

Safeguarding the rights and interests of people with disability

# Multiple appointments

What is known about the people that remain subject to guardianship for years at a time?

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## Contents

Key insights .....	3
Introduction .....	3
Background.....	4
Convention on the Rights of Persons with Disabilities .....	4
National Disability Insurance Scheme .....	4
Legislative change .....	5
Legislative criteria for the appointment of a guardian .....	5
Average length of time subject to guardianship, 2008–2022 .....	6
Reappointments over time, 2011–2024 .....	7
Multiple appointments .....	9
Method .....	9
Gender .....	9
Age group.....	9
Disability .....	10
Relationship between age and disability .....	10
Aboriginal and Torres Strait Islander status.....	11
NDIS participant status .....	11
Authority type .....	12
Relationship between authority type and participant status.....	12
Analysis of decisions by free text review.....	13
Discussion .....	14

## Key insights

Prior OPA research found that the average time people were subject to guardianship increased from 19 months in 2010/11 to 24 months in 2019/20. This increase was predominantly driven by an increase in the average time younger people (aged 18–64) spent subject to guardianship: from 24 months in 2010/11 to 30 months in 2019/20.

This project uses reappointment rates as a proxy for length of time spent subject to guardianship: the more reappointments, the longer the time. The guardianship reappointment rate is the proportion of guardianship orders in a given year in which an existing order was continued when reassessed. For people aged under 65, the reappointment rate has climbed from approximately 34 per cent during the period 2010–2016 to more than 50 per cent since 2020. This increase coincides with the roll-out of the NDIS in Victoria.

Since 2010, the reappointment rate for people aged over 65 has remained between 20 and 26 per cent with no upward trend indicated.

Younger people are far more likely to be subject to multiple guardianship orders than other OPA clients. More than 80 per cent of people who had been subject to at least 3 orders were aged 18–64.

Regardless of age group, people with the disability types of intellectual disability and/or psychosocial disability are more likely to be subject to multiple guardianship orders than other people.

## Introduction

Guardianship limits decision-making rights for the purpose of protecting other human rights. To mitigate this imposition, two important safeguards should be enacted: i) that all guardianship appointments are time-limited, and ii) that the guardian's powers should impose the least restrictive measures on decision-making rights as are justified by the circumstances.

In Victoria, 'best interests' guardianship decision-making was repealed with the enactment of the *Guardianship and Administration Act 2019* (Vic) (the Act). Now, understanding the person's 'will and preferences' drives decision-making wherever possible: an intentional reference to Article 12 of the United Nations Convention on the Rights of People with Disability.

The genesis of this report was curiosity regarding the increase in guardianship reappointments – an outcome at odds with the focus on the decision-making rights of people with cognitive impairment evidenced in the Act, and other progressive national and state reforms introduced in the same period.

Information published about people subject to guardianship does not usually differentiate between the experiences of people subject to multiple and/or consecutive orders and those subject to a single guardianship order (generally lasting 12 months or less<sup>1</sup>). This descriptive report compares the characteristics of these groups and the factors that contribute to extending a person's time subject to guardianship. It sets out what is currently known about a group of people who remain subject to guardianship for multiple years and provides a unique view of a population about whom very little information has previously been in the public domain.

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<sup>1</sup> In Victoria, the continuing need for a guardianship order is assessed at reassessment hearings around 12 months after an order is made. At these hearings, the Victorian Civil and Administrative Tribunal (VCAT) decides whether to revoke the order or to make a new order.

## Background

### Convention on the Rights of Persons with Disabilities

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) is an international human rights convention which sets out the fundamental human rights of people with disability. The purpose of the CRPD is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. The CRPD opened for signature on 30 March 2007 and Australia became one of the original signatories.

Most relevantly to the field of guardianship, Article 12 of CRPD affirms the right of people with disabilities to legal capacity on an equal basis with others, advocating for supported decision-making rather than substitute decision-making (guardianship) as a default. Article 12(4) of the CRPD provides that measures that relate to the exercise of legal capacity on behalf of a person with disability must respect the 'rights, will and preferences of the person'.<sup>2</sup>

This article influenced the development of the Act.

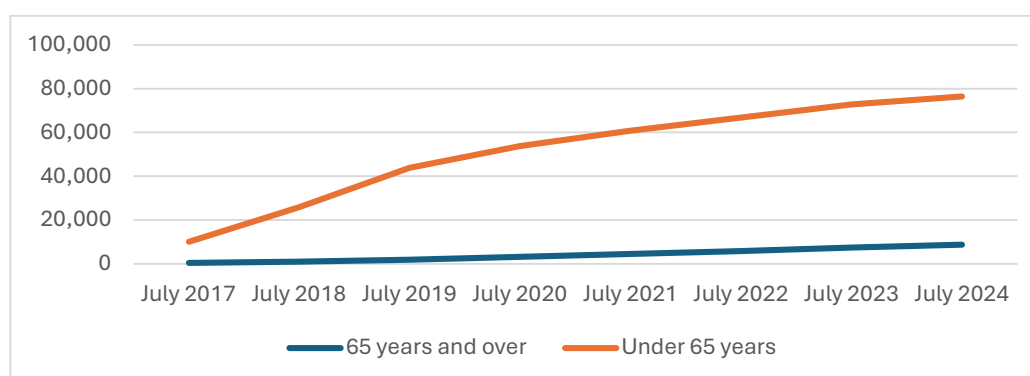
### National Disability Insurance Scheme

On 28 March 2013, the *National Disability Insurance Act 2013* (Cth) received Royal Assent. Some of the objects of this Act are to:

- in conjunction with other laws, give effect to Australia's obligations under the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006
- support the independence and social and economic participation of people with disability
- enable people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports

In Victoria, the National Disability Insurance Scheme (NDIS) commenced in 2013 with a three-year trial in the Barwon region. OPA became advocates for some of Victoria's first participants who resided at Colanda Centre, a disability accommodation institution. The NDIS subsequently rolled out in the regions of Victoria, reaching full implementation across the state on 1 July 2019.<sup>3</sup>

Graph 1 shows a rapid increase in participant numbers starting from 10,000 people in July 2017 to around 55,000 participants (aged under 65) in July 2020. The rate of increase of participants aged under 65 has since slowed by more than half (and continues to slow).



**Graph 1: NDIS participant numbers July 2017–July 2024**

<sup>2</sup> Convention on the Rights of Persons with Disabilities, opened for signature 30 March 2007, 2515 UNTS 3 (entered into force 3 May 2008) art 12.

<sup>3</sup> Residents of all regions became eligible to apply for the scheme on 1 January 2019.

## Legislative change

On 1 March 2020, the *Guardianship and Administration Act 2019* came into effect, replacing the *Guardianship and Administration Act 1986* (Vic).

The Act's primary objects include to 'protect and promote the human rights and dignity of persons with a disability by having regard to the Convention on the Rights of Persons with Disabilities, recognising the need to support persons with a disability to make, participate in and implement decisions that affect their lives'.<sup>4</sup>

The Victorian Government described the Act as representing a 'milestone' in the way Victoria upholds the rights and meets the needs of people with disability.<sup>5</sup>

Among other things, it is intended to:

- Strike a balance between competing rights — recognising the right of people with disability to make their own decisions while ensuring there are mechanisms for protection when needed.
- Ensure will and preferences direct decisions as far as possible — with the person's will and preferences only able to be overridden where it is necessary to do so to prevent serious harm to them.
- Prevent unnecessary intrusions on the right to make decisions — with the definition of decision-making capacity intended to promote each person's right to recognition and equality before the law.
- Recognise supported decision-making — with the Victorian Civil and Administrative Tribunal (VCAT) able to make supportive guardianship appointments for people to have someone appointed to support them to make and give effect to their own decisions.

These elements are designed to promote the person's autonomy as far as possible, leaving behind the previous 'best interests' paradigm of substitute decision-making.

## Legislative criteria for the appointment of a guardian

For an adult to be subject to guardianship in Victoria, an application for guardianship must be made to VCAT. VCAT must determine whether the legislative criteria for a guardianship order are met. In essence, a person must have a decision-making disability that, in the context of their present circumstance, means they lack the capacity to make at least one significant and pressing personal decision. The key criteria are described in more detail below.

### *Considerations when appointing a guardian*

Section 30(2) of the Act sets out that the tribunal may appoint a guardian to make decisions for another person about specified personal matter(s) if it is satisfied that:

- because of the person's disability, they do not have decision-making capacity in relation to the personal matters
- the order will promote the person's personal and social wellbeing
- the person is in need of a guardian having considered:
  - the will and preferences of the person (if VCAT can find out what these are)
  - whether the decisions for which the order is sought may be made informally or through negotiation or mediation
  - the wishes of any primary carer, relative of the person, or someone with a direct interest in the application

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<sup>4</sup> *Guardianship and Administration Act 2019* (Vic) s 7.

<sup>5</sup> Victoria, Parliamentary Debates, Legislative Assembly, 19 December 2018, 63 (Jill Hennessy, Attorney-General).

- important relationships that the person has and the benefits in maintaining them.

The Act states that VCAT should exercise its power in a way that is the least restrictive of the ability of a person with disability to decide and act as is possible in the circumstances. The will and preference of the person should also direct, as far as practicable, decisions made for that person<sup>6</sup>.

If VCAT is satisfied that no other person fulfils the eligibility requirements set out in the Act for appointment as guardian for the proposed represented person, VCAT may appoint the Public Advocate<sup>7</sup>.

### Average length of time subject to guardianship, 2008–2022

In earlier research, OPA examined all guardianship matters in the 14 years from July 2008 to June 2022 and found that across this period people aged 18–64 usually averaged more time subject to guardianship than represented people aged over 65.<sup>8</sup> The average length of time represented persons aged over 65 spent under OPA guardianship across the 14-year period was 14 months, compared to 23 months for people aged 18–64 years.<sup>9</sup>

Averages can be taken for different cohorts of people across different time periods. The finding above is the average time spent under guardianship for an OPA guardianship client across that 14-year period. The following analysis sought to determine whether over time, the average length of time was stable, rising or falling. The analysis took the people subject to guardianship in a particular year (for example, 2010/2011) and calculated the average time they spent subject to guardianship across the surrounding 5-year period (for example, July 2008–June 2013).

This analysis determined that in 2010/2011 the average time spent subject to guardianship by people aged 18–64 was 24 months and by 2019/20 this had increased to 30.3 months (refer Table 1).<sup>10</sup> There was a consistent correlation between time spent subject to guardianship and whether the person was aged over or under 65 years.

Year	Months under guardianship		
	People >65 years	People 18-64	All people
2010/11	16	24	19.2
2014/15	17.4	26.9	21.3
2019/20	17.8	30.3	24.5

**Table 1:** Average number of months under OPA guardianship for represented person whose (closed) matters were received between July 2008 to June 2022 (by age when first order received)

Comparative population data was also considered. While Victoria’s population growth rate for people aged between 25 and 64 years was 20 per cent between 2011 and 2021, the growth in the number of people with psychosocial or intellectual disability under guardianship (for a similar age cohort) was around 100 per cent. Hence, this growth is unlikely to be explained by population changes alone.

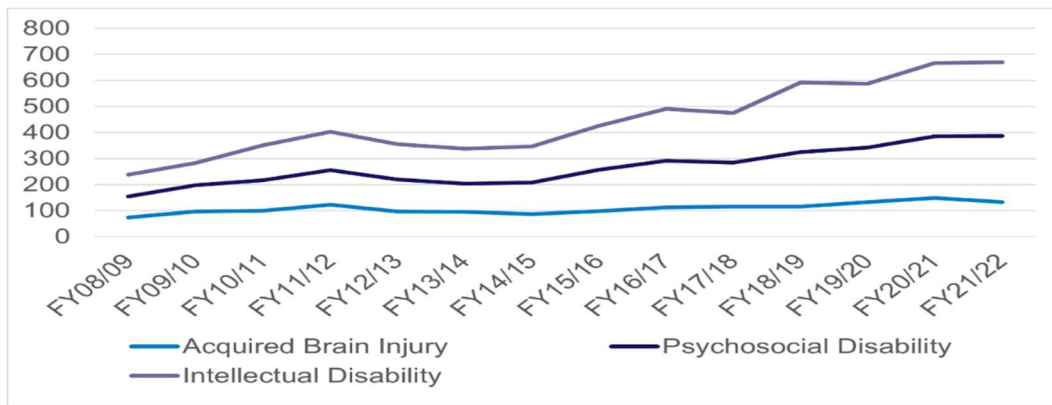
<sup>6</sup> (s 8(1)(a-c) and s8(2))

<sup>7</sup> (s33(1))

<sup>8</sup> Office of the Public Advocate, *Reflections on guardianship: The law and practice in Victoria* (2023) < [Reflections on guardianship: The law and practice in Victoria - Office of the Public Advocate](#)>

<sup>9</sup> Office of the Public Advocate, *Reflections on guardianship: The law and practice in Victoria* (2023) 50.

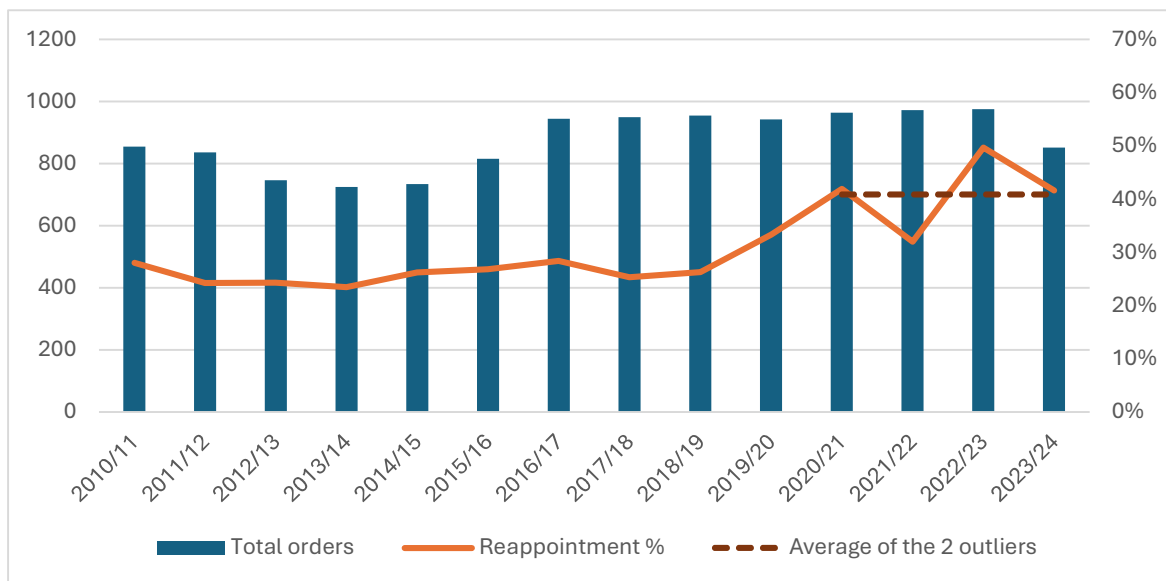
<sup>10</sup> Note that using the entire data set to calculate an average generates a lower ‘average length of guardianship’ than looking at a single year cohort. This is because the data set includes all of the new clients from each year between 2008 and 2022 who only ever experienced a single order: skewing the average downward.



**Graph 2:** Number of represented persons by financial year, by disability type

## Reappointments over time, 2011–2024

A review of reappointment rates between 2017–2024 shows that since 2020/21, the proportion of reappointments has risen from around 25 per cent of matters to around 40 per cent of matters. (The two years 2021/22 and 2022/23 appear to be outliers from the surrounding data: by taking their average they reflect the reappointment rates seen in the adjacent years.<sup>11</sup>)

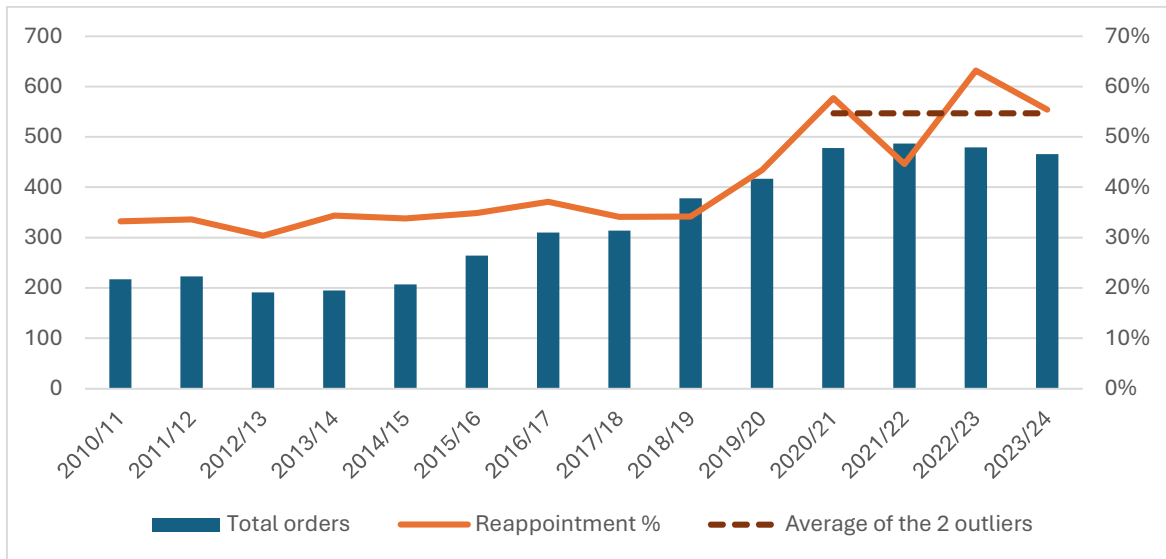


**Graph 3:** Number and reappointment rate of guardianship matters by year- all ages.

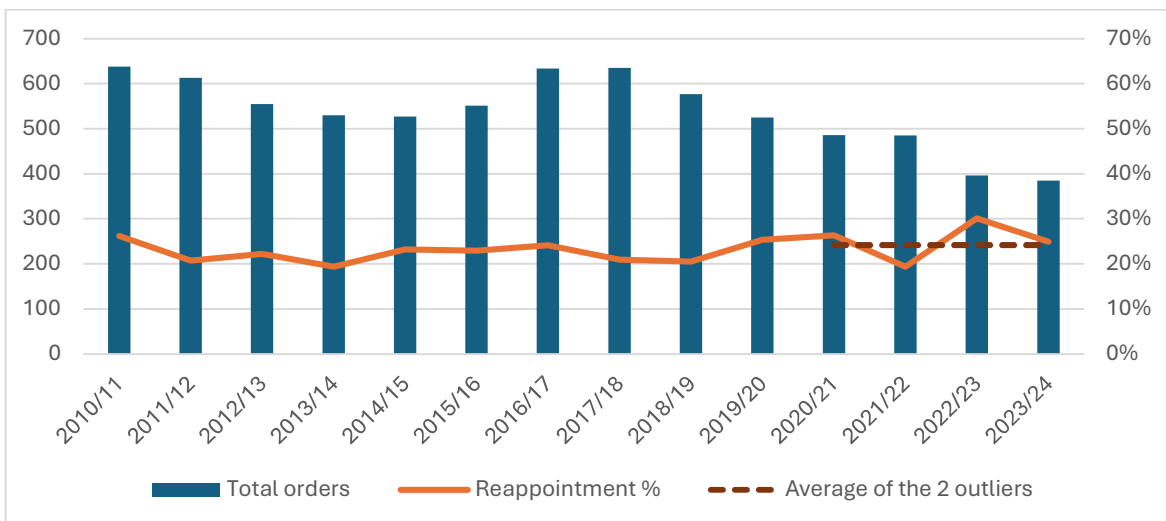
By separating the same information into guardianship matters concerning people over 65 years and those concerning people aged 18–64 years, the cohort driving this shift over time becomes clear. As graph 4 shows, for OPA guardianship clients aged 18–64 years the reappointment rate started at around 35 per cent of matters in 2017/18, rose over the following three years, and then remained steady at approximately 55 per cent in 2020/21, seemingly holding at a ‘new normal’.

<sup>11</sup> These outliers likely reflect a period of significant workforce change that occurred due to a Victorian Public Sector voluntary retrenchment process. Taking an average of these two outliers tells a clearer story in the graphs below.

By contrast, for OPA clients over 65, the reappointment rate started the period at 20 per cent and looks set to end the period at the same rate. Reappointments rose by around 5 per cent beginning in the year the pandemic commenced and held around this rate until 2023/24.



**Graph 4:** Number and reappointment rate of guardianship matters by year, for people under 65.



**Graph 5:** Number and reappointment rate of guardianship matters by year, for people 65 and over.

In terms of total numbers, between 2017/18 and 2022/23 OPA was guardian to a growing number of people aged 18–64, but that number appears to be starting to trend slightly downward. OPA has been guardian to a steadily declining number of people aged over 65 across this period.

## Multiple appointments

### Method

The reappointment cohort was identified by taking all orders received from VCAT between 1 July 2023 and 30 June 2024 and looking for past orders that related to these individuals. This criterion was further narrowed to people whose most recent order was a 'reappointment' (or continuation of guardianship, without a break, when prior order was reassessed) rather than the outcome of a new application for guardianship.

The identification method included all past orders, not just consecutive orders. That is, apart from those relating to the 2-order cohort, sometimes there was a break in the periods of guardianship.

Having identified 'multiple appointment' individuals, analysis was undertaken to seek to identify similarities and differences between and within the groups of multiple versus single appointment cohorts.

### Limitations

This report focuses on people who have had the Public Advocate appointed as guardian over several years. 'OPA guardianship' is the term used to refer to this.

This report does not examine the experience of people who have had a private guardian appointed over several years. In the event that a person has the Public Advocate appointed initially and another person subsequently appointed as guardian, or vice versa, the data does not capture these additional years of guardianship experience.

### Gender

Men are statistically more likely to be subject to guardianship across all cohorts (single order and reappointments). Interestingly, women are slightly more likely to be subject to multiple orders than a single order.

Gender	1 order n=440	2 orders n=133	3-5 orders n=201	6+ orders n=41	Average n=815
Male	56.6%	52.6%	52.2%	53.7%	54.8%
Female	43.4%	46.6%	47.8%	46.3%	45.2%

**Table 2:** Gender by number of orders

### Age group

More than 80 per cent of people who had been subject to at least 3 orders<sup>12</sup> were aged 18–64, and this age group accounted for 93 per cent of people subject to at least 6 orders. This is significantly different from the age profile of people who have only been subject to one order in which there is only 42 per cent aged under 65 years.

	1 order (n=440)		2 orders (n=133)		3-5 orders (n=201)		6+orders (n=41)	
18-64	184	42%	92	69%	156	78%	38	93%
65+	256	58%	41	31%	45	22%	3	7%

**Table 3:** Age group by number of orders for each person

<sup>12</sup> This includes both people who had 3-5 orders, and people who had 6 or more orders.

Put another way, almost three-quarters of people who were over 65 at the time of their 2023/24 guardianship order were (likely) experiencing guardianship for the first time. Conversely, this was the case for only four out of ten people in the 18–64 age cohort. Of the people aged 18–64 who were subject to a ‘reappointment’ in 2023/24, two-thirds were experiencing at least their third guardianship order.

## Disability

More than 80 per cent of people who had been subject to 3 or more guardianship orders were recorded as having either an intellectual disability or a psychiatric disability (or a combination thereof). The remainder were recorded as having either an Acquired Brain Injury (ABI) or dementia (approximately 10 percent each). Less than two percent reported a physical disability alone.

For the people who had only been subject to a single OPA guardianship order, in relation to the disability recorded:

- 45 per cent had a diagnosis of intellectual and/or psychiatric disability
- 44 per cent had a diagnosis of dementia
- 10 per cent had a diagnosis of ABI (excluding an ABI recorded as a dual disability with the above disability types).<sup>13</sup>

Table 4 indicates the proportion of the cohort by the type of disability. For people who had been subject to at least 6 guardianship orders, 76 per cent were recorded as having an intellectual disability and 46 per cent were recorded as having a psychiatric disability.

More than a quarter of people with at least 3 guardianship orders were recorded as having a dual disability that included intellectual disability and psychiatric disability; this rose to 37 per cent of people who had been subject to at least 6 orders.

People with:	Intellectual Disability	Psychiatric Disability	ABI	Dementia	Physical Disability
6+ orders	76%	46%	10%	0%	12%
3-5 orders	48%	48%	23%	16%	18%
2 orders	42%	43%	24%	27%	16%
1 order	26%	28%	22%	51%	11%

**Table 4:** Proportion of people by disability type, by number of guardianship orders

## Relationship between age and disability

For people under guardianship, age and type of disability is highly correlated. This analysis revealed that regardless of age group, people with intellectual disability and/or psychiatric disability are more likely to be subject to multiple guardianship orders than other people.

Looking at the type of disability for all clients under 65 years of age, slightly more than 3 out of 4 clients reported an intellectual disability, psychiatric disability or a combination including the two. Of the remaining clients, 17.4 per cent reported an ABI and 5.4 per cent reported dementia as their disability.

For people aged 18–64 years, as the length of time subject to guardianship increases so does the proportion of people recorded as having an intellectual disability, a psychiatric disability or a combination of the two. Almost 9 out of 10 people who received at least 3 guardianship orders live with these disabilities. A further 10 per cent were reported to have an ABI.

<sup>13</sup> Note, for this cohort, ABI as part of dual disability was 22 per cent. ABI as single disability was 10 per cent.

For people aged over 65, 82 per cent have dementia, another 12 per cent have intellectual and/or psychiatric disability (or combination thereof), and the remaining 6 per cent report either an ABI or a physical disability. Among people who had experienced 3 or more orders and were also over 65, 63 per cent recorded having dementia and 31 per cent had intellectual and/or a psychiatric disability.

## Aboriginal and Torres Strait Islander status

There was no statistically significant difference between Indigenous and non-Indigenous status within the sample.<sup>14</sup>

	6+ orders (n=41)	3-5 orders (n=191)	2 orders (n=96)	1 order (n=440)
Yes	4.9%	5.2%	7.3%	6.1%
No	87.8%	90.1%	85.4%	84.1%
Unknown	7.3%	4.7%	7.3%	9.8%

**Table 5:** Persons of Aboriginal or Torres Strait Islander descent, by number of guardianship orders.

## NDIS participant status

NDIS participant	6+ orders		3-5 orders		2 orders		1 order	
	n=41	%	n=191	%	n=96	%	n=440	%
Yes	41	100	157	82.2%	74	77.1%	183	41.6
No	0	0	34	17.8%	22	22.9%	257	58.4

**Table 6:** NDIS participant status by number of guardianship orders

The likelihood of an OPA guardianship client being a NDIS participant is positively correlated with the number of orders the person has been subject to – the more orders they have had, the more likely they are to be a NDIS participant.

Some of this correlation can be explained by the relationship between age, multiple reappointments and NDIS eligibility.

Of the 440 people with a single order, only 41 per cent were NDIS participants. However, only 21 people (less than 5 per cent) would have met the age requirement to be a NDIS participant. The remaining 54 per cent of people on a single order were aged over 65 years.

Of the 232 people with 3 or more orders, all but 38 people were NDIS participants. Of those who were not NDIS participants, only 7 people (3 per cent) met the age requirement for eligibility.

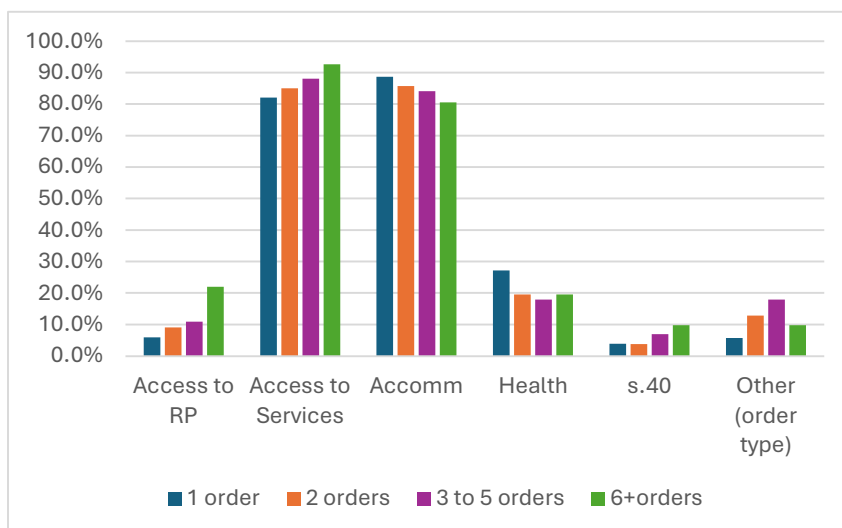
The relationship between NDIS participant status and multiple orders may or may not be causal. While it is clear that the overwhelming majority of people subject to multiple guardianship orders are also NDIS participants, we know that at least 95 per cent of OPA guardianship clients under 65 years are NDIS participants. Given the legislative criteria for guardianship requires a significant decision-making disability, it is logical that people under 65 who become subject to OPA guardianship are also likely to be eligible for support under the NDIS.

<sup>14</sup> Tested the one order cohort against the 2+ orders group and against the 6+ orders group using a z-test, single tailed at p<0.10. Both tests reported the relationship was not statistically significant.

## Authority type

In making a guardianship order, VCAT specifies the personal matters for which a guardian has the power and duty ('authority') to make decisions.

The majority of OPA guardianship orders are made in relation to access to services and accommodation authorities. These authority types empower a guardian to make decisions relating to the support services the person receives, or where they will live. Graph 6 shows that as the time spent subject to guardianship increases, so does the proportion of people whose orders include authority for the guardian to make access to service decisions.



**Graph 6:** Proportion of orders with each type of authority, by reappointment cohort.

Graph 6 also illustrates that as the number of reappointments increase, there is a slight increase in the likelihood of orders including access to persons and section 40 authorities. Authority under section 40 of the Act gives the appointed guardian 'the power to bring and defend an action or other legal proceeding in the name, and on behalf, of the represented person...'<sup>15</sup> Such orders may be sought to seek action in the Administrative Review Tribunal.

Authority for 'access to the represented person' is given where decisions are required about who the represented person can access. This need may arise when there are concerns about an individual abusing, neglecting or exploiting the represented person or exerting undue influence. An increase in access to persons authorities suggest relationship/family conflict is a factor for some people subject to multiple guardianship orders (including more than 1 in 5 people with at least 6 orders). However, matters involving relationship conflict will not always include this authority.

## Relationship between authority type and participant status

There is a positive correlation between NDIS participant status and 'access to services' authority. Ninety per cent of participants under guardianship had access to services authority on their order, compared with only 75 per cent of non-participants.

Only 2 per cent of NDIS participants had neither accommodation nor services authorities as part of their order, compared to 5 per cent of non-participants.

<sup>15</sup> Guardianship and Administration Act (Vic) 2019, s. 40.

Eleven per cent of NDIS participants who had experienced at least 3 orders had 'access to persons' authorities, compared with 21 per cent of non-participants. This suggests that relationship conflict or coercion is more likely to contribute to the need for the reappointment of guardians for people who are not NDIS participants than for NDIS participants. The exception to that finding is the group of people who had experienced 6 or more guardianship orders. Of the 41 people who had experienced 6 or more orders, all are NDIS participants and 9 people (22 per cent) had 'access to persons' authorities as part of their guardianship order.

## Analysis of decisions by free text review

Consideration was given to the free text capture from over 6,000 decisions made by guardians since July 2023. This revealed that people with more orders had on average a higher number of decisions made per person.

	Number of people who had a decision recorded	Average number of decisions recorded
1-2 orders	980	3.9
3-5 orders	182	5.9
6+ orders	37	6.2

**Table 7:** Number of decisions by reappointment cohort

The analysis considered decision types for all decisions made between July 2023 – December 2024 by number of orders the person has been subject to. As seen in table 8, this analysis indicates variations between the three cohorts, with closer alignment seen between the 3-5 orders and 6+orders cohorts.

Decision type	<3 orders (n=3861)	3-5 orders (n=1082)	6+ orders (n=230)
Access to persons	2.3%	3.8%	4.3%
Access to services	65.3%	72.6%	72.2%
Accommodation	27.9%	17.7%	17.8%
Legal proceedings in the name of the RP (s40)	0.2%	0.6%	2.2%
Medical Treatment	3.8%	4.5%	1.7%
Other personal matter specified on order	0.2%	0.6%	0.4%
(blank)	0.3%	0.2%	1.3%

**Table 8:** Decision types by reappointment cohort

Table 9 shows the number and proportion of people by reappointment cohort who had not had a decision recorded in relation to them between July 2023 and December 2024. Note that the comparison with the one order cohort may not be fair, as that one order may still have effect after December 2024, which means decisions may be pending.

	People	%
6+orders	5	12%
3-5 orders	19	9%
2 orders	17	13%
1 order (includes open matters)	75	17%

**Table 9:** Number of people with no decisions recorded, by reappointment cohort

## Discussion

The increased rates of guardianship reappointment identified in this report are particularly notable in the way they defy the expectations set by international and local instruments. The UN Convention on the Rights of Persons with Disabilities and the *Guardianship and Administration Act 2019* (Vic) highlight the role of supported decision making in promoting personal autonomy. These instruments, alongside the *NDIS Act 2013* (Cth) and its objects, centre on human rights and personal autonomy.

In this policy context that seeks to enable people with disability to exercise choice and control, the use of guardianship is expected to decline. It is therefore concerning that the use of guardianship appears to be increasing for a specific group of people for the period under review.

While this report explores correlations and cannot speak directly to the causes of these longitudinal trends, the correlations alone are compelling and concerning and deserve further exploration.

From a systemic perspective, the dominance of young people in the multiple reappointments cohort, along with their boosted rate of reappointment since the NDIS roll-out, strongly suggests that an independent substitute decision-maker has become more necessary under the NDIS than it was before. Three possible drivers of this trend are:

- Insufficient safeguarding for people who do not have informal supports and lack informal safeguards developed through community building and peer support networks
- Insufficient independent advocacy to ensure that people are receiving appropriate disability supports
- Insufficient supported decision-making opportunities, education and training
- Insufficient accommodations built into NDIS administration policies and processes to enable people with significant decision-making disability to access and use the scheme without the involvement of a substitute decision-maker<sup>16</sup> (through, for example, funded supported decision-making services).

To date, moves to address these systemic design issues have not been forthcoming. The experience of the Office of the Public Advocate suggests design issues within the NDIS and the wider disability sector (encompassing regulation, oversight and services) has contributed to the growth in guardianship among younger people.

Conversely, the lower likelihood of people aged over 65 requiring multiple guardianship orders can be explained by a few factors:

- Accessing the aged care system is significantly more straightforward than accessing and navigating the disability services sector (for which most people over 65 are ineligible)
- Accessing the aged care system involves fewer options and therefore fewer decisions
- Physical and mental decline due to the ageing process and/or degenerative disability may also reduce decision alternatives, and

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<sup>16</sup> OPA has led long-running efforts to educate service providers about the options for navigating the scheme without a substitute decision maker, these have achieved limited success. Now a new set of policies appear to have further embedded consent hurdles, potentially generating a purely administrative need for guardianship for some participants.

- Older people are significantly more likely to be compliant with a guardian's decision (in part due to their physical inability to leave their accommodation setting). This means that more time subject to guardianship is not required to maintain a safe services package into the future in the way it might be for a person more able to verbally and physically reject alternatives.

This analysis was conducted within one jurisdiction, however, it likely represents a national trend. The Office of the Public Advocate contends that the safeguarding and administrative needs of service users can be met through less restrictive approaches that better promote human rights than those currently embedded in the design of the NDIS. Therefore, the Office of the Public Advocate recommends that the NDIA and the Department of Health, Disability and Ageing acknowledge, investigate and move to address the likely drivers of this increase in the demand for guardianship for people who access the National Disability Insurance Scheme.