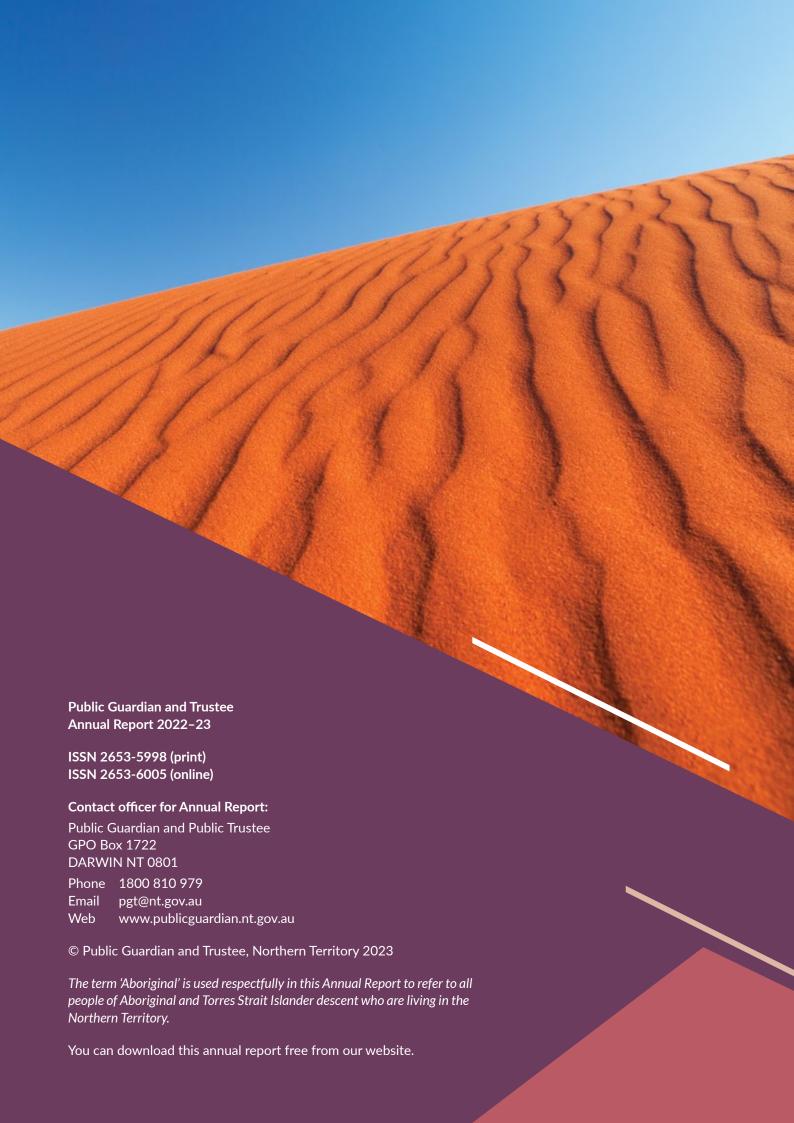


# ANNUAL REPORT 2022-23





### Public Guardian and Trustee Annual Report 2022-23







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The Honourable Chanston Paech MLA Attorney-General and Minister for Justice Parliament House DARWIN NT 0800

Dear Minister

Re: Public Guardian and Trustee Annual Report 2022-23

I am pleased to submit the Annual Report of the Public Guardian and Trustee for the year ended 30 June 2023. The Public Guardian and Trustee is responsible for providing guardianship, financial management and estate administration to the Northern Territory community.

This report provides an account of the operational undertakings and achievements of the Public Guardian and Trustee in addition to satisfying the Public Guardian's legislative requirements under section 74 of the *Guardianship of Adults Act 2016*. A separate annual report will be prepared in accordance with section 18 of the *Public Trustee Act 1979* to satisfy the legislative reporting requirements of the Public Trustee.

Yours sincerely

**BETH WALKER** 

**Public Guardian and Public Trustee** 

29 September 2023



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I am pleased to share with you the 2022–23 Annual Report for the Public Guardian and Trustee. This report highlights the work undertaken by the Public Guardian and Trustee team in advocating for the human rights of persons with impaired decision-making capacity.

This year we continued our Public Guardian and Public Trustee amalgamation journey with a focus on strengthening our teams through the development and implementation of our mental health and wellbeing strategy. This strategy recognises the impact of change and was developed to support our teams through this transformation stage. Additionally, the last 12 months have seen extensive work to address recommendations provided to the Public Trustee as part of audits undertaken by the Auditor-General in accordance with section 19 of the Public Trustee Act 1979. Alongside this, we have implemented a number of strategies to enhance current practices and increase our data collection and reporting ability. This enables us to provide a higher level of customer service and to identify guardianship and trustee trends across the Northern Territory.

At a national level, we continued to contribute to the national dialogue on guardianship and disability issues through our submissions to national inquires, alongside our active involvement on external committees and forums. In July 2022, the Royal Commission into Violence, Abuse, Neglect and

Exploitation of People with Disability (the Commission) held Public Hearing 25 in Alice Springs. The focus of this hearing centred on the operation of the NDIS for First Nations people with disability in remote and very remote communities. I was honoured to be able to present to the Panel written and verbal evidence including accounts of the barriers faced by First Nations people in accessing appropriate NDIS services, as experienced firsthand by represented persons and the Public Guardian and Trustee team. This information formed the basis of the recommendations I provided to improve supports and services to First Nations people in remote and very remote communities. These recommendations include the adoption of a more localised decision-making model that provides for participant needs across remote and very remote localities, including funding in NDIS plans for self-advocacy and financial literacy skills to support transition out of guardianship. Also, the inclusion of funding for cultural support such as Return to Country trips and cultural consultants in the plans of First Nations peoples.

There remains an unmet need for Specialist Disability Accommodation and Supported Independent Living accommodation in remote and very remote regions of the Northern Territory. This year it has been encouraging to see an increase in purpose built disability accommodation in urban areas of

the Northern Territory, with new builds occurring in Darwin, Katherine and Alice Springs. Having personally visited a number of these homes, I was impressed by the high quality and progressive designs. It is hoped the next 12 months will see these builds expand to other more remote areas of the Territory, increasing the capacity for represented people to remain on Country near family and kin.

With over 75 per cent of the people supported by the Public Guardian and Trustee identifying as Aboriginal the provision of culturally appropriate services and supports is important to us. As we continue to develop our customer experience journey, exploring our services from an internal and external customer focus we will be seeking to understand how we can work towards a more culturally safe service using tools such as empathy mapping to implement necessary changes. This long term transformational work forms part of our larger amalgamation changes and business transformation.

The issue of culturally appropriate service provision was also highlighted as a theme by the Commission throughout its hearings and specifically the hearing into guardianship, substituted and supported decision-making held in November 2022. After more than four years, the Commission will come to a close and provide its final report on 29 September 2023. Having followed the Commission hearings closely, I anticipate that the report will contain a significant number of recommendations relevant to guardianship and trustee services. Exploring mechanisms to implement these recommendations needs to be a priority area afforded appropriate funding to implement strategies to enhance the provision of guardianship and administration services for Territorians.

Late 2023 will be a significant time in the disability space with not only the final report of the Commission due but also the final report of the NDIS Review Panel, which is due to be handed down in October 2023. Since October 2022, the Review Panel have undertaken extensive consultations with participants, their families and key stakeholders to identify issues within the existing scheme and how solution focused

outcomes can be applied to remediate these issues. The Public Guardian and Trustee welcomes both these inquiries and the recommendations they will provide to enhance the lives of people living with disability.

In May 2023, excitingly the Health Care Decision Making Bill was put before the Legislative Assembly for consideration and it is anticipated that it will pass in late July 2023. This significant addition to Northern Territory legislation takes a modern approach to health care decision making for a person with impaired decision-making capacity, establishes principles and rules for making heath care decisions while protecting an adult's freedom of decision and action and aligns with the approach of other Australian jurisdictions. The successful implementation of the legislation will require a multi-agency approach to ensure a strong framework is in place prior to commencement.

These significant achievements could not be realised without my team and I cannot thank each member of the Public Guardian and Trustee team enough for their ongoing dedication and commitment. This report is testament to the incredible work undertaken by them, their capacity to develop creative solutions to complex and challenging situations and their dedication to ensuring that Territorians with impaired decision-making capacity continue to have their human rights promoted and protected.

I would also like to take this opportunity to farewell an important member of our Executive Leadership Team, Lisa Patamisi. Lisa has been a valued employee of the Public Guardian and Trustee for over 10 years and has played a significant role developing our guardianship frameworks and policies. I thank Lisa for her contribution to our organisation and wish her well in her future endeavours.

**BETH WALKER** 

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**Public Guardian and Public Trustee** 

### 2022-23 at a glance

1304 guardianship 1195 financial orders in place

management orders

applications lodged

**328** guardianship **187** new & urgent orders made

> **50%** of orders involve the Public Guardian as sole or joint guardian

75% of persons identifying as Aboriginal have both the Public Guardian and Public Trustee appointed

> 1558 lifestyle decisions made

**56** properties under management

**120** new Advance Personal Plans registered **57321** calls received by our administration team

**173** wills prepared

**289** estates under administration



### About the Public Guardian and Trustee

The Public Guardian and Trustee provides information and services to the Northern Territory community in the areas of guardianship, Advance Personal Plans, wills and estates, financial management and related matters. We also undertake advocacy and promote research in the areas of guardianship, supported decision-making and other relevant areas.

This report provides an overview of the operational undertakings and achievements of the Public Guardian and Trustee in addition to satisfying the Public Guardian's legislative requirements under section 74 of the *Guardianship of Adults Act 2016*. A separate annual report will be prepared in accordance with section 18 of the *Public Trustee Act 1979* to satisfy the legislative reporting requirements of the Public Trustee.

#### **Our mission**

To safeguard and promote the personal, legal and financial interests of Territorians by providing adult guardianship, trust, estate and will services within a human rights framework.

#### **Our vision**

A safe, just and inclusive Northern Territory which promotes human rights and protects the choices and wishes of all Territorians.

#### **Our values**



Commitment to service



Collaboration



**Ethical practice** 



Respect



**Diversity** 



**Accountability** 

#### **Key functions**

- \* to be a guardian for an adult when appointed by a guardianship order
- to manage trusts for minor beneficiaries and represented persons with impaired decision-making capacity
- \* to obtain and provide to the Northern Territory Civil and Administrative Tribunal information relevant to guardianship applications
- \* to promote access to support services for adults with impaired decision-making capacity and the guardians, families and carers of those adults
- to administer estates when appointed as executor or administrator of last resort when no one else is willing or able
- \* to provide advice and support to persons who are making, or proposing to make, applications for guardianship orders and to guardians
- to provide will making services, and maintain a will register and storage service
- to monitor and investigate complaints about the conduct of guardians
- to advocate for adults with impaired decisionmaking capacity, including by promoting understanding and awareness of relevant issues
- to provide, or encourage the provision of, education about relevant issues

#### Strategic objectives

- provide effective, contemporary guardianship, trust and estate services to the Northern Territory community
- collaborate with stakeholders to ensure positive working relationships
- design and implement organisational system improvements
- develop flexible, tailored approaches that meet the needs of our diverse community
- \* develop and maintain a capable workforce
- undertake systemic advocacy at a local, territory and national level
- enhance service delivery models to ensure the provision of high-level customer services to Territorians



#### **Our legislation**

The *Guardianship of Adults Act 2016* recognises the rights and overall wellbeing of persons with impaired decision-making capacity. It provides the current legislative and administrative framework for adult guardianship in the Northern Territory, including the authorisation under which the Public Guardian and Public Trustee may be appointed as a guardian for an adult. 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'.<sup>1</sup>

The Public Trustee for the Northern Territory is a corporation established by section 9 of the *Public Trustee Act 1979*. The office is funded as an output within the Northern Territory Department of the Attorney-General and Justice budget.

The Public Trustee has functions and responsibilities under many acts, including the Public Trustee Act 1979, the Trustee Act 1893, the Administration and Probate Act 1969, the Wills Act 2000, the Guardianship of Adults Act 2016, the Criminal Property Forfeiture Act 2002, and the Personal Injuries (Liabilities and Damages) Act 2003 in addition to duties as a trustee and executor that arise under the general law.

The Public Guardian and the Public Trustee may be appointed as a person's decision-maker under the *Advance Personal Planning Act 2013*. This legislation allows a person to plan for future health, financial and lifestyle decisions to ensure their wishes and preferences are known and respected. An Advance Personal Plan is the legal document that records a person's chosen decision-makers and their personal, health, financial and lifestyle preferences in case they lose decision-making capacity in the future.

<sup>&</sup>lt;sup>1</sup> United Nations Convention on the Rights of Persons with Disabilities (2006), Article 1.



#### Public guardianship

The Public Guardian and Trustee provides guardianship for persons with impaired-decision making capacity aged 18 and over who cannot make informed decisions on their own.

The Public Guardian and Trustee receives a copy of all guardianship applications and supporting evidence, and written notification of hearing dates for matters before the Northern Territory Civil and Administrative Tribunal. The Public Guardian or a delegated officer must be present at all application hearings and may be directed by the Northern Territory Civil and Administrative Tribunal to make inquiries in regard to the background and circumstance of an application for an order. Such inquiries typically concern the views of the person who is the subject of the application and the suitability and eligibility of proposed guardians.

The *Guardianship of Adults Act 2016* provides for three key circumstances under which the Public Guardian can be appointed as guardian for a person:

- \* when appointed by a guardianship order
- when the appointment of a private guardian for an order ceases
- \* where a private guardian is temporarily unable to act

Additionally the *Guardianship of Adults Act 2016* outlines the specific criteria that must be met to enable the appointment of the Public Trustee, including limiting decision-making authority to financial matters.

The appointment of either the Public Guardian for personal matters or the Public Trustee for financial matters requires the Northern Territory Civil and Administrative Tribunal to be satisfied that no alternative guardian exists and that the interests of the person are best served by public guardianship. Matters for which the Public Guardian may be appointed under a guardianship order include decisions relating to health care, housing, lifestyle, support services and other personal matters.

Decisions made on behalf of or in conjunction with a represented person must be consistent with the authority outlined in the guardianship order and with the guardianship principles, take into account the represented person's current and previously stated views and wishes and support the individual to make their own decisions. The Public Guardian and Trustee has an emphasis on support for decision-making, which is embedded in practice with training in place for staff.

Public Guardian and Trustee staff assist applicants and existing guardians to navigate guardianship proceedings, including reassessment processes. Support and information is also provided to ensure guardians understand the extent of their responsibilities in accordance with a guardianship order and the guardianship principles as set out in section 4 of the *Guardianship of Adults Act 2016*. All new private guardians are provided with a copy of our *Understanding guardianship* handbook, which includes reporting examples and external contacts. In 2022–23, 174 handbooks were provided to new private guardians.

Where there are concerns about the conduct of a guardian, or the welfare of the represented person is at question, an application to reassess the guardianship order can be made to the Northern Territory Civil and Administrative Tribunal. This can be done by any individual with a genuine concern for the health and wellbeing of a represented person. As a result of this application the Northern Territory Civil and Administrative Tribunal may direct the Public Guardian to conduct a formal investigation and provide a report addressing the concerns.

#### **Financial Administration**

In addition to the appointment as a financial manager for a person in accordance with the *Guardianship* of *Adults Act 2016*, the Public Trustee may also be appointed as a financial manager by the courts in accordance with section 32 of the *Public Trustee Act 1979*. This appointment provides authority to undertake decisions in relation to the finances of a person with a disability or a minor where they are awarded compensation or are the beneficiary of an estate. The Public Trustee may be appointed as either sole Trustee or appointed jointly with another person.

#### Separation of decision making

The Public Guardian and Trustee ensures that where both the Public Guardian and the Public Trustee are appointed as guardian for a person that lifestyle and financial decision making responsibility occurs separately.

Where this dual appointment occurs, lifestyle decisions are made by the Adult Guardianship Officer, with the Trust Officer holding responsibility for financial decisions. While these positions work in collaboration to achieve outcomes for represented persons in a conjoint decision making model, the separation of decision making ensures that one person is not solely responsible for decision making across all facets of a represented person's life.

#### Complaints and review

The Public Guardian has the power under section 61 of the *Guardianship of Adults Act 2016* to investigate formal complaints against private guardians. It has a separate formal process in place to review decisions made by delegates of the Public Guardian.

A fact sheet on 'Resolving complaints and concerns' and 'Reviewing a Public Guardian decision' is available in hard copy and via our website. Our website also provides consumers with the opportunity to make suggestions via an online enquiry form, which provides a valuable source of feedback and informs our quality improvement processes.

There were three formal requests to review decisions made on behalf of the Public Guardian in 2022–23. All reviews concluded with the original decision being upheld and a statement of reasons provided for each matter. No formal investigations into the conduct of a private guardians were undertaken during the year.

#### Governance

#### **Business Continuity Plan**

The Public Guardian and Trustee maintains business continuity plans to mitigate the potential or actual disruption of business outputs adversely impacted by anticipated or unexpected events, where possible. It is imperative that our staff safety is maintained and service delivery is continued in the event of a natural disaster or other event.

The aim of our Business Continuity Plans is

- To establish and implement a structured process that will enable the Public Guardian and Trustee to effectively manage and respond to any anticipated or unanticipated disruptions in a timely manner.
- \* To minimise disruption to critical business functions and the resultant impacts on visitors, employees and other stakeholders.

#### **Fraud**

The Public Guardian and Trustee actively ensures that there are sufficient mechanisms in place to minimise the risk of fraudulent activity occurring through the development and implementation of policies, procedures and systems to provide a framework for staff.

Staff are provided with training, mentoring and support to undertake their roles within the Public Guardian and Trustee. Business frameworks contain mechanisms that provide oversight functions to enable the early detection of fraud should it occur.

#### **Conflict of interest**

To ensure that any conflict of interest, whether actual, perceived or potential, is raised, recorded and appropriately managed, the Public Guardian and Trustee has in place polices for both staff and members of the Public Trustee Investment Board.

The conflicts of interest register for both staff and board members is updated annually and as additional conflicts arise throughout the year. Where a conflict is identified, the Public Guardian and Public Trustee is made aware of the situation and appropriate action is taken to manage the situation.

#### Looking ahead

The next 12 months will see substantial focus on

- The implementation of the Health Care Decision Making Bill 2023 following its passage through the Legislative Assembly
- A framework for implementation of the recommendations from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
- IT system upgrades to ensure we can operate effectively as a combined Public Guardian and Public Trustee service
- Development of the customer experience journey, exploring creative ways to streamline services and increase levels of service provision
- Office refurbishment and co-location of services

These significant changes will provide opportunities to enhance and contemporise the important work we do, and enable us to strengthen our business processes and our teams as we co-locate within the same office space. The implementation of new Health Care Decision Making legislation will bring us into line with other jurisdictions and see a shift towards least restrictive decision making for persons with impaired decision-making capacity.

# **Key Performance Indicators, budget and resourcing**

The Department of the Attorney-General and Justice provide funding and corporate support to the Public Guardian and Trustee. In 2022–23, \$5,944,000 was allocated to the Public Guardian and Trustee for administrative functions and personnel. This is a decrease of 3 per cent from the allocated budget of the previous financial year.

At 30 June 2023 the Public Guardian and Trustee had 44.86 full-time equivalent (FTE) positions.

#### **Key Performance Indicators**

The Public Guardian and Trustee's performance in 2022–23 has been placed against the forecast estimates published in Budget Paper No. 3.

Outcomes for 2022–23 exceeded budget estimates for the number of represented adults with face-to-face contact throughout the reporting period, representing a 6 per cent increase on the forecasted estimates. This reporting period continued to see an increase (3%) in the number of individuals with guardianship orders, which highlights the growing need for decision-making support for people with disabilities in the Territory (Table 1).

Table 1: Key Performance Indicators against forecast estimates, Budget Paper No. 3

	2021-22 Budget	2021-22 Actual	2022-23 Budget	2022–23 Actual
Number of individuals under adult guardianship	1232	1261	1319	1304
Percentage of represented adults with face-to-face contact	65%	64%	60%	66%
Estates and trusts under management	1100	1253	1320	1281

### Our people

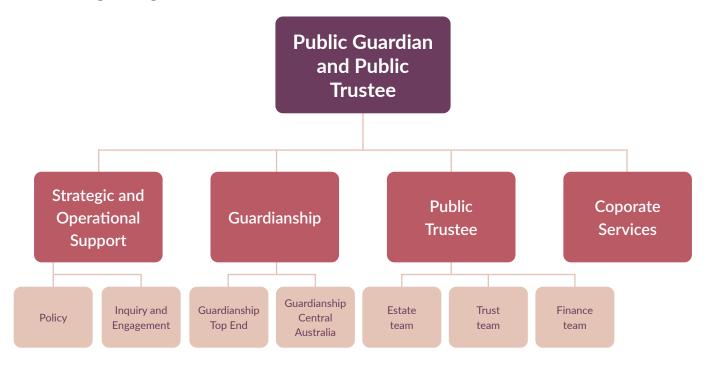


Figure 1: Organisational structure

Strategic and operational support is provided by dedicated teams under our Coporate Services, Policy and Inquiry and Engagement business streams. Guardianship services operate functionally as a unified business stream under Guardianship Top End and Guardianship Central Australia, reflecting the location

of our staff and offices in the Northern Territory. Public Trustee services are provided by our Estate, Trust and Finance teams, located centrally in Darwin. All business streams engage with information, education, advocacy and research initiatives under the leadership of the Executive Management team.

Table 2: Functions and responsibilities

Whole of organisation		
Information and education	Advocacy and research	
promote guardianship, trust and estate knowledge and best practice through targeted resources and information campaigns	<ul> <li>advocate on behalf of represented persons</li> <li>protect and promote rights through systems advocacy</li> </ul>	
<ul> <li>undertake community engagement and education activities</li> </ul>	promote access to support services for represented persons, guardians, families and	
develop and disseminate guardianship, trust and estate information materials	<ul><li>carers</li><li>undertake research into relevant issues</li></ul>	

Strategic and Operational Support			Guardianship
Coporate Services	Policy	Inquiry and Engagement	Guardianship Top End & Central Australia
<ul> <li>provide corporate leadership and support</li> <li>be the first point of contact for enquiries</li> <li>manage business administration and ICT systems and processes</li> </ul>	<ul> <li>develop policies and procedures</li> <li>undertake stakeholder engagement</li> <li>prepare submissions, briefs and reports</li> <li>quality improvement activities</li> </ul>	<ul> <li>inform NTCAT decisions</li> <li>provide guidance and information to private guardians and interested parties</li> <li>conduct guardianship investigations</li> </ul>	<ul> <li>act as a decision-maker for represented persons when appointed by the NTCAT or appointed by a person in their Advance Personal Plan</li> <li>provide an after-hours service for represented persons, guardians, caregivers and stakeholders</li> </ul>

Public Trustee			
Trust team	Estate team	Finance team	
* manage trusts for minors and represented persons	<ul> <li>administer estates when appointed as executor</li> </ul>	* daily processing of asset and payment transactions	
* manage restrained and forfeited property	* administer estates when no one else is willing or able	financial, investment and taxation management and	
act as attorney or agent when appointed by the person	provide a will making and storage service	reporting  * maintain a register of wills and Advance Personal Plans	

#### **Human Resource Management**

The Public Guardian and Trustee had a staffing of 44.86 FTE as at 30 June 2023, located across our Darwin and Alice Springs Offices. This staffing was made up of professional and administrative staff, with staff in the administrative stream accounting for the majority (N=34) of our staff (Table 3).

Table 3: Staffing breakdown

	Staff	%
Administrative stream	34	72
Professionals stream	13	28
Male	8	17
Female	39	83
Culturally and Linguistically Diverse	13	28
Aboriginal and/or Torres Strait Islander	4	8.5

The Guardianship team, which undertakes lifestyle decision-making for represented people was the largest team within the Public Guardian and Trustee, employing 28 per cent of our workforce and is where the majority of our professional stream employees are located. This is closely followed by Coporate Services with 21 per cent of our workforce.

#### **Our teams**

#### **Coporate Services**

The Coporate Services team supports Public Guardian and Trustee reporting and business administration functions and provides the first point of contact for telephone and in person enquiries. Its responsibilities include client systems development and management, corporate and client communications and people, and organisational development.

A key focus in 2022–23 in conjunction with the amalgamation of the offices of the Public Trustee and Public Guardian was the initiation of detailed mapping of Public Trustee business systems and processes to assess current practices and understand system development needs. A number of broader systems modifications were implemented during the reporting period to increase and streamline existing reporting capabilities.

The Coporate Services team also manages our 1800 telephone service during business hours, with 57321 calls received in 2022–23.



#### **Policy**

The Policy team supports the work of the Public Guardian and Trustee through the development of policy and practice guidelines, tools and information to guide internal operations; informational materials to support community education and awareness; and submissions and representations to commissions, committees and inquiries.

Our key information products include fact sheets, a guide for private guardians and our annual report. These information products are available in print formats and via our website, which provides guardianship information in accessible formats and links to additional resources.

During the year, the Policy team provided written responses to calls for submissions related to the following:

- Capability and Culture of the NDIA, Joint Standing Committee on the National Disability Insurance Scheme (December 2022)
- Review of the National Disability Insurance Scheme (Authorisations) Act 2019 and the role of the NT Senior Practitioner.
- Exposure Draft Anti-Discrimination Amendment Bill 2022
- Exposure Draft Criminal Justice Legislation Amendment (Sexual Offences) Bill 2023

The Policy team additionally undertook a significant body of work to support the Public Guardian and Trustee in responding to a number of recommendations provided by the Auditor-General as part of the annual audit process. These included the development of procedures, guidelines and risk management frameworks to strengthen our governance structure and enhance our service provision to clients.

Policy and practice guidelines finalised during the year addressed: complaints management; health care decisions, finance procedures; conflict of interest; reassessments; property valuations; and initial and annual visits. A number of policy and practice guidelines were commenced in the reporting period and are ongoing. The Policy team compiled ministerial documents, contributed to the preparation of estimate briefs and produced the *Public Guardian and Trustee Annual Report* 2021–22.

#### **Inquiry and Engagement**

The Public Guardian is a party to all guardianship matters in the Northern Territory. Inquiry and Engagement team members are authorised delegates of the Public Guardian and act in relevant matters before the Northern Territory Civil and Administrative Tribunal. The team's functions are distinct from the functions of the Guardianship team and Adult Guardianship Officers, who act on behalf of represented persons when appointed by the Northern Territory Civil and Administrative Tribunal.

Inquiry and Engagement team functions are managed centrally through the Public Guardian and Trustee's Darwin office. The team's primary role is to undertake comprehensive inquiries in regards to guardianship applications, ensuring that, where possible, all family and interested parties are made aware of the guardianship application. To enhance the capability of the team in this area, work is currently being undertaken to further develop the internal expertise of team members and build relationships with external stakeholders to assist in the process of identifying and locating family at key points throughout the cycle of guardianship.

The team is also instrumental in the provision of guidance and support to all parties in relation to the guardianship application, including current and prospective private guardians, the person who is the subject of the guardianship application or order and other parties with an interest in the matter. Additionally, the team supports other functions of the Public Guardian and Trustee through undertaking inquiries relating to deceased represented persons and their estates.

In 2022–23 the Inquiry and Engagement team addressed 295 public inquiries with the majority of these relating to guardianship applications and the remainder seeking information in respect of Advance Personal Plans, the registration of interstate orders or other matters. The team also conducts investigations when directed by the Northern Territory Civil and Administrative Tribunal.

#### Guardianship

As delegates of the Public Guardian, Adult Guardianship Officers act as advocates and decision-makers for represented persons in areas as specified in a guardianship order or in the represented person's advance personal plan. Their role is limited to advocacy and decision-making and excludes whole-of-life case management and day-to-day care.

Adult Guardianship Officers decisions under a guardianship order are guided by our Decision Making and Recording Policy and Procedure. In 2022–23 Adult Guardianship Officers made 1558 decisions on behalf of represented persons with the majority of these decisions being for health care matters (N=1061).

Consistent with the National Standards of Public Guardianship, Adult Guardianship Officers endeavour to meet with represented persons and those providing formal and informal supports either face-to-face or via video conferencing annually to discuss the person's current views and wishes and assess their circumstances.

The Guardianship team also manages our 1800 telephone service out of business hours, which is staffed by an on-call Adult Guardianship Officer. The after-hours service responds to urgent requests for immediate information or urgent decisions requiring input or actioning by Adult Guardianship Officers. In 2022–23, our after-hours team responded to 1844 calls.

#### **Trust team**

The Trust team manages minor beneficiary trusts in accordance with the Trustee Act 1893 and provides financial management services to persons where the Public Trustee is appointed as financial manager under a guardianship order, Advance Personal Plan or Court order. The team is also responsible for the management of trusts created for the purposes of holding money in accordance with the Personal Injuries (Liabilities and Damages) Act 2003. In 2022–23, 1195 trusts were under Public Trustee administration. The team also manages and, where required, disposes of property and monies that are seized in accordance with the Criminal Property Forfeiture Act 2002 and manages funds held in accordance with section 32H of the Personal Injuries (Liabilities and Damages) Act 2003.

#### **Estate team**

The Estate team provides a will-making and storage service for eligible members of the Northern Territory community, and administers the deceased estates both of persons who have appointed the Public Trustee as executor in their will in accordance with the *Administration and Probate Act 1969* and persons who die intestate if there is no next of kin willing or able to do so. The Public Trustee will also administer an estate when ordered by the Supreme Court.

In the 2022–23 reporting period, the Estate team prepared 173 wills and finalised 50 deceased estates. As at 30 June 2023, 239 active deceased estate files were being managed by the Estate team.

#### Finance team

The Finance team supports Public Trustee financial, administration and reporting functions. The team manages Public Trustee Common Funds to maximise investments according to need and circumstance on behalf of clients, provides advice, information and secretariat support to the Public Trustee Investment Board and ensures financial reporting and client Australian taxation obligations are met.

The team processes financial transactions payable to trust clients, beneficiaries of deceased estates and vendors, and works closely with the Trust team to ensure that the management of client funds and accounts responds appropriately to their situation. The team additionally is responsible for maintaining the Registers of wills and Advance Personal Plans lodged with the Public Trustee for safekeeping.

#### Recognising organisational capability

The Public Guardian and Trustee is committed to life-long learning. We recognise the importance of professional development opportunities to progressing individual and corporate goals and value staff achievements.

During the year, staff were provided with a range of training and professional development opportunities to expand their learning. These included workshops on managing complex behaviour, human rights, restrictive practice authorisation within the NDIS, the Royal Commission into Violence Abuse, Neglect and Exploitation of People with Disability. Our teams also undertook mandatory training in relation to the Northern Territory Public Service Code of Conduct, Appropriate Workplace Behaviours, Foundational Cross Cultural Training and Introduction to Independent Commissioner Against Corruption.

Relevant staff were assisted also to attend workshops and training in specific areas including financial management systems, work health safety and incorporating human rights into disability. Two staff were supported to undertake accredited education and training in accordance with our study assistance policy and by-law 41 under the Northern Territory *Public Sector Employment and Management Act 1993*.

### **Advocacy**

The Public Guardian and Trustee is committed to its mandate under the Guardianship of Adults Act 2016 to advocate for best outcomes for people with impaired decision-making capacity. The guiding principles of these frameworks align with the United Nations Convention on the Rights of Persons with Disability and are embedded into our everyday practices as we work collaboratively with our key stakeholders.

The Public Guardian and Trustee continued its advocacy efforts at both the individual and systemic level throughout the reporting period working closely with community, non-government and government organisations on initiatives across the health, aged care, disability and justice sectors to ensure that human rights and fundamental freedoms of represented persons living in the Northern Territory are not only upheld but protected and promoted.

### National Disability Insurance Scheme

Positive impacts continue to be experienced by many participants, with our team working collaboratively with the National Disability Insurance Scheme (NDIS) and service providers to come up with innovative solutions to challenging situations. However, participants from remote and very remote communities, the majority of which identify as Aboriginal, experience inequitable access to appropriate housing, services and supports. The lack of housing and services often necessitates the relocation from homelands to access appropriate services, which breaks the connection to Country and Kin, fundamental elements of Aboriginal culture and wellbeing.

We continue to advocate for NDIS plans to include adequate funding for Return to Country for these participants. However National Disability Insurance Agency (NDIA) decision makers often fail to see the importance of funding for this purpose, highlighting a lack understanding by the NDIA decision maker of the participant's specific needs. Additionally, the decision makers level of understanding of cultural and Territory specific issues further impacts on plan funding.

Further exacerbating this issue is the too frequent turnover of staff within the NDIA and lack of flexibility and knowledge which is reflective of the complex and bureaucratic nature of the operational processes implemented by the NDIA. These issues and others formed part of the written and oral evidence provided by the Public Guardian at hearing 25 of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People Disability. As Public Guardian for the Northern Territory, Ms Walker's testimony provided the Commission with a first-hand account of the issues faced by Territorians, especially those living in remote and very remote communities, and the need for Aboriginal people to be actively involved in developing the solution to culturally specific issues.

We further conveyed our concerns regarding these issue to the Joint Standing Committee on the National Disability Insurance Scheme in our recent submission to their inquiry on the Capability and Culture of the NDIA. Based on these observations we provided a number of recommendations for change within the NDIS including:

- develop the capability and culture of the NDIA and improve participants' experiences including a supported decision making framework being legislated within the NDIS,
- \* the adoption of a more decentralised decision making model within the NDIA,
- initial and ongoing training for NDIA staff in relation to different types of disability, human rights and cultural competency and safety,
- the inclusion of funding for cultural advisors and return to country trips for Aboriginal participants
- systemic process changes to address areas of concern.

These and many other concerns relating to the NDIS are recognised nationally and have formed part of the issues explored during the NDIS Review. Established in October 2022, this significant review comes ten years since the implementation of the NDIS and seeks to explore issues related to the sustainability, operations and design of the NDIS alongside those related to market and workforce.

The Review Panel has undertaken extensive consultation with participants, their families and other stakeholders in order to identify areas for improvement and how the scheme can be altered to meet the expectations of the end users whilst ensuring the sustainability of the scheme.

In June 2023, the Review Panel published an interim report outlining its findings in the first six months of it investigations. The report highlighted how the NDIS has positively impacted the lives of participants, however this has not been without complexities and challenges. The report further outlines five key challenge areas identified by the Review Panel that need reform to improve outcomes for people living with disability in Australia.

Over the next six months the Review Panel will be looking at solutions focused outcomes to a further 10 issues that have been brought to their attention by participants and their families throughout their extensive consultations. The Public Guardian and Trustee welcomes this review and its recommendations to enhance the existing scheme to better support participants and their families, reduce the bureaucratic nature of the scheme and increase autonomy for users.

In March 2023, the Public Guardian and Trustee contributed to a collaborative submission provided by Public Guardians and Advocates in relation to the NDIS Review. This submission highlighted areas of concern across six areas of potential reform, with 18 recommendations for scheme improvement outlined. These recommendations focus on improving the wellbeing of participants, with a specific focus on those utilising guardianship services.

Alongside these issues we continue to observe the trend of increased requests by NDIA staff for additional documentary evidence from allied health professionals in cases where there is already supporting evidence of the participants needs. This results in plan funding being diverted to pay for these assessments and reducing the funding that can be utilised to support the participant in their day-to-day life. Given the limited number of allied health therapists in the Northern Territory this puts further demand on an already scarce resource, and may mean that interstate therapists using video conferencing have to be utilised as a last resort.

The ongoing reductions in funding in participants' plans, specifically in the areas of Support Coordination, Supported Independent Living and Community Access further compound this situation. Reductions in plan funding undermines the purpose of NDIS by removing choice and control especially for what are reasonable and necessary supports. This further creates uncertainty for participants reliant on the scheme for day-to-day living supports, exacerbating their vulnerability status within the community. These reductions then lead to requests for review due to areas within the plan being exhausted from being inadequately designed in the first instance.

The Public Guardian and Trustee continue to advocate for appropriate plan funding to ensure represented persons are able to access appropriate supports, including the addition of funding for capacity building to increase represented persons financial literacy, self-advocacy and supported decision making skills. Such targeted support would increase the independency of the participant and in some cases remove the need for a guardianship order to be in place. It is the view of the Public Guardian and Trustee that anyone involved with the Public Guardian and Trustee for either personal and/or financial decision making should be entitled to have these supports funded in their NDIS plan to facilitate increased autonomy in these very important areas.



#### Charles

Charles is a young man with complex psychosocial and substance use issues resulting in an increased level of vulnerability with instances of financial abuse occurring.

This combined with his substance use issues resulted in Charles often going without food triggering a decline in both his physical and mental health necessitating an inpatient stay in a secure mental health ward for an extended period of time.

While in hospital his treating team made an application for guardianship to assist Charles make decisions that would assist him on his journey towards improved physical and mental health.

Due to the complexities of his social situation, the Public Guardian and Public Trustee were appointed for lifestyle and financial decision making.

To ensure that Charles had the appropriate supports and accommodation in place at time of discharge, his Adult Guardianship Officer submitted an application for an urgent review of his NDIS plan.

Once his physical and mental health stabilised, Charles transitioned to supported accommodation specific to his needs. During this time his Adult Guardianship Officer worked closely with his supports to secure a placement with a Supported Independent Living accommodation provider.

Some issues arose during the transition to Supported Independent Living, but an increase in NDIS funding providing access to additional supports helped Charles to settle into a routine and explore some positive interests including fishing. He is building rapport with his support team and is now happy with where he is living.

Charles maintains regular contact with family and has reconnected with his brother who also lives nearby and wants to see him on a regular basis.

<sup>\*</sup>This scenario has been created from a series of life stories and does not represent an individual person.

#### Jess

During her final year of schooling Jess reached adulthood and transitioned from out of home care to adult guardianship, with the Public Guardian appointed for lifestyle decisions and the Public Trustee for financial matters. Prior to this transition period accommodation had been sourced for Jess through NDIS, however this arrangement fell through necessitating her Adult Guardianship Officer to urgently source housing to suit Jess's needs.

Jess's impairment meant that she had specific requirements for her accommodation and careful consideration was needed to ensure she was provided appropriate housing and supports.

Through a number of stakeholder meetings Jess's Adult Guardianship Officer and service providers worked together to identify an accommodation provider that was able to meet Jess's complex needs and provide her stability to complete her studies.

Jess has settled into her new accommodation and is working hard to complete her year 12 studies.

# **Embedding support for decision-making**

As part of our decision-making process, our Adult Guardianship Officers record all decisions made in relation to personal guardianship within in our information management system. As part of this recording process, our Adult Guardianship Officers document whether or not the decision aligns with the known, or previously expressed, views and wishes of the represented person.

An analysis of our data shows that of 716 complex and non-complex decisions made in the reporting period, only 18 of the decisions were recorded as not aligning with the represented person's known views and wishes. The majority of these 18 decisions were health care related and critical to the health and wellbeing of the represented person.

As evidenced, the vast majority of decisions were aligned with the views and wishes of the represented person, which is testimony to the work of our office in embedding support for decision-making principles within our guardianship practice while meeting our obligations and the principles under the *Guardianship of Adults Act 2016*. This is consistent with the shift to supported decision-making that is occurring nationally and internationally.



<sup>\*</sup>This scenario has been created from a series of life stories and does not represent an individual person.

#### Restrictive practices

Following the 2021 decisions of the Supreme Court and Northern Territory Civil and Administrative Tribunal regarding restrictive practices, we implemented a temporary framework for responding to requests for restrictive practices. This framework involved the analysis of all requests by the Director Guardianship and Legal Policy Officer to confirm if the requested restrictive practice fell within the authority of a guardian and if it did, whether there was sufficient information and evidence to support a recommendation that in accordance with the guardianship principles consent should be provided for the use of the practice. This temporary framework has allowed us to monitor the types of requests being made, the sector's ability to provide supporting documentation and the relevant considerations for different types of requests.

This is a continually evolving practice and we are currently considering the development of policies and procedures to support a more sustainable framework for the consideration of requests.

Requests for the use of restrictive practices come from a variety of industries including health and aged care sectors. The Public Guardian and Trustee works with these key stakeholders to reduce the use of restrictive practices. Over the last 12 months, the Public Guardian has meet with the Aged Care Quality and Safeguards Commission to discuss the use of psychotropic medication in the Northern Territory and identify opportunities for collaborative projects to reduce its usage. The Public Guardian and Trustee also contributes to the National Working Group (Restrictive Practices and Consent in Aged Care) which is considering the consent requirements for the use of restrictive practices in residential aged care.

In the last 12 months there have been 65 decisions relating to restrictive practices requested. The majority of these were for the use of chemical restraint. There were no applications made to NTCAT under section 35 of the *Guardianship of Adults Act 2016* for the use of restrictive practices.

The authorisation for the use of restrictive practices for NDIS participants in the Northern Territory falls under the jurisdiction of Northern Territory Senior Practitioner. This role provides independent oversight and monitoring for the use of restrictive practices by NDIS providers. The Public Guardian and Trustee continues to advocate for this independent oversight and monitoring framework to be applied across all sectors including aged care, health, justice and education.

#### Aged care

The aged care sector and the services provided to elderly Territorians are of high importance to the Public Guardian and Trustee, with over 31 per cent of persons where the Public Guardian is appointed for lifestyle decision eligible for aged care services.

Long wait times for aged care placements are still a significant issue, with services continuing to be limited in all regions but especially remote communities resulting in relocation to regional centres to access appropriate supports. It is however, exciting to see some change occurring in this area with the opening of a purpose built residential aged care facility in Nhulunbuy which is providing opportunities for elderly people to remain on Country.

The aging population is increasing the need for additional aged care supports and services, resulting in a significant number of persons residing in hospital who are medically fit for discharge but awaiting an aged care placement or implementation of appropriate in-home care services prior to discharge.

#### Tilly

Tilly is a young woman living with an acquired brain injury as a result of an accident which limited her ability to communicate, mobilise and make informed decisions which necessitated the appointment of an adult guardian.

Tilly required 24/7 care resulting in her living in an aged care facility away from her homelands. Due to her age this placement did not meet her social and emotional needs. In addition, due to the complexity of her situation she has not been able to undertake any Return to Country visits and has not been able to connect with her family.

Tilly's Adult Guardianship Officer noticed an increase in behaviours of concern which indicated a decline in her mental and emotional health. After discussions with staff at the aged care facility and Tilly's Support Coordinator, her guardian submitted a request to review her NDIS plan to gain funding for Supported Independent Living accommodation and an increase in allied health supports.

The request was approved by the NDIA and her plan funding now matches her needs. Tilly has moved into new accommodation and is supported by carers and allied health professionals to improve her mobility and communication skills.

Tilly is now able to move around her house with a walking stick, though still requires the use of a wheelchair when going on outings. Her ability to communicate has increased with the help of visual aids and her iPad.

Tilly has now increased her capacity to undertake activities of daily living, including preparing snacks and simple meals. Her increased independence has seen an improvement in her mental and emotional health which has reduced the behaviours of concern.

With this increase in independence, Tilly is now able to go and visit family back in her home community and rebuild familiar connections. She is also engaging in social groups with other people of a similar age.

# Interface with the justice system

Persons with cognitive impairment and disability are overrepresented in the adult justice system either through having charges laid against them or as a result of being the victim of a crime.

In the Northern Territory, a represented person who commits a crime may be found fit to plead or, if it is deemed that they meet the criteria under Part IIA of the *Criminal Code Act 1983*, found unfit to plead. The majority of persons found unfit to plead will live with mental illness, acquired brain injury or intellectual disability along with comorbidities which necessitate increased supports while in prison and upon release to ensure a streamlined transition to community life.

The Public Guardian and Trustee continues to advocate to ensure that represented persons receive the necessary supports while incarcerated and that appropriate services are in place prior to their release to safeguard their interests and reduce the rates of recidivism amongst this cohort. The Public Guardian and Trustee works closely with Northern Territory Correctional Services, Forensic Disability Unit, the NDIS and other disability support agencies to ensure that a holistic approach to care and support is provided.

During the reporting period 6 represented persons were serving a prison sentence and 19 represented persons were under a Part IIA order. Of those under a Part IIA order, 17 were being supported in the community and the remaining 2 were in prison.

<sup>\*</sup>This scenario has been created from a series of life stories and does not represent an individual person.

#### Housing

Housing options for people living with disability continue to be limited in the Northern Territory, with suitable accommodation options for represented persons in both regional, remote and very remote areas limited due low availability of public housing and no specialist disability accommodation options available. The high cost of housing in the private rental market means that this option is not available for the majority of represented persons.

Some movement has been occurring in the housing sector with a number of state-of-the-art purpose built specialist disability accommodation being developed in Darwin, Katherine and Alice Springs. There remains however, an ongoing urgent need for specialist disability accommodation in remote and very remote areas to enable access to Supported Independent Living to increase the capacity for culturally appropriate support and the ability for Aboriginal people to remain on Country. This should decrease the number of people from remote communities being forced to move to regional centres to have their support needs adequately met.

To be eligible to access specialist disability accommodation, represented persons are required to undergo formal specialist disability accommodation assessments by an Occupational Therapist which, at

present due to the shortage of qualified assessors in the Northern Territory, can take up to six months to obtain. Further delays are being experienced due to the time it takes for NDIA to provide approvals and the new plan alongside the written Home and Living decision. These delays result in represented persons not being able to access accommodation that would enable an increase in quality of life and independence.

Strategies currently being utilised to support people to access appropriate supports with housing and reduce the impact on the hospital system include the use of short and medium term accommodation options when possible. The use of these accommodations options reduces the impact on the hospital systems when people medically fit for discharge remain inpatients due to the inability to access suitable support and accommodation in the community.

Whilst there remains a gap in the market for functional, safe and accessible housing for people with disability, this gap is slowly closing in Darwin, Katherine and Alice Springs with the addition of new specialist disability accommodation housing being built in the reporting period. It is anticipated that the number of new builds will continue to grow and expand into other regions in the 2023–24 reporting period. The Public Guardian and Trustee will continue to work closely with accommodation providers across the Territory to advocate for the needs of represented persons.



# Northern Territory Disability Strategy

Released in September 2022, the first Northern Territory Disability Strategy 2022–2032 (the Strategy), demonstrates the commitment of the Northern Territory to Territorians living with disability, to fulfilling the Northern Territory's obligation under the United Nations Convention on the Rights of Persons with Disabilities, Australia's Disability Strategy 2021–2031 and the Closing the Gap: Disability Sector Strengthening Plan.

The Public Guardian and Trustee is excited to participate in the working group of Northern Territory Government representatives, contributing to the development of the Strategy and the 2022–2025 Action Plan.

The Public Guardian and Trustee have committed to the following actions across the next three years:

- Review existing practices to ensure culturally safe services for Aboriginal Territorians and undertake a pilot guardianship project with the Northern Australian Aboriginal Justice Agency.
- \* Review all guardianship orders involving the Public Guardian to ensure the human rights of represented persons are being upheld.
- Support and advocate for represented persons involved with the Public Guardian to access the NDIS and for their NDIS plans to be reflective of the needs of the person.
- Develop NDIS support coordinators framework for represented persons involved with the Public Guardian.
- Develop and provide educational material to support private guardians, including newsletters and information sessions.

Our continued participation in the Northern Territory Government representative group has allowed a pleasing insight into the commitment and progress by individual agencies to the Strategy and Action Plan.



# **Excellence in Advocacy and Promotion of Human Rights Award**



proudly sponsored by the Public Guardian and Trustee

The Public Guardian and Trustee was thrilled to be a category sponsor for the 2022 Northern Territory Disability Services & Inclusion Awards. The awards celebrate outstanding commitment and achievement in assisting people with disability to achieve their goals. The awards are open to individuals, businesses, organisations and government departments.

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

The 2022 winner of this award was Alishia Lindsay, Health Ambassador, Down Syndrome Australia & Therapy Aid Assistant, Carpentaria Disability Services.

We congratulate all award winners for their significant contribution over the year!

### **Performance**

## Applications for guardianship orders

Trends for applications in relationship guardianship remained steady across the reporting period with 328 applications submitted throughout the reporting period. (Figure 2).

This is similar to the previous year however, the dynamics of the application types shifted with a

notable increase in the number of applications for new orders (N=168) in comparison to the previous reporting period (N=135), while applications for urgent orders saw a 15 per cent decrease from the 2021-22 reporting period. New and urgent applications accounted for 73 per cent of all guardianship applications lodged in the 2022-23 reporting period (Figure 2). The remaining 27 per cent includes applications to revoke or amend existing orders, register interstate orders and s35 compliance orders.



Figure 2: Number of all applications in relation to guardianship and new and urgent guardianship applications: trends over five years

Consistent with previous years, dementia was the most frequently recorded primary impairment in new and urgent applications (27%). There was a notable increase in the number of applications where the primary impairment was identified as acquired brain

injury (N=25) compared to the previous reporting period (N=11). Neurological disorders, mental illness and intellectual disability collectively accounted for the primary impairment in 40 per cent of applications. (Figure 3).

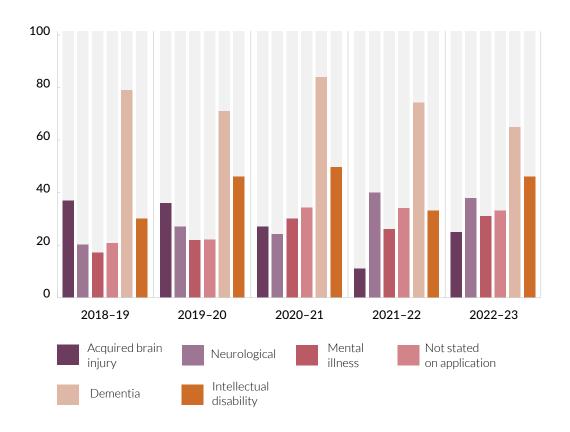


Figure 3: Primary impairment stated on new and urgent applications: trends over five years

Aboriginal persons were identified as the subject in 54 per cent of applications received during the reporting period. This represents a 13 per cent increase relative to the previous reporting period.

Conversely, applications for persons not identifying as Aboriginal (46%) decreased relative to the previous reporting period (59%).

## New and existing guardianship orders

There was no significant shift in the number of new and urgent orders made throughout the reporting period, with Northern Territory Civil and Administrative Tribunal making 187 new and urgent orders compared to 189 in the previous reporting period. Of these 187 new and urgent guardianship orders, 65 appointed the Public Guardian as sole or joint guardian, with 116 appointing private guardians. Of the 65 orders appointing the Public Guardian,

40 also appointed the Public Trustee for financial management. Six new orders solely appointed the Public Trustee, with no guardian appointed for personal matters.

Figure 4 shows a comparison of the number of new orders appointing private guardians to act solely and orders where the Public Guardian is appointed in either a sole or joint capacity. There has been a 22 per cent increase in the number of private guardians appointed solely relative to the previous reporting period, while the number of orders appointing the Public Guardian decreased by 23 per cent.

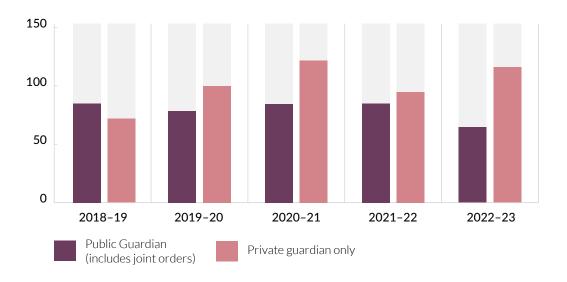


Figure 4: New guardianship orders involving private guardians: trends over five years

In 2022–23, a total of 1304 persons were subject to guardianship orders in the Northern Territory. This represents an increase of 3.5 per cent on the previous year. The Public Guardian was appointed sole or joint guardian in 50 per cent of guardianship orders (N=652) with the remainder of orders appointing private guardians and/or the Public Trustee (for financial management) (N=652) (Figure 5).

The numbers of orders where private guardians and/ or the Public Trustee are being appointed continues to increase each year with a 10 per cent increase from the previous reporting period and a 65 per cent since the 2018–19 reporting period. The Public Guardian and Trustee views the increase in private guardianship as a positive reflection of our efforts to support and encourage family members to assume a private guardianship role.

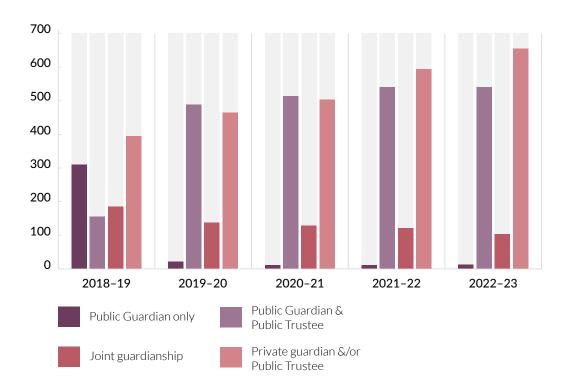


Figure 5: Number of persons with guardianship orders, by guardianship type: trends over five years

Note: 'Joint guardianship' includes Public Guardian with private guardians. May include Public Trustee for financial management

# Advance guardianship orders for young people

The number of applications for advance guardianship orders for young persons with impaired decision-making capacity who had recently turned 17 and are in out of home care has increased by 70 per cent this year, with 17 applications submitted to the Northern Territory Civil and Administrative Tribunal.

Initiating applications earlier provides all parties increased time to respond to the Northern Territory Civil and Administrative Tribunal requests for further documentation and reduces the associated stress for individuals, administrative systems and staff. It also

provides for any matters regarding proposed guardians or other considerations to be heard and resolved in advance of the young person turning 18 ensuring continuity of services and supports through the smooth transfer of decision-making authority for young people as they transition from out-of-home care to adult guardianship.

In 2022–23, 10 guardianship orders for young persons were enacted and the transition from out-of-home care to adult guardianship undertaken. The Public Guardian was appointed as guardian for seven of these young people, with private guardians appointed for the remaining three. The Public Trustee was appointed as financial manager in eight of these matters. (Figure 6).

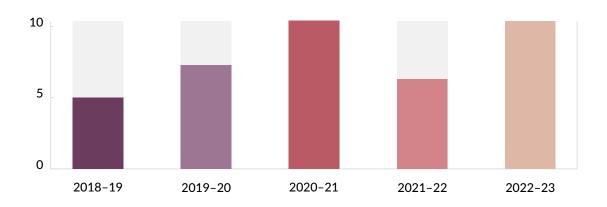


Figure 6: Number of young people transitioning from out-of-home care to adult guardianship: trends over five years

#### **Guardianship decisions**

Adult Guardianship Officers follow a decision making model that emphasises supporting the represented persons to make decisions. This decision making model ensures that the Adult Guardianship Officers seeks to discuss the decision with the represented person and to obtain their views and wishes where possible, however due to the urgent nature of some decisions or the represented person's capacity to engage in discussion relating to the decision this is not always possible. All decisions made in conjunction with or on behalf of a represented person are recorded in our client information system.

In the 2022–23 reporting period 1558 decisions were recorded. This is a decrease from the 2273 decisions

made in the previous reporting period, however this can be attributed to the reduction in the need for decisions relating to COVID-19 vaccinations and boosters.

Of the 1558 decision made, 47 per cent (N=716) related to non-complex or complex matters, with the remaining relating to minor decisions (N=842) (Figure 7).

Only 2.5 per cent (N=18) of 716 non-complex and complex decision did not align with the views and wishes of the represented person, which is a testament to level of advocacy undertaken by the Adult Guardianship Officers.

Majority of the decision made during the reporting period related to health care (N=1061) with accommodation decision accounting for 214 decisions and access to services 210 decisions (Figure 8).

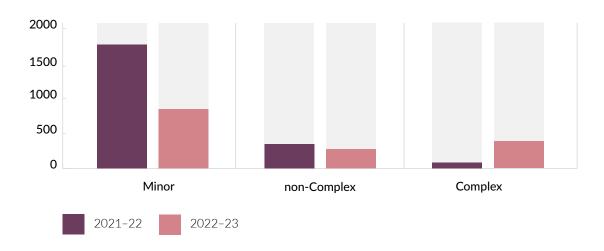


Figure 7: Number of decisions by decision level in 2021–22 and 2022–23

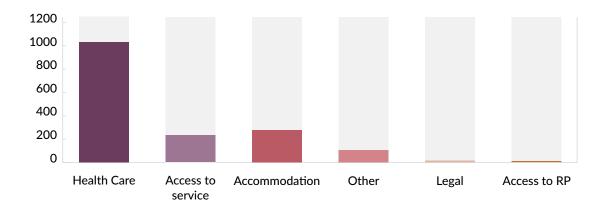


Figure 8: Number of decisions by area of decision in 2022–23

#### **Guardianship by location**

The highest number of persons where the Public Guardian has been appointed for personal decisions reside in the Top End and Darwin regions, collectively accounting for 50 per cent of orders (N=328).

(Figure 9). The location of represented persons in proximity to major regional centres can be attributed to the need for people living with disability to access support services and health care that would not otherwise be available to them in more remote settings.

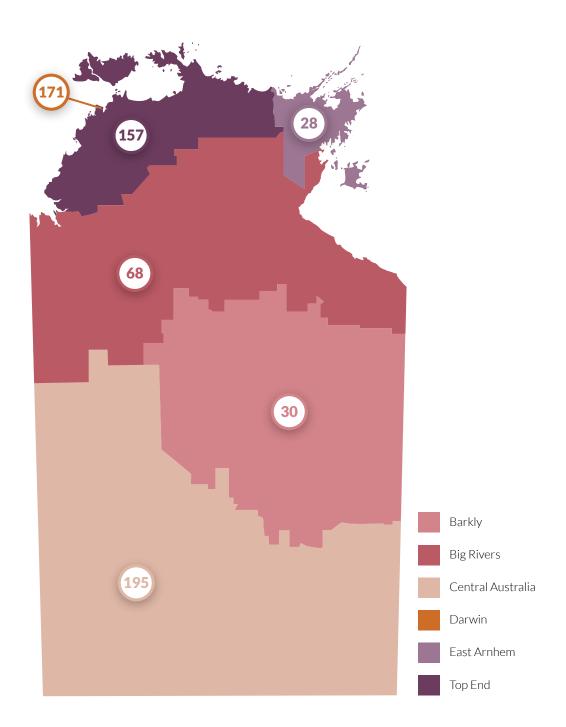


Figure 9: Primary location of persons with guardianship orders where Public Guardian appointed in 2022–23

Note: Three represent persons where the Public Guardian was appointed resided interstate

#### **Guardianship demographics**

Throughout the 2022–23 reporting period the Public Guardian was appointed as guardian to 652 represented persons. Additionally the Public Guardian was appointed as a substitute decision-maker for 8 people in accordance with the *Advance Personal Planning Act 2013*, this is an increase from 6 in the previous reporting period.

The percentage of guardianship orders appointing the Public Guardian for males continues to remain at around 60 per cent, consistent with previous reporting periods. This reflects the Northern Territory's demographic: at 30 June 2022, the Northern Territory had the highest sex ratio of all the Australian states and territories with 103 males per 100 females.<sup>2</sup>

The highest proportion of represented persons with Public Guardian involvement are those in the 65 and over age bracket, accounting for around 30 per cent of all orders (Figure 10). However we continue to see an increasing number of orders for people aged 18–25, with a 44 per cent increase in the number of orders relating to this cohort in the last five years.

Intellectual disability continues to be the most frequently reported primary impairment accounting for 36 per cent of persons with Public Guardian involvement, followed by dementia (23%) and acquired brain injury (19%) (Figure 11).

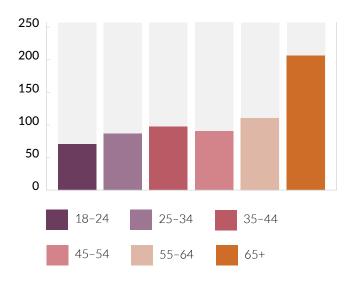


Figure 10: Number of persons with guardianship orders involving the Public Guardian in 2022–23, by age\*

Note: \*Includes sole and joint guardianship

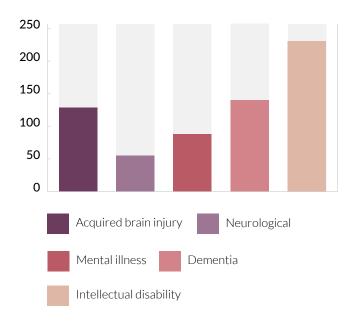


Figure 11: Number of persons with guardianship orders involving the Public Guardian in 2022–23, by primary impairment\*

Note: \*Includes sole and joint guardianship

<sup>&</sup>lt;sup>2</sup> Australian Bureau of Statistics 2022, National, state and territory population, December 2022, data cube, 'Population by age and sex – national', Table 5: Sex ratio–at 30 June, released 15 June 2023, viewed 20 July 2023, https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/dec-2022.

The majority of people involved with guardianship in the Northern Territory identify as Aboriginal (56%) (Figure 12) and account for 76 per cent of represented persons with Public Guardian involvement. (Figure 13).

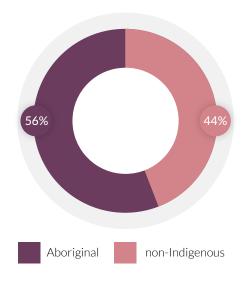


Figure 12: Proportion of represented persons who identify as Aboriginal

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

Conversely, the majority of represented persons who identify as non-Indigenous have private guardians solely appointed (71%) (Figure 13).

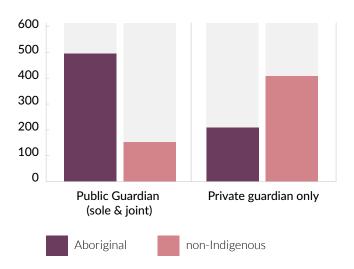


Figure 13: Guardianship type for personal matters in 2022–23, by Aboriginal and non-Indigenous identity

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

# Represented persons and the criminal justice system

In 2022–23, 25 represented persons with Public Guardian involvement were in the criminal justice system either as prisoners or persons subject to Part IIA of the *Criminal Code Act 1983*. Ninety-six per cent of these represented persons were male.

Of these 25 represented persons, 76 per cent (N=19) 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.

Mental Illness (N=11) and intellectual disability (N=11) account for the primary impairment for majority of represented persons who are prisoners or subject to Part IIA of the *Criminal Code Act 1983*.

All represented persons who were prisoners or subject to Part IIA of the *Criminal Code Act* 1983 in 2022–23 identified as Aboriginal. The disproportionate representation of Aboriginal people in the justice system is reflected in data on prisoners in Australia: in the March 2023 quarter, Aboriginal and Torres Strait Islander people accounted for 89 per cent of the total Northern Territory prisoner population<sup>3</sup> and this figure represents a slight increase on 2021–22.

<sup>&</sup>lt;sup>3</sup> Australian Bureau of Statistics 2022, 45120 Corrective Services, Australia, March Quarter 2023, Table 1: Persons in corrective services, summary, viewed 27 July 2023, https://www.abs.gov.au/statistics/people/ crime-and-justice/corrective-services-australia/latest-release.

# Represented persons and NDIS plans

All persons with guardianship orders in place in the Northern Territory have impaired decision-making capacity. Many will also be living with physical, intellectual or other disabilities. As such, the majority of represented persons under the age of 65 who have Public Guardian involvement will be eligible for formal National Disability Insurance Scheme (NDIS) supports. While this is a positive trend, it is the view of

the Public Guardian and Trustee that all people aged 65 and under involved with guardianship should be eligible for the NDIS.

As of 30 June 2023, 95 per cent (N=402) of eligible represented persons with Public Guardian involvement had an NDIS plan in place. The remaining 5 per cent are made up primarily of new orders and are currently undergoing the NDIS application process. This is an excellent result reflecting the efforts of our Adult Guardianship Officers to ensure that represented persons who are eligible for NDIS supports are assisted to have plans in place (Figure 14).

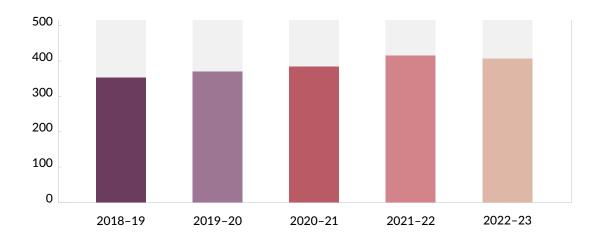


Figure 14: Number of represented persons with Public Guardian involvement and NDIS plans in place: trends over five years

#### **Advance Personal Plans**

Advance Personal Plans provide the opportunity for a person to document their future views and wishes for personal and financial matters in the event that they lose decision-making capacity. It also enables them to appoint one or more substitute decision makers to enact these decisions.

We continue to see an increase in the number of people registering Advance Personal Plans which is a positive trend as it means their views and wishes are recorded and accessible if at any time they lose decision-making capacity (Figure 15).

#### Wills prepared and registered

There has been a slight decrease in the number of wills being prepared by the Public Trustee since the last reporting period, with 173 wills prepared compared to 183 in the previous reporting period (Figure 16). There was an increase of wills registered with the Public Trustee during the reporting period, with 524 new wills being stored. As at 30 June 2023, the Public Trustee held 16272 wills in storage.

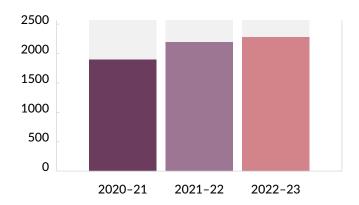


Figure 15: Advance Personal Plans registered with the Public Trustee: trends over three years

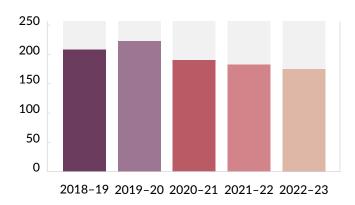


Figure 16: Number of wills prepared by the Public Trustee: trends over five years

#### **Estate administration**

There was a 15 per cent increase in the number of deceased estates administered by the Public Trustee throughout the reporting period (Figure 17). This reporting period saw a 40 per cent increase in the number of new deceased estates being administered by the Public Trustee compared to the previous year. This increase can be attributed to the higher number of estates associated with former trust clients. This increase, alongside our resourcing implications, reduced our capacity to finalise estates, with 50 estates finalised during the reporting period. This is a 32 per cent decrease from the previous reporting period.

#### Management of trusts

In 2022–23, 69 per cent of trusts managed by the Public Trustee were for financial management relating to adults, with 829 trusts relating to financial management orders made in accordance with the Guardianship of *Adults Act* 2016. Minor trusts accounted for 28 per cent of trusts managed by the Public Trustee during the reporting period (Figure 18). As at 30 June there were 1042 active trusts being managed by the Public Trustee, which is fairly consistent with the same time last year.

#### Vehicles and property managed

In addition to the management of finances the Public Trustee also manages non-monetary assets for trust clients, deceased estates and in accordance with the *Criminal Property Forfeiture Act 2002*.

As at 30 June 2023, the Public Trustee managed 56 properties and 27 vehicles.

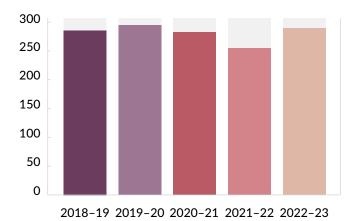


Figure 17: Number of deceased estates under administration by the Public Trustee: trends over five years

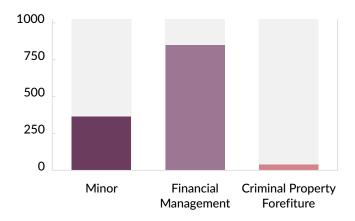


Figure 18: Number of trusts under management by the Public Trustee in 2022–23, by trust type

### 2023-24 priorities



#### **Improving Customer Experience**

- Delivering person-centred services
- Seek feedback from stakeholders to improve service quality and standards



#### **Workforce Experience**

- Support existing workforce through effective change management and communication strategies
- Encourage and support continuing professional development for all staff



#### **Quality Improvement**

- Streamline services to ensure efficient use of resources to provide high-level client services
- Review, amend and enhance existing policy and identify priority policy for development
- \* Implementation of the Health Care Decision Making legislation



#### **Systems Improvement**

- \* Enhancement of existing electronic information systems to provide comprehensive data collection and reporting
- Commence transition to electronic document filing systems for minor trusts to streamline processes



#### **Practice Improvement**

- Develop internal practices to enhance services to represented persons and private guardians
- Develop an action plan to implement recommendations arising from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

