out, community visitors look forward to building strong relationships with these positions to support the individuals detained in these sites as part of their functions and advocacy into the future. Access to appropriate mental health and trauma responsive supports are also key concerns for OPG as an ongoing focus for children and young people in these settings.

A breakdown of the issues raised by community visitors in youth detention centres and the Brisbane City Watch House can be found in Appendix 2, Tables 6 and 7 (pages 62-63).

Overall youth justice themes

Transition planning to an appropriate, supported and safe placement upon a child's release from detention remains an ongoing theme for consideration by community visitors. Some children and young people are unfortunately remanded in detention due to a lack of placement options to support a bail application, or they are released to crisis shelters and often homelessness due to not having somewhere to live. This is of particular concern for children and young people in the child protection system where the system is unable to source a suitable placement. OPG continues to advocate and raise issues regarding children and young people leaving detention that are deemed by residential service providers to have behaviours that are too challenging to offer a placement.

These children and young people are therefore potentially discriminated against as a result of the current systems of care and support being unable to realise their individualised needs. Such matters are escalated via the OPG complaints function to the most appropriate body for assessment and action. These bodies include the Department of Child Safety, Department of Youth Justice along with other government avenues tasked with the oversight of systemic and human rights complaints.

Education advocacy

When children and young people are unable to access education due to a decision made by a government school to suspend, exclude or refuse to enrol a child or young person who is also in the child protection system, OPG can assist to seek a review of that decision.

This has been a priority advocacy area throughout the reporting period – we have aimed to increase referrals received for education advocacy and this will continue to be a focus in 2020-21. To achieve this, OPG will work on clarifying and streamlining the referral process, building stakeholder relationships, and increasing awareness of OPG's role. Some key education

stakeholders attended relevant team meetings this year to grow reciprocal understanding of roles and referral processes. In 2020-21, OPG will develop communication resources to share with stakeholders to raise awareness of how we can advocate on behalf of individual children and young people in education matters.

In 2019-20, the number of education advocacy referrals was **12** (a **33 percent** increase from 2018-2019).

OPG has already seen significant positive outcomes as a result of our education advocacy, allowing young people to enrol or remain in the school of their choice, consistent with their right to education under the *Human Rights Act 2019*. For example, in one matter, OPG supported a 15 year-old young person to successfully appeal against the decision of a state high school to exclude him from attending until the end of the school year.

Immigration advocacy

OPG continues to collaborate with stakeholders to improve practice responses to children and young people with problematic immigration status. Failing to clarify their immigration status impacts on the ability of a child or young person, from another country in the child protection system, to legally remain living in Australia and to access government assistance. When a child or young person is taken into protection and is not an Australian resident, the child protection system has an obligation to address their immigration status. While referrals for these issues are not 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 continues to focus on this matter including in the context of the *Human Rights Act 2019*. Work has continued with Child Safety and on developing practice guidance to support OPG to provide impactful advocacy for children and young people affected by this complex area of law. Over the next year, OPG will look to further strengthen stakeholder relationships and collaborative multi-agency responses to assist affected children and young people in a timely way.

Use of restrictive practices

The intersect between the NDIS Quality and Safeguard Commission, the Child Safety Policy – Positive Behaviour Support and the use of restrictive practices for children and young people in out-of-home care is a growing area of focus for OPG. Prohibited practices under Child Safety policy include seclusion, containment, mechanical restraint and chemical restraint. Emergency use of reactive practices such as physical restraint and

removal of items are allowable. There is no legislative framework for the planned use of restrictive practices, or use of force, for children in Queensland and their use by NDIS-funded services is reportable to the NDIS Quality and Safeguard Commission. OPG advocates for the elimination of both prohibited and reactive restraints or use of force by reporting the use of prohibited practices identified to the Department of Child Safety, Youth and Women, and by advocating for positive behaviour support practices that are individualised, person-centred and trauma informed.

Working with external bodies to advocate for children and young people

Project safeguard

OPG is involved in the southeast region's Project Safeguard (formerly Residential Partnership), an ongoing initiative to embed the Joint Agency Protocol to reduce police callouts to residential care services. Project Safeguard consists of a range of relevant stakeholders collectively committed to reducing the criminalisation of children living in residential care through implementation of the protocol, placement stability and collaborative stakeholder engagement between young people, each other and the community to support the best possible placement outcomes for children in residential care.

Implementation of the Blue Card home-based care register

In August 2019, OPG was provided access to the Blue Card home-based care register. Home-based care can include foster care, kinship care, family day care and stand-alone home-based care.

This register is used as a tool to assist community visitors to plan their visits, as they can identify the blue card status of carers and if they are operating any other home-based services. Community visitors use this information to:

- better inform the extent of their observations and inquiries during visits
- help identify any concerns about the safety and well-being of placed children and young people, the appropriateness of the accommodation, and whether their needs are being met by the approved carer/s (e.g. where there are other home-based care services being conducted from the visitable home)
- check the number of associated adults in the home and any regular visitors to the visitable home, and
- assess any impacts and possible associated risks with any other known home-based care service being conducted from the visitable home.

Where OPG receives information (or has a suspicion) that another home-based care service is being conducted from the visitable home and this information is not already contained on the register or already known by the Department of Child Safety, Youth and Women, or the Department of Education and Training, we are required to report this information in a timely manner to the appropriate agencies.

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

OPG has been working with the Department of Child Safety, Youth and Women in relation to the rights and interests of children and young people in the south east region with significant youth justice intersection. This work includes improving collaboration and support to children and young people in relation to accessing suitable placements and supports in the community.

Through regular discussions and appropriate sharing of information, OPG has been able to advocate more effectively and improve timely outcomes for young people with complex needs in this region. This partnering has assisted OPG to build relationships with relevant officers, to better understand internal processes at the Department of Child Safety, Youth and Women and to be informed about current placement and service delivery initiatives.

Ultimately this work is focused on developing improved strategies for diverting young people from the criminal justice system. This work will continue in 2020-21 to further refine advocacy strategies and leverage regional practice leadership within Child Safety to improve placement and service delivery outcomes for these children and young people.

Multi-agency approach to transition to adulthood

OPG is collaborating with stakeholders to develop improved practice resources for supporting children and young people in their transition from care. This includes ensuring children and young people in care are supported from an early age to develop life skills to promote their growing capacity and independence. It also means supporting children and young people to participate in transition planning, to access information about their time in care, and to respond to applications to the Queensland Civil and Administrative Tribunal for the advance appointment of a formal guardian or administrator, where required.

Supporting children and young people in care to develop life skills and independence is an ongoing process. Effective planning is critical to support their continued independence following their transition from care. This planning must involve the young person and their safety and support network and requires a multiagency approach. Importantly, doing this work upholds people's rights in line with the *Human Rights Act 2019* and only results in the formal appointment of a guardian or administrator if there is not a less-restrictive option available.

G-Force – right to be informed and timely decision-making

OPG continues to be an active participant in the G-Force working group, which is a multi-agency working group chaired by CREATE Foundation. The group includes young people in care or with a past care experience and has representation across government and non-government organisations. G-Force is focused on ensuring young people with a care experience play an active role in contributing to the work of participating agencies. OPG has taken a role in progressing aims identified in relation to a child or young person's right to be informed and for timely decision-making.

In 2019-20 OPG:

- developed and reviewed OPG practice guidance to ensure that staff understand children and young people's rights to information and participation.
- advocated for children and young people to receive explanations for decisions and information about their right to question, complain and review certain decisions (including reviewable decision letters explaining their right to review decisions about contact and placement).

In 2020-21 OPG will continue to work with CREATE Foundation, Child Safety and other members of G-Force on:

- increasing awareness for children and young people in the child protection system of their right to be informed, to participate in decision-making and to ask that decisions are made in a timely way
- increasing awareness for professionals across government and non-government agencies about what the law, policy and practice say about providing information to children and young people and their participation in decision-making about them
- myth busting the reasons being used to not share information or support participation.

Strengthening our processes to better support children and young people

Rethinking how to continue integrating relevant technology in a post-COVID-19 pandemic environment

The COVID-19 pandemic has driven innovation in incorporating relevant technologies to undertake visits with our clients, which is possible under the *Public Guardian Act 2014*.

Positive feedback has been received from clients and staff, suggesting there is scope to retain this approach to visiting, where appropriate, into the future.

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 particularly in Far North Queensland, Aboriginal and Torres Strait Islander children and young people are over-represented in the child protection and youth justice systems. As at 30 June 2020, **3,565 (41 percent)** of OPG's child clients identified as being Aboriginal and/or Torres Strait Islander.

OPG continues to refine practice guidance to support staff to advocate in line with the Child Placement Principle and in relation to effective cultural planning. This has included collaboration with key representative groups, including the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP), Independent Persons, Family Participation Programs supporting Aboriginal and Torres Strait Islander family-led decision making, local Family Support Services, and Cultural Practice Leaders within Child Safety. This collaboration to ensure advocacy for children and young people includes appropriate consideration of cultural factors and participation by Aboriginal and Torres Strait Islander communities.

Community visitors completed **18** visits to discrete Indigenous communities during this financial year. Throughout the year, OPG visited **87 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 (page 63). A breakdown of Aboriginal and Torres Strait Islander children and young people clients as a percentage of all children and young people assisted by child advocate-legal officers can be found in Appendix 2, Table 9 (page 64).

Advocating for adults with impaired decision-making capacity

The 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 Adult Community Visiting and Advocacy. All have 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

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 as 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 lives
- 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

- 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 promote and protect the person's rights and interests, which the Public Guardian has determined is best achieved through a supported decision-making model.

OPG has a responsibility to try to make the decision 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.

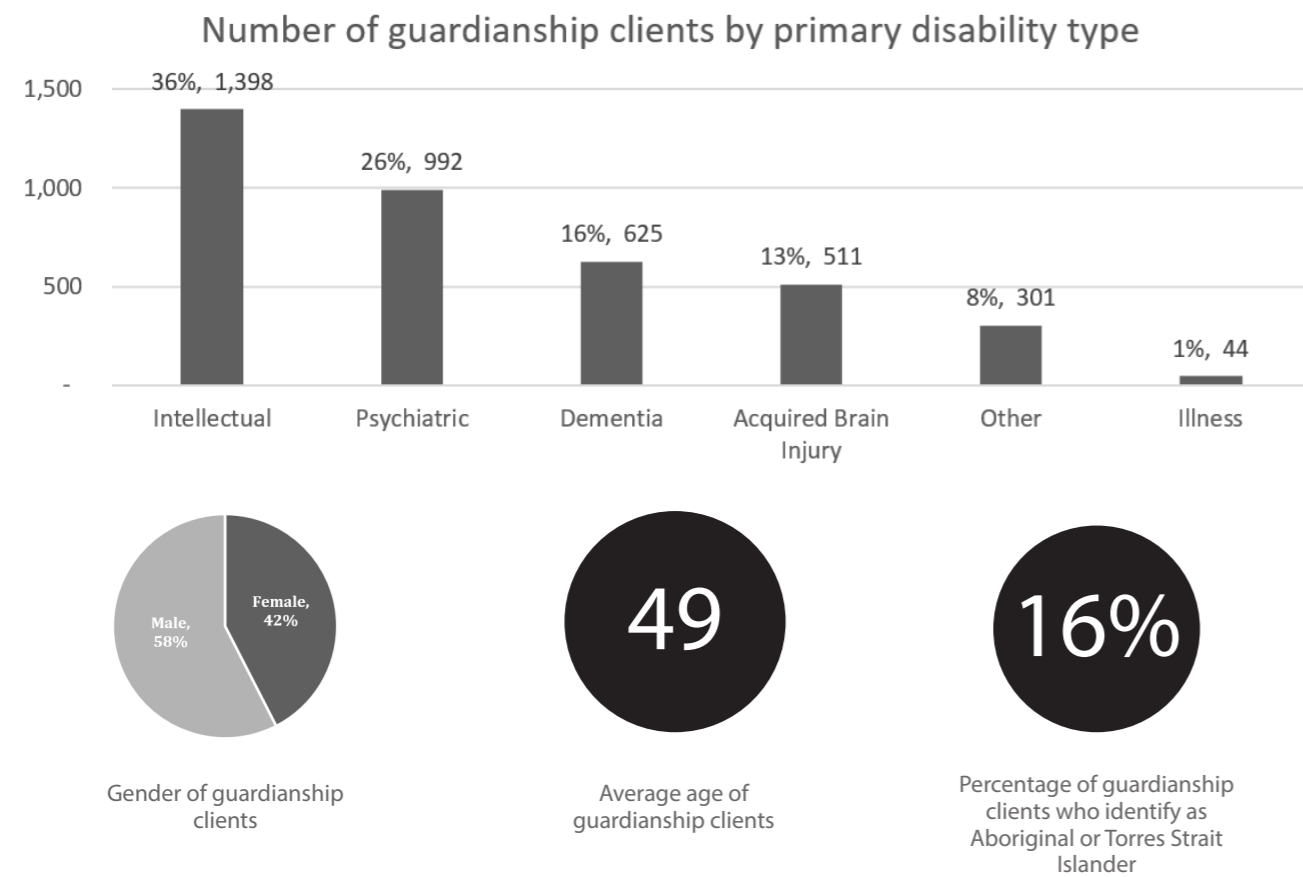
For this reason, OPG has adopted a supported decision-making approach where guardians make every effort to understand the person's views and wishes. OPG strongly believes that just because a person cannot communicate verbally does not mean there is an impediment to this communication occurring. In such situations, guardians follow practice guidance on engaging with clients who are non-verbal to ensure every effort is made to still obtain their personal views and wishes.

OPG also focuses on ensuring, wherever possible, that existing supportive relationships, whether with friends, family or service providers, are 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 considered. At all times, staff are guided by the General Principles and Health Care Principle outlined in 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 2019-20 reporting period, **98 percent** of guardianship decisions on personal and healthcare matters were made in consultation with the client/interested persons. There are sometimes situations when we are not able to consult with an adult. Examples would be when they are unconscious, the impairment is so severe they cannot provide any meaningful views, the decision is so urgent that there is no time for full consultation, or the person may refuse to engage with the guardian at the time the decision needs to be made.

Profile of Guardianship clients



Queensland Civil and Administrative Tribunal appointments and trends

The Public Guardian is only appointed for a person as a result of an order by QCAT. In 2019-20, the Public Guardian was appointed for **3,436** adults. Of this total number of guardianship clients, **990** appointments were made during 2019-20 as a result of QCAT ordering the appointment of the Public Guardian for new clients, or reappointing the Public Guardian for existing clients that had orders that were due to end.

OPG's pre-appointment advocacy

The Public Guardian is an active party to all guardianship hearings at QCAT. OPG undertakes pre-appointment advocacy to promote vulnerable people's human rights by providing information and education before and during a QCAT hearing, where an application has been lodged for the appointment of the Public Guardian. Submissions are also provided to QCAT regarding the need for the proposed guardianship appointment when an interim (urgent) appointment is sought.

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 in the *Human Rights Act 2019*, the Public Guardian is only considered and 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, OPG 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 assist them to make their own decisions, or having appropriate family and/or friends make decisions informally.

This strategy has been incredibly effective in protecting human rights during 2019-20, with the Pre-Advocacy team attending **743** hearings, of which only **405 (55 percent)** resulted in the Public Guardian being formally appointed by QCAT. The team also focuses on advocating for shorter periods of appointment to prevent the Public Guardian being appointed for longer terms than strictly necessary and of these **405** appointments, only **13** were for three or more years. OPG is committed to advocating to ensure formal guardianship is only ordered when necessary, due to the human rights implications of removing a person's autonomy to make their own decisions.

Advocacy is also undertaken 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 of last resort, 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 reconciliation of the number of decision-making areas the Public Guardian is appointed for, resulting in greater protection and promotion of the human rights and autonomy of people with decision-making impairments.

During 2019-20, the Public Guardian has been proposed for **2,609** new decision-making areas of appointment for new clients. Through the work of OPG's pre-appointment advocacy, OPG has affected less-restrictive appointments based on actual need as opposed to 'just in case' and as a result, the Public Guardian has been appointed for **1,031** individual new decision-making areas across **561** overall new guardianship appointments in the 2019-20 period.

OPG's pre-appointment advocacy is also helping to raise community awareness about the guardianship process, and when formal appointments are appropriate. This is because OPG can identify when large numbers of applications are made by a particular agency or service provider. Direct contact can then be made to discuss the reasons for the large number of applications and why less-restrictive measures (if available) might be more appropriate. Stakeholder education sessions are then offered to those 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 be assisted to better understand the decision-making process.

Appointment types and duration

The majority of QCAT appointments of the Public Guardian were for three years or less (**86 percent**). The remainder of the QCAT orders in 2019-20 were for more than three years.

In 2019-20, there were **350** 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 (**178**) were immediately followed by a QCAT hearing decision that the person should be under a longer-term guardianship order.

One of the largest trends OPG has experienced this reporting period is the continued and sustained application for new appointments for service provision matters directly related to participation in the NDIS and plan management. In terms of overall impact, of **837** applications for the appointment of the Public Guardianship that the Pre-Advocacy team worked with, **574** were for persons under 65 years old (with **364**, or **63 percent**, being a direct request for the appointment of a guardian to make decisions relating to the NDIS). Of **561** overall new appointments of the Public Guardian for 2019-20, **323** were for service provision decisions directly related to the NDIS. This is **58 percent** of all new appointments of the Public Guardian in the 2019-20 period.

It is anecdotally reported that during QCAT hearings one of two things is often happening. In some cases, the family is overwhelmed with the complexity of the NDIS and wish to relinquish control of managing the NDIS plan as they did not realise the magnitude of the activity required to oversee the plans. In other cases, the NDIS participant is reported to be unable to comprehend the significance of the decisions they are required to make to implement their support packages, which leaves them vulnerable to potential exploitation of their plan. The NDIS continues to have a significant impact on OPG's resourcing to provide guardianship services across the state.

When a guardianship order is due to be reviewed, the Public Guardian actively seeks leave to withdraw the guardianship appointment if a person no longer requires decisions to be made. This action is taken to ensure the least-restrictive approach on a person's human rights from the imposition of a substitute decision-maker.

Consistent with previous years, QCAT appointments for the Public Guardian to make decisions about a person's accommodation, service provision and healthcare continue to be the three most-common areas of appointment in 2019-20, accounting for **79 percent** of appointment types. For a detailed breakdown of appointment decision types, please see Appendix 2, Table 10 (page 64).

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

A person may also appoint the Public Guardian to act as their attorney for personal and health care matters under an Enduring Power of Attorney instrument. OPG proactively manages the not-yet-activated Enduring Power of Attorney appointments to ensure the principal's views and wishes are accurately reflected in the document and that everything is in order in the event the appointment is required to be activated.

As at 30 June 2020, OPG held **2,057** inactive Enduring Power of Attorney documents, and during 2019-20 we acted as attorney for **72** clients who had nominated the Public Guardian as their attorney for personal/health matters.

If OPG becomes aware that a principal may have lost decision-making capacity, we will follow up with relevant parties to confirm the loss of capacity and therefore activation of the appointment is required.

When acting for an adult with impaired decision-making capacity, the Public Guardian provides enduring documentation to the Office of Advance Care Planning so it can be uploaded onto the Queensland Health medical record. This ensures medical practitioners can access this documentation when required.

The Public Guardian conducts training for new and existing employees to enhance knowledge about enduring documents and attend conferences throughout the year where we provide information to service providers and medical professionals regarding the importance of completing enduring documents. We also provide community education sessions on this topic throughout the year to service providers, and frequently respond to members of the public who contact our office with enquiries about enduring documents and advance care planning.

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 2019-20, QCAT ordered **188** new appointments of the Public Guardian for guardianship decisions, including legal matters. Of these appointments, **22** were for legal matters only. At the end of 2019-20, there were **274** guardianship clients with **569** ongoing legal matters. The majority of the legal matters were criminal matters, followed by child protection issues, domestic and family violence, and mental health issues. It should be noted that adults under guardianship can have multiple legal matters being progressed at the same time.

A full breakdown of the number of decisions made by type can be found in Appendix 2, Table 11 (page 65).

As with the general population, adults with impaired decision-making capacity may have a limited understanding of the justice system and what is required of them should they encounter 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 vulnerable

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

Like anyone, guardianship clients can be involved in various areas of law that affect their rights, such as being:

- charged with criminal offences and being the victim of criminal offences, which can intersect with the tribunals/courts dealing with mental health issues
- parents in child protection proceedings
- aggrieved and/or respondents to applications for domestic violence protection orders.

OPG guardians for legal decision making do not provide direct legal representation. However, they are often legally trained and work in collaboration with other delegate guardians from OPG's general guardianship team who are appointed for health care, accommodation and other personal matters.

Where QCAT appoints the Public Guardian to make decisions in legal matters affecting an adult (other than those relating to financial and property issues), OPG will support them by:

- ensuring the person has appropriate legal representation
- safeguarding the person's right and ability to present their point of view about what decisions they would like made
- supporting the person by ensuring the legal representative engaged to conduct their matter has an understanding of their disability or impairment
- giving their legal representative information about their circumstances to assist in the resolution of their legal matters
- supporting the person to understand what is happening (to the greatest extent possible)
- making 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 through a supported decision-making framework.

Overview of the Investigations function

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, such as:

- 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.

To date, most referrals to OPG have related to elder abuse. Increased community awareness on how to identify the signs of elder abuse, including through OPG stakeholder education sessions, has seen an ongoing increase in the numbers of referrals to OPG to open an investigation into suspected abuse, neglect or exploitation. Additionally the increased isolation of elderly people due to COVID-19 restrictions paired with economic stresses that their family members may be experiencing due to job loss, is likely to create an environment in which elder abuse may escalate, and this may result in an even greater increase in referrals over the coming year.

This year, OPG has prioritised direct community engagement with stakeholders such as financial institutions and the Queensland Police Service to improve understanding of the Public Guardian's investigation function 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

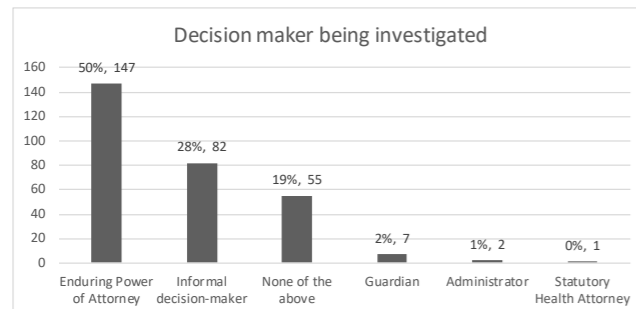
- applying for an entry and removal warrant if a person is at immediate risk of harm
- being able to suspend an attorney's power.

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

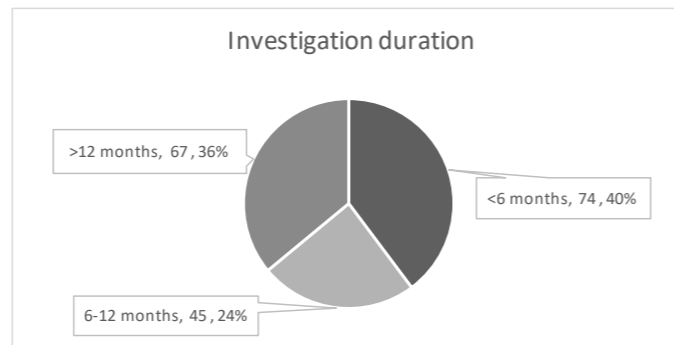
During 2019-20, **294** investigations were opened and as at 30 June 2020, there were **293** active investigations, with **66 percent** relating to people aged 65 or older. As the graph below shows, in half of the cases, the decision-maker being investigated held an Enduring Power of Attorney.



Investigations closed

OPG closed **52** 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 **19** investigations were closed after the Public Guardian suspended the attorney. Investigations on **63** matters closed because the matters were outside of OPG's legislative 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 12 (page 66).

With regards to timeframes, **40 percent** of investigations were closed in less than six months (including investigations closed because they were outside of OPG's legislative remit), but the complexity of many cases 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.



Overview of our adult Community Visiting and Advocacy Services

OPG's Community Visitor and Advocacy services promote and protect the rights and interests of adults residing or being detained at visitable sites (see page 35 for definition of a visitable site).

Community visitors make announced and unannounced visits to ensure adults are cared for, and to make inquiries and lodge complaints on behalf of those adults. 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); 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 young people with disability transitioning out of the child protection system, as a 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 understands the young adult and their needs, which provides better continuity of oversight services.

As at 30 June 2020, OPG had **49.3** budgeted FTE community visitors spread over a headcount of **116** employees. Of these **116**, **5** are adult only visitors, **81** are dual visitors (meaning they also visit children and young people) and **30** are child only visitors.

Visitable sites

A visitable site is defined under the *Public Guardian Act 2014* as a place, other than a private dwelling house, where an adult or adults with an impairment, or with impaired capacity, lives, that is also any of the following:

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

Visiting frequency

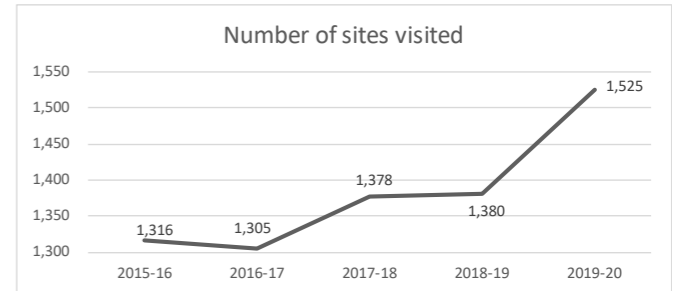
Visits to these sites are quarterly unless otherwise directed by the Public Guardian, or if someone has requested a visit outside the usual schedule (see below). A full breakdown of number of visited sites by sector and service sector can be found in Appendix 2, Tables 13 (page 66) and 14 (page 67).

Adults, or a person acting on behalf of an adult, can request a visit from a community visitor at any time. This is an important safeguarding mechanism and OPG continually works with service provider staff to understand their obligations to contact the OPG if a consumer requests a visit from a community visitor.

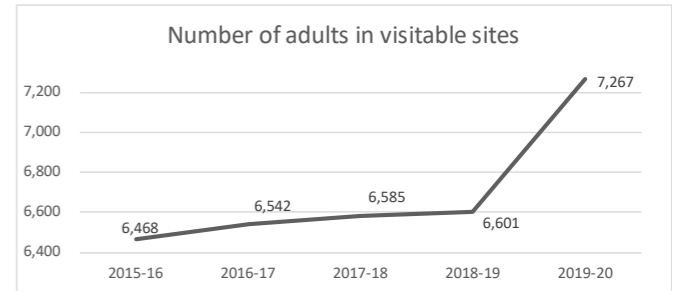
During 2019-20 community visitors conducted **5,255** visits to **7,267** adults at **1,525** sites. The sharp increase in number of visitable sites from 2018-19 can in part be attributed to the new legislative requirement for service providers to report to OPG that their sites are visitable.

While there was this increase in visitable sites, the number of actual visits decreased. This is likely due to the impact of COVID-19 on OPG's ability to undertake visits.

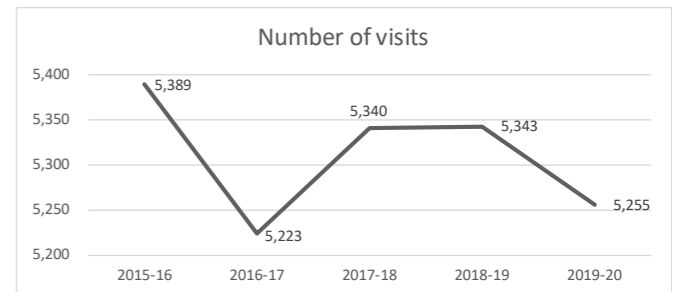
Number of adult sites visited



Number of adults in visitable sites



Number of visits



Announced versus unannounced visits

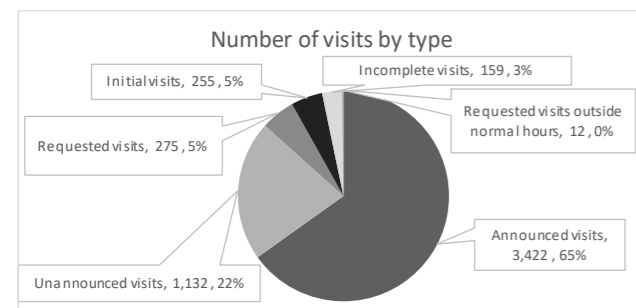
The *Public Guardian Act 2014* empowers OPG to utilise both announced and unannounced visits to perform the community visitor's functions. This year saw a further increase in the number of announced visits conducted by community visitors, reflecting the fact that OPG policies are consistent with the principles of the least-intrusive approach to gathering necessary information and the human right to privacy.

This approach has resulted in the following positive outcomes:

- an increased likelihood of residents being home when the community visitor visits
- increased capacity to expressly obtain resident's 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)
- increased ability to obtain site information that may be necessary to form an accurate account of a situation or issue.

While the number of unannounced visits has declined during the reporting period, unannounced visits are still considered vital to the performance of the community visitor function and protection of our clients. Further, it 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, or an individual's wellbeing.

As the graph below shows, **22 percent** of visits carried out in 2019-20 were unannounced.



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 was not appropriate for the visit to be carried out at the site at the time.

Visiting by relevant technologies

Section 41(4) of the *Public Guardian Act 2014* allows community visitors to discharge their functions, or a particular function, using relevant technology such as telephone and video conferencing. Use of technological visits increased significantly during the reporting period during the times that the health restrictions put in place due to COVID-19 prevented face-to-face visits from being carried out. During these periods, community visitors conducted all visits by telephone or video calls, supported by the exchange of relevant documentation over email with service providers.

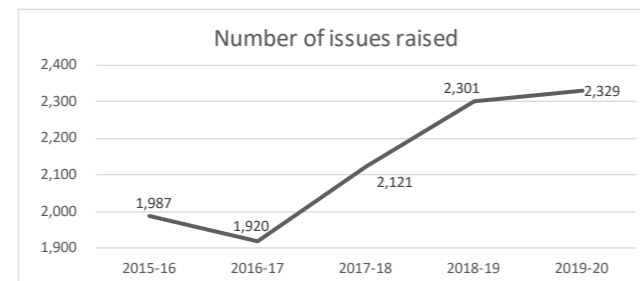
Visits outside of normal hours

Section 126(2) of the *Public Guardian Act 2014* requires the Public Guardian to report on the operations of community visitors during the year, including the number of entries of visitable sites outside normal hours authorised by the Public Guardian. In 2019-20, **seven** visits to adults 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 **196** visits to adults living in visitable sites on weekends.

Issues raised by community visitors on an adult's behalf

Through visits, community visitors identified **2,329** issues on behalf of residents at visitable sites. This is a **one 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 15 (page 67).

Number of issues raised



Additionally, during 2019-20, community visitors conducted **495** visits across **84** Authorised Mental Health Services, raising **398** issues.

Appropriateness of accommodation

This year, **14 percent** of issues raised by community visitors on behalf of adults related to the appropriateness of their accommodation. These issues were primarily about the safety or security of the accommodation, or the maintenance and furnishings required for the resident at the home. Community visitors frequently also advocated for additional equipment or furniture to support the development of residents' independence and life skills. Community visitors observed and reported to 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 visit sometimes require medical intervention, including periods of hospitalisation for mental or physical illnesses. During 2019-20, **three percent** of all issues raised by community visitors on behalf of adults related to the adequacy of monitoring health care needs and treatment plans by service providers. While the specific nature of these issues was broad, some examples of common issues noted and considered by community visitors during visits included:

- clarification on the purpose of prescribing the medication (ensuring it is not a restrictive practice)
- that there was a diagnosis-matching medication being administered
- absence of a recent GP visit

- the need for an updated health assessment and plan and targeted treatment and supports to meet the adult's presenting health needs
- the appropriateness of both the discharge plans for people who have returned to their usual accommodation after recently exiting hospital, and the training provided to equip the service providers who are responsible to support these individuals through delivery of health care supports.

Advocacy of the sort listed above, has the positive benefit of supporting regular medical review when appropriate, and encouraging the withdrawal of medications when no longer needed, to minimise restrictions or interventions on individual's lives where possible.

Community visitors have also raised a significant number of issues regarding the provision of services funded by the NDIS, which are highlighted on page 45.

Complaint outcomes for forensic disability sites and Authorised Mental Health Services

Community visitors regularly visit the Forensic Disability Service and authorised mental health services to oversee the services being provided to adults detained at these sites and to advocate, where appropriate, on their behalf to resolve any issues raised. During the 2019-20 reporting period, community visitors raised **139** issues for local resolution with the Forensic Disability Service and **398** issues for local resolution with Authorised Mental Health Services.

Community visitor advocacy has focused on raising issues in relation to the transition of residents from an involuntary detention back to the community, the use of restrictive practices (including seclusion and restraint) and ensuring they are approved and the least restrictive as possible, and access to medical assistance.

Working with independent patient rights advisors to better benefit patients

OPG has continued to build and sustain relationships with independent patient rights advisers employed under the *Mental Health Act 2016*. Community visitors engage with independent patient rights advisers 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 person to give voice to their individual views and wishes.

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

Elder abuse awareness in the community driving increasing demand for investigations

As the economic impact of COVID-19 is felt across the world and Australia, it is highly likely that this will see an increased risk of financial elder abuse.

For OPG, the demand for investigations into the abuse, neglect and exploitation of adults with impaired decision-making capacity continued to grow throughout 2019-20. The cause of the increase is unknown; however, it has coincided with the COVID-19 pandemic in Australia, an increase in community awareness of Elder Abuse through forums such as the Royal Commission into Aged Care Quality and Safety, and high profile media undertaken by organisations such as the Australian Banking Association.

OPG has worked with financial institutions who are keen to improve their staff's awareness and understanding of elder abuse and have continued to refer to OPG. The number of referrals received from financial institutions has increased this year by **91 percent**. OPG is working on proactive intake and referral processes, end to end processes and streamlining service delivery to meet the community expectation for timely investigations.

The impact of child protection proceedings

There continues to be an increase in the number of guardianship appointments for parents with impaired decision-making capacity that are involved in child protection legal 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 reunification to their care is not possible. The appointment of a statutory guardian is a factor for consideration in assessing whether a parent is willing and able to care for their children. In fulfilling our statutory purpose of promoting and protecting the rights and interests of our clients, OPG continues to educate stakeholders that decision-making capacity does not in itself necessarily equate to a negative assessment of their capacity to parent.

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 wherever 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 an acquired

brain injury) 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 Child Safety to help 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, concerns are raised about their capacity to be held criminally responsible. Since 2017, amendments to the *Mental Health Act 2016* led to significant changes to the way adults with impaired decision-making capacity 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 timelier manner. There is, however, still a significant amount of investment required from stakeholders across the sector, such as OPG, to ensure that adults with impaired decision-making capacity in the mental health system are effectively supported and protected.

For adults with an intellectual disability on a forensic order, access to specialised services is limited and mental health services are required to provide care or even involuntary detention for those who are considered to present a risk to the community.

A successful transition from detention back into the community for adults with an intellectual disability relies on support services being involved as early as possible before release, to obtain information and plan appropriate arrangements. Historically, the NDIS would assess an adult's support needs while they were in custody but would not provide an appropriately funded plan until a planning meeting occurred upon release. OPG continued to raise this as a significant rights issue and a barrier to successful custodial discharge. OPG is pleased to see that the National Disability Insurance Agency has recently become more flexible in this approach to assist its participants. OPG has collaborated with Queensland Corrective Services to advocate for appropriate NDIS funding for our clients prior to their release. This has resulted in NDIS planning meetings occurring early and sufficient disability supports being proactively arranged, establishing a more efficient and safer pathway for a planned transition to the community.

Focus on advocacy for clients detained long-term in the Forensic Disability Service and Authorised Mental Health Services

OPG is focusing on clients detained long term in the Forensic Disability Service and in Authorised Mental Health Services. Our goal is to implement effective and targeted advocacy to ensure our clients can transition from these settings as soon as is appropriate, and that a lack of suitable accommodation and/or a service provider is not the reason they are detained for longer.

To facilitate this, a guardian works with a smaller caseload of clients who are detained, usually pursuant to a Forensic Order. This means the guardian is able to dedicate all of their time on advocacy, stakeholder engagement and working creatively to find a way to support our clients to be transitioned into the community.

This targeted work has supported OPG in forming collaborative relationships with relevant stakeholders, including the NDIA, Office of the Chief Psychiatrist (OCP), Department of Housing and Public Works, the Forensic Disability Service, and the Director of Forensic Disability in relation to these clients. Advocacy from OPG has resulted in these clients receiving adequate and appropriate funding through their NDIS plans, finding appropriate housing and service providers and either being able to transition to the community, or being significantly progressed on the pathway to future transition.

Advocating for younger people in, or at risk of being placed in, aged care

On 22 March 2019, the Commonwealth Department of Social Services issued the *Younger People in Residential Aged Care – Action Plan* which was designed to minimise the need for younger people to live in aged care facilities. The plan sets out actions to reduce the number of younger people aged under 65 who need to live in aged care and to help them access more age-appropriate housing and supported living options. The Action Plan has identified the following goals:

- supporting those already living in aged care aged under 45 to find alternative, age-appropriate housing and supports by 2022, if this is their goal
- supporting those already living in aged care aged under 65 to find alternative, age-appropriate housing and supports by 2025 if this is their goal, and
- halving the number of younger people aged under 65 years entering aged care by 2025.

Younger people in aged care represent a vulnerable cohort of adults with complex disability and health needs that require a targeted and collaborative approach to realise the potential the National Disability Insurance Scheme (NDIS) has to offer. Unlike New South Wales, where a non-government organisation was initially funded in limited trial sites to support young people in aged care to access the NDIS, no similar arrangement was available to adults in Queensland.

Many younger adults in aged care did not have the support network to assist them to understand the NDIS or with entering the scheme. It was further recognised that a higher proportion of younger people in aged care identified as Aboriginal, Torres Strait Islander (or both) and many lived in rural and remote locations. OPG's initial contact with aged care facilities identified that the aged care sector was not resourced to assist these adults and had little knowledge of what benefits could be derived from the NDIS.

Despite this, OPG is committed to working towards the Australian Government's Action Plan by proactively reviewing all of our existing and new guardianship client's situations. Where they are a young adult, we will advocate for them to receive adequate NDIS plans that will support them to transition to more age appropriate accommodation or to access services.

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

Working collaboratively to facilitate timely discharges from hospital settings

Over the past 12 months, OPG has worked collaboratively with the Darling Downs, West Moreton and Metro North Hospital and Health Services (HHS) to facilitate better outcomes for inpatients. This has been facilitated by dedicating guardianship resources to deliver decision-making services in personal and health care matters where the Public Guardian is appointed for a person as guardian or attorney, or acts as Statutory Health Attorney of last resort, and to undertake representations on their behalf.

In addition to this function, OPG's guardians located at an HHS provide targeted advocacy and decision-making to facilitate the timely discharge of clients from hospital settings where appropriate and to work with them on behalf of staff of the HHS and QCAT to ensure the Public Guardian is only appointed for hospital patients as a last resort.

During 2019-20, delegate guardians dedicated to HHS patients attended **80** QCAT hearings, responded to **171** enquiries and made **170** guardianship decisions.

Working collaboratively to facilitate timely discharge of clients from The Park Centre for Mental Health, Treatment, Research and Education

During 2019-20, OPG continued with a dedicated guardian to support adults at The Park Centre for Mental Health, Treatment, Research and Education (The Park) at Wacol, Brisbane. The Park offers highly specialised mental health care to patients throughout the West Moreton region and Brisbane Metro South region, including the Princess Alexandra Hospital and QEII Hospital. The clinical programs at The Park include the Extended Treatment and Rehabilitation/Dual Diagnosis Clinical Program, the Medium Secure Clinical Program and the High Security Clinical Program.

A guardian was located at The Park to provide tailored advocacy and decision-making for clients at The Park, promoting a collaborative approach to discharge planning that considers the mental health, forensic and disability support needs of each client. During the financial year, the guardian:

- conducted **40** client visits
- made **145** decisions,
- attended **39** NDIS planning meetings
- provided advocacy at **65** Mental Health Review Tribunal hearings on behalf of clients that resulted in **3** clients being discharged from The Park to appropriate community-based accommodation, with a further **7** clients pending transition (with timeframes impacted by the COVID-19 pandemic).

Leading interjurisdictional NDIS meetings

OPG hosts an interjurisdictional NDIS teleconference meeting every six weeks, comprising of representatives from each Australian state and territory public guardianship organisation. While the NDIS continues to mature and the role of public guardianship within the scheme continues to evolve, these interjurisdictional meetings provide a forum to share information about challenges and successful outcomes to better develop consistent approaches and guardianship practices relating to the NDIS.

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

Revocation of guardianship orders project

During 2019-20, OPG sought to have guardianship orders revoked where a client was in a stable situation and no decisions were needing to be made. This is important as it recognises that the guardianship appointment for the adult was no longer the least restrictive approach in line with the *Human Rights Act 2019* and the *Guardianship and Administration Act 2000*.

There were **85** appointments identified for possible revocation and the outcomes are shown below:

Guardianship appointment revoked	49
Awaiting QCAT hearing	24
Guardianship appointment retained by QCAT	5
Deceased before QCAT hearing	2
Hearing adjourned by QCAT	2
Awaiting outcome of QCAT hearing	1
Non-reviewable Orders	2

Investigations finalisation project

In 2019-20, OPG was challenged to meet the increasing demand for its investigation services. As a result, OPG increased the resourcing of the team, and implemented an innovative demand management strategy, which dedicated resources to prioritise the finalisation of older, continuing investigations. This approach resulted in **15** of the **16** investigations open for more than two years, and **11** of the **12** cases open for more than 18 months, being finalised. The strategy has been successful and therefore OPG will continue to prioritise finalising older, continuing investigations to reduce any potential backlog of investigations in the next financial year.

Restrictive practices

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 as a response to these behaviours. There are six types of restrictive practices under disability legislation in Queensland relating to adults:

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

Restrictive practices present a significant infringement on a person's human rights and as a result, OPG is a passionate advocate for the reduction and elimination of restrictive practices across all service sectors.

Making decisions about restrictive practices and advocacy

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

- is appointed by QCAT as a decision-maker for restrictive practices (general or respite) used by a disability service provider for an adult receiving funding from the Department of Communities, Disability Services and Seniors (DCDSS) or the National Disability Insurance Agency (NDIA)
- has been asked to consider an application for a short-term approval for the use of containment and/or seclusion, and other associated restrictive practices by a service provider in relation to an adult receiving DCDSS or NDIA funding

- is appointed to seek help and make representation about restrictive practices for an adult subject to containment and/or seclusion approved by the Queensland Civil and Administrative Tribunal (QCAT)
- is an active party to all restrictive practices proceedings that occur in QCAT
- is appointed by QCAT under an advanced appointment for a person who is at least 17 ½ years old and who may be subject to the use of restrictive practices prior to turning 18 years old. Decision-making authority does not commence until the person turns 18; however the Public Guardian can make representations on their behalf under this appointment.

The total number of clients with a restrictive practice-related appointment (where either OPG 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 the legislation) or where the client is subject to a Short Term Approval by DCDSS as at 30 June 2020 was **314** (up from **264** as at 30 June 2019).

During the 2019-20 year, **262** restrictive practice decisions were made by the Public Guardian as guardian for restrictive practices (general or respite).

In addition, OPG received **32** applications for short term approvals for the use of restrictive practices, which is more than double the amount of applications received in the previous financial year.

OPG is particularly concerned about anti-libidinal medications being used as chemical restraint as this has a significant impact on a person's human rights if there is no evidence to support the continued use of this medication. As a result, since July 2019, OPG has successfully advocated for the reduction and/or cessation of anti-libidinal medications for **four** clients.

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. OPG strongly asserts that restrictive practices must only be used as a last resort, when all other interventions have failed.

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 in the last year of the NDIS Quality and Safeguards Commission, and the Queensland Human Rights Commission 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 all other alternatives have been trialled and failed, 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 health care and respect from support staff and their

service provider(s). The use of restrictive practices is not a substitute for inadequate resources or training, and OPG is of the view that the use of restrictive practices in this circumstance is a serious contravention of a person's rights.

Oversight of the use of restrictive practices: the community visitor role

One of the functions of a community visitor is to inquire into the adequacy and appropriateness of services to adults with impaired decision-making capacity residing at visitable sites in the way least restrictive of their rights. This includes the use of restrictive practices. Community visitors monitor the use of force, restraint and seclusion to advocate for the protection of human rights and interests and to ensure these restrictions are only used with appropriate approval where no less-restrictive option exists.

Community visitors will inquire into and raise any concerns with the relevant service provider, where appropriate, for resolution. Unresolved issues will be referred to the appropriate entity for further investigation or resolution and may be formalised as a complaint.

Community visitors regularly visit adults detained at the Forensic Disability Service at Wacol. A key focus is the monitoring of the use of restraint (including mechanical restraint and seclusion of individuals). Where identified, community visitors make inquiries 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 as a result of the appropriateness of restrictive practices being used.

Intersect with the Queensland Civil and Administrative Tribunal

Community visitors conduct visits upon the request of QCAT to report on the use of restrictive practices by service providers at visitable sites and how they administer positive behaviour support to meet the needs of their clients. The reports provide QCAT with greater insight into the environment and circumstances surrounding the person subject to authorised restrictive practices and may, in some circumstances, influence whether the person will continue to need restrictive practices. During 2019-20, community visitors conducted **206** visits requested by QCAT. The information obtained from these visits directly informed QCAT about applications for approval of (or reviews of) restrictive practices at disability sites.

Health care decisions as guardian, Enduring Power of Attorney or Statutory Health Attorney of last resort

Health care providers are obliged to obtain 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 the Public Guardian is appointed as the attorney under an active Enduring Power of Attorney document.

The *Powers of Attorney Act 1998* states that 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. A 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 2019-20, **480 (46 percent)** health care consents were provided for clients subject to a guardianship order, **15 (one percent)** were provided pursuant to an Enduring Power of Attorney, while **541 (52 percent)** were provided while acting as the SHA of last resort. A full breakdown of these categories of health care consent, and the reasons supporting the health care consents, can be found in Appendix 2, Tables 16 and 17 (page 68).

OPG operates a health care consent telephone service, through which in 2019-20 we:

- consented to **1,041** health care matters
- consented to **198** health care matters after hours
- received **646** health care enquiries after hours
- consented to **4** forensic examinations.

Early in the 2019-20 year, a review of the volume and types of calls received by OPG after hours seeking consent to health care, demonstrated that there is little need for consent services to be offered 24/7.

Furthermore, OPG does not operate a 24-hour shift model and staff working during the day took turns to also service the phone line for health care consents overnight.

Due to the low volume of calls received overnight and the implications on staff from a workplace health and safety perspective, OPG commenced a trial to reduce its hours of operation to provide health care consent. On 2 March 2020, the operating hours changed to 7am-7pm Monday to Friday, and 9am-5pm weekends and public holidays. The health care consent process has continued to operate successfully, and the call volume has been regularly monitored. As at 30 June 2020, there has been no increase to the volume of calls received overnight as a result of the COVID-19 health pandemic. OPG will review the change in hours after 12 months of trialling the new spread of hours.

Consents to withhold or withdraw life-sustaining measures

Health care decisions also include 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 its role in relation to decisions for withholding and withdrawing life-sustaining measures.

In 2019-20, OPG consented to **64** requests to withhold and/or withdraw life-sustaining measures, comprising **six 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 the Public Guardian to represent the adult's views, wishes and best interests to the Tribunal as part of its deliberations. In 2019-20, the Public Guardian was appointed by QCAT as a representative in **four** matters. Three matters involved the sterilisation of an adult with impaired decision-making capacity, and one matter involved a termination of a pregnancy.

Decisions under section 42 and 43 of the *Guardianship and Administration Act 2000*

Under section 42 of the *Guardianship and Administration Act 2000*, if there is a disagreement between joint guardians or attorneys, or two or more Statutory Health Attorneys about a health matter for an adult, and the disagreement cannot be resolved by mediation, the Public Guardian may exercise power for the health matter by making the requested decision.

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

OPG will ask the attorney how their decision was made, and the reasons considered as part of their decision-making process. For example, the adult may have previously expressed their views and wishes to the attorney that they would not want to undergo specific treatment. In making a decision, OPG considers the information obtained from the attorney, information from the treating medical professionals, and the Health Care Principle contained in the legislation.

Under section 43 of the *Guardianship and Administration Act 2000*, the Public Guardian is also empowered to exercise a decision for health care if a guardian or attorney refuses to make a decision about the health matter for an adult and the refusal is contrary to the Health Care Principle, or they make a decision about the health matter and the decision is contrary to the Health Care Principle.

During 2019-20, the Public Guardian did not exercise the power to make a decision under sections 42 or 43 of the *Guardianship and Administration Act 2000*.

NDIS: trends and issues

Full scheme implementation of the National Disability Insurance Scheme (NDIS) in Queensland occurred on 1 July 2019. OPG's Guardianship and Community Visitor services intersect regularly with NDIS-funded participants, driving both complexity and demand for OPG services.

In 2019-20, **2,301** guardianship clients were NDIS registered.

Advocating for adults and children within the NDIS

The major challenge for OPG's guardians and community visitors is ensuring that vulnerable adults are accessing the disability supports and services that they need through adequate NDIS funding.

OPG is aware of the challenges that adults we work with have in navigating and participating in systems such as the NDIS. Now the majority of OPG's existing eligible guardianship clients have transitioned to the NDIS, this year OPG gave increased focus on their unique needs to ensure they received appropriate support and advocacy during the development of their initial or reviewed NDIS plans. Additionally, OPG advocated for the National Disability Insurance Agency (NDIA) to meet face-to-face with participants (rather than phone) during the planning process.

It was evident that many adults needed advocacy to ensure they were getting the support they needed from the NDIS, or even to initially access the NDIS, however they did not require the appointment of a substitute decision-maker, which removes their right to legal autonomy through decision making. Throughout 2019-20, there were many instances where it appeared the Public Guardian was appointed to assist a person to gain access to the NDIS. This in itself contradicts the principle of 'choice and control' and is an unnecessary infringement on the person's human rights. In these instances, OPG considers that it would be more appropriate for a person to be assisted by an independent disability advocate.

Through working with Department of Child Safety, Youth and Women, OPG's community visitors and child advocate-legal officers continue to identify children and young people who may be eligible to access the NDIS. Community visitors were particularly focused throughout the year on children and young people in out-of-home care that may have an undiagnosed cognitive or intellectual disability and have never undergone any formal assessments. OPG advocated on behalf of these children and young people to ensure their child safety officer progressed formal assessments to determine if they are eligible for the NDIS.

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

In 2019-20, issues raised by community visitors primarily related to plan funding, plan implementation, and adequacy of services delivered by NDIS service providers. In 2019-20, OPG referred **five** formal complaints to the NDIS Quality and Safeguards Commission regarding the delivery of NDIS-funded services. Community visitors also continue to report any detected use of unauthorised restrictive practices to the NDIS Quality and Safeguards Commission.

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, child protection, youth justice, aged care and the National Disability Insurance Scheme (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 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
- seeing an end to the detention of children and young people in police watch houses
- advocacy to greatly reduce and eliminate the use of restrictive practices by driving greater understanding of the causes of behaviour and the concept of dignity of risk
- contributing to the development of new Advance Health Directive and Enduring Power of Attorney forms and guides, and guidelines for assessing capacity.

During the past financial year, OPG has worked closely on policy and legislative issues with the Queensland and Australian governments and other stakeholders on a range of matters that impact OPG clients. OPG's strategic policy during this period has been targeted toward both public and internal government consultations in a range of areas which significantly affect our clients in accordance with our identified policy priorities.

Submissions during 2019-20

OPG made the following submissions during the 2019-20 reporting period:

- Submission to the Legal Affairs and Community Safety Committee on the *Youth Justice and Other Legislation Amendment Bill 2019* (July 2019)
- Statement of the Public Guardian to the Royal Commission into Aged Care Quality and Safety (July 2019)
- Submission to the Parliamentary Joint Committee on Human Rights Inquiry into the *Quality of Care Amendment (Minimising the Use of Restraints) Principles 2019* (August 2019)
- Submission to the *Review of the Child Protection Act 1999 Discussion Paper – Rethinking rights and regulation: towards a stronger framework for protecting children and supporting families* (September 2019)
- Submission to the Joint Standing Committee on the National Disability Insurance Scheme Inquiry into Supported Independent Living (September 2019)
- Submission to the Joint Standing Committee on the National Disability Insurance Scheme Inquiry into NDIS Planning (September 2019)
- Submission to the *Department of Health Serious Incident Response Scheme for Commonwealth funded residential aged care – Finer details consultation paper* (October 2019)
- Submission to the Review of the NDIS Act and the new NDIS Participant Service Guarantee (November 2019)
- Submission to the Queensland Sentencing Advisory Council terms of reference for the review of penalties for assaults on public officers (January 2020)
- Submission to the Council of Attorneys-General Working Group Review of Age of Criminal Responsibility (February 2020)
- Submission to the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability on Health Care for People with Cognitive Disability* (May 2020)
- Submission to the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability on the Criminal Justice System* (June 2020)

- Submission to the *Queensland Sentencing Advisory Council issues paper on penalties for assaults on public officers* (June 2020)

Contributions to reform during 2019-20

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

- Australian Attorney-General's Department Consultation Regulation Impact Statement on Enhancing protections relating to the use of Enduring Power of Attorney instruments
- Australian Department of Health workshop on the Serious Incident Response Scheme for Commonwealth-funded residential aged care
- Australian Government consultation on establishment of a national register of Enduring Power of Attorney instruments
- Australian Government development of a regulatory framework for restrictive practices including nationally consistent minimum standards
- Australian Guardianship and Administration Council Elder Abuse National Project – Best Practice Resource on Enduring Appointments
- Department of Communities, Disability Services and Seniors review of the Seniors Legal and Support Services (SLASS) program
- Department of Justice and Attorney-General development of new Advance Health Directive and Enduring Power of Attorney forms and guides, and guidelines for assessing capacity
- *Department of Justice and Attorney-General Disability Service Plan 2020-21*
- *Department of Justice and Attorney-General NDIS Transition and Interface Strategy*
- Disability Connect Queensland policy and procedure on locking of gates, doors and windows during the COVID-19 emergency
- Evaluation of the National Framework for Protecting Australia's Children 2009-2020 consultation
- *Human Rights Act 2019* implementation project
- Legislative processes:
 - *Child Protection Act 1999* amendments
 - *Child Protection and Other Legislation Amendment Bill 2020*
- *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Bill 2019*
- *Health Transparency Act 2019* and regulations
- *Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020*
- *Justice Legislation (COVID-19 Emergency Response-Wills and Enduring Documents) Regulation 2020*
- *Mental Health Act 2016* amendments
- *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Bill 2020*
- *National Disability Insurance Scheme Act 2013 (Cth)* amendments
- Queensland whole-of-government legislative review to enable continued operation during the COVID-19 public health emergency
- *Youth Justice Act 1992* amendments and regulations
- NDIS data sharing arrangements between the NDIA and Australian State and Territory agencies
- NDIS Information Sharing Protocol between the NDIA and Australian State and Territory Agencies
- PeakCare Practice Guidelines on the Joint agency protocol to reduce preventable police call-outs to residential care services
- Queensland age-friendly community action plan and implementation schedule 2019-20 and 2020-21
- Queensland Audit Office report, Access to the National Disability Insurance Scheme for people with impaired decision-making capacity (Report 2: 2018-19) – and implementation of recommendation 2
- Queensland Family and Child Commission outcomes evaluation of Queensland child protection reforms
- Queensland Family and Child Commission report, *Keeping Queensland's children more than safe: Review of the foster care system* – presentation on recommendations 3, 4, 37, 38, 39 and 40
- Queensland Family and Child Commission review of the Joint agency protocol to reduce preventable police callouts to residential care services
- Royal Commission into Aged Care Quality and Safety – appearance at public hearing

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, 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. The forums have adapted their operations during the COVID-19 pandemic to ensure continued engagement between jurisdictions, with the ANZCCG undertaking monthly teleconferences in lieu of the biannual meeting scheduled for May 2020.

OPG has continued to actively support two linked AGAC national projects arising from the Australian Law Reform Commission 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 national 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. The options paper was published in December 2018 and submitted to the Council of Attorneys-General for consideration and further consultation during October 2019. The best practice resource, entitled *You Decide Who Decides: Making an enduring power for financial decisions*, was finalised and published in October 2019.

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.

Stakeholder and 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 advocate-legal officers, investigations, 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 delivering presentations at educational institutions, hospitals and accommodation facilities, and to legal professionals.

During 2019-20, OPG attended **66** stakeholder and community related events. **Thirty percent** of stakeholder education and presentations were made to the health industry, followed by the disability sector (**17 percent**), the child protection sector (**15 percent**), the aged care/seniors sector (**14 percent**). We reached a combined total audience of almost **4,500** people. During the COVID-19 health restrictions, OPG was forced to suspend face-to-face educational and engagement events but was able to adapt presentations to facilitate interactive online events.

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 Queensland police officers on the role OPG plays in protecting adults with impaired decision-making capacity from abuse, neglect or exploitation, and information to foster and kinship carers 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, including NAIDOC Family Fun Day, National Elder Abuse Conference and the Disability Support Workers Conference, 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. Other materials included:

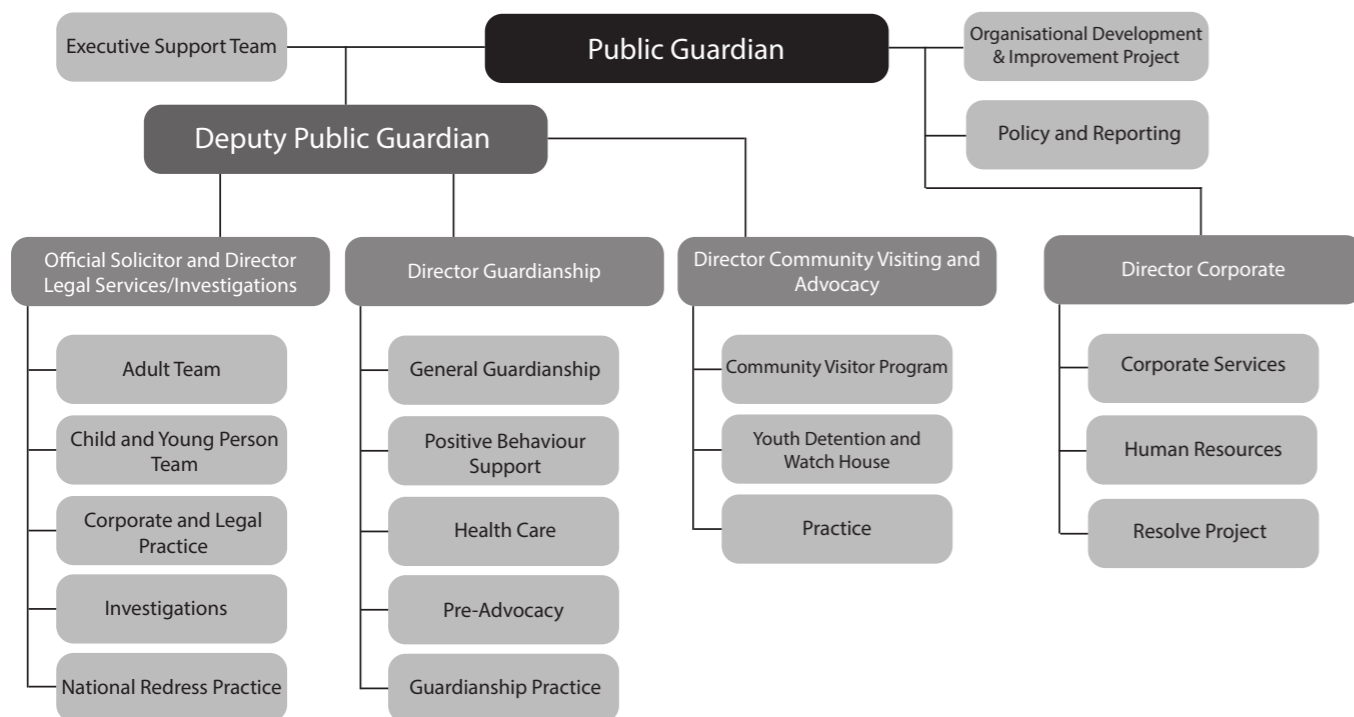
- presentation handouts
- resource kits
- videos
- factsheets
- statistical data.

There was also significant engagement with hospitals and health services again during 2019-20. OPG's staff 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, provided education on the implications of guardianship laws for health practitioners, and explained OPG's investigations function.

Our organisation

Organisational structure

OPG's structure as at 30 June 2020 comprised **330** people. The core establishment of OPG is **267**, however, the agency retained multiple casual community visitors to fulfil the equivalent of one core position which is why the 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 percent** female and **20 percent** male, with **ten percent** of the workforce engaged on a part-time basis.



Our leadership

Shayna Smith

A/Public Guardian

As the Acting Queensland Public Guardian, Shayna 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 Policy and Reporting, Corporate and Organisational Development and Improvement Project areas report directly to the Public Guardian.

Christina Thompson

A/Deputy Public Guardian

The Guardianship, Legal Services and Investigations and Community Visiting and Advocacy areas report directly to the Deputy Public Guardian.

Brian Norman

Director — Corporate Services

Corporate Services comprises **37** full- and part-time staff members, totalling approximately **34** FTE positions. Corporate Services provides business support to frontline staff and the senior executive management team.

It encompasses Information Technology Services, Communications and Engagement, Finance, Human Resources, Central Intake and Referral, and Corporate Administration.

Amelia Barker

Director — Guardianship

Guardianship has **96** full- and part-time staff members, totalling approximately **93** FTE positions. Staff are located at four regional offices located in Brisbane, Ipswich, Townsville and Cairns.

It comprises several specialised teams covering Health Care, Positive Behaviour Support and Pre- Appointment Advocacy.

Catherine Moynihan

Official Solicitor and Director — Legal Services/ Investigations

Legal Services and Investigations comprises **38** full- and part-time staff members, totalling approximately **36** FTE positions. Staff 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

Director — Community Visiting and Advocacy

Community Visiting and Advocacy comprises **148** full- and part-time and casual staff members, including **116** casual community visitors, totalling approximately **67** budgeted FTE positions

The business unit has eight regional offices located in Brisbane, Ipswich, Toowoomba, Sunshine Coast, Rockhampton, Bundaberg, Cairns and Townsville, covering 13 distinct visiting zones, and a specialised Youth Detention Team to oversight youth detention and watch houses where children and young people are detained.

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 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
- Policy and Practice Working Group
- Human Rights Implementation 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

OPG client complaints reporting

Under section 219A of the *Public Service Act 2008*, OPG is required to publish data relating to complaints about OPG.

OPG's complaints handling policy is available on the [OPG website](#).

Complaints summary 2019-20

Total complaints received	65
Complaints received by children and young people	3
Complaints handled under the <i>Human Rights Act 2019</i> *	0
Complaints requiring further action	6
Complaints not requiring further action	51
Complaints still in progress as at 30 June 2020	8

*The *Human Rights Act 2019* came into effect on 1 January 2020. For more information on the OPG processes in relation to human rights complaints, please see page 17.

Complaints breakdown 2019-20*

Service delivery	18
Policy/procedure	5
Administrative decisions	29
Staff conduct	20
Privacy	0

*Some complaints fall into multiple categories.

Complaint outcome breakdown*

Explanation	49
Apology	5
Corrective action	5
Staff training	0
Service improvement	6
Referred to other agency	0
Reviewed decision — upheld	2
Reviewed decision — amended	1
Other (i.e. frivolous/vexatious, withdrawn)	4
Still in progress as at 30 June 2020	8

*Some complaints fall into multiple categories.

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. **Seven** WorkCover claims were lodged in 2019-20. 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 a statutory responsibility for ensuring appropriate risk management and mitigation processes are in place. Our risk management framework assists in achieving consistent risk management practices across the organisation. In applying risk management principles, it is expected that OPG staff at all levels will:

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

Business continuity management

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

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

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

Information systems and record keeping

OPG is committed to managing its records effectively and meeting its record keeping responsibilities under the *Public Records Act 2002* 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 on our [website](#).

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 2019-20 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
- OPG representation on the White Ribbon Accreditation working group
- 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 early 2020, 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.

Unfortunately due to COVID-19 restrictions an award ceremony could not take place – it is hoped this will happen early in 2020-21 so that staff winners can be recognised by their peers.

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 2019-20 we focused on the development and delivery of broad mandatory professional development, comprehensive onboarding of new starters, and targeted skills-based professional development. In the latter part of the financial year, as a temporary measure to accommodate the majority of our staff working remotely, we moved away from face-to-face professional development and relied more heavily on webinars and training via online platforms.

Additionally, a large body of work has been undertaken to develop the new *OPG Learning and Development Framework (2020-23)*, which will guide how our staff access and utilise professional development to support their performance goals and professional growth.

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 are required to have Expectations Agreements, which are confidential agreements between a staff member and their supervisor that detail:

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

Clinical support and trauma debriefing

OPG introduced clinical support and trauma debriefing in 2019-20 to establish a preventative and proactive approach to staff wellbeing. The support was part of a holistic approach for supporting staff to not only identify workplace stress but also supporting employees to manage the psychological risks of occupation-based vicarious trauma. The initiative is aimed at providing employees with an opportunity to discuss and reflect on their work related experiences as well as to understand vicarious trauma, self-care and resilience. This is a more focused approach to employee assistance and includes the traditional employee assistance program but focuses more on the individual and the work they are undertaking daily.

The OPG clinical support and trauma debriefing is a three-part approach.

1. Group Setting – Team-based facilitated discussions to provide opportunities to better understand the strengths, weaknesses and common reactions to pressure that individual team members have. This would be aimed at enabling better sharing of resources, support for each other internally, normalisation of responses and reactions, and the development of shared self-care plans and work practices.
2. Individual support – Individual calls made to staff to establish a baseline and conduct a 'wellbeing' check to manage ongoing exposure to trauma. Calls should also be used to identify areas of risk for the individual, their work teams and the organisation as a whole.
3. Trauma debriefing and support – direct psychological support to staff experiencing or affected by work-related trauma, whether vicarious or otherwise. Acute psychological support will be offered to staff when required.

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.

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 2019-20.

Overview of financial performance

Income and expenditure 2019-20

	\$000
Income from continuing operations	
Appropriation	31,613
Public Trustee Grant	1,192
Other revenue	1
Total income from continuing operations	32,806
Expenses from continuing operations	
Employee expenses	28,418
Supplies and services	4,037
Grants and subsidies	-
Depreciation and amortisation	351
Other expenses	1
Total expenses from continuing operations	32,807
Operating result from continuing operations	-1

Expenditure

In 2019-20 OPG spent \$32,807,050 on its services. The largest operational expenditure areas in 2019-20 were Visiting Services and Guardianship Services.

Expenditure 2019-20	\$
Corporate Services	8,678,706
Legal Services/Investigations	4,224,809
Visiting Services	10,014,783
Guardianship Services	9,888,752
Total	32,807,050

Appendix 1: Glossary

Decision-making capacity	The ability to make decisions for oneself. Anyone over 18 years is automatically considered to have decision-making capacity unless it is proven otherwise. 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 have impaired decision-making capacity.
Guardianship	A substitute decision-maker appointed by an independent Tribunal – in Queensland, this is the Queensland Civil and Administrative Tribunal. A guardian 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 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)

	2017-18		2018-19		2019-20	
Visitable home	26,910	79%	29,209	72%	30,965	74%
Visitable home — Boarding school	214	1%	174	0%	127	0%
Visitable site — Residential facility	4,809	14%	5,926	15%	7,190	17%
Visitable site — Externally supported site	1,206	4%	1,643	4%	1,695	4%
Visitable site — Youth detention site	599	2%	1,535	4%	1,478	4%
Visitable site — Disability services	375	1%	345	1%	329	1%
Visitable site — Mental health site	129	0%	235	1%	177	0%
Visitable site — Brisbane City Watch House	N/A	N/A	1,235	3%	129	0%
Total number of visits	34,242	100%¹	40,302	100%	42,090	100%

1. Figures add up to 101% due to rounding.

Table 2: Number of visitable children by location type as at 30 June 2020

	2017-18		2018-19		2019-20	
Visitable home	6,403	86%	6,797	85%	7,368	85%
Visitable home — Boarding school	25	0%	31	0%	8	0%
Visitable site — Disability services	27	0%	25	0%	24	0%
Visitable site — Externally supported site	201	3%	209	3%	217	3%
Visitable site — Mental health site	19	0%	18	0%	9	0%
Visitable site — Residential facility	674	9%	787	10%	951	11%
Visitable site — Youth detention site	54	1%	50	1%	45	1%
Visitable site — Brisbane City Watch House	N/A	N/A	19	0%	N/A	N/A
Unknown location*	26	0%	17	0%	16	0%
Total number of visits	7,429	100%¹	7,953	100%¹	8,638	100%

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 2020

	2017-18		2018-19		2019-20	
Monthly	2,264	30%	2,521	32%	2,830	33%
Bi-monthly	1,843	25%	1,704	21%	1,585	18%
Quarterly	2,207	30%	2,569	32%	2,915	34%
Six monthly	1,018	14%	1,092	14%	1,255	15%
Annual	69	1%	45	1%	38	0%
No visit	28	0%	22	0%	15	0%
Total	7,429	100%	7,953	100%	8,638	100%

Table 4: Child advocate meetings held by type of meeting

	2017-18		2018-19		2019-20	
Visits	671	40%	683	43%	680	49%
Court appearances	528	32%	568	36%	431	31%
Stakeholder meetings	249	15%	162	10%	117	8%
Family group meetings	110	7%	93	6%	72	5%
Court-ordered conferences	71	4%	38	2%	53	4%
QCAT hearings	12	1%	9	1%	4	0%
Child meeting with Magistrate	-	-	14	1%	27	2%
Others (court or QCAT matters)	22	1%	16	1%	11	1%
Total	1,663	100%	1,583	100%	1,395	100%

Table 5: Issues raised by children and young people

	2017-18		2018-19		2019-20	
Contact arrangements	3,493	17%	3,224	16%	3,307	17%
Placement	3,412	17%	3,241	17%	3,207	16%
Case plans	2,149	11%	1,556	8%	1,460	7%
Education needs	1,653	8%	1,491	8%	1,425	7%
Health needs	1,586	8%	1,570	8%	1,525	8%
Youth detention centres	1,031	5%	1,497	8%	1,424	7%
High-risk behaviour	1,013	5%	1,294	7%	1,597	8%
Others	5,754	29%	5,747	29%	5,942	30%
Total	20,091	100%	19,620	100%	19,887	100%

Table 6: Issues raised in youth detention centres

	2017-18		2018-19		2019-20	
Living conditions	278	25%	393	22%	240	17%
Programs, services	213	19%	381	22%	335	23%
Contact	171	16%	202	12%	116	8%
Staff	92	8%	64	4%	47	3%
Child Protection Orders/ Transition in 2015-16	83	8%	157	9%	203	14%
Others	261	24%	557	32%	489	34%
Total	1,098	100%	1,754	100%¹	1,430	100%²

1. Figures add up to 101% due to rounding

2. Figures add up to 99% due to rounding

Table 7: Issues raised at Brisbane City Watch House

	2019-20	
In watch houses	19	23%
Programs, services	19	23%
Child Protection Orders	7	9%
Living conditions	6	7%
Contact	5	6%
Others	26	32%
Total	82	100%

Table 8: Aboriginal and Torres Strait Islander visitable children by zone as at 30 June 2020

	2017-18	2018-19	2019-20
Brisbane North	115	132	128
Brisbane South	140	127	151
Brisbane West	129	139	148
Central North	364	359	390
Central South	201	215	211
Far Northern	514	516	610
Gold Coast	126	145	190
Ipswich	264	296	310
Logan	162	185	111
Moreton and South Burnett	237	259	267
Northern	379	433	449
Sunshine Coast	109	119	144
Toowoomba and Western	284	305	323
Detentions and Corrections	N/A	N/A	133
Total	3,204	3,230	3,565

Table 9: Aboriginal and Torres Strait Islander children and young people clients as a percentage of all children and young people assisted by child advocate-legal officers

Age group	Aboriginal and Torres Strait Island people	Non-Indigenous people	% of children and young people assisted
0-4	-	-	-
5 to 9	6	15	29%
10 to 14	47	66	42%
15 to 17	29	55	35%
Unknown	-	-	-
Total	82	136	38%

Table 10: Guardianship appointment type

	2017-18		2018-19		2019-20	
Accommodation	1,893	29%	1,807	29%	1,775	29%
Service Provision	1,858	28%	2,055	33%	2,224	36%
Health Care	1,320	20%	1,091	17%	882	14%
Legal	500	8%	461	7%	423	7%
Contact	371	6%	322	5%	288	5%
Restrictive Practices	299	5%	264	4%	290	5%
Others	302	5%	281	4%	224	4%
Total	6,543	100%¹	6,281	100%²	6,106	100%

1. Figures add up to 101% due to rounding

2. Figures add up to 99% due to rounding

Note: a client might have more than one appointment type

Table 11: Legal decisions made by type 2019-20

	2019-20	
Criminal	413	43%
Child protection	128	13%
Domestic and family violence	108	11%
Mental health	112	12%
Release of information	93	10%
Family law	19	2%
Bail	56	6%
Other	16	2%
Dangerous prisoner matters	9	1%
Victim of crime	-	0%
Total	954	100%

Table 12: Reasons for closure of investigations

Reason for closure	2017-18		2018-19		2019-20	
Advice given/formal	19		13		22	
Advice given/informal	2		6		0	
Allegation not substantiated	33		37		22	
Decline to investigate/adult deceased	34		16		25	
Decline to investigate/adult has capacity	23		27		36	
Decline to investigate/inappropriate referral	2		1		1	
Decline to investigate/not meeting investigation guidelines	0		1		1	
Decline to investigate/QCAT order made	8		5		0	
EPA suspended/financial mismanagement	2		10		5	
EPA suspended/QCAT application/interim application	0		0		0	
EPA suspended/QCAT/other	-		1		0	
EPA suspended/QCAT application/normal application	22		7		14	
EPA suspended/QCAT application/third-party application	0		0		0	
Other	4		4		8	
QCAT application made/interim	17		23		19	
QCAT application made/normal	10		9		9	
QCAT application made/third party	14		28		24	
Referral made to external agency	0		2		0	
Total	190		190		186	

Table 13: Visitable sites by sector (adult)

	2017-18		2018-19		2019-20	
Disability	1,188	91%	1,126	88%	1,241	81%
Mental Health	73	6%	84	7%	84	6%
Supported Accommodation	42	3%	74	6%	200	13%
Total	1,303	100%	1,284	100%¹	1,525	100%

1. Figures add up to 101% due to rounding

Table 14: Visitable sites by service sector (adult)

	2017-18		2018-19		2019-20	
Department of Communities	170	13%	170	13%	125	8%
NGO	1,061	81%	1,037	81%	1,324	87%
Queensland Health	72	6%	77	6%	76	5%
Total	1,303	100%	1,284	100%	1,525	100%

Table 15: Issues identified on behalf of adults at visitable sites

	2017-18		2018-19		2019-20	
Wellbeing	512	24%	595	26%	575	25%
Support	418	20%	446	19%	494	21%
Accommodation	341	16%	338	15%	327	14%
Health	238	11%	207	9%	146	6%
Least-restrictive services	227	11%	290	13%	288	12%
Assessment	155	7%	147	6%	230	10%
Treatment	146	7%	188	8%	204	9%
Access to information	74	3%	76	3%	50	2%
Others	10	0%	14	1%	15	1%
Total	2,121	100%¹	2,301	100%	2,329	100%

1. Figures add up to 99% due to rounding

Table 16: Health care consent by decision-making authority

Decision-making authority	2017-18		2018-19		2019-20	
	Count	Percentage	Count	Percentage	Count	Percentage
Acting as guardian in accordance with section 174(2)(e) of the <i>Guardianship and Administration Act 2000</i>	722	55%	555	45%	480	46%
Acting as personal attorney in accordance with section 174(2)(d) of the <i>Guardianship and Administration Act 2000</i>	26	2%	16	1%	15	1%
Acting as statutory health attorney of last resort in accordance with Section (63)(2) of the <i>Powers of Attorney Act 1998</i>	556	42%	655	53%	541	52%
Exercising power for a health matter in accordance with Section 43 of the <i>Guardianship and Administration Act 2000</i>	2	0%	1	0%	-	0%
Forensic examination pursuant to section 38 of the <i>Public Guardian Act 2014</i>	3	0%	2	0%	5	0%
Total	1,309	100%¹	1,229	100%¹	1,041	100%¹

1. Figures add up to 99% due to rounding

Table 17: Reasons for health care consents

Reason for health care consent	2017-18		2018-19		2019-20	
	Count	Percentage	Count	Percentage	Count	Percentage
Surgical	591	45%	539	44%	477	46%
Medical	468	36%	449	37%	393	38%
Dental	138	11%	141	11%	102	10%
Withdrawal and withholding life-saving measures	103	8%	94	8%	64	6%
Forensic examination	7	1%	3	0%	4	0%
Participation in clinical trial	1	0%	3	0%	-	0%
Allied health	1	0%	0	0%	-	0%
High level aged care	-	0%	-	0%	1	0%
Total	1,309	100%¹	1,229	100%	1,041	100%

1. Figures add up to 101% due to rounding

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	p4
Accessibility	Public availability	ARRs – section 9.2	p3
	Interpreter service statement	Queensland Government Language Services Policy ARR – section 9.3	p3
	Copyright notice	<i>Copyright Act 1968</i> ARR – section 9.4	p3
	Information licensing	QGEA – Information Licensing ARR – section 9.5	p3
	Introductory information	ARRs – section 10.1	p6
General information	Agency role and main functions	ARRs – section 10.2	p8
	Operating environment	ARRs – section 10.3	p10
	Government’s objectives for the community	ARRs – section 11.1	p12
Non-financial performance	Other whole-of-government plans/specific initiatives	ARRs – section 11.2	N/A
	Agency objectives and performance indicators	ARRs – section 11.3	p14
	Agency service areas and service standards	ARRs – section 11.4	p14
Financial performance	Summary of financial performance	ARRs – section 12.1	p58
	Organisational structure	ARRs – section 13.1	p50
Governance — management and structure	Executive management	ARRs – section 13.2	p51
	Government bodies (statutory bodies and other entities)	ARRs section – 13.3	N/A
	<i>Public Sector Ethics Act 1994</i>	<i>Public Sector Ethics Act 1994</i>	p53
		ARRs – section 13.4	
	Queensland public service values	ARRs – section 13.5	p6

Summary of requirement		Basis of requirement	Annual report reference
Governance — risk management and accountability	Risk management	ARRs – section 14.1	p53
	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	p53
	Workforce planning and performance	ARRs – section 15.1	p55
Governance — human resources	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)	p55
		ARRs – section 15.2	
Open data	Statement advising publication of information	ARRs – section 16	p54
	Consultancies	ARRs – section 33.1	p52
	Overseas travel	ARRs – section 33.2	p52
	Queensland Language Services Policy	ARRs – section 33.3	p52
Financial statements	Certification of financial statements	FAA – section 62 FPMS – sections 42, 43 and 50	N/A
		ARRs – section 17.1	
	Independent Auditor’s Report	FAA – section 62	N/A
		FPMS – section 50 ARRs – section 17.2	

