



Government of **Western Australia**
Department of **Justice**



Office of the
Public Advocate

*Protecting the human rights of adults
with a decision-making disability*

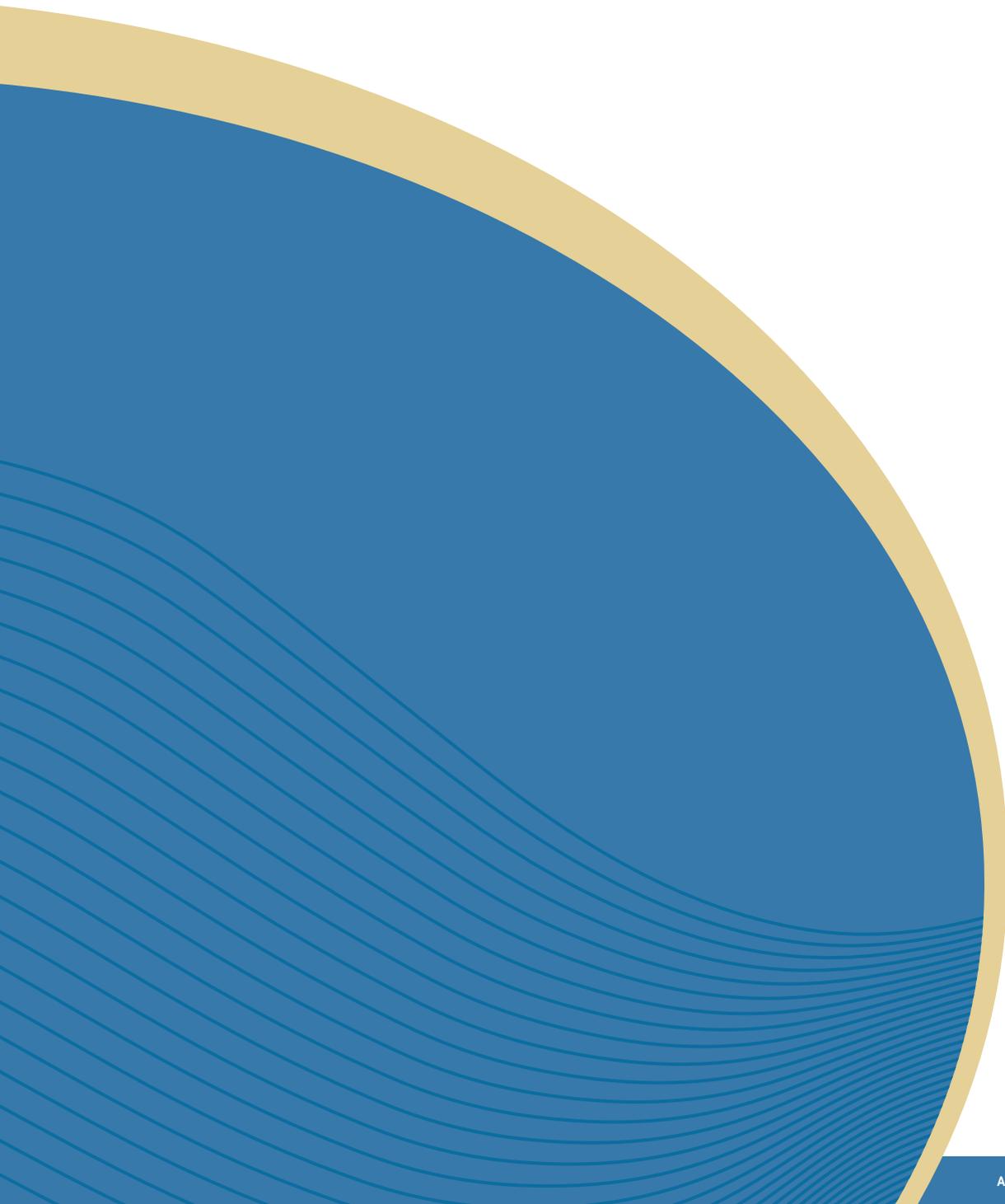
Annual Report 2023/24

The Public Advocate of Western Australia

Acknowledgement of Country

The Office of the Public Advocate respectfully acknowledges the Traditional Custodians of the land as being the first people of this Country. We embrace the vast Aboriginal cultural diversity throughout Western Australia and recognise their continuing connection to Country, water and sky.

We pay our respects to Elders past, present and emerging.



Hon. John Quigley MLA
ATTORNEY GENERAL

In accordance with section 101(1) of the *Guardianship and Administration Act 1990* of Western Australia, I am pleased to submit the Annual Report of the Public Advocate for the year ending 30 June 2024.

This report records the operations and performance of the Office of the Public Advocate during 2023/24. It outlines the issues and general trends impacting upon the human rights of Western Australian adults who have a decision-making disability and come into contact with this Office.

In 2023/24, the Office of the Public Advocate reported on financial and administrative matters to the Director General of the Department of Justice.

Pauline Bagdonavicius

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PUBLIC ADVOCATE
3 September 2024

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Overview

The Year in Review

2023/24 saw the Office of the Public Advocate enter its fourth decade of operation, with October 2023 marking 31 years since establishment. The Office experienced increased demand for its statutory services of ‘advocacy and investigation’ and ‘guardianship’ once again this year, set against a backdrop of reform momentum, with the Office gearing up for what is likely to be the most significant overhaul of its underpinning legislation, the *Guardianship and Administration Act 1990*, since it was enacted.

Following the Public Advocate’s involvement in the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) in 2022, the Commission delivered its final report to the Australian Government in September 2023. The report includes a number of recommendations which will involve significant amendments to WA’s *Guardianship and Administration Act 1990* if they are accepted and implemented. The introduction of formalised supported decision-making and a shift from the ‘best interests’ principle, to a ‘will and preferences’ model, are two of the most substantial potential changes.

In 2023/24 the Office’s advocacy and investigation team looked into 3,034 matters where there was concern someone may need a guardian and/or administrator appointed. This was a 10 per cent increase from 2022/23 when a total of 2,746 investigations were carried out.

At 30 June 2024 the Public Advocate was appointed as guardian for 3,598 adults, compared to 3,351 adults at 30 June 2023, representing a seven per cent increase, and compared to the 2,463 adults at 30 June 2020, it represents a 46 per cent increase.

At 30 June 2024 mental illness accounted for the largest proportion (33 per cent) of all Public Advocate guardianship appointments, with intellectual disability accounting for 27 per cent, and dementia accounting for 24 per cent. Prior to 2018, dementia consistently accounted for the largest proportion of total appointments of the Public Advocate as guardian. However, mental illness and intellectual disability have steadily risen to replace dementia, accounting for the highest number of appointments.

Growth in guardianship appointments of the Public Advocate for adults with mental illness and intellectual disability continue to be driven by the National Disability Insurance Scheme (NDIS) roll-out, along with a growing prevalence of mental illness across the community. In order to achieve better outcomes for these represented persons, there is an ongoing need to engage in support through the NDIS, meaning these appointments are likely to continue to rise.



There was a focus on accessibility in 2023/24, with the development of a dedicated accessibility webpage on the Office's website and the creation of an Easy Read banner on the homepage to make it easier for users to navigate directly to the Office's suite of Easy Read publications. Two new Easy Read publications were developed this year and the Office's suite of translated publications continued to grow.

Significant policy work was undertaken by the Office throughout the year, with the Public Advocate attending or represented on numerous working groups and committees across the disability and aged-care sectors.

Having secured \$4.321 million in funding through the Digital Capability Fund, the Office undertook an intensive tender process in 2023/24 to identify a suitable off-the-shelf cloud-based Case Management System (CMS).

The Office delivered 24 community education sessions in 2023/24 and addressed 5,957 enquiries to the telephone advisory service.

Acknowledgements

The Office's investigator advocates; guardians; administration, project, policy and community education officers; and managers continued to work collaboratively to protect vulnerable adults with impaired capacity in Western Australia.

Given the complex and challenging nature of our work, OPA staff consistently work with empathy, expertise and resilience, supporting each other to protect and promote the best interests of adults with decision-making disability.

The Office's Community Guardianship Program was supported by 11 volunteers this year. This small, committed group generously give their time and energy to make a difference in the community. Their contribution is very much appreciated.

I also wish to acknowledge the generous support received from the Department and other agencies, as well as the many key stakeholders we have collaborated with over the past twelve months. It has been a year of change and growth, and these relationships are integral to the Office's continued success in delivering advocacy, investigation and guardianship services to the Western Australian community.

Pauline Bagdonavicius

Pauline Bagdonavicius PSM

PUBLIC ADVOCATE

Overview of the Agency

Operational Structure

The Public Advocate is an independent statutory officer appointed by Government under the *Guardianship and Administration Act 1990* which is:

“An Act to provide for the guardianship of adults who need assistance in their personal affairs, for the administration of the estates of persons who need assistance in their financial affairs, to confer on the State Administrative Tribunal jurisdiction in respect of guardianship and administration matters, to provide for the appointment of a public officer with certain functions relative thereto, to provide for enduring powers of attorney, enduring powers of guardianship and advance health directives and for connected purposes.”

In 2023/24 the Office of the Public Advocate reported on financial and administrative matters to the Director General of the Department of Justice. In accordance with this arrangement, the financial statements of the Office are published in the Department’s annual report.

In addition to the *Guardianship and Administration Act 1990* (WA), other legislation applies to the Office of the Public Advocate (see Appendix 1).

Mission

To protect and promote the human rights of adults with a decision-making disability to reduce their risk of abuse, exploitation and neglect.

A person’s ability to make reasoned decisions in their own best interests can be affected by an intellectual disability, dementia, a mental illness or an acquired brain injury.

Functions

Section 97 of the *Guardianship and Administration Act 1990* sets out the primary functions of the Public Advocate. They include:

- investigation of concerns about the wellbeing of adults with a decision-making disability and whether there is a need for an application for a guardian or administrator to be appointed
- investigation of applications made to the State Administrative Tribunal to assist it to determine whether a guardian or administrator should be appointed
- guardianship (for personal, lifestyle, treatment and medical research related decisions) when the State Administrative Tribunal determines that there is no one else suitable, willing and available to be appointed as the person’s guardian
- information, advice and education on how to protect the human rights of adults with a decision-making disability through the *Guardianship and Administration Act 1990*.

Values

Five principles set out in section 4 of the *Guardianship and Administration Act 1990* guide the Office of the Public Advocate in the provision of all services. Broadly they are:

Presumption of competence

Every person is presumed to be capable of managing their own affairs and making reasonable judgements about themselves, their safety and their finances unless this is proved to the contrary.

Best interests

The primary concern is the best interests of the person with the decision-making disability.

Least restrictive alternative

A guardian or administrator is only appointed when a person's needs can no longer be met in a less restrictive way, without impacting on their freedom of decision and action.

Limited versus plenary

The authority of an appointed guardian or administrator will be limited to those areas in which the person with a decision-making disability needs decision-making support.

Current wishes and previous actions

The views and wishes of the person concerned are sought to the extent possible and expressed in whatever manner, either at the time or gathered from the person's previous actions.

Stakeholders

The Office of the Public Advocate's primary stakeholders are adults with a decision-making disability. A decision-making disability can result from an intellectual disability, a mental illness, dementia, or an acquired brain injury.

Of the 3,598 adults for whom the Public Advocate was appointed as guardian at 30 June 2024, 33 per cent had a mental illness, 27 per cent had an intellectual disability, 24 per cent had dementia, 14 per cent had an acquired brain injury and two per cent had some other form of decision-making disability.

Prior to 2018, dementia accounted for the largest proportion of appointments of the Public Advocate as guardian for over a decade. At 2023/24, 49 per cent of the new matters referred for investigation by the State Administrative Tribunal involved a person with dementia and 38 per cent of the new guardianship orders appointing the Public Advocate this year related to dementia.

In relation to the gender identity of the 3,598 adults for whom the Public Advocate was appointed as guardian at 30 June 2024, 55 per cent were male, and 45 per cent were female.¹

¹ This includes three people who were nonbinary or identified interchangeably as male or female.

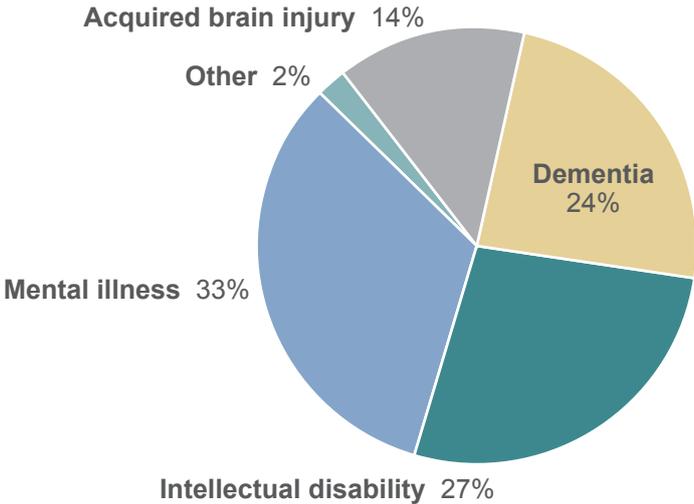
Of the 693 guardianship orders appointing the Public Advocate for people of Aboriginal and Torres Strait Islander descent at 30 June 2024, intellectual disability accounted for 37 per cent, followed by 31 per cent for mental illness, 19 per cent for acquired brain injury, 12 per cent for dementia and one per cent had some other form of decision-making disability.

At 31 December 2023, 2,198 or 64 per cent of the 3,461 adults for whom the Public Advocate was appointed guardian had NDIS involvement. Of the 3,461 adults, 2,240 were 65 years or younger, and of these adults, 2,045 or 91 per cent had NDIS involvement.

Full transition to the NDIS under the Commonwealth and State Bilateral Agreement has resulted in consistent and continued growth in the proportion of new appointments of the Public Advocate for people with an intellectual disability and people with a mental illness. This trend continues, with higher numbers of NDIS participants than originally anticipated and associated growth in demand for guardianship services.

Figure 1.1 Profile of all guardianship orders appointing the Public Advocate by type of decision-making disability as at 30 June 2024

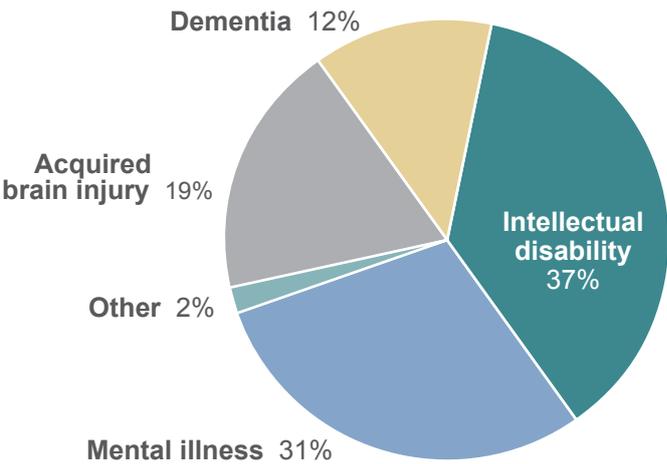
Type of decision-making disability	
Acquired brain injury	518
Dementia	849
Intellectual disability	986
Mental illness	1,179
Other	66
Total	3,598



Note: 43 of the 66 'other' are for represented persons with Autism Spectrum Disorder.

Figure 1.2 Profile of all guardianship orders appointing the Public Advocate for people of Aboriginal and Torres Strait Islander descent by type of decision-making disability as at 30 June 2024

Type of decision-making disability	
Acquired brain injury	132
Dementia	82
Intellectual disability	254
Mental illness	214
Other	11
Total	693



Note 1: 2 of the 11 'other' is for a represented person with Autism Spectrum Disorder.
 Note 2: Due to rounding, the total percentage does not always equal 100.

The number of people for whom the Public Advocate is guardian has increased by 46 per cent from 2,463 in June 2020 to 3,598 in June 2024.

Figure 2 People under guardianship orders appointing the Public Advocate by type of decision-making disability as at 30 June 2020 – 30 June 2024

Type of decision-making disability	2020		2021		2022		2023		2024	
	Number	Percentage of total								
Acquired brain injury	383	16%	418	15%	463	15%	480	14%	518	14%
Dementia	634	26%	719	26%	779	25%	819	24%	849	24%
Intellectual disability	696	28%	759	27%	884	28%	949	28%	986	27%
Mental illness	706	29%	821	30%	957	31%	1,063	32%	1,179	33%
Other	44	2%	54	2%	32	1%	40	1%	66	2%
Total	2,463		2,771		3,115		3,351		3,598	

Note 1: due to rounding, the total percentage does not always equal 100.

Note 2: In 2024, 43 of the 66 'other' are for represented persons with Autism Spectrum Disorder.

Acquired brain injury

An acquired brain injury can result in the deterioration of cognitive, physical, emotional or independent functions. This injury can occur as a result of events including trauma, hypoxia, infection, alcohol and substance misuse, degenerative neurological disease or stroke. In 2007, the Australian Institute of Health and Welfare estimated that people aged 65 years or over were more than twice as likely as those aged less than 65 years to have an acquired brain injury with activity limitations or participation restrictions.²

In 2023/24 there were 1,669 Western Australian participants engaged with the National Disability Insurance Scheme (NDIS), with an acquired brain injury reported as their primary disabling condition. This represented 3 per cent of the 57,160 active Western Australian participants in the NDIS in 2023/24.³

Dementia

According to 2024 Dementia Australia statistics,⁴ there are over 421,000 people living with dementia in Australia. This figure is expected to increase to more than 812,000 by 2054. In 2022 the Australian Institute of Health and Welfare estimated there were just under 40,000 people living with dementia in Western Australia.

The projected rates of prevalence in this report suggest that the Office of the Public Advocate can expect continued and significant growth in the number of represented persons with dementia.

² Australian Institute of Health and Welfare 2007. Disability in Australia: acquired brain injury. Bulletin no.55. Cat. No. AUS 96. Canberra: AIHW, p.1.

³ National Disability Insurance Scheme, published quarterly and full reports 2023-24 (www.ndis.gov.au/about-us/publications/quarterly-reports).

⁴ Dementia facts and figures - Dementia Australia. Dementia prevalence in Australia - Figure 2.5 updated March 2024. Australian Institute of Health and Welfare.



Intellectual disability

According to the Department of Health and Aged Care there are approximately 450,000 people with intellectual disability in Australia. Compared with the general population, people with intellectual disability have more than twice the rate of avoidable deaths and twice the rate of emergency department and hospital admissions.⁵

Of the 57,160 active Western Australian participants in the National Disability Insurance Scheme (NDIS) in 2023/24, 9,156 (16 per cent) were reported as having an intellectual disability as their primary condition in 2023/24.⁶

Intellectual disability accounted for the second largest proportion of all adults for whom the Public Advocate was appointed guardian at 30 June 2024.

Historically, the Public Advocate has remained guardian for people with an intellectual disability for a long period of time, or even for the remainder of their life, due to the appointment often being made because the person has no other family to assist with decision making. This factor, coupled with a growing prevalence of intellectual disability within the population, indicates the Office can expect continued growth in the number of represented persons with an intellectual disability.

Mental illness

According to the 2020-2022 National Study of Mental Health and Wellbeing report, conducted by the Australian Bureau of Statistics, 42.9 per cent of people aged 16-85 years had experienced a mental disorder at some time in their life.

In 2020-22, 3.4 million Australians aged 16-85 years (17.4 per cent) saw a health professional seeking support for their mental health. The prevalence of mental health disorders continues to decline with age starting at 22.9 per cent in the youngest age group (16-34 years), compared to 17.4 per cent of people aged 35-64 and 8.1 per cent of people in the oldest group (65-85 years).⁷

The National Disability Insurance Scheme (NDIS) defines 'psychosocial disability' as a disability that may arise from a mental health issue. Of the 57,160 active Western Australian participants in the NDIS in 2023/24, 5,468 (10 per cent) were reported as having a psychosocial disability as their primary condition in 2023/24.⁸

Mental illness accounted for the largest proportion of guardianship appointments of the Public Advocate as at 30 June 2024. The growing prevalence of mental illness within the community, coupled with the need for represented persons with mental illness to engage support through the NDIS for better outcomes, particularly those with chronic mental health issues, would seem to indicate growth in the number of guardianship appointments of the Public Advocate for people with mental illness will continue.

5 Why we need a roadmap - National Roadmap for Improving the Health of People with Intellectual Disability. Department of Health and Aged Care.

6 National Disability Insurance Scheme, published quarterly and full reports 2023-24 (www.ndis.gov.au/about-us/publications/quarterly-reports).

7 National Study of Mental Health and Wellbeing published July 2022. Australian Bureau of Statistics,

8 National Disability Insurance Scheme, published quarterly and full reports 2023-24 (www.ndis.gov.au/about-us/publications/quarterly-reports).



Resources

The role and functions of the Public Advocate were supported by an approved establishment of 100 ongoing full-time equivalent (FTE) positions as at 30 June 2024, with an expenditure totalling \$14.467 million⁹ for advocacy, guardianship and administration services.

The Office of the Public Advocate's core services are delivered through two distinct branches - advocacy and investigation, and guardianship. These staff members are accountable to the Public Advocate through their managers and are supported by administrative, policy and community education positions.

⁹ Expenditure includes shared Department of Justice corporate support.

Strategic Management Framework

The performance of the Office of the Public Advocate is assessed under the Strategic Framework established by the Department of Justice.

Department of Justice - Mission and Role

A fair, just and safe community for all Western Australians.

The Department of Justice supports the community, Western Australian Government, judiciary and State Parliament through the provision of access to high quality justice, legal and corrective services, information and products.

Government goal

The work of the Office of the Public Advocate reflects the State Government goal of 'Safe, Strong and Fair Communities: Developing healthy and resilient communities'.

Office of the Public Advocate services

Within the above framework, the Office of the Public Advocate provides access to advocacy, guardianship and administration services which protect and promote the financial interests and welfare of adults with a decision-making disability by providing:

- advocacy and investigation services
- advocacy for the appropriate appointment of guardians and administrators and appropriate interventions in relation to enduring powers of attorney and enduring powers of guardianship
- guardianship and administration services provided through the appointment of the Public Advocate by the State Administrative Tribunal
- community education services regarding the guardianship and administration system.

Cross-agency initiatives

The Office of the Public Advocate works together with the Public Trustee with regard to guardianship and administration matters. This occurs when both the Public Advocate and Public Trustee have been appointed as guardian and administrator respectively, by the State Administrative Tribunal.

The two offices also jointly provide training for private administrators appointed by the State Administrative Tribunal, to enable them to better understand their role and responsibilities.

Other cross-agency initiatives are discussed in the 'interagency collaboration and policy development' section of this report.

Agency Performance

Advocacy and Investigation

The advocacy and investigation function of the Office of the Public Advocate includes:

- conducting investigations referred by the State Administrative Tribunal in relation to applications for guardianship and administration or the operation of existing guardianship and administration orders, enduring powers of attorney or enduring powers of guardianship, to gather information on what is in the best interests of the person with a decision-making disability
- reporting at hearings of the State Administrative Tribunal on whether it is in the best interests of an adult with a decision-making disability to have a guardian or administrator appointed
- advocating for the appointment of a guardian or administrator when appropriate and in the best interests of the person with a decision-making disability, when there is no other way to meet the person's needs
- making recommendations about who could be appointed and what functions might be needed in an order
- investigating referrals from the State Administrative Tribunal where an appointed guardian or administrator has passed away, engaging with family and service providers, and making applications for a review of the orders to ensure the person has ongoing decision-making support
- under delegation, taking on substitute decision-making for a person whose guardian and/or administrator has passed away, including liaising with family and service providers in making decisions until a review hearing occurs at the State Administrative Tribunal
- under delegation, taking on substitute decision-making for a person where the Public Advocate has been appointed administrator of last resort
- investigating complaints or allegations from the public that a person with a decision-making disability may be at risk of abuse, exploitation or neglect and may be in need of a guardian or administrator
- investigating whether a person who is placed in custody under the Criminal Law (*Mentally Impaired Accused*) Act 1996 is in need of a guardian or administrator
- investigating referrals from Courts regarding the need for a person to have a guardian or administrator appointed in relation to legal proceedings (civil matters)
- providing assistance to the State Administrative Tribunal through the liaison officer function, by conducting brief investigations and providing advice to the Tribunal on specific aspects of an application
- informing and advising government, community and business organisations on the best interests of adults with a decision-making disability in the development of legislation, policies and services.

In carrying out their enquiries, it is a priority for investigator advocates to seek the views of the person who is the subject of an application, where possible.



This enables their views to be gathered in a more informal setting, where the person may feel more comfortable talking about their personal circumstances. This, in turn, enables the investigator advocate to present the person's views to the Tribunal so they are considered as part of the Tribunal's decision-making process.

Investigator advocates also interview a range of interested parties which may include family, friends and service providers. The extent and nature of consultation will depend on the timeframe given by the State Administrative Tribunal, the complexity of the matter and other workload priorities.

Investigator advocates often prepare a report of their investigation which makes recommendations in the person's best interests, to assist the State Administrative Tribunal with its deliberations. Investigator advocates also provide oral advocacy at hearings, based on information gathered prior to the hearing and information that may arise within the hearing itself.

During their investigation the investigator advocate might identify areas where decisions are required and find options for how these decisions could be made without a formal guardianship or administration order. The following examples show scenarios where this might occur.

- A person makes an application for the appointment of a guardian, as they believe a vulnerable adult does not have appropriate support services in place. In the course of the investigation, the investigator advocate advises the applicant of community services which could assist the vulnerable adult. The applicant engages these services and the situation is resolved without the need for the appointment of a guardian.
- A health professional makes an application for the appointment of a guardian, as they believe their patient has a decision-making disability and needs a substitute decision-maker for treatment decisions. The *Guardianship and Administration Act 1990* sets out a formal order of treatment decision-makers (section 110ZD and section 110ZJ). In explaining this process to the health professional, the investigator advocate assists them to find the appropriate decision-maker within this order (hierarchy), meaning there is no need for the appointment of a guardian.
- An applicant raises concerns about a family not engaging with decision making, so a guardian and/or administrator is needed. The investigator advocate liaises with the family to explain the need to engage with services in the best interests of the family member. Where the family member ensures the provider has relevant contact details and becomes more engaged during the investigation process, resolving the need for a formal appointment.

The Year in Review

In 2023/24, the Public Advocate carried out a total of 3,034 investigations into the personal or financial welfare of adults with a decision-making disability. This was a 10 per cent increase from 2022/23, when there were 2,746 investigations carried out. These 3,034 investigations included new matters and matters carried over from 2022/23.

Of the 3,034 investigations carried out during the year, 2,904 needed investigation and advocacy relating to applications for, or reviews of, administration or guardianship orders before the State Administrative Tribunal. This represented an increase of 11 per cent from 2022/23, when 2,615 investigations related to matters before the State Administrative Tribunal.

The remaining 130 investigations were referred directly to the Public Advocate from sources including members of the public, Courts and the Mentally Impaired Accused Review Board.



An additional 73 preliminary investigations were referred under the liaison role, which assisted the Tribunal in gathering further information relevant to the hearing. This included seeking preliminary information in relation to whether the matter was urgent, or if safeguards should be put in place ahead of the Tribunal hearing.

Investigations referred by the State Administrative Tribunal

There were 2,407 new investigations referred by the State Administrative Tribunal in 2023/24, which was a five per cent increase from the previous year, when there were 2,281 new investigations.

These 2,407 investigations related to a range of application types, including applications:

- for the appointment of a guardian and/or administrator
- for intervention into enduring powers of attorney, enduring powers of guardianship, or advance health directives
- to review administration or private guardianship orders.

Investigator advocates face many and varied issues in their investigations and they require a range of skills in order to identify and respond to the situations which arise in the course of an investigation.

The complexity of some of the matters that investigator advocates work on is highlighted by an increase in the number of applications made under section 17A of the *Guardianship and Administration Act 1990*, where a Full Tribunal reviews the decision of a single Tribunal Member. Investigator advocates attend these 17A hearings to provide further advocacy in relation to the application and the best interests of the proposed represented person, and at times investigator advocates are required to submit a further report for the hearing.

The State Administrative Tribunal held a number of urgent hearings with the attendance of an investigator advocate necessary in 442 urgent matters in 2023/24. In some cases, the hearing occurred on the day the matter was referred to the Office of the Public Advocate.

A hearing that occurs within three weeks of referral to the Office of the Public Advocate is classed by the Office as being an urgent matter. Urgent matters need to be managed within investigator advocates' existing, planned workload, and require investigator advocates to attend hearings at short notice to represent the best interests of proposed represented persons.

In many of the other matters there were urgent and critical medical treatment decisions required, or a need to protect a person's finances due to allegations of financial abuse or there was evidence of significant debt and proceedings were on foot to pursue repayment.

Attending urgent Tribunal hearings and advocating for proposed represented persons' best interests, presents a particular challenge for investigator advocates as they are required to assess the issues and risks regarding a person's safety or wellbeing within a limited timeframe. In some cases, this timeframe may be a matter of hours, or a matter of days. Some of these hearings occur outside of normal working hours.

In many cases the urgent hearing will consider the specific issue of urgency and the investigator advocate will need to continue carriage of the matter to a final hearing.



Where the Public Advocate is appointed at an urgent hearing, the investigator advocate may be required to urgently provide information to the Public Advocate about the represented person and the key decisions needed, to enable timely consideration of the issues and a decision to be made. This includes the need for urgent decisions on behalf of a represented person outside of usual working hours.

Liaison role

The Office of the Public Advocate continues to provide a liaison role to respond to requests from the State Administrative Tribunal seeking advice and recommendations about specific aspects of applications, prior to listing a matter for hearing or making a formal referral to the Public Advocate to investigate.

In 2023/24 the advocacy and investigation team, through the liaison role, conducted preliminary investigations into 73 new applications before the Tribunal. This included new applications for guardianship and/or administration, review applications and applications for intervention in enduring powers of attorney and enduring powers of guardianship.

These matters require immediate attention as they often relate to an assessment of urgency or measures needed to protect a proposed represented person. There is a timeframe of three business days in which to respond to the Tribunal in relation to these referrals.

The investigator advocate will contact selected parties, in line with the specific request from the Tribunal, and provide a short report to the Tribunal, responding to the referral with a recommendation about how to proceed.

Referrals to the liaison role tend to seek information on specific issues raised within the application on which the Tribunal seeks clarity before proceeding with a listing.

In some cases, the investigator advocate recommended to the State Administrative Tribunal that the matter should be referred to the Office of the Public Advocate for full investigation due to the complexities identified from speaking to interested parties.

In other cases, the investigator advocate was able to speak to key parties and gather information which would assist the Tribunal process. In these instances, the recommendation to the State Administrative Tribunal was that the Public Advocate be given notice of possible appointment and the investigator advocate attended the Tribunal hearing.

As with other investigations, the focus for the investigator advocate is to consider what is in the best interests of the proposed represented person.

Community-referred investigations

Section 97(1)(c) of the *Guardianship and Administration Act 1990* gives the Public Advocate the power to investigate any complaint or allegation that a person is in need of a guardian or administrator, or is under an inappropriate guardianship or administration order.

These types of matters are called 'community-referred investigations' as they generally come from issues raised by a concerned community member who does not have the kind of relationship with the person they are concerned about that would lead them to make an application to the State Administrative Tribunal.



In addition to referrals from friends and neighbours of adults with impaired or suspected impaired decision-making capacity, referrals for investigation also come from other sources including community-based organisations, such as churches and social groups, where a risk is identified but no one in the community-based group is in a position to make an application to the Tribunal or intervene in any way.

There are also referrals from other agencies such as the Police, where in attending an incident, a concern is raised that a person with a decision-making disability may require some sort of formal support.

Referrals from Courts are included as community-referred investigations. These investigations present a range of challenges to investigator advocates as the purpose is to get information on the person's capacity as it relates to the specific Court matter, and keep the referring Court informed of the progress of the investigation to assist in Court listing dates.

In total, 130 such referrals were reviewed by the Office in 2023/24, a similar number to the 131 such referrals in 2022/23. Of the 130 cases, 86 were closed during the financial year and 44 remained open at 30 June 2024.

In community-referred investigations, investigator advocates initially need to confirm the person is not at risk by speaking to the referring person. If there is an identified risk, the investigator advocate needs to make a recommendation about how to proceed with the investigation.

For example, it may be necessary to establish a financial safeguard, before proceeding to speak to interested parties. This is a particular issue if there is a report that the person is a victim of a scam, and this requires the investigator advocate to establish if there is an informal safeguard, such as a bank putting a stop on any overseas transactions, or if there is a need for an urgent application for the appointment of an administrator.

The investigation process often involves gathering information from parties who may be unwilling to engage with the investigator advocate. This can extend the time taken to investigate a concern.

In a small number of instances, when an investigator advocate starts making enquiries, they may make contact with a family member or friend of the person who share the same concerns that have been raised and who is willing and able to make the application to the State Administrative Tribunal.

The investigator advocate will then provide the family member or friend with the relevant information and support to make the application. Once the application has been submitted, the investigator advocate will advise the Tribunal about the Public Advocate's involvement in the matter. The investigator advocate will continue gathering information and provide a report to the Tribunal to assist in the hearing process.

In most cases, the focus of the community-referred investigation is to establish whether the person requires a guardian and/or administrator, or whether less restrictive safeguards are possible.



A critical part of the community-referred investigation is obtaining medical records, to enable the Public Advocate to establish whether a person has a decision-making disability. Gathering this information can take considerable time, as the person may not have a current General Practitioner, and medical professionals who are involved with the person may be reluctant to share information due to patient confidentiality.

Accurate medical information is critical, as without an assessment to indicate that a person lacks decision-making capacity, it is unlikely that an application to the State Administrative Tribunal could be made by the Public Advocate.

The *Guardianship and Administration Act 1990* does not provide the Public Advocate with the power to compel parties to provide information and this can impede some investigations in which claims of financial, or other forms of abuse, cannot be substantiated.

Types of community-referred investigations undertaken by the Office of the Public Advocate include:

- A friend or neighbour sees a person is no longer making good decisions and suspects this might be due to dementia or some other decision-making disability. The friend or neighbour may not be in a position to make an application to the State Administrative Tribunal due to concerns it will impact on their friendship with the person.
- A person has concerns that a vulnerable adult with a decision-making disability is experiencing abuse or exploitation.
- Family members have concerns about a relative with a decision-making disability, but they are unable to resolve the issue due to a longstanding dispute.
- The Police attend a home incident and have concerns that an adult with a decision-making disability does not have capacity and may be in need of some form of support.
- Referrals from a Court where there are concerns that an adult who is party to proceedings is not able to understand the Court process due to a mental disability.
- Referrals from the Mentally Impaired Accused Review Board under section 98 of the *Guardianship and Administration Act 1990*, when a person is placed on a custody order under the *Criminal Law (Mentally Impaired Accused) Act 1996*.

The outcome of community-referred investigations might include:

- The Public Advocate making applications to the State Administrative Tribunal for guardianship and/or administration orders.
- The Public Advocate referring the concerned party to other agencies to provide assistance or support.
- The Public Advocate being provided information to confirm that the person does not have a decision-making disability and the matter being closed. In such cases where concerns exist, the identified person will be given information about how they may access community-based supports.

Case Study 1

Community-referred investigation regarding potential elder abuse

A call was received by the telephone advisory service (TAS) of the Office of the Public Advocate from a bank manager who had concerns that one of their clients was a victim of elder abuse.

A bank teller had reported that Mrs F had attended the bank with her son, who appeared to be coercing her to withdraw cash from her account. The bank denied this transaction, due to both the size of the withdrawal and the presentation of the customer. As Mrs F and her son left the premises, the teller heard the son threatening her. This was reported to the manager, who then contacted the Office of the Public Advocate.

As part of the Office's investigation, contact was made with Mrs F's next-door neighbour, who was able to provide contact details for Mrs F's brother and sister-in-law. The neighbour advised that Mrs F lived with one of her sons. They also recounted how Mrs F had confided in them about her son's aggressive behaviour at the bank. With alarm bells ringing, the neighbour had contacted Mrs F's brother and sister-in-law as a result of this conversation.

The investigator advocate subsequently made contact with Mrs F's brother who was also aware of the situation. He advised that he and his wife were joint attorneys and enduring guardians for Mrs F. After hearing from the neighbour about the son's aggressive behaviour, they had contacted the bank and been to see the manager with the enduring power of attorney to see what could be done to quickly secure Mrs F's finances.

The bank manager explained to the investigator advocate that they had previously intervened after finding another son had taken some money from his mother's account. The bank now regularly checked withdrawals and put a withdrawal limit on the account.

As attorneys, Mrs F's brother and sister-in-law were paying bills on her behalf. They had also established a below market rent for the son, as carer for his mother, who would otherwise need to move into aged care, which she did not want to do.

The enduring power of attorney was not registered with Landgate. The investigator advocate discussed this option with the brother, noting it could be a protective measure along with a caveat to ensure that Mrs F's home could not be sold without the knowledge and involvement of her attorneys, to guard against any underhanded behaviour by her sons. The brother indicated he had not considered this and subsequently contacted Landgate to ensure the property was protected from sale without the knowledge of the attorneys.

The brother also noted as enduring guardians they were making treatment decisions, and had worked with Mrs F's General Practitioner for an aged care referral which resulted in Mrs F being eligible for a care package, which was put in place.

(continued next page)



(Case study continued from previous page)

This was an important referral from the bank. Having identified a customer who was at risk of elder abuse, they took decisive steps to protect her. The investigation confirmed there were protective measures in place via the enduring power of attorney. It also ensured the attorneys were comprehensively informed, enabling them to ensure Mrs F's house was fully protected and could not be sold by her sons.

Find someone you trust when planning ahead

When making an enduring power of attorney (EPA), it is important to select a person/s (or organisation) who you know and trust, to make property and financial decisions for you in your best interests, in case you lose capacity or are physically unable to manage your finances.

If you are not sure about someone's trustworthiness, it would be best to reconsider giving them authority to make decisions at a time when you have lost capacity, as you would not be able to intervene.

If you, or someone you know may be experiencing elder abuse in any form, you can contact the free and confidential elder abuse Helpline on 1300 724 679 or visit the Elder Abuse webpage on the Office's website.

Note: Names and details have been changed to protect confidentiality.

Advocacy

In addition to conducting investigations, it is the role of an investigator advocate to advocate in the best interests of people for whom a guardianship and/or administration order is being proposed (proposed represented persons) at hearings before the State Administrative Tribunal and also advocate during the course of an investigation to assist in resolving issues before the hearing.

Collaboration with other States and Territories

Throughout the year, the advocacy and investigation team and the guardianship team were contacted by interstate counterparts regarding vulnerable adults with decision-making disabilities who were either under guardianship orders in that State or Territory or were the subject of an application proposing that they have a guardian appointed.

Where possible, staff assisted their counterparts to ensure the safety and protection of these vulnerable adults.

There were also occasions during the year where investigator advocates needed to liaise with interstate counterparts where a person had been moved from Western Australia to another State or Territory during the course of an investigation, and where concerns were held for their wellbeing. The information gathered was relevant to guiding the investigation process and providing information to the State Administrative Tribunal to assist in determining how to proceed in the matter.



Administrator of last resort

During 2023/24, the Public Advocate was appointed as limited administrator of last resort for a total of six represented persons, with the Public Advocate's role ceasing during the year for five of those people, following the resolution of various legal actions, and in one case, on the death of the represented person. Following review hearings by the State Administrative Tribunal, the Public Trustee was appointed as the plenary administrator for three people, and a private administrator was appointed for one person.

As at 30 June 2024, the Public Advocate remained appointed as limited administrator of last resort for one person where the settling of a legal claim continues to be progressed, where it was not appropriate for the Public Trustee to have that role.

What does administrator of last resort mean?

If a person is unable to make reasonable decisions about their finances, they did not appoint an attorney while they had capacity and informal arrangements are not working in their best interests, the State Administrative Tribunal may appoint an administrator.

An administrator has the authority to make financial and legal decisions on behalf of the person they represent.

If a person needing an administrator does not have a family member or friend who is suitable, willing and available to take on the role, the State Administrative Tribunal may appoint the Public Trustee.

If there is a conflict of interest for some reason, meaning the Public Trustee cannot be appointed as administrator for particular functions, the *Guardianship and Administration Act 1990* enables the Public Advocate to be appointed as administrator of last resort.

The Public Advocate is only appointed as administrator, if all of the other options are exhausted and the appointment is the only option available. While this does not occur often, such appointments are usually complex.

This is a significant function for the Public Advocate. When appointed administrator of last resort the Public Advocate will usually have a limited function with regard to legal proceedings, with the Public Trustee often appointed with the remaining functions. The role involves extensive liaison with legal professionals and the Public Trustee in regard to progressing the proceedings.

The principal investigator advocate will review the application and supporting documents and attend the State Administrative Tribunal hearing to advocate on behalf of the represented person. The principal investigator advocate will consider if there are other parties who could be appointed, consider the conflict of interest raised in the application and ultimately, if the appointment of the Public Advocate is to occur, advocate for orders which will enable the Public Advocate to conduct the role as administrator of last resort.

Once appointed as administrator of last resort, a key role for the principal investigator advocate is to conduct a file review and briefing for the Public Advocate to enable decisions to be made about progressing the specific case.

Issues for Advocacy and Investigation

Allegations of abuse

The continued demand for the Office of the Public Advocate to conduct investigations into the personal or financial welfare of adults with a decision-making disability can largely be attributed to Western Australia's ageing population.

Additionally, there is an increased awareness of the role of the Office of the Public Advocate, particularly in relation to investigating concerns about elder abuse.

Some older Western Australians do not have support networks such as family and friends to assist them when they lose the capacity to make their own decisions. This often results in the appointment of the Public Advocate and/or the Public Trustee.

Of the 2,407 new investigations carried out during the year, allegations of abuse were identified in relation to 341 people. One hundred and twenty-nine of these people were 65 years of age or older. Of these alleged elder abuse cases, 76 per cent involved alleged financial abuse.

This alleged abuse often occurred in the absence of a substitute decision-maker and by a person who saw the opportunity to exploit a vulnerable individual. Often this occurs where the victim is socially isolated or dependent on their family for support.

In some instances, however, it was alleged that this abuse was perpetrated by a person with authority, including an enduring guardian appointed under an enduring power of guardianship or an attorney appointed under an enduring power of attorney.

The focus of the investigation is whether the person is in need of a substitute decision-maker. This Office looks at the importance of balancing the person's right to autonomy, with the possibility of abuse and the need for the protection afforded by appointing someone to oversee the individual's decision making.

Transition to the National Disability Insurance Scheme

Western Australia's participation in the National Disability Insurance Scheme (NDIS) has seen a number of applications to the State Administrative Tribunal where it has been identified that informal supports will no longer be sufficient to engage services for a person with a decision-making disability. This may be because through accessing the NDIS the person has more opportunity to engage support services and it is identified that someone needs to be appointed to make the decision about which service to engage.

In some cases, applications have been made because the existing support arrangements will not be able to continue. There is an identified need for a person with a decision-making disability to have a guardian and/or administrator appointed to oversee the change in support arrangements and also to take over management of the person's finances where this may have been managed by the support agency.

As applications for access to the NDIS need to be made before a person turns 65, investigator advocates have needed to highlight where there may be an urgent need for access applications to be made, where the person will soon reach this age.



Restrictive practices

Both the National Disability Insurance Scheme (NDIS) and aged care providers are responding to legislative provisions with regard to the use of restrictive practices and the need to obtain consent if a restrictive practice is proposed.

A number of applications are initiated where the primary concern is in regard to restrictive practices, however in assessing the application it becomes apparent that a person needs a substitute decision-maker in other areas of their life.

Investigator advocates will look more broadly at the application and the person's situation in preparing their advocacy for the State Administrative Tribunal, to ensure the broader needs of the person are considered in the hearing.

Regional referrals

Referrals for investigation are made for matters across the State. Referrals for regional matters present challenges in gathering information, as it may not be possible to visit the person at their home location.

In 2023/24 there were 596 matters referred which related to people in regional areas, compared to 530 in 2022/23, an increase of 66 matters.

Interviewing the proposed represented person by phone or video-link often requires the investigator advocate to negotiate with an independent party to assist in supporting the proposed represented person during the interview. As this is not always possible, consideration is given as to how investigator advocates can ensure the needs of people living outside the metropolitan area are met during the investigation process.

Regional matters, where possible, are grouped and allocated to the same investigator advocate. Some matters have the same applicant, for example a WA Country Health Service or the Director of Nursing at a particular facility. This approach enables investigator advocates to visit a specific group of people, located in a particular regional area during the investigation process. It also enables them to develop professional relationships with applicants in regional areas, which assists in the gathering of information and advocacy for proposed represented people.

In 2023/24 investigator advocates made regular trips to regional areas where they met with a number of people, including family and service providers, of the subject of an application. In some cases, investigator advocates attended regional hearings in person, due to the complexity of the matter being discussed.

Regional visits provide an important opportunity to gather the views of people and also to connect with local service providers. This enables investigator advocates to share information about the guardianship and administration system, as an informal education process and also enables service providers to discuss issues they may be facing as they consider how to support a person. In the past year investigator advocates undertook 14 regional trips, visiting multiple proposed represented persons on each trip.



Transition of young people leaving State care

The Office of the Public Advocate continues to work with the Department of Communities in the early identification of the needs of young people with a decision-making disability, who are in the care of the Department, to enable a smoother transition out of the Department's care. A key role for the Office's principal investigator advocates is to work collaboratively with the Department of Communities (Child Protection and Family Support) staff and other related service providers, to assist in the planning for young people with a decision-making disability who are transitioning from State care at 18 years of age. Many of these young people have complex needs and will need ongoing care and support and possibly a substitute decision-maker on an ongoing basis.

Wherever possible, the principal investigator advocate attends leaving care planning meetings for young people aged 16 years and over, to provide information on guardianship and administration and assist in the planning process to determine if there is a need for an application to be made to the State Administrative Tribunal.

The principal investigator advocate or another member of the advocacy and investigation team provides advocacy at any State Administrative Tribunal hearing where applications have been made for the appointment of a guardian and/or an administrator for young people aged 17 and over. A total of 33 applications from the Department of Communities (Child Protection and Family Support) were determined by the State Administrative Tribunal in 2023/24.

Following the determination by the State Administrative Tribunal of the 33 applications, 33 orders for guardianship and/or administration were made. For 31 of these young people, the Public Advocate was appointed as limited guardian, including nine young people where the Public Advocate was appointed in conjunction with private guardians with different functions. A private guardian was solely appointed for one young person.

The Public Trustee was appointed as administrator for a total of 25 of the 29 young people for whom administration orders were made by the State Administrative Tribunal. In one of these 25 cases, a private administrator was also appointed on the order with different functions to that of the Public Trustee. Four orders were made appointing private administrators.

Of the 33 guardianship and/or administration orders, 18 related to young Aboriginal people. The Public Advocate was appointed as guardian for 17 of these young people. In relation to five of the 17 orders, both the Public Advocate and private guardians were appointed with different functions. The Public Trustee was appointed for 15 of the 18 young people including one where the Public Trustee was appointed as limited administrator and there was no need for a guardianship order. A private administrator was appointed for one young person.



Court referrals

The Children's, Family, Magistrates and Supreme Courts may seek the involvement of the Public Advocate when there are concerns that a person appearing before the Court (in civil matters) is unable to understand proceedings and may need a guardian or administrator to assist.

While the number of Court referrals received by the Office are small compared to the referrals of matters by the State Administrative Tribunal, the investigation work involved requires considerable time and effort to seek evidence about the proposed represented person's background and their capacity to participate in the matter before the Court.

In most cases the Court has very little information about the person's capacity and therefore considerable effort is taken to gather this information and respond within the Court's timeframes. The Public Advocate's authority under the *Guardianship and Administration Act 1990* does not include the power to compel parties to provide information.

An added complexity in these matters is the need to advise parties of the investigation process, including the length of time an investigation can take, and to keep parties, including lawyers and the Court, aware of the progress of a case to assist in listing hearing dates.

Our Customers

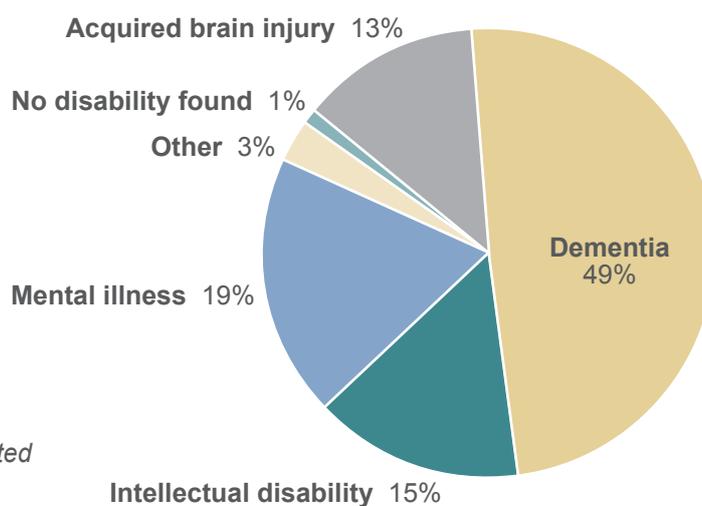
Of the 2,407 new matters referred to the Public Advocate for investigation by the State Administrative Tribunal in 2023/24, 49 per cent involved a person with dementia. The remaining matters involved either a person with mental illness, an intellectual disability or an acquired brain injury, and in some instances, no decision-making disability was found. In terms of gender identity of proposed represented persons, 50 per cent of the 2,407 new matters related to males and 50 per cent to females.¹⁰

Figure 3 Profile of new investigations by type of decision-making disability 2023/24

Type of decision-making disability

Acquired brain injury	305
Dementia	1,178
Intellectual disability	370
Mental illness	450
Other	71
No disability found	33
Total	2,407

Note: 39 of the 71 'other' are proposed represented persons with Autism Spectrum Disorder.



Of the 2,407 new investigations carried out during the year, allegations of abuse were made regarding 341 people.

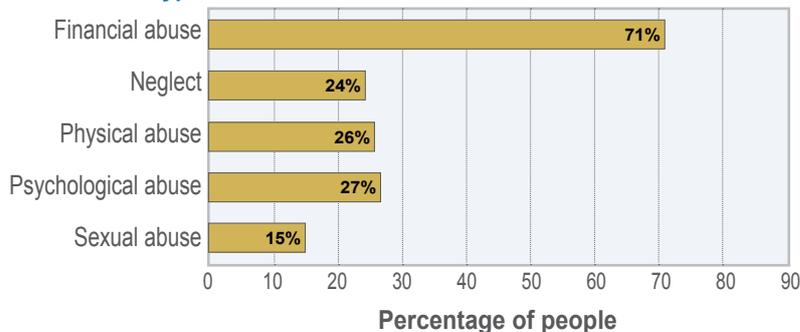
In some cases, more than one type of alleged abuse was reported in the application. The most commonly reported form of alleged abuse was financial, with 71 per cent alleging financial abuse.

Figure 4 Profile of new investigations alleging abuse by type of abuse 2023/24 (including statistics of alleged elder abuse)

Abuse type (341 people)

Financial abuse	242
Neglect	81
Physical abuse	89
Psychological abuse	91
Sexual abuse	50

Abuse type



Note 1: Allegations of abuse were made regarding 341 people, however, in some instances more than one alleged abuse type was reported in the application.

Note 2: In some instances, more than one investigation was carried out for a person.

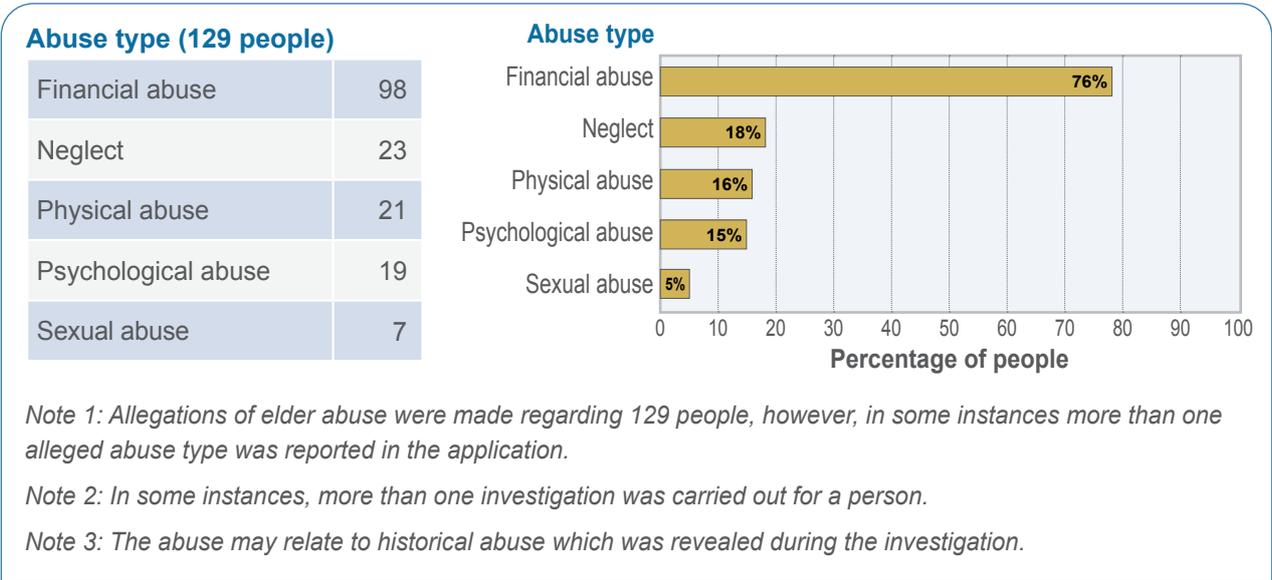
Note 3: The abuse may relate to historical abuse which was revealed during the investigation.

¹⁰ This includes three people who were non-binary or identified interchangeably as male or female.

Of the 341 people for whom abuse was alleged, 129 (38 per cent) were 65 years of age or older. These instances of alleged abuse are referred to as elder abuse.

Of these 129 cases of alleged elder abuse, financial abuse was the most common, having been reported in 76 per cent of these investigations.

Figure 5 Profile of new investigations alleging elder abuse (aged 65 or older) by type of abuse 2023/24



Of the 129 new investigations in 2023/24 where elder abuse was alleged, 11 involved a person of Aboriginal and Torres Strait Islander descent, representing eight per cent. Financial abuse was the most common form of abuse, having been reported in all 11 cases (100 per cent).

Figure 6 Profile of new investigations alleging elder abuse (aged 65 or older) involving people of Aboriginal and Torres Strait Islander descent 2023/24

Total new investigations alleging elder abuse 2023/24	Aboriginal	Non-Aboriginal	Aboriginal as percentage of total
129	11	118	8%

Note: Aboriginal refers to clients of Aboriginal and Torres Strait Islander descent.

The number of new investigations regarding a person of Aboriginal and Torres Strait Islander descent has remained fairly constant over the past five years, between nine and 13 per cent. This continues to show that Aboriginal adults are over-represented in this client group, given only 3.3 per cent of the Western Australian population are Aboriginal.¹¹

Figure 7 Profile of new investigations involving people of Aboriginal and Torres Strait Islander descent as at 30 June 2020 – 30 June 2024

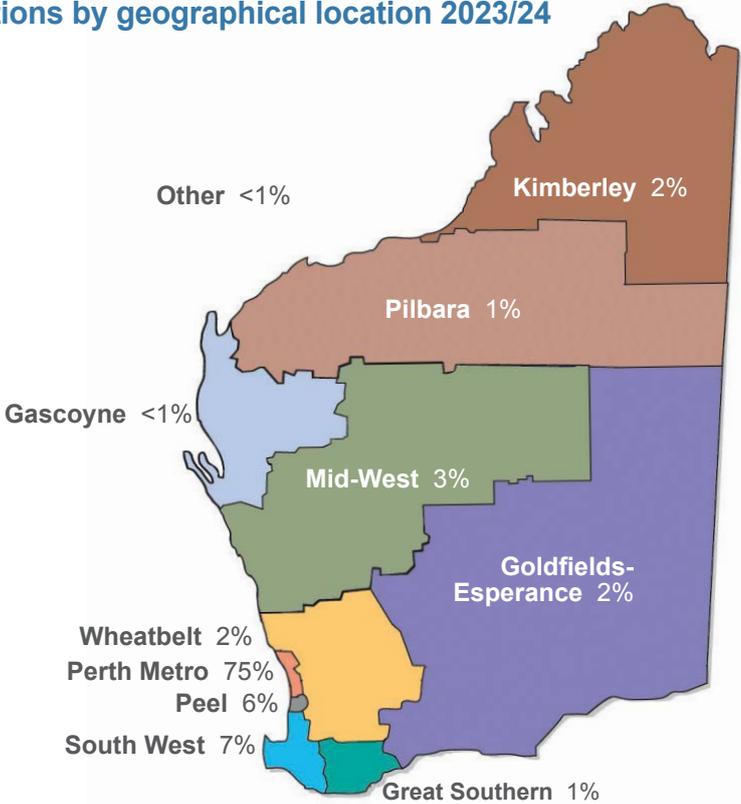
Year	Total	Aboriginal	Non-Aboriginal	Aboriginal as a percentage of total
2019/20	1,542	165	1,377	11%
2020/21	1,824	236	1,588	13%
2021/22	2,059	192	1,867	9%
2022/23	2,281	222	2,059	10%
2023/24	2,407	264	2,143	11%

Note: Aboriginal refers to clients of Aboriginal and Torres Strait Islander descent.

Of the 2,407 new investigations in 2023/24, 1,811 matters were regarding people located in the Perth metropolitan area.

Figure 8 Profile of new investigations by geographical location 2023/24

Geographical locations	
Gascoyne	4
Goldfields-Esperance	51
Great Southern	32
Kimberley	41
Mid-West	73
Peel	144
Perth Metro	1,811
Pilbara	25
South West	159
Wheatbelt	53
Other	14
Total	2,407



Note: Due to rounding, the total percentage does not always equal 100.

11 Australian Bureau of Statistics 2021 Census: Aboriginal and/or Torres Strait Islander Peoples <https://www.abs.gov.au/articles/western-australia-aboriginal-and-torres-strait-islander-population-summary>

Guardianship

The guardianship functions of the Office of the Public Advocate include:

- ensuring timely decisions are made in the best interests of the represented person
- protecting the represented person from abuse, exploitation and neglect
- ensuring wherever possible, the decisions made on behalf of the person with the decision-making disability:
 - take into account the expressed wishes of the represented person or reflect their previous wishes and actions
 - preserve personal autonomy
 - enable the person to live and participate in the community
 - encourage and assist the person to become capable of caring for themselves
 - are supportive of the person’s relationships with others
 - maintain familiar cultural, language and religious practices and contacts.

The Year in Review

In 2023/24 there were 777 new appointments of the Public Advocate as guardian of last resort, compared to 737 in 2022/23.

At 30 June 2024, the Public Advocate had responsibility as guardian of last resort for 3,598 adults with a decision-making disability, compared to 3,351 at 30 June 2023, which is an increase of seven per cent. From a broader perspective, this represents an increase of 46 per cent in four years, compared with 2,463 represented persons appointed at 30 June 2020.

The Public Advocate had responsibility as the sole guardian for 3,342 of the total 3,598 represented persons as at 30 June 2024.

In relation to the remaining 256 appointments of the Public Advocate, there were 255 represented persons for whom the Public Advocate was appointed guardian and a private guardian was also appointed with different functions. Six represented persons had the Public Advocate and a family member appointed to make some decisions jointly. For five of these six appointments, the Public Advocate or the private guardian was appointed with other authorities as the sole decision-maker, and in only one case, the Public Advocate and private guardian were appointed to make all decisions jointly.

As the guardian of last resort, the Public Advocate made personal, lifestyle and treatment decisions in relation to a range of matters including:

- medical treatment, palliative care and surgery
- consent to appropriate accommodation for people with a range of support needs in the disability, aged care and health care sectors
- National Disability Insurance Scheme (NDIS) plans
- Consent for restrictive practices in accordance with NDIS and aged care legislation and policies
- acting as ‘next friend’ in relation to child protection matters on behalf of represented persons.



Consistent with the principles of the *Guardianship and Administration Act 1990*, a function is only given to a guardian when there is a need. Only 80 (two per cent) of the 3,598 orders appointed the Public Advocate as plenary guardian. Ninety-eight per cent of the orders were limited to specific authorities.

To meet the needs of the Office's represented persons of Aboriginal and Torres Strait Islander descent, guardians liaised with their families, Aboriginal community members, Aboriginal agencies and service providers, to enable culturally appropriate practices to be adopted wherever possible.

Community guardianship program

The Office of the Public Advocate's community guardianship program matches adults who have the Public Advocate appointed as their guardian, with volunteers from the community who are willing and able to take over the guardianship role.

The role of a community guardian is unique in terms of the long-term commitment and responsibility a volunteer community guardian takes on. The process which leads to the matching and eventual appointment of a community guardian is one that focuses on selective recruitment and the provision of ongoing training and support to volunteers. Replacing the Public Advocate enables a more personal level of involvement in the represented person's life.

In 2023/24 two community guardians left the program, one due to poor health and the other following the death of their represented person.

At 30 June 2024 there were 11 volunteers engaged in the community guardianship program. Of these, 10 had been appointed as guardian by the State Administrative Tribunal. One volunteer was in the process of being matched with a represented person and three new volunteers commenced their community guardianship program induction.

Since the first State Administrative Tribunal appointment of a community guardianship program guardian in 2007, 25 people have received training and support through the program, enabling them to act as community guardians for 28 represented people. In most cases, the community guardian has been involved with the represented person for many years through the program.

Advocacy at guardianship review hearings

All guardianship orders are reviewed by the State Administrative Tribunal on a regular basis. Delegated guardians from the Office of the Public Advocate attend State Administrative Tribunal review hearings and advocate in the best interests of people for whom the Public Advocate is appointed as their guardian.

In 2023/24 delegated guardians attended 1,107 review hearings conducted by the State Administrative Tribunal, in which they advocated in the best interests of the represented person, including reporting on guardianship decisions since the previous hearing. This was a 25 per cent increase from the previous year, when 888 review hearings were attended.



Issues for Guardianship

The growth in demand for guardianship services is influenced by a range of factors surrounding the protection of adults with a decision-making disability.

- In relation to the National Disability Insurance Scheme (NDIS), for adults who are under a guardianship order where the Public Advocate is appointed with authority to make decisions about services, delegated guardians may make applications for access to the NDIS or liaise with other parties who may make such applications. For those represented people involved in the NDIS, delegated guardians participate in the NDIS planning process, including releasing information, attending teleconferences or meetings, advocating on behalf of the represented person about what is determined by the NDIS as reasonable and necessary supports, seeking reviews of plans and negotiating with support coordinators about the selection of the most appropriate service provider/s.
- While the majority of the Public Advocate's represented people live in the Perth metropolitan area, there are a number who live in regional locations. Ensuring that adequate support and services are provided to these clients, while maintaining contact and conducting visits, can pose a variety of challenges for the Office of the Public Advocate.
- Of the 52 trips made to regional areas in 2023/24, 38 were made by delegated guardians who visited multiple represented persons on each trip.
- In some cases, the Public Advocate had to determine the suitability of accommodation options for represented persons living outside of Western Australia, when considering a decision for the person to relocate.
- The issues surrounding decisions which delegated guardians are required to make may be multifaceted, as a number of represented persons have multiple and complex needs. They may have more than one diagnosed condition, combined with a drug or alcohol dependency and behaviours of concern that can often be challenging. Sometimes as a result of their behaviour they come into contact with the criminal justice system. Making decisions for these people involves the delegated guardian working with a number of government and non-government agencies, which together, provide an intensive level of support to the represented person.
- Due to the increasing number of seniors for whom the Public Advocate is appointed guardian, decisions regularly have to be made regarding treatment decisions for people who have a range of medical conditions, chronic illnesses or are terminally ill. The challenge for the Public Advocate is carefully weighing up the wishes of the represented person and those of their family members and friends, alongside the views of the treating physicians about what is in a person's best interests regarding treatment and end-of-life care.



- Delegated guardians may experience pressure to go outside their decision-maker role to locate services, seek funding and coordinate the provision of services for represented persons. The shortfall of appropriate services and the refusal of represented persons to accept support compounds this problem. Where people have a dual diagnosis, for example, an intellectual disability and a mental illness, the task of encouraging a more appropriate agency to take the lead role may be difficult.
- Making decisions about whether a represented person remains in their own home or is placed in residential care, when concerns exist around their self-care, is often a source of conflict between delegated guardians and represented persons and/or their relatives. Delegated guardians must balance the rights of a represented person to remain at home and their need for increased support which may necessitate a move to residential care.
- With the implementation of the NDIS Quality and Safeguarding Framework and the commencement of the NDIS Quality and Safeguards Commission on 1 December 2020 in Western Australia as well as reforms in aged care, processes in relation to providing consent to restrictive practices have been strengthened. As such, more guardianship orders include this function and the Public Advocate is required to consent to restrictive practices where necessary for these represented persons. In some cases, delegated guardians have consented to behaviour support plans which include restrictive practice(s) for represented persons with disruptive or self-injurious behaviour.
- The appointment of the Public Advocate can result in major disagreement within the family of the represented person. In cases where the represented person has experienced abuse, exploitation or neglect, contact between the person and their family may often need to be supervised. During the year, the Public Advocate arranged supervised access to represented persons where there was risk of abuse. In some cases, delegated guardians worked with represented persons whose parents or relatives also have a decision-making disability or mental health issues, increasing the complexity of discussions.
- People with a decision-making disability may be extremely vulnerable to sexual assault and sexual exploitation. If there is an alleged sexual assault, the Office of the Public Advocate seeks Police involvement (usually via the Sex Crime Division), referral to the Sexual Assault Resource Centre (as per the memorandum of understanding which has been developed between the Office and the Sexual Assault Resource Centre) and medical and counselling services. The Public Advocate has noted the particular vulnerability to sexual assault for young people with an intellectual disability and women with a mental illness. These people often lack adequate self-protective behaviours and/or family and support services.
- The Public Advocate makes decisions for people who are frequent and sometimes serious offenders whether detained in a psychiatric hospital, prison, or living in the community. These individuals can pose a risk to themselves as well as members of the community and often require intensive support and cross-agency collaboration which may involve the Police; the Department of Communities; the Corrective Services division of the Department of Justice; Legal Aid; the Mental Health Commission and the Department of Health's Mental Health Services.



- At 30 June 2024, the Public Advocate was appointed as guardian for 22 mentally impaired accused people under the *Criminal Law (Mentally Impaired Accused) Act 1996*, one more than at 30 June 2023.
- The Public Advocate continues to undertake the legal functions of ‘next friend’ and ‘guardian *ad litem*’ in relation to civil legal proceedings. This often involves a delegated guardian providing instructions to a lawyer during protection proceedings commenced by the Department of Communities on behalf of the children of a represented person. This function is undertaken by the Public Advocate where the State Administrative Tribunal determines that the parent/s is/are unable to conduct their own legal affairs due to a lack of decision-making capacity.

Revocations

Guardianship orders are reviewed when either an application for review is made by an interested party to the State Administrative Tribunal, or at a date specified when the order was made.

The purpose of reviewing an order is to determine whether the represented person still requires a guardian and if so, who that should be, or whether changes to the authorities given in the order are required.

In 2023/24, delegated guardians from the Office of the Public Advocate were involved in 1,107 reviews of guardianship orders where the Public Advocate was appointed.

Of the 1,107 reviews, 183 orders were revoked by the State Administrative Tribunal because there was no longer a need for the Public Advocate to be the substitute decision-maker as a result of:

- a less restrictive alternative being found
- another suitable, willing and available decision-maker having been identified, such as a family member or friend
- the person regaining capacity
- the issues leading to the Public Advocate’s appointment having been resolved
- the guardianship order having no effect.

Monitoring and responding to deaths of persons for whom the Public Advocate is appointed as guardian

The Office of the Public Advocate has systems in place to ensure that when a person for whom the Public Advocate is appointed guardian dies, relatives and significant others are informed of the represented person’s passing.

Between 1 July 2023 and 30 June 2024, 362 represented persons died.



Goals of care

Good end-of-life planning can avoid unnecessary interventions, hospital admissions and emergency department presentations, which can be distressing for individuals and their families.

The Public Advocate supports a represented person's right to appropriate care and treatment at the end of their life, including palliative care.

The goals of care approach, based on the Department of Health's framework, recognises that better end-of-life care planning can start early in a person's diagnosis. A goals of care plan sets out what treatment can be offered across the stages of a represented person's end-of-life trajectory.

Delegated guardians may consider goals of care planning for represented persons with a chronic or life-limiting illness and/or when a continuing decline in their health is expected.

With a represented person's increasing decline, the decisions may include reducing, withdrawing or withholding certain medical options; for example, a medical clinician may discuss with a delegated guardian that providing cardiopulmonary resuscitation would be futile and not in the best interests of a represented person.

The delegated guardian makes a recommendation to the Public Advocate for end-of-life treatment decisions based on the recommendation of medical and allied health professionals such as the treating doctor and facility manager, while also considering the views of the represented person and their family.

Palliative care

Under the *Guardianship and Administration Act 1990*, 'palliative care' is defined as a medical, surgical or nursing procedure directed at relieving a person's pain, discomfort or distress, but does not include a life sustaining measure.

Where the Public Advocate has treatment authority, palliative care decisions will only be considered where palliative care treatment is being recommended by the person's treating health professional, it is in the person's best interests and to the extent possible, the views of the person and their family have been taken into account. All palliative care decisions require the delegated guardian to seek the Public Advocate's specific approval.

In 2023/24 the Public Advocate consented to palliative care for 231 represented persons. This figure does not include those represented persons where palliative care decisions were made previously, where the represented person had a chronic or life-limiting illness and their continuing decline was expected.

Case Study 2

A strong support network - the key to a successful transition into Supported Independent Living accommodation

Ms M is in her late forties and has a history of illicit drug and alcohol use which resulted in sustained periods of mental illness, a decline in her physical health and homelessness.

Eight years ago, Ms M was admitted into intensive care with a severe lung infection.

Once stabilised, she was transferred to a second hospital where she made a full physical recovery. However, during this timeframe she was diagnosed with psychoactive substance induced cognitive impairment, the characteristics of which are similar to dementia.

This new diagnosis, together with Ms M's lack of personal insight into her own care needs and the ongoing risk of her becoming homeless, raised significant concerns about discharging her without stable accommodation and the appropriate supports in place. The hospital made an application for guardianship to the State Administrative Tribunal as they were able to engage with Ms M's family in the process of supporting her. The Tribunal appointed the Public Advocate as Ms M's guardian.

Prior to the implementation of the National Disability Insurance Scheme (NDIS), the only safe and secure option available to Ms M was an aged care facility, so a decision was made to move her into one nearby, where she shared a room with another woman.

During this time, Ms M received support with all aspects of daily living while continuing to have areas of independence, such as leaving the facility to go for a local walk or catching a bus to the local shopping precinct.

With the introduction of the NDIS in Western Australia, Ms M was able to increase her community involvement, with strong supports in place. Her General Practitioner (GP) and a community-based mental health team visited regularly and while she was re-admitted to hospital on a couple of occasions due to declining mental health, her personal goals were clearly identified.

Ms M wanted to move out of aged care, back into the community. To do this, Ms M's support networks worked on developing her confidence, capacity and skill building.

After extensive planning, the combination of Ms M's determination, together with support and encouragement from her Aged Care, NDIS and Mental Health teams, meant that she was finally able to achieve her goal of moving into Supported Independent Living accommodation in January 2024.

Ms M now shares a home with two other woman, has access to support services 24 hours a day and receives one-to-one assistance every week.

While she continues to live with challenges, she is pursuing her independence and personal interests such as cooking, shopping, going to the beach, listening to live music, spending time with family and being involved in community groups.

Ms M's transition to Supported Independent Living would not have been possible without the extensive team of professionals who continue to listen to her and provide ongoing support. These include NDIS Support Coordination, a Psychologist, Occupational Therapist, Supported Independent Living House Coordinator, multiple support workers, as well as her GP, the Older Adult Mental Health Team and her delegated guardian.

Note: Names and details have been changed to protect confidentiality.

Our Customers

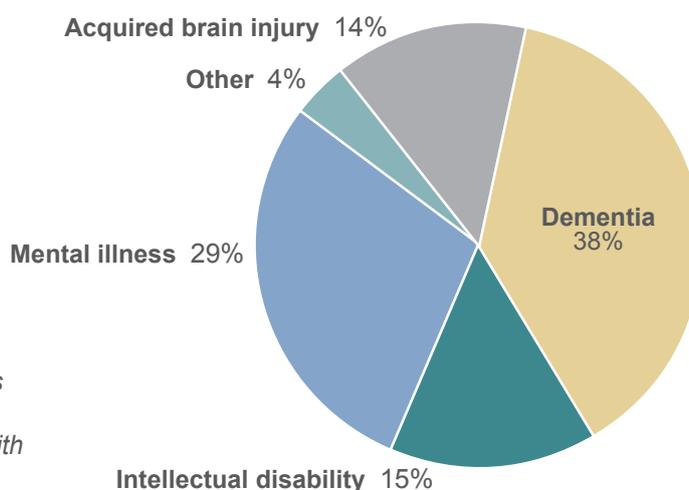
People with dementia continued to account for the largest proportion of new appointments of the Public Advocate as guardian of last resort. Of the 777 new appointments in 2023/24, 38 per cent had dementia, 29 per cent a mental illness, 15 per cent an intellectual disability and 14 per cent had an acquired brain injury. In relation to the gender identity of the 777 new appointments, 55 per cent were male and 45 per cent were female.¹²

Figure 9 Profile of new guardianship orders appointing the Public Advocate by type of decision-making disability 2023/24

Type of decision-making disability

Acquired brain injury	110
Dementia	295
Intellectual disability	116
Mental illness	227
Other	29
Total	777

Note: 12 of the 29 'other' are represented persons with Autism Spectrum Disorder, eight are persons with Cognitive Impairment and five are persons with Foetal Alcohol Spectrum Disorder.



Of the total 3,598 appointments at 30 June 2024, 33 per cent of the people had a mental illness, 27 per cent an intellectual disability, 24 per cent dementia and 14 per cent an acquired brain injury. In relation to the gender identity of the 3,598 appointments at 30 June 2024, 55 per cent of the people were male and 45 per cent were female.¹³

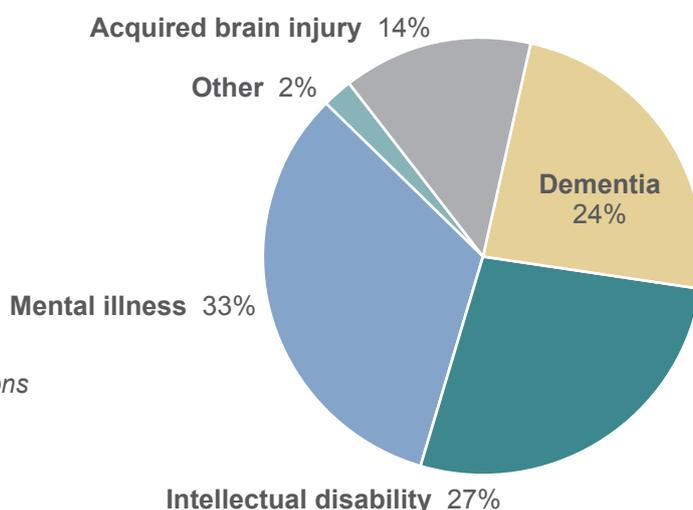
Figure 10 Profile of all guardianship orders appointing the Public Advocate by type of decision-making disability as at 30 June 2024

Type of decision-making disability

Acquired brain injury	518
Dementia	849
Intellectual disability	986
Mental illness	1,179
Other	66
Total	3,598

Note 1: 43 of the 66 'other' are represented persons with Autism Spectrum Disorder.

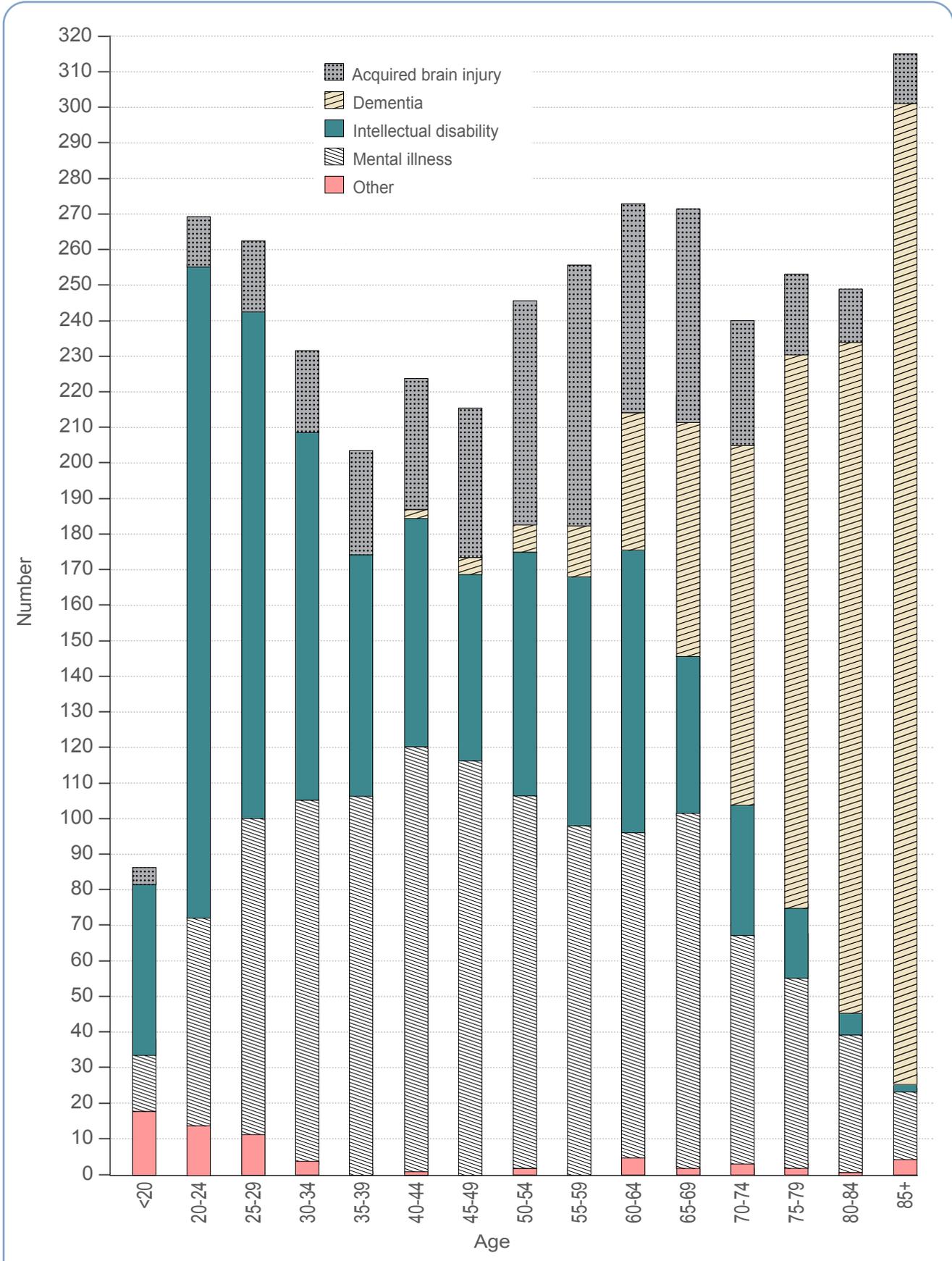
Note 2: Due to rounding, the total percentage does not always equal 100.



¹² This includes two people were non-binary or identified interchangeably as male or female.

¹³ This includes three people were non-binary or identified interchangeably as male or female.

Figure 11 Profile by age and disability type of all people on guardianship orders appointing the Public Advocate as at 30 June 2024



At 30 June 2024, the Public Advocate was guardian of last resort for 565 adults aged 80 years and over, who accounted for 16 per cent of all guardianship appointments. Of these 565 adults, 61 per cent were female and 39 per cent were male. Eighty-two per cent of the 565 adults had dementia.



This is a reflection of the ageing population, the subsequent increasing prevalence of dementia in the community and the growing number of people without family or friends who are suitable, willing and available to take on the role of decision maker.

The most common single issue leading to the appointment of the Public Advocate as guardian of last resort this year was services, with 3,225 (90 per cent) of the 3,598 guardianship orders appointing the Public Advocate as at 30 June 2024, including the authority to make decisions about what services the represented person receives.

The high number of orders appointing the Public Advocate with authority to make decisions about services is a direct reflection of the impact of the continued roll-out of the National Disability Insurance Scheme (NDIS) in Western Australia.

Historically, the authority to make treatment decisions was the most common authority, however it is now included in 3,025 (84 per cent) of the orders. This could be attributed to represented persons not having a valid enduring power of guardianship, a spouse, a child over the age of 18, or a relative or a friend to act on their behalf. In some cases, these people exist, but are either unsuitable, unwilling or unavailable to act.

At 30 June 2024, 3,028 (84 per cent) of the 3,598 guardianship orders appointing the Public Advocate included the authority to make decisions regarding where the represented person was to live. Similarly, 2,967 (82 per cent) of the 3,598 orders included the authority to make decisions regarding with whom they were to live.

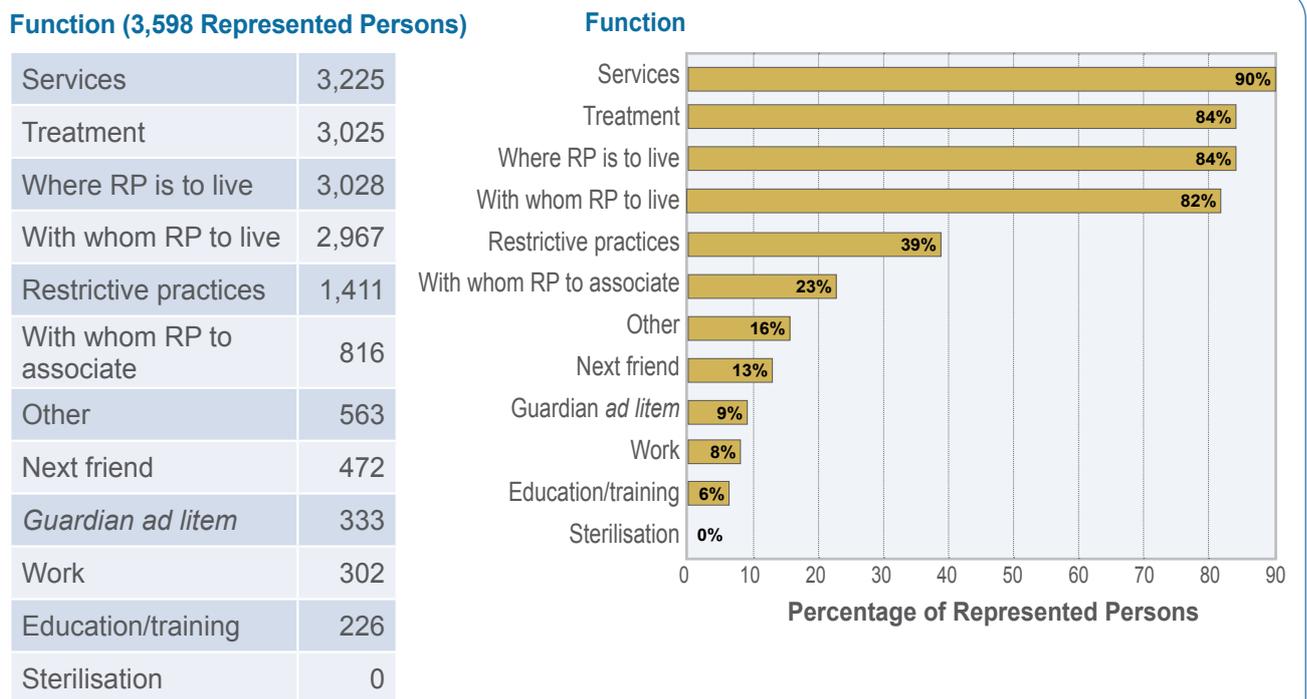
The high number of appointments regarding decisions about where and with whom a represented person lives reflects issues regarding appropriate supported accommodation for people with a decision-making disability. In many cases there is a need to consent to residential care on behalf of people with dementia, particularly for seniors who are neglecting themselves, refusing support services and opposed to entering residential care.

At 30 June 2024, 1,441 (39 per cent) of the 3,598 guardianship orders appointing the Public Advocate included the authority to make decisions regarding restrictive practices, an increase of 37 per cent from 1,052 at 30 June 2023.

The increase in guardianship orders including the authority to consent to restrictive practices reflects the increased accountability for service providers in this regard, within both NDIS and residential aged care services.

In a number of instances, the function given in the order has been labelled as 'other' (see Figure 12). Some examples of these might include to advocate on the person's behalf in relation to Police investigations; to determine if a person is to travel within Australia or overseas and to take possession of the person's passport; to seek further capacity assessments; to act on behalf of the person with respect to applications for legal aid, and to advocate on the person's behalf in connection with matters concerning the Mentally Impaired Accused Review Board, the Prisoners Review Board, the Department of Communities or the National Disability Insurance Scheme (NDIS).

Figure 12 Functions for which the Public Advocate has been appointed for all guardianship orders as at 30 June 2024



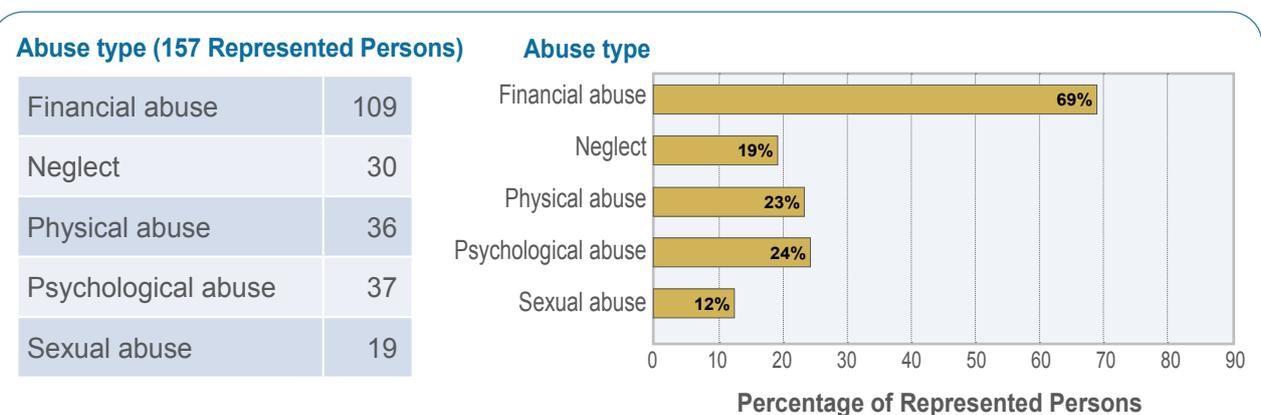
Note 1: RP = represented person.

Note 2: An order can be made for multiple functions.

Note 3: Before 2020/21, restrictive practices were recorded as two distinct functions, 'physical restraint' and 'chemical restraint', with most guardianship orders with these authorities having both functions.

Allegations of abuse were a factor for 157 represented persons or 20 per cent of the 777 new guardianship orders appointing the Public Advocate in 2023/24. In some cases, more than one type of alleged abuse was reported. The most commonly reported form of abuse was financial, having been reported in 69 per cent of cases alleging abuse.

Figure 13 Profile of new guardianship orders appointing the Public Advocate by type of alleged abuse 2023/24 (including alleged elder abuse)

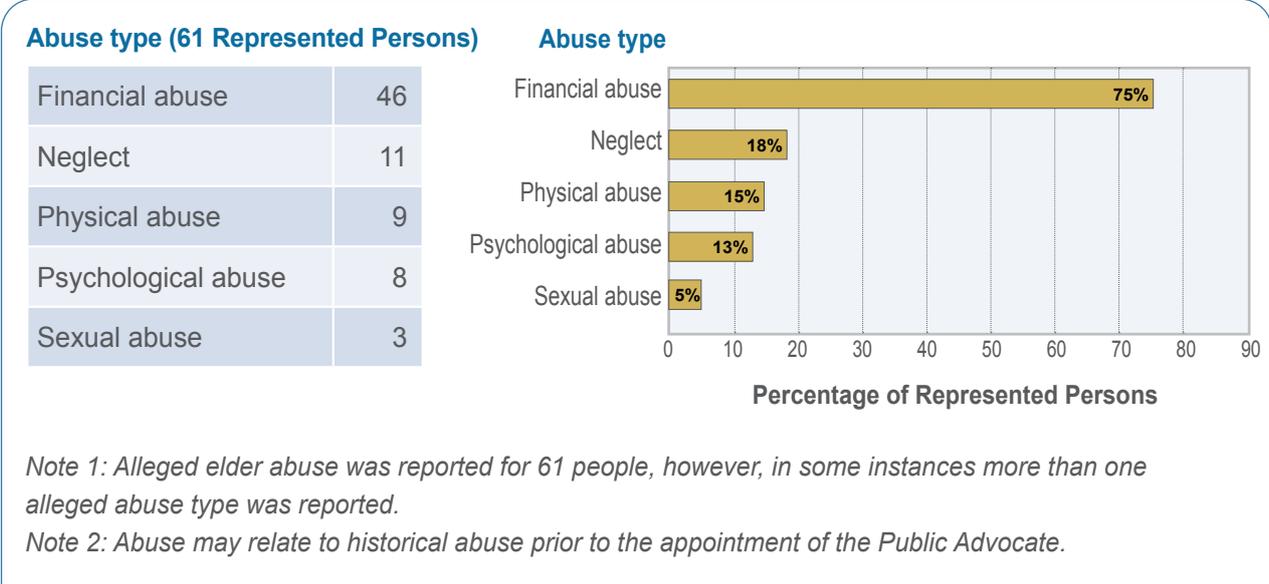


Note 1: Alleged abuse was reported for 157 people, however, in some instances more than one alleged abuse type was reported.

Note 2: Abuse may relate to historical abuse prior to the appointment of the Public Advocate.

Of the 157 represented persons for whom abuse was alleged, 61 people were 65 years of age or older. Of these, financial abuse continues to be the most commonly reported form of abuse, having been reported in 45 (75 per cent) of the 61 cases.

Figure 14 Profile of new guardianship orders appointing the Public Advocate by type of alleged elder abuse (aged 65 or older) 2023/24



Of the 61 new appointments of the Public Advocate as guardian in 2023/24 where elder abuse was alleged, seven were for a person of Aboriginal and Torres Strait Islander descent, representing 11 per cent. Financial abuse was the most commonly reported form of abuse, having been reported in all seven cases (100 per cent).

Figure 15 Profile of new guardianship orders appointing the Public Advocate where elder abuse (aged 65 or older) was alleged, for people of Aboriginal and Torres Strait Islander descent 2023/24

Total new orders alleging elder abuse 2023/24	Aboriginal	Non Aboriginal	Aboriginal as a percentage of total
61	7	54	11%

Note: Aboriginal refers to clients of Aboriginal and Torres Strait Islander descent.

Of the 777 new appointments of the Public Advocate as guardian in 2023/24, 130 were for a person of Aboriginal and Torres Strait Islander descent, representing 17 per cent of new appointments. This shows an over-representation of Aboriginal adults, given the State's Aboriginal population is only 3.3 per cent.¹⁴

Figure 16 Profile of new guardianship orders appointing the Public Advocate for people of Aboriginal and Torres Strait Islander descent as at 30 June 2020 – 30 June 2024

Year	Total	Aboriginal	Non Aboriginal	Aboriginal as a percentage of total
2019/20	717	99	618	14%
2020/21	730	131	599	18%
2021/22	797	125	672	16%
2022/23	737	124	613	17%
2023/24	777	130	647	17%

Note: Aboriginal refers to clients of Aboriginal and Torres Strait Islander descent.

For the past five years, orders where the Public Advocate has been appointed as guardian of last resort for a person of Aboriginal and Torres Strait Islander descent, have averaged 18 per cent of all orders.

Figure 17 Profile of all guardianship orders as at 30 June, appointing the Public Advocate for people of Aboriginal and Torres Strait Islander descent as at 30 June 2020 – 30 June 2024

Year	Total	Aboriginal	Non Aboriginal	Aboriginal as a percentage of total
2019/20	2,463	416	2,047	17%
2020/21	2,771	502	2,269	18%
2021/22	3,115	570	2,545	18%
2022/23	3,351	626	2,725	19%
2023/24	3,598	693	2,905	19%

Note: Aboriginal refers to clients of Aboriginal and Torres Strait Islander descent.

¹⁴ Australian Bureau of Statistics 2022 Census: Aboriginal and/or Torres Strait Islander Peoples
<https://www.abs.gov.au/articles/western-australia-aboriginal-and-torres-strait-islander-population-summary>

Case Study 3

Considering cultural safety in decision making

Mr Q is an Aboriginal man in his mid-fifties with severe cognitive impairment and schizophrenia, resulting in a history of homelessness and vulnerability. During a one-year period spent living in a central city park, he made over 50 presentations to public hospital emergency departments. The reasons for presentation included pre-existing health conditions and substance abuse, as well as injuries sustained from being violently assaulted whilst experiencing homelessness.

In addition to his hospital admissions, Mr Q had accrued a large bill from St John ambulance service, due to multiple ambulance interventions and was also known to the Western Australia Police Force.

Following an application from a Perth based hospital, the Public Advocate was appointed as Mr Q's guardian by the State Administrative Tribunal.

Mr Q was transitioned from hospital to a nearby aged care facility. However, being in his mid-fifties, he was understandably unhappy at this placement and regularly left the premises, becoming unsettled and at times aggressive due to frustration. Mr Q regularly told staff that he wanted to go home.

After identifying there was an issue with Mr Q's accommodation, his delegated guardian began urgently investigating alternative arrangements while also encouraging him to participate in the decision-making process. Having expressed a desire to live with Aboriginal people, it was clear that Mr Q required a safer and more culturally sensitive response to his needs. The delegated guardian worked with his support team to find a more appropriate facility. Once this was identified, Mr Q visited the premises and said he wanted to move there.

As well as transitioning his accommodation, Mr Q's delegated guardian and support worker also investigated ways of supporting him to engage with his new community. All decisions were made through a lens of cultural safety and sensitivity, which included setting up support meetings to identify which social groups he wished to join.

Mr Q also expressed a wish to return to Country. This was something he had wanted for many years, so it became a priority for his team, who investigated how best to facilitate this.

Six months on, Mr Q is fully settled in his new accommodation. He shares his room with another Aboriginal man with similar interests. Staff report he greets the day with 'good morning my family' and medical staff have reduced his anti-anxiety medication as Mr Q is less frustrated and aggressive.

Mr Q has not presented to hospital since moving to his new accommodation and has had no interactions with Western Australia Police Force.

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Recognising and responding to Mr Q’s cultural needs and facilitating the move into a more culturally supportive environment, has enabled Mr Q to settle and flourish. It also enabled him to have future goals that his support network is helping him work towards.

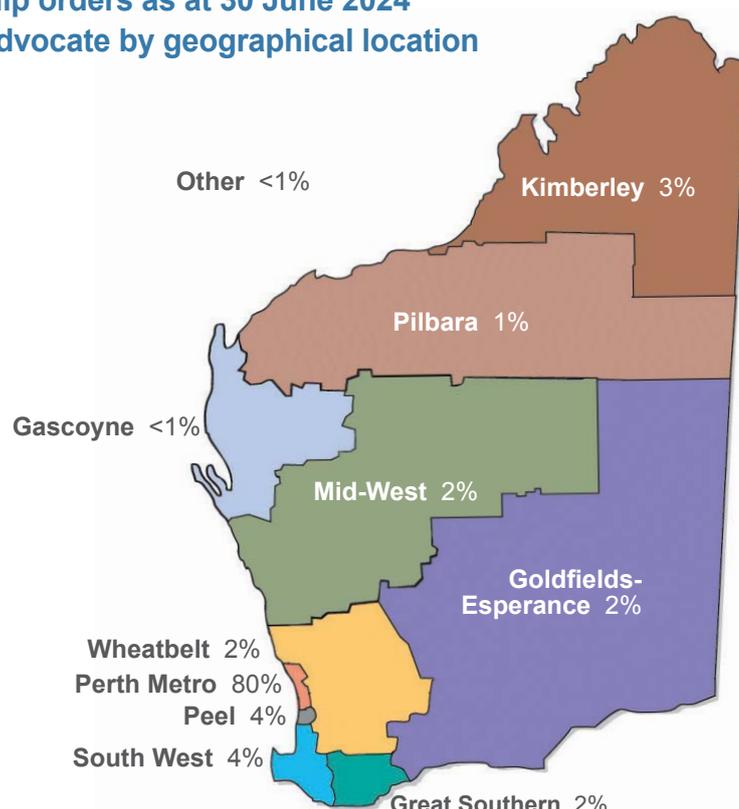
Mr Q’s trip to Country has been arranged. Funding, accommodation and remote support workers have all been secured so he can travel safely and enjoy his time back on Country, with a view to making this a more regular experience.

Note: Names and details have been changed to protect confidentiality.

At 30 June 2024, 80 per cent of all appointments of the Public Advocate as guardian were for people living in the Perth metropolitan area.

Figure 18 Profile of all guardianship orders as at 30 June 2024 appointing the Public Advocate by geographical location

Geographical locations	
Gascoyne	9
Goldfields-Esperance	67
Great Southern	58
Kimberley	94
Mid-West	74
Peel	128
Perth Metropolitan	2,868
Pilbara	47
South West	161
Wheatbelt	68
Other	24
Total	3,598



Note: Due to rounding, the total percentage does not always equal 100.

The Public Advocate’s after hours service

The Office of the Public Advocate maintains a 24-hour contact service so that urgent matters can be dealt with after hours. The majority of enquiries that are responded to after office hours are in relation to making an urgent decision for a represented person where the Public Advocate is the appointed guardian. At times, enquiries involve concerns that a person is urgently in need of a guardian and/or an administrator and may require a hearing of the State Administrative Tribunal at very short notice.

Case Study 4

Guardianship in remote Western Australia

As of 30 June 2024, the Public Advocate is appointed as guardian for 3,598 Western Australians with a decision-making disability. While 80 per cent of appointments are for people living in the Perth metropolitan area, 20 percent live in regional WA, which means guardians need to plan ahead when organising regional visits, especially when covering remote locations.

Hugh is an experienced guardian at the Office of the Public Advocate. A number of the people Hugh acts as delegated guardian for are aged between 60-80 and live in a remote community approximately 1,600kms northeast of Perth. This community is situated in the Ngaanyatjarra Lands, which cover approximately 250,000 km² (larger than Victoria), stretching from the tri-state border with South Australia and the Northern Territory.

Getting there has always been a challenge, further impacted by COVID-19 and extreme weather events. In July 2023, Hugh met with clinical staff who regularly visit the area and after a few false starts, was given the green light to visit in early 2024.

Hugh departed Perth on a small plane filled with Fly-In-Fly-Out (FIFO) workers and made the two-and-a-half-hour flight to a remote airstrip in the Gibson Desert, approximately 900kms northwest of Alice Springs. He was met by Aged Care Facility staff in a 4-wheel drive vehicle for the one-and-a-half-hour drive on unsealed roads to a community clinic which serviced a population of approximately 200 local community members, alongside 2,000 people across eleven desert communities in the surrounding regions.

Hugh arrived at the clinic, a single-story building located at the perimeter of the community. The clinic is required to be very self-reliant providing laundry, meals, medical assistance, power and essentially anything else required. Emergency medical assistance requires a trip to the airstrip by road and the Royal Flying Doctor Service to a hospital, which all takes planning and time.

On a typical day-shift, the staff to patient ratio is 12 residents to 4-6 staff on duty. The clinic's roster works on a FIFO rotation. This allows staff to form strong working relationships with each other and the residents.

The remote nature of the clinic brings its own challenges. Power for the whole community relies on a diesel driven generator, water pressure is low, requiring specialist pumps, and food deliveries are limited. The team is resourceful and Hugh's represented persons were all comfortable and well cared for.

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The clinic's fire-pit is the community's meeting place. Residents and staff regularly light a fire, sit together, and enjoy a good 'feed and a yarn'. Trips back to the resident's local cultural lands are facilitated as often as resources allow and if the represented person is physically able. This allows the represented person a few nights away from the facility to be connected with family.

While Hugh's focus was on the people he represented, the visit also enabled him to liaise with staff, discuss any concerns and answer questions. The most popular question being 'what's the difference between the Office of the Public Advocate and the Public Trustee?' (See [Easy Read – What's the Difference?](#)).

As English was not the first language of most residents, a local person on site was able to interpret. Hugh was able to successfully undertake assessments of everyone to ensure they were getting the care, support and services needed, in this very remote part of WA.

First Nations Translations

Information surrounding guardianship and administration can often be complex in nature.

In order to make these topics more accessible and get the conversation started, the Office has developed a series of online First Nations audio translations.

Translated languages currently include Noongar, Martu, Nyangumarta, Kimberley Kriol and Walmajarri, all of which can be found on the [First Nations Translations webpage](#), with other First Nations languages provided on request. Face-to-face interpreting services can also be requested if required.

Note: Names and details have been changed to protect confidentiality.

Interagency Collaboration and Policy Development

The Office of the Public Advocate works with the government, community and private sectors in contributing to the development of legislation, policies and services, which promote and protect the human rights and interests of adults with a decision-making disability.

The Year in Review

Collaboration regarding changes in the disability sector

A number of the Office's represented persons have been, and will continue to be, impacted by reforms to the disability sector. Since 1 July 2018, the Commonwealth National Disability Insurance Agency (NDIA) has delivered the National Disability Insurance Scheme (NDIS) in Western Australia and the transition to the full scheme is ongoing.

The introduction of the NDIS through the NDIA, the transition from the State delivered scheme, the Western Australian National Disability Insurance Scheme (WA NDIS), to the National scheme (the NDIS) and the impact of this transition on the Office of the Public Advocate and the people the Public Advocate is appointed guardian for, is detailed in the 'Significant Issues' section of this report.

Young people with exceptionally complex needs

The Young People with Exceptionally Complex Needs (YPECN) project was established in April 2012, by the then Department for Child Protection, the Disability Services Commission and the Mental Health Commission. The Public Advocate was included as a member of the interagency executive committee for YPECN from its commencement in 2012, because of the Office's involvement and collaboration with the Department of Communities, to assist the transition of young people out of State care, who may need a guardian and/or an administrator appointed when they turn 18.

The YPECN project now includes senior representatives from the Department of Communities (Out of Home Care, Disability Services and Housing), the Department of Health's Child and Adolescent Mental Health Service and Youth Mental Health Outreach Service, the Department of Justice (Youth Justice, Adult Corrections and the Office of the Public Advocate) and the Department of Education.

Throughout 2023/24, the level of support provided by this project has been invaluable to six highly vulnerable young people for whom the Public Advocate is appointed guardian and who needed intensive support with their transition from State care. Three of these young people were continuing to be assisted through YPECN at 30 June 2024, with three having exited the program during the year. In addition, there were another four young people in YPECN for whom it was agreed in their leaving care planning that applications to the State Administrative Tribunal were not required before they turned 18 years of age.



National Redress Scheme for People Sexually Abused as Children in Institutional Care

In January 2019 the WA Government enacted legislation enabling participation in the National Redress Scheme for adults who as children were sexually abused in institutional care. The National Redress Scheme is a response to the findings and recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. The National Redress Scheme is administered by the Commonwealth Government and will operate until 2028.

In 2023/24 the Office of the Public Advocate has continued its examination of the circumstances of eligible represented persons for whom the Public Advocate is appointed as guardian to ensure their interests are protected and advanced through the Scheme. Applications to the Scheme are made in consultation and collaboration with the represented person and/or their administrator. This includes supporting consideration of possible common law claims for abuse in care before the acceptance of an offer made under the Scheme.

The Public Advocate is also collaborating with the Department of Communities under an instrument of Ministerial Consent for the sharing of information to identify represented persons who have been in care and if there is a record of sexual abuse while in care.

Elder abuse

The Office of the Public Advocate has a mandate to protect and promote the human rights of adults with a decision-making disability.

In Western Australia, this vulnerable group within the community consists of a large and growing number of people who are 65 years of age or older and have a cognitive impairment, often due to dementia. This sub-group face a higher risk of abuse, exploitation and neglect, often referred to as 'elder abuse', and are a key group which the Office works to protect.

According to State Government estimates, elder abuse affects one in six older Western Australians.

Abuse can include financial, physical and psychological or neglect and a person may experience more than one form of abuse. Concerns about elder abuse may be raised with the Office during the progress of an investigation, through enquiries to the Office's advisory service and at times during community information sessions.

Over the past 12 months, new guardianship orders appointing the Public Advocate, where elder abuse was alleged, were made for 61 represented persons.

The Public Advocate is an active member of the Alliance for the Prevention of Elder Abuse in Western Australia (APEA WA). This interagency alliance was established to find ways to raise awareness of and prevent elder abuse.



The Office continues to promote elder abuse prevention and awareness through the dissemination of enduring power of attorney, enduring power of guardianship and advance health directive material, along with delivering community and service provider seminars throughout the year. The Office delivered a World Elder Abuse Awareness Day (WEAAD) 'Planning Ahead' community seminar to aged care facility residents on 12 June 2024.

Australia's first national plan to respond to the Abuse of Older Australians (Elder Abuse) was launched on 19 March 2019, following endorsement by all the members of the Council of Attorneys-General. The national plan was a key recommendation of the 2017 Australian Law Reform Commission's (ALRC) Report: Elder Abuse - a National Legal Response, which highlighted examples of serious physical abuse, financial abuse, neglect and exploitation of older people. The national plan has been evaluated during 2023/24. The release of the evaluation and consultation on the draft second National Plan are expected to be progressed early in the new financial year.

Led by the Department of Communities, consultation for 'An Age-friendly WA: State Seniors Strategy 2023-2033' ended in August 2022 and the strategy was launched in April 2023. This 10-year strategy supports older Western Australians and identifies four key pillars of change; thriving physically, mentally and spiritually; safe and friendly communities; staying connected and engaged; and having views that are heard.

In line with the State Seniors Strategy, scrutiny and heightened awareness continue to build across State and National Government, underlining the importance of elder abuse as a priority agenda item.

Case Study 5

Identifying the difference between neighbourly help and coercive behaviour

The Office of the Public Advocate disseminates hundreds of enduring powers of attorney (EPA) and enduring powers of guardianship (EPG) kits every year. While the majority of kits are downloaded from the Office's website (34,896 downloads in 2023/24), hard copy requests are received on a daily basis (over 2,600 kits disseminated in 2023/24) via the Office's telephone advisory service.

It is common for people to call the Office on behalf of elderly parents, family or friends and so in order to ensure kits go directly to the person making them, rather than the third party requesting them, the Office will always seek the appropriate contact details to send direct. Doing so keeps the process transparent and can help mitigate coercive behaviour.

In 2023 the Office received an email from a person requesting hard copies of both powers on behalf of their neighbour, Mr K. However instead of providing the Office with Mr K's contact details, so the kits could be sent direct, this person provided their own personal address.

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The advisory officer responded via email, asking for confirmation of Mr K's address, but instead of a written reply, the officer received an emailed photograph of Mr K's unopened bank statement.

Concerned as to why this person would have their neighbour's bank correspondence as well as questioning whether this person was acting in their neighbour's best interests, the officer looked up both of the addresses provided and realised that this person was not a neighbour and lived some distance away.

Unable to contact Mr K direct, as no phone number or email address had been provided, the Officer involved felt that she had a duty of care to make sure this was a supportive relationship, rather than something more problematic.

Staff are required to do onsite visits, so it was decided that a principle investigator advocate scheduled to visit this regional area, would make an impromptu visit to Mr K, to ensure everything was above board.

On the day, the principle investigator advocate arrived at Mr K's home just as he happened to be pulling into the driveway of his property, so they were able to have a quick chat and explain the situation. It soon became apparent that Mr K's friend had been acting in his best interests and had been collecting his mail while he was on holiday.

Now fully confident the request had been a genuine one, the principle investigator advocate was able to provide Mr K with hard copies of both kits and the friend was subsequently thanked and notified of the positive outcome. Mr K was also appreciative of the process undertaken to ensure his wellbeing.

Note: Names and details have been changed to protect confidentiality.

Policy and legislative work

The Public Advocate and senior staff members were involved in policy development and reviews with other government and non-government agencies during 2023/24, including:

- Continued to work with the Department of Justice's Advisory Services and Strategic Reform divisions to assist the Department's Director General, with the Standing Council of Attorneys-General Working Group, which is considering the recommendations of the Australian Law Reform Commission's inquiry 'Elder Abuse - A National Legal Response' in conjunction with the Department of Communities and other jurisdictions. Work continued towards the implementation of the 2019-2023 National Plan to Respond to the Abuse of Older Australians and the successor to this plan, the National Plan to End the Abuse and Mistreatment of Older People 2024-2034, was developed. This work included involvement in the National Register for Enduring Powers of Attorney Sub-Working Group.



- Continued to contribute to the implementation of the WA Strategy to Respond to the Abuse of Older People (Elder Abuse) 2019-2029 which is led by the Department of Communities.
- Member of the National Working Group for Restrictive Practices and Consent in Aged Care, led by the Commonwealth Department of Health and Aged Care for the use of restrictive practices in residential aged care under the *Quality of Care Principles 2014* as well as the development of advice to Government and the Intergovernmental Health and Aged Care Senior Officials Group on consent requirements for the use of restrictive practices in residential aged care; in conjunction with representatives from the Department of Health (WA) and the Department of Justice's Advisory Services division.
- Following the Office of the Public Advocate's participation in the Royal Commission into Violence, Abuse, Neglect, and Exploitation of People with Disability (the Disability Royal Commission) through written evidence and an in-person appearance by the Public Advocate in November 2022 to provide evidence as part of Public Hearing 30, the Disability Royal Commission delivered its Final Report to the Australian Government on 28 September 2023. The report contains 222 recommendations, of which 132 have direct implications for Western Australia. The Australian Government and the State and Territory Governments were expected to provide a written response to the Final Report by 31 March 2024. This was extended to 31 July 2024. In order to progress the State Government's response, the Department of Communities established an officer level Disability Royal Commission Interagency Working Group in November 2023. The Office of the Public Advocate has worked as a member agency, alongside Department of Justice representatives from the Strategic Reform division, who have the lead role for the overarching Department of Justice response.
- Member of the Human Services Deputy Director Generals Disability Committee consisting of representatives from key State Government agencies and convened by the Department of Communities.
- Continued work with the Commonwealth National Disability Insurance Agency (NDIA) with regard to the implementation of the National Disability Insurance Scheme (NDIS). This has included establishing and consolidating positive relationships with NDIA's national office and WA service delivery, specifically:
 - Ongoing scheduled interactions with the Complex Support Needs Branch and the local WA office of NDIA to drive improved NDIS outcomes for people for whom the Public Advocate is appointed guardian.
 - Utilising established stakeholder relationships within NDIA's national office to address systemic issues impacting people for whom the Public Advocate is appointed and to advocate for systemic change to build capacity and independence for people with a decision-making disability.



- Ongoing activities to embed the Office of the Public Advocate's internal NDIS Practice Standard into everyday practice to support optimised NDIS outcomes for people for whom the Public Advocate is appointed.
- Targeted engagement and policy development activities with the WA Department of Health to improve hospital discharge outcomes for people represented by the Public Advocate. Increased collaboration between service systems to better support people requiring guardianship, hospital, and NDIS services to achieve increased stability in their lives and access to appropriate services.
- Ongoing activities informing the WA Government's response to the NDIS Review to ensure the needs of people represented by the Public Advocate are fully considered as systemic policy continues to evolve.
- In early 2024 the Attorney General referred the *Guardianship and Administration Act 1990* to the Law Reform Commission of Western Australia (LRCWA) for a comprehensive review. The LRCWA has been tasked with reviewing, providing advice and making recommendations on the need for reform of the Act and how best to implement that reform in the WA context. The terms of reference for the review include consideration of the recommendations of the Disability Royal Commission; the 2015 statutory review of the Act conducted by the Department of the Attorney General; the 2018 Final Report of the Select Committee into Elder Abuse; the work of the Standing Council of Attorneys General's Enduring Powers of Attorney Working Group; and any other state and federal reform relating to guardianship and administration. The LRCWA is to provide a final report on its review to the Attorney General by 1 April 2025.

In April 2024, the Public Advocate was asked to provide a preliminary submission to the LRCWA to advance the preparation of a Discussion Paper by the Commission. The preliminary submission included references to relevant submissions made by the Office of the Public Advocate regarding other reviews.

- In February 2024, the Public Advocate made a submission to the Commonwealth Department of Health and Aged Care regarding the *Aged Care Bill 2023 Exposure Draft*, given the intersection of the *Commonwealth Aged Care Act* with the *Western Australian Guardianship and Administration Act 1990*. The Office has not been provided with further iterations of the draft Bill since providing feedback.
- Ongoing preparation for the transition to the *Criminal Law (Mental Impairment) Act 2023* (CLMI) on 1 September 2024 including participation in the Implementation Steering Committee and the CLMI Program Board.

Case Study 6

Regulatory amendment, data sharing and improved NDIS outcomes

In 2023/24 the Office of the Public Advocate and Public Trustee worked with the State Solicitor's Office and the Department of Justice's Legislative Services team in the Strategic Reform division to develop the *Guardianship and Administration Amendment Regulations 2024*. These regulatory amendments were drafted by Parliamentary Counsel to enable the Public Advocate and the Public Trustee to share information with the National Disability Insurance Agency (NDIA) and the NDIS Quality and Safeguards Commission (NDIS Commission) in certain circumstances relating to the National Disability Insurance Scheme (NDIS).

While undertaking this work, the need to share information at a system level to support new information, technologies, and communication (ICT) systems, was identified.

Section 55 of the *National Disability Insurance Scheme Act 2013* (NDIS Act) provides the NDIA and the NDIS Commission with the power to obtain information to ensure the integrity of the NDIS. Section 113 of the *Guardianship and Administration Act 1990* contains confidentiality provisions by which the Public Advocate and the Public Trustee are bound when sharing personal information of represented persons.

On 5 April 2024 the *Guardianship and Administration Amendment Regulations 2024* came into operation to amend the *Guardianship and Administration Regulations 2005*. The changes have enabled information sharing between the Public Advocate and the Public Trustee with the NDIA at a system level to facilitate the sharing of data about represented persons. This can occur when the Public Advocate or the Public Trustee is satisfied that the release of the requested information is relevant to the performance of a function under the NDIS Act.

Both offices are now better positioned to share information with the NDIA and the NDIS Commission when the Public Advocate or the Public Trustee is satisfied this is required and appropriate. Such information sharing can greatly improve data accuracy, service planning and enhanced safeguards for vulnerable people with a decision-making disability.

Community Education

The Office of the Public Advocate promotes the human rights of adults in Western Australia with a decision-making disability, under the provisions and operation of the *Guardianship and Administration Act 1990*.

This is done through community education activities which improve people's awareness and understanding of the legislation, the system and the surrounding issues. Activities include:

- providing the community and relevant service providers with education and training which promotes the human rights of adults with a decision-making disability
- producing written and other material accessible to the community and service providers in a variety of formats and languages
- providing an advisory service which service providers and community members can access over the phone, in-person or in writing
- developing partnerships with other government agencies, non-government organisations and community groups to disseminate information about guardianship and administration
- promoting community responsibility for the wellbeing of vulnerable adults with a decision-making disability who may be at risk of abuse, exploitation or neglect.

The Year in Review

In 2023/24, the Office delivered a total of 24 education sessions to community members and professionals from the health, social work, mental health, disability and aged care sectors, including dentists and Voluntary Assisted Dying care coordinators. This is an increase from 21 sessions in 2022/23. Service Provider demand continues to grow exponentially, with attendance figures increasing by 34 per cent in 2023/24, taking the total increase over a two-year period to 59 per cent.

Of the 24 sessions, seven addressed the needs of community members and 17 were specifically tailored for service providers.

While all but one of the education sessions were delivered in the Perth metropolitan area, seven sessions were delivered online to support community members and service providers in regional areas. This is in direct response to online demand from service providers. Private Administrator Training switched to simultaneous face-to-face and online delivery, as arranged by the Public Trustee.

The Office delivered a service provider session for Justices of the Peace, educating them about the proper completion, witnessing and operation of enduring powers of attorney, enduring powers of guardianship and advance health directives, to assist in their role when witnessing these documents and also for their own personal information.

The Office participated in the Seniors Recreation Council of WA's 'Have a Go Day' (HAGD), sharing a marquee with the Public Trustee. As ever, the event was well attended giving both offices the opportunity to meet with community members and relevant service providers, and provide them with information on enduring powers of attorney, enduring powers of guardianship and Will drafting.



As well as a 'Wear it Purple' morning tea in August 2023 to raise money for LGBTIQ+ young people, the Office also had co-chair representation on the Department's newly established Diverse Sexualities and Genders Champion Group. The PrideFEST 2023 theme was BRAVE and Office staff joined colleagues from the Department to march in the PrideFEST parade.

Quarterly private administrator training sessions for newly appointed private administrators, continued to be presented jointly with the Public Trustee, along with biannual joint service provider seminars with the State Administrative Tribunal.

This year the Office acknowledged World Elder Abuse Awareness Day (WEAAD) by visiting an aged care facility in Rockingham, where they delivered a 'Planning Ahead' seminar to residents and disseminated WEAAD themed information packs.

Customer contact/enquiries

The Office of the Public Advocate offers an advisory service which provides information to community members and professionals in relation to the *Guardianship and Administration Act 1990*, who may be seeking information to assist them to plan for their future or to protect the rights of adults with a decision-making disability.

The service provides recorded information on guardianship, administration, enduring powers of attorney and enduring powers of guardianship. This information is available 24 hours a day, seven days a week, and supplements the information available on the Office's website.

During office hours people also have the option to speak to an advisory officer in-person or on the telephone. People also make contact by email, enabling them to submit queries outside of office hours which the advisory officer can then respond to during office hours.

In addition to queries about the guardianship and administration system, including planning documents and advice on making applications to the State Administrative Tribunal, the advice line also provides information for private guardians, enduring guardians and attorneys appointed under an enduring power of attorney, about the obligations of their roles and where to gather support if needed to assist in their decision making.

The advisory service is also a first point of contact for community members who have concerns about someone who appears to have a decision-making disability and is in need of assistance with decision making. This may be someone who has been observed to be having difficulty managing their day-to-day activities, or where there is a concern that the person is at risk of abuse or exploitation.

These calls sometimes lead to the opening of a community-referred-investigation which will involve an investigator advocate looking into the situation and determining if assistance, by way of the appointment of a guardian or administrator, is required; or if there are informal supports that can be put in place to assist the person.

In 2023/24 the Office's advisory service received 4,698 contacts, an increase of four per cent from 4,518 in 2022/23. The advisory service addressed 5,957 different enquiries by telephone in 2023/24.¹⁵

¹⁵ This figure excludes interview and email/letter enquiries.

Figure 19 Number of contacts (by mode of handling) to the advisory service 2023/24

Mode of handling	Jul 2023	Aug 2023	Sep 2023	Oct 2023	Nov 2023	Dec 2023	Jan 2024	Feb 2024	Mar 2024	Apr 2024	May 2024	Jun 2024	Total
Telephone	401	357	281	350	366	270	369	371	384	283	384	289	4,105
Interview	2	6	3	5	7	5	12	9	20	9	10	6	94
Email/letter	48	40	27	53	34	37	35	50	58	47	40	30	499
Total	451	403	311	408	407	312	416	430	462	339	434	325	4,698

In some instances, enquirers sought advice on multiple topics. Enquiries regarding enduring powers of attorney accounted for 37 per cent of all enquiries received during the year, with enduring powers of guardianship enquiries accounting for 28 per cent.

While there is no requirement to send the Office a completed Enduring Power of Attorney and/or Enduring Power of Guardianship form, 43 were received in 2023/24, and then subsequently checked and returned to the person who made them.

Figure 20 Telephone enquiries (by subject matter) to the advisory service 2023/24

Subject of enquiry	Jul 23	Aug 23	Sep 23	Oct 23	Nov 23	Dec 23	Jan 24	Feb 24	Mar 24	Apr 24	May 24	Jun 24	Total	Total as percentage of all enquiries
Guardianship	93	63	58	91	81	74	73	79	80	68	70	64	894	15%
Administration	61	54	43	50	50	39	63	45	46	32	50	53	586	10%
Enduring powers of attorney	208	207	155	165	208	147	216	179	197	152	224	152	2,210	37%
Enduring powers of guardianship	143	149	113	133	150	109	170	135	173	108	159	112	1,654	28%
Advance health directives	8	11	10	5	3	3	6	8	5	5	4	5	73	1%
General	36	38	36	52	48	32	45	73	57	36	54	33	540	9%
Total Subjects	549	522	415	496	540	404	573	519	558	401	561	419	5,957	100%

Note 1: In some instances, enquirers sought advice on multiple subjects.

Note 2: These figures do not include email/letter enquiry subject matter.

Since the Citizen's Advice Bureau ceased stocking hard copies of the Office's enduring power of attorney and enduring power of guardianship kits in 2022, requests for these documents have grown. The majority of which are received through the advisory service. Over the past 12 months, the Office received 874 material requests and disseminated over 2,600 EPA and EPG kits, along with 2,500 brochures, flyers and other material.

Case Study 7

Making an enduring power of attorney or enduring power of guardianship is a personal choice

An aged care consultant contacted the Office's telephone advisory service (TAS) requesting a bulk order of enduring power of attorney (EPA) and enduring power of guardianship (EPG) kits, for clients and their families. The provider was planning to help clients complete the forms.

The TAS officer, knowing that bulk kit requests are not supplied, discussed this request in more detail to find out why a provider was assisting clients who, in some cases, may not have capacity.

The consultant advised she was doing this because a number of aged care facilities were refusing to place people on a waiting list, or even offer them a place, if they did not have both an EPA and EPG in place.

The TAS officer reinforced that neither document can be a requirement for any service provision, as making an EPA and/or an EPG is a personal choice and there is no prerequisite that people must make them.

As an alternative, the TAS officer arranged to send the consultant a bulk order of the Office's Plain English brochures about making an EPA and/or EPG. This would provide her clients with the appropriate information, enabling them to make an informed decision as to whether or not they wished to make these powers. These brochures also contained details of how an individual can either download an EPA/EPG kit from the Office's website, or contact the Office if they wish to have a hard copy mailed directly to their home address.

It was also explained that facilities should not make the completion of an EPA and/or EPG a requirement of entry. If a person enters aged care and has capacity, they can sign their own paperwork. If they subsequently lose capacity after admission, and there is a need for a guardian and/or administrator, an application can be made to the State Administrative Tribunal. Alternatively, if the person already lacks capacity and informal processes are insufficient, someone will need to make an application for the appointment of a guardian and/or administrator at that time.

The consultant was advised that any service providers who are unclear about this process can contact the Office's telephone advisory service (TAS) to speak to an officer for assistance.

This is not an isolated call. The Office is regularly contacted by concerned family members experiencing the same issues.

Where possible, the advisory officers take down details of stakeholders who are making entry to a facility conditional on having an EPA and/or EPG, or who may need more information surrounding the legislation. These details are then forwarded to the Office's community education coordinator who will liaise with service providers to provide information, material and training opportunities.

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Accessing enduring power of attorney and enduring power of guardianship information

Service providers:

While EPA and/or EPG kits are not provided to service providers in bulk, Plain English brochures explaining how the powers work and how to access them are. Service Providers requesting a bulk order of these brochures can email the Office.

Individuals:

A person wishing to make their EPA or EPG can download kits directly from the publications page of the website. The kits provide step-by-step instructions and the forms. Alternatively, if a person does not have access to a computer or printer, they can contact the Office and request a hard copy of each kit, which will be sent directly to their home address.

Contact details:

The Office's telephone advisory service can be contacted Monday – Friday, between 9.00am to 4.30pm on 1300 858 455.

Queries can also be emailed to opa@justice.wa.gov.au.

Office of the Public Advocate website address www.publicadvocate.wa.gov.au.

Publication guide

In early 2024 the Office produced a definitive guide to the extensive catalogue of publications available online and in hard copy. The guide provides a comprehensive breakdown of material, detailing format, content and availability, as well as information surrounding accessibility and translation.

Easy Read brochures

In 2022 the Office began developing Easy Read factsheets covering topics such as how an investigation works, who makes treatment decisions and how guardianship works.

These documents break down complex concepts into easily understandable handouts. They have been drafted in consultation with a disability advocacy group and are available online and in hard copy.

Each year, new subject matter is identified and additional factsheets are developed to support what has become a broad range of topics

In November 2023 two new Easy Read factsheets were launched on International Day of People with Disability. Both of which focused on accessibility: 'How can I access OPA information' and 'English is not my first language – how can I access OPA Information.' This takes the total number of factsheets to 11 including the 'Hard Words - Glossary' factsheet.

Between 1 July 2023 and 30 June 2024 there were 1,131 Easy Read factsheet downloads from the Office's website.



Website

Since the Office migrated its website to the wa.gov.au platform in 2022, updates and continuous improvements have been implemented on a rolling basis.

Functionality has been improved and cultural and linguistic reach extended, following the installation of the Language Translation widget, allowing visitors to translate page content into a different language. In addition, Talk To Speech (TTS) reads aloud a webpage.

In 2023/24 there was a focus on improving website accessibility with the installation of Easy Read banners, the development of an accessibility webpage and the aforementioned Easy Read factsheets.

After extensive consultation, the Office also launched its First Nations translation webpage in April 2024.

When accessing the Office's website, 39 per cent of visitors used their desktop, 59 per cent used a mobile phone and two per cent used a tablet. This means mobile phone usage has more than doubled in the past 12 months, overtaking desktop usage.

Similar to last year, the top performing pages on the website between 1 July 2023 and 30 June 2024 were:

- enduring power of attorney: 78,494 visitations
(average time spent on page: 1 minute and 26 seconds)
- enduring power of guardianship: 51,799 visitations
(average time spent on page: 1 minute and 47 seconds).

In line with these figures, the most downloaded documents for the same period were:

- enduring power of attorney kits: over 29,364 downloads
- enduring power of guardianship kits: over 5,532 downloads.

Due to the choice of material available on the Office's website, visitations often result in multiple downloads.

Community guardianship program Volunteer Information Portal (VIP)

Launched in 2022, the Volunteer Information Portal (VIP) provides an online space for volunteers to share community guardianship materials, manuals, newsletters and other useful information, in an easy-to-use, secure online environment.

The portal can be accessed by volunteers via the community guardianship webpage and in the two years since it was launched, it has evolved into a well-resourced tool which continues to grow and evolve.



Catering to the needs of clients from a culturally and linguistically diverse background

All of the Office's publications are available in alternative formats,¹⁶ including other languages, upon request. Of the Office's ten information sheets, eight have been translated into different languages.

Three of the Office's most commonly used information sheets regarding planning for the future, have been translated into eight languages other than English. These information sheets provide information regarding enduring powers of attorney, enduring powers of guardianship and general planning for the future information.

This year information sheets about guardianship and administration and the roles of the Public Advocate and State Administrative Tribunal were translated into Japanese. This added to the existing list of Arabic, simplified Chinese, Dari, Italian, Malay, Polish, Spanish and Vietnamese translations.

The Office also has another four information sheets translated into both Persian and Thai. These documents provide information regarding the State Administrative Tribunal, the Tribunal process, guardianship and administration.

All aforementioned documents are available on the Office's website and in hard copy format on request.

Case Study 8

Non-English-speaking person requiring urgent treatment

The State Administrative Tribunal referred an urgent application to the Public Advocate, highlighting the possible appointment of the Public Advocate as guardian. The application was for Ms R, a young woman who was visiting Western Australia on a working visa.

Ms R had been working and living independently with her long-term partner, two hours north of Perth. In a very short timeframe, as a result of a rare cancer, Ms R was admitted to hospital in a coma and in need of urgent surgery.

While gathering information ahead of the hearing, the Office's investigator advocate identified that aside from her partner, Ms R had no relatives living in Australia. Her family all lived overseas. To complicate the lines of communication further, Ms R's relatives did not speak English and quite reasonably had no real understanding of the Western Australian guardianship system, the health system or how to liaise with stakeholders about their daughter's treatment.

Ms R's partner spoke English as a second language and was under pressure to manage their living expenses which meant he needed to keep working in a rural location north of Perth, making it difficult to respond to the hospital. The treating team at the hospital noted the family were supportive but with the language barrier it was difficult to progress the urgent treatment needed.

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¹⁶ The enduring power of attorney form and enduring power of guardianship form are not able to be translated into other languages, as they must be in English.



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Beside the immediate issue surrounding Ms R's medical treatment, there were also complex issues to explore with regard to her visa status and consideration of where she would live.

The family did not attend the hearing, Ms R's partner attended by phone, but did not propose to be guardian. His preference was that Ms R's family should have priority ahead of him in making Ms R's decisions.

The Office's investigator advocate recommended short term appointments of the Public Advocate and Public Trustee, especially with the need for urgent treatment decisions.

Following the hearing, the investigator advocate worked with the community education coordinator and a translation service provider to provide a range of translated information to the family, explaining the role of the Public Advocate and how the guardianship and administration system worked.

Due to the urgent nature of Ms R's situation, this translated information was provided within a few days, which enabled the family to be more informed and prepared about the role of the guardian, as decisions began to be made.

The ability to quickly provide translated information was beneficial to Ms R, her partner and her family. When Ms R's family visited Perth, interpreters were used again, to discuss the role of the Public Advocate further and to involve them as much as possible in decision-making processes.

Ultimately the delegated guardian was able to work with the family and treating team, enabling Ms R to return safely back to her home country and continue her recovery and rehabilitation.

Translated material at the Office of the Public Advocate

To ensure that language is not a barrier:

- Content on the Office's website can be translated to a different language using a 'Language' button at the top of each webpage.
- Translated publications are available to download on the [translated publications](#) webpage.
- First Nations languages are available in audio format on the [First Nations Audio Translations](#) webpage.
- An Easy Read factsheet called 'English is not my first language – How can I access OPA information?' is available in the [Easy Read section](#) of the publications webpage.
- Other language translations and interpreter services are available on request.

Note: Names and details have been changed to protect confidentiality.



Information for people of Aboriginal and Torres Strait Islander descent

Following stakeholder consultation in 2023, the Office worked with Aboriginal translation agencies to launch its First Nations Audio Translations webpage in April 2024. The webpage employs an easy-to-follow format utilising Plain English documents that link through to online audio translations. Languages currently include Noongar and Martu, Kimberley Kriol, Nyangumarta and Walmajarri. Additional First Nations languages are available on request.

The Office has produced a brochure specifically for people of Aboriginal and Torres Strait Islander descent, about the guardianship and administration system and the role of the Office of the Public Advocate in protecting vulnerable adults. This flyer was reviewed and updated in early 2023 and is supplied in hard copy to the Department's Aboriginal Justice Open Day program, along with EPA and EPG kits.

Where appropriate, information sessions for service providers include practical examples of how the guardianship and administration system could be used to assist people of Aboriginal and Torres Strait Islander descent to ensure culturally appropriate outcomes are achieved.

Interpreter services

To help ensure that language is not a barrier to guardianship or advocacy and investigation services for customers for whom English is a second language, the Office uses translation and interpreter services. During 2023/24 interpreter services were provided in 16 languages: Burmese, Cantonese, Croatian, Dari, Italian, Khmer, Macedonian, Maltese, Mandarin, Martu/Manyjilyjarra, Polish, Spanish, Tamil, Thai, Turkish and Vietnamese.

Catering to the needs of clients with vision impairments or print disabilities

The Office's website provides a clear display with simplified content sectioned into subject accordions, the user experience for vision impaired persons has been further enhanced by the Talk To Speech (TTS) function, which enables vision impaired users to listen to the page being read aloud.

In November 2023, the Office launched a new accessibility webpage and two supporting Easy Read factsheets promoting the different ways in which people can access information.

'Focus colours' continue to be used on the website, meaning when a visitor to the website hovers over links contained in the text, the links are highlighted, enhancing readability and navigation.

This year saw the development of an Easy Read banner, now prominently located on the website's homepage, allowing visitors to locate the Easy Read factsheets in one easy click.



Buttons were also installed, for example a person can call the Office's telephone advisory service by using the 'TAS' button, prominently located on the home page, without needing to dial the phone number. The Office's contact details are also clearly listed at the side of every webpage, for easy access.

Catering to the needs of clients with hearing impairments

Staff use the National Relay Service as required, to communicate better with clients who are deaf, or who have a hearing impairment or speech impairment.

The contact methods offered by the National Relay Service are promoted on the Office's website.

Corporate Services

The role of Corporate Services is to support the Office of the Public Advocate by facilitating effective administration, management and information systems and ensuring that government accountability requirements are fulfilled. The functions include:

- planning and providing office management and administration requirements
- providing financial and human resource management, procurement, information technology and physical resource management.

In 2023/24, these services were supported by the Department of Justice and costs were proportionally allocated to the Office of the Public Advocate and reflected in the Treasury Budget statements. The budget allocation and subsequent expenditure for 2023/24 was as follows:

Figure 21 Budget allocation and expenditure 2023/24

Original Budget 2023/24 (Service Group 2) \$'000	Revised Budget 2023/24 (Service Group 2) \$'000	Actual Expenditure 2023/24 (Service Group 2) \$'000
\$17,589 ¹⁷	\$18,013 ¹⁸	\$14,467 ¹⁹

The Office of the Public Advocate does not charge any fees for services.

The Year in Review

Freedom of information

Six valid applications were received by the Office during 2023/24 for the release of information. All of the requests were dealt with in full during the year.

Anyone who wishes to access information held by the Office of the Public Advocate can contact the Freedom of Information Coordinator on 9278 7300 or 1300 858 455. They may be asked to submit their request in writing.

If a request is denied, an application may be lodged with the Public Advocate.

If the application is denied or a person is not satisfied with the decision of the Public Advocate, they may lodge an appeal with the Information Commissioner.

Customer feedback

In 2023/24, the Office of the Public Advocate received 84 formal complaints during the year, which were all considered by the Public Advocate, a senior manager or a senior policy officer. The Office also received 37 formal compliments.

For people who lodge a formal complaint with the Office of the Public Advocate, either in writing, via email or over the telephone, the Office aims to respond to all grievances within 10 working days of the complaint being lodged and advise the relevant people (in writing) of the outcome and any corrective action to be taken.

To support this process, an Easy Read factsheet titled 'How to give feedback and make a complaint' was developed and is available both online and in hard copy format.

¹⁷ Includes shared Department of Justice corporate support.

¹⁸ Includes shared Department of Justice corporate support.

¹⁹ Includes shared Department of Justice corporate support.

Significant Issues Impacting the Agency

State and National Disability Sector Reform

October 2023 marked 31 years of operation for the Office of the Public Advocate. Across the three decades of operation, the Office has seen Australia's disability landscape change dramatically, with the most significant changes to have impacted the Office being brought about since Western Australia started transitioning to the Commonwealth National Disability Insurance Scheme (NDIS) in 2017/18.

The Office of the Public Advocate is now on the precipice of the most transformative legislative reform since the *Guardianship and Administration Act 1990* was enacted. In September 2023 the Final Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) was delivered to the Australian Government. The report includes a number of recommendations which will involve significant amendments to WA's *Guardianship and Administration Act 1990* if they are accepted and implemented.

The potential introduction of supported decision-making and a move from the principle of 'best interests', to a 'will and preferences' model, will be two of the most significant changes to the Act if they are implemented.

Following the release of the report, the Attorney General referred the *Guardianship and Administration Act 1990* to the Law Reform Commission of Western Australia (LRCWA) to review, with reference to the Disability Royal Commission recommendations, among other things, and make recommendations on potential reforms to the Act. The LRCWA is due to provide a final report on its review of the Act to the Attorney General by 1 April 2025.

Persistent Increasing Demand for Services

Demand for the Office of the Public Advocate's statutory services of advocacy and investigation and guardian of last resort has been persistently increasing for more than a decade. Demand for these services has been exacerbated by WA's transition to the Commonwealth NDIS since 2017/18.

Although it is not a requirement for anyone with a decision-making disability to have a guardian appointed in order to access the NDIS, the process of applying sometimes highlights other decision-making areas within a person's life for which they may need a guardian. Navigating the NDIS can present challenges, and informal processes that were in place for making accommodation and support decisions may no longer be possible. These factors have led to an increase in applications being made to the State Administrative Tribunal for the appointment of a guardian, and has resulted in an increase in guardianship orders appointing the Public Advocate, particularly with respect to adults with an intellectual disability or a mental illness.

The number of represented persons who are NDIS participants is expected to continue to increase. As at 31 December 2023, 2,198 of the 3,461 adults (64 per cent) for whom the Public Advocate was appointed guardian, were NDIS participants, in comparison to 1,897 or 57 per cent of the 3,351 persons for whom the Public Advocate was appointed guardian at 30 June 2023.

Of the 2,198 represented persons who were NDIS participants at 31 December 2023, 2,045 NDIS participants (93 per cent) were 65 years of age and under.

On 1 December 2020 the NDIS Quality and Safeguards Commission began operating in Western Australia, which saw changes to consent processes for the use of restrictive practices for people receiving NDIS funding. On 1 July 2021, the *Quality of Care Principles 2014*, which are established under the *Commonwealth Aged Care Act 1997*, were amended, including the introduction of more a formalised consent process for the use of restrictive practices for people receiving aged care and services.

These reforms have resulted in an increase in the number of people for whom the Public Advocate is appointed guardian, whose guardianship orders include the authority to consent to restrictive practices.

At 30 June 2020, prior to the establishment of the NDIS Quality and Safeguards Commission in WA and the amendments to the *Aged Care Act 1997*, 203 (eight per cent) of the 2,463 represented persons for whom the Public Advocate was appointed guardian, had restrictive practices included as a function on their guardianship order (at the time, the restrictive practices function was recorded as two distinct functions 'physical restraint' and 'chemical restraint', with most represented persons having both functions included in their order). In comparison, at 30 June 2024, just four years later, 1,441 (40 per cent) of the 3,598 represented persons for whom the Public Advocate was appointed guardian, had restrictive practices included as a function on their guardianship order.

Other significant factors contributing to the increasing demand for the Office's services, are the ageing population and the growing prevalence of dementia, mental illness and intellectual disability within the population.

Dementia statistics at the Office:

According to Dementia Australia²⁰ it is estimated there are more than 421,000 people living with dementia in Australia. This figure is expected to increase to more than 812,000 by 2054.

Of the 3,598 people for whom the Public Advocate was guardian at 30 June 2024, 1,329 (37 per cent) were 65 years of age or older. Of these, 784 people (59 per cent) had dementia.

In 2023/24, 49 per cent of the 2,407 new matters referred for investigation by the State Administrative Tribunal involved a person with dementia.

²⁰ Dementia facts and figures - Dementia Australia.

◆

The persistent increasing demand for services has placed considerable workload pressures on the office, particularly on frontline staff. It has been identified that the Office's overarching management structure is limited in its ability to be strategically responsive. The current structure will not enable the Office to respond adequately to future reforms and continued growth. The Office is currently in the process of assessing the required management structure and resourcing, which will best position the Office into the future for the protection and promotion of vulnerable adults who lack decision-making capacity.

New Case Management System

In 2021 an independent review of the impact of the National Disability Insurance Scheme (NDIS) on the work of the Office was undertaken by a consulting firm. The review found that demand for the Office of the Public Advocate's statutory services was accelerating, with the Office experiencing critical workload issues. In addition, the review identified that a new Case Management System (CMS) was required to replace the Office's existing information technology (IT) case management system.

Having secured \$4.321 million in funding through the Digital Capability Fund, the Office undertook an intensive tender process in 2023/24 to identify a suitable off-the-shelf cloud-based CMS.

It is anticipated that a new system will 'go-live' in the second half of 2024/25.

Disclosures and Legal Compliance

Financial Statements

See the Department of Justice 2023/24 annual report.

Key Performance Indicators

Notes to the Key Performance Indicators

The following performance indicators should be read in conjunction with the accompanying notes to the key performance indicators.

Advocacy, Guardianship and Administration Services

Key effectiveness indicators	Actual 2020/21	Actual 2021/22	Actual 2022/23	Target 2023/24	Actual 2023/24	Comment on significant variation
<p>Percentage of guardians of last resort allocated in one day</p> <p>This indicator measures the timeliness of the Public Advocate in allocating a guardian to a represented person in order to make decisions on their behalf and protect them from neglect, abuse or exploitation. The Public Advocate is appointed as guardian of last resort only when considered necessary and when there is no one else suitable or available to take on the role.</p>	78%	91%	91%	95%	92%	No significant variation.

Key efficiency indicator	Actual 2020/21	Actual 2021/22	Actual 2022/23	Target 2023/24	Actual 2023/24	Comment on significant variation
<p>Average cost of providing advocacy and guardianship services</p> <p>This indicator measures the average cost per case of providing advocacy and guardianship services on behalf of people with decision-making disabilities.</p>	\$1,573	\$1,665	\$1,752	\$1,953	\$1,728	The 2023-24 Actual Result is lower than target by 11%, primarily due to a lower than budgeted total cost of service during 2023-24. This variance is attributed to staffing vacancies and delays in projects associated with the Office of the Public advocates case management system.



Notes to the Key Performance Indicators

Key effectiveness indicator	Description
Guardian of last resort allocated in one day.	<p>This indicator is based on the Public Advocate's best practice to ensure the needs of the represented person are met immediately. It is measured by the number of appointments of guardians of last resort made by the State Administrative Tribunal at the hearing and accepted by the Public Advocate's delegate within one working day of receipt of the guardianship order.</p> <p>The Public Advocate is appointed as guardian of last resort only when considered necessary and when there is no one else suitable or available to take on the role. The information for this was extracted from the Public Advocate Case Management System (PACMAN).</p>

Efficiency indicator	Description
Average cost per case of providing advocacy and guardianship services.	<p>This indicator is calculated by dividing the total cost of providing advocacy, guardianship and administration services by the number of advocacy and guardianship services provided. The information for this indicator was extracted from the Department's activity-based cost management system, Planning and Budgeting Cloud Services (PBCS), and the Public Advocate Case Management System (PACMAN).</p>

Ministerial Directives

Nil.

Public Interest Disclosures

Nil. Since 1 July 2019, any disclosures regarding the Office of the Public Advocate are reported in the Department of Justice Annual Report.

Other Legal Requirements

Advertising

The Public Advocate discloses the following information relating to advertising, direct mail and market research expenditure as required under Section 175 ZE of the *Electoral Act 1907*.

Figure 22 Advertising

Recruitment Services	\$29,424
Telstra Directories	\$4,957
Other	\$2,728
TOTAL	\$37,109

Recordkeeping Plans

Records are maintained in accordance with the Department of Justice's records keeping plans and those of the State Records Office. An updated Retention and Disposal Schedule was approved by the State Records Office, effective December 2013.

See the Department of Justice 2023/24 annual report for any further information on:

- Other financial disclosures
- Other governance disclosures
- Disability Access and Inclusion Plan outcomes
- Compliance with Public Sector Standards and Ethical codes
- Substantive equality
- Occupational Safety, Health and Injury Management
- Board and committee remuneration
- Multicultural Policy Framework.

Appendix 1

Legislation

Legislative Authority

The Public Advocate's legislative authority is contained in the *Guardianship and Administration Act 1990*. The Act was proclaimed to come into full operation on 20 October 1992. Significant amendments were enacted on 15 February 2010 when the *Acts Amendment (Consent to Medical Treatment) Act 2008* came into effect and again on 7 April 2020 when the *Guardianship and Administration Amendment (Medical Research) Act 2020* came into effect.

With the implementation of the *Voluntary Assisted Dying Act 2019* (VAD Act) on 1 July 2021, section 3B came into effect in the *Guardianship and Administration Act 1990*. This legislative provision provides clarity in the Act that a Voluntary Assisted Dying decision is not able to be made as a treatment decision through an Advance Health Directive or by a substitute decision-maker.

The *Guardianship and Administration Regulations 2005* were amended on 4 August 2022 to incorporate a revised Advance Health Directive form to include a non-binding section on the person's views and wishes as well as a detailed Advance Health Directive for the making of treatment decisions including medical research decisions. The revised Advance Health Directive form was developed through extensive consultation by the Department of Health with input by the Office of the Public Advocate.

On 27 March 2024, consequential amendments to the *Guardianship and Administration Act 1990* came into effect with the enactment of the *Abortion Legislation Reform Act 2023*. The new provisions provide clarity around who can provide consent for an abortion treatment decision under the Act in relation to a represented person. The State Administrative Tribunal (the Tribunal) would make the abortion treatment decision on behalf of the represented person unless the Tribunal determines the person is able to make the decision themselves.

On 5 April 2024 the *Guardianship and Administration Amendment Regulations 2024* came into operation to amend the *Guardianship and Administration Regulations 2005*. The changes have enabled information sharing between the Public Advocate and the Public Trustee with the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission, at a system level to facilitate the sharing of data about represented persons. This can occur when the Public Advocate or the Public Trustee is satisfied that the release of the requested information is relevant to the performance of a function under the *National Disability Insurance Scheme Act 2013* (See Case Study Six).



Related Legislation

Other legislation relating to the circumstances and needs of people with a decision-making disability include:

State Administrative Tribunal Act 2004

Abortion Legislation Reform Act 2023

Aged Care Act 1997 (Commonwealth)

Carers Recognition Act 2004

Civil Liability Act 2002

Community Protection (Offender Reporting) Act 2004

Criminal Investigation (Identifying People) Act 2002

Criminal Investigation Act 2006

Criminal Law (Mentally Impaired Accused) Act 1996

Declared Places (Mentally Impaired Accused) Act 2015

Disability Services Act 1993

Health Act 1911

High Risk Serious Offenders Act 2020

Magistrates Court (Civil Proceedings) Act 2004

Mandatory Testing (Infectious Diseases) Act 2014

Mental Health Act 2014

National Disability Insurance Scheme Act 2013 (Commonwealth)

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018

Prisons Act 1981

Public Trustee Act 1941

Supreme Court Act 1935

The Public Advocate also complied with legislation that relates to the management and accountability requirements of Government during 2023/24, including:

Corruption and Crime Commission Act 2003

Electoral Act 1907

Equal Opportunity Act 1984

Financial Management Act 2006

Freedom of Information Act 1992

Parliamentary Commissioner Act 1971

Public Interest Disclosure Act 2003

Public Sector Management Act 1994

State Records Act 2000

State Supply Commission Act 1991

Work Health and Safety Act 2020

Workers' Compensation and Injury Management Act 1981

Working with Children (Criminal Record Checking) Act 2004

Appendix 2

Publications

Office of the Public Advocate publications are available online at www.publicadvocate.wa.gov.au

Information sheets

- Introduction to the Guardianship and Administration System (also available in Japanese, Persian and Thai)
- Role of the Public Advocate (also available in Japanese)
- Role of the State Administrative Tribunal (also available in Japanese, Persian and Thai)
- Guardianship (also available in Persian and Thai)
- Administration (also available in Persian and Thai)
- Sterilisation
- Public Advocate — Customer Feedback and Service Standards
- Enduring Power of Attorney (also available in Arabic, Chinese, Dari, Italian, Malay, Polish, Spanish and Vietnamese)
- Enduring Power of Guardianship (also available in Arabic, Chinese, Dari, Italian, Malay, Polish, Spanish and Vietnamese)
- Planning for the Future (also available in Arabic, Chinese, Dari, Italian, Malay, Polish, Spanish and Vietnamese)

Position statements

- Decisions about treatment
- Restrictive Practices (Restraint)
- Role of the Public Advocate as guardian of last resort with authority to make accommodation decisions
- Role of the Public Advocate as guardian of last resort with authority to make treatment decisions
- Role of the Public Advocate as guardian of last resort with authority for contact decisions
- Role of the Public Advocate as guardian of last resort with authority to make treatment decisions: palliative care
- Decisions about medical research
- Role of the Public Advocate as Guardian of Last Resort with authority to make decisions about restrictive practices



Easy Read factsheets

- How does an investigation work?
- A friend or family member is my guardian – how does it work?
- The Public Advocate is my guardian – how does it work?
- I have a guardian – how do treatment decisions work?
- Who can make a treatment decision?
- What is the Office of the Public Advocate?
- What is the difference between OPA and the PT?
- How to give feedback and make a complaint
- How can I access OPA information?
- English is not my first language – how can I access OPA information?
- Hard words – Easy Read Glossary

Brochures

- Office of the Public Advocate
- Your choices to make an advance health directive and appoint an enduring guardian
- Community Guardianship Program
- Are you worried about a vulnerable adult who needs help making decisions?
(a plain English flyer)
- If you can't make your own decisions, who will make them for you?
(a plain English brochure)

Guides and kits

- Office of the Public Advocate Publication Guide
- A Guide to Enduring Power of Attorney in Western Australia
- Enduring Power of Attorney Information Kit
- A Guide to Enduring Power of Guardianship in Western Australia
- Enduring Power of Guardianship Information Kit
- Private Guardian's Guide

First Nations translations

Audio recordings in Noongar, Martu, Nyangumarta, Kimberley Kriol and Walmajarri of the following Plain English documents

- How you can plan ahead
- Is someone you know vulnerable?
- What is a Guardian?
- What is an Administrator?

Appendix 3

Glossary

Administration: The legal appointment of a responsible person who can make financial and property decisions on behalf of a person who is not capable of making those decisions for themselves.

Advance health directive: A document in which a person who is capable makes decisions about their future treatment.

Community-referred investigation: The investigation of any complaint or allegation made by an interested party that a person is in need of a guardian or administrator, or is under inappropriate guardianship or administration. This type of investigation is carried out under section 97(1)(c) of the *Guardianship and Administration Act 1990*.

Enduring power of attorney: A document in which a person who is capable appoints another person or agency to manage their property and/or financial affairs. Unlike an ordinary power of attorney, an enduring power of attorney authority continues even when the person granting it loses their capacity to make decisions for themselves.

Enduring power of guardianship: A document in which a person who is capable appoints another person to make personal, lifestyle and treatment decisions on their behalf in the event that they lack full legal capacity in the future.

Guardianship: The appointment by the State Administrative Tribunal of a responsible person who can make personal, lifestyle and treatment decisions in the best interests of a person who is not capable of making those decisions for themselves.

Individual advocacy: Making recommendations in the best interests of adults with decision-making disabilities, on the need for guardianship or administration at hearings of the State Administrative Tribunal.

Interested parties: Any person or persons with a personal or professional interest in the outcome of a guardianship or administration application.

Investigation: Seeking further information in relation to a person's circumstances which can assist in assessing the need for the appointment of a guardian and/or administrator; and what authority any appointed person would require.

Limited guardianship or administration order: The authority given to an appointed substitute decision-maker to make guardianship or administration decisions on behalf of the represented person, limited to certain specified areas.

Plenary guardianship or administration order: The authority given to an appointed substitute decision-maker to make all guardianship or administration decisions on behalf of the represented person.

Proposed represented person: Refers to the person for whom an application for the appointment of a guardian or administrator is made.

Represented person: Refers to a person for whom a guardian or administrator has been appointed.

State Administrative Tribunal: An independent statutory tribunal that makes and reviews orders appointing guardians and administrators and considers applications for intervention into enduring powers of attorney, enduring powers of guardianship, advance health directives and related matters.

Appendix 4

Annual Report 2023/24 – at a glance

This document is about:

- the Office of the Public Advocate
- the things the Office does
- what the Office did this year
- what might make it harder in the future for the Office to do its work.

The Office of the Public Advocate



Protects adults who can't make decisions for themselves because of some kind of illness or injury to their brain, known as a decision-making disability (some people are born with a decision-making disability and other people may get a disability later, from an accident or illness).



Looks into reports of concern about other people harming or taking advantage of a person with a decision-making disability.



Makes decisions for people with a decision-making disability, when a guardianship order is made by the State Administrative Tribunal that makes the Public Advocate the guardian (the guardianship order says what kind of decisions the guardian can make and might include things like where the person lives, who they live with, what activities they do and what medical care they have).



Does its best to improve life for people with a decision-making disability.



Teaches people about what the Office does, who can make decisions for people with a decision-making disability and how to protect people with a decision-making disability.



This year:



We looked into 3,034 matters about adults with a decision-making disability who might have had someone trying to harm them or take advantage of them or their money.



We held 24 information sessions about what the Office does and how to help protect people with a decision-making disability.



We were appointed as guardian for the first time, for **777 adults** with a decision-making disability.



We helped 4,698 people who contacted the Office's advisory service for information.



We made decisions for the people we were guardian for, which was **3,598 people** on 30 June 2024.



We had 100 staff positions (at 30 June 2024).



We spent \$14.467 million to protect people with a decision-making disability.

What will happen in the future?

- There are more people getting older in Western Australia, which means there are more people with dementia, as well as other brain injuries and illnesses.
- More people with decision-making disabilities means there will be more work for the Office of the Public Advocate.
- The National Disability Insurance Scheme (NDIS) is also meaning more people need a guardian appointed and sometimes the only person who can be appointed is the Public Advocate.
- The Office has to keep finding ways to manage more work so that it can keep helping all of the people who need help.



Contact us for more information



If you are worried about the safety and welfare of someone with a decision-making disability.



If you have a question about someone with a decision-making disability and think they might need a guardian (a person to make decisions for them about where they live or what medical care they have), or an administrator (a person to make decisions for them about their money).



If you want to know what you can do to plan for a time when you might not be able to make decisions for yourself.

Call the Office on 1300 858 455 between 9am and 4.30pm,
Monday to Friday.



Government of **Western Australia**
Department of **Justice**

