

Office of the Public Advocate

Systems Advocacy

Annual Report

2012–2013

The report is available online (including a plain text version) at www.publicadvocate.qld.gov.au or you may contact our Office for access to a hard copy. Full contact details are provided on the inside back cover.

Feedback on this report is welcomed. A publication survey is available online and may be submitted electronically. Alternatively, a hard copy may be requested from our Office.

The Queensland Government is committed to providing accessible services to Queenslanders from all culturally and linguistically diverse backgrounds. If you have difficulty in understanding the annual report, you can contact us on telephone (07) 3224 7424 or by emailing public.advocate@justice.qld.gov.au and we will arrange an interpreter to effectively communicate the report to you.



Disclaimer

Any views or opinions expressed in this document do not necessarily reflect the views of the Department of Justice and Attorney-General or the Queensland Government.

Every effort has been made to ensure this document is accurate, reliable and up to date at the time of publishing. The Office of the Public Advocate will not accept any responsibility for loss caused by reliance on this information and makes no representation or warranty regarding the quality or appropriateness of the data or information.

This work is copyright, however material from this publication may be copied and published without permission on the condition that the meaning of the material is not altered.

ISSN: 1838-5095 (Print)

ISSN 1838-5109 (Online)

© The State of Queensland (Department of Justice and Attorney-General) 2013



The Honourable Jarrod Bleijie MP

Attorney-General and Minister for Justice
State Law Building
50 Ann Street
BRISBANE QLD 4000

25 September 2013

Dear Attorney

I am pleased to present the Office of the Public Advocate's Annual Report for the financial year ended 30 June 2013.

This report is made in accordance with the requirements of section 220 of the *Guardianship and Administration Act 2000*.

The annual report provides information on the key activities of the Office of the Public Advocate for 2012-13 and a statement of our financial and operational functions for the year.

Under section 221 of the *Guardianship and Administration Act 2000*, the Office of the Public Advocate is not a statutory body for the *Statutory Bodies Financial Arrangements Act 1982* or the *Financial Accountability Act 2009*.

Yours sincerely

A handwritten signature in blue ink that reads "Jodie Cook".

Jodie Cook
Public Advocate Queensland

This page has been left intentionally blank.

The year in review

My first year as Public Advocate has been both a challenging and rewarding one.

Coming into this role gave me the opportunity to reflect on the values that have driven my commitment to improving outcomes for people with disability over my career to date. In doing so, I also considered my journey and the learnings that I have acquired from the people I have met along the way... people who share this commitment and many of whom I have regularly crossed paths with across the years.

I remain proud of the way in which my previous work has made a difference for people with disability and, looking forward, I was humbled as I considered the contribution that being in this incredible role would enable me to make for people with impaired decision-making capacity.

Despite significant reforms over recent years, many systems are still limited in the extent to which they ensure appropriate and reasonable accommodation for people with impaired decision-making capacity. Furthermore, recognition for the contribution that people with impaired decision-making capacity make to the diversity of our society is still evolving.

In considering the myriad of issues impacting people with impaired decision-making capacity, the challenge lay in working out where to start.

However, having worked across non-Government, Government and statutory agencies over the course of my career, I am regularly reminded that change is an incremental process that requires dedication and leadership at multiple levels.

With this in mind, I realised that where I started was less important than ensuring that the work of the Office has currency, applies contemporary thinking, is premised on a solid evidence base and, as far as possible, influences and shapes the future as much as it does the present.

To support this, the Office invested significant time in identifying the key systemic issues impacting people with impaired decision-making capacity in Queensland, and ensuring our understanding of the contributing factors underpinning these issues.

Following our analysis and prioritisation of these issues, the Office commenced a significant and ambitious research and advocacy agenda that continues into the present year.

We have also had the opportunity to contribute to a number of significant inquiries and reforms at both the state and federal levels, perhaps most notably those associated with the National Disability Insurance Scheme, the introduction of the Queensland Mental Health Commission, the care and management of people living with dementia, and issues relating to people with disability who come into contact with the criminal justice system.

Additional to issues that we are advancing in the Office's own research and advocacy agenda, I am pleased to have participated in a number of formative discussions led by other stakeholders in deciding appropriate courses of action for identified systemic issues.

Through these as well as other efforts and opportunities, the past year has re-established the Office as a key stakeholder in discussions and reform activities requiring acknowledgement and action to ensure that Queensland's human rights obligations are upheld.

These activities have resulted in a busy year for our small and dedicated team and I acknowledge and commend the diligence, commitment and hard work of the team under these pressures.

I also thank my predecessors in this role, particularly for the way in which their work continues to shape progressive change for people with impaired decision-making capacity.

I look forward to continuing our unique and important agenda and, in doing so, to promoting and facilitating improved outcomes for Queenslanders with impaired decision-making capacity.



Jodie Cook
Public Advocate Queensland

This page has been left intentionally blank.

Contents

The Office of the Public Advocate.....	7
About the Office of the Public Advocate.....	7
Our vision.....	8
Our role.....	8
Our approach.....	8
Our influence.....	8
Our work.....	8
General principles and the health care principle.....	9
Systems Advocacy in Queensland.....	11
Applying our statutory systems advocacy.....	12
Potential population for statutory systems advocacy	12
The systems advocacy journey: 2012-13 and beyond.....	13
The National Disability Insurance Scheme (NDIS).....	13
Justice inequality for people with impaired decision- making capacity	14
Positive behaviour support and restrictive practices	16
The new Queensland Mental Health Commission and the review of the <i>Mental Health Act 2000</i>	17
Ensuring appropriate support and safeguards for people who are ageing	18
Office of the Public Advocate – Performance.....	20
Key Result Area 1 – Knowledge and Evidence	20
Our research projects	20
Finalised Projects	20
New Projects.....	21
Monitoring and review activities	23
Research partnerships	24
Key Result Area 2 – Communication and Influence	26
Publications.....	26
Presentations.....	26
Conferences, Forums and Events	27
Communication strategy	28
Key Result Area 3 – Advocacy and Inclusion	29
Submissions	29
Consultations	35
Meetings and membership.....	35
Enquiries – information and referral	36
Key Result Area 4 – Business Processes	38
Internal protocol for attending QCAT hearings	38
Business planning	38
Office of the Public Advocate – Operations.....	39
Organisational structure.....	39
Financial summary	40
Travel expenditure	40
Grants expenditure	40
Staff Development	40
Work-life balance.....	40

This page has been left intentionally blank.

The Office of the Public Advocate

About the Office of the Public Advocate

The Office of the Public Advocate is given authority under chapter 9 of the *Guardianship and Administration Act 2000* to undertake systems advocacy on behalf of adults with impaired decision-making capacity.

Our primary role is to promote and protect the rights, autonomy and participation of Queenslanders with impaired decision-making capacity in all aspects of community life.

The core aim of our work is to advocate for systemic change that enables improvements in the lives of people with impaired decision-making capacity, and to create better outcomes, more opportunities and a just and inclusive community for all.

The Public Advocate is an independent statutory position appointed by Governor in Council in accordance with the requirements of the *Guardianship and Administration Act 2000*. Staff are appointed under the *Public Service Act 2008* to assist the Public Advocate to perform the functions under the *Guardianship and Administration Act 2000*.

Under section 209 of the *Guardianship and Administration Act 2000*, the functions of the Public Advocate are:

- promoting and protecting the rights of adults with impaired capacity for a matter;
- promoting the protection of adults from neglect, exploitation or abuse;
- encouraging the development of programs to help the adults to reach the greatest practicable degree of autonomy;
- promoting the provision of services and facilities for the adults; and
- monitoring and reviewing the delivery of services and facilities to the adults.

The Public Advocate may, utilising the powers provided under section 210 of the *Guardianship and Administration Act 2000*:

- do all things necessary or convenient to be done to perform the functions; and
- intervene in a proceeding before a court or tribunal, or in an official inquiry, involving protection of the rights or interests of adults with impaired decision-making capacity.

On 22 November 2012, the *Guardianship and Administration and Other Legislation Amendment Bill 2012* was assented to. Of particular note are the following additions to the powers of the Public Advocate:

- the right to access all information necessary to perform the Public Advocate's functions; and
- the ability to prepare a report to the Minister on systemic issues and have this tabled in Parliament.

The amendments also provide protection from liability for the giving of information to the Public Advocate.

These amendments represent an important step toward improving our evidence base, highlighting priority areas for systems advocacy work, and ensuring awareness of relevant issues by Government, service organisations and the community more broadly.

Our vision

Our vision is to realise a just and inclusive society for all citizens.

Our role

We promote and protect the rights, autonomy and participation of Queenslanders with impaired decision-making capacity in our community.

Our approach

We are committed to evidence-based systems advocacy that explores and extends our knowledge and influence on inclusive policy, programs and practices to promote improved life opportunities and outcomes for Queenslanders with impaired decision-making capacity.

Our influence

Creative influence: We engage collaboratively with our stakeholders by building goodwill, sharing knowledge and expertise, and fostering trust and confidence in our work.

Knowledge leadership: We are committed to research and analysis that informs social policy debate to progress inclusive and sustainable responses for Queenslanders with impaired decision-making capacity.

Professionalism and integrity: We work with clear purpose and commitment to systems advocacy, within a culture where accountability and respect is paramount.

Our work

The way in which we approach systems advocacy centres on ensuring that our research and advocacy activities can be directly mapped to the functions of the Public Advocate role as per the *Guardianship and Administration Act 2000*.

The first part of this report presents a summary of contemporary issues relevant to people with impaired decision-making capacity in Queensland that are being addressed and/or monitored through the work of the Office.

This is followed by more specific information about the activities that we have undertaken in 2012-13. We have presented this information by mapping it against the key result areas around which we centre our business activity. These key result areas are as follows:

- Key Result Area 1 – Knowledge and Evidence
- Key Result Area 2 – Communication and Influence
- Key Result Area 3 – Advocacy and Inclusion
- Key Result Area 4 – Business Processes

General principles and the health care principle

The *Guardianship and Administration Act 2000* provides that a person or other entity who performs a function or exercises a power under that Act for a matter in relation to an adult with impaired decision-making capacity must apply these principles¹.

These principles are firmly embedded in the approach that the Office of the Public Advocate takes to fulfilling its responsibilities.

Presumption of capacity

An adult is presumed to have capacity for a matter.

Same human rights

1. The right of all adults to the same basic human rights regardless of a particular adult's capacity must be recognised and taken into account.
2. The importance of empowering an adult to exercise the adult's basic human rights must also be recognised and taken into account.

Individual value

An adult's right to respect for his or her human worth and dignity as an individual must be recognised and taken into account.

Valued role as member of society

1. An adult's right to be a valued member of society must be recognised and taken into account.
2. Accordingly, the importance of encouraging and supporting an adult to perform social roles valued in society must be taken into account.

Participation in community life

The importance of encouraging and supporting an adult to live a life in the general community, and to take part in activities enjoyed by the general community, must be taken into account.

Encouragement of self-reliance

The importance of encouraging and supporting an adult to achieve the adult's maximum physical, social, emotional and intellectual potential, and to become as self-reliant as practicable, must be taken into account.

Maximum participation, minimal limitations and substituted judgment

1. An adult's right to participate, to the greatest extent practicable, in decisions affecting the adult's life, including the development of policies, programs and services for people with impaired capacity for a matter, must be recognised and taken into account.
2. Also, the importance of preserving, to the greatest extent practicable, an adult's right to make his or her own decisions must be taken into account.
3. So, for example—
 - the adult must be given any necessary support, and access to information, to enable the adult to participate in decisions affecting the adult's life; and
 - to the greatest extent practicable, for exercising power for a matter for the adult, the adult's views and wishes are to be sought and taken into account; and
 - a person or other entity in performing a function or exercising a power under this Act must do so in the way least restrictive of the adult's rights.
4. Also, the principle of substituted judgment must be used so that if, from the adult's previous actions, it is reasonably practicable to work out what the adult's views and wishes would be, a person or other entity in performing a function or exercising a power under this Act must take into account what the person or other entity considers would be the adult's views and wishes.
5. However, a person or other entity in performing a function or exercising a power under this Act must do so in a way consistent with the adult's proper care and protection.
6. Views and wishes may be expressed orally, in writing or in another way, including, for example, by conduct.

¹ *Guardianship and Administration Act 2000* (Qld) s11(1); principles located in schedule 1.

Maintenance of existing supportive relationships

The importance of maintaining an adult's existing supportive relationships must be taken into account.

Maintenance of environment and values

1. The importance of maintaining an adult's cultural and linguistic environment, and set of values (including any religious beliefs), must be taken into account.
2. For an adult who is a member of an Aboriginal community or a Torres Strait Islander, this means the importance of maintaining the adult's Aboriginal or Torres Strait Islander cultural and linguistic environment, and set of values (including Aboriginal tradition or Island custom), must be taken into account.

Notes—

1 Aboriginal tradition has the meaning given by the Acts Interpretation Act 1954, section 36.

2 Island custom has the meaning given by the Acts Interpretation Act 1954, section 36.

Appropriate to circumstances

Power for a matter should be exercised by a guardian or administrator for an adult in a way that is appropriate to the adult's characteristics and needs.

Confidentiality

An adult's right to confidentiality of information about the adult must be recognised and taken into account.

Health care principle

1. The health care principle means power for a health matter, or special health matter, for an adult should be exercised by a guardian, the adult guardian, the tribunal, or for a matter relating to prescribed special health care, another entity—
 - in the way least restrictive of the adult's rights; and
 - only if the exercise of power—
 - is necessary and appropriate to maintain or promote the adult's health or wellbeing; or
 - is, in all the circumstances, in the adult's best interests.

Example of exercising power in the way least restrictive of the adult's rights—

If there is a choice between a more or less intrusive way of meeting an identified need, the less intrusive way should be adopted.

2. In deciding whether the exercise of a power is appropriate, the guardian, the adult guardian, tribunal or other entity must, to the greatest extent practicable—
 - seek the adult's views and wishes and take them into account; and
 - take the information given by the adult's health provider into account.

Note—

See section 76 (Health providers to give information).

3. The adult's views and wishes may be expressed—
 - orally; or
 - in writing, for example, in an advance health directive; or
 - in another way, including, for example, by conduct.
4. The health care principle does not affect any right an adult has to refuse health care.
5. In deciding whether to consent to special health care for an adult, the tribunal or other entity must, to the greatest extent practicable, seek the views of the following person and take them into account—
 - a guardian appointed by the tribunal for the adult;
 - if there is no guardian, an attorney for a health matter appointed by the adult;
 - if there is no guardian or attorney, the statutory health attorney for the adult.

Systems Advocacy in Queensland

The most recent and forthcoming years provide a unique opportunity for systems advocacy in many respects. Significant reforms have been, and are, occurring at both the national and state level across numerous sectors relevant to people with impaired decision-making capacity.

The strategic direction for the Office of the Public Advocate is informed by local, national and international drivers.

At the international level, our work reflects Australia's commitment as a signatory to the United Nations *Convention on the Rights of Persons with Disabilities*. The purpose of this significant Convention 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'
(Article 1).

The Office is firmly committed to ensuring that Australia's responsibility under the United Nations *Convention on the Rights of Persons with Disabilities* is upheld in Queensland. Some of the particular focus areas for the Office are:

- Equality and non-discrimination (article 5);
- Awareness-raising (article 8);
- Equal recognition before the law (article 12);
- Freedom from exploitation, violence and abuse (article 16);
- Living independently and being included in the community (article 19);
- Freedom of expression and opinion and access to information (article 21);
- Respect for privacy (article 22);
- Respect for home and family (article 23);
- Education (article 24);
- Health (article 25);
- Habilitation and rehabilitation (article 26); and
- Work and employment (article 27).

Our work also seeks to support and influence federal priorities in an effort to increase the focus on human rights. There are a number of strategic directions at the national level that underpin our work, in particular:

- The Australian Government's *National Disability Strategy 2010-20*, which articulates the rights of people with disability. This is a 10-year national plan to improve the lives of people with disability, promote participation, and create a more inclusive society.
- The Council of Australian Governments' *Roadmap for National Mental Health Reform 2012-2022*, which outlines the reform directions that governments will take over the next 10 years and re-commits the Australian Government and states and territories to working together towards real improvements in the lives of people with mental illness, their families, carers and communities.
- The 2012 *Living Longer Living Better* aged care reform package, which involves a comprehensive 10-year plan to reshape aged care and build a better, fairer and more nationally consistent aged care system.

The work of the Office also contributes to the agenda of the Queensland Government as outlined in *Getting Queensland Back on Track*, particularly with respect to the focus on revitalising front line services.

Further to this, our work supports the Strategic Plan of the Department of Justice and Attorney-General 2012-16. In particular, the Office played an important role in the following departmental objectives over the past year:

- Provide information and support to help vulnerable people and the community protect their rights, meet their obligations and access our services; and
- Improve guardianship services for vulnerable adults and adults with impaired decision-making capacity.

Systems advocacy provides an opportunity to exert influence on the way that Government shapes its strategic agenda by promoting recognition for human rights and ensuring that this is translated into action.

Applying our statutory systems advocacy

Our commitment is toward building and drawing from an increasingly well-developed evidence-base by recognising and operationalising an approach to systems advocacy that is informed by robust data and information.

This year we revisited the operations of the Office of the Public Advocate within the context of how best to achieve outcomes with due consideration for resourcing constraints, contemporary approaches and future directions.

In response to this review, the Office has instigated a project management approach that maximises the resources of our small team by undertaking our work in a more structured and collaborative way.

Depending on the nature of each project, this collaboration could involve internal and/or external engagement and is intended to build on the strengths of individual team members, as well as the strengths of the sector.

We have developed partnerships with other statutory bodies such as the Office of the Adult Guardian and the Anti-Discrimination Commission of Queensland, and re-established partnerships with tertiary institutions, in particular the Queensland University of Technology, Griffith University and the University of Queensland.

Furthermore, we have engaged with numerous stakeholders within the sector and community to discuss and advance a number of priority systemic issues.

We have generated an approach that is both pro-active and responsive. Our approach is pro-active in the sense that we have initiated a number of significant research and advocacy projects to explore a range of prioritised systemic issues, and responsive to the extent that we actively identify issues being raised by others through inquiries and similar activities and provide evidence in support of people with impaired decision-making capacity.

Potential population for statutory systems advocacy

In 2013, it is estimated that there are approximately 114,000 adults (1 in 42 people) with impaired decision-making capacity in Queensland. By 2020, the 'potential population' is estimated to increase to approximately 136,000 adults (1 in 40 people).

The 'potential population' concept utilises the latest data from the national Survey of Disability, Ageing and Carers conducted by the Australian Bureau of Statistics to identify and profile the potential population.

We have defined the potential population as follows:

Adults living in either private households or cared accommodation (e.g. a group home, health establishment of institutional setting) who need assistance to make decisions or think through problems due to a disabling condition.

The analysis of the potential population will be reviewed annually, taking into account new data as it becomes available.

The potential population for statutory systems advocacy includes all Queensland adults who have impaired decision-making capacity.

Our cohort is therefore broad and inclusive and is not restricted to people who access a government-funded or government-provided service, or people in the guardianship system.

The primary factors that can impact decision-making capacity include intellectual disability, acquired brain injuries arising from catastrophic accidents, mental illness, ageing conditions such as dementia, and conditions associated with alcohol and drug misuse.

It is important to note that not all people with these conditions will have impaired decision-making capacity, and that impaired decision-making capacity does not necessarily impact all areas of an adult's life, and may fluctuate in response to situational issues.

The Office of the Public Advocate is committed to promoting opportunities to increase autonomy for adults with impaired decision-making capacity. In many cases, our work also contributes to improved outcomes for other vulnerable groups.

The systems advocacy journey: 2012-13 and beyond

The National Disability Insurance Scheme (NDIS)

The past year saw the introduction of the *National Disability Insurance Scheme Act 2013* and the 'Rules' that will underpin the implementation of the Scheme. Ongoing work is also occurring on initiatives and resources that offer practical ways to prepare people with disability, their family and carers, the disability sector workforce and disability sector organisations for the transition to Australia's National Disability Insurance Scheme (NDIS).

The National Disability Insurance Scheme represents a significant step toward addressing the deficiencies of the current systems that exist across Australia and a meaningful advancement toward the social inclusion and economic participation of Australians with disability.

Of concern for Queensland is whether individuals, families/carers, and the Queensland disability services sector more broadly will be sufficiently prepared for the commencement of the NDIS, which is scheduled to begin in Queensland in July 2016.

While it is laudable that Australia's NDIS is premised on the assumption that individuals have the capacity to make their own decisions, this may present challenges for people with impaired decision-making capacity. Given that people with impaired decision-making capacity have the same rights as people with capacity, it is essential that the NDIS accommodates and protects people who require support to make their own decisions.

It is important that the NDIS provides for a range of decision-making supports and includes protections from potential abuse, neglect or exploitation. In addition to placing the person with a disability at the centre of decision-making, every effort must be made to understand the surrounding circumstances and ascertain the true wishes of the person with impaired decision-making capacity prior to decisions being made on their behalf.

The majority of potential NDIS participants will be identified through their application to access support, however there will be others who continue to be 'hidden' within the community. These vulnerable people might include those who have a disability and are homeless, in contact with the criminal justice system, undertake high risk activities/behaviours, reside in remote areas, are indigenous, or are from a culturally diverse background. Given the Queensland 'landscape', it will be important to ensure that there is an appropriate strategy to identify and support those individuals who might otherwise 'fall through the cracks'.

It also needs to be acknowledged that while not all people with a disability have or need a carer, for those who do, families, unpaid carers and informal support networks often provide the majority of care. For many, quality of life is dependent on the commitment of families and support networks. While the NDIS acknowledges and respects the significant roles of families, carers and support networks, it will be important to ensure that this extends to providing practical support for the development and maintenance of these informal support networks.

The National Disability Insurance Scheme is designed to provide the support and care that people with a disability require in everyday life, however not all applicants will satisfy the eligibility criteria. This may result in some people with disability struggling to access and fund disability support services and could drive a need for state governments or other federally-funded systems to fill the gap. It may also increase demand for mainstream and community services. Consideration should be given to the potential impact that ineligible applicants may have on the demand for other supports and services in the community.

The launch of the NDIS has highlighted the need to address a number of key issues to ensure successful implementation in the launch sites and to support its progressive roll-out across other jurisdictions.

While the commencement of the NDIS in Queensland may feel like it is still some time away, it represents a significant change to the 'business model' underpinning the provision of disability services. The NDIS also represents a significant enhancement of the level of choice and control that people with disabilities and their families/carers will have in deciding the way that supports will be provided to them.

In accordance with this, there is an immediate need within Queensland to build the capacity and understanding of service providers in relation to working within what is likely to become a 'market economy'. While many of the larger providers have been operating under these kind of business models for many years, the majority of small- and medium-sized providers have historically operated as 'not-for-profit' welfare agencies and may not have the necessary level of business acumen and/or infrastructure to operate in a competitive market environment.

Recent discussions have also centred around the potential for large multi-national companies to enter the Australian disability services 'market'. Given that these organisations are generally supported by solid financial backing, this may require existing providers to work actively on generating sufficient business efficiencies to offer competitive rates for the services they provide.

Another issue of concern, particularly in relation to service providers that have not previously offered services to people with disability, is that of ensuring quality services that uphold individual rights and autonomy and are focused on achieving outcomes while still providing appropriate and adequate safeguards for people with disability.

While it is proposed that existing state and territory quality assurance systems continue to operate in the immediate future, as the NDIS moves progressively toward full national implementation, the need for a consistent set of regulations and/or service standards with respect to quality, practice safeguards, etc will become increasingly important.

The expectations for Queensland with respect to transitioning people with disability to the new system of support are not clear. The NDIS launch has made provision for continuity of support arrangements although it is not yet known whether these same provisions will be available through the fully enacted NDIS.

The financial sustainability of the National Disability Insurance Scheme could be significantly impacted by the provision of support to people who become a NDIS participant through continuity of support arrangements, particularly if it is proposed that these arrangements extend to the full roll-out of the Scheme. The number of people requiring continuity of support and the aggregated cost of their support may not be fully realised until the scheme is fully implemented.

Significant emphasis has been placed on the financial sustainability of the NDIS. In addition to the above points regarding continuity of support arrangements, the financial viability of the scheme may also be impacted by absorbing the responsibility for people currently accessing high-cost state arrangements, should these costs not be fully realised or accurately predicted. Although the numbers of such individuals in Queensland are relatively low, the relative cost of their support far exceeds the 'upper limits' of nominal funding bands for support arrangements, particularly those associated with the provision of 24-hour accommodation support.

Unfortunately, the introduction of the NDIS does little to address the fragmented nature of the broader service system within which it is being introduced, despite its reliance on the agencies within these systems (for example, employment, housing, etc) to supplement the supports that the NDIS will provide for people with disability.

This is an area on which the Office is keenly focused and will work actively to promote and encourage action by the Queensland Government in its preparation for the introduction of the NDIS.

Justice inequality for people with impaired decision-making capacity

In 2012, the Mental Health Court brought a particular matter to the attention of the Public Advocate. This case drew attention to a number of systemic issues associated with the introduction of the *Forensic Disability Act 2011*.

Both the report by Brendan Butler AM SC *Promoting Balance in the Forensic Mental Health System: Final Report Review of the Queensland Mental Health Act 2000* (the Butler Report), and the report by William Carter QC, *Challenging Behaviour and Disability: A Targeted Response* (the Carter Report) drew attention to the inappropriate detention in Authorised Mental Health Services of people with intellectual disability but no mental illness who had been made subject to a forensic order.

When a person comes before the Mental Health Court, there is a need to strike a balance between an individual's right to the greatest degree of autonomy, to adequate and appropriate support in their decision-making, and to protection from neglect, abuse and exploitation when their disability prevents them from looking after their own interests. Furthermore, balancing an individual's rights, protections and needs with the need to safeguard the rights and protection of others is also of particular significance given the nature of forensic matters.

Wherever possible, any order applied to an individual should be appropriate to the circumstances of the individual and the nature of the offence at hand. It should also allow for the simplest and most cohesive approach to ensuring that the individual's rights are upheld, while supporting them to access an appropriate care and treatment regime that protects the interests of both the individual and the broader community.

The introduction of the *Forensic Disability Act 2011* and the associated amendments to the *Mental Health Act 2000* were designed to afford protection for the rights of individuals with intellectual or cognitive disability who come before the Mental Health Court with a view to better meeting their needs, maximising their quality of life and promoting increased opportunities for sustainable outcomes.

While the establishment of the Forensic Disability Service and the commencement of the *Forensic Disability Act 2011* went some way towards providing a more appropriate model of care for people with intellectual disability or cognitive impairment who are found to be unsound of mind or unfit for trial by the Mental Health Court, and addressing the concerns raised by the Butler and Carter Reports, it was not sufficient. *The Forensic Disability Act 2011* only provides the legislative framework for the ten-bed Forensic Disability Service; it does not provide a holistic system response to enable coherent, consistent and integrated care and support options for this cohort in Queensland.

The current scheme for the care and support of people with intellectual disability who come before the Mental Health Court is now fragmented across the *Mental Health Act 2000* (forensic orders for people who have been found unfit to plead or unsound of mind); the *Disability Services Act 2006* and the *Guardianship and Administration Act 2000* (restrictive practices); the *Forensic Disability Act 2011* (behaviour control medication) and the health care provisions of the *Guardianship and Administration Act 2000*.

There continues to be a large number of people with intellectual disability and no mental illness detained to Authorised Mental Health Services in Queensland. Some of them are subject to a forensic order and some are not.

Some people with intellectual disability are subject to approval for containment and seclusion by the Queensland Civil and Administrative Tribunal where they are held in detention-like conditions in the 'community'. Some of these people are also subject to forensic orders and are receiving limited community treatment whilst subject to containment.

There is also a cohort of people who continue to reside on the site of the previous Basil Stafford Centre at Wacol, initially entering this accommodation because they were in 'crisis'. Unfortunately, it now seems that this is becoming a permanent place of residence for some who remain there under restrictive practice approvals.

A further issue that has emerged is that a forensic order (Mental Health Court - Disability) made under the *Mental Health Act 2000* provides authority for the detention and care of a person, but not involuntary treatment. This is appropriate given that people with intellectual disability, but no "mental illness requiring involuntary treatment," do not require 'treatment' for a mental illness.

However, many people with intellectual disability subject to a forensic order (Mental Health Court - Disability) are still being administered medication of some type or another. Where it is medication for 'health care' as defined by the *Guardianship and Administration Act 2000* and a capacity assessment determines that the person is unable to consent to the medication, then the usual hierarchy of decision makers would apply (see section 66 *Guardianship and Administration Act 2000* and section 63 *Powers of Attorney Act 1998*).

Where it becomes more problematic is when the medication being administered may not be strictly for 'health care' purposes (that is to diagnose, maintain or treat the adult's physical or mental condition), but for the purposes of controlling the adult's behaviour.

While a person is detained in the ten-bed Forensic Disability Service, the *Forensic Disability Act 2011* provides for the administration of behaviour control medication, but this is not applicable to the majority of those under a forensic order (Mental Health Court - Disability) who are not detained in that service. The *Mental Health Act 2000* does not provide for the administration of behaviour control medication.

It seems there may be further ambiguity about how a person with intellectual disability subject to a forensic order (Mental Health Court - Disability) should be administered medication for mental illness if they do not have the capacity to consent to it themselves and do not meet the threshold for involuntary treatment of a mental illness under the *Mental Health Act 2000*, as evidenced in *Re DKB*.²

Despite the inherent ambiguities, we have come a long way towards challenging the medical model for the care and support of people with disability; however we are not quite there yet.

² *Re DKB* [2012] QMHC 6, 10.

In reviewing the legislative provisions of the *Mental Health Act 2000*, the Department of Health should take a very cautious approach towards addressing these ambiguities. Amending the *Mental Health Act 2000* to allow involuntary treatment to form part of the forensic order (Mental Health Court - Disability) would counter the fundamental legislative principles and clinical formulation on which responses for people with intellectual disability are currently founded.

Ultimately, the overall aim must be the provision of adequate and integrated systems of support that are able to be tailored to the specific needs of the person with intellectual disability with a view to reducing and/or eliminating the use of medication as a means of attending to complex needs that might more appropriately be addressed by different models of support.

Positive behaviour support and restrictive practices

It has been five years since the introduction of the regulatory regime and the other systemic reforms aimed at reducing restrictive practice use in the disability services sector in Queensland.

Much debate prevails about the tacit 'approval' that the legislative regime gives to actions such as detention and physical restraint that would otherwise potentially incur civil and/or criminal liability.

The introduction of legislative amendments to the *Disability Services Act 2006* and the *Guardianship and Administration Act 2000* in 2008 to regulate the use of restrictive practices by funded disability service providers and compel the introduction of a positive behaviour support approach drew much-needed attention to a significant rights issue that is not unique to Queensland.

In 2012-13, the legislative provisions in the *Disability Services Act 2006* and the *Guardianship and Administration Act 2000* that collectively regulate the use of restrictive practices have been under review by the Department of Communities, Child Safety and Disability Services (DCCSDS).

In responding to this review, it was noted that there is little or no evidence available in relation to the effectiveness to date of the regulatory regime and/or the complementary systemic reforms in reducing or eliminating the need to use restrictive practices.

It was similarly noted that there is little on which to base any objective assessment regarding whether there has been any undue compliance burden imposed on service providers that can be directly attributed to the regulatory component of the reforms.

It is therefore concerning that the review had such a strong focus on the legislative provisions regulating the use of restrictive practices.

The recommendation articulated in the Carter Report for a legislative framework to provide lawful authority and safeguards for the use of restrictive practices was but one of many recommendations aimed at "a fundamental process of reform, renewal and regeneration of the DSQ and disability sector's response, which will provide an efficient, cost effective and financially sustainable outcome for the proper care and support of persons with intellectual disability and challenging behaviour across Queensland".³

Legislation is a blunt instrument for achieving the type of cultural change that is required to make a difference in the lives of people with impaired decision-making capacity. True cultural shift will only be achieved when service providers understand and uphold in practice a rights-based approach to the way in which they support clients.

The focus on the broader practice and system initiatives aimed at building the capacity of the sector to implement positive behaviour support approaches to reduce and eliminate the need for restrictive practices must not be lost.

The process of reform is not, and was never intended to be, about validating why restrictive practices should be used. It was always about reducing the use of restrictive practices by promoting a shift in mindset, culture and practice and increasing the use of positive strategies that responded to the function of behaviour for the person.

Ongoing cultural change is required within the sector to shift the way that people think about the legislation and what it is asking of service providers.

There is a need to change the way that the regulatory regime is viewed so that the focus reverts to the human rights perspective that underpinned its development; in other words, bringing the focus back to positive behaviour support not restrictive practices.

³ Hon W J Carter QC. *Challenging Behaviour and Disability: A Targeted Response* (Report to the Queensland Government 2006) 9

Positive behaviour support should be seen as a means by which to uphold people's rights and to generate a better understanding of people with intellectual disability or cognitive impairment by ensuring that we listen to and 'hear' what people are trying to tell us through their behaviour, and respond to that appropriately.

Positive behaviour support is about making sure that support staff understand the person at their core and, in doing so, adjust the environment, the opportunities for the person, the way staff engage with the person, and other relevant factors to reflect what they come to learn about the person and their needs.

Everything that is done from the time that a service provider makes the assertion that restrictive practices are needed to the time that a decision-maker is considering whether they will consent to/approve the Positive Behaviour Support Plan should be premised on the assumption that restrictive practices would *not* be necessary if the person was better understood and their needs more appropriately met, as opposed to seeking to validate why the practices are needed.

A key focus for this Office going forward will be to ensure that Government and disability service providers actively educate, encourage and support people with disability to exercise their rights and to be engaged in decision-making in relation to the way in which support is provided to them.

The new Queensland Mental Health Commission and the review of the *Mental Health Act 2000*

The introduction of the Queensland Mental Health Commission (the Commission) represents an important opportunity for Queensland to pursue an increasingly cohesive system of response for people living with mental illness as well as those who misuse substances.

The Commission was established by the *Queensland Mental Health Commission Act 2012*, which also provides a good framework for promoting coordinated systemic responses to the issues of mental illness and substance misuse across the government and non-government sectors through the requirement for the development of a whole-of-government Strategic Plan.

Transparent and accountable operation of the Commission, as well as involvement of stakeholders in its operation is promoted by the establishment of the Queensland Mental Health and Drug Advisory Council.

The Commission is also empowered by the *Queensland Mental Health Commission Act 2012* to undertake systemic advocacy through its role in monitoring and reporting on the implementation of the strategic plan, its ability to request information relevant to the Commission's functions from public sector agencies, and the ability to prepare reports on systemic issues in relation to mental health and substance misuse issues and services.

The Queensland Mental Health Commission Act 2012 promotes the inclusion of people with mental illness or substance misuse in our communities and their right to live meaningful and independent lives.

While the Queensland Mental Health Commission's establishment and remit represent a significant opportunity for Queenslanders with mental illness, the amendments to the *Mental Health Act 2000* (introduced by the *Queensland Mental Health Commission Act 2012*) that provided for the ability to impose monitoring conditions (which could include GPS monitoring) on some patients as part of conditions authorised by the Director Mental Health on their limited community treatment order, are of concern.

Further, the Director of Mental Health was given the power to suspend limited community treatment for a 'class' of patients. By providing these powers to an executive officer, there is potential for an inherent conflict with respect to the principles contained in human rights instruments to which Australia is a signatory. The powers can also, arguably, be identified as potentially discriminatory. The Office will be monitoring and reviewing the use of these powers in relation to people with mental illness in Queensland.

On 28 June 2013, the Honourable Lawrence Springborg MP Minister for Health announced that the *Mental Health Act 2000* would be reviewed. The Office raised a number of considerations in its submission in relation to the terms of reference for the review, and will continue to participate in the review as it progresses.

Ensuring appropriate support and safeguards for people who are ageing

The majority of Queensland adults with impaired decision-making capacity are aged over 50 years. Twenty-two percent (22%) are aged 80 years or older, which is primarily attributable to the increased prevalence of age-related conditions, such as dementia, that can specifically impair a person's decision-making capacity.⁴

Living Longer, Living Better

The *Living Longer Living Better* aged care reform package announced on 20 April 2012 involves a comprehensive 10-year plan to reshape aged care and build a better, fairer and more nationally consistent aged care system.

As a contributor to the Australian Guardianship and Administration Council's submission, we indicated broad support for the policy thrust of the legislative reform.

Concern was expressed, however, in relation to it being based upon a framework that is still linked to medium to large institutional care despite its recognition of the need to provide for supports that enable people to remain in community, for example through the delivery of home care.

It was also noted that the delivery of home care is based on the supposition of a strong pre-existing informal care network, which is not present for a significant number of Australians. In accordance with this, the importance of providing appropriate support to both formal and informal networks was recognised as an important factor to maintaining individuals safely in the community, thereby supporting the policy of ageing in place.

Dementia

This issue was similarly recognised in providing evidence to the senate inquiry in relation the care and management of people with dementia and the behavioural and psychiatric symptoms of dementia (BPSD).

Dementia is a significant health issue in Australia with nearly one million Australians predicted to experience dementia or BPSD by 2050. Dementia is forecast to become the leading cause of disability in Australia.

Future models for the care and management of people living with dementia or BPSD must be innovative, flexible, multi-faceted and able to be tailored to individual needs in order to achieve positive individualised outcomes.

Future models for care and support should provide people experiencing dementia or BPSD with opportunities to maximise their participation and inclusion in the community and enable them to remain living in the community for as long as possible.

Adaptive equipment and assistive technologies are an important inclusion in any individualised, needs-based support model. Use of adaptive equipment and assistive technologies can assist a person experiencing dementia or BPSD to remain living in their home for longer and reduce the need for early entry into supported accommodation.

Future models of care must promote and enhance early diagnosis of dementia and BPSD. The benefits to obtaining an early diagnosis are significant and recognised. More robust connections between the medical professionals who diagnose dementia and BPSD and those who provide early intervention and support services must be developed.

While increasing responsiveness from medical practitioners is supported, it is concerning that there may be an increase in the use of anti-psychotic medication to manage some behavioural symptoms of dementia. Sadly, the use of restraints such as these may be an option of convenience rather than being the option that is in the best interests of the person. The Office supports efforts to reduce the use of physical and chemical restraint given that it is an infringement of a person's human rights.

There is a need for targeted and easily accessible information to assist people to navigate service systems, identify potential supports and services, and tailor arrangements that are responsive and individualised.

A range of practical strategies, support options and funding models should be made available, with the flexibility to tailor these in a way that meets more immediate needs and allows for adaptation to address a person's changing needs over time.

Furthermore, the natural supports of a person should be recognised and supported in a way that complements the provision of specialist services. This can assist in slowing the progression of the syndrome (where possible) and mitigate the need to move prematurely into supported accommodation or residential aged care.

⁴ Office of the Public Advocate (Qld) 2013, *The Potential Population for Systems Advocacy*, Office of the Public Advocate, Brisbane.

Planning for the future

Initiatives that encourage people to plan for and organise their future personal, health, financial and legal affairs are strongly supported by the Office. Doing so enables medical evidence to be obtained to support a person's capacity and therefore the legitimacy of any authoritative instruments they may choose to prepare.

While these instruments are developed in recognition of the likelihood that decision-making capacity may become impaired at a future point, their existence should not preclude the involvement of the person in decisions regarding their care and support. Every endeavour must be made to provide information in appropriate formats to enable the person to participate in decision-making to the greatest extent possible. Further, the person's views should always be considered in any decision-making processes, even once they are deemed to lack decision-making capacity.

Elder abuse

It is estimated that 26,000 older people in Queensland are abused each year by someone they know and trust. The most common abuse type, based on data collected by the Elder Abuse Prevention Unit (EAPU), is psychological abuse, followed by financial abuse, neglect, physical abuse, social abuse and sexual abuse.

Each month an average of 83 cases of elder abuse are reported to the Queensland Government funded Elder Abuse Helpline, with sons or daughters accounting for approximately 59% of allegations. It has been noted, however, that the actual number of elder abuse cases in Queensland is likely to be higher than the reported figures, given that many cases go unreported due to low community awareness and victims being too scared or ashamed to speak out.

Queensland is well-positioned to prevent and respond to elder abuse, in that there is a genuine collaboration and cooperation developing among key government and non-government stakeholders. This is exemplified through the "Elder Abuse – Make the call" campaign.

It is important to ensure increasing awareness of and responsiveness to the issue of elder abuse. Accordingly, the Office will continue to actively monitor the effectiveness of initiatives focussed on this issue, and will continue engaging with key stakeholders to explore further opportunities to address this important issue.

Office of the Public Advocate – Performance

Key Result Area 1 – Knowledge and Evidence

Use an evidence-based approach to all research and information gathering activity

Produce, integrate and translate knowledge for key audiences/stakeholders

Our credibility and ability to influence decision-makers to promote positive change relies on a robust approach to knowledge and evidence.

In 2012-13, the Office dedicated a significant component of its resources to building the evidence base to inform future planning and systems improvement. The initiatives included both in-house research activities and leveraging partnerships with external parties.

Our research projects

To assist in building the evidence base, the Office has led the development of some unique concepts and innovative projects. Some projects initiated by the Office are undertaken in partnership with other stakeholders, while others are led by the Office and draw on input from the sector as part of developing the necessary evidence base.

Finalised Projects

The following research and advocacy projects were finalised during 2012-13.

The Adult Guardian Client Profile Project⁵

The Office of the Public Advocate embarked on this significant research, in partnership with the Office of the Adult Guardian, to build an evidence base to better inform both the service delivery functions and statutory systems advocacy around guardianship in Queensland.

Prior to undertaking this project, little was known about the characteristics and circumstances of the group of people subject to a guardianship order where the Adult Guardian was the appointed guardian.

The aim of the project was to develop a better understanding of the composition of the Adult Guardian client population (a profile) including a demographic profile of people subject to orders appointing the Adult Guardian; trends in guardianship for this cohort, including projected growth in orders where the Adult Guardian is appointed; and key issues and emerging trends relevant to this cohort.

The project primarily involved the collation and detailed examination of three key data sources: the Adult Guardian Client Information System, a database of clients who received specialist disability services (against which the Adult Guardian database was matched), and a sample of case files for adults for whom the Adult Guardian has been appointed as guardian.

The client profile established a broad range of demographic statistics for the Adult Guardian client population including age, gender, country of birth, indigenous status, living arrangements, employment status, and a range of other data. Of particular note were findings that:

1. The most common reason for clients to access the guardianship system was the need to access support services.
2. The majority of initial applications for a guardianship order were made by either health care or social workers, or service providers.
3. The most common matters for the appointment of the Adult Guardian were for decisions regarding accommodation, service provision and health care.
4. There has been a steady increase in the number of new clients who have the Adult Guardian appointed in the ten years examined (2000 – 2010), from 13 in 2000 (when the legislation commenced) to 722 during 2010.

The findings from this project have informed many of the current research and advocacy projects being undertaken by the Office and will provide a useful source of evidence for many years to come.

⁵ The Report – The Adult Guardian Client Profile Project: An independent analysis of a guardianship clients and orders made to the Adult Guardian 2000-2010 is available on the Public Advocate's website www.publicadvocate.qld.gov.au.

Feeling Safe Acting Safe – safety strategies used by people with intellectual disability⁶

The Office of the Public Advocate partnered with Griffith University and the Office of the Adult Guardian to explore the ways in which people with intellectual disability keep themselves safe in the places where they live.

A small-scale participatory research project was undertaken that asked people with intellectual disability about their experiences. The research employed an innovative and rights-respecting participatory methodology, which involved the participation of people with an intellectual disability in the design, data collection and analysis of information.

The views of policy makers and practitioners responsible for accommodation and community living were also obtained by way of interviews.

The findings of the study have been incorporated into an article in the *Scandinavian Journal of Disability Research*, written by Sally Robinson⁷ and are summarised as follows:

- The level of choice and control people felt they had over their living environment impacted on their feelings about personal safety. Those living in shared arrangements and those who required significant personal support had a lower sense of safety.
- It was the participant's surrounding circumstances, not their capacity, that had the most effect on putting their personal safety strategies in place. People's personal safety strategies appear to be more successfully implemented in more supportive environments.
- The lived experience of people with intellectual disability and the challenges they face in keeping themselves safe provide valuable insights for policy and practice and should be taken into account in the context of the changes occurring in Australia, including the rapid move towards individualised funding and support.

Insights from the research may be used to develop and promote practical strategies to enable and support people with an intellectual disability to keep themselves safe in the places where they live.

⁶ Further information about this project, the methodology and findings can be accessed on the Public Advocate's website www.publicadvocate.qld.gov.au. in *Research Insights: Safe at Home? Safety strategies used by people with intellectual disability*.

⁷ Sally Robinson, 'Safe at home? Factors influencing the safety strategies used by people with intellectual disability', *Scandinavian Journal of Disability Research* (2013) DOI:10.1080/15017419.2013.781958.

New Projects

The reformation of the Office of the Public Advocate has brought with it the opportunity to initiate a number of projects focussing on key systemic issues impacting Queenslanders with impaired decision-making capacity.

People with intellectual disability in long-stay health facilities

On 17 June 2013, the Public Advocate released a Position Statement on continuing the deinstitutionalisation of people with disability in Queensland. This position statement supports the right of people with disability to access appropriate supports and opposes the placement of people with disability in environments and locations that do not enable inclusion and participation in the community.

Through our systems advocacy work we became aware that there are a significant number of people with intellectual disability or cognitive impairment who continue to reside in institutional settings including psychiatric hospitals and other long-stay health care facilities.

Building on this position statement, this project seeks to raise awareness and promote action by Government to encourage the development of a positive and planned strategy for people with intellectual disability or cognitive impairment residing in long-stay health care facilities.

The Public Advocate has sought information from key Government agencies about the number of people with intellectual disability and cognitive impairment who continue to reside in long-stay health care facilities.

The Public Advocate also sought information on the extent to which key agencies are working together to assess the immediate and future needs of individuals in these facilities and plan, on an individual basis, for their transition to more appropriate community-based accommodation and/or support arrangements. Submissions from interested individuals or organisations were called for on this subject. The Public Advocate also visited a number of long-stay health care facilities in Queensland where people with intellectual disability or cognitive impairment are residing.

Initially, a public report will be prepared detailing the evidence gathered in the initial stages of this project. It is expected this report will be published later in 2013. The Public Advocate will then continue to work collaboratively with key Government agencies in relation to securing more appropriate support for this group of people.

Supported decision-making in Queensland's guardianship system

The Office is firmly committed to ensuring that Australia's responsibility under the United Nations *Convention on the Rights of Persons with Disabilities* is upheld in Queensland. The Office therefore supports the right of people to be supported in the least restrictive way to achieve maximum autonomy.

Queensland's *Guardianship and Administration Act 2000* attempts to balance the rights of a person to exercise autonomy in decision-making with their right to adequate and appropriate support for decision-making when required. The legislation is premised on the notions that decision-making intervention should be the last resort and where it is required, the least intrusive and least restrictive alternatives should be pursued.

It is incumbent upon all parties in Queensland's guardianship system to uphold, both in intent and practice, the obligations imposed upon them by the Act and by relevant human rights instruments. Arguably, it is only through application of these principles that the guardianship system fully supports the rights and individual autonomy of Queenslanders with impaired decision-making capacity.

There is anecdotal evidence that disparity exists between the principles in Queensland's guardianship legislation that support the preservation of the right of people to receive support to make their own decisions, and practice.

The current enablers and obstacles to translating this intent into practice are unclear. In response, this research seeks to identify the systemic enablers of, and barriers to, the practice of supported decision-making and the potential that exists within the system for greater use of supported decision-making practices.

Over the coming year, the Office of the Public Advocate will undertake interviews, observations and surveys with the agencies involved in the Queensland guardianship system, a literature review and an examination of Queensland legislation. The Public Advocate will invite submissions on this issue from stakeholders and convene an Advisory Group to provide expert knowledge and strategic advice. This will generate the evidence base from which the Public Advocate will report on the systemic issues and make recommendations.

The final report will inform future discussion in relation to supporting decision-making for Queenslanders who are subject to a guardianship or administration order. It will also enable the Public Advocate to work collaboratively with various agencies to pursue strategies and system enhancements that maximise participation and autonomy for Queenslanders with impaired decision-making capacity.

Ensuring a fair, equitable and appropriate justice system for persons with a mental illness, intellectual disability or cognitive impairment subject to forensic orders

The *Mental Health Act 2000* makes provision for people who are accused of committing an indictable criminal offence and who have been found to be of unsound mind or permanently or temporarily unfit for trial to be diverted away from the traditional criminal justice system, placed on a forensic order and detained to an Authorised Mental Health Service.

In 2011, amendments were made to the *Mental Health Act 2000* that introduced the forensic order (Mental Health Court - Disability) and the new *Forensic Disability Act 2011* was commenced. Together these new legislative provisions recognised that the support and accommodation needs of people with intellectual disability who are subject to a forensic order are different to those with mental illness.

Cognisant of the review of the *Mental Health Act 2000* currently underway, the Office is reviewing systemic issues associated with the involuntary treatment of Queenslanders subject to forensic orders, with a particular focus on the care and support of people with intellectual disability subject to a forensic order (Mental Health Court - Disability).

The Public Advocate is interested in exploring issues in relation to the way in which the court-ordered care and support of people with intellectual disability in Queensland is applied and the safeguards that apply under the *Mental Health Act 2000*, the *Forensic Disability Act 2000*, the *Guardianship and Administration Act 2000* and the *Disability Services Act 2006*.

The appropriateness of the supports and services provided to people with intellectual disability subject to a forensic order (Mental Health Court - Disability) and whether they are provided in a personalised, integrated and culturally inclusive way is also of concern.

The Office of the Public Advocate will request and analyse a range of qualitative and quantitative data and seek the views of key stakeholders. The exact scope of this project is yet to be determined, pending the scope of the review of the *Mental Health Act 2000*.

Determining the representation of Indigenous persons in the guardianship system

In 2011, the Office of the Public Advocate funded a joint research project undertaken by Griffith, Central Queensland and James Cook Universities. That project highlighted many knowledge gaps, including limited information regarding how many Aboriginal and Torres Strait Islander people have contact with the guardianship system in Queensland.

Since that time, improvements in the way data is collected in some agencies has provided an opportunity to obtain more information to complement existing research on guardianship for Indigenous Queenslanders.

The Office of the Public Advocate is working with key agencies in the guardianship system to ascertain the proportion of Indigenous Queenslanders in the guardianship system, and to further explore the factors impacting the level of representation.

This is a phased project, beginning with the Office of the Adult Guardian. In cooperation with the Office of the Adult Guardian, almost 9,500 records were extracted from the client management system of the Office of the Adult Guardian. These records allowed the Office to undertake the first robust estimate of the proportion of Indigenous adults for whom the Adult Guardian is appointed in Australia. The analysis covered demographic variables as well as a range of factors pertaining to guardianship orders.

Further data will be collected from other agencies that form part of the guardianship system prior to the preparation of a final report.

Accessibility of the complaints systems available to adults with impaired decision-making capacity and their families and carers

Through our systems advocacy work, the Office has received reports from a number of people who feel that agencies have not responded adequately to complaints that they have made. As part of our role in monitoring and reviewing services provided to adults with impaired decision-making capacity, we are committed to ensuring that agencies that interact with people with impaired decision-making capacity have complaints systems that are accessible, responsive to, and supportive of them.

This project, which is supported by the Queensland Ombudsman, aims to assess the various complaints management systems that respond to adults with impaired decision-making capacity, their families and carers, and ascertain the extent to which these key agencies ensure that their complaints systems make reasonable allowance for adults with impaired decision-making capacity.

In particular, this project will examine the extent to which agencies apply the presumption of capacity, and work with individuals to ensure they receive the support they need to enable natural justice in the complaints process.

Further to the work being pursued by our Office, the Queensland Ombudsman is conducting its scheduled audits of agencies against the best practice standard.

Investigation into the use of electronic monitoring at disability accommodation sites

Commencing in late 2012, the Office of the Public Advocate partnered with the Office of the Adult Guardian and the Community Visitor Program to inquire into the use of electronic monitoring at disability accommodation sites across Queensland. The aim of the project is to understand the prevalence of, and reasons for, the use of electronic monitoring at disability accommodation sites.

This inquiry was instigated as a result of concerns that the rights of clients were being compromised by the use of ad hoc electronic monitoring without appropriate policy or practice safeguards at the site and/or organisational level.

Data collection at the site level, utilising a survey tool administered by community visitors at visitable sites, is now complete. Phase two of the project will involve surveying service providers at the organisational level to ascertain the degree of alignment between ground-level and organisational level perspectives.

The results of the inquiry, including an analysis of the findings, will be published in a joint report between the Office of the Adult Guardian, Community Visitor Program and the Office of the Public Advocate in late 2013. Depending on the outcomes of the research, the report may present recommendations for policy and/or practice reform.

Monitoring and review activities

In accordance with the Public Advocate's function of monitoring and reviewing the delivery of services and facilities to adults with impaired decision-making capacity, the Public Advocate is monitoring the following review and reform activities being undertaken by the Department of Communities, Child Safety and Disability Services:

- Review of the Clinical Governance Framework and the clinical services resourcing and approach;
- Review of the service model and governance arrangements for the Forensic Disability Service;
- Review of the service model and governance arrangements for regional transitional accommodation services.

The Public Advocate has requested regular updates in relation to these activities and will continue to actively monitor these reviews as well as any emerging reforms.

Research partnerships

The Office of the Public Advocate values partnering with other research agencies to further develop the evidence base in relation to people with impaired decision-making capacity. In 2012-13, the Office was engaged in the following research partnerships:

Withholding and withdrawing life-sustaining treatment⁸

This three year research project into withholding and withdrawing life-sustaining treatment from adults lacking capacity is partially funded by an Australian Research Council Grant. The research is being led by the Queensland University of Technology in partnership with a range of guardianship agencies from New South Wales, Victoria and Queensland. The Office of the Adult Guardian in Queensland and the Queensland Civil and Administrative Tribunal (QCAT) are also partners in this research.

The research investigates doctors' understanding of the law and decisions to withhold and withdraw life-sustaining treatment for people with impaired decision-making capacity in Queensland, New South Wales and Victoria. It is estimated that there have been over 30,000 deaths following decisions not to provide medical treatment in these jurisdictions. However, the extent to which these decisions are lawful is unknown.

The project will identify training and educational needs, and find ways to improve the law by suggesting reforms. In doing so, the project aims to produce better outcomes for patients and their family and friends, to enhance clinical practice through promoting lawful decision-making, and to reduce health expenditure incurred because of defensive medicine and legal compliance costs.

The major component of the research is a survey of medical specialists who frequently deal with decisions made at the end of life. The survey data will be analysed over coming months, and it is anticipated that the findings will be publicly available later this year.

Upholding the rights of people with impaired decision-making capacity with respect to relationships and sexuality

Following on from a forum attended by the Public Advocate in January 2012, the Office engaged with the Queensland University of Technology in early 2013 to explore options in relation to engaging a student to assist in researching the elements underpinning the issue of relationships and sexuality for people with impaired decision-making capacity.

While designed to protect the vulnerable, the Queensland Criminal Code makes it an offence to have sexual intercourse with someone who has an 'impairment of the mind'; noting that this is defined extremely broadly. As a result, there is potential for this prohibition to be interpreted as being applicable to a broader cohort than those for whom it was no doubt originally intended to protect.

The protective intent of the provisions contained in the Criminal Code is acknowledged. However, the way in which impairment is defined and the provisions framed has the potential to render many relationships illegal and, in doing so, infringes on the rights of people with disabilities to engage in relationships and/or sexual activities that are legally available to any other adult in Queensland.

Conversely, other legislative instruments such as the *Disability Services Act 2006* and the *Guardianship and Administration Act 2000* give strength to Australia's commitment to uphold the rights-based obligations of the *United Nations Convention on the Rights of Persons with Disabilities*.

The difficulty in drafting legislation and policy lies in framing provisions that afford the required protection but do not unnecessarily restrict sexual expression. The challenge therefore is to generate a document that achieves a protective function while avoiding unnecessary restriction, discrimination and paternalism.

In practice, the tension that exists between the different legislative and rights-based instruments means that service providers often find it difficult to navigate the policy environment when seeking to ensure the provision of individualised support that recognises the rights of people with impaired decision-making capacity with respect to relationships and sexuality.

Through this project, we will explore ways in which service providers, working within the current legislative environment, can provide effective support that upholds the rights of clients with respect to relationships and sexuality.

⁸ For further information about this project, please visit: <http://www.gut.edu.au/research/research-projects/withholding-and-withdrawing-life-sustaining-medical-treatment>

Court order compliance and people with impaired decision-making capacity

People with impaired decision-making capacity can be made subject to court orders without consideration of whether that person has the capacity to understand and comply with the order. If the person lacks this capacity, they are likely to breach an order and may then be charged with additional criminal offences. In effect, placing that person on an order sets them up to fail.

Defendants charged with indictable offences may be referred to the Mental Health Court for determination of whether the person is fit for trial or of unsound mind at the time of the offence (which, if upheld, may result in the making of a forensic order that provides for involuntary treatment and/or care for the person). Conversely, however, there is no provision for the procedure or disposition of matters where fitness for trial or unsoundness of mind is raised or established in relation to simple/non-indictable offences.

While the common law applies and the Magistrates Court may hear evidence and determine if the defendant is fit to plead or to stand trial in relation to charges for simple offences, there are no statutory provisions setting out the procedure in the Magistrates Court for determining these matters and no guidance about what should occur after such a finding is made.

If the defence of unsoundness of mind is established and the defendant acquitted, there are no statutory provisions enabling the Magistrates Court to order treatment or care or other interventions for the defendant to mitigate against further offending. This can mean that people with impaired decision-making capacity may be repeatedly subject to court orders, which eventually may make them vulnerable to imprisonment.

The Office has partnered with the Queensland University of Technology to engage a team of students to undertake a project that will seek to validate and refine the issue; including an analysis of the systems impacting on the issue; generate an understanding of the factors contributing to the issue; build an evidence base of legislative and non-legislative approaches in other jurisdictions; and assess the current legislative and non-legislative responses, opportunities and gaps in Queensland.

Key Result Area 2 – Communication and Influence

Provide accurate, reliable and timely information to stakeholders on priority systems advocacy matters

Develop effective communication strategies to promote and protect rights and interests

Our strategic approach to communication and influence involves multiple communication channels and a mixture of products for disseminating information.

The effective translation of evidence helps reinforce our role to promote and protect the rights of people with impaired decision-making capacity.

In 2012-13, the Office produced a number of publications and engaged in a variety of forums to inform, influence and support key stakeholders.

Publications

In 2012-13, the Office of the Public Advocate refreshed its website to ensure its currency. In the course of doing so, the Office has also been progressively uploading new publications as they are developed.

The majority of submissions tabled by the Public Advocate in response to inquiries and other calls for submissions are now available on the Office of the Public Advocate website.

In addition, the Office of the Public Advocate commenced a new publication, *Research and Advocacy News*, in 2012-13. This newsletter, which we intend to publish quarterly, will provide updates on our research and advocacy projects and report on outcomes as they become available.

The following publications were also released in 2012-13:

- The Adult Guardian Client Profile Project: An independent analysis of guardianship clients and orders made to the Adult Guardian 2000-2010
- Position statement on continuing the deinstitutionalisation of people with disability in Queensland
- Project fact sheet - People with disability in long-stay health care facilities
- Call for Submissions - People with disability in long-stay health care facilities

- Project fact sheet - Aboriginal and Torres Strait Islander people in the guardianship and administration system
- Project fact sheet - Building confidence in complaints systems
- Potential population for systems advocacy - February 2013 (revised)
- Research Insights: Safe at Home? Safety strategies used by people with intellectual disability.

Presentations

Queensland University of Technology – Crimes of Violence course

On 18 September 2013, the Public Advocate presented as a guest lecturer for the QUT Crimes of Violence course.

The focus of the Public Advocate's lecture was the topic of "When protection becomes punishment: Systemic risks impacting people with impaired decision-making capacity". At its essence, the lecture engaged students in discourse regarding elder abuse, as well as restrictive practice use in the disability sector.

The Public Advocate also used this opportunity to extend the students' knowledge in relation to people with impaired decision-making capacity and the Queensland guardianship system.

Micah Projects Inc – Creating Homes Lives Changing

The Public Advocate attended the Micah Projects Inc's Annual General Meeting on 12 November 2012 to launch their new publication *Creating Homes Lives Changing*. This inspiring book presents stories and images of 22 incredibly resilient Queenslanders who have been supported to turn their lives around.

The publication brings to life the hard work, strength and commitment not only of the staff of Micah Projects but also, and more importantly, of the people whose stories are captured within.

Micah Projects' Supportive Housing model acknowledges the gaps inherent in our human services system and provides an innovative and yet grounded approach that responds to the many challenges faced by people experiencing homelessness.

This forward-thinking model espouses Micah's vision of creating justice and responding to injustice. It also demonstrates the value of strong community partnerships and how this engagement not only creates change but also assists people to build sustainable futures.

Community Visitor Program bi-annual forums

The Office of the Public Advocate participated in each of the Community Visitor Program's forums in 2012-13, the first of which took place in October 2012 and the second in April 2013.

At these events, the Office presented information about the current priorities for the Office, and sought information from the Community Visitors in relation to these issues.

The Office also facilitated sessions in which Community Visitors raised systemic issues that they had identified in the course of their work. These discussions also considered ways in which the Office might work together with the Community Visitors to respond to identified issues.

Building a National Approach to Prevent Abuse of Older Australians – World Elder Abuse Awareness Day National Conference

The Public Advocate attended the World Elder Abuse Awareness Day conference in Adelaide as the Queensland representative on a jurisdictional panel to provide information on the status of initiatives in Queensland in relation to responding to and preventing elder abuse.

The following key points were noted in the Public Advocate's address:

- Queensland government commenced funding elder abuse initiatives in 1997 when the Elder Abuse Prevention Unit (EAPU) was first established.
- This year, the EAPU delivered 114 education sessions to over 2300 participants and 65 face-to-face awareness sessions to over 1400 people (mainly older people). The EAPU also operates the Elder Abuse Helpline which averages 83 reports of elder abuse each month.
- The most common abuse types reported are psychological and financial abuse, with 58% of cases involving sons and daughters.
- The *Make the Call* elder abuse prevention campaign and website are hosted by the Queensland government with multiple stakeholders working collaboratively to ensure its success.
- Highlights from this year's campaign include Queensland Rail posting campaign messages on electronic billboards, the Brisbane City Council displaying campaign messages in libraries and Bunnings displaying campaign messages in stores across Queensland.

Conferences, Forums and Events

Attendance at topical conferences and other events is an opportunity for learning, engagement and evidence building. The following conferences/events were attended by staff in 2012-13:

Official Launch of the Civil Society Report to the UN Convention on the Rights of Persons with Disabilities (Queensland Advocacy Incorporated)

DLA Piper Offices, Brisbane
25 September 2012

Official Launch of the Queensland Accessing Interpreters Working Group's report: *Still a Matter of Interpretation* (Queensland Council of Social Service)

State Library of Queensland, Brisbane
30 October 2012

Official Launch of Transition to Independence Month 2012 (G-Force)

Commission for Children and Young People and Child Guardian, Brisbane
5 November 2012

Governor's Morning Tea to celebrate Spinal Injuries Awareness Week and the Inclusive Community Champions (ICC) initiative (Her Excellency The Governor of Queensland)

Government House, Paddington
16 November 2012

Realising the Hopes and Dreams of Parents with an Intellectual Disability (Better Outcomes for Parents with Learning Disabilities)

Queensland University of Technology, Brisbane
19-20 November 2012

Official Launch of the QUT Centre for Crime and Justice (Queensland University of Technology)

Gardens Point Theatre, Brisbane
10 December 2012

Positioning Community Services for the Future (Queensland Council of Social Service)

Rydges Southbank, Brisbane
7 March 2013

Transition from Care: Supporting Young People with Intellectual/Cognitive Disabilities Exiting Child Safety and State Out-of-Home Care (Community Living Association Inc. and ARROS)

NDS Service Development and Innovation Hub, Lutwyche
10 April 2013

Seniors Legal and Support Service State Conference (Seniors Legal and Support Service)

Queensland Law Society Building, Brisbane
30-31 May 2013

QCOSS 2013 State Budget Breakfast (Queensland Council of Social Service)

Brisbane Convention and Exhibition Centre, Brisbane
7 June 2013

Finding Voice: the 2013 Queensland Roundtable on Issues for People with Intellectual Disabilities (Working with People with Intellectual and Learning Disabilities Association Inc., Endeavour Foundation, and Community Living Association Inc.)

Queensland Ombudsman Training Rooms, Brisbane
17 June 2013

Building a National Approach to Prevent Abuse of Older Australians – World Elder Abuse Awareness Day National Conference (Aged Rights Advocacy Service Inc.)

Adelaide Convention Centre, Adelaide
17-18 June 2013

Disability and Criminal Justice Public Meeting (Australian Human Rights Commission)

DLA Piper Offices, Brisbane
18 June 2013

Supported Decision-Making (Queensland Advocacy Incorporated)

Queensland University of Technology, Brisbane
28 June 2013

Communication strategy

The Office of the Public Advocate's communication strategy aims to ensure that the work undertaken by the Office is communicated in a way that supports the functions of the Public Advocate and achieves outcomes for people with impaired decision-making capacity.

It also enables opportunities that promote an understanding of the Public Advocate's role, and supports recognition for the contribution that the Public Advocate makes to exploring and addressing issues that are relevant to people with impaired decision-making capacity.

The key objectives of the Office of the Public Advocate communication strategy are to:

1. Increase public awareness of the contemporary systems advocacy approach adopted by the Office;
2. Encourage government agencies to engage with our Office as a key partner in the policy formation process in all areas of public policy that impact on people with impaired decision-making capacity; and
3. Encourage government agencies to access and incorporate our research findings and expertise in their work.

The Communication Plan is regularly reviewed to reflect contemporary approaches and identified opportunities.

Work has also been undertaken in 2012-13 to modify the website presence and re-create an independent online identity for the Office.

This work is ongoing, although significant changes have already been made, and the website is progressively updated with new publications produced by the Office.

Key Result Area 3 – Advocacy and Inclusion

Promote and protect rights, interests and well-being

Promote inclusive policy, programs and practice to improve social and economic participation

Ensure government reform, policy and legislation considers and addresses rights and interests

The Office of the Public Advocate’s advocacy and inclusion focus is shaped by a number of factors, enabling the Office to be both proactive and responsive. Our analysis of issues is informed by available evidence, as much as it contributes to the development of an ever-evolving evidence base. The factors that shape the Office’s agenda include:

- Priorities set through our business planning;
- Ongoing critique of the evidence base;
- Emerging reforms, including policy and legislative reviews, that are relevant to our potential population; and
- Contemporaneous issues raised with the Office through a variety of channels, including stakeholder forums and directly from enquirers who may be persons with impaired decision-making capacity, family members or other people in their support networks.

In 2012-13, the Office was involved in a broad range of systems advocacy matters relating to the rights, interests and well-being of people with impaired decision-making capacity. A number of consultations and submissions were also made on topical issues.

The Office also participated in a range of key meetings on priority matters. The following selection provides an example of the breadth of issues canvassed over the course of the year.

Submissions

During 2012-13, the Public Advocate made a number of submissions to various policy and law reform agendas and inquiries. Outlines of the Public Advocate’s submissions are listed below and, in most cases, are also available on the Public Advocate website (www.publicadvocate.qld.gov.au).

January 2013 – Inquiry into the *National Disability Insurance Scheme Bill 2012*

The Community Affairs Legislation Committee (Australian Parliament) invited submissions from interested individuals and organisations in relation to the *National Disability Insurance Scheme Bill 2012* (the Bill). Overall, the Public Advocate expressed the view that the Bill was a significant step towards addressing the deficiencies of current systems and a meaningful advancement toward the social inclusion of Australians with disability.

It was noted that the early intervention provisions in the Bill should lead to better outcomes for individuals, improve their quality of life and increase their opportunity for social and economic participation. Such supports may also reduce the burden for, and support the ongoing maintenance of, families, carers and informal support networks.

The establishment of the Independent Advisory Council was an important inclusion in the Bill. It is critical that the Council is afforded the ability to provide advice to the Agency Board on its own initiative so it is not restricted to only acting in response to the Board.

The Public Advocate also raised a number of concerns. These included:

- Questions in relation to how the Bill accommodated the needs of people with impaired decision-making capacity and how it interacted with State legislation and systems for guardianship;
- Uncertainty regarding the efficiency and accessibility of the application process and the importance of the provision of appropriate assistance; and
- Ensuring that those responsible for assessing eligibility and assisting in the development of participant plans have expertise and experience in conducting assessments, and in responding to the differing needs of people with disability, including those from indigenous and culturally diverse backgrounds.

The submission highlighted the urgent need for further information for applicants and their families and carers to manage their expectations regarding the extent to which the National Disability Insurance Scheme will provide for the care and support that people may be seeking. It also expressed concern about the preparedness of the Queensland disability service sector.

February 2013 – The Queensland Mental Health Commission Bill 2012

The Health and Community Services Committee (Queensland Parliament) invited submissions from interested individuals and organisations in relation to the *Queensland Mental Health Commission Bill 2012* (the Bill) and proposed amendments to the *Mental Health Act 2000*.

The whole-of-government approach of the Bill was thought to be a positive step towards addressing some of the deficiencies of the Queensland system and advancing the recovery and social inclusion of people living with mental illness or who misuse substances. There were, however, broader system deficiencies that the Bill did not address.

The Public Advocate supported the objective of the Bill, which spoke to the promotion of the best interests of people with mental health or substance misuse issues, and their families, carers and support networks; the pursuit of innovation and best practice through knowledge sharing and a robust evidence base; and the focus on prevention and early intervention strategies. A robust evidence-base should form the cornerstone of the Commission's decision-making and be used to advance best practice service delivery and positive, meaningful outcomes for people living with mental health and/or substance misuse issues.

The submission expressed concerns that the Bill did not afford the Commission authority to require action, which may hinder the achievement of real change, particularly when a significant risk or issue is identified. Further to this, the achievement of real results through the Whole-of-Government Strategic Plan will be dependent on the engagement and support of the mental health sector.

It was thought that the establishment of the Advisory Council was an important inclusion in the Bill. The Council will have the ability to provide advice to the Commission on its own initiative so that it is not restricted to acting only in response to the Commission. The Commission must respond to recommendations of the Council, which will help ensure the Commission is fulfilling its functions, is accountable and remains in touch with people living with mental health and/or substance misuse issues.

The Public Advocate did not support the introduction of the proposed amendments to the *Mental Health Act 2000* relating to the use of tracking devices and the suspension of limited community treatment for a 'class of relevant patient'. The proposed amendments contravene numerous conventions and standards, infringe upon the rights of the people to whom they will be applied, and are counter-intuitive to achieving the outcomes that they purport to support.

The Public Advocate appeared as a witness at the public hearing for the Inquiry in February 2013 to elaborate on the submission and respond to questions from the Committee.

February 2013 – Inquiry into the involuntary or coerced sterilisation of people with disabilities in Australia

The Senate Standing Committee on Community Affairs References Committee (Australian Parliament) invited submissions relating to the involuntary or coerced sterilisation of people with disability, particularly in relation to the prevalence and types of sterilisation practices used and the surrounding legal, regulatory and policy frameworks. The Inquiry also examined the impacts of sterilisation on people with disabilities, factors that lead to sterilisation procedures being sought, and Australia's compliance with international obligations.

The Public Advocate and Adult Guardian made a joint submission, which stated that the Queensland's current legislative regime provided adequate and appropriate protection in relation to the issue of sterilisation for people (whether adults or children) who lack the capacity to consent to a sterilisation procedure.

The submission did not support making sterilisation illegal for children and adults with disability, as to do so would constitute discrimination against children and against people with disability (both children and adults) and deny them the right to access a procedure available to persons without disability.

The submission did emphasise that in according people with disability the same rights as others in society, it is incumbent upon society to ensure that there are mechanisms in place to enable people who have a disability that affects their capacity to make informed decisions about sterilisation procedures, and to ensure that the systems that are in place to protect those with impaired decision-making capacity operate in a manner that upholds these rights while offering appropriate protections.

It was argued that preventing discrimination is as much about allowing people with disabilities the right to decide between the same range of options that are available to people who do not have a disability as it is about ensuring that people with disability are not forced to undergo procedures that would not be applied to a person without disability where all other circumstances are equal.

March 2013 – National Disability Insurance Scheme (NDIS) Rules Consultation Paper

The Department of Families, Housing, Community Services and Indigenous Affairs (Commonwealth Government) released a Consultation Paper to obtain feedback from interested individuals and organisations on the draft National Disability Insurance Scheme (NDIS) Rules.

The Public Advocate's submission outlined a number of issues relating to the eligibility requirements and application process, including the importance of appropriate referral mechanisms and accessible information; the parameters of 'reasonable and necessary' supports including the necessity for clear and equitable rules to guide what is 'reasonable and necessary'; and the difficulties people may experience during the application process.

The determination of disability on the basis of functional assessment was supported, on the basis that there were clear rules for the way in which these assessments were undertaken to ensure consistency of approach as far as possible. This is particularly important given the link between the assessment process and the determination of the types of support that might be provided.

The Public Advocate again reiterated concerns in relation to the interaction of the *National Disability Insurance Scheme Bill 2012* and the Rules with state guardianship legislation and any enduring instruments in existence, as well as the jurisdiction of the Family Court of Australia and state Children's Courts. Related to this, the Public Advocate did not support the proposed ability of the Agency to select a nominee to act as a person's representative given that this has the potential to undermine existing guardianship and administration legislation.

The absence of rules in relation to the conduct of a Participant Plan review was noted. There was also an absence of rules relating to the complaints process available to NDIS applicants and participants.

The submission also highlighted the importance of provisions for responding to the short-term needs of people with disability who experience an emergency or crisis situation, including the need to examine the potential impact of people in emergency or crisis situations on the NDIS and on other mainstream and community services.

March 2013 – Queensland Child Protection Commission of Inquiry

The Queensland Child Protection Commission of Inquiry (Queensland Government) invited submissions from interested individuals and organisations in relation to its February 2013 Discussion Paper.

The Public Advocate's submission agreed with the focus on prevention and early intervention. It was argued that investment in preventative approaches is more effective than reactive, tertiary responses and can lead to improved outcomes in adult life. Improved access to services is critical to effective early intervention and preventative responses.

It was also emphasised that targeted early intervention or prevention supports for parents with impaired decision-making capacity or disability may lead to better outcomes for children, young people and their families, and alleviate the need for tertiary service responses. The submission highlighted that the presence of a disability or impaired decision-making capacity does not mean that a parent is unable to adequately care for their child, particularly when supported appropriately.

It was noted that the Discussion Paper gave little attention to the transition needs of young people with a disability, mental health issues or complex needs. The report did not offer any approaches to improve the transition from care for this particularly vulnerable cohort. Consideration of the transition needs of young people with high, complex or extreme needs is required.

The Public Advocate argued that the transition process for young people is critical to maximising their independence and opportunities. There should be additional resources to assist young people to transition from care through gradual transition planning activities and supports until they are aged in their early to mid twenties.

The critical need to enhance child protection service responses to Aboriginal and Torres Strait Islander children and young people, and improve outcomes for them and their families was also emphasised.

March 2013 – Inquiry into the Value of a Justice Reinvestment Approach to Criminal Justice in Australia

The Senate Legal and Constitutional Affairs References Committee (Australian Parliament) called for submissions in relation to their inquiry into the value of a justice reinvestment approach to criminal justice in Australia.

The Public Advocate's submission stated that justice reinvestment is an important step toward reducing the over-representation of adults with impaired decision-making capacity in the criminal justice system. These vulnerable people face unacceptable levels of social exclusion and disadvantage that the fragmented nature of Australian service systems, as they currently exist, is unable to address. This disadvantage increases the likelihood of contact with the criminal justice system, which in turn exacerbates the exclusion and disadvantage experienced by adults with impaired decision-making capacity.

Further, all people with disability or impaired decision-making capacity have the right to access the social and economic resources required to realise their full potential. In accordance with this, the development and implementation of an effective justice reinvestment framework, that addresses disadvantage and exclusion and reduces interaction with the criminal justice system, should be considered by all levels of government.

The Public Advocate argued that given competing priorities and scarce resources, investment in a pre-offence justice reinvestment model should be a high priority and advanced accordingly given that early system responses are more effective and enduring than crisis intervention. This investment can lead to improved life outcomes and reduce the risk of entry or re-entry into expensive and resource-intensive systems.

More broadly, the submission emphasised the immediate need for all levels of government, across all sectors, to invest in an integrated and sustainable social system that ensures access to social, economic, civic and specialist resources for people with impaired decision-making capacity, their families and the networks of support that surround them. This is a primary way to promote inclusion, protect rights and interests, and reduce risks of disadvantage, abuse, neglect and exploitation.

April 2013 – Aged Care (*Living Longer Living Better*) Bill 2013 [Provisions] and Related Bills

The Senate Community Affairs Legislation Committee (Australian Parliament) invited submissions from interested individuals and organisations in relation to the *Aged Care (Living Longer Living Better) Bill 2013* and the related Bills.

The Public Advocate collaborated with the Australian Guardianship and Administration Council (AGAC), of which the Public Advocate is a member, to develop this submission.

Overall AGAC was supportive of the policy intention of this legislation, however some concerns were raised. In particular it was thought that the legislation was large and complex and the introduction of two Commissioners could lead to public confusion regarding their roles.

Further, it was noted that the legislative framework continued to be linked to a medium-to-large institutional care model, which did not take into account the risks of abuse and neglect in institutional care or the many benefits associated with smaller group service delivery models.

While AGAC felt the reforms would assist to reduce the confusion associated with aged care, and was supportive of the change in methodology for funding aged care, it was noted that the actual calculations relevant to funding are very complex and beyond the abilities of many Australians. This may give rise to a new industry of ‘advisors’ and lead to further expenses for individuals or families. In order to make the legislation accessible without expert advice, people should be provided with guidance to understand the Act and apply the formulae.

AGAC recognised the importance of amendments to the ‘home care’ system, although noted that the change of name from ‘community care’ to ‘home care’ could undermine the policy intention of enabling people to continue to access their community, which should be of paramount importance.

A primary difficulty that was noted with respect to home care is that it is based on a supposition of a strong and pre-existing support network, which does not exist for many people.

Screening of home care providers, which can be assisted by the community visitors program, will be paramount to ensuring that quality services are delivered in a safe and transparent manner. However, community visitors must be sensitive to privacy issues, especially where persons do not have capacity.

With regard to residential care, the introduction of pricing caps and a Pricing Commissioner was recognised as being beneficial for persons entering aged care. However, the determination of hardship applications and the timeframe for determination required further clarification. AGAC called for a more flexible approach with regard to changes in a client’s circumstances or asset base, although noted that amendments with regard to the payment of accommodation bonds and the appeals process were beneficial.

Finally, AGAC noted that the funding of aged care could be problematic for couples, particularly where one person requires significant support or ongoing care. In some instances, a person may not be entitled to funding due to their partner’s ongoing employment. Further, where both people require funding, it is unclear how their combined assets and income would affect the calculation of payments or entitlements.

April 2013 – Ademption and common law provisions

The Honourable Jarrod Bleijie MP, Attorney-General and Minister for Justice, Department of Justice and Attorney-General (Queensland Government) invited a submission by the Public Advocate on “whether there should be a legislated exception for the ademption rule for actions taken by persons holding enduring powers of attorney, and other substitute decision-makers, based on sections 22 and 23 of the New South Wales *Powers of Attorney Act 2003* and related legislation.”

Ademption occurs when property that is the subject of a specific gift in a will cannot be located within the testator’s estate after the person’s death. The doctrine of ademption operates on the assumption that if the property in question is not able to be located, then the gift of that property is not able to take effect. In that instance the gift is described as ‘adeemed’ and the intended beneficiary will not receive the gift or anything in its place.

This is often relevant to gifts of real property, for example a house or land that is sold by a person while he or she has capacity, or sold on their behalf because they have lost capacity and require money, for example to pay for an aged care placement. Any specific gifts related to that property will adeem. Presently in Queensland, the only option for the affected beneficiary is to apply to the Supreme Court for compensation out of the testator’s estate.⁹

The Public Advocate considered that the approach taken in New South Wales is an appropriate one.¹⁰ The NSW legislation provides that when property in which a beneficiary has an interest is dealt with by a testator’s attorney or manager, for example, through the sale of property, the beneficiary retains the same interest in any surplus money or property that arises from the dealing as he or she would have had in the property had it not been dealt with. This applies regardless of whether or not the testator had capacity.

This approach mitigates against the unfairness that can result to a beneficiary from the doctrine of ademption and also allows for the wishes of the testator to be recognised and given effect, regardless of their decision-making capacity before death. This is important because, if an adult has lost capacity, they are unlikely to be able to validly amend their will if their assets are sold.

It was also thought that the exception may have the effect of removing any potential influence on the behaviour of an attorney or administrator that might otherwise cause them to act in a way that is not in the adult’s best interests.

It was also suggested that the adoption of certain safeguards would be advantageous, such as the obligation on an attorney or administrator to keep any sale proceeds separately and to maintain account-keeping records, so that sale proceeds can be traced.

May 2013 – Care and management of younger and older Australians living with dementia and behavioural and psychiatric symptoms of dementia (BPSD)

The Senate Community Affairs References Committee (Australian Parliament) invited submissions from interested individuals and organisations in relation to the scope, adequacy and resourcing of different models of care for people who are living with dementia or BPSD, and the scope for improving care, particularly in relation to respite care and the use of physical and chemical restraints.

The Public Advocate argued that future models for the care and management of people living with dementia or BPSD should have a strong human rights focus and must be innovative, flexible, multi-faceted, tailored to individual needs and enhance early diagnosis. They should provide opportunities to maximise their participation and inclusion in the community and enable people to remain living in the community for as long as possible.

Particular concern was expressed for Australians who experience younger onset dementia, who often ‘fall through the cracks’ of existing service systems. People with younger onset dementia are often excluded from service systems due to the inflexible nature of service models, eligibility criteria and policies.

The submission also emphasised the need to encourage people to plan for their future personal, health, financial and legal affairs as soon as they are diagnosed with dementia or BPSD so that medical evidence can be obtained to support the legitimacy of their authoritative instruments.

The Public Advocate was particularly concerned about the use of restraints, such as anti-psychotic medication, to manage some behavioural symptoms of dementia, particularly where they are used for convenience and do not represent the option of last resort. The use of physical and chemical restraint should be reduced as it is an infringement of a person’s human rights.

⁹ *Powers of Attorney Act 1998* (Qld) s 107; *Public Trustee Act 1978* (Qld) s 89; *Guardianship and Administration Act 2000* (Qld) s 60.

¹⁰ *Powers of Attorney Act 2003* (NSW) ss 22-23; *Trustee and Guardian Act 2009* (NSW) s 83.

The Public Advocate appeared as a witness at the public hearing for the Inquiry in July 2013 to further elaborate on the submission and respond to questions from the Committee.

June 2013 – Proposed National Framework for Restrictive Practices

The Department of Families, Housing, Community Services and Indigenous Affairs (Commonwealth Government) sought feedback on the proposed national framework for restrictive practices that was developed jointly by the Commonwealth, State and Territory Governments.

In the context of the preparation for a National Disability Insurance Scheme, the Public Advocate raised concerns about any reduction of standards or safeguards in relation to the use of restrictive practices and the importance of comprehensively exploring and addressing the complex ethical and legal issues.

The Public Advocate also emphasised that the use of restrictive practices must only occur to prevent significant harm to the person or others, when they are applied in the least restrictive manner possible and, most importantly, constitute the option of last resort following application of a range of preventative and responsive strategies within the context of a positive behaviour support approach.

The use of ‘consequence-driven’ or ‘psycho-social’ restraints, for example withdrawing personal items or activities, or telling a person to stay in a particular physical position or part of the room or house until they ‘behave correctly’, were not supported as part of the framework. These strategies tend to be punitive in nature, highly susceptible to abuse or misuse, and there is little known about their efficacy or impact, particularly for people with impaired decision making capacity.

The use of data to inform practice was strongly supported as a strategy for reducing and eliminating restrictive practices, with the Office calling for monitoring and data collection to begin as soon as possible.

June 2013 – Review of Queensland Law Reform Commission’s recommendations on Queensland’s guardianship legislation

In September 2010, the Queensland Law Reform Commission (QLRC), after approximately five years consideration, produced a four volume report finalising its review of Queensland Guardianship laws.

The Report contained 317 recommendations for various forms of action, including legislative action, in relation to Queensland’s Guardianship laws.

In October 2011, the then Government published an initial response in which it considered 150 of the 317 recommendations.

In January 2013, a small committee comprising the Adult Guardian, the Public Advocate and a Ministerial Policy Adviser from the Department of Justice and Attorney-General was established to consider the QLRC Recommendations and advance their consideration by Government.

The Review Committee approached its task by adopting the following principles:

- The Review Committee acknowledged that the QLRC conducted a comprehensive review process involving extensive consultation and discussions with all parties with a legitimate interest in the area of Guardianship including Government Departments and Agencies, Service Providers, advocates for people with impaired capacity (both individual and organisationally based), individuals with impaired capacity and their families/carers, and the professions including the Queensland Law society and the Queensland Bar association, academic experts, etc.
- In light of this extensive process of consultation, the Review Committee approached each recommendation from the perspective of “are there any reasons of substance why the recommendation of the QLRC should not be implemented?”
- The Review Committee did not seek to re-argue the issues that the QLRC considered in arriving at its recommendations. The Review Committee was prepared to accept the value judgment of the QLRC save where there was, in the opinion of the Review Committee, a substantial reason of administration or policy to disagree with the QLRC recommendation.
- The Review Committee was conscious that developments are occurring elsewhere in Australia that are challenging the fundamental principles that underlie the current Queensland Guardianship regime with strong support being expressed for moving the whole system from the current assisted and substituted decision-making approach to one that favours a supported decision-making approach.
- The Review Committee was also conscious of the significant change process that the whole system will undergo as a result of the introduction of a National Disability Insurance Scheme across Australia.

The Committee finalised its review in May 2013.

June 2013 – Options to support debtors with impaired decision-making capacity

In the course of our work, it was identified that the State Penalties Enforcement Registry (SPER) was considering options in relation to supporting debtors with impaired decision-making capacity, including their response to cases where a debtor with impaired decision-making capacity lacks the financial capacity to attend to the fine.

The Office had separately been considering issues associated with the ability of people with impaired decision-making capacity to understand and comply with court orders at the time that this proposal came to our attention.

It was noted that the key elements underpinning these two issues had a number of similarities. In particular, the ability of many people with impaired decision-making capacity to understand the nature of the offence for which the fine or order was made is questionable. Similarly, they may also have limited understanding in relation to the requirements of the court order or fine and, as a result, may not follow through on their obligations accordingly.

In making a submission to SPER on this matter, the Office supported the development of a range of options for debtors with impaired decision-making capacity including the waiving of debts and the use of fine option orders in lieu of, or to support, the payment of fines.

Ongoing discussions are occurring with SPER in relation to this issue.

Consultations

To complement the Office's submissions, the Public Advocate also had the opportunity to contribute to the following inquiries through 'in-person' discussions and the provision of verbal 'evidence':

- Queensland Child Protection Commission of Inquiry
- Queensland Health and Community Services Committee's inquiry into the *Queensland Mental Health Commission Bill 2012*
- Senate Community Affairs Committee's inquiry into the care and management of younger and older Australians living with dementia and behavioural and psychiatric symptoms of dementia (*Note – although the submission was made in the 2012-13 year, the hearing was not held until 17 July 2013*).

Further to these inquiries, the Public Advocate also participated in the following consultative forums:

- Endeavour Foundation's *Critical Thinking: The application of the United Nations CRPD in relation to Sexual Identity and Expression for adults with intellectual disability in the context of Endeavour Foundation Services*
- Anti-Discrimination Commission Queensland's *20 Years, 20 Stories screening and discussion about the successes and future of disability discrimination legislation in building an inclusive society*
- National Disability Insurance Scheme Public Forum hosted by Senator Claire Moore.

The Public Advocate has also been consulted on the following matters:

- Draft Queensland Disability Plan
- Review of the Queensland legislative framework for positive behaviour support and restrictive practices
- Department of Communities, Child Safety and Disability Services Elderly Parent Carer Innovation Trial.

Meetings and membership

The Public Advocate participates in a range of significant stakeholder meetings. In doing so, we seek to ensure that the needs and perspectives of people with impaired decision-making capacity are considered and addressed appropriately.

Australian Guardianship and Administration Council (AGAC)

AGAC is the national forum of:

- Public Advocates
- Public and Adult Guardians
- Boards and Tribunals
- Public and State Trustees or their equivalents throughout Australia.

This is the only national forum and meetings are held biannually over two days. Each jurisdiction shares the hosting functions.

The Queensland officials who are members of AGAC are the Adult Guardian, the Public Trustee, the Senior Member of the Queensland Civil and Administrative Tribunal, and the Public Advocate.

AGAC provides the opportunity for members to discuss matters of mutual concern and/or national significance, and to formulate an Australia-wide approach to issues of Guardianship and associated systems.

Elder Abuse Prevention Unit (EAPU) – Reference Group

These meetings are held quarterly and are attended by a broad range of stakeholder representatives including the Office of the Adult Guardian, the Public Trust Office, the Australian Pensioners and Superannuants League, the Department of Communities, Child Safety and Disability Services, the Office of the Public Advocate, tertiary institutions and non-government organisations.

The EAPU chairs these meetings with each agenda focussed on a specific discussion topic with the view to raising emerging issues and identifying action that may be required.

Elder Abuse Prevention Unit (EAPU) – Research Sub-Committee

This sub-committee was formed in early 2013 for the purposes of generating a list of very specific criteria that could be given to a researcher.

The idea arose from a meeting of the EAPU Reference Group at which it was noted that many studies do not meet the needs of the sector because they often exclude people without capacity, do not provide much information on the perpetrator, ignore gender or assume women are the victims and men are always the perpetrators, and/or use a definition that is too broad and that includes systemic abuse, theft and fraud.

It is envisaged that the sub-committee will continue to meet in 2013-14 to further develop a research concept. This will be brought to the EAPU Reference Group for further refining and/or ratification.

Elder Abuse Prevention Campaign

The Queensland Government's *Make the call* elder abuse prevention campaign aims to raise awareness of the behaviours that constitute elder abuse and encourage people experiencing elder abuse – and those who suspect someone they know is being abused – to call the Elder Abuse Helpline for advice and support on appropriate responses. The helpline, operated by Uniting Care Community and funded by the Queensland Government, can also provide referrals to the services appropriate to each presenting case.

This year's *Make the call* campaign began in May 2013 and ran until July, with a particular focus around World Elder Abuse Awareness Day on 15 June 2013. The campaign included advertising in shopping centres and licensed venues across the state, direct mail of posters and helpcards to approximately 5500 community organisations, a campaign website, Facebook page and promotions by partners.

The campaign is an excellent example of how government, community services and business can work together to address elder abuse. The campaign was developed by the Department of Communities, Child Safety and Disability Services in consultation with the Public Advocate, the Elder Abuse Helpline, the Seniors Legal and Support Services, Adult Guardian, Public Trustee, Queensland Police Service and Department of Health.

Restrictive Practices Red Tape Reduction Working Group

The Restrictive Practices Red Tape Reduction Working Group is facilitated by the Department of Communities, Child Safety and Disability Services and comprises representatives from Government-operated disability services, non-government disability service organisations, the Centre of Excellence for Behaviour Support and Clinical Innovation, the Office of the Adult Guardian and the Office of the Public Advocate.

Meetings occur monthly with discussion centred on red tape reduction strategies that can be pursued without the need for legislative amendment.

Enquiries – information and referral

Enquiries made to our Office are an important source of information for identifying potential systems issues. This conduit of information is integral to maintaining a current understanding of the range of issues that may be impacting the lives of people with impaired decision-making capacity, their families, and carers.

In 2012-13, our Office has seen a steady increase in enquiries. This is likely to be attributed to the appointment of a Public Advocate, the re-establishment of the Office and the active promotion of the Office at community events, conferences, forums, etc.

Given the Office's limited staffing establishment, we must balance the enquiries received and the expectations people may have in relation to our role. The Office of the Public Advocate works to influence policy, programs and services at a systems level. It does not have a direct role in individual advocacy, is not a complaints agency, and is not authorised to impart legal advice.

All enquiries received by the Office are noted to assist and inform the identification of systems issues. Of those enquiries that are within the scope of the Public Advocate's functions, a minority represent potential systems advocacy issues for people with impaired decision-making capacity. However, given the limited resourcing of the Office and the number of issues that are raised with the Office, not all of these potential systems advocacy issues can be addressed.

Many issues raised with the Office fall outside the scope of the Office's functions. The range and number of enquiries that fell outside of the scope of our work highlight the complexity of the systems serving people with impaired decision-making capacity, their families and carers.

Individuals often contacted the Office because they felt that multiple other organisations had failed to address their enquiries satisfactorily or because the role of the Office had been misrepresented to them.

As our Office is not authorised to be involved in individual advocacy matters, it is a common outcome to refer enquiries to other agencies for direct assistance.

Guardianship agencies such as the Office of the Adult Guardian, the Queensland Civil and Administrative Tribunal and the Public Trustee were the main referral points for the Office.

Enquirers were also referred to a broad range of agencies in the community, including the Aged Care Commission, the Ombudsman, Legal Aid, and the Seniors Infoline.

Many people making enquiries expressed confusion and frustration, despite some effort by government agencies (including the Queensland Civil and Administrative Tribunal, the Public Trustee and the Office of the Adult Guardian) to provide comprehensive descriptions of their roles and processes through publications such as annual reports, factsheets and application guides. Often this confusion and frustration was related to the complexity of the systems affecting people with impaired decision-making capacity and their perceived lack of transparency.

Access to timely and appropriate information was an issue that was raised consistently by individuals and their families as they attempted to navigate the complex landscape of service systems and legislative mechanisms.

Key Result Area 4 – Business Processes

Operate transparently and with accountability

Ensure effective business and risk processes

Transparent and accountable business processes are important for sound corporate governance.

As a small entity, our Office operates mainly within the broader strategic and business planning processes implemented by the Department of Justice and Attorney-General.

It is important, however, to ensure that our resources are primarily invested in our systems advocacy work.

Internal protocol for attending Queensland Civil and Administrative Tribunal hearings

The Office is entitled under the *Guardianship and Administration Act 2000* to attend all tribunal hearings as an interested party. This provides an opportunity to gauge current issues, observe systems and processes in action, and enhance understanding of guardianship and administration matters.

Last year, the Office initiated an internal protocol for attending Queensland Civil and Administrative Tribunal hearings to support staff in undertaking this task, and to ensure that all parties are aware of the role of the Office and to differentiate an observation task from legal interventions.

As a result of Office of the Public Advocate staff attending numerous hearings in 2012-13, the protocol continues to be further refined.

Business planning

The Public Advocate convened a number of business planning days with staff since commencing in Office. These planning days assisted in defining and prioritising our work program for the next twelve months. These planning days have also provided the opportunity to discuss priority issues and how our office might advance them.

Office of the Public Advocate – Operations

Organisational structure

The Public Advocate is an independent statutory position appointed by Governor-in-Council in accordance with the *Guardianship and Administration Act 2000*. The Act permits an acting Public Advocate to be appointed when the office is vacant or the Public Advocate is absent from duty or unable to perform the duties of the role.

In April 2012, the incoming government acted on its election commitment to 'retain an independent Public Advocate as a statutory authority'. This development provided authority for the Public Advocate position to be filled on a permanent basis.

The Queensland Government initiated a recruitment exercise, which closed in early May 2012. The Governor in Council appointed Ms Jodie Cook as Public Advocate for a three year term, commencing 13 August 2012.

The *Guardianship and Administration Act 2000* provides that staff may be appointed to assist the Public Advocate to perform the functions under the legislation. It is a requirement that staff be appointed under the *Public Service Act 2008*.

The staffing establishment for the Office provides for six officers to support the Public Advocate in performing the statutory functions for which the position has responsibility.

It is important to note that not all positions were filled across the full financial year and some vacancies were carried.

At the beginning of the 2012-13 financial year, the Office only had two of its six positions filled. Following her appointment, the Public Advocate invested significant time over the course of the year to fill the vacant positions.

As a result of these recruitment activities, the Office now has five staff in position, with the remaining position temporarily vacant at 30 June 2013.

In keeping with a commitment to work-life balance, some officers are engaged on a part-time basis.

Permanent positions:

1 x AO8 Executive Manager (Advocacy, Policy and Evidence)

1 x AO7 Principal Research Officer

2 x AO6 Senior Research Officers

1 x PO4 Senior Legal Officer

1 x AO3 Administration Officer

Temporary positions:

1 x AO8 Manager (Strategic Projects) (part-time role that ceased at end September 2012)

1 x AO2 Administration Support Officer (this officer worked 4 hours per fortnight)

Financial summary

The Public Advocate is not a statutory body for the *Statutory Bodies Financial Arrangements Act 1982* or the *Financial Accountability Act 2009*.

Funding for the office is appropriated from the Queensland Government as part of the appropriation for the Department of Justice and Attorney-General.

The Director-General of the Department of Justice and Attorney-General is the accountable officer pursuant to the *Financial Accountability Act 2009*.

Comprehensive financial details relating to the operations of the department are reported in the annual report for the Department of Justice and Attorney-General.

A summary of the expenditure for the Office of the Public Advocate for the financial year 2012-13 is provided below:

Table 1 Office of the Public Advocate Financial Summary 2012-13

Expenditure items	
Employee related expenses*	\$511,900
Supplies and Services	\$73,100
Grants	nil
Depreciation**	\$900
Total	\$585,900

* The Office of the Public Advocate had a high vacancy rate for a significant portion of the year; the expenditure figure for employee related expenses reflects this.

** The Office of the Public Advocate did not incur any amortisation and deferred maintenance expenditure.

Note: expenditure figures have been rounded to nearest 100.

Travel expenditure

There was no overseas travel undertaken by the Public Advocate or the Office's staff during the year.

Interstate travel is sometimes undertaken for significant stakeholder forums. In June 2013, the Public Advocate attended the World Elder Abuse Awareness Day National Conference. The Public Advocate was the Queensland representative at this forum and participated as part of a jurisdictional panel to provide information about elder abuse prevention and response activities within Queensland.

Interstate travel is planned to attend the bi-annual Australian Guardianship and Administration Council (AGAC) meetings. This is the only national forum for state and territory agencies to promote the interests of people with impaired decision-making capacity. All key leaders in the guardianship jurisdictions across Australia, including Public Trustees and heads of tribunals, are members of this forum. The forum is conducted over a two-day format, with both full group and specialised group meetings.

With the March 2013 meeting held in Brisbane, however, no travel costs were incurred by the Public Advocate in attending this meeting.

Grants expenditure

In 2012-13, there were no new additional grants incurred.

However, a number of the research projects that the Office contributed to via grants in previous years were ongoing.

Further details about our research partnerships are reported in Key Result Area 1.

Staff Development

The development of staff is an important way to ensure that the Office achieves outcomes.

Over the year, staff were able to attend a range of internal and external training opportunities, which included:

- project management
- strategic thinking and influence
- management and leadership
- statistical analysis using SPSS.

Work-life balance

The Office of the Public Advocate supports each staff member to achieve a mutually convenient work-life balance. The importance of maintaining an optimum balance in relation to work and other facets of personal lives is acknowledged.

The Office follows the Department of Justice and Attorney-General part-time employment policy and procedures. Some members of staff are engaged under formalised part-time working arrangements.

Notes:

Office of the Public Advocate

Website www.publicadvocate.qld.gov.au

Email public.advocate@justice.qld.gov.au

Write to Office of the Public Advocate
GPO Box 149
BRISBANE QLD 4001

Telephone (07) 3224 7424

Fax (07) 3224 7364

