



# Annual Report **2017–18**







**Office of the Public Guardian  
Annual Report 2017–18**

**ISSN 2208-570X**

**Contact Officer for Annual Report:**

Public Guardian  
PO Box 40596  
Casuarina NT 0811

Phone 1800 810 979

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

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

© Office of the Public Guardian, Northern Territory 2018

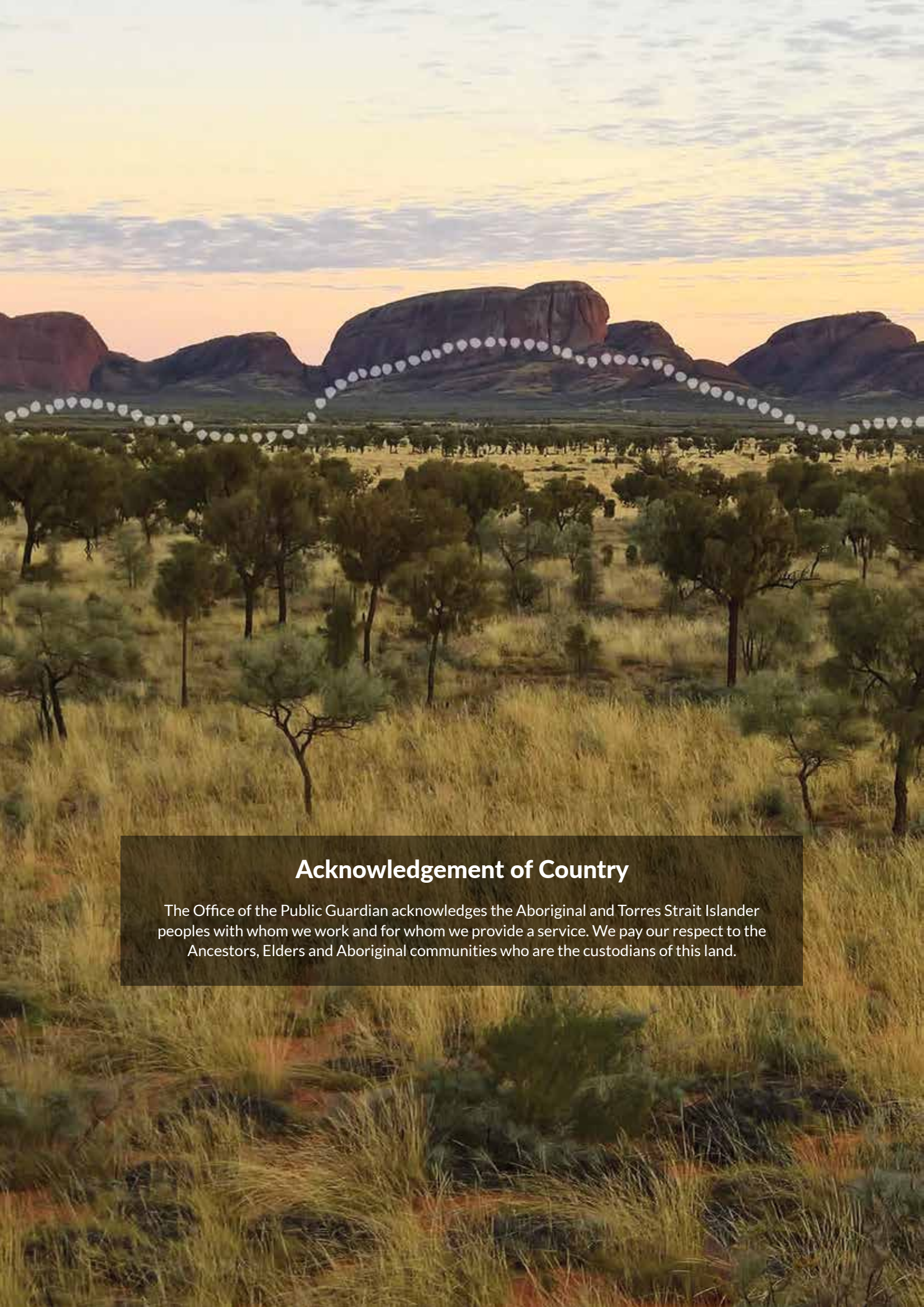
The photographs used for the cover and most graphical elements of this report depict landscapes of the central region of the Northern Territory. The Public Guardian, Ms Beth Walker, took these photographs during her regional consultations in Aboriginal communities in March 2018. Background image for Acknowledgement of Country, 'Kata Tjuta Dawn', courtesy of Rob King, Magpie Goose Publishing, September 2017.

You can download this annual report for free from our website.



# Office of the Public Guardian Annual Report 2017–18





## **Acknowledgement of Country**

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





PO Box 40596  
Casuarina NT 0811  
T: 1800 810 979  
E: [public.guardian@nt.gov.au](mailto:public.guardian@nt.gov.au)  
W: [www.publicguardian.nt.gov.au](http://www.publicguardian.nt.gov.au)

The Hon Natasha Fyles MLA  
Minister for Health  
Parliament House  
DARWIN NT 0800

Dear Minister

**Re: Office of the Public Guardian Annual Report, 2017–18**

In accordance with the provisions of section 74 of the *Guardianship of Adults Act 2016*, I am pleased to present the 2017–18 Annual Report of the Office of the Public Guardian.

The Northern Territory Office of the Public Guardian is responsible for providing guardianship and advocacy on behalf of adults with impaired decision-making capacity. The following report details the performance and achievements of the Office of the Public Guardian for the 2017–18 reporting period.

Yours sincerely

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

BETH WALKER  
Public Guardian

28 September 2018







# Contents

<b>Message from the Public Guardian</b>	<b>1</b>
<b>Adult guardianship in the Northern Territory</b>	<b>4</b>
<b>Office of the Public Guardian</b>	<b>5</b>
Executive	7
Our team	9
Official opening of our Darwin office	10
<b>Community engagement and advocacy</b>	<b>11</b>
Communications	11
Regional consultations	11
Stakeholder collaboration	13
Advocacy	14
<b>Corporate Services</b>	<b>20</b>
Policy review and development	20
Systems improvement	24
People and organisational capability	26
Complaints and review	27
<b>Inquiry and Engagement</b>	<b>29</b>
Changes to NTCAT processes	29
Engagement and support	30
Guardianship applications	30
<b>Guardianship</b>	<b>33</b>
Adults under guardianship	34
National Disability Insurance Scheme	37
<b>Disability rights</b>	<b>40</b>
Embracing diversity	40
Supported decision-making	42
Interface with the justice system	43
<b>KPIs, budget and resourcing</b>	<b>45</b>
Key Performance Indicators	45
<b>Looking ahead</b>	<b>46</b>



## List of figures

Figure 1:	Organisational structure	8
Figure 2:	Regional and remote consultations: communities visited, 2018	12
Figure 3:	Young people transitioning from out-of-home care to adult guardianship, actual and projected	23
Figure 4:	NTCAT applications involving OPG in 2017–18, by type	30
Figure 5:	Applications in 2017–18: Aboriginal and non-Indigenous adults	31
Figure 6:	Primary impairment stated on new and urgent applications	32
Figure 7:	Number of guardianship applications: comparison over three years	32
Figure 8:	Adults under guardianship in the Northern Territory, by guardian type, 2016–17 and 2017–18	34
Figure 9:	Location of adults under guardianship	35
Figure 10:	Age of represented adults under the sole or joint guardianship of the Public Guardian, 2016–17 and 2017–18	36
Figure 11:	Gender of represented adults under the guardianship of the Public Guardian, 2016–17 and 2017–18	37
Figure 12:	Number of people under adult guardianship in the Northern Territory, by Aboriginal and non-Indigenous status	40
Figure 13:	Custodial and non-custodial orders: all represented adults	44
Figure 14:	Custodial and non-custodial orders: Aboriginal and non-Indigenous represented adults	44
Figure 15:	Custodial and non-custodial orders, by gender	44
Figure 16:	Custodial and non-custodial orders, by primary impairment	44
Figure 17:	Priorities moving forward: 2018–2020	46

## List of tables

Table 1:	Functions and responsibilities	9
Table 2:	NDIS actions completed as at 30 June 2018	38
Table 3:	Key Performance Indicators against forecast estimates, Budget Paper no. 3	45





# Message from the Public Guardian



*I would like to welcome you to the Office of the Public Guardian's 2017-18 Annual Report.*

Our past 12 months of operations represents our first full year as an independent statutory authority under the *Guardianship of Adults Act 2016* (the Act). The year has been one of continued growth and change as we position ourselves as the key authority on guardianship in the Northern Territory. Our core aim is to strive for excellence in the service we provide to our community of represented adults, service providers, private guardians and stakeholders.

The core function of our Office is to provide advocacy and guardianship for adults with impaired decision-making capacity. We also undertake community education activities in areas of guardianship and provide support to private adult guardians.

Guardianship in the Northern Territory is recognised under the Act as requiring separate authority and independence from government. This ensures that I, as Public Guardian, and my staff, as delegates of the Public Guardian, can make decisions which are impartial and in the 'best interests' of the adults for whom orders are sought.

The changes accompanying the transition of guardianship from a service within the Department of Health to an independent statutory authority continued to impact our operations throughout the reporting period. This was evident internally in the expansion of our structure, functions and team interface. Externally, our standing in the community continued to evolve with our forging of strengthened relationships with the disability and service provision sectors and the Northern Territory community more broadly.

We are particularly pleased to be in a position to report that our guardianship information systems are now fully electronic. This transition marks an end to the use of manual systems used historically to manage caseloads for represented adults. We are confident that our new client information system will lead to improved efficiencies in our management of represented adult caseloads and data reporting. It will also resolve concerns identified in an earlier audit of existing guardianship processes and mitigate associated risks.





We are pleased also to report that we are achieving our mandate. We are successfully doing our job. The Office has stepped up to the progressive increase in guardianship enquiries, orders and demands since our inception. A not insignificant 977 adults were under guardianship in the Northern Territory during the 2017–18 year. This represents a 9.8 per cent overall increase on 2016–17. Relative to other Australian jurisdictions, the Northern Territory has the highest proportion of its population under guardianship, with a vast majority of adults under guardianship identifying as Aboriginal or Torres Strait Islander.

Unusually, the Public Guardian's authority can extend in the Northern Territory to financial matters for adults under a guardianship order, with resultant resource ramifications and risks. We therefore commenced in February 2018 a Financial Management Project to look specifically at these risks and institute appropriate systems, policies and processes.

An important function of our Office is to advocate for adults with impaired decision-making capacity by promoting understanding and awareness of relevant issues. We achieve this through a range of community engagement strategies including regional consultations, workshops, information forums and publications.

In 2017 and 2018 I was delighted to meet with represented adults, their families and carers, community members and stakeholders in a series of regional consultations across the Territory. I was privileged to be joined in the consultations by Dr Christine Fejo-King, a Larrakia Elder, as cultural consultant. Feedback was extremely positive with our efforts to visit remote and regional communities, in particular, very warmly received.

We were additionally thrilled to launch our website, a series of English-language fact sheets and a handbook for guardians. Staff distributed

more than 300 copies of our *Understanding guardianship* guide for private adult guardians during the year and countless copies of our fact sheets. Our website provides comprehensive information on guardianship for the Northern Territory community and has to date recorded over 4,500 views. We also entered the social media space with a Facebook page. These initiatives vastly improve our reach in the Territory and access to our resources.

As an organisation, we are keenly aware of the diversity of the Northern Territory community. The regional consultations provided valuable feedback and input in regard to particular resource needs. We have addressed this in part with the translation of our English language fact sheets and guardian guide into Auslan and Braille, and translation of our fact sheets into different languages. We are determined to continue this initiative over the coming year with further accessible resources. Our aim is to be responsive and to listen to our community.

A significant change impacting our operations in 2017–18 was the expansion of our role in Northern Territory Civil and Administrative Tribunal (NTCAT) guardianship processes. A delegate of the Public Guardian must now be present at any NTCAT hearing involving a guardianship matter. We are also now responsible for issuing NTCAT Standard Orders to all parties involved in the reassessment of orders involving the Public Guardian. This has impacted staff workloads and resources significantly.

The expansion of guardianship eligibility criteria under the Act to include cognitive impairment from any cause has brought about changes in the profile of people subject to guardianship. This impacts and provides challenges to the way we work. We are now seeing an increased number of represented adults presenting with more complex and varied cognitive impairments. This has required our Adult Guardianship Officers to invest in and



build relationships with an increased range of stakeholders to give effect to best interest decision-making. These stakeholders are critical partners in achieving improved outcomes for represented adults.

The disproportionately high number of Aboriginal and Torres Strait Islander adults under guardianship in the Northern Territory introduces unique and complex challenges to the delivery of services. A substantial number of these adults have ties with remote areas. This introduces logistical barriers which affect represented adults and their families in different ways. Issues include lack of support services, language and communication difficulties, transience, lack of transport and inadequate housing and accommodation. These challenges are of concern from a human rights perspective and are of particular interest to me as Public Guardian.

The National Disability Insurance Scheme (NDIS) is continuing its rollout in the Northern Territory. The rollout highlights a range of inequities, evidenced in the Northern Territory in the thin market of services relative to other jurisdictions. This results in an inability to implement NDIS plans. Notwithstanding these difficulties, the NDIS has had a positive impact on the quality of life for many adults.

Implementing a national scheme of the magnitude of the NDIS would inevitably come with challenges. The Office of the Public Guardian has played a strong advocacy role throughout the NDIS transition to date. We are committed to working cooperatively with all stakeholders including the National Disability Insurance Agency to ensure optimum outcomes for represented adults.

Other concerns in my role as Public Guardian relate to the transition of young people from out-of-home care to adult guardianship; restrictive practices in a range of settings; ageing and the abuse of vulnerable people; and housing and support options for people with complex needs. These areas will continue to drive policy and advocacy in the coming year.

Many of the key guardianship issues faced in the Northern Territory replicate those faced nationally. We gain from the longstanding experience of equivalent offices in other jurisdictions and from the experience of stakeholders in relevant bodies. We value our collaborations throughout the year with government, peak organisations and national guardianship bodies, and the opportunity this presents to identify, workshop and seek a resolution collectively to key issues, experiences and challenges.

Staff of the Office of the Public Guardian operate in fluid and frequently challenging circumstances. I am constantly impressed by their capacity to be responsive and compassionate in this changing environment. It is a privilege to lead such a team. I would like to take this opportunity to thank my staff for their dedication, commitment and professionalism. We have come together as a cohesive and focused team with the core goal of achieving the best interests of the adults who we represent.



BETH WALKER  
Public Guardian





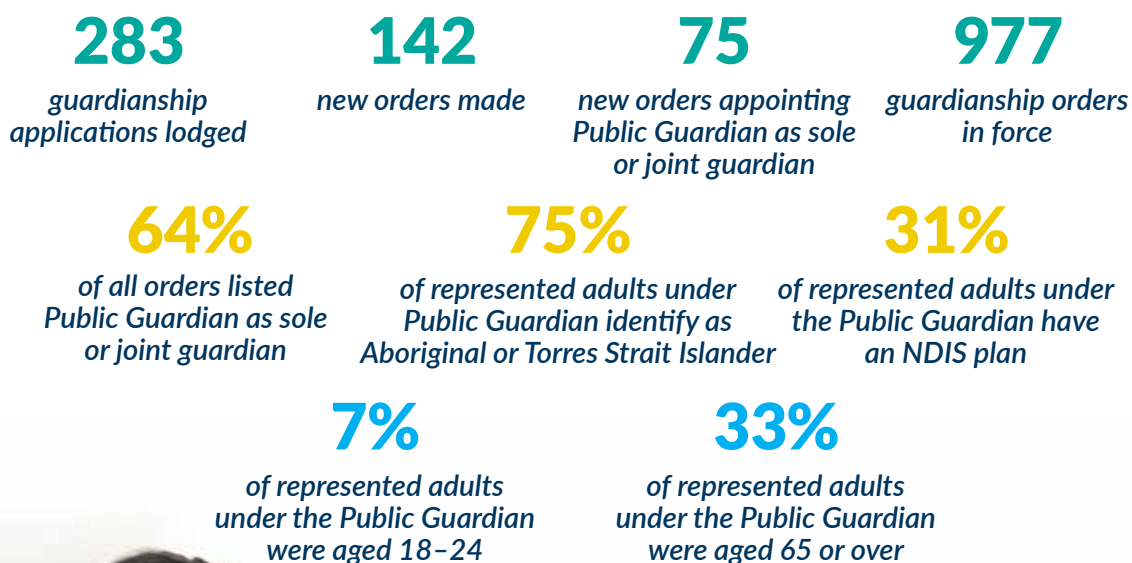
## Adult guardianship in the Northern Territory

The *Guardianship of Adults Act 2016* (the Act) provides the legal framework for adult guardianship in the Northern Territory. The Act establishes the statutory appointment of an independent Public Guardian and the Office of the Public Guardian (OPG), aligning the Northern Territory with other Australian jurisdictions in the administration of matters related to adult guardianship.

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

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

### In 2017–18:





# Office of the Public Guardian

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

## Our functions



- act as guardian when appointed
- inform NTCAT decisions
- do advocacy and research
- disseminate information and educate



- investigate concerns and complaints
- protect and promote rights
- promote access to services
- provide guidance and support to private guardians

## Our values

### Commitment to service.

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



### Collaboration.

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



### Ethical practice.

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



### Respect.

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



### Accountability.

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



### Diversity.

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







## Our strategic goal

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

## Our strategic priorities

- 1 Implement a financial management and accounting system to improve financial administration on behalf of represented adults.
- 2 Consolidate staffing framework.
- 3 Consolidate and develop guiding policies.
- 4 Build and promote collaborative stakeholder relationships.
- 5 Develop advisory and support services to assist private guardians.
- 6 Transition fully to electronic information management systems.
- 7 Review on-call after-hours system.
- 8 Promote a positive, professional and inclusive workplace culture.



## Our history

Adult guardianship commenced in the Northern Territory on 30 June 1989 under the *Adult Guardianship Act 1988*.

This act was repealed on 28 July 2016 by the *Guardianship of Adults Act 2016* (the Act).

## The Act:

- established the independent Office of the Public Guardian (OPG) and statutory position of Public Guardian
- transferred jurisdiction for administrative matters from the Local Court to the Northern Territory Civil and Administrative Tribunal (NTCAT)
- introduced comprehensive guardianship principles.



**Executive team.** Centre: Beth Walker, Public Guardian. Left: Lisa Patamisi, Director, Guardianship. Right: Jennie Guinane, Director, Strategic and Operational Support

## Executive

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

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



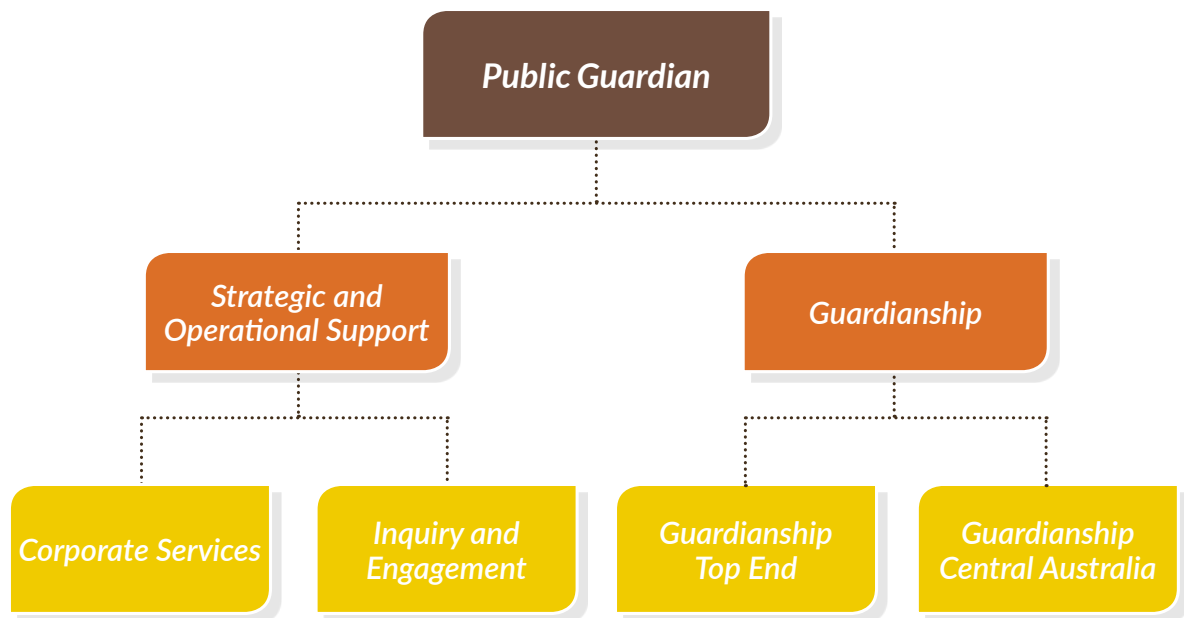


Figure 1: Organisational structure



Top End and Central Australia staff



## Our team

**Table 1:** Functions and responsibilities

Corporate Services	Inquiry and Engagement	Guardianship
<ul style="list-style-type: none"> <li>• provide leadership and support</li> <li>• manage internal policies</li> <li>• undertake stakeholder engagement</li> <li>• prepare submissions and briefs</li> <li>• manage human resource, business and administration processes</li> </ul>	<ul style="list-style-type: none"> <li>• inform NTCAT decisions</li> <li>• provide guidance and information to private guardians and interested parties</li> <li>• conduct guardianship investigations</li> </ul>	<ul style="list-style-type: none"> <li>• act as a substitute decision-maker and financial manager on behalf of represented adults when appointed by the NTCAT</li> <li>• prepare and submit reports on guardianship matters for NTCAT hearings</li> <li>• provide an after-hours service</li> </ul>
Whole of organisation		
Information and education	Advocacy and research	
<ul style="list-style-type: none"> <li>• undertake community engagement and education activities</li> <li>• develop and disseminate guardianship informational materials</li> <li>• provide information and support to private guardians</li> </ul>	<ul style="list-style-type: none"> <li>• advocate on behalf of represented adults</li> <li>• protect and promote rights through systems advocacy</li> <li>• promote access to support services for represented adults, guardians, families and carers</li> <li>• undertake research into relevant issues</li> </ul>	

## Recognition of service

The OPG gives special recognition to Effie D'Arrigo for her 20 years of service in the Public Sector.



## Official opening of our Darwin office

The Minister for Health, the Hon Natasha Fyles MLA, officially opened our new Darwin office at Darwin Corporate Park, Berrimah on 28 August 2017. The office unifies and provides a contemporary workspace for our Inquiries and Engagement, Corporate Services and Top End Guardianship teams in one location.

*'The office in Berrimah has an excellent layout that allows for staff to work closely together and support each other in their work while also having generous space for team discussions and areas for quiet conversations. The office is fitted with sit/stand desks for all staff. The investment in art from local artists throughout the office allows all staff to enjoy some peaceful moments. These features, not forgetting the well-fitted kitchen, make coming to work a very pleasant experience. This is the nicest office I have ever worked in.'*

— Top End staff member





# Community engagement and advocacy

## Key achievements

- ✓ conducted regional and remote consultations (13 communities and over 50 agencies visited)
- ✓ facilitated guardianship forums
- ✓ collaborated with stakeholders
- ✓ negotiated protocols and agreements

## Communications

The Office of the Public Guardian (OPG) was thrilled to launch its website in December 2017. The website provides comprehensive information on guardianship, and includes a link to our social media Facebook page. The website has had 4,500 views since its inception.

The OPG published a suite of English-language fact sheets and our guide *Understanding guardianship* in July 2017 to assist private adult guardians to fulfil their role and responsibilities. An extensive distribution of these documents has been undertaken. The documents are downloadable also from our website.

The OPG now has a documented communications plan to guide our information activities. Input to the plan was sought from OPG staff through a facilitated workshop and from stakeholders through a series of regional community consultations.

## Regional consultations

In February–March 2018 the OPG and the Health and Community Services Complaints Commission (HCSCC) undertook a series of consultations across the Northern Territory.

The HCSCC were conducting their second round of ‘Complaints, Capacity Building and the NDIS’ consultations related to their Disability Rights Project ‘Talk Up!’. HCSCC invited the OPG to accompany their representative Dr Christine Fejo-King in her travel throughout the Territory.

The consultations enabled the OPG to provide information about guardianship services to a wide range of recipients across the Northern Territory and were a great opportunity to address specific concerns. They also presented an opportunity for the Public Guardian to speak with stakeholders about legislative changes under the *Guardianship of Adults Act 2016* (the Act). We were particularly pleased that service providers spoke very highly of the service they received from the OPG and our Adult Guardianship Officers (AGOs), in particular.

This first round of OPG regional consultations took place over four weeks. The Public Guardian visited regional and remote communities including Nhulunbuy, Yirrkala, Barunga, Beswick, Ali Curung and Belyuen, where she consulted and presented information to small groups and organisations. These forums enabled positive relationships to be built and strengthened.

Travel to the communities presented an opportunity to make some home visits to represented adults, including some National Disability Insurance Scheme (NDIS) participants. It was also an opportunity to meet with family members of represented adults and gain a better understanding of issues from their point of view.

The time and effort taken by the Public Guardian and her staff to visit the regions was extremely well received and appreciated, with the logistics of travel to these communities serving as a reminder of the vastness of the Territory and impacts of remoteness.





Following on from these joint regional consultations with the HCSCC, representatives of the OPG, accompanied by Dr Christine Fejo-King, undertook a second round of guardianship focused community consultations. These took place over three weeks in June 2018. Remote communities with high numbers of represented adults and private guardians were visited. Communities visited included Elliott, Ntaria (Hermannsburg), Tennant Creek, Katherine, Pine Creek, Jabiru and Ngukurr.

Our regional consultations have proved to be an effective way of spreading the guardianship message and sharing information with represented adults, current and prospective guardians and members of the broader community. The consultations have also helped to strengthen relationships and partnerships with regional service providers and stakeholders.

In the course of the consultations we received valuable feedback both in respect to guardianship issues and specific information needs, which will inform the production of culturally accessible materials.

The OPG will undertake a third round of regional consultations in September 2018 to assess the effectiveness of resources developed.

Figure 2 depicts locations visited in the course of the consultations in 2018.



Beth Walker and Christine Fejo-King



**Figure 2: Regional and remote consultations: communities visited, 2018**

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



## Stakeholder collaboration

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

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







## Improving transition from care for young people

Section 12 of the Act provides for advance adult guardianship orders to be made for young persons aged 17 which take effect on their 18th birthday. The OPG has been leading discussions with Territory Families to strengthen support arrangements and provide for the seamless transition of young people into adult guardianship. The OPG is committed to working with Territory Families to develop and monitor agreed processes to support the ongoing needs and best interests of young people transitioning to adult guardianship.

In mid-June 2018 procedures were formalised whereby Territory Families have undertaken to provide the OPG with advance notice of upcoming referrals for adult guardianship orders. The procedures include the expectation that Territory Families case managers and OPG AGOs will commence discussions in advance of orders coming into effect. Once an order has been made, Territory Families will then work collaboratively to effect the transfer of decision-making authority to the OPG. Territory Families will also ensure that an appropriate leaving care plan will be developed and provided to support the transition to adulthood under guardianship.

A further significant related achievement, resulting from high-level collaboration and negotiation between the OPG, Territory Housing and Territory Families, relates to housing for young people in foster care transitioning to adult guardianship. Previously a young person in this situation was likely to experience precarious living in unstable accommodation for years while waiting for public housing. Now young people will gain secure public housing at the outset. This security of tenure also facilitates the coordination of services to better support young people through the challenges of living more independently as young adults. There remains a need, however, for improvement on access to flexible support options for this group.

## Community Visitor Program

The Community Visitor Program (CVP) protocol considers the Northern Territory Government's overarching human rights framework in supporting people with disabilities. In recognition of the high number of represented adults who are participants in the CVP, the OPG and the CVP have developed a protocol 'to ensure clear communication, referral, services and support to mutual clients of both agencies'. The protocol will establish a common understanding of roles and responsibilities in addition to working agreements to meet the common objective of better outcomes for represented adults.

## Public Trustee

The OPG worked effectively with the Public Trustee throughout the year. In 2017-18, 75 represented adults were under orders designating the OPG for personal decision-making and the Public Trustee for financial management. Our organisations are mutually committed to formalising the way we work together to ensure best interest decision-making for adults under guardianship orders.

## Advocacy

The OPG fosters sound working relationships with stakeholders to fulfil its mandate of advocacy in respect to rights and effective service provision for represented adults in specific regions and sectors. This close collaboration with stakeholders also identifies gaps in service delivery and resourcing. The relatively new role of the Public Guardian is proving to be an effective conduit for achieving systemic change that positively impacts the lives of represented adults.

The OPG advocacy at the systemic level makes a big difference to individuals. As the Public Guardian engages with authorities in the broader community sector, significant changes in overall service delivery and resourcing allow



## ***'Jamil'\* – a young person transitioning to semi-independence***

'Jamil' transitioned into an adult guardianship arrangement with the OPG after being in formal care with a foster family from a young age.

In the months before his guardianship order came into effect, the OPG together with Territory Families and key stakeholders met to share information and identify suitable accommodation and support services.

Due to concerns expressed by Jamil and people close to him about his ability to cope, it was recognised that Jamil would need support to live independently.

Despite initial difficulties, suitable supported accommodation was located which supports Jamil in learning social and practical independent living skills. While it is still early days, Jamil is making real progress. He is adjusting to semi-independent living, has a social life and is currently training to enter the workforce.

Jamil's successful transition from foster care to semi-independent living was realised through regular information sharing and additional support by Territory Families to obtain his current accommodation. Support services provided case management and in-home support and key parties maintained communication about Jamil's progress.

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



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

### **Contribution to national dialogue**

The OPG expanded its advocacy function in 2017–18 through participation in national and Territory-wide forums and inquiries, including:

- August 2017 – submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into and report on the transitional arrangements for the NDIS
- September 2017 – submission in response to the Australian Law Reform Commission discussion paper on *Incarceration rates of Aboriginal and Torres Strait Islander peoples*
- September 2017 – evidence to public hearing conducted by the Joint Standing Committee on the National Disability Insurance Scheme inquiry into and report on the transitional arrangements for the NDIS
- November 2017 – submission in response to the Northern Territory Department of the Attorney-General and Justice discussion paper on the *Modernisation of the NT Anti-Discrimination Act*
- February 2018 – submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the market readiness for provision of services under the NDIS.





## Ageing, financial abuse and neglect

Elder abuse is a health and social problem with profound consequences. It can cause extreme suffering for older people and can fracture family and personal relationships. At a systemic level elder abuse can result in increased pressures on the health system, government benefits and social supports.

The most prevalent form of elder abuse is financial exploitation. Many older people are victims of theft, forgery and denial of access to funds. Risk factors which make older people more vulnerable include poverty, social isolation, cognitive impairment and dependence on the perpetrator.

*Elder abuse is now widely recognised as a social problem in Australia, and, unless effective preventative measures are put in place, one that is anticipated to grow with our aging population. With this in mind, the question of how to prevent and how to respond to situations of elder abuse has been seriously engaged at both state and national levels.<sup>1</sup>*

The Northern Territory experienced the largest increase in growth (6.2%) relative to all other states and territories of people aged 65 and over in the 12 months to 30 June 2016.<sup>2</sup> Northern Territory population projections indicate that while both the Aboriginal and non-Indigenous populations are ageing steadily, the Aboriginal population is ageing faster with the proportion aged 65 and over expected to more than double in the period 2016–2046.<sup>3</sup> This has resource and other implications for the Public Guardian.

The Public Guardian has a mandate and responsibility to advocate for adults under guardianship in areas including financial management and to ensure that their 'best interests' are upheld. In 2017 and 2018 the Public Guardian contributed to a number of consultations and reviews concerning the rights of older people and prevalence of elder abuse.

These included the Australian Guardianship and Administration Council's inquiry into the prevalence and characteristics of elder abuse among adults under guardianship, the Council of Attorneys-General Working Group on Protecting the Rights of Older Australians, and a discussion of recommendations from the Australian Law Reform Commission's inquiry into elder abuse.

- 1 Bedson, L., Chesterman, J. and Woods, M. 2018, 'The prevalence of elder abuse among adult guardianship clients', *Macquarie Law Journal*, vol. 18, p. 15.
- 2 Australian Bureau of Statistics 2016, 3101.0 – Australian Demographic Statistics, Jun 2016, 'Feature article: population by age and sex, Australia, states and territories', viewed 14 August 2018, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Previousproducts/3101.0Feature%20Article1Jun%202016>.
- 3 Department of Treasury and Finance 2017, *Northern Territory Population Projections (2017 release): preliminary update (2017 release)*, Northern Territory Government, p. 3.



### ***'Dennis'\* – ageing and financial security***

'Dennis' is from a remote Aboriginal community. His pension payments were problematic because he did not have a bank account. For some time his pension payments were paid into a nominated family member's bank account. Family were accessing his money and, as a result, Dennis was left without adequate food and care.

Unfortunately, Dennis's health also began to decline and the remote clinic was unable to meet his needs. When he was evacuated to a hospital in town, his pension payments were ceased by Centrelink and were at risk of being cancelled entirely as he no longer had a nominated bank account.

While Dennis was in hospital, an interim guardianship order appointed the OPG as decision-maker. The OPG opened a bank account for Dennis so he could receive his reinstated Centrelink payments. Centrelink also agreed to pay arrears for the period his payments were incorrectly ceased.

Although it is Dennis's wish to return to his Country, his care needs cannot be met in that setting. The OPG has organised for Dennis to move into an Aboriginal aged care facility in town when a place becomes available, and for a family member to travel and spend some time with him at the hospital in the interim.

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



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

Coordination of housing and support services is recognised nationally as being of critical importance to represented adults. Access to flexible housing options can reduce stress and risk for represented adults, and can also reduce pressure on and add value to the range of health and community services available to represented adults and people with a disability more generally.

The Public Guardian is appointed as guardian to some of the most marginalised people in the Northern Territory, often at a point in time when the person is particularly vulnerable. One of these points of vulnerability is when a person living with a disability is experiencing or likely to experience homelessness and have little or no support. A person in this situation may have no fixed address and may have increased level of need or complexity for their care or condition.

Such circumstances can see a person's health and wellbeing decline to the point at which they become hospitalised. They then may occupy a bed for much longer than medically required due to the difficulty of obtaining suitable accommodation on discharge. In this crisis-like situation, immediate advocacy by the OPG will involve negotiation with the health provider and other services around the represented adult's housing and support needs. This will often involve navigating a best scenario outcome within very limited options.

Acute hospital settings are not the appropriate response to a housing crisis. As at 30 June 2018 there were 21 represented adults in Northern Territory hospitals awaiting accommodation placement: 15 in Darwin and six in Alice Springs. Many were social admissions awaiting aged care or nursing home placements. Some





had been waiting for over a year; one had spent the past six years in various forms of hospital accommodation. Several adults under guardianship orders were in hospital due to a lack of accommodation options for persons presenting with assaultive and aggressive behaviours. On a more positive note, at the time of reporting there were plans under way to house the represented adults eligible for the NDIS in appropriate community placements.

This situation highlights a shortfall and systemic failings in the provision of housing supports for vulnerable Territorians. Our navigation of the sector points to insufficient nursing home placements, no psychogeriatric nursing home facilities, inadequate mental health accommodation options and a lack of 24/7 supported accommodation options. Some represented adults are waiting on Aged Care Assessment Team reviews or on a waitlist for Community Aged Care Packages. It is highly problematic for the OPG if discharge plans do not adequately address the level of risk to adults for whom we have responsibility as guardian.

The OPG's role is frequently that of mediator, negotiating often complex mental health and family relationship issues with service providers, family members and other relevant parties to ensure that the needs of represented adults can be addressed adequately in that environment. We recognise the critical interface between adequate formal and informal housing supports when advocating for housing security and increased stability.

The OPG also advocates for a broader range of accommodation options to be available on a continuum, so that the needs of represented adults with complex and changing circumstances may be met.

Sometimes initial short-term supported accommodation is required before securing longer-term accommodation either in the private rental market or in public housing. The OPG recognises a correlation between stable accommodation and effective support services. It is often the case that when a represented adult secures stable accommodation they benefit also from better engagement with support services. The OPG advocates for and utilises, when available, a range of flexible housing options and support services to address the adult's individual circumstances.

The experience of the OPG in the Territory highlights not only the important relationship between individual support needs and housing, but also baseline service delivery. In the Northern Territory this baseline is relatively low – particularly in regional and remote areas where services are limited or unavailable and the sector generally is under-resourced.

It is understood that when a person's needs are considered holistically, and housing and other supports provided simultaneously, people are more likely to gain stability and improved wellbeing. The OPG works towards this and achieving the best possible outcomes for represented adults in perhaps the most challenging of circumstances relative to other Australian jurisdictions.



## ***‘Jason’\* – housing and support needs***

‘Jason’ has an intellectual disability and mental health issues. Jason lived interstate before moving to the Northern Territory. He is estranged from family and has lived a transient lifestyle. He has often been homeless or in unstable accommodation.

When he first moved to the Northern Territory Jason was homeless and not engaging with services. He was admitted to hospital due to deteriorating health. When the hospital allied health team tried to assist Jason to secure stable accommodation upon discharge, Jason wavered between considering accommodation options and returning to homelessness. The Public Guardian was appointed to make decisions for Jason.

At first Jason was reluctant to engage with the OPG. However, we negotiated short-term supported accommodation so that Jason could be discharged. Jason settled well and established a positive relationship with his mental health case manager and staff where he was living. He began to engage more with OPG Adult Guardianship Officers to plan for longer-term stable accommodation.

The OPG staff advocated to extend Jason’s short-term accommodation while seeking a longer-term housing solution. Jason identified areas around town where he would like to live, and with our assistance looked for a suitable private rental property. Jason secured a private rental property lease and has settled well. He remains engaged with his support services. We expect this arrangement will continue into the future with NDIS disability support funding.

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





# Corporate Services



## Key achievements

- ✓ reviewed and developed policy
- ✓ developed informational materials
- ✓ progressed workforce stabilisation
- ✓ transitioned to electronic data management systems

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

## Policy review and development

The policy team undertook a comprehensive review in 2017–18 of all policy documents in accordance with changes resulting from the creation of an independent statutory office. This review identified a substantial number of policy documents requiring development. At the end of the reporting period, 60 policy documents were in various stages of completion.

In addition to policy development, the policy team drafted submissions, developed interagency protocols, compiled ministerial documents, prepared estimate briefs and produced the 2016–17 annual report. The policy team was also instrumental in the

development of OPG informational and educational materials for distribution to represented adults, guardians and interested parties.

### Priority policy areas

A number of policy areas have been identified as requiring specific attention. These build on concerns identified by the Public Guardian in the 2016–17 annual report and contribute to the OPG's developing policy brief.



## Restrictive practices

The OPG is committed to national initiatives that aim to reduce and eliminate the use of restrictive practices. 'Restrictive practice' is defined as 'any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with a disability, with the primary purpose of protecting the person or others from harm'.<sup>4</sup>

Consistent with the United Nations Convention on the Rights of Persons with Disabilities, the OPG shares a nationwide concern about people with disability subjected to behaviour modification or 'restrictive practices' through the use of chemical, mechanical or physical restraints and seclusion. The *National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector* (the National Framework) leads the way in reducing the use of restrictive practices and introduces quality assurance and safeguards into the National Disability Insurance Scheme (NDIS).

The Northern Territory needs to develop an authorisation framework for restrictive practices currently in use in disability services. Section 41 of the *Disability Services Act*, which regulates restrictive practice in the Northern Territory, limits authorisation of restrictive practices to secure residential facilities. This limitation does not align with the new National Framework. Ongoing monitoring and review of restrictive practices in disability services will be the responsibility of the national Quality and Safeguards Commission implemented as part of the NDIS.

The *Guardianship of Adults Act 2016* includes a provision at section 35 for the NTCAT to authorise time-limited specified measures to ensure a represented adult complies with a guardian's decisions. NTCAT must be satisfied that the specified measures are the only appropriate way to protect the adult from harm, neglect, abuse or exploitation. It is still to be determined through legal interpretation if any other provisions within the Act provide scope for the authorisation of restrictive practices.

During the reporting period the OPG progressed dialogue to align restrictive practices in the Northern Territory with the National Framework. In June 2018, together with the peak body National Disability Services (NT), the OPG hosted a forum in Darwin attended by key Territory stakeholders to progress the development of a restrictive practice framework. Sessions were facilitated by Dr Colleen Pearce, Public Advocate, Victoria and Dr Frank Lambrick, Senior Practitioner – Disability, Department of Health and Human Services Victoria. A workshop was included for disability service providers.

Feedback from participants was very positive. The OPG will continue to work with key stakeholders and the Northern Territory Government to develop a restrictive practice framework for the Northern Territory.

4 Australian Government Department of Social Services 2014, *National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector* (the 'National Framework'), Attachment, p. 4, viewed 14 August 2018, <https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/national-framework-for-reducing-and-eliminating-the-use-of-restrictive-practices-in-the-disability-service-sector>.







### Young people transitioning from out-of-home care to adult guardianship

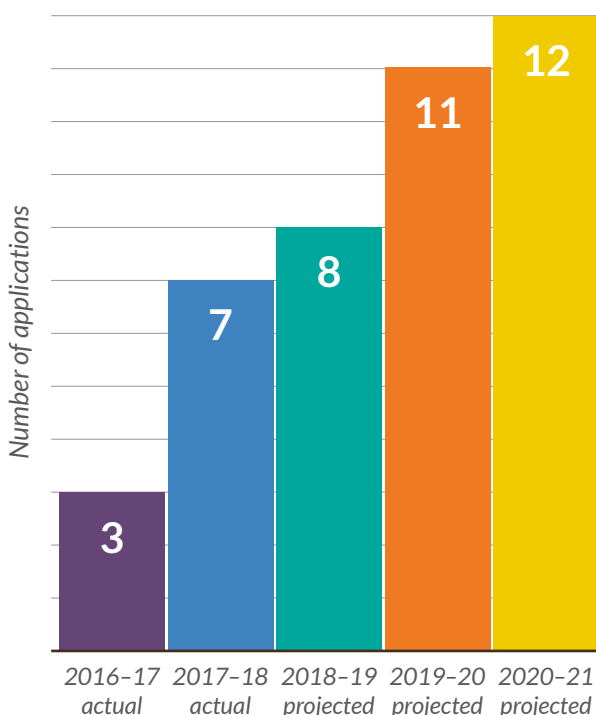
In 2016–17 three young adults transitioned from out-of-home care to the Public Guardian. In the 2017–18 reporting period this number increased to seven (Figure 3). At the time of writing, Territory Families had identified a further 31 young people who will transition to adult guardianship under the Public Guardian over the next three years.

The complex needs of young persons with disabilities transitioning as adolescents from out-of-home care to adulthood have been recognised at a national level.

*The transition from adolescence to adulthood – emerging adulthood – is now recognised as a significant stage in the life cycle in developmental, emotional and social terms. Young people leaving out-of-home-care face this transition to adulthood without family support and with significant extra barriers such as poor mental health, intellectual and physical difficulties, and developmental delays. They are further disadvantaged through structural impediments and economic and social policy factors, such as the lack of affordable or appropriate housing and high unemployment ... Children and young persons in out-of-home-care are one of the most vulnerable, disadvantaged and traumatised populations in the Australian community.<sup>5</sup>*

Adult Guardianship Officers (AGOs) report difficulties for young people transitioning from out-of-home care to adult guardianship. The challenges for these young people include: no tenancy readiness training; no experience of staying alone; limited daily living skills development; and no insight into or experience of actions and consequences. There is a lack of flexible housing and related support service options for young people post care in terms of viable living arrangements.

These challenges will drive OPG advocacy and strategy to assist young people transitioning to guardianship to achieve appropriate living arrangements and services.



**Figure 3:** Young people transitioning from out-of-home care to adult guardianship, actual and projected

<sup>5</sup> Campo, M. and Commerford, J. 2016, *Supporting young people leaving out-of-home care* (CFCA Paper No. 41). Melbourne: Child Family Community Australia information exchange, Australian Institute of Family Studies.





## **Mental health**

Eligibility criteria for guardianship under the *Guardianship of Adults Act 2016* was expanded to include mental illness as a primary disability. This has meant that AGOs have been required to familiarise themselves with the provisions of the *Mental Health and Related Services Act 1998*.

It has been identified that greater clarity is required for OPG staff in relation to their responsibility to maintain represented adults' rights under the *Mental Health and Related Services Act*, while adhering to the underpinning decision-making principles of the *Guardianship of Adults Act*. In recognition of the challenges and complexities this creates, the OPG engaged a consultant to provide educational sessions to staff and assist in the development of policy and practice guidelines.

### ***'Sonia'\* – improving mental health and strengthening family***

Several years ago 'Sonia's' mental health had deteriorated to the extent that she was subject to a community mental health order due to non-compliance with her medications. Her relationships with family had broken down and Sonia was not engaging with services. Her mother was caring for her children.

Sonia was unable to manage her finances and was at risk of eviction. Her general health was deteriorating. Service providers became worried that her situation was spiralling out of control. An order for guardianship for Sonia was sought and the Public Guardian appointed as guardian.

Decisions made on behalf of Sonia under the authority of the guardianship order have not always been easy for her. However, the OPG was able to stabilise her accommodation and finances to maintain her property and minimise her risk of eviction.

Sonia's mental health is now managed without the need for a mental health community supervision order and her overall health and family relationships have improved.

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

## **Systems improvement**

The OPG is committed to continual quality improvement. In 2017–18 three major projects were undertaken. The OPG commenced transitioning to fully electronic information systems. This substantial undertaking included the establishment of a comprehensive client information system (OPGIS) and the implementation of the Northern Territory Government's electronic records management system (HP Enterprise Content Manager). This period saw also the commencement of the Financial Management Project. A dedicated Information Officer was recruited in the latter part of 2017 to manage these information systems. A Project Officer for the Financial Management Project was recruited in March 2018.



## Corporate Information Systems Project

In December 2017 the OPG was assisted by the Department of Health to transition its manual records management system to an electronic management system in compliance with Northern Territory Government requirements. The transition to HP Enterprise Content Manager will ensure the improved management of government information within a system designed for capturing, retrieving and disposing of records securely.

## OPG Information System (OPGIS) Project

In 2017 work commenced towards developing and implementing a whole-of-organisation client information system to manage represented adult caseloads. The intent of this project was to replace multiple electronic and manual systems used historically to manage caseloads with a centralised client management system and mitigate associated risks. The project further sought to formalise policies, processes, procedures, rules and systems supporting rigorous case management.

The OPG Information System (OPGIS) provides a high-level, comprehensive overview of represented adult files that facilitates efficient decision-making and provides for reliable data collection and reporting. By minimising manual processes and implementing electronic work systems the OPGIS modernises guardianship practice in the Northern Territory.

The OPGIS project was managed by the Enterprise Portfolio Management Office within the Northern Territory Department of Health. The Department of the Attorney-General and Justice also supported the project with project board membership and ongoing technical support and server hosting. Expenditure for 2017–18 against this project was \$376,220 (incl. GST) with total project expenditure since 2016–17 \$643,460 (incl. GST).

The project commenced in April 2017 with the test deployment in November 2017. Staff training occurred throughout December 2017. On 3 January 2018 the new OPGIS platform went 'live'. In April 2018, OPG and Resolve Software Group undertook a number of enhancements to improve the system stability and user experience. Work commenced in May 2018 and was completed on schedule by 30 June 2018.

## Financial Management Project

The Northern Territory is the only jurisdiction in Australia where the Public Guardian may be appointed decision-maker for financial matters. In 2016 accounting firm Ernst and Young was commissioned to undertake a Financial Controls Review for the OPG. Their report identified a number of risks associated with the controls and processes in place for the administration of represented adults' funds.

The OPG subsequently instigated a Financial Management Project in February 2018 to mitigate the risks outlined in the report. This project will ensure that OPG financial systems, policies, processes and guidelines meet Australian Guardianship and Administration Council National Standards for Financial Managers.

The project to date has:

- reviewed policies and procedures relating to financial decision-making processes
- reviewed communication processes and consistency of business practices
- instigated financial and related skills training
- implemented a financial case management system to support business processes.

A working group with key staff from the Northern Territory Department of Health has been formed to oversee and provide expertise as required.





## People and organisational capability

### Organisational review

The establishment of the OPG in 2016 initiated the formation of a new organisational structure which included a number of supernumerary positions. The 2017–18 year saw an evaluation of these supernumerary positions and transition of staffing arrangements. The re-forming of guardianship services into the new structure and incorporation of many service delivery changes also meant that a number of existing positions required position analysis, evaluation and recruitment action. This substantial piece of work was commenced during the reporting period and is ongoing.

At the end of the reporting period 22 of 28 full-time equivalent (FTE) positions had been recruited to permanently and recruitment action for a further six positions was under way. The OPG seeks to recruit Aboriginal people to positions where possible.

### Corporate support

The corporate support team provides financial and administrative support to the Public Guardian. The team provides professional assistance with reports to the NTCAT and other stakeholders, and manages the OPG's 1800 hotline. During the reporting period 24,253 calls to the 1800 telephone hotline were received.

The corporate support team played a pivotal role during the year in the transitioning of whole-of-organisation records from hard copy to the Northern Territory Government's electronic recordkeeping system, HP Enterprise Content Manager.

### Learning and development

The OPG values and supports staff achievements. It is committed to developing a high-performing professional team through individual and group learning opportunities.

The OPG provided staff with a number of professional development opportunities during the year. As part of the OPGIS implementation a key group of personnel attended training in Darwin by Resolve Software Group. This group, led by the Information Officer, then conducted in-house comprehensive training for all OPG staff. All OPG staff also participated in training for HP Enterprise Content Manager.

In May 2018 the OPG held a three-day staff development forum with a focus on strategic directions, best interest decision-making and cultural congruence. Earlier in the year, the Executive and OPG managers had participated in a series of workshops to identify strategic directions for 2018–19. The final workshop was held in early May and included all team members.

In addition to the strategic directions workshop, the OPG invited Mr Michael Wells, Director, Advocacy and Adult Protection, Office of the Public Advocate, Victoria, to share his knowledge on critical thinking, analysis of complex issues and ethical considerations for adult guardianship. Dr Christine Fejo-King, a senior Larrakia Elder and Charles Darwin University Bachelor of Social Work Teaching Fellow, facilitated a further workshop on cultural congruence.

Between May and June 2018, Dr Christine Fejo-King facilitated a total of three staff development workshops on Culturally Congruent Practice for OPG staff.





Better Writing workshop, OPG Darwin office

Approximately 75 per cent of represented adults for whom the OPG is sole or joint guardian identify as Aboriginal or Torres Strait Islander. Culturally Congruent Practice is therefore a key training priority. The workshops focused on practical ways to enhance OPG practice in service provision to Aboriginal people. The workshops also provided a forum to share understandings of Aboriginal culture to assist guardianship officers to achieve the best possible outcomes for represented adults.

Throughout the reporting period, five staff members were supported to undertake accredited training courses. These included a Bachelor of Information Technology, Certificate IV in Leadership and Management, Certificate IV in Investigations, Certificate IV in Project Management and Certificate IV in Human Resources. In June 2018 staff in Darwin and Alice Springs participated in Better Writing Intensive workshops. All external accredited training and tertiary education was undertaken in accordance with our study assistance policy and By-law 41 under the Northern Territory *Public Sector Employment and Management Act*.

## Complaints and review

The OPG has a formal review process in place to review decisions made by delegates of the Public Guardian. One decision was reviewed by the OPG in 2017–18. The OPG provided a formal 'Reason for Decision Statement' to the party. The party did not respond after receiving the 'Reason for Decision Statement'. The OPG did not receive a request to review the decision further.

The OPG has the power under section 61 of the Act to investigate formal complaints against private adult guardians. In the 2017–18 financial year, the OPG undertook no investigations into the conduct of private guardians.







# Inquiry and Engagement



## Key achievements

- ✓ incorporated NTCAT process changes
- ✓ developed newsletter for private guardians
- ✓ increased support to private guardians
- ✓ attended in excess of 500 NTCAT hearings

The Inquiry and Engagement team plays an integral role in the bringing of adult guardianship matters before the Northern Territory Civil and Administrative Tribunal (NTCAT). This includes providing support and assistance to a broad range of interested parties, and information and guidance to private adult guardians.

## Changes to NTCAT processes

On 19 March 2018, NTCAT made significant changes to its guardianship administrative processes and the requirements associated with all guardianship matters for hearings. The changes affect all new guardianship applications as well as reassessments of current orders. This means that the Office of the Public Guardian (OPG) is now required to appear at all guardianship hearings before the NTCAT.

In accordance with NTCAT requirements, the OPG is now responsible for the issuing of NTCAT 'Standard Orders' to all relevant parties involved in reassessments of orders where the OPG is sole or joint guardian. NTCAT also requires that the OPG advise them in writing of the details of all parties notified of the Standard Orders.

The changed NTCAT requirements have resulted in extensive changes to the operations of the Inquiry and Engagement team. The Inquiry and Engagement team now has an increased role in NTCAT administrative processes, which has required a redirection of OPG resources. These changes have necessitated significant redevelopment of OPG policy guidelines, work practices and information system workflows. Notification letters advising private adult guardians of the changes and subsequent implications have been sent.





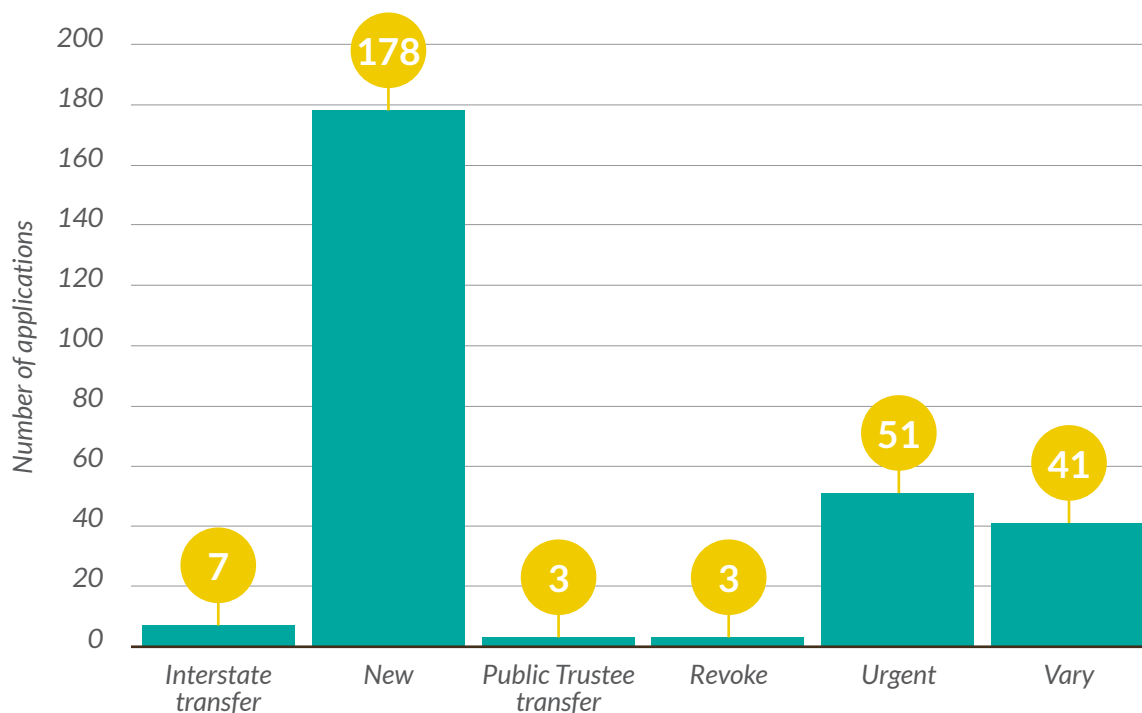
## Engagement and support

The Inquiry and Engagement team responds to phone calls, emails and face-to-face enquiries about guardianship matters, providing information, guidance and support. The team also has a responsibility to keep private adult guardians informed about guardianship issues.

The Inquiry and Engagement team increased support and assistance to private guardians in 2017–18 in line with the expansion of OPG responsibilities under the *Guardianship of Adults Act 2016*. The team distributed the OPG information guide, *Understanding guardianship*, to more than 300 private adult guardians and provided OPG fact sheets as requested.

In June 2018 the Inquiry and Engagement Team compiled and distributed its inaugural electronic newsletter to all private guardians. This initial issue provided information about the rollout of new NDIS supports, how to access the OPG website, public forums attended by the OPG and ways to contact the OPG for advice and guidance on guardianship matters. Printed versions of the newsletters were provided on request to guardians without electronic access.

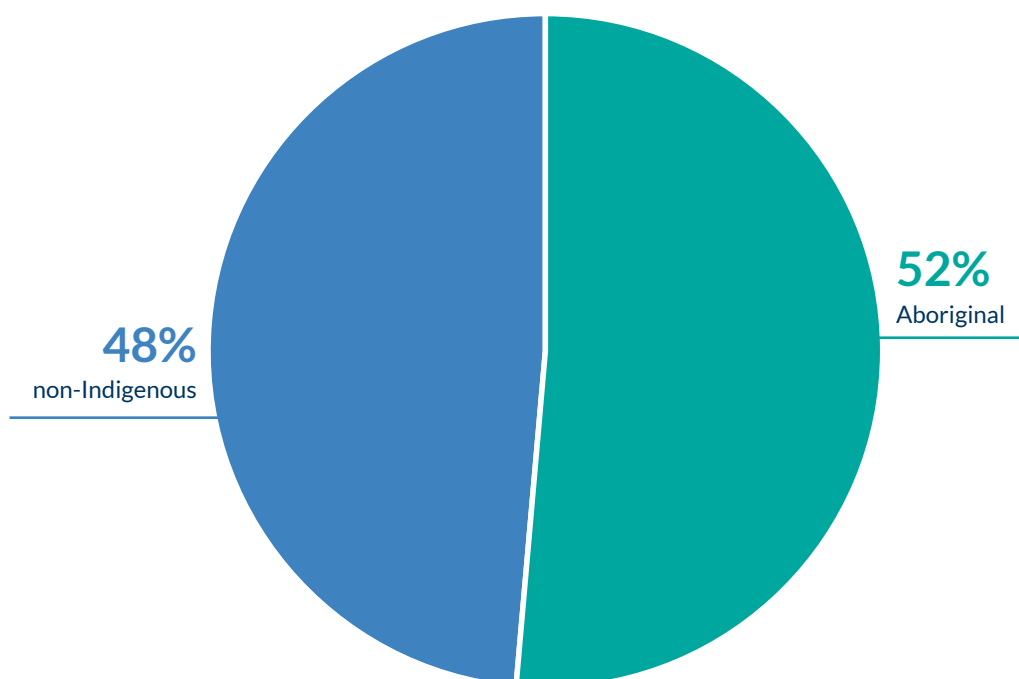
## Guardianship applications



**Figure 4:** NTCAT applications involving OPG in 2017–18, by type



The OPG participated in 283 guardianship applications in the reporting period, representing an increase of 50 per cent over 2016–17. This increase can be attributed both to the broadening of the eligibility criteria threshold and the OPG’s community information and education strategy. Of the 283 applications received, 229 were for new or urgent orders (Figure 4). The NTCAT made orders for 142 of these applications, 75 appointing the Public Guardian as sole or joint guardian and 67 appointing private guardians.

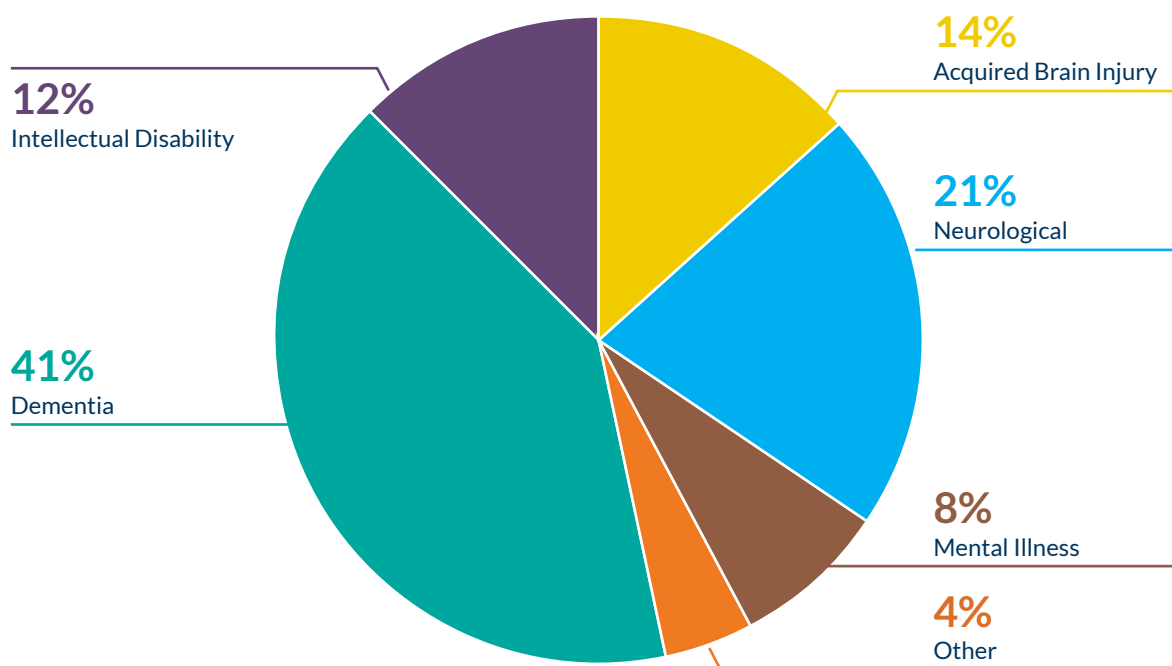


**Figure 5: Applications in 2017–18: Aboriginal and non-Indigenous adults**

*Note: 'Aboriginal' is inclusive here of people who identify as Aboriginal or Torres Strait Islander.*

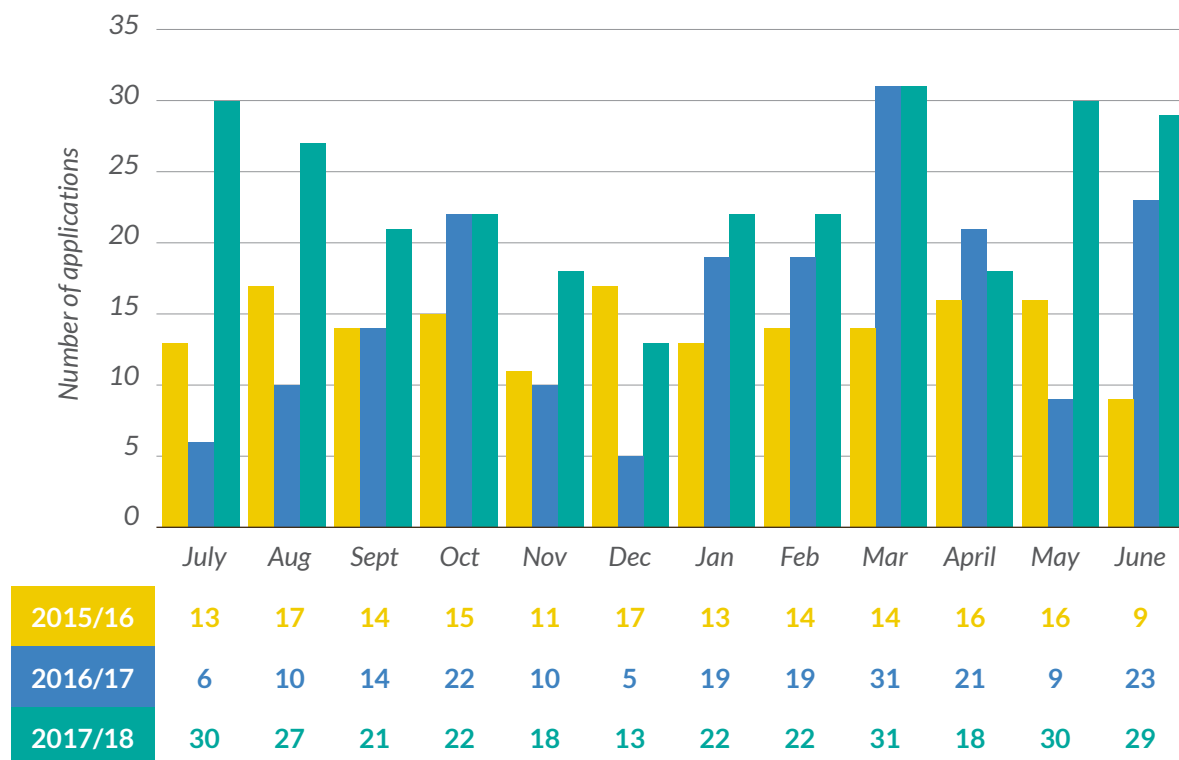
Of the 229 new and urgent applications received during the reporting period, over 50 per cent identified the adult subject of the application as Aboriginal or Torres Strait Islander (Figure 5). This percentage is disproportionately high when compared with the proportion of individuals who identify as Aboriginal or Torres Strait Islander persons in the Northern Territory.





**Figure 6:** Primary impairment stated on new and urgent applications

The majority of new applications for guardianship were for adults with a primary impairment of dementia (Figure 6).



**Figure 7:** Number of guardianship applications: comparison over three years

The OPG noted a significant increase in guardianship applications in 2017–18 with most months recording numbers well in excess of the previous equivalent reporting period (Figure 7).



# Guardianship

## Key achievements

- ✓ 210 represented adults transitioned to the NDIS
- ✓ 621 orders in force under the Public Guardian
- ✓ 450 financial administration orders in force under the Public Guardian
- ✓ in excess of 350 NTCAT hearings attended



**Guardianship management.** Left: Gabrielle Cleary, Team Manager, Top End Guardianship. Centre: Lisa Patamisi, Director, Guardianship. Right: Cassandra Fleming, Team Manager, Central Australia Guardianship

The Office of the Public Guardian (OPG) provides guardianship to adults with a disability who cannot make reasoned and informed decisions in their own best interests.

Adult Guardianship Officers (AGOs) undertake advocacy, decision-making and financial administration for a large proportion of represented adults in urban, regional and remote areas of the Northern Territory. During the 2017–18 reporting period, individual AGOs held an average caseload of 60 represented adults.

Many guardianship orders appoint the Public Guardian as joint guardian with one or more family members or interested parties. The OPG maintains its relationships with joint guardians to ensure that decisions are made in unison and in the best interests of the represented adult. There are challenges in this task due to remoteness, telecommunications and language.

The AGO workload has become increasingly complex and challenging. AGOs now have increased contact with mental health and related services and are learning to build into practice an increasing expertise around mental health issues for represented adults.

In addition, an increased number of young adults with complex care needs are transitioning from Territory Families to adult guardianship orders under the authority of the Public Guardian.

AGOs also manage the OPG after-hours on-call service. During the 2017–18 reporting period approximately 1,118 after-hours calls were received. In the period January to June 2018, the majority of calls (53%) were from hospitals. The main reason for these calls was to notify OPG of an admission or presentation to accident and emergency, deterioration in health, consent to medical treatment and clarification of guardianship status. Most other calls were from people under the authority of the Public Guardian with financial queries, significant others with service provision concerns and service providers notifying of deaths, changes in health status, transfers to hospital, incidents of concern or missing represented adults.

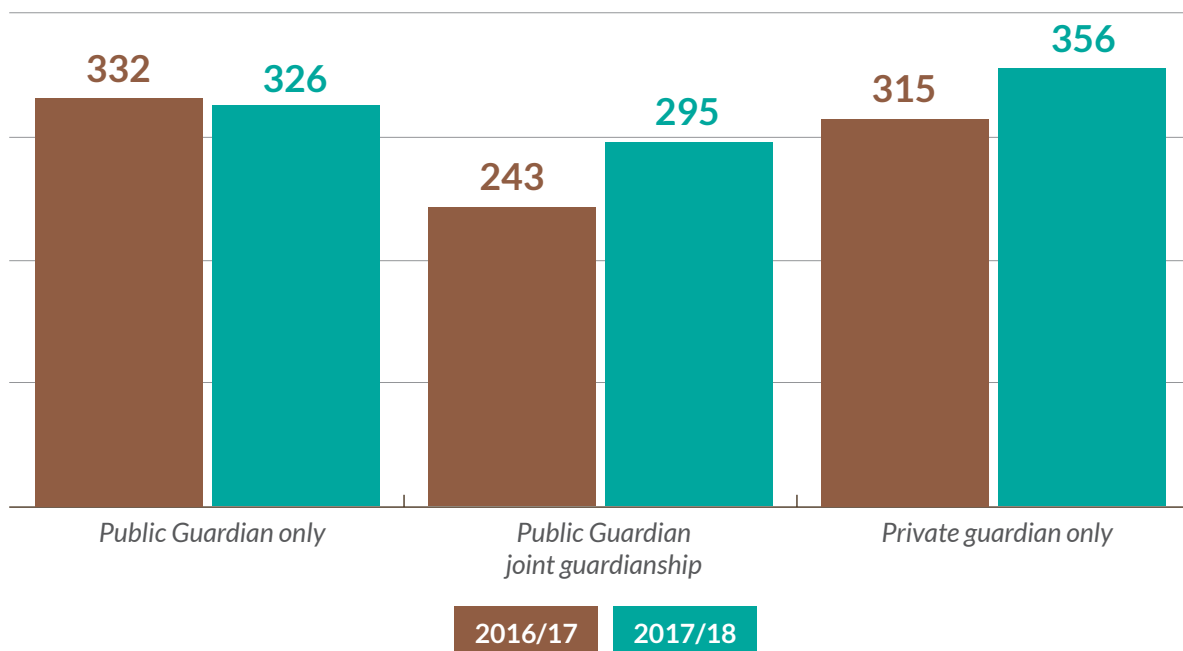
A significant number of calls received by the after-hours service have been identified as not essential after-hours calls. To address this a review of the OPG after-hours service will be carried out in the latter half of 2018.





Top End and Central Australia Guardianship team

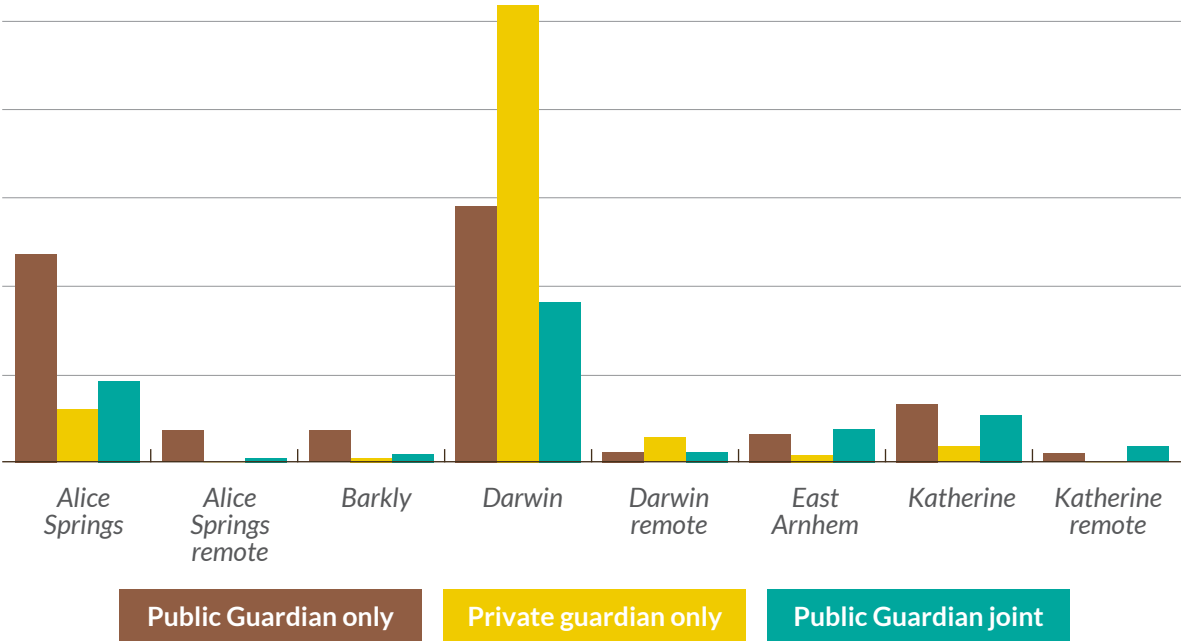
## Adults under guardianship



**Figure 8:** Adults under guardianship in the Northern Territory, by guardian type, 2016-17 and 2017-18



During the year, 977 adults were subject to guardianship orders in the Northern Territory. This represents an increase of 10 per cent over the previous reporting period. The Public Guardian was appointed sole or joint guardian for the majority of these orders (n=621), the remainder appointed private guardians only (n=356) (see Figure 8).



**Figure 9: Location of adults under guardianship**

The highest number of represented adults and the vast majority of adults under private guardianship orders were located in Darwin. The majority of adults under guardianship in Alice Springs had orders managed by the Public Guardian (Figure 9).

The Public Guardian was sole or joint guardian for 621 adults during the reporting period. Of the 621 represented adults under the authority of the Public Guardian, 450 included financial administration orders. Regular consultation with represented adults assisted in the review of personal budgets to ensure living expenses were managed and bills paid on time. Financial administration orders required AGOs to engage with a range of stakeholders including Centrelink, superannuation companies, banks and service providers, as well as with the represented adults and their families.



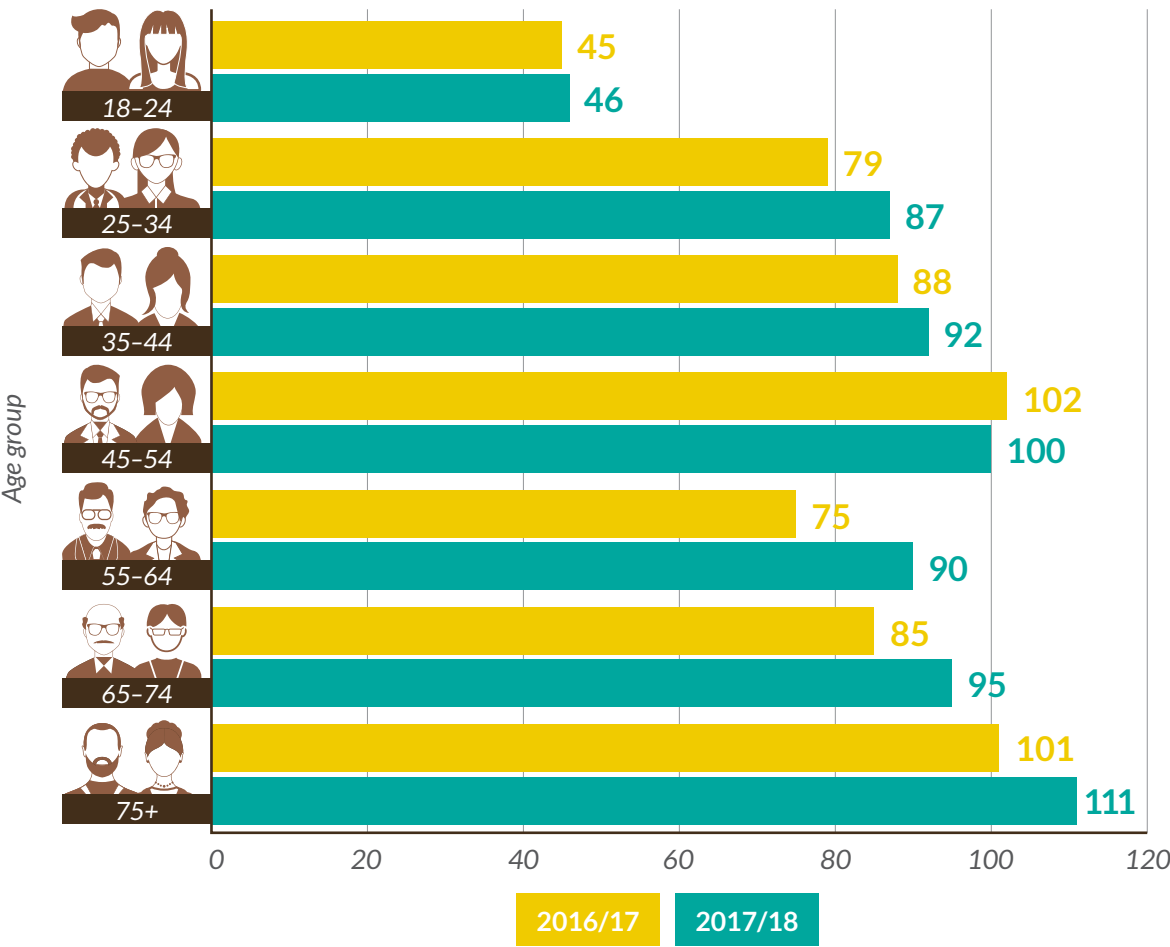


**‘Emily’\* – financial management**

‘Emily’ had temporary residency in supported accommodation at the time the Public Guardian was appointed as her guardian for financial and personal matters. The accommodation provider reported that Emily was no longer eligible to remain in that accommodation, but alternative housing options were not identified.

The OPG investigated Emily’s background and identified that she held a superannuation fund. OPG arranged for transfer of these funds into Emily’s account. These additional funds along with her Centrelink income enabled Emily to move into a small private rental unit. A support service visits Emily daily to assist her with her day-to-day needs.

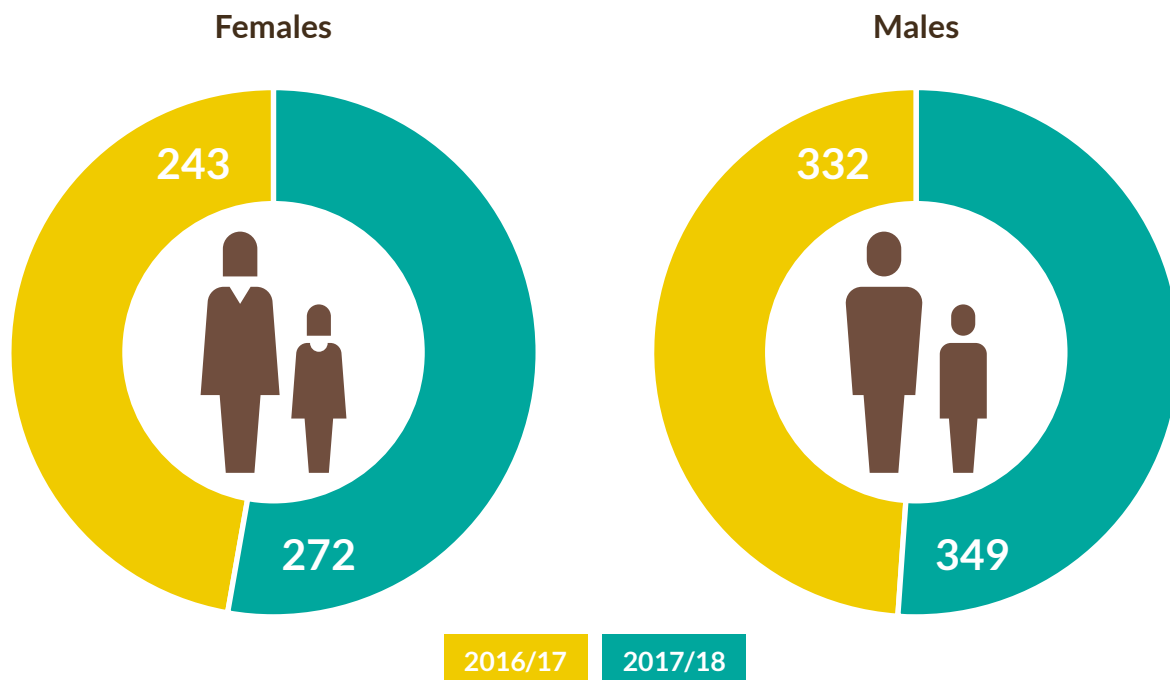
*\*This scenario has been created from a series of life stories and does not represent an individual client.*



**Figure 10:** Age of represented adults under the sole or joint guardianship of the Public Guardian, 2016-17 and 2017-18

Representation was highest for adults in the 45-54 and 75 years plus age groups (Figure 10). This is consistent with the previous reporting period.





**Figure 11:** Gender of represented adults under the guardianship of the Public Guardian, 2016-17 and 2017-18

The majority of adults under the guardianship of the Public Guardian in 2017-18 were male (Figure 11).

## National Disability Insurance Scheme

The OPG undertook significant work towards the implementation of the National Disability Insurance Scheme (NDIS) in the Northern Territory in the 2017-18 reporting period. The OPG continued to participate in NDIS planning meetings, nominate Coordinators of Support (COS) and Specialist Coordinators on behalf of represented adults and maintain collaborative working relationships with key service providers.

It has been the OPG's experience to date that a high percentage of represented adults at the time of their transition to the NDIS were receiving a low level of services with little opportunity to tailor or increase services. The OPG has been committed to the maintenance of existing support services during the transition to the NDIS, while working with represented adults, the National Disability Insurance Agency (NDIA), COS and other stakeholders to expand quality of life options on behalf of the adults.



In line with other jurisdictions, the OPG experience also confirms that the implementation of the NDIS has doubled workloads, increasing both the quantity and complexity of cases. The OPG works within a challenging service provision setting that is particular to the Northern Territory. This includes limited availability of services, high staff turnover and limited infrastructure. The population of adults under guardianship in the Territory is also younger, spread thinly across remote geographical locations and includes a higher proportion of Aboriginal people than in other parts of Australia.

Uniform rollout of the NDIS program nationally highlights inequities in the Northern Territory, relative to other Australian jurisdictions. NDIS plan implementations in the Northern Territory are significantly limited due to the thin market of services, exacerbated by remoteness.

In the 2017–18 reporting period, the OPG worked closely with the NDIA to address implementation issues, participating in NDIS interagency feedback forums, weekly operational meetings and monthly executive meetings.

Table 2 indicates the actions completed towards transitioning represented adults under the authority of the Public Guardian to the NDIS as at 30 June 2018.

**Table 2: NDIS actions completed as at 30 June 2018**

	Central Australia	Top End	Total
Fully transitioned to NDIS	75	135	210
Participated in plan review meeting	14*	54	68
Commenced preparation to transition	56	98	154
Plans completed	4	4	8
Applications for represented adults to participate in NDIS submitted	18	29	47

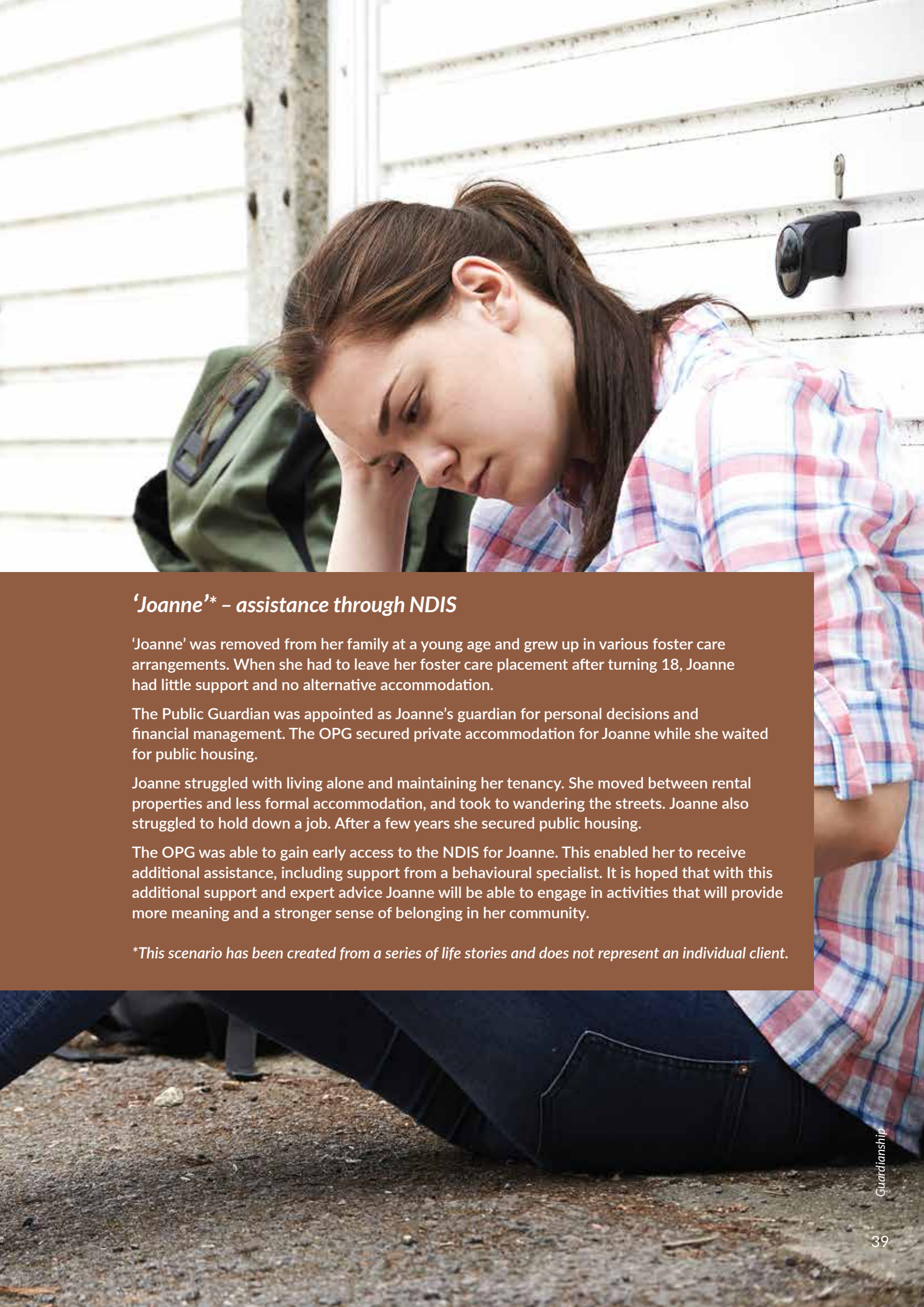
Note: \*Tennant Creek.

## Coordination of supports

The NDIS provides for a Coordinator of Supports (COS) to assist people living with a disability to access appropriate support services. The OPG has taken a proactive lead in nominating COS providers and working collaboratively with these agencies on behalf of represented adults with monthly meetings held in Darwin and Alice Springs throughout the 2017–18 year. Based on the success of this model in 2017, meetings were commenced in early 2018 onwards with nominated COS providers in Tennant Creek, Katherine and Nhulunbuy. In June 2018 the OPG hosted COS forums in Alice Springs, Katherine and Nhulunbuy. The forum in Alice Springs also included Supported Independent Living (SIL) providers.

The OPG nominated a total of 15 COS providers across the Territory in the 2017–18 reporting period.





### ***‘Joanne’\* – assistance through NDIS***

‘Joanne’ was removed from her family at a young age and grew up in various foster care arrangements. When she had to leave her foster care placement after turning 18, Joanne had little support and no alternative accommodation.

The Public Guardian was appointed as Joanne’s guardian for personal decisions and financial management. The OPG secured private accommodation for Joanne while she waited for public housing.

Joanne struggled with living alone and maintaining her tenancy. She moved between rental properties and less formal accommodation, and took to wandering the streets. Joanne also struggled to hold down a job. After a few years she secured public housing.

The OPG was able to gain early access to the NDIS for Joanne. This enabled her to receive additional assistance, including support from a behavioural specialist. It is hoped that with this additional support and expert advice Joanne will be able to engage in activities that will provide more meaning and a stronger sense of belonging in her community.

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



# Disability rights

## The Convention on the Rights of Persons with Disabilities

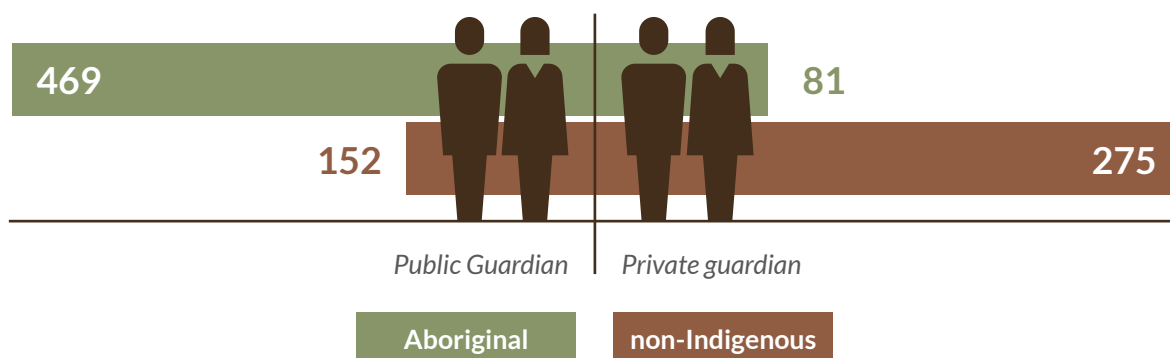
The Convention on the Rights of Persons with Disabilities is the first international instrument to explicitly set out the fundamental human rights of people with disability.

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

## Embracing diversity

The Northern Territory recorded a population of 228,833 usual residents at Census night 2016. Of these, 20 per cent were born overseas and 25 per cent identified as having Aboriginal and Torres Strait Islander origins.<sup>6</sup>

Despite representing a significantly lower proportion of the Northern Territory population, 75 per cent of adults under guardianship of the Public Guardian identify as Aboriginal or Torres Strait Islander (Figure 12). This indicates a high level of disability among the Territory's Aboriginal peoples.



**Figure 12:** Number of people under adult guardianship in the Northern Territory, by Aboriginal and non-Indigenous status

Note: 'Aboriginal' is inclusive here of people who identify as Aboriginal or Torres Strait Islander.

<sup>6</sup> Australian Bureau of Statistics 2017, '2016 Census reveals the changing face of the Northern Territory', Media release, 2016 Census: Northern Territory, 27 June 2017, viewed 15 August 2018, <http://www.abs.gov.au/ausstats/abs@nsf/mediareleasesbyCatalogue/C73D7CC81CA1FD2FCA258148000A4067?OpenDocument>.



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

*The prevalence of disability in Indigenous communities is approximately twice that of the rest of the Australian population. Factors which contribute to such high rates of disability include lack of access to adequate health prevention programs (particularly maternal health), lack of quality or adequate housing, lack of sanitation, exposure to violence, and alcohol and substance abuse. ... Very few Indigenous people with disability have access to advocacy and very few know their rights and are able to express their rights.<sup>7</sup>*

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

In 2017–18 OPG staff participated in whole-of-organisation endeavours to achieve cultural congruence, including workshops and forums on engaging and working with Aboriginal interpreters.

## Reconciliation Action Plan

The OPG is developing a Reconciliation Action Plan as a guiding framework for culturally congruent practice. The OPG has formed a working group to develop strategies and approaches to advance reconciliation both within the organisation and externally. The working group will focus on developing and strengthening relationships with Aboriginal peoples within the guardianship framework, while engaging staff and stakeholders in reconciliation initiatives.

Initiatives will include organisation-wide cultural awareness training and policies to recruit and support Aboriginal and Torres Strait Islander employees.

The OPG will work towards embedding reconciliation initiatives into business strategies to ensure more effective and relevant service delivery to Aboriginal peoples and communities. The Public Guardian is the OPG Reconciliation champion, providing leadership in the development of the action plan and journey.

## Translating diversity

The OPG produced a suite of fact sheets and an information booklet, *Understanding guardianship*, in 2016–17 to assist private adult guardians to fulfil their role and responsibilities. As a further commitment to recognising and embracing both diversity of ability and the Territory's culturally and linguistically diverse community, the OPG embarked in 2017–18 on a translation project to ensure that this information would be accessible to a broader audience.

As at 30 June 2018, our fact sheets and *Understanding guardianship* guide had been produced as Auslan videos, were recorded orally in English and were ready for distribution in Braille. We have also translated our fact sheets into seven languages: Greek, Arabic, Italian, Swahili, Chinese, Thai and Vietnamese.

The OPG is committed to continuing this initiative in 2018–19 with further translations in relevant community languages and a range of formats.

<sup>7</sup> National Disability and Carer Alliance 2013, *Implementing the NDIS in Aboriginal and Torres Strait Islander communities, key points from roundtable*, viewed 15 August 2018, <http://www.carersaustralia.com.au/storage/ATSI%20Forum%20Report%20Final.pdf>.



## Supported decision-making

*Supported decision-making is defined as the range of ways that people living with a disability can be enabled to make or communicate decisions about their lives.*

*This includes decisions relating to healthcare, finances, lifestyle and personal matters.<sup>8</sup>*

The OPG carries at the forefront of its practice the guardianship principles in section 4 of the *Guardianship of Adults Act 2016*. They state that a decision-maker must make decisions for the represented adult which are least restrictive of the adult's freedom of decision and action as is practicable, and provide them with as much support as is practicable to make their own decisions. This is consistent with modern understandings of decision-making capacity and disability, which move towards *supported* decision-making as distinct from *substitute* decision-making.

### **'Jane'\* – supported decision-making**

'Jane' had been living on Country in a remote community. She was admitted to hospital in town for several months with advanced kidney disease. The Public Guardian was appointed as Jane's sole guardian to make decisions in relation to Jane's discharge from hospital.

Jane's options included returning to her community on Country, where she would be offered maintenance treatment, or remaining in town. The OPG assisted Jane to discuss her health care options and where she might live with family members. Jane decided that she would prefer to live with family members in town and visit her Country for cultural obligations and to see other family.

Not all family members initially agreed with Jane's decision. A series of family meetings resolved concerns, with all parties then supporting Jane's wishes. Jane remains happy with her current living situation. Her decision will be reviewed and options explored if her wishes change.

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



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



## Interface with the justice system

Represented adults are vulnerable to interaction with the justice system due to their cognitive impairment as well as general factors such as poverty, violence, discrimination, poor housing and poor English language literacy. This sometimes results in represented adults coming under court and custodial orders that place them in secure care arrangements.

*Persons with cognitive disabilities face barriers at almost every step of the criminal justice system, whether as accused persons, witnesses, prisoners, or those under supervision. Indigenous people with cognitive disabilities are particularly disadvantaged. Unfitness to plead laws leading to indefinite detention are an extreme example of this disadvantage.<sup>9</sup>*

Such persons who are found unfit to stand trial may have significant, multiple and complex needs arising from combinations of cognitive impairment, mental health issues, acquired brain injury, serious health issues, drug and alcohol problems, behavioural issues and frequent interaction with the criminal justice system. These issues are often combined with experience of homelessness or transiency, exclusion from services and limited or no social networks.

All of these factors increase the likelihood that a represented adult might be detained when alternative arrangements would be a significantly better option. These factors

also contribute to the possibility that a person remains in secure care arrangements indefinitely because of a lack of a suitable accommodation facility specialising in behaviour management. The Public Guardian is committed to ongoing advocacy for represented adults to avoid indefinite detention in institutions such as prisons.

During the reporting period, 26 represented adults were subject to custodial or non-custodial sentences (Figure 13, next page). Of these 26 represented adults:

- 25 identified as Aboriginal or Torres Strait Islander (Figure 14)
- 22 were male (Figure 15)
- 15 received a custodial sentence (Figure 13, next page)
- 15 had an acquired brain injury as the primary impairment (Figure 16).

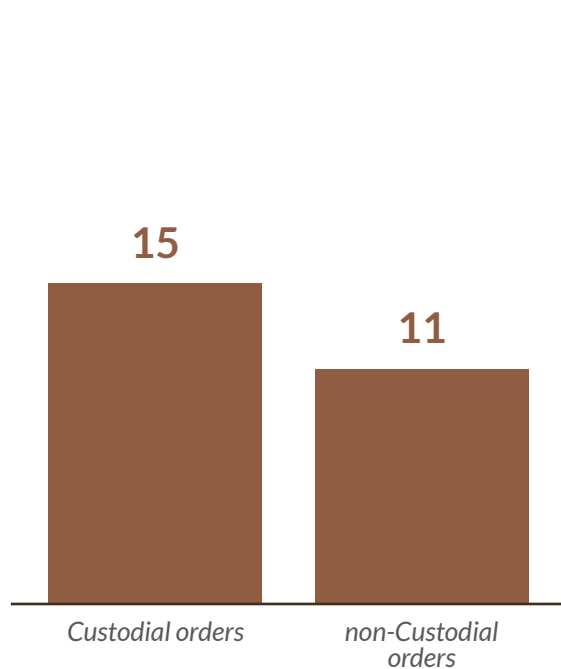
The very high proportion of adults identifying as Aboriginal or Torres Strait Islander is of particular concern to the Public Guardian. The disproportionate representation of Aboriginal peoples in the justice system is reflected in data from the 2016 ABS Census of Population and Housing, which recorded that Aboriginal and Torres Strait Islander people accounted for 84 per cent of the adult prison population in the Northern Territory.<sup>10</sup> The Northern Territory incarceration rate in 2016 was second only to Western Australia.<sup>11</sup>

9 McSherry, B., Baldry, E., Arstein-Kerslake, A., Gooding, P., McCausland, R. and Arabena, K. 2017, *Unfitness to plead and indefinite detention of persons with cognitive disabilities: addressing the legal barriers and creating appropriate alternative supports in the community*, Melbourne Social Equity Institute, The University of Melbourne, p. 10.

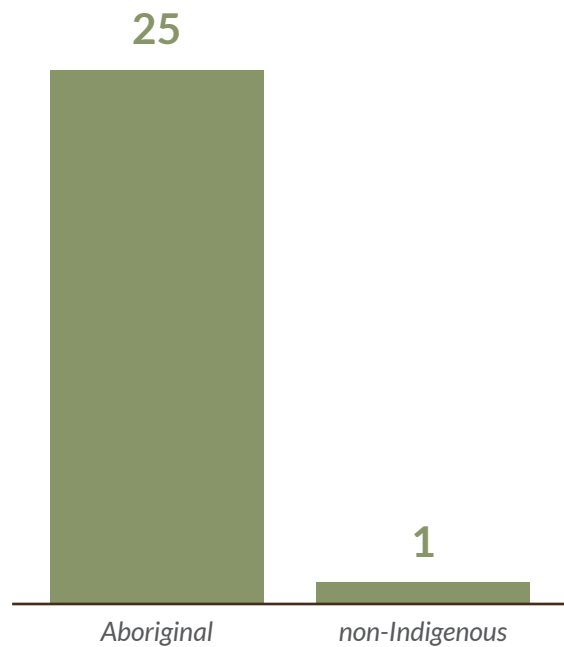
10 Australian Bureau of Statistics 2016, 4517.0 – Prisoners in Australia, 2016: Northern Territory, viewed 15 August 2018, <http://www.abs.gov.au/ausstats/abs@nsf/Lookup/by%20Subject/4517.0~2016~Main%20Features~Northern%20Territory~24>.

11 Australian Bureau of Statistics 2016, 4517.0 – Prisoners in Australia, 2016, viewed 15 August 2018, <http://www.abs.gov.au/ausstats/abs@nsf/Lookup/by%20Subject/4517.0~2016~Main%20Features~Imprisonment%20rates~12>.

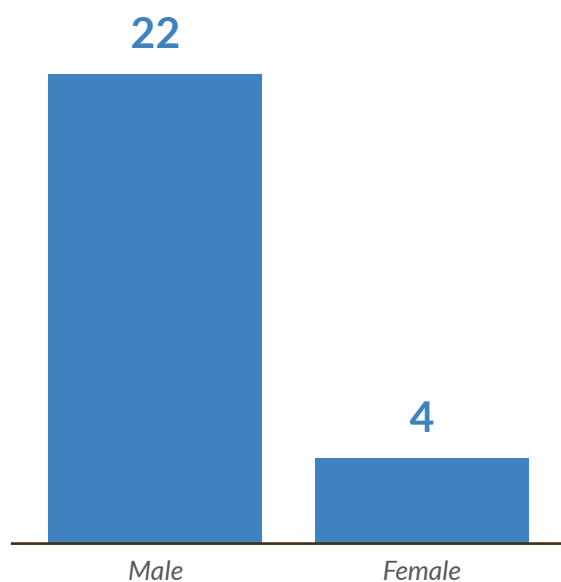




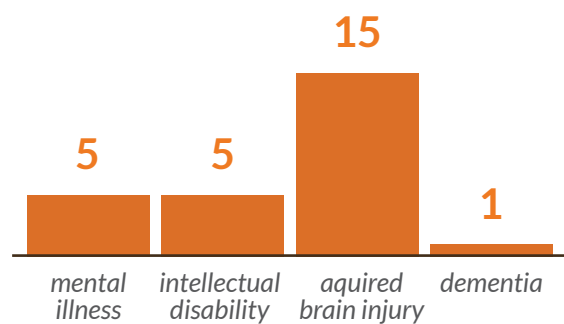
**Figure 13:** Custodial and non-custodial orders: all represented adults



**Figure 14:** Custodial and non-custodial orders: Aboriginal and non-Indigenous represented adults



**Figure 15:** Custodial and non-custodial orders, by gender



**Figure 16:** Custodial and non-custodial orders, by primary impairment



## KPIs, budget and resourcing

The Department of Health provides funding and corporate support to the Office of the Public Guardian (OPG). In 2017–18, \$4,429,000 was allocated to the OPG for administrative functions and personnel. As at 30 June 2018 the OPG had 26 full-time equivalent (FTE) positions with a further two funded positions undergoing the establishment process to obtain position numbers. The OPG continued to stabilise its workforce with six positions permanently filled in the reporting period.

It is anticipated that the 2018–19 budget for the OPG will be unchanged. The OPG has a broad mandate which includes guardianship, advocacy, education and investigations. There exists a significant concern that the OPG will struggle to fulfil all areas of its mandate and evolving responsibilities in the current fiscal environment.

### Key Performance Indicators

The OPG's performance over the 2017–18 reporting period has been placed against the forecast estimates published in Budget Paper No. 3 for 2017–18.

As Table 3 indicates, outcomes for the 2017–18 year exceed budget estimates for all categories. The increase in the number of individuals under guardianship can be attributed to the increase in guardianship awareness and the expanded eligibility criteria. Aboriginal and Torres Strait Islander peoples continue to be disproportionately represented in the overall number of adults under guardianship.

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

	2016–17 Estimate	2016–17 Actual	2017–18 Estimate	2017–18 Actual
Number of individuals under adult guardianship	789	890	868	977
Number of Aboriginal people under adult guardianship	448	543	493	548
Number of financial management orders to the Public Guardian*	397	397	437	450

Notes: 'Aboriginal' is inclusive here of people who identify as Aboriginal or Torres Strait Islander. \*Includes sole and joint guardianship orders to the Public Guardian.



## Looking ahead

YEAR  
2  
2017–18

- Solidified organisational foundations with a focus on recording and reporting.
- Continued development of position statements and policy papers.
- Fostered collaborative relationships with identified key stakeholders.
- Finalised organisational planning.
- Promoted a workplace culture embracing best practice, diversity and equality of opportunity.

YEAR  
3  
2018–19

### Strategic goal

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

### Strategic priorities: 2018–19

1. A client financial management and accounting system that is compliant with national accounting standards, regulatory and legislative provisions and guidelines will be developed and implemented by the Office of the Public Guardian (OPG) by 30 June 2019.
2. OPG will institute an approved staffing framework by 31 December 2018.
3. OPG will implement its 24 highest priority policies and associated work processes by 30 June 2019.
4. OPG will establish consultative and collaborative relationships with all key NDIS stakeholders by 30 June 2019 in order to maximise outcomes for represented adults.
5. OPG will increase and further develop advisory and support services within the Inquiry and Engagement Team by 30 June 2019 to assist private adult guardians and other relevant parties to discharge their responsibilities.
6. All OPG information systems will be electronic by 31 December 2018.
7. OPG's on-call after-hours system will effectively and efficiently meet the needs of its users by 30 June 2019.
8. OPG will continue its development of a workplace culture that supports high-performance teams committed to agreed organisational goals and values. A team charter will be drafted by 31 December 2018.

YEAR  
4  
2019–20

- Evaluate organisational performance.
- Develop further systemic advocacy opportunities with a focus on joint collaboration with other agencies.
- Undertake quality improvement activities to strive for best practice.
- Explore research opportunities.
- Explore options for legislative review.

Figure 17: Priorities moving forward: 2018–2020









Office of the Public Guardian

☎ 1800 810 979

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

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