



Office of the Public Advocate

Safeguarding the rights and
interests of people with disability

Annual Report

20
20





Cover image

Patchwork by Terri Fealy

Artist's statement

"I only began to paint on canvas three years ago, adapting designs from my work in ceramics. Art has become a passion for me and formed part of my rehab following a massive depressive episode. Art continues to be central to my ongoing mental health."

Patchwork was exhibited at State Trustees annual CONNECTED exhibition 2019.

Case studies

The case studies used to illustrate important points in this report have been de-identified.

Names are fictitious.

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Message from the Public Advocate

OPA's mission to protect and promote the rights, interests, and dignity of people with disability is more important than ever in this extraordinary time of crisis.

The office recorded 1792 Victorians receiving guardianship services from OPA this year, the second highest year on record.

In recent years, the profile of those clients has begun to change.

In previous years, the majority of represented persons were over 65 years of age and had some form of dementia. Now, after many years of decline in this cohort, the proportion of younger clients with intellectual disability is steadily increasing, as is the number with acquired brain injury and psychiatric disability. The reasons for these changes are attributable largely to the advent of the National Disability Insurance Scheme (NDIS), which reached full rollout in Victoria on 1 July 2019.

I welcome the passing of the new *Guardianship and Administration Act 2019*, which came into effect on 1 March 2020. A primary object of it is to protect and promote the human rights and dignity of persons with a disability by having regard to the United Nations Convention on the Rights of Persons with Disabilities.

The Act includes a presumption that a person has the capacity to make decisions unless evidence is provided otherwise and recognises that a person also has decision-making capacity if they can make decisions with support. It acknowledges some of the most important human rights for people with cognitive impairment: the right to make, participate in and implement decisions that affect their lives, and to be provided with the support they need to make and implement such decisions.

The new Act enables the Victorian Civil and Administrative Tribunal (VCAT) to appoint a supportive guardian (for personal matters) or supportive administrator (for financial matters).

If there is no other less-restrictive option, VCAT may still appoint a guardian with powers relating to personal matters and/or an administrator with powers in relation to financial matters. My office advocated for, and is pleased to see, that the new Act emphasises that a person's will and preferences are followed unless it would cause significant harm to them.

The new Act also retains the Public Advocate as an independent statutory office charged with promoting the human rights of persons with a disability and provides a new clear statement of functions and powers of the Public Advocate including:

- promoting the development of the ability of persons with a disability to act independently
- protecting persons with a disability from abuse, neglect and exploitation
- undertaking advocacy for persons with a disability on a systemic or individual basis
- managing and coordinating programs that promote the human rights of persons with a disability.

People with disability and older people are among the most vulnerable in the COVID-19 pandemic and, sadly, some of the people we work with have passed away from the virus. My office works with many Victorians



who may be considered to be a high risk because they live in facilities with shared bedrooms and bathrooms, social distancing can be difficult in communal areas, managers have low levels of understanding of infection control and may have difficulty understanding and complying with lockdown restrictions.

OPA has advocated to some disability service providers when, in a well-meaning effort to protect residents, they have imposed even stricter lockdown conditions on their residents than the law requires. My office has also raised concerns about the impact of the lockdown on people with cognitive impairment who may not understand the restrictions, or the interventions being undertaken to prevent the spread of the virus.

During the year, OPA contributed information and submissions to three Royal Commissions, namely aged care, disability and mental health. The involvement with the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability is ongoing and I appeared alongside two Community Visitors before that commission in Melbourne to highlight the need for more suitable accommodation for people with cognitive impairment who have complex needs and for whom a group home exposes themselves and others to violence.

In December, I was proud to publish a report by the Systemic Advocacy Unit of OPA, *"I'm too scared to come out of my room": Preventing and responding to violence and abuse between co-residents in group homes*. The standalone report makes 38 recommendations for reform and formed part of OPA's response to the Commission's Issues Paper on this topic.

The lack of suitable, stable and secure accommodation for people with cognitive impairment is a frequent issue of concern that arises at both an individual and systemic level. The risk of reduced security of tenure for people in shared disability accommodation because of the lack of a provider of last resort in the NDIS is one issue that I will continue to raise. OPA's submission to a Victorian Parliamentary Inquiry on homelessness pointed out how the criminal justice system, the mental health system, living in a Supported Residential Services (SRS) and the NDIS, each in their own way, contribute to homelessness for people with cognitive impairment because of inadequate service delivery.

The need for more supported accommodation, evidenced by data collected by Community Visitors on the inability of the mental health system to discharge some patients ('long-stay patients'), was also a feature of my office's submission to the Royal Commission into Victoria's Mental Health System.

OPA continues its systemic advocacy on elder abuse with its work to harmonise powers of attorney nationally.

I hosted a timely forum on the use of restraint in aged care just as the Royal Commission into Aged Care Quality and Safety was raising this issue. A substantial part of OPA's submission on aged care discussed the regulation and oversight of the use of restrictive practices (restraint) and the need to substantially reduce their use. OPA believes that such practices can be a breach of human rights and a deprivation of liberty.

The work of OPA is extensive and the consolidated statistics on following pages attest to this. The output is a credit to staff and the generous efforts of the nearly 700 volunteers across OPA's four volunteer programs: Community Visitors (in disability, mental health and SRS), Community Guardians, Independent Third Persons and Corrections Independent Support Officers. Ranging in age from 19 to 91 years, the volunteers have managed to continue to fulfil their vital safeguarding roles despite COVID-19 by adapting to remote visiting. I thank them for their determination to continue to fulfil their important roles and duties at this very difficult time.

I also thank my dedicated staff who have continued working at this time, innovating new ways to fulfil the mission of the office remotely. I thank them for their commitment to improving the lives of people with cognitive impairment and to promoting the rights, interests, and dignity of people with disability in Victoria with such conviction.

These times have thrown the passion of OPA's staff and volunteers into sharp relief.

Dr Colleen Pearce
Public Advocate

Our Values

Respect

We treat all people with respect.
We value difference and individual worth.

Inclusiveness

We seek to empower people with disability to contribute and participate in society.

Integrity

We act honestly and transparently, and take responsibility for our actions.

Independence

We promote the rights of people with disability and act independently of other interests.

Compassion

We care about the individual and their circumstances. We recognise and respond to the particular difficulties faced by people with disability.

The Victorian Office of the Public Advocate (OPA) provides services to protect and promote the rights, interests and dignity of people with disability (specifically intellectual impairment, mental disorder, brain injury or dementia) living in Victoria.



2020 at a glance

OPA Volunteers achieved the following key outputs for the year



700

Nearly 700 OPA Volunteers supported including

82

new volunteers this year

443

Appointed Community Visitors

400

Active Community Visitors

4142

Community Visitor visits made to

1466

accommodation facilities



3718 ↑

ITP interviews conducted, a 15% increase on last year, including

747

remote interviews conducted since April 1

91 volunteer training sessions held for

624 participants



2689

ITP clients supported in

140

police stations across Victoria

170

Governor's Disciplinary Hearings attended by CISOs in

13 adult prisons

OPA Staff achieved the following key outputs for the year



1792

Victorians received guardianship services

950

new guardianship matters managed

430 ↑

investigations conducted for VCAT
6.4% increase over last year

284 ↑

individual advocacy matters managed,
10.1% increase over last year

466

medical treatment decision matters completed



12,624

instances of advice provided by the Advice Service

130 ↑

education sessions provided to an audience of

5182

12.7% increase over the last year

1477 ↑

NDIS agreements with service providers completed,
136.3% increase over last year



274,309

website sessions attended

86,042

documents downloaded, despite COVID-19 impact

120

print and online publications managed

117,667

publications distributed despite COVID-19 impact



17

submissions made

Member of

21

external committees and advisory groups

4

new diversity plans updated or launched

4 Decision-making

Guardianship: A year of change and challenge

A new Act

The new *Guardianship and Administration Act 2019* commenced on 1 March 2020. The new Act aims to promote the human rights and dignity of persons with a disability by recognising the need to support them to make, participate and implement decisions that affect their lives.

Central to the Act is the pre-eminence given to the person's will and preferences. While the Act recognises that there may be some situations in which it is necessary to appoint a substitute decision-maker, a guardian, when appointed, must have regard to and "give all practicable and appropriate effect to the person's will and preferences, if known."

While this requirement is similar to what guardians have long practiced, the emphasis on will and preferences brings the right of the person to be involved in decision-making into much greater prominence. The Act also requires guardians to consider whether a person can be supported to make decisions before moving to make a substituted decision. Personal and social wellbeing decisions can only be made by a guardian when it is not possible to establish a represented person's will and preferences. In addition, will and preferences may only be overridden when it is necessary to prevent serious harm to the person.

These changes represent a fundamental shift in the principles underpinning guardianship practice. While OPA undertook substantial preliminary work to be ready for the new Act, the practical implementation of the principles is continuing to evolve as guardians are required to respond to the individual situations presented by a particular matter. A preliminary observation is that the new Act is requiring every matter to be considered very much from an individual perspective. Once again, this is not necessarily different from OPA's previous practice, but the Act certainly underlines the importance of adopting this perspective.

Responding to the pandemic

The COVID-19 pandemic has required a number of significant changes in how guardianship is practiced.

The most immediate change has been a near-total cessation of face-to-face visits with represented persons, families and providers. Only visits in exceptional situations have been authorised. OPA recognises this is not ideal, but acknowledges it is appropriate in the circumstances.

In addition, the majority of advocate guardians have been working from home, supported by the use of technology. They have adjusted to, and have been able to work effectively online with, the NDIS, service providers, case coordinators and others. There have been particular challenges in ascertaining the will and preferences of represented persons as the process to obtain this information has not been as straightforward as face-to-face contact. Phone, FaceTime and other video communication tools have been used by guardians to obtain information and ensure they are able to comply with legislative requirements despite the restrictions imposed.

New guardianship matters

For all new guardianship matters, the Public Advocate is appointed by VCAT under the *Guardianship and Administration Act*. The Public Advocate continues to act under the old 1986 Act for orders remaining operational and made before the new act came into effect.

The office is required to accept all matters where it is appointed guardian by VCAT and guardianship continues to be the largest single component of OPA's Advocate Guardian Program.

There were 950 new guardianship matters this year including 15 community guardianship and 23 temporary/urgent guardianship matters (table 1). With the carryover of existing matters not finalised

in the previous year, there were 1792 matters where OPA acted as guardian. In the first half of the year, OPA was on track for a record high number of guardianship matters but a dip in January, followed by the impact of the COVID-19 pandemic in March and early April, saw overall new numbers decline by 2.9 per cent for the full year.

In the last two years, there has been a change in the disability profile of individuals referred to OPA. After many years of decline, intellectual disability has increased significantly among guardianship clients (340 or 36.4 per cent), almost equal to the number of individuals with dementia (341 or 36.5

per cent). Psychiatric disability has also increased proportionately, affecting 295 (31.6 per cent) guardianship clients this year.

The increase in intellectual disability matters relates to the prevalence of this cohort in the NDIS, where they form the dominant grouping and may also explain the increase in psychiatric disability as a number of represented persons in the grouping have multiple presentations. Acquired brain injury (216 or 23.1 per cent) and physical disabilities (126 or 13.5 per cent) make up the balance, with 16 clients having no specified disability.

Table 1. New Guardianship matters, 17/18-19/20

New matters	Community Guardianship	Guardianship	Temporary/urgent Guardianship	Total
17/18	17	905	41	963
18/19	25	933	20	978
19/20	15	912	23	950

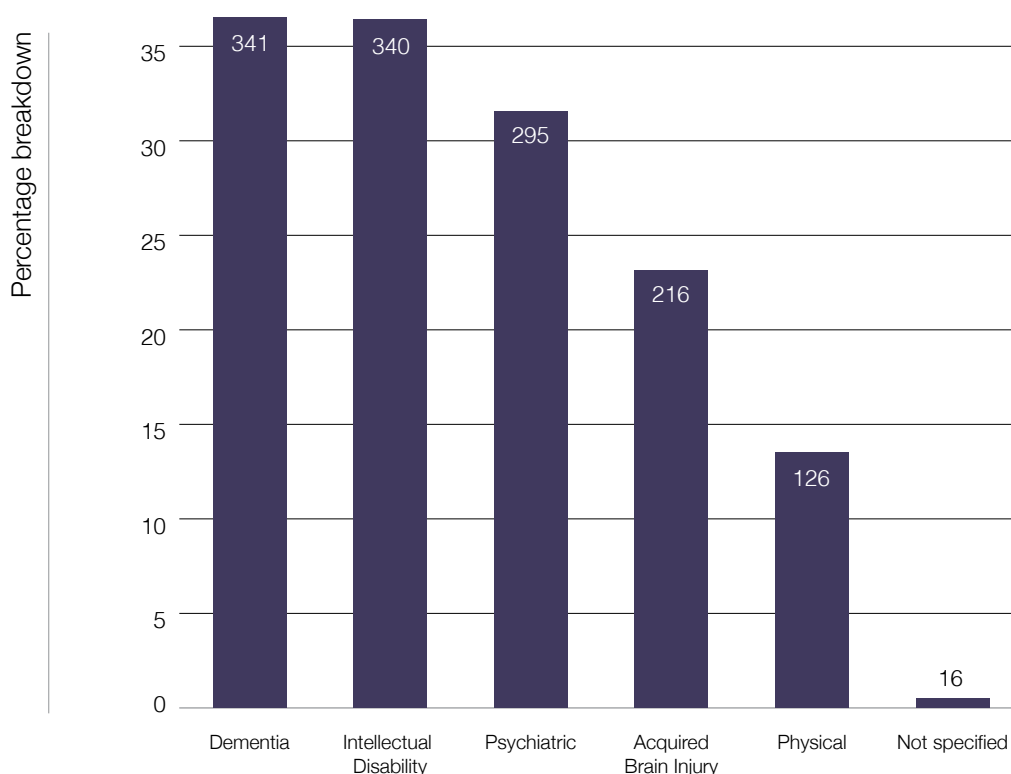


Figure 1. Guardianship by disability type, 19/20

(Note: the total adds up to more than 100 per cent due to persons having multiple disabilities).

Waiting list

Orders received from VCAT are triaged and placed on a waiting list where they are monitored and assessed against risk and need. The Intake Team initiates a range of actions at this point but does not assume full responsibility for guardianship. Inevitably, there is some time before allocation to a delegated guardian and the larger the waiting list, the longer the wait for a delegated guardian.

This year has seen a reduction in waiting list numbers:

- at the start of the year, there were 51 matters on the waiting list
- the waiting list reached its highest point of 84 for the year on 8 November 2019
- the lowest number on the waiting list was 20 on 17 April 2020
- on 30 June 2020, there were 39 matters on the waiting list.

The decrease in the waiting list is attributed to stable staffing, new staff who came on stream earlier in 2019 developing greater experience, and the fact that staff, being aware of the implications of a high waiting list, worked assiduously to bring it down and keep it down.

Due to these various factors, this year, the time to allocation (i.e. the time guardians take to receive a case matter and commence work) declined significantly. Table 2 shows the time to allocation for guardianship (including Community Guardianship) matters of 30.49 days on average. Temporary/urgent guardianship matters took 1.31 days on average.

Table 2. Average days to allocation of a guardianship matter, 17/18-19/20

Days to allocation	17/18	18/19	19/20
Guardianship, including community guardianship	47.90	51.48	30.49
Temporary guardianship	2.21	1.90	1.31

Guardianship complexity

Every guardianship matter has multiple dimensions ranging from complex disability presentations and service provision arrangements to complex family dynamics.

In order to quantify the impact of complexity on workload, OPA developed proxy measures for complexity based on the number of decisions and actions required in an individual matter. This year, working from home arrangements have complicated the collection of data on actions, however, it is still possible to plot guardianship matters against decisions required. This year, 3696 decisions were made, an increase of 22.4 per cent over last year. It can be seen from the figure below that decisions have more than doubled over the last four years, from 1724 in 2015-2016, a 114.4 per cent increase.

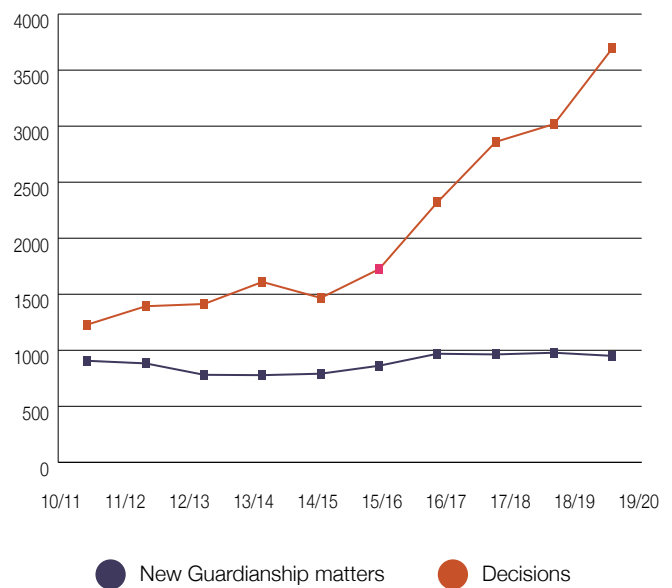


Figure 2. New guardianship matters and decisions required, 10/11-19/20

Guardianship and the NDIS

Last year, there were 369 new guardianship orders in which the represented person was a participant in the NDIS. This is 72.6 per cent of all eligible guardianship matters (that is, 508 new guardianship matters for clients under the NDIS eligibility cut-off age of 65 years). This is an increase from 58.6 per cent last year and continues the pattern of increasing engagement seen previously, as seen in table 3.

The Advocate Guardian Program has welcomed the further development of the complex needs pathways and the allocation of senior planners for some of its more complex clients. This has resulted in life-changing plans for a number of represented persons.

The Principal Advocate Guardian has been able to establish relationships with some of Victoria's NDIS directors and considers that these working relationships assist the NDIS to better understand the role of advocate guardians and of OPA more broadly in the lives of the most vulnerable Victorians.

The program continues to experience frustration in relation to the inconsistency in planning across Local Area Coordinators and NDIS planners and trying to assist a planner to understand and plan for a participant who they may never have met.

Table 3. NDIS matters of all guardianship matters, 17/18-19/20

Year	NDIS matters of all guardianship matters	%age
17/18	83 of 415 eligible matters	20%
18/19	284 of 485 eligible matters	58.6%
19/20	369 of 508 eligible matters	72.6%

The program considers that including advocacy support as a line item in a participant's plan would assist them to take an active role in their planning, reduce the need for some people to have a substitute decision-maker and encourage the development of better plans. It is hoped that with continued advocacy and the ongoing implementation of the new Act that the NDIS will fully embrace the general principles of it and support Victorians with a disability to participate in decision-making about their own lives as fully as practicable.

Workload

The NDIS continues to have a major impact on the work of the program.

The structure of the NDIS is such that guardians now find themselves involved with not just the client and DHHS but with the NDIS, the support coordinator and multiple service providers.

Data this year again shows a significantly greater number of decisions required for NDIS participants to achieve an outcome when compared to non-NDIS participants. As was the case for complexity data, the statistics for actions are not included this year due to their unreliability given the technical issues associated with working from home. It is not unreasonable to conclude actions were greater as well.

As shown in table 4, on average NDIS matters concluded this year required 41 per cent more decisions by guardians (4.86 vs 3.45).

Table 4. Comparison of decisions for closed NDIS and non-NDIS matters, 19/20

	Number	Decisions per matter
NDIS matters closed	293	4.86
Non-NDIS matters closed	424	3.45

A major aspect of the administrative work associated with the NDIS is the signing of service agreements as the NDIS requires that contracts be signed for the provision of services.

This process is time consuming but, without an agreement, NDIS participants are unable to access the services to which they are entitled. This year, 1477 NDIS agreements were completed, an increase of 136 per cent on last year.

To streamline this process, the OPA Legal Unit developed a pro forma deed. This was recently amended to allow for the rolling over of the agreement for up to three years in certain circumstances. Both this arrangement and the establishing of the deed as an online form have substantially reduced the workload associated with deeds. It is notable that several other states in Australia have either copied the OPA deed or developed something similar based on it.

OPA Health Networks Project

In February 2017, three metropolitan hospital networks, Alfred Health, Monash Health and Eastern Health agreed to each fund a half-time (0.5 FTE) advocate guardian position to work exclusively to the respective hospital networks. The aim of the hospital project was to demonstrate that this additional resource would lead to quicker allocation of a guardian and a quicker discharge for represented persons, thus resulting in a cost saving for the hospitals. On average, for every \$1 spent on funding an advocate guardian, \$5 was saved on acute and sub-acute beds due to an almost halving of the waiting time for allocation of a guardian.

It is noted that to protect the integrity of OPA, the guardians were employed by and based in the OPA office.

In February 2019, two new networks were added, Northern Health and Western Health, increasing the number of advocate guardians across the project to 2.5 FTE.

The project was extended twice, formally ending on 4 February 2020.

After such positive outcomes, the Department of Health and Human Services (DHHS) agreed to provide funding until 30 June 2023 for five advocate guardians and one team leader, with the view to expanding the hospital program across Victoria. As of 5 February 2020, the program continued with the five previous participating health networks.

On 1 March 2020, four further networks were included: two regional, Barwon Health and La Trobe Regional Hospital, and two Melbourne-based, Royal Melbourne and St Vincent's. Although the COVID-19 pandemic created problems in seeing hospital patients face-to-face, the expansion into these new networks has been successful, and the advocate guardians have settled into their new roles well.

By 1 July 2020, all Victorian hospitals will have a DHHS-funded advocate guardian to work with patients for whom the hospitals have made a guardianship application to VCAT and where the Public Advocate was appointed.

Coercive authority

The new Act continues to include a provision which allows guardians to request police, the ambulance service or other service providers, to provide assistance to enforce a decision of the guardian.

In such instances, a hearing must be held and a formal order, now made under s.45 (formerly s.26) of the Act, must be made by VCAT. The principal use of such orders is to facilitate the transport to hospital of a person who, because of a cognitive impairment, is unable to appreciate the need for treatment.

This year, there were eight s.26 orders and five s.45 orders made. As seen in table 5, this was significantly fewer than the number of orders made in previous years (26 in 2018-2019 and 28 in 2017-2018), continuing the trend seen in recent years of decreasing use of coercive powers.

Table 5. Section 26/45 order interventions, 19/20

	17/18	18/19	19/20
Number of s.26/45 orders	28	26	13

Table 6. Reasons for section 26/45 order interventions, 19/20

Reason	Number
Number requiring ambulance attendance transport	6
Number requiring forced entry	1
Number requiring police attendance	6
Number requiring chemical restraint	0
Number of requiring physical restraint	1

(Note: numbers do not add up the total in the table above as some persons required more than one type of intervention).

Table 6 shows the number of represented persons requiring ambulance attendance transport (6), forced entry (1), police attendance (6), chemical restraint (0) and physical restraint (1) under s.26/45 this year.

Community Guardianship

The Community Guardian Program is a small volunteer program within the larger guardianship program. It comprises volunteers drawn from the community and gives effect to the Public Advocate's legal responsibility to involve the community in the lives of people with cognitive disabilities.

After induction and training, the volunteers act as a guardian for one or two represented persons who are usually resident in the community. A coordinator provides advice, supervision and ongoing training.

This year, OPA celebrated 30 years of the program, three decades of commitment and involvement by a small group of dedicated and determined people to make a difference in the lives of Victorians with disability. This year, 17 Community Guardians managed a total of 36 matters (15 of which were new) compared to last year where 20 Community Guardians managed 47 matters.

There has been limited recruitment to the program in recent years and, as the disability environment becomes more complex, supporting community guardians to stay abreast of changing legislative requirements has been challenging.

Consequently, a decision was made to formally review the program using an external consultant. The review reported in late 2019 and noted that the core ethos of the program, that of matching a person in the community with the time and commitment to work intensively with the represented person, has not changed and remained valuable. The review did conclude some changes should be made but recommended the program continue in a slightly different format.

Plans to implement the recommendations of the review have been disrupted by the COVID-19 pandemic and, while the current volunteers are still accepting new guardianship matters, OPA is not able to recruit new volunteer Community Guardians. The program, thus, continues to have a quite low profile. However, training on the new Act has been undertaken using Zoom meetings and this has proved effective in conveying information - so much so that online training is likely to continue as a substantial training adjunct into the future.



Community Guardianship Program - 30-year celebration

L-R: Dr Colleen Pearce (Public Advocate), and long-serving Community Guardians Alison Gribble and Morrie Hartman.



Investigations

VCAT refers investigations to OPA under the *Victorian Civil and Administrative Tribunal Act 1998* in order to assist in determining guardianship and administration applications.

OPA then conducts the investigation under the relevant Guardianship and Administration Act. It may be asked to explore less restrictive options to the appointment of a guardian or administrator, the use of powers of attorney, or applications for consent to special procedures.

OPA also conducts much shorter investigations into applications for urgent orders.

Impact of the new Act

The new Act has brought a number of changes in investigation practice. The Investigations Team were among the first staff in the office to deal with the challenges of the new legislation.

In their work, and in accord with the requirements of the Act, investigators attempt to ascertain whether the person may have decision-making capacity if provided with practicable and appropriate support. As part of their usual practice, investigators already looked at less restrictive means of resolving the issues other than the appointment of a guardian or administrator. Thus, the legislative change is an enhancement of how investigators were already working, rather than a completely new practice.

The Act also requires that attempts are made to ascertain the person's will and preferences. Again, in a practical sense, this has also not been a major change; investigators have always interviewed proposed represented persons in order to determine their wishes. The question is whether "will and preferences" is a more nuanced test than "wishes".

Consequently, OPA tries to provide VCAT with a more nuanced response to the question of what are the person's true will and preferences. At present, it is considered that 'will' means a more a long-held belief, while a 'preference' is a more immediate response to the circumstances arising at that moment.

New investigations

There were 430 new investigations for the year, comprising 401 full investigations and 29 urgent investigations. This is a 6.4 per cent increase overall. The proportion of urgent orders declined marginally from 7.7 per cent to 6.7 per cent. The three-year trend shows a continuing growth in investigations.

A record peak of 51 referrals was achieved in May 2020. Due to the large number of referrals and the resignation of two staff members, a waiting list has been required for matters considered less critical. Due to the COVID-19 pandemic, matters involving proposed represented persons in hospitals were prioritised.

Table 7. Investigations, 17/18-19/20

17/18	18/19	19/20
389	404	430

Demographics

Just over 50 per cent of investigations are for persons over 65 years of age. Dementia is the most common disability in matters referred for investigation at 41.5 per cent. The second most common disability was mental health, followed closely by acquired brain injury.

Days to allocation

There was a slight increase in the time taken to allocate a matter this year due to the overall increase in the number of matters and the departure of two staff members midway through the year. However, the overall statistics remain good and are marginally better than the historical average.

Table 8. Average time (days) taken to allocate an investigation, 17/18-19/20

	17/18	18/19	19/20
Investigations	13.75	9.83	11.25
Urgent Investigations	2.21	1.90	1.31

Reasons for referring investigations

Investigations are referred from VCAT for many different reasons, but insufficient medical evidence (or sometimes evidence of any kind) along with family conflict are both common reasons for referral.

Applications from hospitals also arise when a patient requires a formal decision-maker to make a decision about discharge. This is also often due to family conflict or no family involvement. This year, has seen a trend of mental health units in regional hospitals making applications for guardianship because of the lack of an NDIS plan, an NDIS plan not working, or a lack of discharge options for the patient.

Finally, due to the COVID-19 pandemic, and with hearings being conducted via teleconference, some referrals were made due to VCAT simply having difficulty in ascertaining the issues. In these instances, a broad-based investigation referral, seeking more information, was made.

Table 9. Top ten reasons for VCAT referring Investigations to OPA, 19/20

Issue Type	Total	%age
Evidence of need for order	151	39.8%
Conflict between individuals	87	23.0%
Accommodation	83	21.9%
Evidence of disability	65	17.2%
Evidence of capacity	61	16.1%
Possible financial exploitation	58	15.3%
Welfare and safety at risk	47	12.4%
Enduring power of attorney financial (pre Sept. 2015)	45	11.9%
Possible breach of duties by financial attorney	32	8.4%
Healthcare and treatment	18	4.7%

(Note: Adds up to more than 100% due to multiple reasons given for some orders).

Investigation outcomes

OPA records the outcomes of investigations following the VCAT hearing.

Of the 388 matters that were completed during the year:

- 53 were withdrawn
- 34 were dismissed
- 12 special procedure investigations were completed.

These figures support OPA's understanding that investigation, by clarifying issues and providing additional information, diverts matters which otherwise may have proceeded to guardianship.

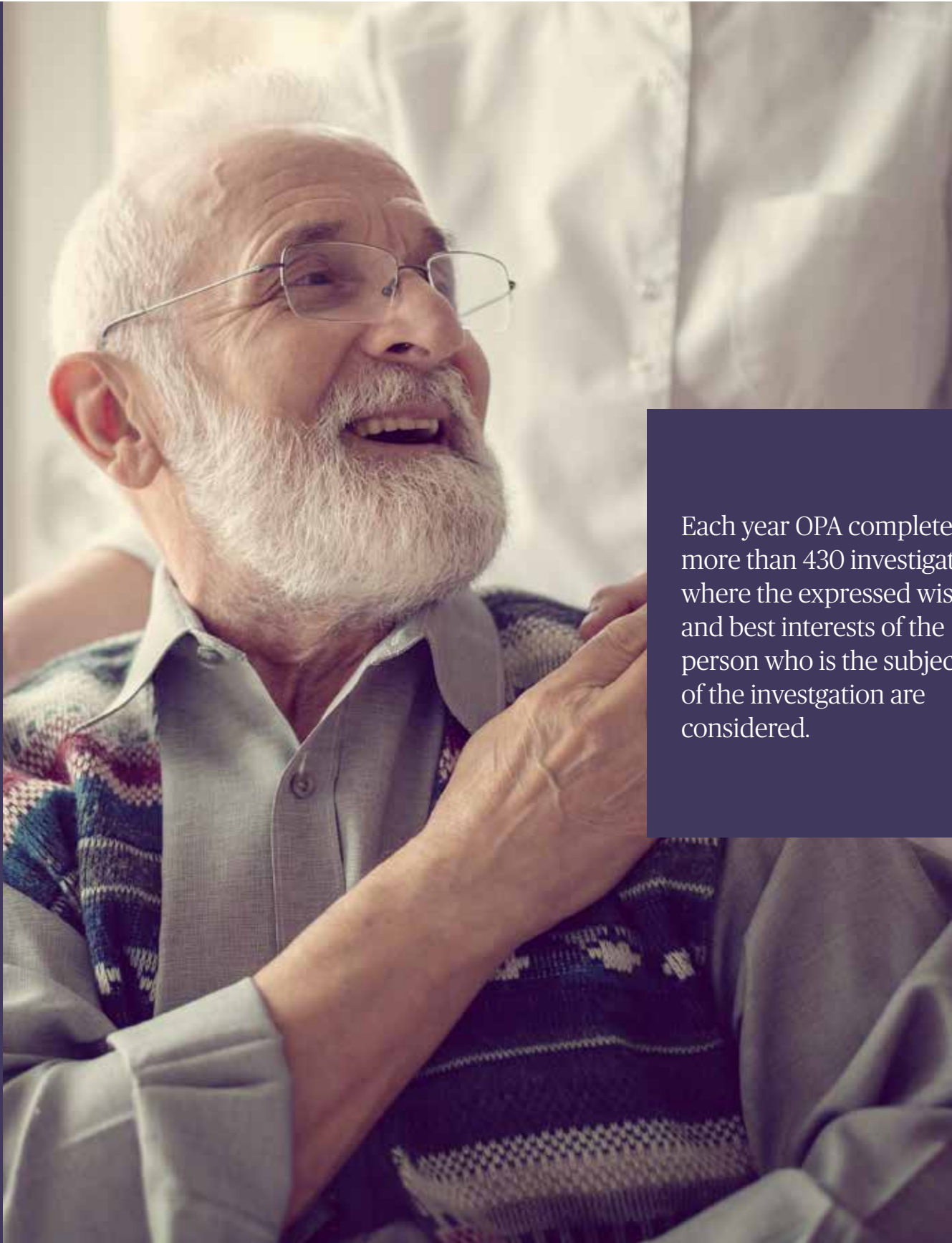
Impact of COVID-19 pandemic

The most difficult aspect of conducting investigations is attempting to ascertain the (true) will and preferences of the person. This is made more complex in matters where it is alleged that the person may be subject to emotional, psychological and/or financial abuse by their primary carer. How does OPA measure undue influence and coercion? This is difficult at the best of times, but is made more challenging when investigators are unable to meet with the person face-to-face as has been the case during the COVID-19 pandemic. In these circumstances, investigators have had to rely on the observation and reporting of other parties alone.

There is also a small percentage of the population who, due to their disabilities, simply cannot be reached by phone or other electronic medium. Again, in these circumstances, investigators have mostly relied on the observation and reporting of other parties. In a few, but significant, matters it was decided there was no way to obtain the required information other than through a face-to-face meeting and the investigator cautiously proceeded with the meeting, taking care to avoid the possibility of cross-infection.

Obtaining records (and cooperation) from service providers has pleasantly improved during the COVID-19 pandemic, although the temperament of interested parties has not. Presumably, the more fractious behaviour can be attributed to the stresses inherent in the current circumstances and the mental health impact of lockdown restrictions on people already under stress.

Finally, it is suspected that the practice of VCAT in holding hearings by phone, along with the need to ascertain the will and preferences of a person, has contributed to the volume of referrals received.



Each year OPA completes more than 430 investigations, where the expressed wishes and best interests of the person who is the subject of the investigation are considered.

Medical decisions

The Medical Decisions Team at OPA was established in response to the *Medical Treatment Planning and Decisions Act 2016*, which came into effect on 12 March 2018.

Under the legislation, the Public Advocate has authority to make medical treatment decisions for Victorians (in certain circumstances). A direct request to OPA from a health practitioner for a significant medical treatment decision can be made, rather than necessarily having to submit an application to VCAT for a guardian to be appointed to make medical treatment decisions.

The initial contact to the team is generally via the submission of an online form, which is available on the medical forms page on OPA's website. These relate to the sections of the Act which give the Public Advocate the authority to make significant medical treatment decisions (s.63) or to respond to a notification of a refusal of significant medical treatment by a medical treatment decision maker (s.62).

The team does not make *routine* medical treatment decisions and nor does it have a role in making decisions about emergency or palliative treatment. It is also the contact point for health practitioners to forward a copy of a medical research practitioner's certificate (s.81).

Table 10. Comparison of medical treatment decision matters, 17/18-19/20

	17/18 (part year only)	18/19	19/20
s.62	1	3	2
s.63	156	455	413
s.81	2	8	13
Extension of consent	N/A	26	38
Total	159	492	466

New medical treatment decisions

This year, there were 26 fewer matters in total, a decrease of 5.3 per cent over last year. However, in comparing the period of COVID-19 restrictions between 1 March 2020 and 30 June 2020, with the same period in 2019, there were 56 fewer matters this year. It is reasonable to assume this marked decrease is directly related to the pandemic as, prior to this time, medical decision applications were similar to last year.

In considering the outcome types of the s.63 applications last year, there remains a poor knowledge by health practitioners that emergency medical treatment does not require the consent of the Public Advocate.

There were a notable number of occasions (19) where a health practitioner subsequently found an alternative medical treatment decision maker potentially indicating that health practitioners remain unclear that a person does not have to be appointed as a medical treatment decision maker in order to act as one (see s.55 of the Act).

Of the 15 occasions where the outcome type was 'other', most tended to be when a s.63 application had been made where the patient was subject to an order under the *Mental Health Act 2014* (s.75) and health practitioners should have been guided by the medical treatment decision making authority hierarchy under that Act rather than the Medical Treatment Planning and Decisions Act.

Table 11. Detailed breakdown of OPA's medical treatment work, 19/20

Section 62	2
Other	2
Section 63	413
Treatment consented to	309
Treatment deemed to be emergency	33
Medical Treatment Decision Maker found	19
Other	12
Offer of treatment withdrawn	12
Capacity regained	10
Treatment deemed to be routine	7
Treatment refused	7
Treatment deemed to be palliative	4
Section 81	13
Legislative requirements met	10
Legislative requirements not met	3
Extension of consent decisions	38
Health practitioners come back to advise treatment has not occurred within four weeks and circumstances are reviewed and a continuation of the validity of the consent decision is given for a further period of time.	
Grand total	466

Distribution of applications

The top rural networks have a similar distribution of medical treatment decision applications to the largest rural health networks - excluding Latrobe Regional Health and Mildura Health.

There were ten fewer dental matters than last year, which is likely the result of dental services being restricted during the early stages of the COVID-19 pandemic.

Table 12: Health networks, 18/19-19/20

Top 5 metro	19/20	18/19
Alfred Health	62	59
Melbourne Health	43	52
Austin Health	31	34
Monash Health	30	31
Northern Health	26	27
Top 5 rural		
Ballarat Health	16	14
Bendigo Health	11	12
Barwon Health	8	7
North East Health	4	6
East Grampians Health	4	4
Dental matters	30	40
GPs/specialists medical services/private hospitals	32	43

Length of time to make decisions

Approximately 68 per cent of decisions were made within five days, with 32 per cent taking six days or longer. This is comparable to last year.

Decision types

Approximately 51 per cent of decisions were for inpatient treatment; 32 per cent as outpatient treatment; 9 per cent for medications; and 8 per cent for dental treatment. Collating statistics for decision types only commenced this year.

Advocacy

OPA provides an advocacy service for Victorians with a disability.

The capacity of the service is limited due to resource constraints.

It involves standing beside the person with a disability, promoting their rights and interests and, if necessary, working to protect them from exploitation, abuse and neglect.

While advocacy occurs in the context of guardianship and investigation, OPA also undertakes work directly as an individual advocate for persons with a disability. Advocacy varies from short-term interventions, to lengthier and more complex engagement and specialist involvement in matters related to the *Disability Act 2006*.

New advocacy matters

Advocacy matters increased by 10.1 per cent this year, with 284 new matters opened.

Disability Act officer interventions remain the largest single contributor to OPA individual advocacy with 116 new matters this year, in part because there are specific legislative provisions in the Act which affect intellectually disabled persons and set out the role the office has in providing advocacy for this cohort.

OPA continues to provide advocacy for persons under the *Severe Substance and Dependence Treatment Act 2010*, however, only seven matters were referred to OPA this year. These are included under ‘individual advocacy’ in table 13.

Short-term advocacy decreased slightly this year to 101 matters.

OPA undertook advocacy for five matters on the request of interstate jurisdictions to follow-up persons who had moved, usually without notice, to Victoria.

Table 13. New advocacy matters, 17/18-19/20

	17/18	18/19	19/20
Individual advocacy	60	46	67
Disability Act advocacy	158	97	116
Short-term advocacy	102	115	101
Total	320	258	284

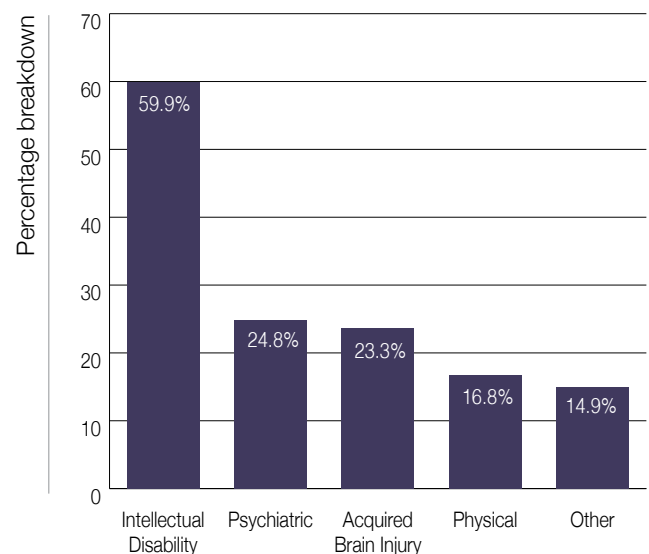


Figure 3. Advocacy by disability type, 19/20

(Note: the total adds up to more than 100 per cent due to persons having multiple disabilities).

People with intellectual disability were by far the largest group receiving advocacy at 59.9 per cent, as seen in figure 3, whereas people with intellectual disability only constituted 36.4 per cent of guardianship matters and 24.5 per cent of investigations.

Table 14. Top ten reasons for requiring advocacy, 19/20

Issue Type	Total	%age
Accommodation	79	33.2%
Civil detention	38	16.0%
Justice/legal issues	21	8.8%
Evidence of need for order	18	5.5%
Conflict (including family)	13	5.4%
Welfare and safety at risk	15	6.3%
Health and medical treatment	11	4.6%
Service issues, including case management	13	5.9%
NDIS	8	3.4%
Possible physical/emotional/other abuse	7	2.9%

Individual advocacy

OPA receives many requests for individual advocacy. These may come through requests to the Advice Service, from VCAT, or from external agencies such as Victoria Legal Aid. Due to resource restraints, OPA triages all advocacy requests and refers them, wherever possible, to agencies within the community sector. OPA continues to provide advocacy in serious issues where other advocacy means are either not available or have proved ineffective. OPA will undertake a detailed review of its advocacy service model next year.

VCAT liaison

OPA bases an experienced advocate guardian staff member at VCAT. The officer provides an important liaison function for both OPA and VCAT. The role aims to:

- enhance cooperation between VCAT and OPA, including liaison with the VCAT registry
- assist clients and interested parties to understand the process of guardianship hearings and the implications of either being appointed as a guardian or being the subject of a guardianship order
- provide advice to VCAT members on OPA’s capacity and functions
- assist OPA staff in appearances before VCAT, when required.

This year, the liaison officer provided assistance in 481 matters. This was a substantial reduction on last year (668) but is explained by the unusual circumstances of the year:

- VCAT was required to relocate to 55 King Street due to flooding at the William Cooper Justice Centre
- the COVID-19 pandemic mean both VCAT and OPA have been working remotely.

Despite the pandemic, OPA has been able to maintain the liaison role and provide valuable assistance to VCAT, albeit at a reduced capacity.

Disability Act Advocacy

OPA provides advocacy to persons with intellectual disability detained (or for whom an application is made to detain) on a Supervised Treatment Order made under the Disability Act. Presently, this is a cohort of 29 persons. The purpose of these orders is to provide treatment that will benefit the person to have a better and more productive life and to manage their risk to the community.

The transition to the full rollout of the NDIS has unique problems for this cohort:

- OPA has seen poor alignment of the goals of compulsory treatment set out in treatment plans with the supports provided through the person’s NDIS plan

- providers under the NDIS plan may not have the necessary qualifications to provide supervision, a necessary component of supervised treatment, alongside the support provided under the NDIS plan
- there may be a contest between the NDIS' responsibility to the participant, compared with the responsibility of the State of Victoria to the participant as a person in the justice system. This involves an understanding and interpretation of the NDIS Principles to determine the responsibilities of the NDIS and other service systems as agreed to by Victoria and the Commonwealth
- fragmentation of management of the person's treatment and supports, as responsibilities are shared between the authorised program officer for the service provider who is responsible for the implementation of the treatment plan, the participant's support coordinator, the participant's specialist behaviour support coordinator and, in some cases, the participant's disability justice coordinator.

While not specific to this cohort, there are also complexities that impact on it as the Victorian Government ceases to be a service provider and hands over responsibilities to disability service providers.

Persons on supervised treatment orders in SDA-enrolled properties will also transition to new tenure arrangements under the *Residential Tenancies Act 1997* and these, in turn, trigger different accountability structures in relation to the use of regulated restrictive practices. Negotiating these matters is not only difficult for the participants but also for providers.

Serious neglect

During the year, at the request of Community Visitors, OPA advocated for a resident with significant support needs who was living at a residential service.

They were concerned he was receiving inadequate care, and his wellbeing was at serious risk. Community Visitors believed the NDIS provider had pressured other residents to engage that particular NDIS provider for support services.

OPA attempted to engage the provider directly, however, they refused to respond to OPA's concerns which included an apparent conflict of interests (because the provider was the Support Coordinator, the provider of support services, the plan nominee for the resident and a neighbour).

Case study

An individual advocacy matter

In February 2020, two calls from a family member to the OPA Advice Service were made requesting advocacy for a young man who was on remand after being charged with very serious offences.

He had a severe intellectual disability, was on the autism spectrum and had some mental health issues. Advocacy had been requested from numerous organisations by the family member but none had been able to assist.

The request was passed on to the OPA Advocacy and Guardianship Manager, who made contact with the family member and subsequently was invited to attend care team meetings.

The advocacy from OPA assisted in developing a more coordinated approach from NDIS-funded services and DHHS in order to better support the young man while on remand and in post-sentencing planning. The need for an independent administrator and guardian was also being explored through the care team discussions.

Visits were arranged with him and other residents receiving services from the provider to assess their wellbeing and their satisfaction with their care and the adequacy of their supports.

Two other residents reported significant issues including support workers failing to attend for weeks and months at a time, and that they were not receiving essential therapeutic interventions and supports including access to occupational therapists, physiotherapists and psychologists. They felt they were receiving insufficient and inadequate care.

One resident, recently discharged from hospital after undergoing major surgery, was not provided the high level of support and personal care he urgently required. The provider also failed to ensure the resident had access to support equipment and aids for his mobility needs including a wheelchair, resulting in many weeks of confinement in bed. The resident was unable to shower or have access to a bathroom, compromising his hygiene and dignity. Residents reported feeling pressured to engage with the NDIS provider, and expressed a strong desire to terminate their services.

OPA advocated to the NDIA and the NDIS Quality and Safeguards Commission for urgent intervention, resulting in urgent reviews of the

residents' NDIS plans. OPA facilitated plan review meetings and supported residents in a teleconference with a senior NDIA Planner. This enabled them to express their concerns about inadequate supports, communicate their goals and request assistance to immediately source a new provider.

The NDIA facilitated the engagement of new Support Coordinators, arranged therapeutic and functional assessments, and urgently sourced equipment and aids.

OPA continues to provide ongoing advocacy for the residents at this residential service.

Residential notices under the Disability Act

Under the Disability Act, OPA receives a copy of the notice provided by the service provider to a resident when they propose the resident either temporarily relocate or permanently vacate a premises. Should there be concern about the relocation, OPA will initiate advocacy on behalf of the resident.

As shown in table 15, OPA dealt with 14 notices of temporary relocation, 11 notices to vacate, and five notices of intention to vacate.

Table 15. Residential notices and casework, 18/19-19/20

Notices received	18/19	19/20
Notices of temporary relocation	38	14
Notices to vacate	6	11
Notices of intention to vacate	-	5
Total Notices	44	30
Total Casework	144	116

New tenancy legislation

On 1 July 2019, Part 12A of the Residential Tenancies Act commenced operation to coincide with the full rollout of the NDIS in Victoria.

Part 12A introduces a new form of tenancy for residents in SDA-enrolled dwellings, in particular, it introduces the SDA residency agreement as an alternative to a standard lease.

It was anticipated that residents in group homes under the Disability Act who are living in SDA-enrolled dwellings would transition across to SDA residency agreements by 1 January 2020. However, these arrangements were not finalised and the Government had to re-gazette group homes that had not made the transition. The transition is, thus, ongoing.

The change created many complications:

- As the SDA residency agreements were not ready to rollout on 1 July 2019, some residents who needed to enter SDA-enrolled dwellings had to transition to standard leases. These do not provide the same protection for residents as SDA residency agreements.
- When the SDA residency agreements became available, some SDA providers entered into standard leases as they were unaware of this alternative and that it was more appropriate for the resident. The Public Advocate wrote to a number of such providers outlining the nature and purpose of the SDA residency agreements, offering to meet with them.
- Community Visitors can visit, as of right, people in SDA-enrolled dwellings where there are SDA residency agreements, but can only visit residents who have standard leases in their SDA-enrolled dwellings, if invited. In order to create a list of places able to be visited by Community Visitors, SDA providers must notify Consumer Affairs Victoria that an agreement has been entered into for a particular address. Some SDA providers tried to register standard agreements while others were uncertain what they were to do.
- Where a disability service provider was also an NDIS-registered provider and the person to whom they were providing services was an SDA participant, there was confusion under which law (the Disability Act or the Residential Tenancies Act) the residency was configured. This became an issue for one resident subject to a Supervised Treatment Order as the type of tenure is relevant to the permitting, monitoring and reporting on the use

of regulated restrictive practices. On 1 July 2020, new regulations commenced to clarify some of these problems for people on supervised treatment orders.

- Where an SDA provider gives a notice to a resident, whether a notice of temporary relocation or a notice to vacate, a notification must be given to Consumer Affairs Victoria. They must also notify other bodies including the Public Advocate. In the two years preceding this year, there were 32 and 38 notices of temporary relocation given under the Disability Act. This year, only 14 such notices were given, 12 under the Disability Act and two under Part 12A of the Residential Tenancies Act. It is difficult to explain the reduced number other than to postulate that the confusion created by the change impacted on the ability of residents and providers to know and follow the law.
- There was an increase in the number of Notices to Vacate given this year. But the three given under Part 12A were given incorrectly. Two were given in relation to standard leases and one after the death of the resident. The *COVID-19 Omnibus (Emergency Measures) Act 2020* suspended the issue of Part 12A notices to vacate for a period of six months.
- Residents may give their SDA provider a notice of their intention to vacate. This is possible under the Disability Act but it was not necessary that OPA be advised. Under the Residential Tenancies Act, the SDA provider must notify OPA it has received such a notice. OPA received five such notices this year.

In addition to these residential matters, people are moving into accommodation where their tenure is uncertain. Such residences arise where residents share the one supported independent living (SIL) provider but the property is not an SDA-enrolled dwelling and is not a residential service under the Disability Act. These premises may also be outside the operation of the Residential Tenancies Act, which does not apply to certain health or residential services.

In anticipation of the safeguarding issues OPA was expected to encounter with the changes to the Disability Act and the Residential Tenancies Act, DHHS funded an advocacy position for one year, contributed to the engagement of part-time administrative support and funded OPA to develop resources for its website in relation to the new laws.

Disability Act 2006 and Residential Tenancies Act 1997

On 1 July 2019, the NDIS fully rolled out in Victoria. This required adjustments to various laws and practices that commenced that day, particularly concerning:

- the tenure of residents living in SDA-enrolled dwellings
- the right of Community Visitors to visit these premises and their obligations when doing so
- the integration of Victorian and Commonwealth law regarding the authorisation of the use of regulated restrictive practices
- how these changes to tenure and the authorisation of regulated restrictive practices affect people on Supervised Treatment Orders under the Disability Act.

OPA is working with DHHS and Consumer Affairs Victoria to address the complexities these adjustments are creating.

OPA has also identified tenure arrangements that appear not to be covered by the new laws.

COVID-19

The Public Advocate raised with Victoria's Chief Health Officer, Dr Brett Sutton, various matters concerning the emergency directions issued under the *Public Health and Wellbeing Act 2006*, including:

- the difficulty many people with disability may have understanding, and abiding by, the COVID-19 restrictions (an issue also raised with the Chief Commissioner of Police)
- the testing, self-isolation and quarantining of people unable to understand the purpose and nature of these interventions
- the interpretation of some aspects of the directions in their application in disability accommodation and in the delivery of support services
- whether the Public Advocate could be notified where a person has tested positive in a disability accommodation setting.

Systemic advocacy



5

public hearings



3

public presentations



2

research reports/
publications



3

position statements



4

events facilitated

This year, OPA's systemic advocacy work was driven by three Royal Commissions in each key practice area: disability, aged care and mental health.

Royal commissions

A Royal Commissions Taskforce consists of staff members from all OPA program areas to ensure all aspects of OPA's work is represented in its engagement with each commission.

Disability

The much-anticipated and ongoing Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability continued apace. OPA has participated at every step of the way.

OPA made a submission to the Disability Royal Commission in response to its Criminal Justice System Issues Paper which included six case stories and made the case for cross-sector collaboration, specifically to improve the justice-NDIS system interface, with the objective of providing appropriate supports and eliminating the criminalisation of disability.

The Public Advocate presented on mainstream and forensic detention in a forum organised by the Australian Federation of Disability Organisations, to which the Royal Commission was invited to hear the concerns and solutions posed by experts and, importantly, people with lived experience of disability.

OPA considers its submission to the Royal Commission in response to its Health care for people with cognitive disability Issues Paper of national significance given its focus on supported decision-making in the context of medical treatment decisions. It proposes ways in which health services can remove barriers faced by people with cognitive disability in making or being supported to make medical treatment decisions, with a focus on Victoria's landmark legislation, the Medical Treatment Planning and Decisions Act.

The Public Advocate also presented as a witness before the Royal Commission at its hearings on Group Homes. OPA's standalone report, *"I'm too scared to come out of my room": Preventing and responding to violence and abuse between co-residents in group homes*, was tabled as part of OPA's response to the Royal Commission's Issues Paper on this topic.

Aged care

OPA's submission to the Royal Commission into Aged Care Quality and Safety made 30 recommendations and covered five main topics: safeguarding the rights of people in residential aged care facilities, decision-making, quality of aged care services, young people in nursing homes and what makes a good residential aged care facility. Its recommendations were based on human rights and person-centred principles. Prior to drafting the submission, OPA provided the Royal Commission with answers to some of its targeted questions.

The Royal Commission will deliver its final report in November 2020 containing what OPA hopes will be sweeping reform recommendations to improve the quality and safeguarding of the aged care sector.

Mental Health

In OPA's submission to the Royal Commission into Victoria's Mental Health System, recommendations focused on augmenting the system's ability to support people with dual disability and reducing the involvement of people with disability with the criminal justice system.

The submission presented Community Visitors' data in relation to safety and abuse in mental health services and provided the latest figures and analysis from the Community Visitors Long Stay Patient Project. Finally, it made a number of recommendations to review the Mental Health Act with a view to improve the standard of care for both voluntary and involuntary consumers. The Public Advocate was subsequently invited to participate in two roundtable consultations, firstly, on the criminal justice system and, subsequently, on forensic services. OPA awaits the Royal Commission's final report and further recommendations due in February 2021.

COVID-19

A novel safeguarding area for OPA emerged in the wake of the COVID-19 pandemic. Like many aspects of society, the pandemic disproportionately affects people with disability. The Public Advocate released a Message to People with Disability, seeking to assure all Victorians that OPA would continue to pursue its role to put people with disability first, followed by the release of a Statement of Support for priority access to PPE for disability support workers.

In response to the real concerns of people with disability that they could miss out on life-saving treatment during the pandemic, OPA undertook research into hospital triage practices during a health system resources crisis. From this, OPA published a position statement entitled 'An ethical framework for promoting the health of people with disability during the COVID-19 pandemic'.

Given the particular risk COVID-19 poses to older people, the Royal Commission into Aged Care Quality and Safety invited submissions about the impact of the virus on the aged care sector. OPA's response notes the various ways in which it found safe ways to continue its safeguarding role, while also expressing concern at the difficulties and isolation experienced by older people receiving services in a facility or in the community. Sometimes an over-abundance of caution meant that a service denied the person with a disability, because of COVID-19, the opportunity to access services or engage in activities which they were lawfully allowed to do. The response made suggestions to improve on this now, and into the future.

COVID-19 restrictions impacted parents with disabilities whose children are involved in child protection. OPA fears that the suspension of visits between parents and children will put their bonding and attachment at risk. Many programs and services have been cancelled or placed online. OPA is particularly concerned that the Children's Court has no discretion to extend Family Reunification orders beyond two years to take account of these circumstances and considers this an abuse of human rights under the United Nations' *Convention on the Rights of Persons with Disabilities* and the *Convention on the Rights of the Child*.

This is an ongoing area of systemic advocacy for OPA.

Safeguarding and monitoring

In December 2019, OPA published "*I'm too scared to come out of my room*": *Preventing and responding to violence and abuse between co-residents in group homes*.

The report included the voices of six group home residents with cognitive impairment and evidence gathered at a roundtable discussion attended by policy and practice leaders from the disability sector.

It identified five main factors impacting the effective prevention and response to violence in group homes and made 38 recommendations to address this issue. While it is a standalone report, it formed part of OPA's submission in response to the Disability Royal Commission's Issues Papers on Group Homes.

The Community Visitors Program provides an important safeguarding and monitoring role for people who live in congregate care environments (such as group homes). The Community Visitors Scheme began in December 1987. Governor in Council-appointed volunteers perform unannounced visits to residential accommodation settings. The experience and observations of Community Visitors is a critical element of OPA's systemic advocacy.

Transition to the NDIS Quality and Safeguarding Framework changes the entire disability service landscape. It is now much more complex. This requires many changes in how the Community Visitors Program engages with the service system. Community Visitors still provide their visit reports to the senior staff member on duty, but issues from the report are now followed up with a range of different bodies. These include the relevant service provider's senior management, the Victorian Disability Services Commissioner and the NDIS Quality and Safeguards Commission.

Community Visitors continue to contribute to OPA's systemic advocacy work and the review of the operational model, undertaken this year, sought to ensure the value and status of the program's operational model. As always, OPA's systemic advocacy maintains the importance of the program in the transition to the national safeguarding framework.

OPA continues to monitor the implementation of the United Nations Optional Protocol to the Convention on Torture (OPCAT) in Australia.

In September 2019, OPA, Foundation House (Victorian Foundation for the Survivors of Torture) and RMIT hosted an interjurisdictional roundtable on the role of civil society in preventing the ill-treatment of people deprived of their liberty. Speakers included the Commonwealth Ombudsman, designated National Preventive Mechanism (NPM) for OPCAT at the federal level. OPA awaits identification of an NPM in Victoria, the implementation of OPCAT on the ground, and its impact on places of detention.

The use of restrictive practices in aged care was the focus of a forum held by OPA and the Future Social Service Institute in November 2019. It explored how aged care organisations manage behaviours of concern, all too often presenting restrictive practices as measures to keep people safe, both residents and staff. The audience heard from a variety of speakers about the impact of chemical restraint on a family member living in aged care, matters relating to consent to restrictive practices, and about the Reducing the Use of Sedatives project, which reports common excuses for the significant usage of psychotropic drugs in aged care services and the myths around their usefulness for people with dementia.



NDIS

On 1 July 2019, Victoria achieved an important milestone in its rollout of the NDIS when it reached 'full scheme'. Work, nonetheless, continues with a renewed focus on safeguarding gaps that are becoming all the more obvious with the transition complete. OPA's work in this area aims to ensure the promise of the NDIS can be realised for people with cognitive impairment.

The Deputy Public Advocate presented at the International Criminal Justice Conference and spoke to the challenges OPA observed at the interface of the NDIS and the criminal justice system. The presentation repeated recommendations made in OPA's systemic advocacy work. OPA will continue to monitor barriers and avenues for the NDIS to be accessible to those in custodial environments.

OPA welcomed the establishment of working relationships with the NDIA to troubleshoot processes that may disadvantage participants with cognitive impairment; accessing the scheme and signing service agreements remain the main points of tension where substitute decision-making often seems to be preferred by the NDIA. This year, OPA and the Summer Foundation established a working group with the NDIA to tease out an operational procedure to support potential participants who are in hospital to access the scheme.

The Public Advocate hosted a roundtable in October 2019 to follow up the release of the *NDIS Service Agreements: making choice and control more real* report. Disability advocacy agencies, Consumer Action Law Centre, Victoria Legal Aid, and Tenants Victoria were represented. Senior representatives from the NDIS Quality and Safeguards Commission, Consumer Affairs Victoria and DHHS also participated. The discussion highlighted the shortcomings of responding to flawed agreements through a pure consumer law-based approach. The issues discussed again highlighted the need for more funding support for advocacy and supported decision-making.

The inaugural appointment of the Australian Minister for the NDIS set the tone for the 'Tune Review' of the *National Disability Insurance Scheme Act 2013*, which focused on 'red tape'. While OPA made some recommendations for amendments that would benefit participants with cognitive impairment, it also spoke to operational challenges that contribute to the bureaucratic

barriers. The submission focused on the legislation's safeguarding provisions, including the absence of provisions around Community Visitors.

At the Victorian level, OPA contributed feedback in written and verbal formats, via stakeholder consultations on the Victorian Disability Worker Regulation Scheme, which will complement NDIS regulations. OPA strives to maintain Victoria's zero tolerance to abuse approach.

The Australian Joint Standing Committee on the NDIS is as active as ever. OPA prepared written submissions to its inquiries on Planning, Supported Independent Living (SIL), and Workforce. The SIL submission highlighted common hurdles to SIL access, resulting in inappropriate care arrangements, and once again delves into the lack of appropriate safeguarding mechanisms available to people with cognitive impairment living in new models of residential service and in SDA. An upcoming inquiry into the NDIS Quality and Safeguards Commission, to which OPA will make a submission, is a necessary step to ensure the effective operation of the commission as it performs its critical roles.

OPA also continued to press for improvements to the SDA vacancy management procedures to ensure that participants enjoy choice and control over where and with whom they live. The *"I'm too scared to come out of my room": Preventing and responding to violence and abuse between co-residents in group homes* report made 13 recommendations relating to this topic, including a recommendation that the NDIA establish a central register for participants seeking SDA. This issue was raised directly with the NDIA in the OPA submission in response to the Digital Market Service Preliminary Discussion Paper.

OPA made a submission on the next state Disability Plan, which will start in 2021. Many of the 19 recommendations were informed by the capability-based approach to flourishing human life developed by Amartya Sen and Martha Nussbaum. This approach spells out the underpinnings of a flourishing life, such as bodily and emotional health. The submission proposes how to move away from a medical model of defining disability, by formalising the 'everyday life' acknowledgement of disability. This recognises that people with disability and the people close to them are the experts on their support needs. The submission also suggests

how governments and organisations should adopt a human rights approach. Another key recommendation is that the next state Disability Plan should outline a timetable for all parts of the Victorian Government to achieve universal design and remove discriminatory attitudes. Current administrative arrangements and compliance measures also need strengthening.

Elder abuse prevention and response

OPA continues work to inform and drive improvements to national and state elder abuse prevention and response strategies. Key to this is OPA's advisory role to government and other key stakeholders in relation to elder abuse, including through representation on key advisory and reference groups. Similarly, an article by the Deputy Public Advocate was published in the Australian Journal of Social Issues in 2019 on the topic of adult safeguarding in Australia.

Much of OPA's work in this area has focused on implementation of the *National Plan to Respond to the Abuse of Older Australians (Elder Abuse) 2019-2023*. The National Plan was drafted in response to (and satisfied Recommendation 3-1 of) the Australian Law Reform Commission report, *Elder Abuse – A National Legal Response*.

As reported in last year's annual report, in conjunction with the Protecting the Rights of Older Australians Working Group, OPA developed an options paper about financial enduring appointment laws and practices throughout Australia. This work, funded by the Australian Government, was undertaken on behalf of the Australian Guardianship and Administration Council (AGAC). The paper is being considered by the Council of Attorneys-General (CAG) as part of the program of work to implement the National Plan. In November 2019, CAG agreed to pursue a staged approach to enduring power of attorney reform for financial decisions.

On 15 June 2020, World Elder Abuse Awareness Day, the Victorian Government announced funding for OPA to identify options to safeguard at-risk adults as part of Victoria's work on the National Plan. This work is underway and due for completion by the end of 2020.

Parents with disability and child protection

OPA remains concerned by systemic barriers within child protection policy and practice that hamper the ability of families where a parent has a disability to remain intact with necessary supports. A child can now only be in out-of-home care for a maximum of two years before a final decision is made about whether to remove them permanently from the care of their parents. There is a serious lack of programs, supports and assessments suitable for parents with disability and mental illness during this time, especially in regional areas.

Last year, OPA reported on work with DHHS to improve the transition of young people with disability who grew up in the child protection system to the guardianship and administration system when this is necessary. OPA is pleased to report that the MOU between OPA and DHHS was revised and the improved clarity and communication between the two agencies is benefiting these particularly disadvantaged and vulnerable young people.

Supported decision-making

OPA has long advocated for the recognition of supported decision-making in legislation, and in March 2020, the new Guardianship and Administration Act, with its provisions for supportive guardians and decision-making principles, commenced operation.

Implementation of this Act has seen cross-program commitment to the principles enshrined in it, with the Advocate Guardian Program continuing its Supported Decision-Making Practice Group. Along with extensive community education offerings and relevant publications, OPA's systemic advocacy will continue to focus on implementation of the important reforms contained in the Act.

Service and supports

OPA continues to stay alert to other important matters affecting people with disability. Homelessness is one of those key issues.

OPA made a submission to the Parliamentary Inquiry into Homelessness in Victoria, which concentrates on four identified pathways to homelessness for people with a disability, often as a consequence of lack of service provision. These were the criminal justice system, the mental health system, SRS and the NDIS. The submission includes 14 recommendations and highlights the need for legislative reform.

In a short submission to the Victorian Parliamentary Inquiry into the anti-vilification provisions of the *Racial and Religious Tolerance Act 2001*, OPA supported the extension of anti-vilification protections to people with a disability.



Restrictive practices in Aged Care

L-R: Paul Ramcharan (Deputy Director Research, FSSI, Associate Professor Global, Urban and Social Studies, RMIT University), Micaela Cronin (Director FSSI, RMIT University), Professor Joe Ibrahim (Head, Health Law and Ageing Research Unit, Department of Forensic Medicine, Monash University), Dr Juanita Breen (Senior Lecturer, Wicking Dementia Research and Education Centre, University of Tasmania), Dr Colleen Pearce (Public Advocate).



Roundtable discusses role of civil society in preventing ill-treatment of people deprived of their liberty

L-R: Dr Colleen Pearce (OPA), Dr Ed Santow (Australian Human Right Commission), Nicole Batch (Australian Red Cross), Deborah Glass (Victorian Ombudsman), Michael Manthorpe (Commonwealth Ombudsman), Liana Buchanan (Commissioner for Children and young People), Jo Szwarc (Victorian Foundation for the Survivors of Torture), Bronwyn Naylor (RMIT).



Roundtable on NDIS service agreements

Miranda Bruyniks (NDIS Commission), John Unkovich (Consumer Affairs Victoria), Ben Cording (Tenants Victoria), Dr Colleen Pearce (Public Advocate), Barbora Ježek (Consumer Action Law Centre), Mary Mallett (Disability Advocacy Network Australia (DANA)).



Sarah Forbes (VALID), Stephen Broadfoot (National Disability Insurance Agency (NDIA)), Deidre Griffiths (Villamanta Disability Rights Legal Service), Miles Browne (Victoria Legal Aid (VLA)), Dr Colleen Pearce (Public Advocate), Savannah Jewell (National Disability Services (NDS)).

Launch of You Decide Who Decides

Australia's Age Discrimination Commissioner, the Hon. Dr Kay Patterson AO, launched a national guide to making enduring powers of attorney for financial decisions on 13 February, 2020.

You Decide Who Decides, developed by the AGAC, is a national resource which identifies differences between the laws across the country.

Dr Patterson spoke glowingly about the guide, but also outlined her hope that it would soon be obsolete; that hope, shared by OPA, is that national harmonisation of financial enduring powers of attorney laws is achieved, which would indeed render the guide obsolete. But until that is achieved, the guide will serve an important purpose.

The guide also helps people decide whether making an enduring power for financial matters is right for them.

It contains useful tips, personal stories and examples of wording that can be used to ensure wishes are properly expressed in enduring financial powers of attorneys, information about where to find relevant documents in different states and territories and a list of other useful websites.



You Decide Who Decides booklet



Safeguarding

In care - Volunteer safeguarding services

OPA is proudly supported by nearly 700 volunteers across four unique and diverse volunteer programs

Community Guardians are formally appointed by VCAT to represent people with a cognitive disability and/or mental illness when they are unable to make lifestyle decisions for themselves. They may make decisions for a represented person about where they live, who has access to them, what medical treatment they require, or what support they need.

Community Visitors are empowered by law to visit Victorian accommodation facilities for people with a disability and/or mental illness at any time, unannounced, and monitor and report on the adequacy of services provided, in the interests of residents and patients.

Independent Third Persons (ITPs) support alleged offenders, victims and witnesses of all ages who have a cognitive impairment such as intellectual disability, mental illness or acquired brain injury in police interviews.

Corrections Independent Support Officers (CISOs) are drawn from OPA's experienced ITP volunteers to assist and support prisoners with a diagnosed Intellectual Disability during Governors' Disciplinary Hearings at all adult prisons in Victoria. CISOs explain their rights to prisoners, check that they understand them and are freely able to exercise them throughout the process.



Community Guardians represent people with cognitive disability and/or mental illness when they are unable to make lifestyle decisions for themselves.

Volunteers

OPA Volunteers come from a wide range of communities, backgrounds, life skills and experiences ranging from retirees, semi-retirees and working professionals through to tertiary students. OPA's oldest volunteer is 91 years young with the youngest, 19 years old.

Despite their diversity, all OPA Volunteers share a common goal of wanting to make a difference in the lives of people with disability and uphold and safeguard their rights. They achieve this through being tireless advocates for Victoria's most vulnerable.

OPA Volunteers dedicate countless hours to their roles, with some volunteers making themselves available 24/7 and/or others volunteering for in excess of ten years or more. Four OPA Volunteers will be celebrating 30 years of volunteering with OPA, next year.

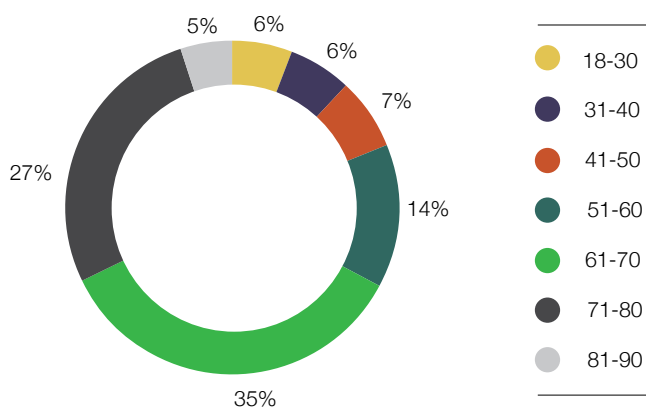


Figure 4. OPA Volunteers by age group, 19/20

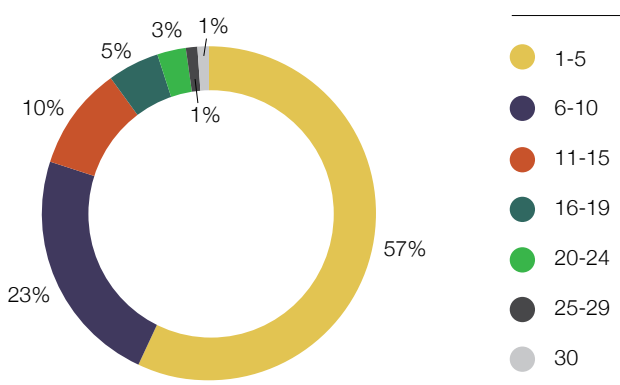


Figure 5. OPA Volunteers by years of service, 19/20

Recruitment

During the year, OPA welcomed 82 new volunteers to its programs.

Recruitment is always a challenge as the nature of OPA's volunteer work, while deeply satisfying and rewarding, can also be challenging and confronting. Subsequently, OPA's volunteer programs only appeal to a niche group, those truly committed to upholding the human rights of people with a disability and wanting and able to make a sustainable difference.

Additional factors impacting on recruitment overall include people having less time to volunteer due to either personal, family or financial pressures, and natural disasters such as the bushfires in Gippsland which has had an impact on regional recruitment.

The COVID-19 pandemic has had a significant impact on OPA's volunteer recruitment with all new recruitment activities being suspended. There has been a 50 per cent decrease in new applications being received compared to last year.

The pandemic will continue to have an effect on OPA's existing volunteer base as some current volunteers have chosen to put their volunteering on hold due to being in a vulnerable age or health category and/or having to support ageing family members.

Sector-wide, it is expected that 30 per cent of volunteers will not return to their volunteer role post-pandemic.

Training

OPA invests heavily in its volunteers, conducting and/or facilitating many training and information sessions to ensure that they are equipped and provided with the necessary skills and knowledge to carry out their important roles.

OPA prides itself on having a very professional and highly skilled volunteer base. During the year and before the pandemic, 91 individual, face-to-face training sessions were held across the four programs with a total of 624 volunteers in attendance.

Training has continued through the pandemic with all training being provided online using the Zoom platform. Since mid-March, 26 online Zoom training sessions have been provided with 207

volunteers taking part. While the pandemic has certainly created challenges, it has also provided opportunities to reach some of OPA's regional volunteers more easily who previously would have had to attend the Carlton office for training.

Table 16. Number of OPA Volunteer training sessions and participants, 19/20

Program	Sessions	No. of Participants
Community Guardians	2	17
Community Visitors	60	405
Independent Third Persons	29	202
Total	91	624

(Note: Does not include 26 Zoom sessions held during the pandemic lockdown period from mid-March to 30 June).

Very informative and cleared a lot of my doubts. I take back with me a very positive and inspired feeling to start my journey as a Community Visitor.

Recognising OPA Volunteers

On behalf of the State, OPA is deeply appreciative of the time, commitment and contribution that all volunteers provide to its programs.

Where possible, volunteers are nominated for awards to recognise the contribution that they have made, not only to people with a disability, but to the Victorian community.

Three OPA volunteers were recognised during the year in the 2019 Victorian Premier's Volunteer Champion Awards:

- June Rea (Community Visitor) – Impact Award
- Cheryl Berchdolt (Independent Third Person) – Service Award
- Geoffrey Hyde (Independent Third Person) – Service Award.

In addition, OPA also:

- contributed to the successful Order of Australia submission for past Community Visitor and Board Member, Fay Richards
- nominated Community Visitor Sheila Winter for a Regional Community Award
- nominated Community Visitor Robyn Cunningham for Victorian Senior of the Year Award 2019
- contributed to the successful nomination of June Rea for Kingston Woman of the Year 2020.

OPA Volunteer Conference

During the year, OPA held its bi-annual Volunteer Conference at Victoria University.

Over 200 volunteers and guests attended.

The conference provided the opportunity for volunteers from all program areas to come together, learn from one another, hear from guest speakers, be given updates on their program and be thanked and acknowledged for their service.

The highlight of the conference was the celebration of 30 years of the Community Guardian Program. A commemorative booklet on the program's history was launched at the conference.

Feedback from attendees was that the conference was a resounding success.



30 years of Community Guardians commemorative booklet

National Volunteer Week 2020

Due to the COVID-19 pandemic, OPA was unable to hold a face-to-face event to celebrate National Volunteer Week. Instead, all volunteers were sent a signed letter from the Public Advocate, a National Volunteer Week Certificate and a customised OPA pen.

COVID-19 impacts

OPA is very mindful of the impacts of the COVID-19 pandemic on both OPA Volunteers and the people they serve.

Many of OPA's volunteers fall into the high risk group either due to age, compromised health or both. In addition, many OPA Volunteers were feeling distressed that Victorians with a disability would be left more vulnerable due to them not being able to visit or attend police stations to advocate on their behalf.

All volunteers have received a phone call from program staff, and general communication from OPA has increased during this time. They have also been reminded of the Department of Justice and Community Safety's Volunteer/Employee counselling service.

After a small hiatus at the outset of the pandemic, all volunteer programs continued to operate remotely providing necessary safeguarding protection. Community Guardians continued to reach out to their clients by phone, Community Visitors are also talking to residents, patients and facility staff either by phone or video. Residents and patients were also sent feedback forms with reply-paid envelopes to return to OPA should they have any concerns.

DHHS funding enabled the remote safeguarding visits to occur.

Information about OPA's Advice Service has also been provided. ITPs continue to provide a necessary service at police stations by phone link-up. A small number of ITPs are also involved in face-to-face victim interviews and interviews for people under 18 years of age. They have been provided with instructions and equipment to ensure not only their own safety but also their clients'.

Community Visitors Program

Community Visitors are Victorian Governor in Council appointees empowered to make unannounced visits to supported accommodation facilities to monitor and report on the services and quality of care being provided to residents and patients.

They are appointed under three separate Acts of Parliament: the Mental Health Act, the Supported Residential Services (Private Proprietors Act) and the Disability Act.

Community Visitors represent the 'eyes and ears' of the community looking out for Victoria's most vulnerable, safeguarding their rights and interests and making sure that they are not subject to abuse, neglect or exploitation. Without Community Visitors, many vulnerable Victorians would have no-one ensuring that they had a voice and were being advocated for.

This year, OPA recruited 49 new volunteers to this program. In addition, 63 volunteers were appointed, and 69 existing Community Visitors were reappointed for a three-year term.

During the year, 400 appointed Community Visitors and 55 trainees visited or remote-visited (by phone or video) 1466 accommodation facilities for people with a disability and identified 7429 issues.

Since the pandemic, there has been an increase in calls to OPA's Advice Service requesting a visit by Community Visitors as residents/patients face lock-down restrictions. This development further underpins the important and necessary role that the visits play.

Thank you to all the welcoming staff, the excellent presenters and the organisers - the Volunteer Conference was a worthwhile day!

Table 17. Number of Community Visitor visits by stream, 19/20

Location	Number of Community Visitors	Number of trainee Community Visitors	Number of visits
Disability group homes	248	36	2079
Mental Health facilities	82	12	1235
Supported Residential Services (SRS)	70	7	828
Total	400	55	4142

Activities

OPA staff support Community Visitors in their regular visiting and assist volunteer team leaders (Regional Convenors) to lead and mentor their teams. They also facilitate meetings with service providers and assist with the preparation of the Community Visitors Annual Report.

Boards

The three Acts which set out the functions and powers of Community Visitors also establish stream boards made up of two Community Visitors elected by their peers and chaired by the Public Advocate.

The Combined Board's work this year focussed on:

- the safeguarding role of Community Visitors with a member of the Board and another appointed Community Visitor appearing before the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
- changes in the disability sector with the roll out of the NDIS and creating a new operating model
- NDIS access for SRS residents
- exploring the potential for Community Visitors to complete and submit their visit reports electronically
- overseeing a review of how the Community Visitors Program aligns to the National Volunteering Standards.

Training Steering Committee

The Training Steering Committee is a sub-committee of the Board and met twice during the year. Work advanced included:

- more Abuse Detection training sessions rolled out to Community Visitors
- two Mental Health First Aid sessions for Community Visitors
- a two-day workshop on Support Planning and Ongoing Support of Residents in SRS
- Eating Disorders Information session by Eating Disorders Victoria
- re-development of the Community Visitors section of the Volunteer Hub.

Challenges

The pandemic has had a significant impact on the Community Visitor role with no physical visits able to take place. While 'remote visiting' is providing some means of safeguarding residents/patients it does not take the place of physical visiting and, in some instances, Community Visitors are reliant on what they are being told by staff at the facilities. It is unknown how long this situation will continue.

The continued rollout of the NDIS and the operational detail for Community Visitors is still a work-in-progress and has created challenges in the performance of their roles with some providers not fully understanding the role and functions of Community Visitors.

In police stations

Safeguarding in police stations

Independent Third Persons (ITPs) are an essential volunteer safeguard who support alleged offenders, victims and witnesses with a cognitive impairment including an intellectual disability, a mental illness or an acquired brain injury in police interviews. They support people of all ages and attend all Victoria police stations as a 24/7 volunteer service.

ITPs are trained to support and assist people to comprehend complex issues and information quickly, to understand their legal rights and be able to communicate with people in positions of authority. ITPs support people before, during and immediately after the police interview process. They do not provide legal advice, and they are independent of the police process.

The program continues to see increasing complexities for ITPs. Victoria Police processes for remand hearings and DNA collections, for example, have undergone significant changes in recent years and this has had an impact on the way ITPs perform their role.

Additional staff, employed as a result of the two-year increase in funding in the 2018 State budget, enabled the program to better support volunteers, undertake a recruitment drive and compensate volunteers for travel. These initiatives have strengthened volunteer numbers, particularly in regional areas.

Overview

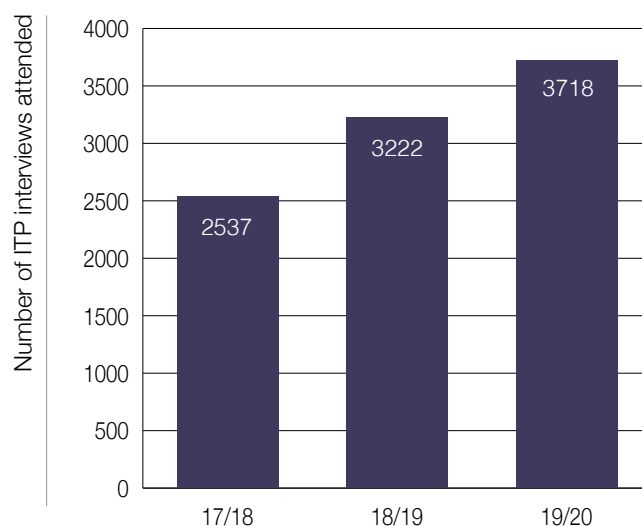


Figure 6. ITP interviews, 17/18-19/20

The above figure 6 shows the number of ITP interviews over the last three years. During the year, 183 ITPs attended 3718 interviews assisting 2689 clients. In 2017-2018, they attended 2537 interviews, meaning that there has been a 46.6 per cent increase in interviews attended over two years, and a 15.4 per cent increase over last year. Since 1 April, ITPs have attended 747 interviews remotely.

This year, alleged offender interviews made up the largest group (85 per cent) followed by victim interviews (8.2 per cent), sex offender interviews (4.4 per cent) and witnesses (2.4 per cent).

While alleged offenders consistently made the largest interview group with an increased proportion over the last three years, the proportion of victim interviews has dropped significantly from 15.7 per cent in 2017-2018 to 8.2 per cent this year.

While most clients (81 per cent) had one interview, almost a fifth were supported by ITP volunteers in two or more interviews.

Client profile

Males comprised 77.4 per cent of all ITP clients across all interview categories, with females 22.5 per cent. Two ITP clients identified themselves as ‘both genders’ and ‘other’.

The figure below shows the male and female breakdown across the four client type groups. Males made up 82.6 per cent of alleged offenders while females constituted 17.4 per cent. Conversely, ITPs supported females in most victim interviews.

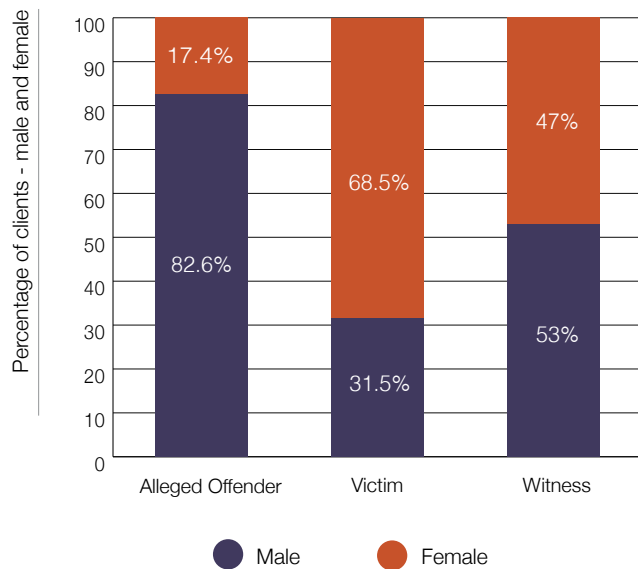


Figure 7. ITP Interview by client type and gender, 19/20

ITP clients are often very vulnerable. This year, more than half of the clients who required an ITP had an intellectual disability (55.7 per cent), higher than last year (44 per cent). The proportion of clients with acquired brain injury increased to 23.9 per cent this year from 15 per cent last year.

Other disabilities included physical disability at 2.1 per cent and mental health at 35.8 per cent which was lower last year at 29 per cent, and acquired brain injury at 24.3 per cent. The disability was unknown for 13.4 per cent of clients. In most cases, ITPs were informed of a client's cognitive impairment by police or the client.

ITP clients' age groups also varied, from young people to the elderly. During the year, the largest number of clients came from the 26-35 age group, making up 24 per cent while the second group was 18-25 years of age at 22 per cent. Clients under 18 years of age were at 13 per cent, 36-45 years at 18 per cent, 46-55 years at 10 per cent, 56-65 years at 3 per cent and 65 years plus at 1 per cent. No age was specified in 9 per cent of interviews.

The proportion of interviews with Aboriginal clients was 18 per cent, a slight increase from last year's 16 per cent. The majority involved clients at Mildura, Bendigo, Shepparton, Bairnsdale and Morwell. In Shepparton, the number of interviews with Aboriginal clients increased from 35 last year to 113 this year.

Type of offence

The top two offences for all interviews were assault, followed by theft ('shopsteal'), the same as the last two years. For victims, the top two offences were sexual assault and physical assault.

There has been a substantial rise in breaches of intervention orders and family violence interviews attended by ITPs over the last two years. Increases have also been reported in property damage, drug possession, obtaining property by deception, burglary (residential) and theft of motor vehicle-related offences.

The top two offences for alleged offenders were theft ('shopsteal') and assault. Most victims (61 per cent) were supported for sexual assaults including child sexual assaults or sexual offences. This is consistent with last year at 60 per cent. There has been a substantial decline in 'against person' victim interviews which included assault over the last two years, with 7 per cent this year compared to 15 per cent in 2017-2018.

Victims and witnesses

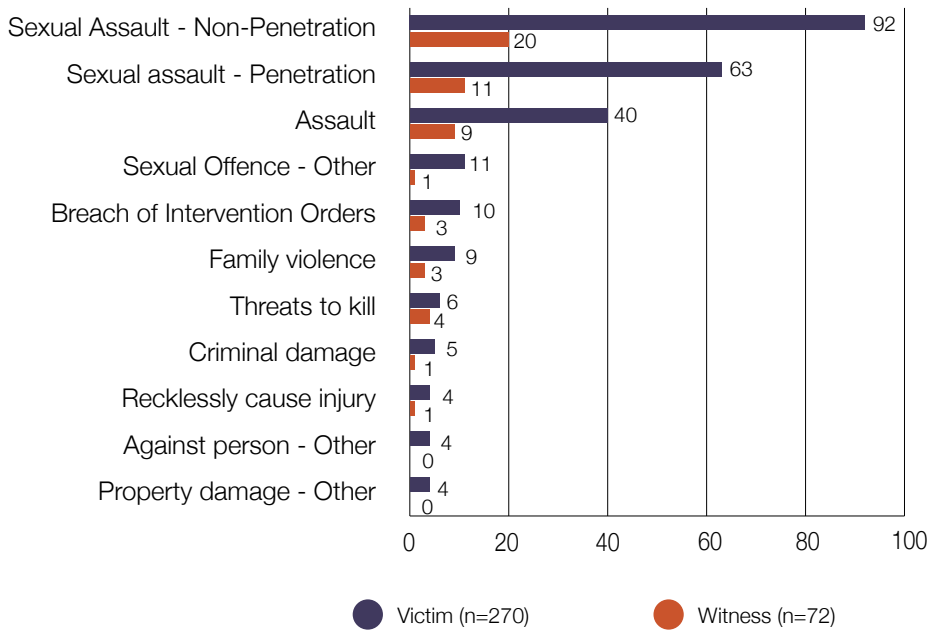


Figure 8. Top ten offences for victim and witness interviews, 19/20

Alleged offenders

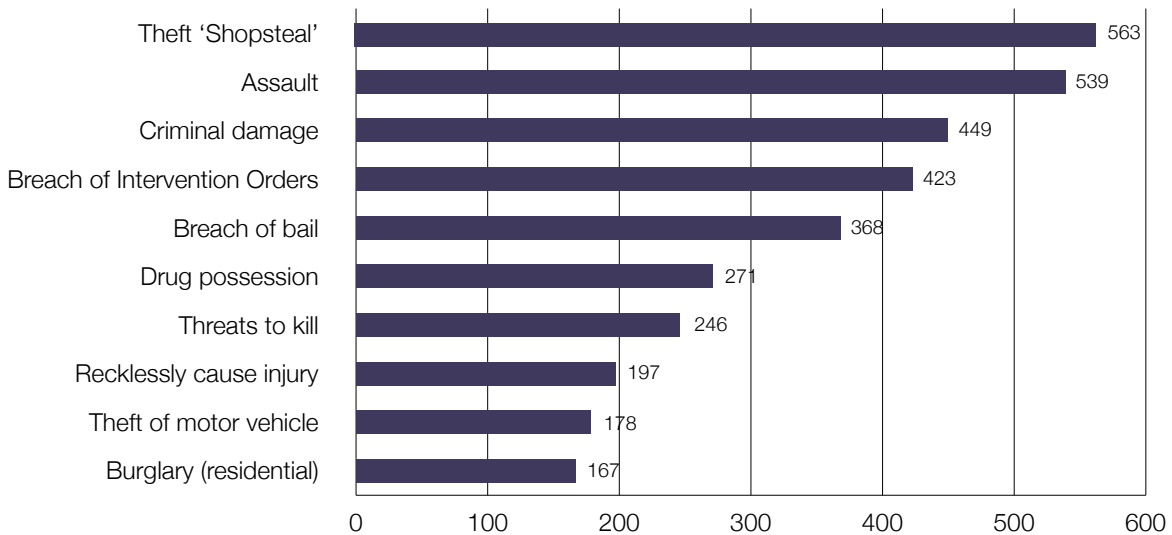


Figure 9. Top ten offences for Alleged Offender interviews, 19/20

Remote safeguarding

From 30 March 2020, in response to restrictions to stop of the spread of the COVID-19 infection, ITPs have been providing their critical services remotely.

However, due to technical issues and the shortage of private rooms for bail hearings in many stations, ITPs were unable to remotely attend interviews with clients for these matters as they normally would.

Nonetheless, ITPs attended over 700 interviews via phone. A high level of flexible planning for swift service delivery changes ensured vulnerable Victorians were not left without this support during the pandemic.

This year, prior to the COVID-19 lockdown, ITPs were averaging 341 interviews a month. The monthly average reduced to 248 during the March-June period, approximately 73 per cent of the pre-lockdown period, however, it closely aligned with the Victoria Police reduction in interviews over this timeframe.

Location of interviews

ITPs attended interviews at 140 police stations across Victoria, up from 135 last year. Figure 10 shows the top 12 police stations where the highest number of interviews took place; eight were in regional Victoria. ITPs also attended interviews at clients' homes, and hospital and disability facilities in Melbourne and regional Victoria.

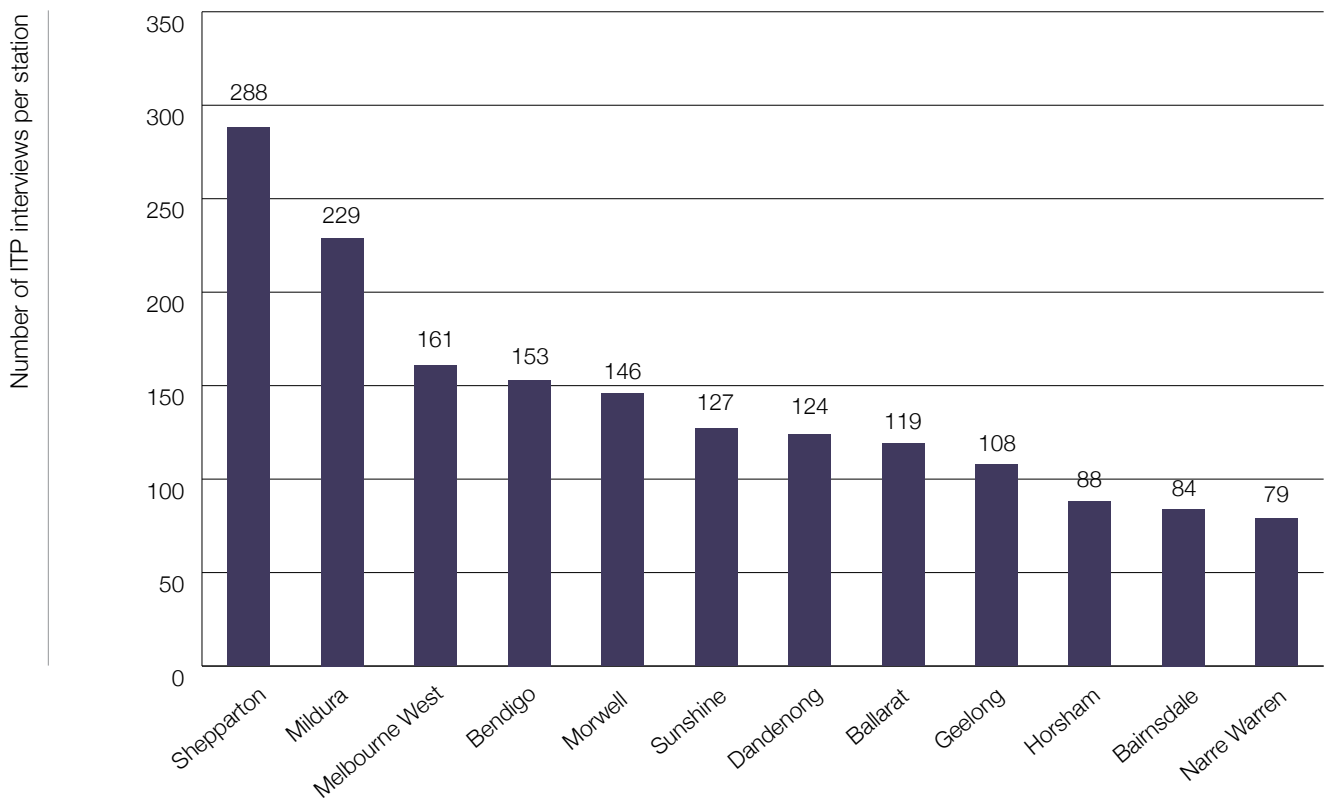


Figure 10. Police stations with the highest number of ITP interviews, 19/20



In prisons

Safeguarding in prisons

OPA's Corrections Independent Support Officers (CISOs) are experienced ITP volunteers who also volunteer in the CISO program. They provide support and assistance to prisoners who have a diagnosed Intellectual Disability during Governors Disciplinary Hearings at every adult prison in Victoria.

CISO volunteers explain prisoner rights and check that their clients understand them throughout the hearing. CISOs will also support prisoners to exercise their rights if they wish to do so.

CISOs attended 170 hearings for 245 charges throughout the year. This is a significant reduction from last year when they attended 299 hearings. The 170 hearings were held at six of Victoria's 13 prisons and supported 109 prisoners, down from 164 last year.

This year, the program assisted one female prisoner and 108 male prisoners.

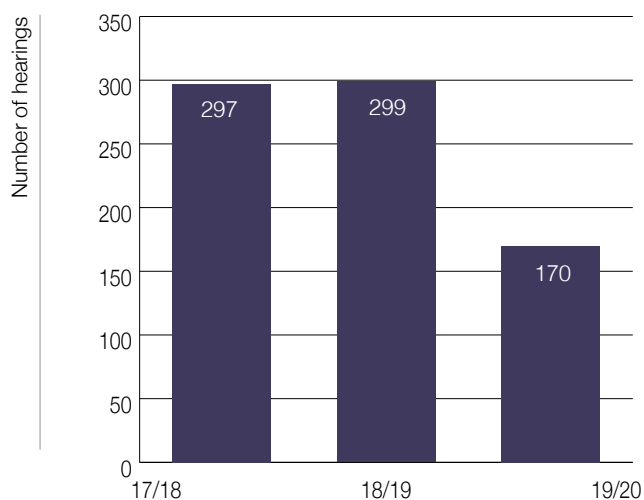


Figure 11. Number of CISO hearings, 17/18-19/20

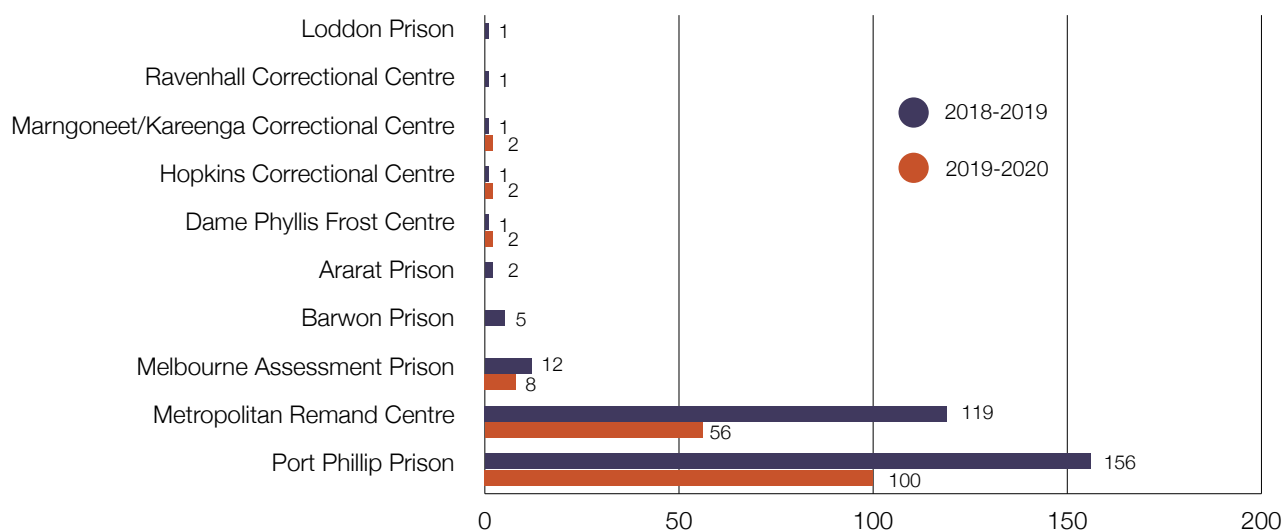


Figure 12. CISO hearings by prison location, 18/19-19/20

This year, CISOs attended 100 hearings at Port Phillip Prison; last year it was 156. At the Metropolitan Remand Centre, CISOs attended 56 hearings (119 last year) and eight at the Melbourne Assessment Prison (12 last year). Dame Phyllis Frost Centre, Hopkins Correctional Centre and Marrngoneet Correctional Centre each recorded two CISO hearings this year. Last year, CISOs attended one hearing at each of these correction centres. Last year, CISOs attended a few hearings

at Ararat Prison, Barwon Prison, Ravenhall and Loddon Prison. This year, CISOs did not attend any hearings at these prisons.

During the COVID-19 pandemic, the CISO program received only two requests after March 20, both cancelled as the clients declined support. The program did not attend any hearings in Victoria from March 20 until the end of June.

Engagement

Advising, informing and educating

Advice and information

The Advice Service continues to operate two dedicated phone lines, the general advice and the medical treatment decisions advice line. Advice can also be sought via email, or in person.

Enquiries in relation to the new guardianship legislation began to arrive in November 2019 even though the legislation came into effect 1 March 2020, coinciding with the COVID-19 pandemic.

As such, concerns in relation to COVID-19 dominated the advice lines and, to some extent, overshadowed enquiries about the new legislation.

One of the most significant themes related to the new legislation, however, was in relation to the new component of supportive guardianship and administration orders.

This year, the service provided:

- 12,624 instances of advice to callers, a 5.4 per cent decrease over last year
- 90 per cent of advice through phone contact, with 8.5 per cent via email.

The majority of clients (85 per cent) were provided with information and 6.5 per cent were referred to an external organisation. A total of 255 referrals were made to the Community Visitors Program by people requesting a visit on their own or another's behalf, the same number of referrals as last year.

Caller patterns remain consistent with previous years. The majority, 39 per cent, are from family and friends of people with disability, followed by professionals from the health and community sectors and government agencies (35 per cent).

The next largest group are those contacting the service on their own behalf (14 per cent).

In keeping with the pattern over the last five years, most enquiries this year related to planning for the future. These included enquiries about powers of attorney, advance care planning, appointing a medical treatment decision maker and supported decision-making options, 28 per cent.

Some of these requests related to questions about legal documents that people had put in place to plan for their future. This included queries about legal documents that other people had made, and others with concerns about how an enduring power of attorney was being used.

Enquiries in relation to guardianship and administration made up the next largest category of advice requests, 22 per cent.

The other significant category relates to medical treatment decision making, healthcare treatment, including mental health, and end of life (palliative care) issues, 18.9 per cent.

One or more forms of abuse were the concerns of 1231 enquiries, or 10.8 per cent of all enquiries.

The main type of abuse people contacted the service about was financial (48 per cent), followed by neglect (38 per cent), psychological or emotional abuse (30 per cent) and other categories of abuse (28 per cent).

Advice enquiries in relation to psychological or emotional abuse increased by 25 per cent compared with last year.

Table 18. Advice Service requests by abuse categories, 19/20

Issue Type	Total	%age
Financial abuse	591	48%
Neglect	470	38%
Psychological or emotional abuse	374	30%
Other abuse	345	28%

(Note: Due to more than one type of abuse possibly being recorded within the same enquiry the percentage adds up to more than 100 per cent. 'Other abuse' includes sexual, impairment related, other violence or abuse).

Short-term advocacy

The Advice Service provided short-term advocacy in eight matters, generally relating to service or communication issues for a person with a disability.

Usually, short-term advocacy matters involve an intervention which may include follow-up calls to clarify or obtain further information on behalf of the person with a disability.

NDIS

With the rollout complete, the NDIS is now available throughout Victoria. This year, the Advice Service recorded 208 enquiries in relation to the NDIS, an 15.4 per cent decrease on last year.

While it is not known why this occurred, it is worthwhile noting that the NDIS Quality and Safeguards Commission has been in operation since July 2019, which may have had an impact.

Many of the NDIS related enquiries are similar to those received last year:

- accessibility, including eligibility and plans
- inappropriate or insufficient plan inclusions
- consent issues, particularly around service agreements (who can sign on behalf of a participant if they have a decision-making disability)
- the lengthy wait times for appeals and plan reviews
- requests for individual advocacy and the need for guardianship.

COVID-19

The Advice Service responded relatively quickly to the COVID-19 pandemic with the majority of advisers able to work remotely for several weeks. This presented a number of challenges including information technology issues, equipment shortages and issues around isolation. Some advisers continued working remotely while others worked in the office as part of OPA's skeleton staffing component. Call volume has remained steady throughout this period.

Snapshot of advice requests during COVID-19

- The Advice Service received numerous enquiries from allied health workers with concerns around the provision of services and discharge planning for patients during the lockdown.
- Many calls also related to vulnerable people at home at risk of abuse/neglect due to reduced or closed services.
- The pandemic prompted a sense of urgency from clients of the Advice Service wishing to plan for their future with powers of attorney, appointing medical treatment decision makers and undertaking advance care planning.
- The COVID-19 lockdown impacted on the usual ways people organised witnessing of enduring powers of attorney. People's reluctance to attend the GP for non-medical consultations, the closure of some police stations and lack of access to Justices of the Peace meant that many people experienced challenges with completing these documents.
- Requests from GPs and lawyers for guidance on future-planning instrument witnessing increased with the commensurate increase in enquiries to their offices.
- The implementation of COVID-19 restrictions and challenges faced by those wishing to have legal documents witnessed during this time triggered the temporary legislative changes that were introduced that allowed for enduring powers of attorney to be electronically signed and witnessed with all persons in separate spaces connected by audio-visual link.
- OPA made representations to DJCS as to how remote witnessing of these documents might be implemented.

Education and Engagement Program

The COVID-19 pandemic has been the catalyst for innovation and reimagining the way OPA meets its statutory obligation to provide education and raise awareness of various laws and the work undertaken by the office.

Infection control measures had a significant impact on the delivery of face-to-face education for community groups and the service sector, particularly on education planned for the implementation of the new Guardianship and Administration Act.

The continued delivery of face-to-face education was not possible and a complete overhaul of the program was necessary in a timely and responsive manner. Various digital platforms were used which also meant that recordings could be provided to a wider audience.

This year, 130 education sessions were delivered on topics including enduring powers of attorney, supported decision-making, guardianship and medical treatment decision making. These were delivered to a total audience of 5182, a 12.7 per cent increase over last year.

- As in previous years, the majority of education sessions were provided to professionals (72 per cent), with 28 per cent to the general public.
- Eight education sessions were delivered to CALD communities in keeping with OPA's Cultural Diversity Plan. This included CO AS IT (Italian), Fronditha Care (Greek), iempower (refugees from the Horn of Africa), Australian Vietnamese Women's Association, Ethnic Communities Council of Victoria bilingual educators, ADEC (Action on Disability within Ethnic Communities) and a session conducted at OPA's offices targeted to CALD communities and their leaders.
- In partnership with VCAT and State Trustees, seminars on guardianship were held at two metropolitan hospitals. Three 'Practice Matters', an interactive forum for professionals, were also delivered.
- OPA supported Disability Advocacy Resource Unit (DARU) to train Victorian disability advocacy organisations in supported decision-making. A workshop was designed for advocates who support the decision-making of people with complex and severe disabilities. It was well-attended with 20 advocates at the June workshop,

and further workshops are planned for the new year due to demand. This provided advocates with the opportunity to explore challenging decision-making scenarios and discuss helpful approaches and strategies they can apply to their work. OPA and DARU look forward to working more together in this area.

Right to make medical decisions

On 30 August 2019, OPA and Reinforce, a self-advocacy organisation run for and by people with intellectual disability, launched two brochures developed as part of a project funded by a grant from the Victoria Law Foundation about the right of everyone to make their own medical decisions.



'The right of people to make their own medical decisions' booklet launched by OPA and Reinforce

COVID-19 Case studies - Emerging issues

- A social worker contacted the Advice Service by phone with concerns about some clients residing at an SRS. COVID-19 restrictions pertaining to SRS mean residents can only receive one visitor a day for a maximum of two hours a day. As a result, residents were being denied access to their workers. The caller was very concerned as one resident in particular was vulnerable and his mental health had deteriorated to a risky level. The caller advised the resident wanted and needed that support from his support worker. A Community Visitor referral was made.
- A call was received from a distraught family member whose father was in his 90s and living in an aged care facility. The father was seen by a speech therapist who recommended a modified diet. The caller's father was advised he would not be able to eat what he wanted (hot chips) and was placed on a soft 'mince 'n' mash' diet despite no evidence of choking (according to the caller). The caller's father then refused to eat and lost a considerable amount of weight. The caller wanted a second opinion from another speech therapist but the facility refused, stating it did not want anyone non-essential entering the facility during the pandemic.
- An older man called about his wife who was living in an aged care facility where she and the other residents were locked in their rooms all day due to COVID-19 infection controls. The caller was very concerned because he said his wife needed help when going to the bathroom.
- A support worker contacted the Advice Service and advised that, during a video call to a resident of a SRS, they raised concerns for another resident at the facility. The resident felt that, due to the COVID-19 pandemic, the other resident had not been seen outside his bedroom for a few months, was eating all his meals in his room and had not utilised his usual seating spot in the communal areas for several weeks.

The support worker said the resident was also a client but that she was unable to speak to him via video link as he was non-verbal. Services had not been allowed in and residents had not been allowed out. The support worker, and others from her support service, tried to contact the SRS staff and the owner to make enquiries about the situation but they did not pick up calls or respond to messages.

A Community Visitor referral was made by the Advice Service officer to enable a Community Visitor to video visit and investigate the situation.

Communicating

Under the Guardianship and Administration Act, the Public Advocate has functions under s.15(f) to promote and facilitate informed public awareness and understanding by disseminating information about:

- (i) the provisions of the Act and other legislation dealing with or affecting persons with a disability or persons who may not have decision-making capacity
- (ii) the role of VCAT and the Public Advocate
- (iii) services provided to persons with a disability.

The Communications Unit, which is primarily responsible for supporting the fulfilment of these functions, reports directly to the Public Advocate.

This year, more than 120 print and online publications were managed, a 25 per cent increase on last year. These included information guides, fact sheets, brochures, forms, posters and an app. Thirty per cent of these publications were either new or updated.

A significant number of additional resources were produced in relation to public awareness about the new Guardianship and Administration Act.

The number of OPA publications distributed by its distribution partner Victoria Legal Aid was 117,667, down 41 per cent on last year, largely due to a decision to cease printing the organisation's powers of attorney flagship publication, *Take Control*.

In addition, several of OPA's other brochures were combined into a small booklet, the maximum number of publications which could be ordered at a time was reduced to offset potential wastage, and hospitals, a major user of OPA publications, were directed to DHHS for copies of the new powers of attorney brochure, *Take Control of your future planning: An introduction*.

The pandemic lockdown period also had a significant impact on distribution statistics of all OPA publications.

Just 5747 publications were distributed in the April-June quarter compared to 47,217 July-September, 34,885 October-December and 29,818 January-March.

Power of attorney communications

From 1 March 2020, OPA changed its focus of advice about powers of attorney by stressing the importance of future planning as opposed to just filling out forms.

This was for a variety of reasons including increasingly complex legislation making it more difficult for people to complete a valid power of attorney that reflected their wishes, and concerns that a form completed hastily may lead to the document being abused.

With the cessation of the hard copy version of the DIY powers of attorney booklet, *Take Control*, OPA still provides information about powers of attorney and links to the forms on its website but places more emphasis on helping people to think through all the issues.

Internal communications

The Communications Unit produces a daily internal email and manages an intranet, to provide OPA staff with timely and accurate information about the work of the office.

With the onset of the COVID-19 pandemic and the move to remote working for all but those designated as skeleton staff, these became a vital lifeline for communicating crucial information, changes to practice and key messages, and to shore-up staff connection and cohesion during an uncertain time.

The unit initiated and implemented a project to enable all staff to be able to access the intranet from any computer, while retaining necessary security.

In addition, platforms such as Zoom and Teams were utilised for an increased number of all-staff meetings which further alleviated feelings of isolation and reduced information access due to the loss of the 'corridor conversation'. These were very well-attended and opportunities for questions were keenly utilised.

They will continue next year.

OPA Updates

A monthly stakeholder newsletter, OPA Updates, produced with accessible Vision 6 software more than doubled its subscriber base to 588 during the year. It enabled OPA to provide timely updates on new information and resources, promote education events and support advocacy.

It was also used to help disseminate the Government's COVID-19 messaging, as requested.

Online

Most visits to the OPA's internal website, OPAnet, during the year related to either powers of attorney or medical treatment decision-making.

In line with the Victorian Government's Digital First Strategy, all OPA publications are now available online. This year, website reporting enhancements showed that 86,042 documents were downloaded including:

- 17,547 enduring power of attorney appointment forms (short form)
- 10,344 enduring power of attorney appointment forms (long form).

Website sessions have changed little over three years with just a slight decrease of 4 per cent this year (274,309) over last (285,872), largely due to the pandemic.

Table 19. Website traffic, 17/18-19/20

	17/18	18/19	19/20
Website sessions	233,909	285,875	274,309
Documents downloaded	92,874	91,361	86,042

Accessibility

OPA's website continues to meet the WCAG 2.0 AA accessibility standard for government websites.

New content is presented in an accessible format, such as a text document or HTML, as well as in a PDF and an increasing number of documents are available in Easy English.

New website

An information structure for a new external site, which better met the needs of its website users – professionals and people with disability, their family and carers – was developed this year.

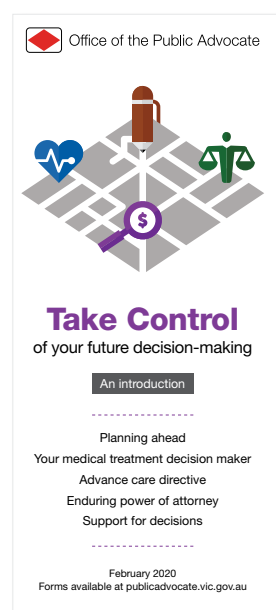
Next year will see the building of the new website which will also be responsive to mobile devices in keeping with the latest web trends. In line with new accessibility standards since the last website redevelopment in 2015, the number of PDFs on the site will be greatly reduced, new functionality to improve document find-ability will be utilised and a 'Google style' search engine will be employed.

Media

This year, OPA issued 24 media releases, all of which were featured on the OPA website. Seven stories were picked up by the media, including the Public Advocate's appearance at the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. There were also several stories of violence in group homes identified by OPA's Community Visitors and an AAP report quoting the Public Advocate on how some people with disability have become homeless, or live in prison or caravan parks because of a lack of suitable accommodation.

Table 20. Media releases, 17/18-19/20

	17/18	18/19	19/20
Media releases	18	27	24



Take Control brochure

Diversity at OPA

OPA's Diversity and Inclusion Framework demonstrates its commitment to supporting staff, volunteers and clients and seeks to address barriers that prevent some people who face multiple disadvantages from accessing its services or contributing as a staff member or volunteer.

The achievements described below would not happen without the commitment of staff from across the organisation, who are part of OPA's five diversity committees.

Disability

OPA launched a new *Disability Action Plan 2019-2022* (DAP) in December 2019 to mark International Day of Persons with Disabilities.

For maximum accessibility, the DAP was produced in four different formats available on OPA's website: PDF, Microsoft Word, Easy English and Plain English. Reinforce president, Colin Hiscoe, launched the Easy English version during the year.

In its first six months:

- the DAP and other OPA publications became available in accessible formats
- the DAP is available on the Australian Human Rights Commission website in all four formats
- OPA partnered with Reinforce Inc. and, for people with a cognitive disability:
 - created short-term employment opportunities at OPA
 - partnered on two, externally funded projects that promote supported decision-making in health matters.

Gender equality

OPA's inaugural *Gender Equality Action Plan 2019-2022* was launched by Victoria's first gender and sexuality commissioner, Ro Allen, celebrating International Women's Day. Since the launch, a number of milestones have been reached:

- the endorsement of the Addressing Intersectional Discrimination (an affirmative action statement and table of actions)
- the signing of OPA's Leader's Pledge on Gendered Violence
- two staff at the VPS4 level receiving the Public Advocate annual leadership development award.

Koori inclusion

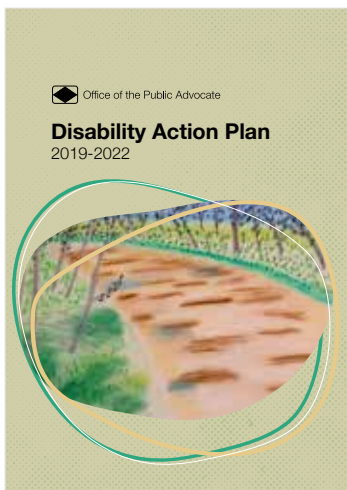
This year, OPA developed a new *Koori Inclusion Action Plan, 2019-2022*.

This third action plan aims to increase OPA's awareness of Aboriginal people with disabilities and the role Aboriginals play in guiding OPA to meet those needs.

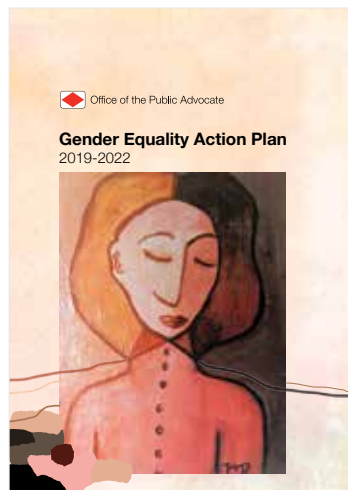
In addition to the actions in the new plan, OPA has commenced work on a project that will help identify the key features of culturally safe accommodation for Aboriginals with a disability.

Actions are in progress towards promoting inclusion and participation of Aboriginal Victorians in the work of OPA and its decision-making.

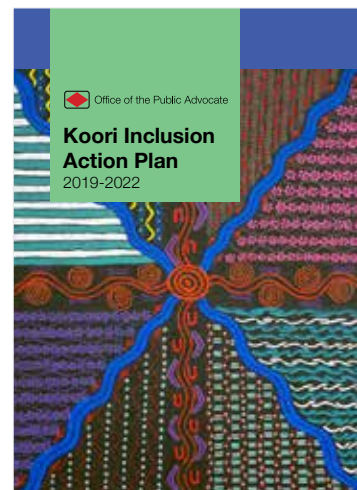
Highlights of the year included a visit from the VCAT Koori Engagement Team to better educate OPA on the availability of cultural and emotional supports for Aboriginal Victorians interacting with VCAT.



Disability Action Plan



Gender Equality Action Plan



Koori Inclusion Action Plan

Cultural diversity

OPA's *Cultural Diversity Plan 2019-2022* sets out how OPA will support its staff, volunteers and clients in an inclusive way, and is OPA's third such plan.

Some achievements in this early stage of the plan were:

- community education activities for culturally and linguistically diverse (CALD) communities, building on the strong relationships that OPA has developed with many ethno-specific organisations, including:
 - an information session at OPA for CALD communities and leaders
 - eight information sessions for CALD communities
- planning for a diversity and inclusion week at OPA late in 2020 that will include a celebration of cultural diversity at OPA
- a new approach to offer cultural diversity awareness training to staff through the SBS Inclusion Program online training course
- the establishment of weekly, ten-minute Auslan practice sessions open to all staff.



Cultural Diversity Plan

LGBTIQ

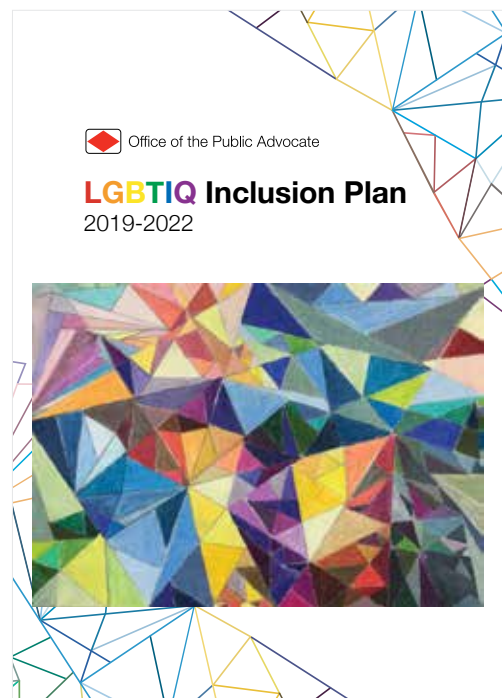
As part of OPA's Inclusion and Diversity Framework, a newly established LGBTIQ Committee was formed.

Transgender Victoria CEO, Brenda Appleton, launched the inaugural *LGBTIQ Inclusion Plan 2019-2022* on November 20, the International Transgender Day of Remembrance.

Awareness-raising activities are underway, including an explanation of the significance of the rainbow colours, promoting an understanding of gender-neutral language and words commonly used to explain identity diversity.

A rainbow flag and rainbow lanyards were purchased, and a newly adopted statement of inclusion will be added to OPA's email signature along with the rainbow flag. The inclusion statement will be added to all position descriptions.

In addition, OPA staff will participate in training delivered by an LGBTIQ organisation to enhance their responsiveness to and inclusion of all communities.



LGBTIQ Inclusion Plan

Feedback and complaints

The OPA website includes information on how the organisation deals with complaints, ensuring that making a complaint and/or providing feedback is an easy and transparent process.

The website includes a policy ‘Information for persons wishing to make a complaint’, which outlines how OPA manages complaints and the timeframes for responding, ‘Review of a guardian’s decision policy’, and an online complaint form with a PDF version for those wanting to print it.

During the year, 146 matters were referred to OPA, a 5.2 per cent decrease from last year. Formal complaints were also down 6.1 per cent.

In terms of complaints, although the Advocate Guardian Program attracted the highest number with 41 complaints (53.2 per cent), this was a decrease of 25.5 per cent on last year.

This reduction is attributed to having a full-staff complement of advocate guardians. In addition, there were four requests for a review of a guardian’s decision. Two of these were resolved when a Statement of Reasons was provided by the guardian and, in the remaining two, the guardian’s decision was sustained.

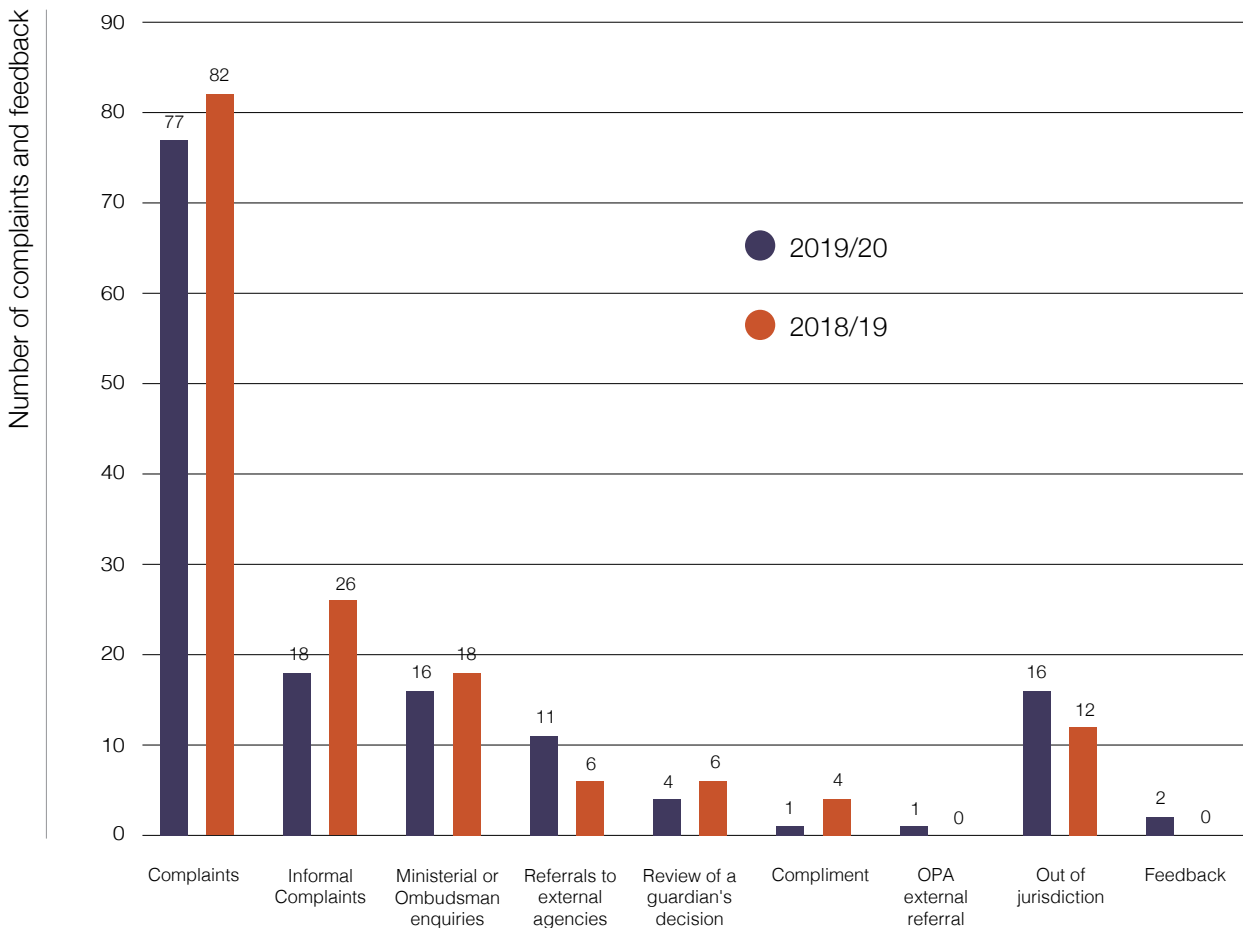


Figure 13. Types of feedback and complaints to OPA, 19/20

Twenty-seven complaints concerned the Advice and Response Program which includes the Advice Service, the Investigations Team and the Medical Decisions Team (a 12.5 per cent increase) and seven concerned the Safeguarding, Inclusion and Volunteers Program. The majority of complaints concerned investigations and it is likely that the significant increase in the number of investigations being referred by VCAT (up 7.5 per cent) contributed to this.

The number of matters referred to programs for informal resolution also decreased this year from 26 to 18.

The Community Visitors Program made 115 referrals of matters of concern to safeguarding agencies: 52 matters were referred to the NDIS Quality and Safeguards Commission, and 63 matters were referred to the Disability Services Commissioner's Office. In addition to these, the Public Advocate referred 11 matters to safeguarding agencies such as the NDIS Quality and Safeguards Commission and the Aged Care Quality and Safety Commission, the Victorian Ombudsman and the Disability Services Commissioner.

The Victorian Ombudsman enquired into 16 active cases, two fewer than last year. In one instance it was found that a decision of a guardian had breached a represented person's cultural rights. This decision was modified to support access between a mother and her son. In responding to another enquiry, it was established that improvements needed to be made in relation to the Standard Operating Procedures and the concerning escalation of matters in the Intake and Hospital team. It was also recognised that, in cases where the status quo is maintained (for example a represented person is to remain in their own home), this should be recorded as a decision.

Communication and consultation remained a key focus of attention and often related to complainants being unsure of the role of OPA staff or volunteers. It is important to provide complainants with information, and with the introduction of new guardianship legislation in 2020, fact sheets on the role of guardians and investigators are being developed. These will be adapted for culturally and linguistically diverse communities.

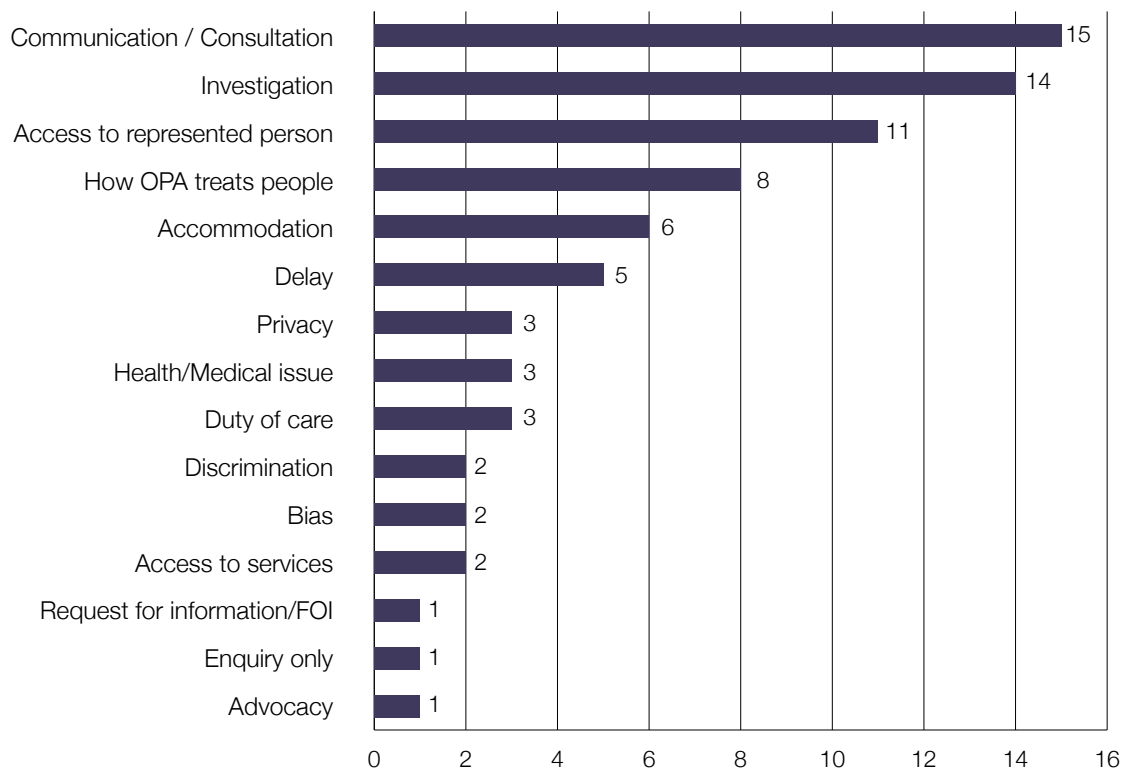


Figure 14. OPA's formal complaints by issue type, 19/20

Appendices

Appendix 1

Workforce data

In addition to the role of the Public Advocate, OPA's workforce data over the last two years is as follows:

Table 21. Age and employment status of OPA employees, 19/20

Employment Status				
Age range	Ongoing	Fixed term	Casual	Total
Under 25	0	0	0	0
25-34	9	3	0	12
34-55	18	6	0	24
45-54	23	5	2	30
55-64	28	5	1	34
Over 65	7	0	1	8
Grand Total	85	19	4	108

Table 22. Age and employment status of OPA employees, 18/19

Employment Status				
Age range	Ongoing	Fixed term	Casual	Total
Under 25	0	1	0	1
25-34	10	6	0	16
34-55	14	4	0	18
45-54	27	7	1	35
55-64	31	3	1	35
Over 65	4	0	2	6
Grand Total	86	21	4	111

Table 23. Employment classification and gender of OPA employees, 19/20

Classification	Paid staff			Full time equivalent		
	Male	Female	Total	Male	Female	Total
VPS 2	0	10	10	0	8	8
VPS 3	3	10	13	3	7	10
VPS 4	1	8	9	1	7	8
VPS 5	17	48	35	16.2	41	57.2
VPS 6	5	2	7	5	2	7
Executives	1	0	1	1	0	1
Legal Officers	2	1	3	1.8	0.7	2.5
Grand Total	29	79	108	28	65.7	93.7

Table 24. Employment classification and gender of OPA employees, 18/19

Classification	Paid staff			Full Ttme equivalent		
	Male	Female	Total	Male	Female	Total
VPS 2	0	11	11	0	9.5	9.5
VPS 3	2	11	13	2	9	11
VPS 4	1	9	10	1	7.9	8.9
VPS 5	19	49	68	18.1	43.7	61.8
VPS 6	4	2	6	4	2	6
Executives	1	0	1	1	0	1
Legal Officers	1	1	2	1	0.7	1.7
Grand Total	28	83	111	27.1	66	99.9

Appendix 2

Financial report for the year ended 30 June 2020

Comprehensive operating statement for the financial year ended 30 June 2020.

Table 25. Continuing operations	Note	2020 \$000's	2019 \$000's
Income from transactions			
Output appropriation		12,206	10,895
Grants	1	3239	2345
Other income	2	212	273
Total income from transactions		15,657	13,513
Expenses from transactions			
Employee expenses	3	12,287	10,991
Depreciation and amortisation		86	83
Interest expense		9	8
Grants and other transfers		0	5
Supplies and services	4	2422	3046
Total expenses from transactions		14,804	14,133
Net result from transactions (net operating balance)		853	(620)
Other economic flows included in net result			
Other gains (losses) from other economic flows		0	(4)
Total other economic flows included in net result		0	(4)
Net result		853	(624)

Note 1: Increase in grants reflects additional non-recurrent funding provided by the DHHS to support guardianship in hospitals (from February 2020), volunteer programs and OPA's implementation of new processes in relation to changes to the Disability Act.

Note 2: The decrease reflects funding for the provision of guardianship in hospitals services being provided by DHHS from February 2020 (as per Note 1) rather than five health services (Monash, Eastern, Alfred, Northern and Western Health).

Note 3: Growth reflects new fixed term appointments relating to the provision of non-recurrent funding, increased provision for annual leave due to leave not being taken by staff during COVID-19 and the final increase of 1.5% under the Victorian Public Service Enterprise Agreement 2016.

Note 4: Cost decrease relates to reduced travel and accommodation, printing, communications, contractors, training and IT software upgrade expenses.

Appendix 3

Compliance and accountability

Decision-making and advocacy

OPA makes decisions and advocates for people with disabilities and, in these capacities, has obligations under, and must comply with, the following statutes:

- *Guardianship and Administration Act 1986*
- *Guardianship and Administration Act 2019*
- *Charter of Human Rights and Responsibilities Act 2006*
- *COVID-19 Omnibus (Emergency Measures) Act 2020*
- *Medical Treatment Planning and Decisions Act 2014*
- *Carers Recognition Act 2012*
- *Severe Substance Dependence Treatment Act 2010.*

Information management

OPA is exempt from the operation of the *Freedom of Information Act 1982*.

OPA and its volunteers have obligations under, and must comply with, the following statutes in relation to the management of personal and confidential information:

- *Guardianship and Administration Act 1986*
- *Guardianship and Administration Act 2019*
- *Victorian Civil and Administrative Tribunal Act 1998*
- *Privacy and Data Protection Act 2014*
- *Health Records Act 2001*
- *Disability Act 2006*
- *Mental Health Act 2014*
- *Supported Residential Services (Private Proprietors) Act 2010*
- *Public Records Act 1973*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Public Administration Act 2004*
- *National Disability Insurance Scheme Act 2013 (Cwlth).*

Disclosure of improper conduct

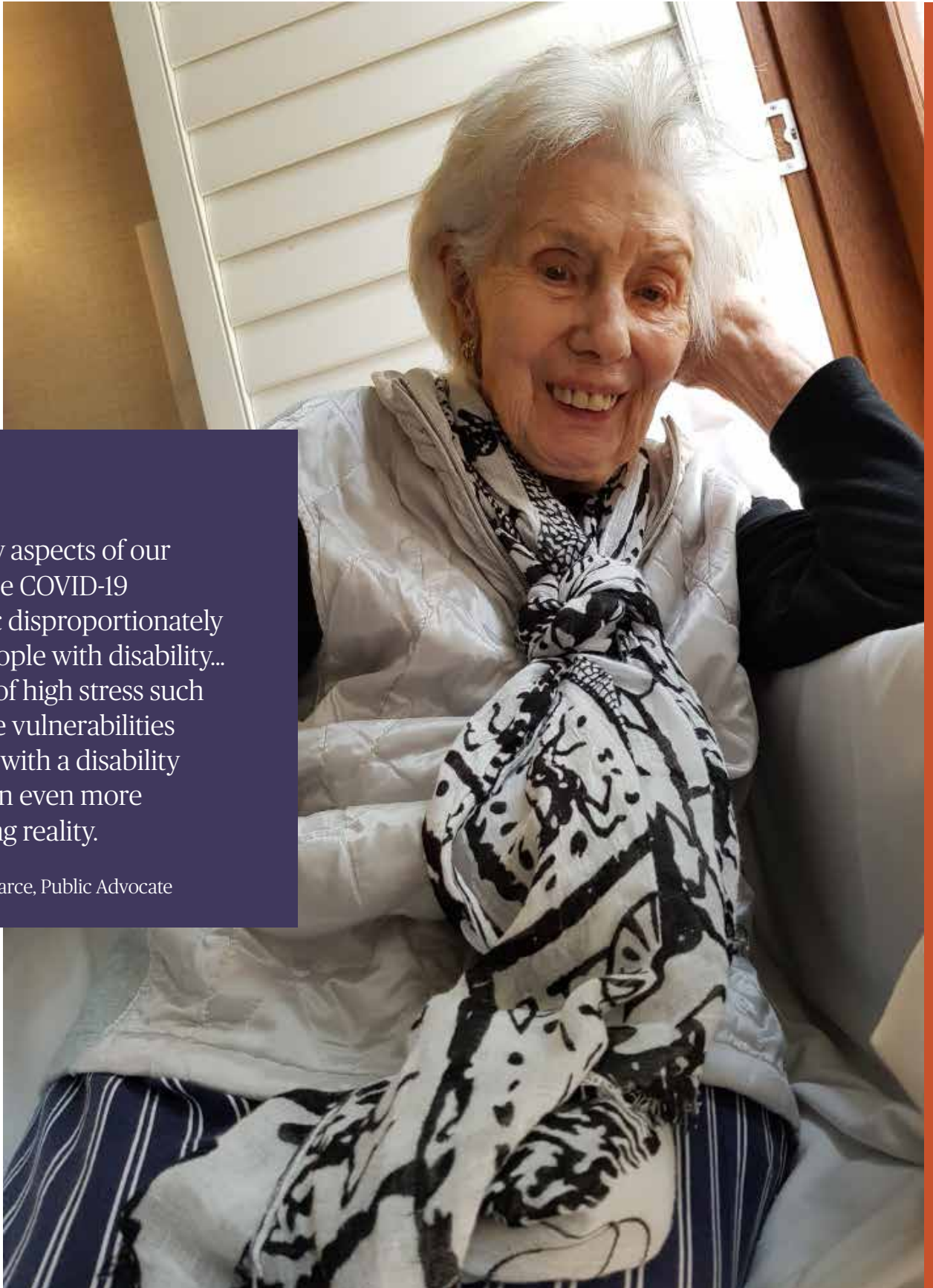
The purpose of the *Protected Disclosure Act 2012* is to encourage and facilitate the making of disclosures of improper conduct within public bodies and establish a system for matters to be investigated. OPA is not able to receive disclosures under this Act. It does have an obligation to provide welfare to persons making protected disclosures. Information about making protected disclosures and OPA's role is provided on its website.

Appendix 4

External committees and advisory groups

OPA is represented on the following external committees and advisory groups:

- Elder Abuse and Safeguarding Advisory Group
- Project Steering Committee for the Integrated Model of Care for Responding to Suspected Elder Abuse
- Victoria Police, Disability Portfolio Reference Group
- Victoria Police, Seniors Portfolio Reference Group
- Seniors Rights Victoria, Advisory Committee
- Victorian Electoral Commission, Disability Action Plan Advisory Committee
- Victorian Public Service, Diversity and Inclusion Community of Practice
- Elder Abuse Roundtable
- Law Institute of Victoria, Elder Law Committee
- Balit Narrum
- Our Watch
- Women with Disabilities Victoria, Prevention of Violence against Women with Disabilities Advisory Group
- Women with Disabilities Victoria, Spotlight on Invisible Women Project Advisory Group
- Eastern Community Legal Centre, Elder Abuse Strategic Advisory Group
- Royal Children's Hospital, Community Advisory Committee
- Review of The Retirement Villages Act Stakeholder Reference Group
- VicPol Mental Health Portfolio Reference Group
- VicPol Disability Portfolio Reference Group
- DHHS Disability Stakeholder Advisory Group Supporting Justice Advisory Committee
- COVID-19 Disability Taskforce
- Disability Act Review Advisory Group
- Australian Council on Guardianship and Administration.



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Like many aspects of our society, the COVID-19 pandemic disproportionately affects people with disability... At a time of high stress such as this, the vulnerabilities of people with a disability become an even more concerning reality.

Dr Colleen Pearce, Public Advocate



Office of the Public Advocate

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