

2  
0  
1  
9

# ANNUAL REPORT





**Office of the Public Guardian  
Annual Report 2018-19**

**ISSN 2208-5695**

**Contact officer for annual report:**

Public Guardian

GPO Box 1722

DARWIN NT 0801

Phone 1800 810 979

Email [public.guardian@nt.gov.au](mailto:public.guardian@nt.gov.au)

Web [www.publicguardian.nt.gov.au](http://www.publicguardian.nt.gov.au)

© Office of the Public Guardian, Northern Territory 2019

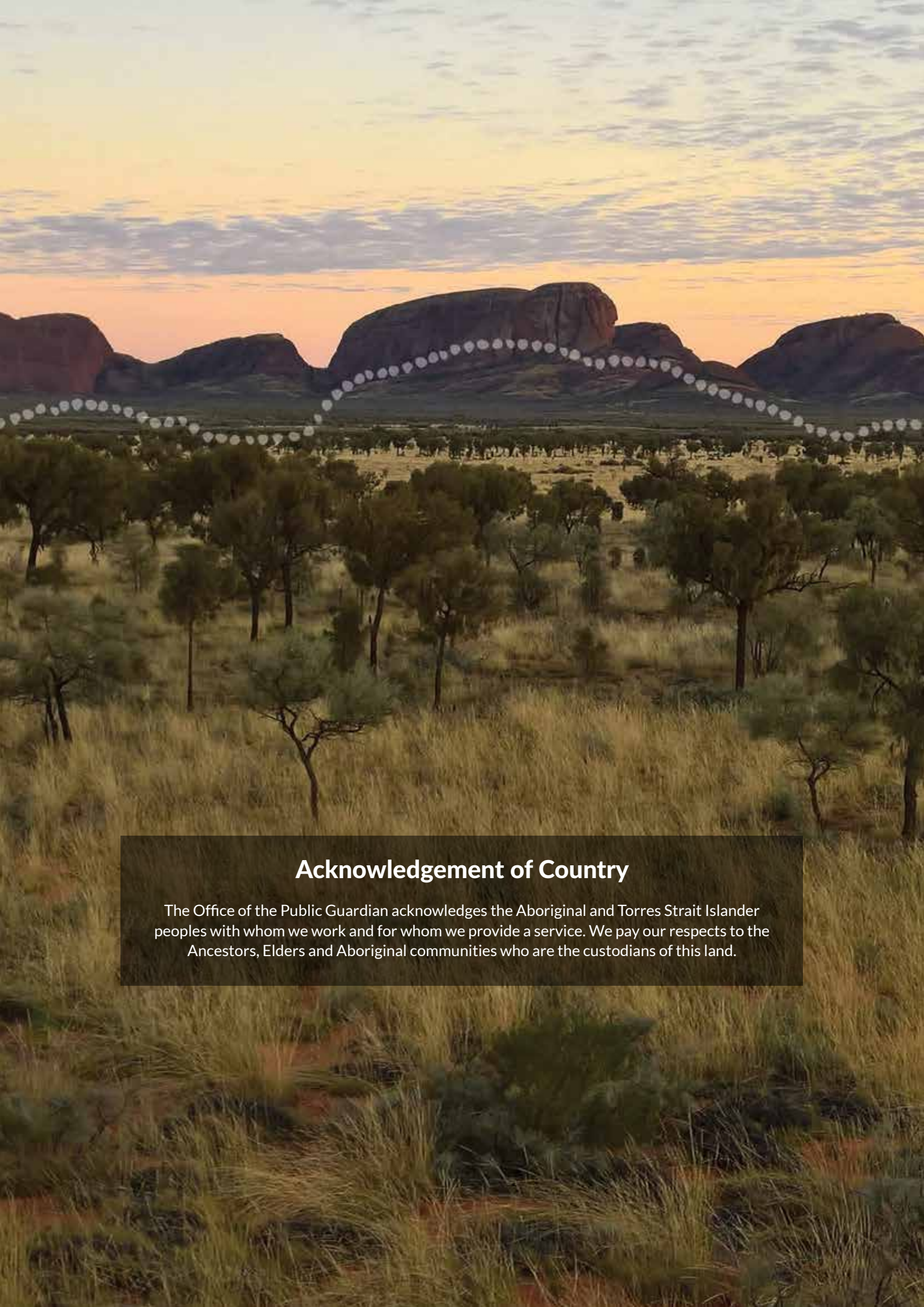
Background image for Acknowledgement of Country, 'Kata Tjuta Dawn',  
courtesy of Robert King, Magpie Goose Publishing, September 2017.

You can download this annual report free from our website.

# Office of the Public Guardian Annual Report 2018–19







## **Acknowledgement of Country**

The Office of the Public Guardian acknowledges the Aboriginal and Torres Strait Islander peoples with whom we work and for whom we provide a service. We pay our respects to the Ancestors, Elders and Aboriginal communities who are the custodians of this land.



PO Box 1722  
Darwin NT 0801  
T: 1800 810 979  
E: [public.guardian@nt.gov.au](mailto:public.guardian@nt.gov.au)  
W: [www.publicguardian.nt.gov.au](http://www.publicguardian.nt.gov.au)

The Honourable Natasha Fyles MLA  
Attorney-General and Minister for Justice  
Parliament House  
DARWIN NT 0800

Dear Minister

**Re: Office of the Public Guardian Annual Report 2018–19**

In accordance with section 74 of the *Guardianship of Adults Act 2016* of the Northern Territory, I am pleased to submit the Annual Report of the Office of the Public Guardian for the year ending 30 June 2019.

The Northern Territory Office of the Public Guardian is responsible for providing guardianship and advocacy on behalf of adults with impaired decision-making capacity. The following report details the performance and achievements of the Office of the Public Guardian for the 2018–19 reporting period.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Beth Walker".

BETH WALKER  
Public Guardian

24 September 2019





“

The Office of the Public Guardian  
is **committed** to ensuring the  
**rights** of Territorians with  
impaired decision-making  
capacity are **protected**.

# CONTENTS

Message from the Public Guardian	1
Adult guardianship in the Northern Territory	4
Office of the Public Guardian	5
Community engagement	12
Advocacy	18
Corporate Services and Policy	28
Inquiry and Engagement	33
Guardianship	37
Key Performance Indicators, budget and resourcing	46
Looking ahead	47

# LIST OF FIGURES

<b>Figure 1:</b>	Agency Comparison – 2018 People Matter Employee Survey	9
<b>Figure 2:</b>	Organisational structure	10
<b>Figure 3:</b>	Regional and remote consultations: communities visited	14
<b>Figure 4:</b>	Number of Aboriginal people involved with adult guardianship in the Northern Territory 2018–19	19
<b>Figure 5:</b>	Young people transitioning from out-of-home care to adult, actual and projected	23
<b>Figure 6:</b>	Prisoners and Part IIA, all represented adults	25
<b>Figure 7:</b>	Prisoners and Part IIA : represented adults, by gender	25
<b>Figure 8:</b>	Prisoners and Part IIA: represented adults, by primary impairment	26
<b>Figure 9:</b>	Number of guardianship applications, comparison over four years	34
<b>Figure 10:</b>	Northern Territory Civil and Administrative Tribunal applications involving the Office of the Public Guardian in 2018–19, by type	35
<b>Figure 11:</b>	Primary impairment stated on new and urgent applications, 2017–18 and 2018–19	35
<b>Figure 12:</b>	Applications in 2018–19: Aboriginal and non-Aboriginal adults	36
<b>Figure 13:</b>	Guardianship orders, appointment type	36
<b>Figure 14:</b>	Adult Guardianship Officers: communities visited	38
<b>Figure 15:</b>	Adults subject to guardianship	39
<b>Figure 16:</b>	Location of represented adults	40
<b>Figure 17:</b>	Gender of represented adults subject to the guardianship of the Public Guardian	40
<b>Figure 18:</b>	Age of represented adults with sole or joint guardianship to the Public Guardian: comparison over three years	41
<b>Figure 19:</b>	Priorities for 2019–2021	47

# LIST OF TABLES

<b>Table 1:</b>	Functions and responsibilities	8
<b>Table 2:</b>	Current staffing	11
<b>Table 3:</b>	Key Performance Indicators against forecast estimates, Budget Paper no. 3	46





## MESSAGE FROM THE PUBLIC GUARDIAN

*Keeping human rights as the foundation  
and in the forefront of everything  
we do is critical.*

I am delighted to present the 2018–19 Annual Report for the Office of the Public Guardian. This year has seen much growth and change of the Office as we approach the completion of our third year of operation as an independent statutory organisation in the Northern Territory.

I continue to be extremely proud of the team of dedicated staff I lead with both their professionalism and drive to deliver exceptional services to the community.

The information we have captured for this report provides a more thorough representation of our work as a result of the implementation of the Office of the Public Guardian information system in January 2018. We look forward to the ongoing reporting improvements that can be delivered through this information system in future years.

### **Transfer from the Department of Health to the Department of the Attorney-General and Justice**

On 4 March 2019, the Office of the Public Guardian transferred from being hosted by the Department of

Health to the Department of the Attorney-General and Justice. This transition brings the Office of the Public Guardian into line with other guardianship jurisdictions in Australia.

This transfer does not affect the impartiality of the Public Guardian who is a statutory independent officer. The work that the Office of the Public Guardian undertakes in relation to human rights and social justice issues for people with a disability will be better recognised within this framework.

The Office of the Public Guardian will now be hosted with other statutory independent offices within the Northern Territory Government.

### **Transfer of financial management of represented adults to the Public Trustee**

In early 2019, we welcomed the decision approving the transfer of financial administration of represented adults' estates from the Office of the Public Guardian to the Public Trustee.

This change centralises the function with the Public Trustee and avoids duplication of services



within the Northern Territory Government. The Public Trustee already has a financial management and investment framework in place that is closely monitored and regularly audited.

Management of represented adults' finances by the Public Trustee ensures a separation of decision-making authority between financial and personal matters when the Public Guardian is appointed.

At the time of the decision approving the transfer of financial administration, the Office of the Public Guardian was managing in excess of 450 financial orders.

### World Congress on Adult Guardianship 2018

In October 2018, I had the opportunity to attend the 5th World Congress on Adult Guardianship in Korea which embraced the theme of *living together with persons with cognitive impairments in the communities*. The congress provided a platform for discussions of guardianship systems in different cultures and other schemes for persons with disabilities and the elderly, current practices and problems, and possible solutions.

This amazing, thought-provoking opportunity reinforced the importance of human rights for people with a disability, our practice and the broader Office of the Public Guardian. Learnings from this conference will inform changes to our guardianship practice in the Northern Territory. Keeping human rights as the foundation and in the forefront of everything we do is critical.

### Disability Service and Inclusion Awards

The Northern Territory Disability Service and Inclusion Awards celebrate achievements made in improving the lives of people with disability in the Northern Territory. The Office of the Public Guardian proudly sponsored the Excellence in Advocacy and Promotion of Human Rights category, which was won by the Building for Success with NDIS project led by the Anti-Discrimination Commission.

### Royal Commission into Aged Care Quality and Safety

The Royal Commission into Aged Care Quality and Safety was established on 8 October 2018 and is looking at how older people are cared for and what needs to change to make aged care services better. I support the opportunity this Royal Commission presents in making a true change to this important industry and the subsequent quality of care provided to older Territorians.

The major themes to be investigated include quality and safety, access and inclusion, young people with a disability, interface and transitions, future challenges and opportunities, and how to deliver quality in a sustainable way.

I have strongly advocated that the use of restrictive practices in all service sectors, including the aged care system, is a significant issue of concern for the Office of the Public Guardian. I have recommended on a number of different platforms that a restrictive practices authorisation framework is essential if we want to see a reduction of the need for and use of restrictive practices in the aged care system with comprehensive and appropriate behaviour support plans.

Increased training, education and information are required to inform residential aged care facilities, staff, families and the community to ensure the highest level of care is provided to those most vulnerable.

### National Disability Insurance Scheme

The National Disability Insurance Scheme (NDIS) commenced rolling out across the Northern Territory in 2016 and was fully implemented by 1 July 2019.

The implementation of NDIS has continued to be a major contributor to the workload of the Adult Guardianship team. I acknowledge the commitment our staff have shown in ensuring the best outcomes are achieved for the adults we represent, with 90 per cent of our eligible adults represented by the Public Guardian with NDIS plans.

I applaud the extensive work undertaken by the Northern Territory Government in providing a piece of legislation that provides an authorisation framework for the first time in the Territory. The Office of the Public Guardian is highly supportive of this authorisation framework for restrictive practices and looks forward to the positive effects that the regulation of restrictive practices for NDIS participants is hoped to achieve.

### Looking ahead

This coming year will see the full transition of all financial matters currently managed by the Office of the Public Guardian to the Public Trustee. I appreciate the efforts of my team in meeting the additional workload to ensure each represented adult is supported through this change.



The Office of the Public Guardian is uniquely positioned to advocate for adults with impaired decision-making capacity and ensuring human rights of all Territorians with a disability are protected. We will continue to focus on engaging with the community, support services and those involved with guardianship to achieve these outcomes.

The consideration of a health care decision-maker in the Northern Territory is high on the Office of the Public Guardian agenda, and we will be working closely with the Department of the Attorney General and Justice. This legislative change provides greater choice and flexibility about health care decision-making, something that is important for every Territorian.

The Office of the Public Guardian is looking forward to the finalisation of our Reconciliation Action Plan, a guiding framework for culturally congruent practice. The Office of the Public Guardian will continue to include and embed reconciliation and culturally congruent initiatives into business strategies to ensure more effective and relevant service delivery to Aboriginal people and communities.

Given the high number of Aboriginal and Torres Strait Islander people involved with the Office of the Public Guardian, it is essential that we continue to develop and strengthen relationships with Aboriginal people, communities and Aboriginal controlled organisations to have a truly human rights focused and responsive guardianship framework for all Territorians.



BETH WALKER  
Public Guardian



# ADULT GUARDIANSHIP IN THE NORTHERN TERRITORY

The Office of the Public Guardian was established under the *Guardianship of Adults Act 2016* on 28 July 2016. The Act provides the legal framework for adult guardianship in the Northern Territory.

The Office provides adult guardianship services, information and advocacy that is responsive to the needs of the Northern Territory community and reflects contemporary, best practice guardianship principles within a human rights framework.

The Act recognises the rights and overall wellbeing of persons with impaired decision-making capacity.

Its provisions are consistent with the United Nations Convention on the Rights of Persons with Disabilities, which aims to 'promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity'.

## 2018–19 AT A GLANCE

**1039**

guardianship orders  
in force

**157**

new orders made

**266**

guardianship  
applications lodged

**85**

new orders appointed  
Public Guardian as sole  
or joint guardian

**62%**

of orders listed the Public Guardian  
as sole or joint guardian

**87%**

of eligible represented adults under  
Public Guardian have a National Disability  
Insurance Scheme plan

**34%**

of represented adults  
under Public Guardian  
aged 65 or over

**7%**

of represented adults  
under Public Guardian  
aged 18 to 24

**78%**

of represented adults under  
Public Guardian identify as  
Aboriginal or Torres Strait Islander



# OFFICE OF THE PUBLIC GUARDIAN

Our mission is to provide adult guardianship services, information and advocacy that is responsive to the needs of the Northern Territory community and reflects contemporary, best practice guardianship principles within a human rights framework.

## OUR FUNCTIONS

Be a guardian for an adult when appointed by a guardianship order.

Promote access to support services for adults with impaired decision-making capacity and the guardians, families and careers of those adults.

Provide advice and support to persons who are making, or proposing to make, applications for guardianship orders and guardians.

Advocate for adults with impaired decision-making capacity generally, including promoting understanding and awareness of relevant issues.

Provide, or encourage the provision of, education about relevant issues.

## OUR VALUES



### Commitment to service

The Office of the Public Guardian is professional, hardworking, effective, innovative and efficient.



### Collaboration

The Office of the Public Guardian works collaboratively with stakeholders to achieve the best outcomes for people with impaired capacity.



### Ethical practice

The Office of the Public Guardian upholds the highest standards of practice and acts with integrity in all that it does.



### Respect

The Office of the Public Guardian respects all people and their rights as individuals.



### Diversity

The Office of the Public Guardian values the diversity of its workforce and the community it serves.



### Accountability

The Office of the Public Guardian is accountable in all its actions and committed to providing a contemporary, best practice service consistent with the guardianship principles.



## OUR STRATEGIC GOAL

*The Office of the Public Guardian  
will be recognised as the key  
reference point for guardianship in  
the Northern Territory.*

## OUR STRATEGIC PRIORITIES

Promote the human rights of people with a disability.

Embrace and embed cultural congruence into all Office of the Public Guardian endeavours.

Expand advisory and support services to assist private guardians.

Refocus guardianship practice with a strong emphasis on supported decision-making.

Formalise and strengthen consultative and collaborative relationships with stakeholders.

Ensure guardianship information is available in a variety of formats and languages.

Promote a workplace culture that supports high-performance teams.

Transfer all financial management orders to the Public Trustee.

Explore options for legislative review.



## OUR LEGISLATION

Adult guardianship commenced in the Northern Territory on 30 June 1989 under the *Adult Guardianship Act 1988*. That Act was repealed on 28 July 2016 by the *Guardianship of Adults Act 2016*. The new Act gave rise to the modernisation of adult guardianship in the Northern Territory: with the creation of an independent statutory officer as the Public Guardian, the independent Office of the Public Guardian was established.

The creation of an independent Public Guardian was crucial in addressing the conflict that had existed for the Minister for Health as the Public Guardian. This also enabled broader functions of the Public Guardian to be undertaken, including community education, systemic advocacy, policy development and service improvements.

The Act also transferred jurisdiction for administrative matters from the Local Court to the Northern Territory Civil and Administrative Tribunal and introduced comprehensive guardianship principles.

Throughout the reporting period, the Office of the Public Guardian has contributed to the development of Bills such as the National Disability Insurance Scheme (Authorisations) Bill 2019, and constantly monitors the development of legislative amendments that may influence or work in conjunction with the *Guardianship of Adults Act 2016*. These matters have included restrictive practices and legal representation. These issues within the *Guardianship of Adults Act 2016* will be reviewed at a future date to be identified.



## OUR TEAM

**Table 1: Functions and responsibilities**

Corporate Services	Policy	Inquiry and Engagement	Guardianship
<ul style="list-style-type: none"> <li>provide leadership and support</li> <li>first point of contact for clients</li> <li>manage human resources</li> <li>business and administration processes</li> <li>provide IT assistance and systems management</li> </ul>	<ul style="list-style-type: none"> <li>manage internal policies</li> <li>undertake stakeholder engagement</li> <li>prepare submissions and briefs</li> </ul>	<ul style="list-style-type: none"> <li>inform Northern Territory Civil and Administrative Tribunal decisions</li> <li>provide guidance and information to private guardians and interested parties</li> <li>conduct guardianship investigations</li> </ul>	<ul style="list-style-type: none"> <li>act as a decision-maker and financial manager on behalf of represented adults when appointed by the Northern Territory Civil and Administrative Tribunal</li> <li>provide an after-hours service</li> </ul>

Whole of organisation	
Information and education	Advocacy and research
<ul style="list-style-type: none"> <li>undertake community engagement and education activities</li> <li>develop and disseminate guardianship information materials</li> </ul>	<ul style="list-style-type: none"> <li>advocate on behalf of represented adults</li> <li>protect and promote rights through systems advocacy</li> <li>promote access to support services for represented adults, guardians, families and carers</li> <li>undertake research into relevant issues</li> </ul>

Top End and Central Australia staff





## 2018 PEOPLE MATTER EMPLOYEE SURVEY

The Office of the Public Guardian was thrilled with the results of the 2018 People Matter Employee Survey. Our top five positive results revealed that staff have a clear understanding of their roles and believe in the purpose and objectives of the agency. They understand how their work contributes to the agency's stated outcomes and believe the standard of the service provided to the Northern Territory community to be high. Further staff responses indicated that their jobs allow them to utilise their skills, knowledge and abilities.

These were some of the highest results in these categories across the Northern Territory Public Sector.

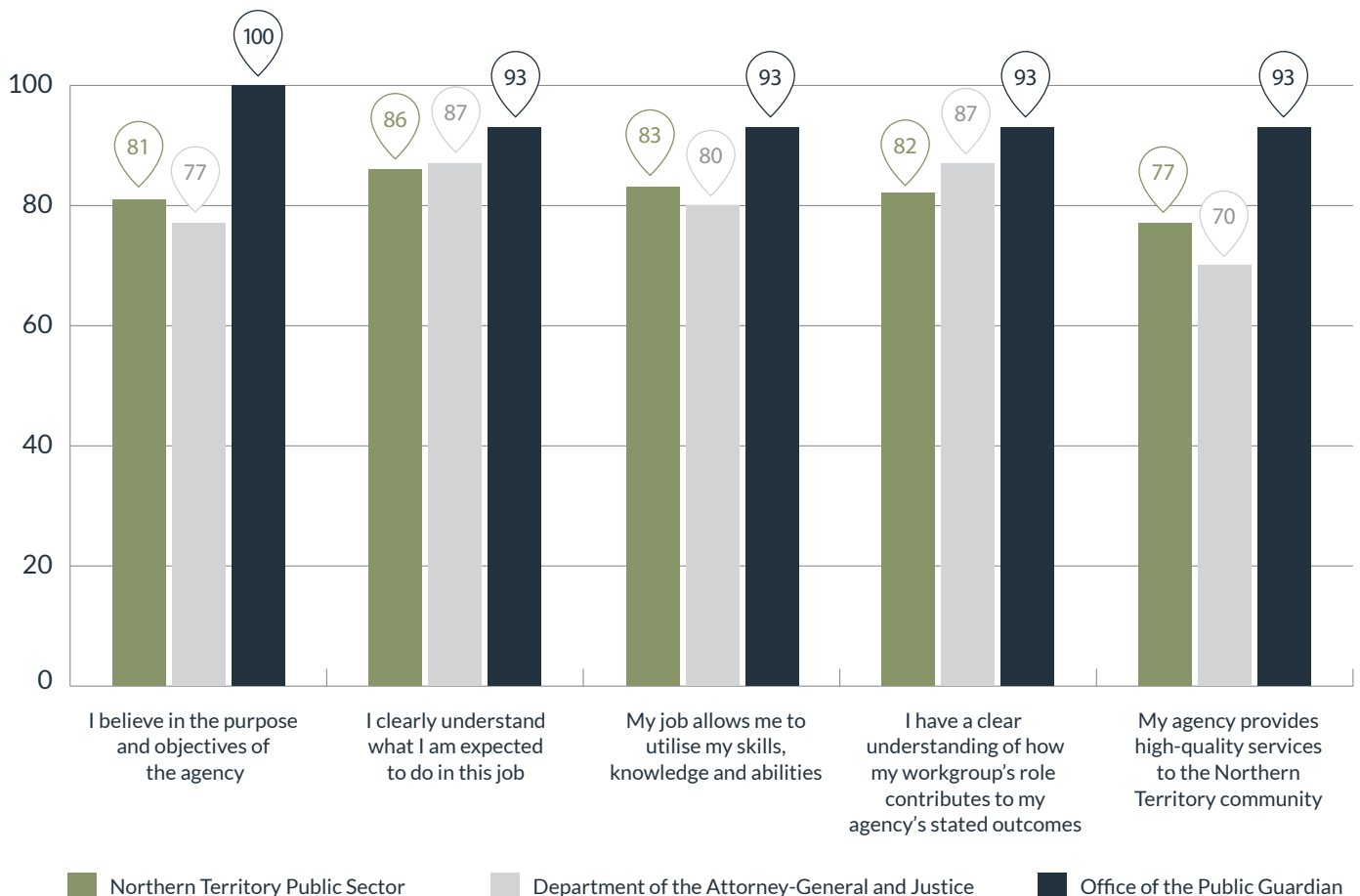


Figure 1: Agency Comparison – 2018 People Matter Employee Survey

**EXECUTIVE**

The executive management team oversees our core business areas and provides guidance for staff and stakeholders in matters of guardianship.

The key program areas, Corporate Services, Inquiry and Engagement and Guardianship, are core Office of the Public Guardian business functions. All teams within these program areas actively participate in information, education, advocacy and research functions.



Executive team, from left: Lisa Patamisi, Director, Guardianship; Beth Walker, Public Guardian; Jennie Guinane, Director, Strategic and Operational Support.

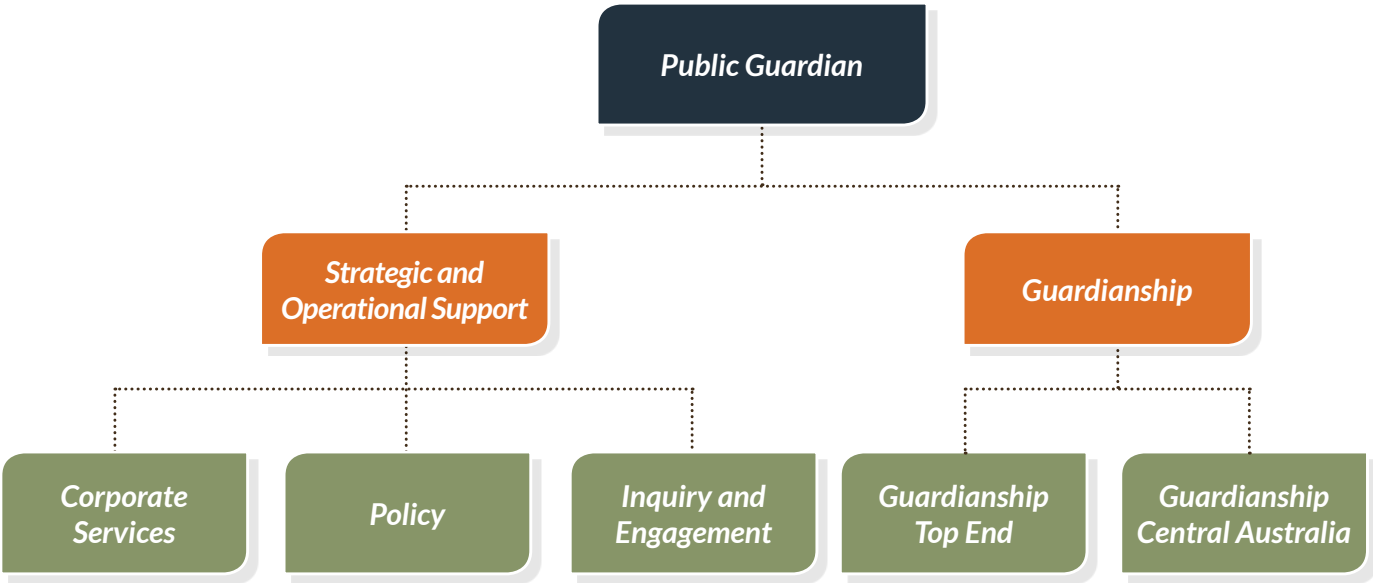


Figure 2: Organisational structure

## STAFF RESOURCES

**Table 2: Current staffing**

Functional responsibility	Current staff
Public Guardian	1
<b>Guardianship</b>	<b>15</b>
– Top End	9
– Central Australia	6
<b>Strategic and Operational Support</b>	<b>13</b>
– Policy	3
– Corporate Support	6
– Inquiry and Engagement	4

The establishment of the Office of the Public Guardian in 2016 saw a new organisational structure that included a number of supernumerary positions. In 2017–18 the supernumerary positions were evaluated and permanent staffing arrangements were made.

The re-forming of guardianship services into the new structure, along with many service delivery changes, meant a number of existing positions also required analysis, evaluation and recruitment action. This substantial piece of work continued throughout 2018–19 and all positions successfully underwent the recruitment process, marking the completion of this project.

The Public Guardian leads a team of 28 professional and administrative staff with offices located in Darwin and Alice Springs.





# COMMUNITY ENGAGEMENT

The Office of the Public Guardian undertakes the vital role of providing information to the community and key stakeholders about the function of adult guardianship in the Northern Territory and the legislative foundations in which guardianship is based.

In 2018–19 the Office of the Public Guardian provided face-to-face education and information sessions to a variety of service providers, organisations and government departments across the Northern Territory. This included hospitals, mental health services, correctional services, Territory Families, disability service providers and non-government organisations.

The sessions provided information about the guardianship application process, the role of a guardian and decision-making for guardians. The sessions also covered topics such as what is impaired decision-making capacity, the application process for young people turning 18 and why having an Advance Personal Plan is important.



## COMMUNICATIONS

The Office of the Public Guardian website and Facebook page continue to be useful sources of information on adult guardianship in the Northern Territory. The website was viewed on more than 10 000 occasions in 2018–19, which is a 222 per cent increase on the previous year.

These communication platforms have proven to be a beneficial avenue to distribute key information to the public. Users have identified content such as adult guardianship processes and procedures, complaint mechanisms available to the public and Advance Personal Plans to be informative.

The Office of the Public Guardian also releases quarterly newsletters for private guardians. This has proved invaluable in ensuring private guardians do not feel isolated in what can, at times, be a difficult role to fulfil. These newsletters also provide information on hot topics such as the National Disability Insurance Scheme (NDIS) and inform private guardians that the Inquiry and Engagement team is available to provide support and assistance. There has been overwhelming positive feedback about the newsletters.

## KEY ACHIEVEMENTS

- ✓ Regional and remote consultations
- ✓ Translation of adult guardianship factsheets into seven languages

### Translation of guardianship information

In 2018–19, as a commitment to embracing the Territory's cultural and linguistically diverse community, the Office of the Public Guardian embarked on a project to ensure guardianship information is accessible to all Territorians.

The Office of the Public Guardian has worked closely with translation services to interpret a suite of factsheets to assist private adult guardians and key stakeholders in understanding guardianship in the Territory. The factsheets are now available on our website in Greek, Arabic, Italian, Swahili, Chinese, Thai and Vietnamese, adding to the information already available in Auslan, English and English audio.

In June 2019, the Public Guardian was delighted to attend the Chung Wah Society Seniors Group to officially launch the Chinese factsheets.

This initiative will continue with plans for the factsheets and a resource guide for guardians to be translated into relevant Aboriginal community languages as well as Easy English material for people with impaired capacity.



From left: Austin Chin, President, Chung Wah Society; Beth Walker, Public Guardian; Melanie Chin, Senior Citizens Recreational Group Coordinator, Chung Wah Society.

### Additional factsheets

The Office of the Public Guardian has been working towards expanding the suite of factsheets targeted for hospitals and service providers to include information about:

- the role of Adult Guardianship Officers
- after hour services provided by the Office of the Public Guardian
- the making of a section 35 application to the Northern Territory Civil and Administrative Tribunal.

### NT Law Handbook

The Northern Territory Law Handbook is a practical guide to a comprehensive range of legal issues that affect people living in the Northern Territory. The Office of the Public Guardian contributed to the handbook to ensure information about adult guardianship is easily accessible to the legal community and the community more generally.

### PossABILITIES Expo

The PossABILITIES Expo, hosted by Henbury School, is a community event promoting services, organisations and opportunities for young people with a disability. This event provided the Office of the Public Guardian a valuable opportunity to consult with parents of children approaching the age of 18 and provide information about applying for guardianship for someone under the age of 18.

## COMMUNITY CONSULTATIONS

From July to November 2018 the Office of the Public Guardian was delighted to share the company of senior Larrakia Elder, Dr Christine Fejo-King, as we undertook a second round of community consultations throughout regional and remote Northern Territory.

As 75 per cent of people involved with the Office of the Public Guardian identify as Aboriginal or Torres Strait Islander, Dr Fejo-King's knowledge and insight were crucial in introducing innovative practices to establish partnerships between Aboriginal people and the Office of the Public Guardian.

These consultations provided a great opportunity to participate in community meetings referred to as 'yarning circles' to share information about guardianship with represented adults, current and prospective guardians and members of the broader community. These community visits have strengthened existing partnerships with regional service providers and enabled new relationships to be established.

The Office of the Public Guardian visited a number of townships and communities including Katherine, Manyallaluk, Ngukurr, Beswick, Nhulunbuy, Ntaria (Hermannsburg), Yuendumu, Wallace Rockhole, Ali Curung, Tennant Creek, Elliott, Pine Creek, Dhalinybuy and Yirrikala.

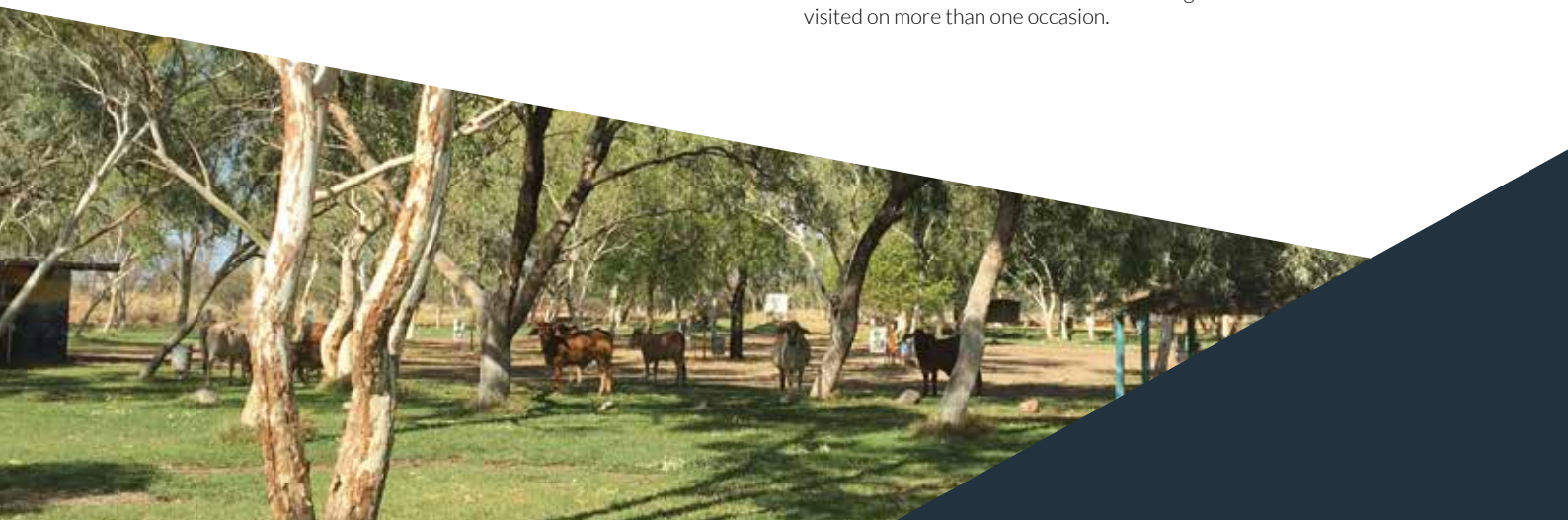
The consultations focused on Aboriginal service providers and organisations involved in the care of people under sole or joint guardianship with the Office of the Public Guardian. Senior staff from the Office were given the opportunity to provide information about guardianship services and address specific concerns raised while visiting regional and remote communities. This invaluable feedback is being used to inform the future direction of the Office of the Public Guardian. We thank everyone who participated in these consultations for their time, honesty and wisdom about discussing guardianship.

Key themes during the consultations included adult guardianship in the Northern Territory, the Office of the Public Guardian's culturally congruent project, transitioning young people with a disability from care, making complaints, restrictive practices and the National Disability Insurance Scheme.



**Figure 3: Regional and remote consultations: communities visited**

Note: A number of these communities or regional centres were visited on more than one occasion.





## AUSTRALIAN GUARDIANSHIP AND ADMINISTRATION COUNCIL

The Australian Guardianship and Administration Council (AGAC) comprises Public Advocates, Public and Adult Guardians, Boards and Tribunal and Public and State Trustees or their equivalents throughout Australia.

The agencies' primary role is to protect the rights of adults who have disabilities that impaired capacity to make decisions and manage their own affairs whenever possible.

The Northern Territory participating members of AGAC, the Northern Territory Civil and Administrative Tribunal, the Public Trustee and the Office of the Public Guardian were privileged to host the national meeting on 31 August 2018.

The national meeting provided an opportunity for members of the council to visit the Northern Territory from 27 to 31 August and participate in functions including a workshop discussing the National Plan on Elder Abuse presented by Frances Byers, Elder Abuse Adviser. Public Guardians and Advocates, Heads of Tribunals and Public Trustees met separately with a combined meeting of all members on the final day. The conference also offered the Public Guardians and the Public Advocates a cultural tour of Darwin led by senior Larrakia Elder, Dr Christine Fejo-King.

The conference included presentations by:

- Graeme Head, Commissioner on NDIS Quality and Safeguards
- Dr Jeffrey Chan, Senior Practitioner, Behaviour Support on NDIS Quality and Safeguards Commission
- Leanne Liddle, Director Aboriginal Justice Unit on the Northern Territory Aboriginal Justice Agreement.



From left: Mary Burgess, Public Advocate, QLD; Dr Christine Fejo-King, senior Larrakia Elder; Christina Thompson, Deputy Public Trustee and Guardian, ACT; Jodie Griffiths-Cook, Public Advocate and Children and Young People Commissioner, ACT.

## STAKEHOLDER COLLABORATION

The Office of the Public Guardian values working collaboratively with key stakeholders. At an operational level, the Office continues to collaborate with stakeholders as part of its strategic approach to achieving its goals. This involves careful engagement with service providers and other interested parties in regular meetings and communications.

The Public Guardian and staff met with stakeholders in a range of forums during the year with a view to forging stronger relationships, strengthening connections and jointly delivering the best outcomes for represented adults. The forums included Office of the Public Guardian and sector initiated information sessions, presentations, consultations, workshops and functions.

A system improvement trialled this year was to meet regularly with organisations where there are a mutual cohort of represented adults. This included Territory Families, National Disability Insurance Agency, Territory Insurance Office and NT Correctional Services. This should improve communication, efficiency and collaboration for improved outcomes.



### Northern Territory Hospitals

The Office of the Public Guardian has worked closely with the Royal Darwin Hospital and Alice Springs Hospital to establish procedures relating to contacting the Office of the Public Guardian afterhours as well as clarifying the role of the Office and the Adult Guardianship Officers. This has been essential in ensuring Adult Guardianship Officers are contacted at the appropriate time when a guardianship order for health care decisions for a represented adult is in place. Staff education sessions have also been conducted at the Royal Darwin Hospital, Alice Springs Hospital, Katherine District Hospital and Tennant Creek District Hospital during the year.

### Public Trustee

The Public Trustee provides estate, trustee, will and will storage services to Northern Territory residents. The Office of the Public Guardian has continued to work effectively with the Public Trustee throughout the year.

Our organisations are mutually committed to formalising the way we work together to ensure best interest decision-making for adults under guardianship orders.

All current orders appointing the Public Guardian for financial matters will be transferred to the Public Trustee in a phased process officially commencing 1 July 2019. The transition will continue throughout the remainder of 2019, with continuity of service being the highest priority. This move will bring the Northern Territory in line with other jurisdictions across Australia.

From March to June extensive planning and preparation work were undertaken to prepare for the transition of all existing financial management orders which will take place in the first six months of 2019–20.

To achieve this, the Office of the Public Guardian and the Public Trustee agreed that all new financial management orders would appoint the Public Trustee as of 1 March 2019. At that time the Public Trustee also agreed to the early transfer of some orders in advance of the official start date.

In 2018–19, 197 orders appointed the Office of the Public Guardian for personal decision-making and the Public Trustee for financial management. This is a substantial increase from the previous year and reflects the Public Trustee's growing role with regard to new and transferred financial management orders.

### Community Visitor Program

The Community Visitor Program is located in the Anti-Discrimination Commission, and has a key role in protecting the rights of individuals receiving treatment and care. The program provides an avenue for independent complaints resolution and advocacy services for eligible clients, their primary carers and guardians. The statutory role of the program also requires oversight of registers of restrictive interventions and authorises full access to client documents for inspection.

The start of this reporting saw the Public Guardian and Principal Community Visitor officially executing the protocol between the two agencies 'to ensure communication, referral, services and support to mutual clients of both agencies'. This protocol was pivotal in strengthening the working relationship between the two agencies; the Office of the Public Guardian looks forward to developing a successful relationship with the Community Visitor Program in the future.

The program's independent visiting services are crucial in protecting the rights of people with a disability, facilitating freedom from abuse and neglect. The Office of the Public Guardian will continue to advocate for the extension of this concept to cover all disability services across the Northern Territory and nationally.

### Territory Families

In accordance with the formal agreement reached between the Office of the Public Guardian and Territory Families, agency representatives have met quarterly to ensure the seamless transition of young people into adult guardianship. This collaboration promotes exchange of information providing Territory Families with details regarding what evidentiary material may be required to make a guardianship application to the Northern Territory Civil and Administrative Tribunal. It also provides the Office of the Public Guardian with advance notice of upcoming referrals for adult guardianship.

### Excellence in Advocacy and Promotion of Human Rights – Sponsored by the Office of the Public Guardian

The Office of the Public Guardian was proud to be a category sponsor for the Northern Territory Disability Service and Inclusion Awards, which celebrate the achievements in improving the lives of people with disability in the Northern Territory.

The Excellence in Advocacy and Promotion of Human Rights category recognises an individual, business or organisation making a significant contribution in supporting people with a disability, including assisting people with a disability to speak up for themselves and promoting their rights.

In the inaugural year of this award the recipient was the Building for Success with the NDIS project led by the Anti-Discrimination Commission.



From left: Sally Sievers, Anti-Discrimination Commissioner; Rachel Kroes, Executive Officer, Down Syndrome Association NT; Beth Walker, Public Guardian; Alex McInnes; Molly Kroes; Deborah Hall; Saffron Walsh.



# ADVOCACY

Advocacy is central to the work undertaken by the Office of the Public Guardian, which is committed to ensuring the rights of represented adults are promoted, respected and protected.

The Office of the Public Guardian has continued to work closely with stakeholders to fulfil its mandate of advocacy in respect to rights and effective service provision for represented adults. This close collaboration with stakeholders allows the Office of the Public Guardian to identify gaps in service delivery and resourcing and address systemic issue.

## Disability rights

Office of the Public Guardian advocacy at the systemic level contributes significantly to positive outcomes for individuals. As the Public Guardian engages with authorities in the broader community, significant

changes in overall service delivery and resourcing allow for increased availability and streamlining of services for represented adults. This higher-level advocacy decreases the need for what historically has been a more resource intensive advocacy for individuals on a case-by-case basis. The benefits to individual represented adults are self-evident.

The Northern Territory's *Guardianship of Adults Act 2016* recognises the overall wellbeing, human rights and fundamental freedoms of an adult under guardianship and is consistent with Australia's obligation under the United Nations Convention on the Rights of Persons with Disabilities.

## The Convention on the Rights of Persons with Disabilities

The United Nations Convention on the Rights of Persons with Disabilities is the first international instrument to explicitly set out the fundamental human rights of people with disability.

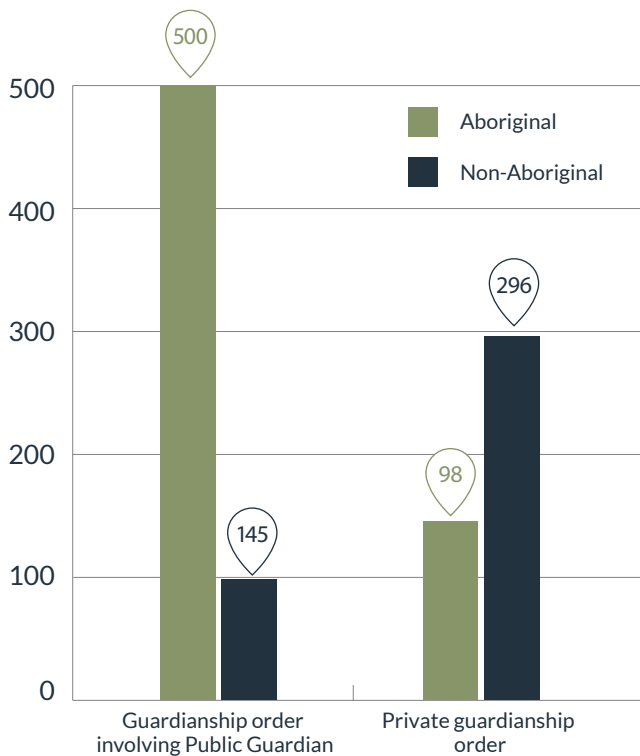
Australia signed the convention on 30 March 2007. It ratified the convention in July 2008 and the Optional Protocol in 2009. The convention has been signed by 161 countries and ratified by 177.



## EMBRACING DIVERSITY

The Northern Territory recorded a population of 228 833 usual residents in the 2016 Census. Of these, 20 per cent were born overseas and 25 per cent identified as having Aboriginal and Torres Strait Islander origins.<sup>1</sup>

Despite representing a significantly lower proportion of the Northern Territory population, 78 per cent of adults under guardianship of the Public Guardian identify as Aboriginal or Torres Strait Islander (Figure 4). This indicates the social determinants providing challenges for Aboriginal people continue, resulting in a high level of impaired decision-making capacity among the Territory's Aboriginal people.



**Figure 4: Number of Aboriginal people involved with adult guardianship in the Northern Territory, 2018–19**

Note: 'Aboriginal' here includes people who identify as Aboriginal or Torres Strait Islander.

The Office of the Public Guardian is committed to understanding this very important and complex issue better so that strategies to address this over-representation can be developed and implemented. To achieve this outcome collaboration with key stakeholders will be required particularly Aboriginal controlled organisations. The cultural congruence project and regional consultations provided some invaluable feedback and insights around this issue.

A report from a National Disability and Carer Alliance roundtable noted:

*The prevalence of disability in Aboriginal communities is approximately twice that of the rest of the Australian population. Factors which contribute to such high rates of disability include lack of access to adequate health prevention programs (particularly maternal health), lack of quality or adequate housing, lack of sanitation, exposure to violence, and alcohol and substance abuse... Very few Aboriginal people with disability have access to advocacy and very few know their rights and are able to express their rights.<sup>2</sup>*

The high number of Aboriginal people under guardianship orders in the Northern Territory continues to underpin Office of the Public Guardian initiatives to achieve cross-cultural best practice.

<sup>1</sup> Australian Bureau of Statistics 2017, '2016 Census reveals the changing face of the Northern Territory', Media release, 2016 Census: Northern Territory, 27 June 2017, viewed 15 August 2018, <http://www.abs.gov.au/ausstats/abs@.nsf/miadiareleasesbyCatalogue/C73D7CC81CA1FD2FCA258148000A4067?OpenDocument>

<sup>2</sup> National Disability and Carer Alliance 2013, Implementing the NDIS in Aboriginal and Torres Strait Islander communities, key points from roundtable, viewed 15 August 2018, <http://www.carersaustralia.com.au/storage/ATSI%20Forum%20Report%20Final.pdf>

### Ageing, financial abuse and neglect

The Office of the Public Guardian is committed to protecting and promoting the rights of all Territorians with impaired decision-making capacity and recognises the challenges facing older Australians, their families, carers and the Australian aged care system.

Around 220 individuals or 34 per cent of the 645 people with impaired capacity engaged with the Office of the Public Guardian in the Northern Territory are aged 65 or over. The Office of the Public Guardian notes the 65 years and over age bracket of represented adults has seen a 4 per cent increase from the previous reporting period.

The Royal Commission into Aged Care Quality and Safety was established on 8 October 2018, and is inquiring into how older people are cared for and what needs to change to make aged care services better. The Office of the Public Guardian fully supports the objectives of this Royal Commission and is optimistic that positive change may come from this inquiry.

Elder abuse is a health and social problem with profound consequences. It can cause extreme suffering for older people and, at a systemic level, elder abuse can result in increased pressures on the health system, government benefits and social supports. Unfortunately abuse of older Territorians with impaired capacity is the primary reason behind many applications for guardianship and subsequent guardianship orders.

*Elder abuse – which involves the physical, emotional, sexual or financial abuse or neglect of an older person by another person in a position of trust – presents a range of complex challenges for the Australian community.<sup>3</sup>*

As part of the broader advocacy role undertaken by the Office of the Public Guardian, in August 2018 the Office co-hosted a talk on ageism in all its forms with the Council on the Ageing NT and the Hon Dr Kay Patterson, AM, Age Discrimination Commissioner.



From left: Sue Shearer, Chief Executive Officer, Council on the Ageing NT; the Hon Dr Kay Patterson, AM, Age Discrimination Commissioner; Beth Walker, Public Guardian.

<sup>3</sup> Australian Institute of Family Studies, Research Report No. 35 – February 2016, 'Elder abuse – Understanding issues, frameworks and responses', viewed 12 August 2019, <https://aifs.gov.au/publications/elder-abuse/1-introduction>



### Housing and support options for people with complex needs

The Public Guardian has continued to advocate for the growth of both housing and support services in response to the Northern Territory's thin market. The lack of flexible housing options and appropriate support services can result in a person being placed in a compromised living situation, homeless or remaining in hospital for a longer period than medically required.

The availability of suitable housing has stalled the provision of support for some people with a disability, especially those who require modified housing due to their disability.

Acute hospital settings are not an appropriate response to crisis situations that could be resolved by ready availability of housing and support services.

At 30 June 2019 there were 10 represented adults involved with the Office of the Public Guardian in Northern Territory hospitals awaiting accommodation placement: six in Darwin, two in Palmerston and two in Alice Springs.

This number represents social admissions for adults in the age range of 50 to 84 years with the majority awaiting aged care placements. While this is a significant improvement from the previous year, when 21 represented adults were in Northern Territory hospitals awaiting accommodation placement, this number only represents those with guardianship to the Public Guardian, not private guardians or the general community. This reduction in numbers is considered to result from the positive impact of NDIS and the gradual increase in housing and service options available to younger people with disabilities.

### *Esther\* – the importance of stable accommodation*

The complexities of Esther's medical, social and psychiatric issues compounded by her transient lifestyle and subsequent behaviours were such that she was homeless, not engaged with services and frequently came to the attention of police. Esther became a social admission at the hospital as there was no safe accommodation for discharge. However, the hospital admission did not ensure her safety as she regularly left to get money and travel to other places in the Territory.

This meant Esther was not accessing her regular medication. Although she frequently returned to the hospital, her health and wellbeing was not assured as she refused medication and her declining health meant she was referred to palliative care.

Although Esther was already approved for NDIS, her instability and unpredictable behaviour precluded her accessing support services. The Office of the Public Guardian liaised with NDIS and service providers, securing Esther a two week trial respite period in a supported living arrangement in the community with a view to this progressing to permanent accommodation.

Esther has now been in stable accommodation for eight months. She has settled into her new home, is taking her medication and is healthier than any time known to the Office of the Public Guardian.

*\*This scenario has been created from a series of life stories and does not represent an individual client.*



The Office of the Public Guardian has also continued to advocate for a broader continuum of accommodation options to be available, so needs of represented adults with complex and changing circumstances are appropriately met.

Initial short-term supported accommodation is at times required before securing longer-term accommodation either in the private rental market or in public housing. The Office of the Public Guardian recognises the strong correlation between stable accommodation and the effectiveness of support services. It is often the case that when a represented adult secures stable accommodation they benefit also from better engagement with support services.

The Office of the Public Guardian advocates for the development, and uses when available, a range of flexible housing options and support services to address the adult's individual circumstances. It is a high priority that there is an increase in flexible housing options for people with impaired capacity across the Northern Territory.

While most Territorians live in regional centres, a significant number live in remote and very remote areas. Limited provision of services in remote communities means those needing aged care support, palliative care or a higher-level of support often need to move away from country to regional centres to access adequate services.

This creates difficulties especially for Aboriginal people who are then separated from family, culture and country. The outcomes for older Territorians and people with a disability are remarkably different when remote communities have disability support services, aged care or even residential aged care available. The Northern Territory's small population also impacts on the retention of the skilled workforce as capable individuals have many alternative options interstate and within the Territory.

The experience of the Office of the Public Guardian highlights not only the important relationship between individual support needs and housing, but also baseline service delivery. In the Northern Territory this baseline is relatively low – particularly in regional and remote areas where services are limited or unavailable and the market is unable or slow to respond to demand.

It is understood that when a person's needs are considered holistically, and housing and other supports provided simultaneously, people are more likely to gain stability and improved wellbeing. The Office of the Public Guardian has noted this to be most critical for young persons at the point of transition from Territory Families to adult guardianship and people with complex needs. The Office of the Public Guardian works towards achieving stability to ensure the best possible outcomes for represented adults in perhaps the most challenging of circumstances relative to other Australian jurisdictions.

### *Taylor\* – finds a safe place*

Taylor's history included a long stay in a mental health facility, a transient lifestyle and at-risk behaviours. She had experienced numerous unsuccessful attempts to maintain stable accommodation and community support services disengaging their support for her. Daily encounters with police and attendance at the Emergency Department at the hospital were a normal part of Taylor's life.

Following the introduction of a guardianship order and the Office of the Public Guardian establishing Taylor's NDIS plan, a specialist accommodation provider was appointed and welcomed Taylor to their service. Taylor's living arrangements were stabilised, which led to a significant decrease in her interactions with the hospital and police.

*\*This scenario has been created from a series of life stories and does not represent an individual client.*

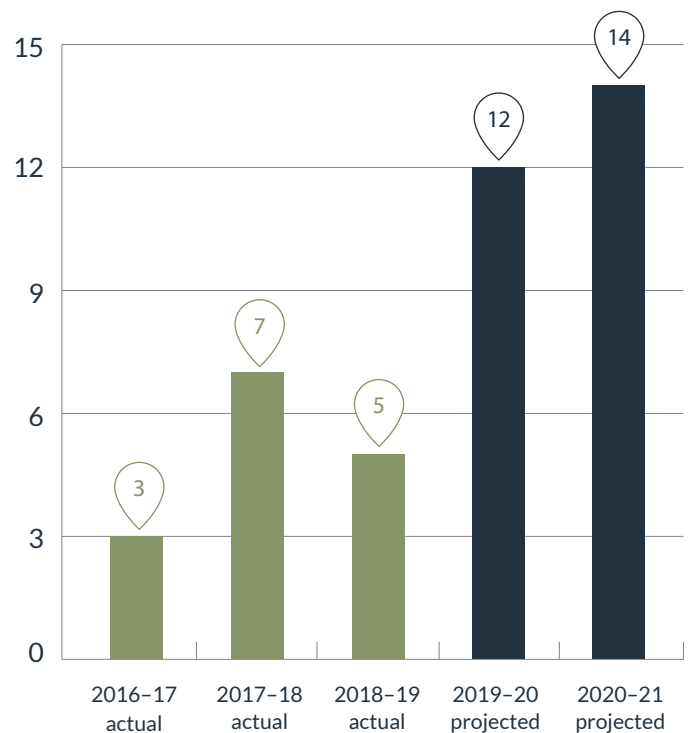
### Improving transition from care for young people

The Public Guardian has continued to advocate on behalf of young people transitioning from care throughout the reporting period.

The Office of the Public Guardian undertakes regular workshops with Territory Families frontline staff to ensure understanding and appropriate use of section 12 of the *Guardianship of Adults Act 2016*, which provides for advance adult guardianship orders to be made for young persons aged 17 which take effect on their 18th birthday. If a guardianship order is made at age 17, this provides certainty around the guardianship arrangement, enables consideration of the appropriate guardian and facilitates good transitional planning for the young person's exit from care.

In 2018–19, five young adults transitioned from out-of-home care to adult guardianship with the Public Guardian appointed for three young adults. (Figure 5). This number is fewer than the projected figure noted in the 2017–18 annual report and may be a result of the collaborative approach between the Office of the Public Guardian and Territory Families to ensure Territory Families frontline staff have a clear understanding of eligibility for guardianship.

The Office of the Public Guardian will continue to work closely with Territory Families to ensure continuity and consistency of care and support for young people as they transition from youth to adulthood.



**Figure 5: Young people transitioning from out-of-home care to adult guardianship, actual and projected**

### Alicia\* – a young person's story

Alicia became subject to an adult guardianship order at the age of 18 years. Initially, and for many months, Alicia was transient and self-placing and as a result was very vulnerable and alone in the community. The introduction of an NDIS plan provided funding for 24/7 supported independent living and Alicia was able to move into shared accommodation with another young woman.

Alicia became involved in community engagement programs and is exploring her interests including hairdressing. This has led to Alicia decreasing her at-risk behaviours. Alicia's general health has improved and overall she is happier with her life.

*\*This scenario has been created from a series of life stories and does not represent an individual client.*



## SUPPORTED DECISION-MAKING

Supported decision-making is defined as the range of ways that people living with a disability can be enabled to make or communicate decisions about their lives. This includes decisions relating to healthcare, finances, lifestyle and personal matters.<sup>4</sup>

The Office of the Public Guardian carries at the forefront of its practice the guardianship principles in section 4 of the *Guardianship of Adults Act 2016*. The principles provide a best interests decision-making model that emphasises the views and wishes of the adult, the least interference with the adult's autonomy of decision and action and supporting the adult to make their own decisions. This is consistent with modern understandings of decision-making capacity and disability, which move towards *supported* decision-making as distinct from *substitute* decision-making. It is hoped that future changes to the *Guardianship of Adults Act 2016* would move further towards a will and preference focus, fully embracing supported decision-making.

The principles aim to achieve a balance between acting in accordance with the represented adult's views and wishes and the least interference with their freedom of decision and action with the need to protect the adult from harm, neglect, abuse and exploitation and the promotion of their health, relationships and wellbeing.

In the interim, until legislative change can occur, the Office of the Public Guardian is reviewing current practice to ensure that the principles of supported decision-making are fully embraced whenever possible. This will be a priority once the management of finance has been transferred to the Public Trustee. The Public Guardian is strongly committed to the United Nations Convention on the Rights of Persons with Disabilities and promoting the rights and self-determination of people with a disability across the Northern Territory, as well as how this can be practically applied within the guardianship system, along with preventing people requiring guardianship. Again this can only be achieved with collaboration between key stakeholders.

---

<sup>4</sup>The University of Sydney, Cognitive Decline Partnership Centre 2018, 'Supported decision-making: what is supported decision-making?', viewed 15 August 2018, <http://sydney.edu.au/medicine/cdpc/resources/supported-decision-making.php>



## INTERFACE WITH THE JUSTICE SYSTEM

The Public Guardian is committed to ongoing advocacy for represented adults to prevent involvement with the justice system and to avoid indefinite detention in institutions such as prisons.

The Office of the Public Guardian is aware of the vulnerable situation a represented adult is placed in when involved with the justice system because of their cognitive impairment as well as other factors such as poverty, violence, discrimination, poor housing and poor English language literacy.

These factors increase the likelihood that a represented adult might be detained when alternative arrangements would be a significantly better option. These factors also contribute to the possibility that a person remains in custodial arrangements indefinitely because of a lack of a suitable accommodation and support options in the community specialising in behaviour management.

In 2018–19, 24 represented adults were involved with the criminal justice system as either prisoners or subject to Part IIA of the *Criminal Code Act 1983* (Figure 6); 21 of those were male (Figure 7).

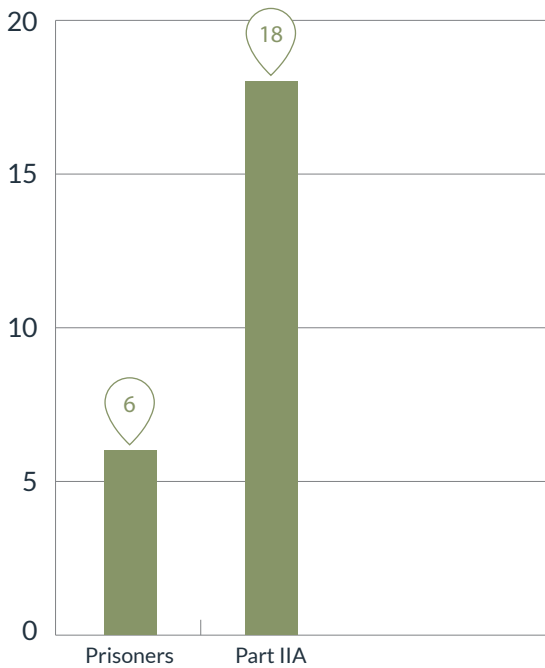


Figure 6: Prisoners and Part IIA: all represented adults

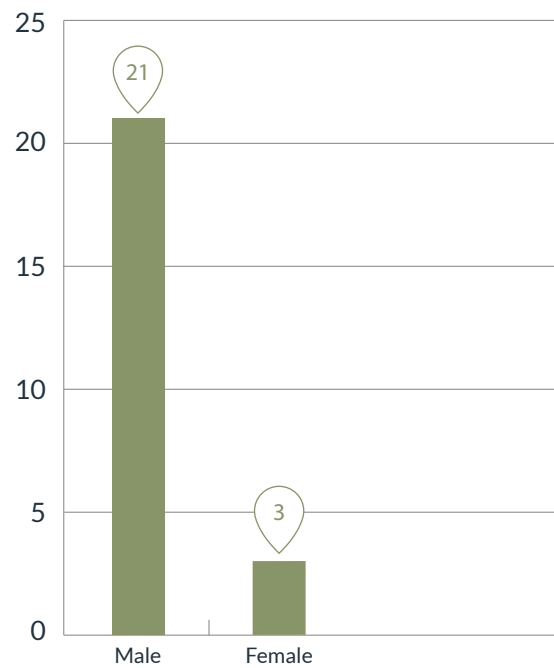
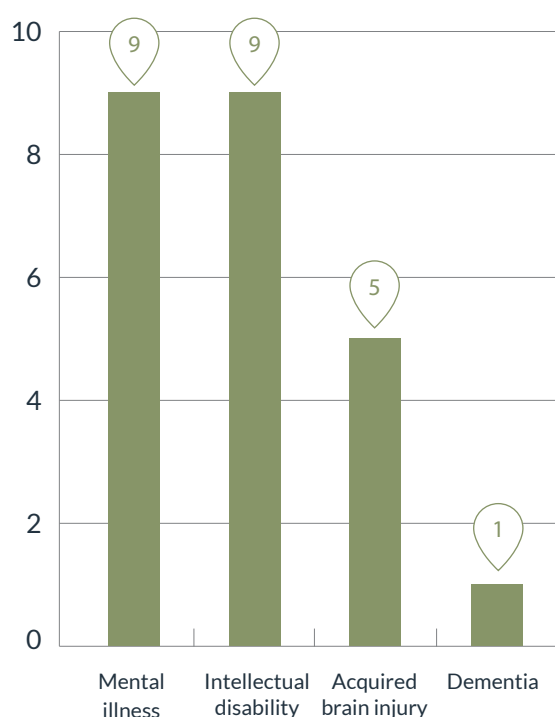


Figure 7: Prisoners and Part IIA : represented adults, by gender

Of these 24 represented adults, 18 were found unfit to stand trial subject to Part IIA of the *Criminal Code Act 1983* which provides that alleged offenders with a cognitive impairment are deemed not guilty or unfit to stand trial. People who are found unfit to stand trial may have significant, multiple and complex needs arising from combinations of cognitive impairment, mental health issues, acquired brain injury, serious health issues, drug and alcohol problems, behavioural issues and frequent interaction with the criminal justice system.

Figure 8 demonstrates the primary impairment of the 24 represented adults who were prisoners or subject to Part IIA of the *Criminal Code Act 1983*. Seventy-five per cent of these represented adults identified as having either a mental illness or intellectual disability as the primary impairment.



**Figure 8: Prisoners and Part IIA: represented adults, by primary impairment**

The Public Guardian acknowledges the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system and further notes the high incidence of cognitive impairment or mental illness among this group. Of these 24 represented adults, all identified as Aboriginal or Torres Strait Islander. The disproportionate representation of Aboriginal people in the justice system is reflected in data on prisoners: at 30 June 2018, Aboriginal and Torres Strait Islander people accounted for 84 per cent of the adult prison population in the Northern Territory.<sup>5</sup>

Many of the causal factors relevant to the increased interaction of Aboriginal and Torres Strait Islander people with the criminal justice system are equally relevant to people with cognitive impairment, including poverty, violence, discrimination, inadequate or inappropriate accommodation and poor literacy skills. The high incidence of Aboriginal and Torres Strait Islander people involved in the criminal justice system with a cognitive impairment is particularly concerning and warranting of systemic action to ensure access to justice for this group of Australians.

The Public Guardian acknowledges and promotes the evidence and rationale in support of non-custodial sentences and community-based sentences. Unfortunately, the success of these initiatives, especially in relation to Aboriginal and Torres Strait Islander people with cognitive impairment, will depend on appropriate resourcing of support to reduce the risk of recidivism.

At 30 June 2019, four represented adults remain in prison and a further 15 represented adults who are subject to Part IIA of the *Criminal Code Act 1983* are currently supported in the community. This demonstrates the effectiveness of the advocacy and transition planning undertaken by the Office of the Public Guardian and other stakeholders.

The Public Guardian welcomes and continues to work collaboratively with initiatives to prevent and reduce the rate of represented adults' involvement with the criminal justice system.

<sup>5</sup> Australian Bureau of Statistics 2018, 4517.0 – Prisoners in Australia, 2018, viewed 15 July 2019, <https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4517.0~2018~Main%20Features~Northern%20Territory~27>



### *George\* – leaving prison*

George has spent the majority of his adult life in and out of custody for various offences. Most recently he was released after he served a lengthy sentence.

George has a significant cognitive impairment associated with substance abuse as well as psychiatric issues. A formal assessment noted that, due to these issues as well as his low level of functioning, he remained a risk to the community such that he required 'long term maintenance in a locked, disability specific setting'. The concern was that George would re-offend once released.

Advocacy and decision-making on behalf of George provided him with a substantial NDIS plan, which enabled targeted in home and community support specific to his needs.

Prior to his release date a behaviour support plan was developed and extensive training in relation to the plan was provided to key services working with George. The Office of the Public Guardian also advocated for accommodation to be available for George upon release and continues to work closely with Territory Housing to secure longer term accommodation for George.

George continues to reside in the community and hasn't engaged in any criminal activity. He is actively engaging with support services and is compliant with his medication.

George is now keen to get a job and his own house. All involved were pleased with the positive outcomes achieved for and by George and recognise the importance of the pre-planning work that was done prior to his release.

*\*This scenario has been created from a series of life stories and does not represent an individual client.*



# CORPORATE SERVICES AND POLICY

The Corporate Services and Policy team assists the Office of the Public Guardian to meet its formal reporting and administrative functions under the *Guardianship of Adults Act 2016*. The role of the team includes policy development, business administration, records and information management and communications.

## SYSTEMS IMPROVEMENTS

The Office of the Public Guardian is committed to ensuring both the business and technological foundations of the Office are adaptive, productive and supportive to staff and the people we serve.

The previous reporting period saw significant administrative changes with the establishment of the Office of the Public Guardian information system and the implementation of the Northern Territory Government electronic file system. In 2018–19, however, the Office saw stabilised practices and improved efficiency in information management.

## Office of the Public Guardian information system

The Office of the Public Guardian information system is a whole-of-organisation client information system designed to manage guardianship caseloads. This system replaced multiple electronic and manual systems historically used.

Modifications to the information system have been ongoing throughout 2018–19 to ensure a user-friendly platform that reflects practices and requirements of the Office. Significant work was undertaken to enhance the National Disability Insurance Scheme workflow.



## KEY ACHIEVEMENTS

- ✓ Facilitated transfer of the Office of the Public Guardian to Department of the Attorney-General and Justice
- ✓ Completed logistics and communication strategy for financial management transfer to Public Trustee

## Financial Management Project

At the start of 2018–19, the Northern Territory was the only jurisdiction in Australia where the Public Guardian may be appointed decision-maker for financial matters.

As a result of concerns regarding the administration of represented adults' funds, the accounting firm Ernst and Young was commissioned in 2016 to carry out a Financial Controls Review for the Office of the Public Guardian. The report highlighted a number of risks associated with the controls and processes used by the Office of the Public Guardian and provided a number of recommendations to assist in establishing improved practices in managing a represented adult's financial matters.

In response to the recommendations of the report, the Office of the Public Guardian commenced a Financial Management Project. The project's key purpose was to mitigate the risks outlined in the report through a review of financial systems, policies, processes and guidelines.

While this project was underway the Northern Territory Government approved the transfer of financial administration of represented adults' estates from the Office of the Public Guardian to the Public Trustee. The objectives of the Financial Management Project were adjusted accordingly to conducting financial management audits and preparing files in anticipation of the transfer scheduled to commence on 1 July 2019.

## Office support

The corporate support team manages the Office of the Public Guardian's 1800 hotline during work hours. Throughout 2018–19, a total of 30 061 calls to the 1800 telephone hotline were received during business hours. The Office also provides an emergency phone service for urgent afterhours decisions and information requests that cannot wait until normal business hours; 8 per cent of the calls received in 2018–19 were afterhours.

The Office of the Public Guardian has also developed a factsheet to inform members of the public and medical staff of the afterhours services available. Included in the factsheet are examples of what non-urgent, urgent and emergency matters are, and the appropriate method of contacting a member of the Office.

## PEOPLE AND ORGANISATIONAL CAPABILITY

The Office of the Public Guardian values and supports staff achievements. It is committed to developing a high-performing professional team through individual and group learning opportunities. Staff were provided with a number of training and professional development opportunities.

In 2018–19 six staff were supported to undertake accredited training courses including a Bachelor of Information Technology, Diploma of Management and Leadership, Certificate IV in Leadership and Management, Certificate IV in Investigations, Certificate IV in Human Resources and Certificate IV in Project Management Practice.

All external accredited training was undertaken in accordance with our study assistance policy and by-law 41 under the Northern Territory *Public Sector and Employment Management Act 1993*.

In 2018–19, a series of workshops to assist the Guardianship team in undertaking their roles was delivered. The complexities of the *Mental Health and Related Services Act 1998* and its interaction with the *Guardianship of Adults Act 2016* were explored in a series of training workshops presented by experienced consultant Ms Jill Huck.

Additionally, the Darwin Community Legal Service provided a tenancy rights workshop to inform Adult Guardianship Officers about the supports available to represented adults in maintaining their tenancies and how to address issues that may arise. Centrelink also provided an update on entitlements to all Office of the Public Guardian staff.



## COMPLAINTS AND REVIEW

The Office of the Public Guardian has a formal process in place to review decisions made by delegates of the Public Guardian. A factsheet 'Resolving complaints and concerns' and 'Reviewing a Public Guardian decision' is distributed in hard copy and is also available on the Office of the Public Guardian website. The website and Facebook page are also used to continually obtain feedback from people about the Office's performance.

One decision was reviewed by the Office of the Public Guardian in 2018–19 and a formal 'Reason for Decision Statement' was provided to the party.

The Office of the Public Guardian has the power under section 61 of the Act to investigate formal complaints against private adult guardians. In 2018–19, no investigations into the conduct of private guardians were undertaken.

## POLICY REVIEW AND DEVELOPMENT

The Office of the Public Guardian policy team has continued to develop priority policies throughout 2018–19. The policy team has been working closely with the Adult Guardianship team by facilitating weekly meetings to discuss and review drafted documents. Policy priority areas have focused on decision-making, healthcare and restrictive practices as well as internal business policies and practice guidelines.

In addition to policy development, the policy team drafted submissions, compiled ministerial documents, prepared estimate briefs and produced the 2017–18 Annual Report. The policy team was also instrumental in developing Office of the Public Guardian informational and educational materials for distribution to represented adults, guardians and interested parties.

Overshadowing policy operations in the second half of 2018–19 was the development of a logistics management plan to oversee the transition of more than 450 financial management orders from the Office of the Public Guardian to the Public Trustee. This work included a communication strategy to fully inform all key stakeholders including represented adults, family members, joint guardians, interested parties, service providers and support coordinators.

As the financial management transfer was scheduled to commence on 1 July 2019, all supporting documentation was required to be finalised and ready for distribution by this date.

The communication strategy included the development of fridge magnets and business cards particularly for represented adults to clarify the new arrangements and provide contact details.



## Restrictive practices

The use of restrictive practices is a serious infringement of a person's human rights. The Office of the Public Guardian continues to advocate for the authorisation and regulation of these practices in relation to persons with disability to be embedded in legislation. The use of restrictive practices should be reduced with a view to it being eliminated.

The *Guardianship of Adults Act 2016* provides a limited legislative basis for the authorisation of restrictive practices for represented adults.

In May 2019 the Northern Territory Civil and Administrative Tribunal determined:

- There is no authority under the *Guardianship of Adults Act 2016* for a guardian to make decisions in relation to the use of restrictive practices for a represented adult.
- The use of restrictive practices under the *Guardianship of Adults Act 2016* can only be authorised by an order of the Tribunal under section 35 of this Act.<sup>6</sup>

Section 35 of the *Guardianship of Adults Act 2016* provides for the Tribunal to authorise time-limited specified measures to ensure a represented adult complies with a guardian's decisions. The Tribunal must be satisfied that the specified measures are the only appropriate way to protect the adult from harm, neglect, abuse or exploitation.

In 2018–19 the Office of the Public Guardian participated in 27 hearings for section 35 applications under the *Guardianship of Adults Act 2016* relating to 20 represented adults. These applications related to the use of restrictive practices for represented adults with impaired capacity by the disability sector, aged care providers, Territory hospitals and health services. Wherever possible, the Director, Guardianship and a policy officer have attended the hearing of these applications and have advocated for any restrictive practices to be supported by a behaviour support plan and apply for the shortest period possible. This commitment of resources by the Office of the Public Guardian reflects the importance of the issue of restrictive practices for represented adults.

From 1 July 2019, the authorisation of restrictive practices by National Disability Insurance Scheme (NDIS) providers for NDIS participants will fall under the *NDIS (Authorisations) Act 2019*. The *NDIS (Authorisations) Act 2019* establishes a Senior Practitioner in the Northern Territory. This role will provide much needed expertise and support to NDIS service providers applying restrictive practices and will be responsible for the authorisation of restrictive practices for NDIS participants. A guardian must be consulted in relation to the proposed restrictive practices but authority for the use of the restrictive practices will come from the Senior Practitioner. The Office of the Public Guardian is highly supportive of this authorisation framework for restrictive practices within the Northern Territory and looks forward to the positive effects that the regulation of restrictive practices for NDIS participants is hoped to achieve.

Also commencing on 1 July 2019 are amendments to the Quality of Care Principles 2014 (Cth). These amendments aim to minimise the use of physical and chemical restraint in residential aged care by legislating the circumstances in which these practices may be used. However, they do not provide an independent authorisation process or monitoring framework and the Office of the Public Guardian believes this is essential to any framework that seeks to minimise and eliminate the use of restrictive practices.

The Office of the Public Guardian will continue to advocate for legislation to authorise and monitor the use of restrictive practices across all service sectors (including education, aged care and health services) with the aim of protecting the human rights of all Territorians and reducing and eliminating the use of restrictive practices for persons with disability.

<sup>6</sup>Re CC [NTCAT] 13 (22 May 2019)

### Health care decision-makers

The Northern Territory is the only jurisdiction that does not have legislation for the statutory appointment of a health care decision-maker (known as person responsible, health attorney and medical treatment decision-maker in other jurisdictions) to make health care decisions for an adult with impaired decision-making capacity.

The Office of the Public Guardian supports the introduction of a statutory health care decision-maker, this being a person who has automatic authority under legislation to make health care decisions for an adult with impaired decision-making capacity who cannot provide informed consent to health care.

A statutory health care decision-maker provides a less restrictive option to the appointment of a guardian in circumstances where the only decisions needed for the adult with impaired decision-making capacity relate to health care.

Similar elements of statutory health care decision-maker legislation across jurisdictions that could be considered for the Territory include:

- a regime that determines a person's health care decision-maker according to a hierarchy that includes a decision-maker appointed in an advance care document, a guardian appointed in a guardianship order and family or other persons who have a relationship to the adult

- principles to guide health care decision-makers in the exercise of their decision-making authority
- provisions to authorise the administration of health care without consent in cases of emergency or for health care considered as minor or routine
- a pathway to obtain consent to significant or major health care when there is no available decision-maker
- specific provisions in relation to participation in specified medical research.

The Office of the Public Guardian believes that family members and others who have an existing relationship to the adult should be given legal authority to make health care decisions on their behalf. Territorians should feel confident that, whenever possible, health care decisions are made on their behalf by a person who is familiar with their views and wishes and that any interference with their autonomy of decision and action is the least restrictive option.

Advance Personal Plans record an adult's personal preferences, which includes health care decisions and financial preferences in case they lose decision-making capacity in the future. Advance personal planning complements adult guardianship in the Northern Territory: a decision-maker can be appointed under the *Advance Personal Planning Act 2013* and is bound by advance consent decisions or advance care statements.





# INQUIRY AND ENGAGEMENT

The Inquiry and Engagement team is responsible for undertaking specific legislative functions within the Office of the Public Guardian.

These functions include participating in guardianship matters before the Northern Territory Civil and Administrative Tribunal, providing support and assistance to a broad range of interested parties, providing information and guidance to private adult guardians and conducting guardianship investigations as directed by the Tribunal. The functions of the Inquiry and Engagement team are managed separately from the Central Australia and Top End Guardianship teams within the Office and are distinct from the role of Adult Guardianship Officers who, when appointed by the Tribunal, act on behalf of represented adults.

## The interface between the Northern Territory Civil and Administrative Tribunal

The Office receives and participates in all guardianship applications made to the Northern Territory Civil and Administrative Tribunal. All hearings with regards to guardianship applications are attended by the Inquiry and Engagement team. The team is also required to be available to assist with matters reassessing orders where private guardians have been appointed. At these hearings the Tribunal directs the Inquiry and Engagement team to make enquiries and provide reports to assist in determining who is most suitable to be appointed as guardian.

The Inquiry and Engagement team is responsible for disseminating the Tribunal's standard orders to relevant parties involved in reassessing orders where the Office of the Public Guardian is sole or joint guardian. In 2018–19 the Inquiry and Engagement team distributed 591 standard orders.

## Engagement and support

The Inquiry and Engagement team responds to phone calls, emails and face-to-face enquiries about adult guardianship matters and provides information, guidance and support to the Northern Territory community.

The information helps guide applicants through the guardianship process including what evidentiary reports may be required for the Tribunal and what to expect at the hearing. Once the order has been made the team assists new guardians in how to interpret the orders, what decisions can be made and who needs to be notified. The team also provides information about support services, how to advocate for the represented adult and how to complete financial statements when reporting to the Tribunal.

In 2018–19 the Inquiry and Engagement team responded to 143 enquiries and distributed 98 *Understanding Guardianship* handbooks to new guardians. Of these 143 inquiries, 85 were about guardianship applications, 25 were from private guardians and 33 related to a variety of other matters.



## KEY ACHIEVEMENTS

- ✓ Attended in excess of 245 Northern Territory Civil and Administrative Tribunal hearings
- ✓ Increased support and information to private guardians

### Narelle\* – supporting private guardians

Narelle is an 18-year-old woman who has an intellectual disability. Narelle's parents were appointed her private guardians when she was 17 to assist in ensuring a smooth transition to adulthood.

The Office of the Public Guardian empowered Narelle's parents to continue to advocate for their daughter by linking them with essential contacts for employment, housing and other support services.

The Office also assisted Narelle's parents to establish a financial reporting system, which allowed them to comply with the Northern Territory Civil and Administrative Tribunal's reporting requirements.

The guardianship order assisted Narelle in moving from the family home to supported living where she was in an environment that expanded her skills to enable her to live on her own.

After a few years, Narelle proudly moved into her own unit. The guardianship order allowed the parents to assist to manage her money, which ensured rent, electricity and food were paid for.

*\*This scenario has been created from a series of life stories and does not represent an individual client.*

## GUARDIANSHIP APPLICATIONS

The Office of the Public Guardian participated in 266 guardianship applications in 2018–19, representing a minor decrease of applications by 6 per cent compared with the previous year (Figure 9). Overall, the number of new applications for adult guardianship in the Northern Territory appears to have stabilised.

Prior to the introduction of the *Guardianship of Adults Act 2016*, only people with intellectual disability were able to have a guardian appointed.

The expansion of the eligibility criteria to people with impaired decision-making capacity from any cause, including mental illness, dementia or acquired brain injury, has continued to lead to a higher number of adult guardianship applications. This includes situations where impairment may be episodic, or where impairment may apply to some areas and not others, or may depend on circumstances.

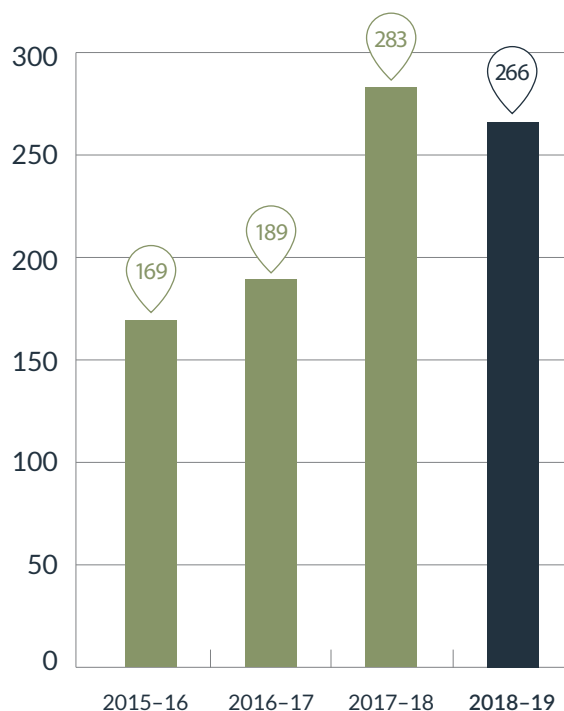
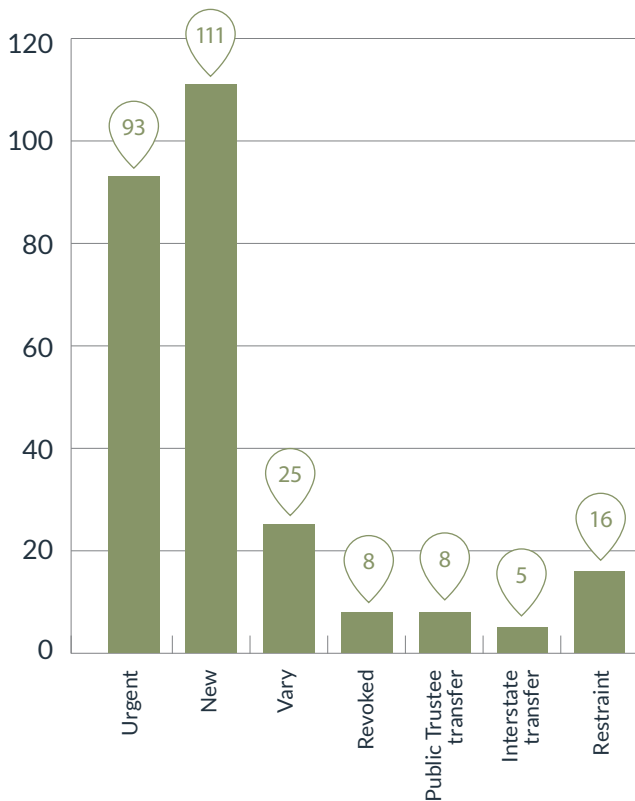


Figure 9: Number of guardianship applications: comparison over four years

Of the 266 applications received, 204 were for new or urgent new orders (Figure 10).

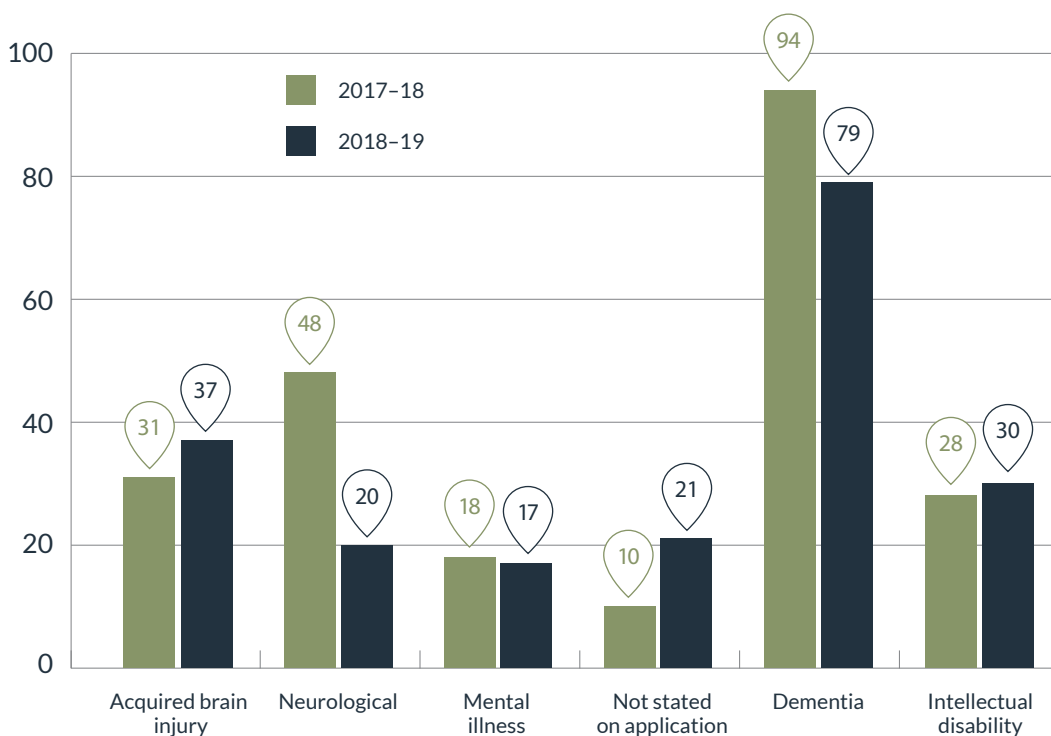


**Figure 10: Northern Territory Civil and Administrative Tribunal applications involving the Office of the Public Guardian in 2018-19, by type**

Dementia continues to be identified as the primary impairment for the majority of new applications for adult guardianship (Figure 11). In 2018-19, 67 per cent of orders related to impaired capacity through acquired brain injury, neurological and dementia. Intellectual disability accounted for only 15 per cent of applications and mental illness accounted for 8 per cent of total applications.

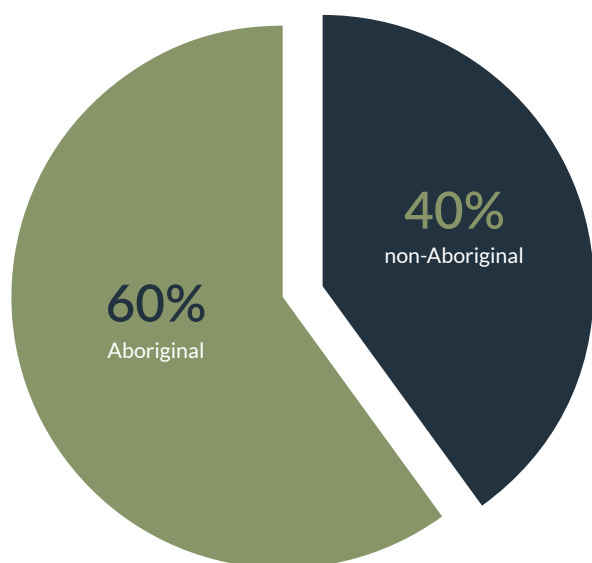
The implementation of the Office of the Public Guardian information system in 2017-18 provided an opportunity to improve the way in which information on represented adults is collected and stored.

While some primary impairments met the criteria for more than one classification, for the purposes of accurate and consistent reporting a clearly defined system for categorising primary impairment was introduced to bring the Northern Territory in line with other jurisdictions across Australia. The introduction of the new system resulted in some inconsistencies with the previous year's data.



**Figure 11: Primary impairment stated on new and urgent applications, 2017-18 and 2018-19**





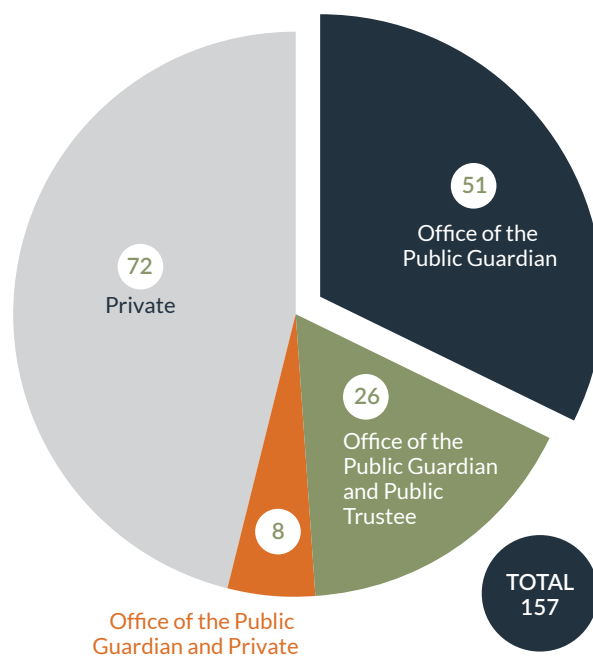
**Figure 12: Applications in 2018-19: Aboriginal and non-Aboriginal adults**

Of the 266 new and urgent applications received in 2018-19, 60 per cent identified the adult subject of the application as being Aboriginal or Torres Strait Islander (Figure 12). This is an 8 per cent increase from the previous year. This percentage continues to be disproportionately high when compared with the proportion of individuals who identify as Aboriginal or Torres Strait Islander people in the Northern Territory.

Despite the slight decrease in applications, the Northern Territory Civil and Administrative Tribunal made 157 new orders representing a 10 per cent increase from the previous year when only 142 new orders were made. Of the 157 adult guardianship

orders made, 85 appointed the Public Guardian as sole or joint guardian. Compared to the previous year this number represents an increase of 13 per cent. As detailed in Figure 13, the Public Guardian was appointed as sole guardian for 51 orders, in a joint guardianship arrangement with private guardians for eight orders and 26 orders to the Public Trustee for financial administration. A further 72 appointed private guardians. This is an increase of five from the previous year.

The positive changes in these figures can be attributed to the success of the information and education activities of the Office.



**Figure 13: Guardianship orders, appointment type**

### *Toby\* – when an urgent order is needed*

Toby's recently acquired brain injury resulted in the need for an interim guardianship order due to post traumatic amnesia. While undergoing treatment, Toby left the hospital accompanied by family for a local outing and failed to return. Toby was located 24 hours later in a remote community where he was identified as being at severe risk to himself and others.

An urgent order was sought to provide police and health practitioners with the necessary authority to return Toby to hospital to receive his required treatment and to access rehabilitation to facilitate his recovery.

Following Toby successfully completing his rehabilitation program it was determined that he was no longer in need of guardianship. Toby has since returned to his community and lives with family.

*\*This scenario has been created from a series of life stories and does not represent an individual client.*

# GUARDIANSHIP

The Office of the Public Guardian provides guardianship to people with impaired decision-making capacity who are over the age of 18 years and who cannot make informed decisions on their own.

The Northern Territory Civil and Administrative Tribunal may appoint the Public Guardian in relation to accommodation, health care, financial matters and other personal matters. The Public Guardian is only appointed when there is no one else who is eligible to be appointed, so is the guardian of last resort.

The Office has a team of delegated Adult Guardianship Officers (AGOs) who work with represented adults. The role of AGOs is limited to making decisions and advocacy around the circumstance of those decisions. AGOs do not carry out whole-of-life case management or attend to the day-to-day care needs of the represented adult. In 2018–19, the Guardianship team has been reflecting on supported decision-making and how to most effectively embed this practice into the decision-making process.

Where there is another guardian appointed with the Public Guardian, all guardians must be in agreement for decisions to be authorised. The guardianship order sets out the type of decisions the guardians are authorised to make. Guardians can only make those types of decisions as set out in the order.



## KEY ACHIEVEMENTS

- ✓ 351 represented adults transitioned to the NDIS
- ✓ 645 orders appointing the Public Guardian

### Reaching out to all Territorians

The geographic and demographic context of the Northern Territory presents unique challenges to the Office of the Public Guardian.

The AGOs work across the Northern Territory with represented adults and their families, many of whom live in remote locations.

### Face-to-face visits with represented adults

In 2018–19 AGOs visited represented adults in their current places of residence including nursing homes, hospitals, supported independent living, prisons and other community-based accommodation. For 2019–20 the Office of the Public Guardian goal is that all represented adults be visited at least once. This is in line with the National Guardianship Standards produced by the Australian Guardianship and Administration Council.

Wherever possible AGOs endeavour to visit represented adults in regional and remote communities at least once a year. Additional visits occur as required in accordance with decisions to be made. In 2018–19 visits occurred in the following communities:

Katherine, Bathurst Island, Ntaria (Hermannsburg), Docker River, Gunbalanya, Minjilang, Tennant Creek, Papunya, Mutitjulu, Laramba, Alpururulam, Titjikala, Nhulunbuy and Jabiru.



**Figure 14: Adult Guardianship Officers: communities visited**

In 2018–19 AGOs undertook advocacy, decision-making and financial administration for represented adults in urban, regional and remote areas of the Northern Territory. Each AGO held responsibility for decision-making for an average of 60 represented adults.

A number of guardianship orders appoint the Public Guardian as joint guardian with one or more family members or interested parties. The Office of the Public Guardian maintains its relationships with joint guardians to ensure information about decisions is shared and decisions are made in unison on behalf of the represented adult. There are challenges in this task due to remoteness, telecommunications and language.





## ADULTS SUBJECT TO GUARDIANSHIP

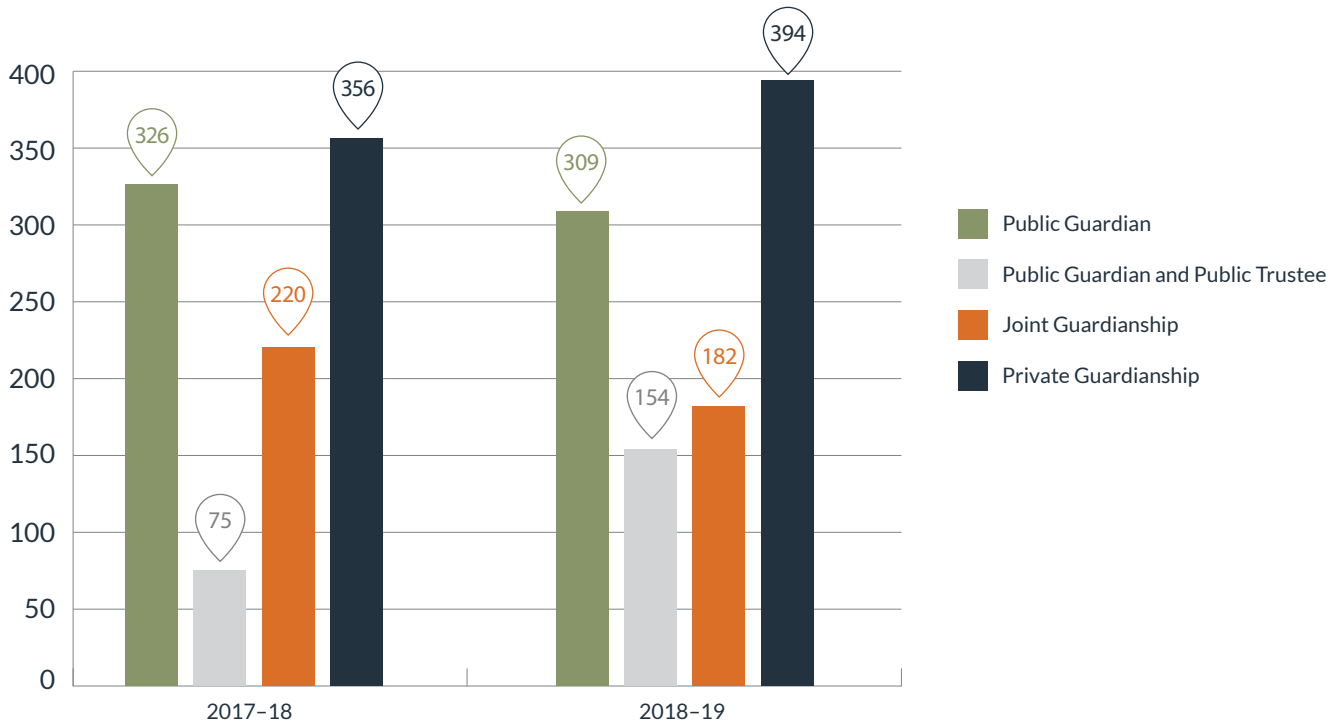


Figure 15: Adults subject to guardianship

In 2018–19, a total of 1039 adults were subject to guardianship orders in the Northern Territory. This represents an increase of 6 per cent over the previous year. The Public Guardian was appointed sole or joint guardian for the majority of these orders (645), the remaining appointed private guardians only (394).

The Office of the Public Guardian views the increase in private guardianship numbers as a positive reflection of the work undertaken to support and encourage family members to assume a private guardianship role. The Office of the Public Guardian continues to work closely with, and support, current joint guardians in moving towards a sole private guardianship arrangement that would empower these guardians to operate autonomously without involvement from the Office of the Public Guardian.

Compared with other jurisdictions, the Northern Territory has the lowest number of adults under guardianship orders; however, the Territory has the highest percentage of the population under guardianship.

The highest number of represented adults and the vast majority of adults with private guardianship orders were located in Darwin. The majority of adults with guardianship orders in Alice Springs had orders managed by the Public Guardian, with 177 orders appointing the Public Guardian sole or joint guardian. The high number of adults with private guardians in Darwin compared with other regions reflects the general population characteristics, access to services and proportion of people with a disability living in the region. It is hoped that, as NDIS matures and services in regional and remote areas expand, this trend may reduce or cease.

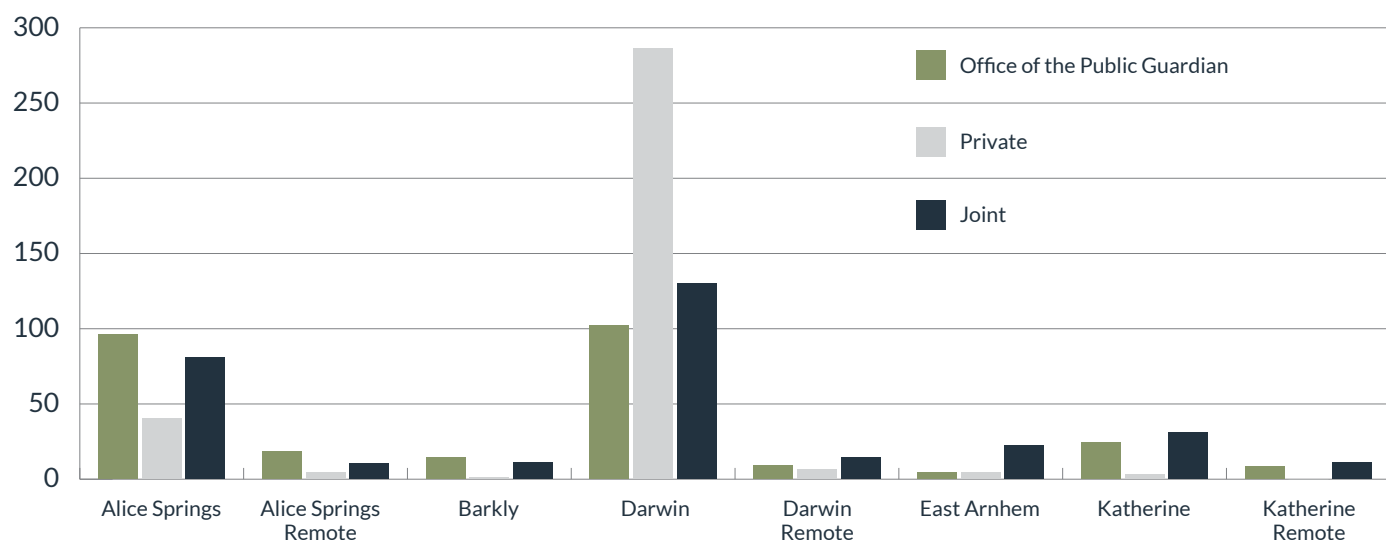


Figure 16: Location of represented adults

In 2018–19, 57 per cent of adults with guardianship orders appointing the Public Guardian were male. This reflects the Northern Territory's demographics: in 2017, the Territory had the nation's highest gender ratio with 108.1 males per 100 females.<sup>7</sup>

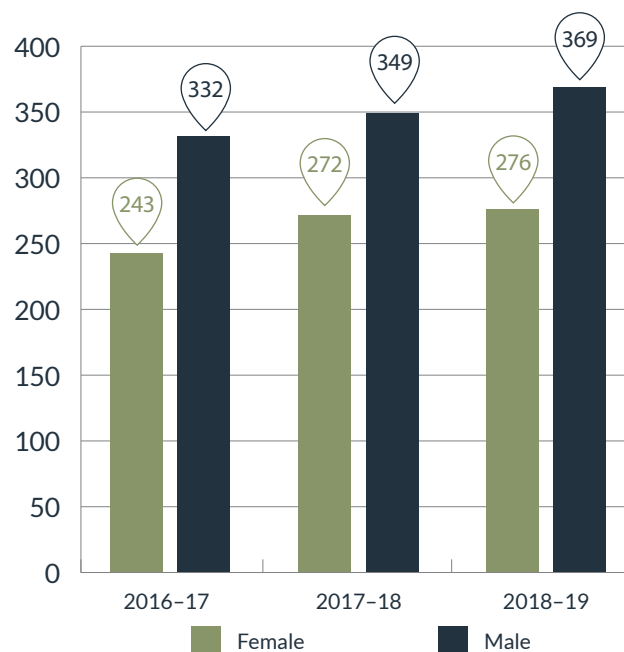
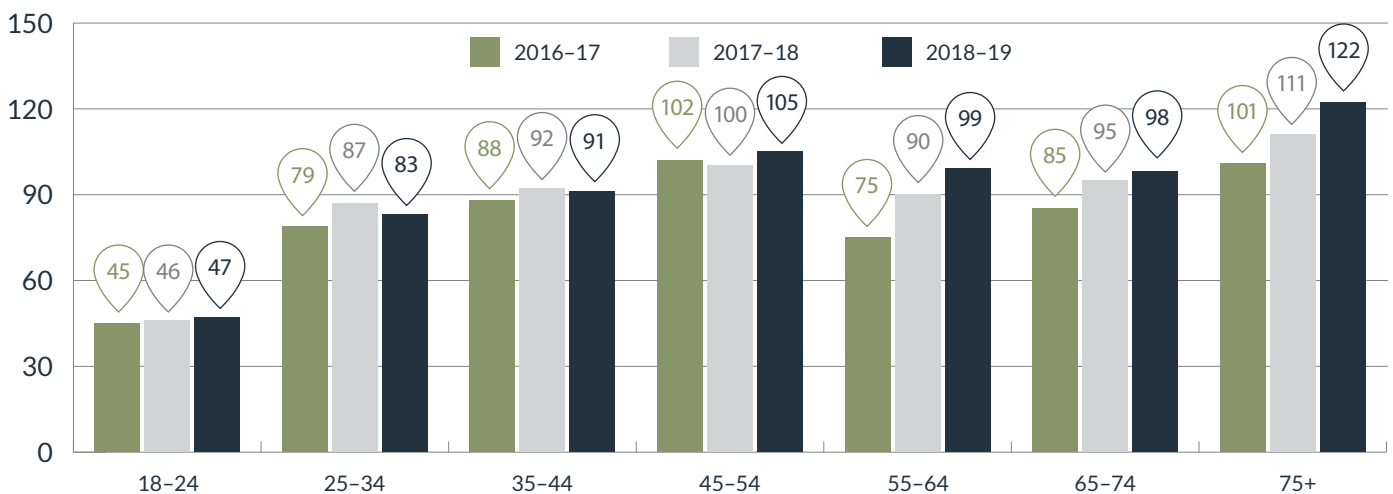


Figure 17: Gender of represented adults subject to the guardianship of the Public Guardian

<sup>7</sup> Australian Bureau of Statistics 2018, 3235.0 – Regional Population by Age and Sex, Australia 2017, viewed 6 August 2019, <https://www.abs.gov.au/ausstats/abs@nsf/mf/3235.0>

The Public Guardian was sole or joint guardian for 645 adults over the 2018–19 reporting period. Representation was highest for adults in the 45 to 54 and 75 years plus age groups. This is consistent with the previous year. Of the 645 represented adults the predominant primary impairment for those aged 75 and over was dementia. In the 45 to 54 years age group, the highest represented primary impairment is acquired brain injury.

For Aboriginal and Torres Strait Islander people, who unfortunately have a lower life expectancy compared with non-Aboriginal Australians, older people are typically defined as 45 to 50 years and older.<sup>8</sup>



**Figure 18: Age of represented adults with sole or joint guardianship to the Public Guardian: comparison over three years**

### Afterhours services

The Adult Guardianship Officers provide the Office of the Public Guardian afterhours on-call service. In 2018–19, 2334 calls were made to the afterhours phone number. Of these, 1614 were directed to other options such as email or to leave a message for further assistance.

The Office of the Public Guardian is committed to being available 24 hours a day for urgent decision-making and other urgent matters; however, a significant number of calls to the afterhours service did not require urgent afterhours attention. To address this the afterhours service was reviewed in 2018–19 to clarify and streamline processes.

Since implementing changes from the review, afterhours calls requiring urgent attention by AGOs have reduced by 40 per cent. The majority of these calls pertained to health care and medical treatment.

<sup>8</sup>Kaspiew et al., 2016 <https://aifs.gov.au/cfca/publications/cfca-paper/elder-abuse/export>



## MENTAL HEALTH

The *Mental Health and Related Services Act 1998* provides for the care, treatment and protection of people with a mental illness, while protecting their civil rights. The Act also provides for the care, treatment and protection of people with a mental disturbance or a complex cognitive impairment in certain circumstances.

Following the expansion of the 2016 eligibility criteria for guardianship to include mental illness as a primary disability, AGOs were required to familiarise themselves with the provisions of the *Mental Health and Related Services Act 1998*, including rights, responsibilities and the limitations the legislation places on the adult guardian's authority to make decisions.

Office of the Public Guardian staff continue to face challenges arising from the complexities of maintaining their responsibility for represented adults who find themselves at the interface of two pieces of legislation. AGOs must take into account represented adults' rights under the *Mental Health and Related Services Act 2016* while adhering to the underpinning decision-making principles of the *Guardianship of Adults Act 2016*.

To inform and guide AGOs in managing the intricacies of working between the two Acts, the Office of the Public Guardian engaged an experienced practitioner to provide targeted educational sessions to assist staff to increase expertise around mental health issues for represented adults.

### *Travis\* – a positive move*

Travis is a middle-aged man who has long-term mental health issues and a brain injury. He has lived on his own for many years in a Territory Housing unit in the community. Travis rarely engages with support services and this has led to him experiencing poor personal care and diet with very limited engagement in meaningful social activities. His unit is poorly maintained. He is highly vulnerable and is regularly at risk from visitors as he is unable to maintain personal or home security.

The introduction of an NDIS plan that included assessments of his situation led to the commencement of 24/7 supported independent living. Travis expressed great satisfaction with his new arrangement and was eager to engage with his support workers who helped motivate him to learn new skills such as preparing healthy meals. For the first time in a very long time Travis recommenced accessing community activities of interest and established a new circle of friends. Travis is also expressing aspirations to engage in work.

His family were initially apprehensive about his loss of independence despite the ongoing issues he had been experiencing. However, after observing his improved general health and disposition, they acknowledge that the move was definitely a positive one for Travis.

*\*This scenario has been created from a series of life stories and does not represent an individual client.*

## FINANCIAL MATTERS

Of the 645 represented adults with authority to the Public Guardian, 425 included financial administration orders. Regular consultation with represented adults assisted in the review of personal budgets to ensure living expenses were managed and bills paid on time. Financial administration orders required AGOs to engage with a range of stakeholders including Centrelink, superannuation companies, banks and service providers, as well as with the represented adults and their families.

In early 2019, we welcomed the decision to transfer financial administration of represented adults' estates from the Office of the Public Guardian to the Public Trustee.

Prior to this decision, the Public Guardian could be granted authority for financial matters as well as lifestyle decisions, making the Northern Territory the only jurisdiction in Australia where the Public Guardian could be appointed as financial manager on behalf of a represented adult.

The AGOs with authority for financial matters have needed to make decisions for the adult around receipt and payment of monies, investment and banking and managing property (including artworks and real estate).

From 1 March 2019, the Public Trustee or a private guardian became the only options for the Northern Territory Civil and Administration Tribunal when appointing a financial administrator for represented adults. This change centralises the function with the Public Trustee and avoids duplication of services within the Northern Territory Government.

The Office of the Public Guardian managed over 400 financial orders at the start of this transition. The Office of the Public Guardian will undertake a phased transfer of existing financial orders to the Public Trustee. Transition of all existing financial management orders will take place during the first six months of 2019–20.

The Northern Territory will then align with all other Australian jurisdictions in that finance and guardianship are independently managed. This transfer will enable the Office of the Public Guardian to concentrate on our core business, which is personal matters.

The Office has prepared extensively to minimise disruption to represented adults and those around them. A significant communication strategy has been designed to ensure represented parties, joint guardians, and service providers are informed of the change and the positive implications.



## NATIONAL DISABILITY INSURANCE SCHEME

The National Disability Insurance Scheme (NDIS) is the new way in which Australians with a disability receive funding and delivery of individual support.

The NDIS was introduced in a staged rollout across the Northern Territory and was fully rolled out by 30 June 2019. The transition into the new NDIS framework has continued to have a substantial impact on the workload of the Office of the Public Guardian.

In 2018–19 the Office of the Public Guardian worked closely with the National Disability Insurance Agency (NDIA) to advocate for the changes required to ensure the best scheme was delivered to eligible Territorians. The Office of the Public Guardian recognises the lengths to which the NDIA has gone to develop an approach suitable for the Territory, taking into account the unique circumstances of remoteness, thin market and transient work population, instead of relying on the model used in other jurisdictions.

The Office of the Public Guardian is starting to see some high-level gains from the NDIS such as greater choice and control for people with a disability, increased levels of resources available to purchase a greater variety of support services, portability of plans to allow interstate movements and reduced long-term placements in hospitals. There continue to be problematic issues such as adequate plan resourcing, reasonable levels of support coordination, requests for reviews not being dealt with in a timely manner, NDIS planning staff level of expertise and inconsistency caused by NDIS staffing stability.

The Office of the Public Guardian provided a submission to the Social Policy Scrutiny Committee regarding the National Disability Insurance Scheme (Authorisations) Bill 2019. The Office contributed to the development of the *NDIS (Authorisations) Act 2019* by providing feedback on the Northern Territory NDIS Restrictive Practices Authorisation Framework Discussion Paper, providing written submissions to the Legislative Assembly Social Policy Scrutiny Committee and appearing as a witness before the committee's public hearing in relation to the NDIS (Authorisations) Bill 2019.

The NDIS complex support needs pathway creates a specialist team of staff with experience in supporting participants. This team of specialised planners will work closely with participants who have a number of challenges such as mental health issues, incarceration or homelessness and require a higher level of specialised supports in their plans. The Office of the Public Guardian commends the creation of this team in recognition of plans not meeting the needs of participants and looks forward to working with this NDIS team.

As at the end 2018–19, 351 of the 388 eligible adults had NDIS plans. This represents an increase of 141 plans since the last reporting period. Of the remaining 37 eligible adults, a proportion are about to turn 65 and have indicated that they do not want their support service to change from aged care to disability provider. This is particularly relevant for some represented adults in remote communities where aged care service is available and disability service options are limited. The remaining represented adults' NDIS applications are in various stages of completion.

### Support coordinators

Support coordinators are people who have been funded by the NDIS plans so they can assist participants to link into services and understand their plans including what funds are available.

Executive members from the Office of the Public Guardian have been facilitating regional support coordinators meetings. This involves 15 different agencies meeting in Darwin, Katherine, Nhulunbuy, Tennant Creek and Alice Springs to ensure issues experienced by represented adults are addressed. Matters such as the modelling of hours, thin service market in the Territory and the importance of support coordinators continue to be crucial areas of discussion.

This platform also provides an opportunity for the Office of the Public Guardian to advocate for a consistent Northern Territory wide approach, while also providing the Office an insight and understanding of issues experienced by the coordinators.



A newsletter has been developed for support coordinators involved with Office of the Public Guardian to ensure critical information is circulated in a timely manner. The Office has noted improved plans for NDIS participants and believes this was achieved through Office of the Public Guardian advocacy in conjunction with the important role undertaken by support coordinators who are central to the success of NDIS plan implementation.

The Office of the Public Guardian is closely watching to ensure the appropriate level of support coordination remains in represented adults' plans. It is concerning to hear of suggestions that this level of support coordination may be reduced without NDIA fully understanding what is being required by this role for participants. As AGOs are not whole-of-life case managers, but appointed decision-makers, any reduction in support coordination hours will have negative consequences for individuals.



### *Eva\* – engaging with the community*

Historically Eva was living an isolated life in a remote rural community. She was not engaged with any disability services and she reported her life to be boring. When her informal supports broke down and she lost her accommodation, a crisis period ensued.

The Office of the Public Guardian was appointed to assist in decision-making to address Eva's issues and an urgent NDIS application and plan were put in place. Eva is now living in supported independent living in Darwin and is sharing accommodation with a woman of similar age and who has similar interests.

The support coordinator is exploring Eva's preferred activities and she has identified an interest in pottery, cooking and working with horses.

Eva expressed great satisfaction with her new life and advised that she is very happy. Eva has set herself some goals including a holiday every year, learning to dance and getting a job.

*\*This scenario has been created from a series of life stories and does not represent an individual client.*

# KEY PERFORMANCE INDICATORS, BUDGET AND RESOURCING

The Office of the Public Guardian's performance in 2018-19 has been placed against the forecast estimates published in Budget Paper No. 3.

At the start of 2018-19, the Department of Health provided funding and corporate support to the Office of the Public Guardian.

In 2018-19, \$4 431 982 was allocated to the Office of the Public Guardian for administrative functions and personnel. In early 2019 this funding transferred with the Office of the Public Guardian to the Department of the Attorney-General and Justice.

This period also saw government approval for the transfer of all represented adults' financial management orders to the Public Trustee. In agreement with the Public Trustee this repositioning of adult guardianship financial management orders was accompanied by funding from the Office of the Public Guardian budget to reflect the increase in Public Trustee administrative functions. As a result, the Office of the Public Guardian's budget for 2018-19 was reduced to \$4 121 982.

It is anticipated that the 2019-20 budget will see a further reduction as a result of Northern Territory Government efficiency measures. The Office of the Public Guardian has a broad mandate that includes guardianship, advocacy, education and investigations. There exists a significant concern that the Office of

the Public Guardian will struggle to fulfil all areas of its mandate and evolving responsibilities in the current fiscal environment.

At 30 June 2019 the Office of the Public Guardian had 29 full-time equivalent (FTE) positions. The Office of the Public Guardian continued to stabilise its workforce with six positions permanently filled in 2018-19.

## KEY PERFORMANCE INDICATORS

The Office of the Public Guardian's performance in 2018-19 has been placed against the forecast estimates published in Budget Paper No. 3.

As Table 3 indicates, outcomes for 2018-19 exceed budget estimates for all categories with the exception of the number of financial management orders, which decreased due to the transition to the Public Trustee. The increase in the number of individuals under guardianship can be attributed to the increase in guardianship awareness and the expanded eligibility criteria. Aboriginal and Torres Strait Islander people continue to be disproportionately represented in the overall number of adults under guardianship.

**Table 3: Key Performance Indicators against forecast estimates, Budget Paper No. 3**

	2017-18 Budget	2017-18 Actual	2018-19 Budget	2018-19 Actual
Number of individuals under adult guardianship	868	977	1084	1039
Number of Aboriginal people under adult guardianship	493	548	543	598
Number of financial management orders to the Public Guardian*	437	450	555	426

Note: 'Aboriginal' here includes people who identify as Aboriginal or Torres Strait Islander.

\*Includes sole and joint guardianship orders to the Public Guardian.

# LOOKING AHEAD



Figure 19: Priorities for 2019–2021





Office of the Public Guardian

☎ 1800 810 979

✉ [public.guardian@nt.gov.au](mailto:public.guardian@nt.gov.au)

💻 [www.publicguardian.nt.gov.au](http://www.publicguardian.nt.gov.au)

