



Annual Report

2022-23

Acknowledgement of Country

The Public Advocate and staff acknowledge Aboriginal and Torres Strait Islander peoples as Australia's first peoples and as the Traditional Owners and custodians of the land on which we live. We celebrate the diversity of Aboriginal and Torres Strait Islander cultures across Queensland and pay our respects to Elders past, present and emerging.

Acknowledgement of Lived Experience

We acknowledge the experiential expertise of adults with impaired decision-making ability, whose rights we seek through our work to promote and protect.

Public availability

This report is available online at <https://www.justice.qld.gov.au/public-advocate/publications/corporate-publications/annual-reports>. Alternatively, you may contact our office to access a hard copy.

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Feedback on this report

Feedback on this report is welcomed. A feedback survey is available at <https://www.getinvolved.qld.gov.au/gi/consultation/12000/survey/9800/view.html?cid=105716>. Alternatively, a hard copy of the survey may be requested from our office.

Disclaimer

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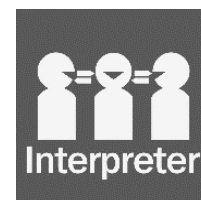


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Interpreter service

The Queensland Government is committed to providing accessible services to Queenslanders from culturally and linguistically diverse backgrounds. If you have trouble understanding the Annual Report, you can contact our office and we will arrange an interpreter to effectively communicate the report to you.



The Honourable Yvette D'Ath MP
Attorney-General and Minister for Justice,
and Minister for the
Prevention of Domestic and Family Violence
1 William Street
BRISBANE QLD 4000

17 October 2023

Dear Attorney-General,


I am pleased to present the Public Advocate's Annual Report for the financial year that ended on 30 June 2023.

The 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 Public Advocate and staff of the office for 2022-23, and a statement of the office's financial and operational functions for the year.

The Public Advocate is not considered to be a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982* or the *Financial Accountability Act 2009*. The Public Advocate is therefore not required to comply with the annual report requirements for Queensland Government agencies. The annual report requirements were, however, used to guide the creation of this annual report.

Yours sincerely,



John Chesterman
Public Advocate



Message from the Public Advocate

The focus of much of my office's work in the past year has been on five significant systemic reform areas that I will mention here, and about which further detail is contained in this report. Driving all of this work is a commitment from my team and me to improve opportunities for adults with impaired decision-making ability to live meaningful lives of their own choosing.

This year, the office finalised a two-volume report on Adult Safeguarding in Queensland, which drew upon extensive consultation that my team and I conducted throughout Queensland. Among that report's seventeen reform recommendations is a call for the appointment of a Queensland Adult Safeguarding Commissioner and the creation of Adult Safeguarding Networks throughout Queensland.

The office also completed a report on the acute mental health system, in collaboration with psychiatrist Professor Neeraj Gill. Among that report's 21 reform recommendations was a call for the removal of the 'locked ward' policy that applies to all public inpatient mental health facilities in Queensland, a change that I am pleased to note is likely to occur next year.

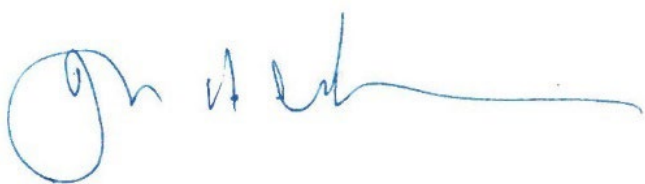
The office also finalised a report on the topic of confidentiality in the adult guardianship system, which included an analysis of the different kinds of 'limitation orders' that QCAT has made over a five-year period. One of that report's three recommendations – a call to end the guardianship system's default prohibition on the naming of people who are the subject of guardianship applications – has been a topic of national debate this year.

A significant amount of my advocacy energy this year was devoted to improving state and national regulation of restrictive practices across a range of settings. I have continued to assist with the current review of the Queensland regulation of restrictive practices in the disability field. At the same time, I published a number of pieces on the need for improved aged care restrictive practices regulation; I was also invited to brief the federal Parliamentary Joint Committee on Human Rights on this topic.

The office also undertook an extensive amount of work in preparing a report on supported accommodation, which was tabled in Queensland Parliament in September 2023.

In addition to all of this, the office has of course continued to provide oral and written submissions to parliamentary committees and other review bodies, and I have made many speeches in a range of forums, which are detailed in the following pages.

I continue to be impressed by the ability of my small office to undertake the ambitious program of work detailed in this Annual Report; this simply would not be possible if I did not have such a wonderful team of dedicated and enthusiastic staff members. I thank each of them; Yuu Matsuyama, Michelle King, Megan Topping, Hannah Hodgson, Jacinta Colley, and the leadership of Office Manager Tracey Martell. As always, I have again benefitted very much this year from the collegial support of a range of people in government and non-government agencies, and from the willingness of people with lived experience of disability to engage so generously with my team and me. For this I am, as always, very grateful.

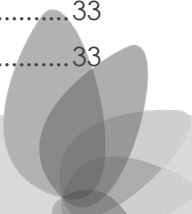


John Chesterman
Public Advocate

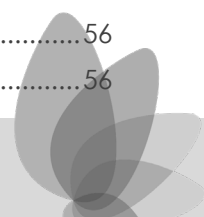


Table of contents

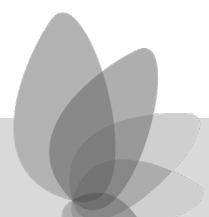
About the Public Advocate	7
The Public Advocate	8
Legislative functions	8
Office of the Public Advocate	9
Operating environment	9
COVID-19	9
Human rights	10
Royal Commissions	10
The National Disability Insurance Scheme (NDIS)	11
The team	11
Business planning and performance	13
Community Enquiries	15
Governance	16
Information systems and recordkeeping	16
Engagement and consultation	16
Systemic Advocacy Projects	17
Disability	20
Royal Commission into Violence, Abuse, Neglect, and Exploitation of People with Disability	20
Public Advocate involvement	20
Adult Safeguarding project	20
The National Disability Insurance Scheme (NDIS) Review	21
Health care for people with disability	22
Comprehensive Health Assessment Program (CHAP)	22
Transitioning people with disability living long-term in public health facilities to the community	23
Specific residential facilities operated by Queensland Health – the Halwyn Centre (Brisbane), Birribi (Rockhampton) and the Gialal Unit (Toowoomba)	23
Forensic Disability Service (FDS)	24
Disability advocacy funding	24
Contribution to whole-of-government initiatives	25
<i>National Disability Advocacy Framework 2023-25</i>	26
<i>Queensland's Disability Plan 2022-2027</i>	27
Older people	29
Royal Commission into Aged Care Quality and Safety – Implementation of Recommendations	29
Aged Care Structural Reforms	29
Use of restrictive practices in residential aged care	31
Draft Psychotropic Medicines in Cognitive Disability or Impairment Clinical Care Standard	32
National Dementia Action Plan	32
Care and Support Economy Strategy	33
Contribution to whole-of-government initiatives	33
National Plan to respond to the abuse of older Australians	33
Future Directions for an Age-Friendly Queensland	33



Health	35
Use of restrictive practices in health care settings	35
Universal Access to Reproductive Health Care	35
Health care for people with disability	35
Mental health	36
The Chief Psychiatrist	36
<i>Better Pathways: Improving Queensland's delivery of acute mental health services</i>	36
Mental Health Review Tribunal (MHRT)	36
Recording of proceedings	36
Rockhampton Hospital	37
Law and justice	39
Queensland Parliamentary Inquiry into the support provided for victims of crime	39
Optional Protocol to the Convention Against Torture (OPCAT) forum	39
Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2022	40
Queensland Parliamentary Inquiry into the Decriminalisation of Certain Public Offences, and Health and Welfare Responses	40
Review of <i>Public Interest Disclosure Act 2010 (Qld)</i>	41
Section 216 of the <i>Criminal Code 1899</i>	42
National principles to address coercive control	42
Restrictive Practices – Options for reform	42
<i>Human Rights Act 2019</i>	43
Legal interventions	43
Limitation orders	44
Implementation of Coroners Court recommendations	44
Guardianship and administration	46
Confidentiality in the guardianship system	46
Enduring documents	46
Enduring powers of attorney law reform and a national register	46
Preserving the financial futures of vulnerable Queenslanders; A review of Public Trustee fees, charges, and practices	47
Remote guardianship hearings (in-hospital)	47
Financial summary	50
Other payments of note	50
Overseas travel	50
Appendix 1: List of submissions	51
Appendix 2: Speaking engagements and public hearings	53
Appendix 3: Working and advisory groups	56
Commonwealth Attorney General's Department Stakeholder Reference Group – Enduring powers of attorney law reform	56
Australian Guardianship and Administration Council (National)	56
Queensland Health – Health and Disability Interface Advisory Group	56
Queensland Health – Voluntary Assisted Dying (VAD) – Residential Aged Care Committee	56
Queensland Health QCAT Guardianship Program Governance Group	56
Mental Health and Disability Legal Assistance Forum	56
Queensland Law Society Committees	56



DJAG Human Rights Implementation Working Group.....	57
Public Interest Disclosures Agency Network.....	57
Appendix 4: Glossary of acronyms	58



The Public Advocate

Legislative functions

The Public Advocate is a statutory position established under chapter 9 of the *Guardianship and Administration Act 2000* (Qld) to promote and protect the rights and interests of Queensland adults with impaired decision-making capacity through systemic advocacy.

'Having capacity' means a person can understand the nature and effect of decisions about a matter, can freely and voluntarily make decisions about it, and can communicate their decisions in some way. If a person is unable to do one or more of these things, they may have impaired decision-making capacity.

There are many conditions that may affect a person's decision-making capacity. These include intellectual disability, acquired brain injury, mental illness, neurological disorders (such as dementia) or alcohol and drug misuse. While not all people with these conditions will experience impaired decision-making capacity, many of them will at some point in their lives. For some, impaired decision-making capacity may be episodic or temporary, requiring intensive supports at specific times, while others may require lifelong support with decision-making and communicating their wishes and preferences.

The Public Advocate has the following functions:

'promoting and protecting the rights of adults with impaired capacity (the adults) for a matter; promoting the protection of the 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'.¹

In exercising these functions, the Public Advocate is required to apply the general principles outlined in Chapter 2A of the *Guardianship and Administration Act*.²

The Public Advocate has the power to:

'do all things necessary or convenient to perform the Public Advocate's functions'; and 'intervene in a proceeding before a court or tribunal, or in an official inquiry, involving the protection of the rights or interests of adults with impaired decision-making capacity'.³

The Public Advocate has the right to all information:

'necessary to monitor and review the delivery of services and facilities to adults with impaired capacity for a matter; about the arrangements for the provision of services and facilities to a class of the adults; and about the policies and procedures of a service or facility that relate to the provision of services and facilities to the adults'.⁴

¹ *Guardianship and Administration Act 2000* (Qld), s209.

² *Guardianship and Administration Act 2000* (Qld) s11B.

³ *Guardianship and Administration Act 2000* (Qld) s210, intervention in cases is granted with leave of the court, tribunal, or person in charge of the inquiry and is subject to any terms imposed.

⁴ *Guardianship and Administration Act 2000* (Qld) s210A.



Office of the Public Advocate

Vision

To realise a just and inclusive society where the rights of all Queenslanders are upheld, and their autonomy respected.

Purpose

To undertake systemic advocacy to promote the rights and interests of people with impaired decision-making ability and their protection from neglect, exploitation, and abuse.

Values

Relationships and influence

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

Knowledge and leadership

We are committed to research and analysis that contributes to informed legal and social policy debate to progress the rights of people with impaired decision-making ability, and their access to responsive supports and services.

Courage and integrity

We champion the rights and views of people with impaired decision-making ability through our systemic advocacy. We work with clear purpose and commitment. We encourage a culture where accountability and respect are paramount.

Operating environment

The Public Advocate thanks the Attorney-General, the Department of Justice and Attorney-General (DJAG) and the Queensland Government for their continued support of the role and functions of the Public Advocate. The Public Advocate often raises issues that can be challenging for Queensland Government agencies. However, this work is always undertaken with the objective of protecting the rights and interests of adults with impaired decision-making ability. The Public Advocate seeks to approach issues in an open and transparent way with a clear purpose, and respectfully challenge systems while advocating to advance the opportunities and interests of adults with impaired decision-making ability.

COVID-19

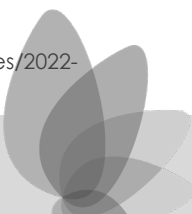
In 2023 the Australian Government released its National COVID-19 Health Management Plan, outlining the health supports that will be employed to manage COVID-19 during 2023.

This plan noted that Australia is currently transitioning to the treatment of COVID-19 in a 'similar way to other respiratory viruses and moving away from bespoke arrangements'.⁵

The plan details a series of pandemic control and health measures to be employed so that COVID-19 outbreaks can be managed effectively and that the country remains in a state of readiness, building its capacity to respond as things evolve.

People with impaired decision-making ability living in communal settings (like residential aged care facilities and disability care accommodation) are highlighted as having a continuing higher risk of both contracting COVID-19 and having severe illness.

⁵ Australian Government, *National COVID-19 Health Management Plan for 2023*, <https://www.health.gov.au/sites/default/files/2022-12/national-covid-19-health-management-plan-for-2023_0.pdf>, 2023, p 2.



Measures included in the plan for people with disability and designated higher risk individuals include:

- supporting high levels of vaccination, including in-reach vaccinations where required;
- prioritised arrangements for COVID-19 testing, enabling rapid access to treatment when needed;
- providing targeted access to treatments through the Pharmaceutical Benefits Scheme, and continued support through Medicare for people to have longer phone consults with GPs so they can be assessed for antiviral treatment eligibility; and
- ongoing sector engagement with the Australian Government through the Advisory Committee for the COVID-19 response for People with Disability and the Disability Health Sector Consultation Committee.

For older Australians living in residential aged care facilities, supports include, in addition to supporting high levels of vaccination and access to antiviral treatments:

- continuation of the reimbursement of residential aged care facilities for outbreak management costs;
- maintenance of surge work arrangements;
- enhancing sector preparedness and infection prevention capability; and
- continuing emergency in-reach testing arrangements during outbreaks.⁶

In Queensland, the COVID-19 working groups, of which the Public Advocate is a member, have either entered a hiatus (residential aged care) or are continuing with a broader focus (disability sector).

Human rights

Queensland government agencies and statutory positions, including the Public Advocate, have continued to embed the principles and provisions of the *Human Rights Act 2019* (the Act) into workplace operations and culture throughout 2022-23.

The office has maintained staff training associated with human rights, along with ensuring that all policies and processes are compliant with the Act. The Public Advocate also contributes to DJAG's annual reporting requirements associated with the Act. An office staff member is a member of the DJAG Human Rights Working Group, which meets on a quarterly basis.

Royal Commissions

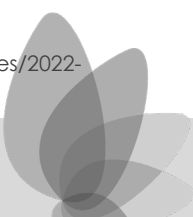
The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Disability Royal Commission or Commission) continued throughout 2022-23, with hearings covering a range of issues. The Commission will deliver its final report to the Australian Government on 29 September 2023. The report will include a series of recommendations on how to improve laws, policies, structures, and practices to ensure a more inclusive and just society.

In response to the Royal Commission into Aged Care Quality and Safety, which concluded with a final report tabled in the Australian Parliament on 1 March 2021, the Australian Government is now implementing a five-year plan to achieve critical reform across the aged care sector, inclusive of the provision of home care services and residential aged care.

Many of the people whose interests are the subject of these Royal Commissions experience impaired decision-making ability. Consequently, the Public Advocate has closely monitored hearings, findings, and recommendations, including the exploration of systemic issues affecting adults with impaired decision-making ability.

The specific activities undertaken by the Public Advocate in relation to the Royal Commissions are detailed later in this report.

⁶ Australian Government, *National COVID-19 Health Management Plan for 2023*, <https://www.health.gov.au/sites/default/files/2022-12/national-covid-19-health-management-plan-for-2023_0.pdf>, 2023, p 6-7.



The National Disability Insurance Scheme (NDIS)

As of 31 March 2023, the NDIS in Queensland included 125,549 active participants.⁷

While the number of active participants is increasing at a steady rate, eligibility and access to the Scheme still remain an issue, particularly for vulnerable groups including:

- people with psychosocial disability;
- people from culturally and linguistically diverse backgrounds;
- Aboriginal and Torres Strait Islander people; and
- people without appropriate supports and networks to assist them becoming participants.

The Queensland Government is continuing to operate its Access and Referral Team project, which has now been funded until December 2024. This project provides intensive case management support for eligible Queenslanders between 7 and 25 years of age to access the NDIS.

In addition to the regular reviews and consultation regarding specific elements of the scheme, it is now undergoing a complete review in accordance with a commitment made by the Australian Government following the May 2022 election.

The review is being undertaken under the direction of an independent panel, led by Professor Bruce Bonyhady AM and Ms Lisa Paul AO PSM.

The panel is expected to provide a final report to Government in October 2023, inclusive of key findings and recommendations for reform.

Information regarding submissions made by the Public Advocate to this review, and other Scheme based consultations undertaken during 2022-23, are included in a later section of this report.

The team

The Public Advocate's team is committed to supporting the Public Advocate through systemic advocacy to improve the lives of people who experience impaired decision-making ability.

The Public Advocate is an independent statutory position under the *Guardianship and Administration Act*, who is appointed by the Governor in Council on the recommendation of the Attorney-General. Dr John Chesterman is the current Public Advocate, being appointed to the role in August 2021.

Staff who support the Public Advocate are employed by DJAG and appointed under the *Public Sector Act 2022* (Qld). The office relies on DJAG for core business supports, such as information technology and human resource services.

Code of Conduct and public sector values

The following public sector values guide the way the team works:

1. Customers first
2. Ideas into action
3. Unleash potential
4. Be courageous
5. Empower people

⁷ NDIS, *National Qtrly Performance Dashboard*, 31 March 2023, <<https://www.ndis.gov.au/about-us/publications/quarterly-reports>>, June 2023, p 4.



Staff abide by the *Code of Conduct for the Queensland Public Service (The Code)* and DJAG's *Workplace Policy*. The Code reflects ethical values contained in the *Public Sector Ethics Act 1994 (Qld)* and is based on the following principles and values:

- integrity and impartiality;
- promoting the public good;
- commitment to the system of government; and
- accountability and transparency.

All staff are introduced to the Code and related departmental policy and expectations upon commencement with the office. Staff can readily access the Code and supporting resources through DJAG's intranet. Staff are periodically reminded about the Code and complete workplace ethics training. Any breaches of the Code are managed in line with the Public Service Commission's *Discipline Guideline (Guideline 01/17)*.

Staff ensure the administrative procedures and management practices of the office are ethical, and consistent with Public Service values, and the Code.

With the introduction of the new *Public Sector Act* on 1 March 2023, the Code and Public Sector values are currently under review to ensure alignment and consistency with the new Act. It is anticipated that they will be finalised towards the end of 2023.

Workforce planning and performance

Five full-time officers support the Public Advocate. The permanent separation rate of the office in 2022-23 was twenty percent, as one permanent employee resigned during this period.

Workforce planning processes aim to align the business needs of the office with the skills and abilities of staff. The Public Advocate is committed to providing staff with professional development opportunities to improve their knowledge and skills so that they can help to protect and advance the interests of adults with impaired decision-making ability. Staff attended a range of learning and development opportunities including conferences, events, and training sessions during 2022-23.

Performance management is integrated into the day-to-day running of the office, with all staff provided with regular feedback and recognition of their work performance, along with participation in performance and career development planning. As part of this planning, discussions focus on expectations, performance, behaviour, and career development.

The office supports staff to achieve an appropriate work-life balance and effectively manage their wellbeing and mental health. Flexible working options are provided to staff, which include accessing accrued time, working part time, and telecommuting. Where appropriate, staff are provided with information about self-care strategies and access to the confidential employee assistance service offered to DJAG employees.

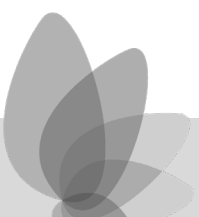


Business planning and performance

Given the diversity of people who experience impaired decision-making ability, the scope of work undertaken by the Public Advocate is necessarily broad. While some adults with impaired decision-making ability have limited involvement with service systems, others interact with multiple systems, such as disability, aged care, health, mental health, and justice.

Fulfilling the statutory functions of the Public Advocate therefore requires wide-ranging knowledge and understanding of these service systems and how adults with impaired decision-making ability interact with them. Achieving positive systemic change requires a range of approaches to the Public Advocate's work and engagement with stakeholders. This includes building positive and collegiate relationships with key stakeholders, staying abreast of systemic issues, and creating and capitalising on opportunities for change.

The Public Advocate has a business plan that helps guide the work of the office. The business plan is reviewed annually to define and prioritise work. The *Public Advocate's 2022-23 business plan* outlined the actions and activities that would be undertaken by the office in identifying and responding to systemic issues across multiple sectors.



Key focus areas – 2022-23 Business Plan

Major Projects

- advocate for the development of a legislative framework to authorise, regulate and monitor the use of restrictive practices across settings including residential aged care, disability services and health care;
- commence a review of Queensland's supported accommodation sector, focusing on the capacity of this sector to provide stable, safe, affordable and appropriate accommodation for eligible people;
- fund a supported decision-making demonstration project in collaboration with the Office of the Public Guardian;
- advocate to the National Health and Medical Research Council (NHMRC) regarding reforms to the consent process associated with participation in health research by people with impaired decision-making ability;
- commence a project reviewing the criminal justice system and its treatment of people with impaired decision-making ability;
- complete a review of Queensland's adult safeguarding measures and develop recommendations for reform for government;
- commence scoping a research project exploring elder abuse amongst the Aboriginal and Torres Strait Islander population; and
- monitor a series of key data indicators across systems that inform the Public Advocate's systemic advocacy activities.

Disability

- monitor issues associated with the NDIS, including the activities and responsiveness of the NDIS Quality and Safeguards Commission;
- commence the liaison and engagement process associated with a potential follow up report regarding the deaths of people with disability in care;
- continue to advocate for adequate and recurrent funding for advocacy support; and
- monitor the activities of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Disability Royal Commission).

Older people

- contribute to the processes associated with the implementation of aged care system reforms as recommended by the Royal Commission into Aged Care Quality and Safety; and
- contribute to the implementation of the Australian Government's National Plan to address abuse against older Australians.

Mental Health

- monitor progress on the conclusions and recommendations included in the mental health system review; and,
- continue to advocate for the electronic recording of Mental Health Review Tribunal (MHRT) proceedings.

Law and justice

- continue to advocate for the rights of people with impaired decision-making ability to form relationships and engage in sexual expression.

Guardianship and administration

- continue to advocate for the harmonisation of powers of attorney legislation and the development of a national register of enduring documents;
- continue to advocate for amendments to the *Guardianship and Administration Act* to allow guardianship clients to identify themselves when speaking about their experiences within the system; and
- monitor the implementation of the recommendations from the systemic review of the Public Trustee's fees, charges, and practices.



There are inherent challenges in measuring the performance of the Public Advocate's systemic advocacy. This is partly due to the nature of 'advocacy' and because the Public Advocate is not a decision-maker in any of the systems delivering services to adults with impaired decision-making ability.

There can also be a significant time lag between undertaking systemic advocacy activities and seeing an observable impact. Progress can be incremental, requiring a long-term strategy that considers factors including: political receptivity; community and media interest or concern; competition for government resources; and stakeholder relationships. Systemic changes are often driven by a combination of factors, with advocacy being just one.

Some aspects of the Public Advocate's performance can be easily measured, for example, the number of systemic advocacy submissions or reports completed in a year, or when a government report or a report from another authority directly quotes or references the Public Advocate's submission or other publication. Other performance questions are more difficult to answer, for example, how many lives have benefitted from a systemic improvement driven by the advocacy or work of the Public Advocate? Or, to what extent did the systemic advocacy of the Public Advocate influence or contribute to a positive change?

This annual report provides an overview of the activities undertaken by the Public Advocate in 2022-23 that demonstrate progress towards achieving positive changes in the protection of the rights and interests of adults with impaired decision-making ability.

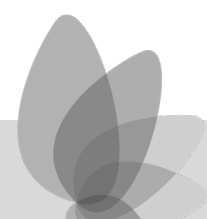
Over the past year, the Public Advocate has continued to work collaboratively with stakeholders on specific systemic issues to advance the interests of adults with impaired decision-making ability. The Public Advocate participated in several working and advisory groups (noted throughout this report) and made thirty-two submissions on a wide range of issues to various government and parliamentary reviews and inquiries. Many of those submissions are discussed under the specific sector areas in this report. Appendix 1 lists all submissions that are publicly available.

Community Enquiries

The Public Advocate is committed to responding to all community enquiries received by the office, providing people with an appropriate referral to an agency or organisation that may be able to assist with their individual circumstances. Community enquiries also provide another avenue for the office to connect with the lived experience of people with impaired decision-making ability and to identify systemic issues that need to be addressed.

The Public Advocate responds to a substantial number of community enquiries each year, received by phone, email or letter. Responding to community enquiries is considered an important role of the office, and staff members maintain a strong commitment to assisting all contacts, either directly or with a referral to another agency or organisation. The nature of community enquiries also contributes to our understanding of the lived experience of adults with impaired decision-making ability and the identification of relevant systemic issues.

During 2022-23, the Office received 181 community enquiries, 133 of which were unique contacts. The office referred most enquiries (around 70% of unique contacts) to a variety of agencies and organisations, including members of the guardianship and administration system within Queensland (e.g., QCAT, the Offices of the Public Guardian and the Public Trustee) and in other states or territories, Community Legal Centres, the Queensland Ombudsman, and the Office of the Health Ombudsman. A total of 32 individual enquiries were referred to agencies providing individual advocacy services or the Disability Pathways Advocacy service (highlighted later in this report). Other enquirers made general queries or comments, including feedback regarding publications released by the Public Advocate.



Governance

The Public Advocate is appointed to fulfil the statutory functions under Chapter 9 of the *Guardianship and Administration Act*. Under the Act, the Public Advocate is appointed for a fixed term, but for no longer than five years. Under section 215(3) of the Act, the Public Advocate may be removed from office by the Governor in Council for physical or mental incapacity, neglect of duty, dishonourable conduct, or after being found guilty of an offence the Attorney-General considers makes the person inappropriate to perform official duties.

The Public Advocate is a member of the Justice Services Executive, participating in monthly meetings. The Justice Services Executive is a key leadership, decision-making, and accountability mechanism for the Justice Services Division of DJAG.

The Public Advocate's office fulfilled DJAG's corporate governance and accountability requirements in 2022-23 and the office was not subject to any departmental or external reviews.

Information systems and recordkeeping

The office uses DJAG's record management system to manage electronic and physical documents and follows DJAG policies and processes for record keeping. During 2022-23 the office continued to improve record keeping processes to enhance compliance with the *Public Records Act 2002* and the Queensland State Archives Records Governance Policy. The office abides by the general retention and disposal schedule developed by Queensland State Archives.

Staff are introduced to the record keeping systems, record keeping responsibilities, and related departmental policy and expectations upon commencement with the office.

Engagement and consultation

The office continually seeks to understand the lived experience of adults with impaired decision-making ability and ensures that issues impacting them underpin the systemic advocacy of the Public Advocate.

Stakeholder engagement and consultation is critical to performing the functions of the Public Advocate. It helps the office gain additional knowledge and understanding of the lived experience of adults with impaired decision-making ability and is also a means by which the Public Advocate influences and effects positive systemic changes.

The office continually works to build and maintain collaborative relationships with government, non-government, and community stakeholders, particularly those in the disability, seniors, health, mental health, and justice sectors. These relationships allow the Public Advocate to engage with key issues and generate discussion, cultivate effective collaborations, and develop strategies and solutions that reflect the views and needs of adults with impaired decision-making ability and that can change their lives for the better.

Throughout 2022-23, the Public Advocate participated in regular meetings with a range of stakeholders including; the Public Guardian, the Public Trustee, the President and representatives of QCAT, the Chief Psychiatrist, the Director of the Forensic Disability Service (FDS), the Queensland Human Rights Commissioner, the Department of Child Safety, Seniors and Disability Services (DCSSDS), Uniting Care (Social Justice and Policy), and Queensland Advocacy for Inclusion (QAI). These meetings were in addition to working/advisory group meetings.



In 2022-23, the Public Advocate was on, or was represented on, the following working and advisory groups. Appendix 3 provides an overview of the purpose of each group.

Lead agency	Working/advisory group
Commonwealth Attorney-General's Department	Stakeholder Reference Group – Enduring Powers of Attorney reform
Public Advocate (Chair)	Australian Guardianship and Administration Council
Queensland Health	Health and Disability Interface Advisory Group Voluntary Assisted Dying – Residential Aged Care Committee QCAT Guardianship Program Governance Group
Public Advocate (Chair)	Mental Health and Disability Legal Assistance Forum
Queensland Law Society	Health and Disability Law Committee Elder Law Committee
Department of Child Safety, Seniors and Disability Services (DCSSDS)	Positive Behaviour Support and Restrictive Practices Review Reference Group
DJAG	Human Rights Working Group Justice Services Executive Leadership Group
Queensland Ombudsman	Public Interest Disclosures Agency Network

Systemic Advocacy Projects

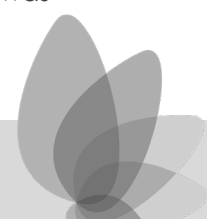
At any given time, the Public Advocate is working on a range of systemic advocacy projects in response to issues that have been raised by stakeholders and people with lived experience of impaired decision-making ability.

These projects are ones that require additional research, consultation and review for the development of reform recommendations to government.

Under the *Guardianship and Administration Act*, the Public Advocate also has the ability to provide reports of this nature to the Attorney-General for tabling in the Queensland Parliament. This is one of the principal ways in which the Public Advocate can drive systemic change to improve the lives and wellbeing of adults with impaired decision-making ability.

During 2022-23, the Public Advocate:

- Completed an Adult Safeguarding Project, which calls for the introduction of an Adult Safeguarding Commissioner and local Adult Safeguarding Networks within Queensland. This report was tabled in the Queensland Parliament on 8 December 2022. Further details regarding this project are included in the Disability section of this report.
- Finalised a report, *Public Accountability, Private Lives: Reconsidering the Queensland guardianship system's confidentiality requirements*. This report looks in particular at the making of confidentiality orders by the Queensland Civil and Administrative Tribunal (QCAT) and Section 114A of the *Guardianship and Administration Act 2000* which currently prohibits the publication of the identity of a person who is subject to a guardianship proceeding (unless certain other conditions apply).
- Released a report, *Better Pathways: Improving Queensland's acute mental health system*, which made 21 recommendations for improvements to the system in Queensland.
- Initiated a review of Supported Accommodation in Queensland (a report regarding this review was tabled in the Queensland Parliament on 12 September 2023).



- Initiated a project investigating the experiences of adults with impaired decision-making ability who have been in contact with the Queensland criminal justice system – it is anticipated that a discussion paper on this issue will be released in early 2024, to be followed by a series of targeted consultations with critical stakeholders, including people with lived experience, across Queensland.

The reform recommendations included in a number of reports released during 2021-22 also remain a priority for the Public Advocate, including:

- *A discussion of Section 216 of the Criminal Code: A call to review the criminalisation of sexual relationships involving people with 'an impairment of the mind'* – a discussion paper concerning the right of adults with impaired decision-making ability to engage in sexual relationships.
- *Joint Issues Paper – Elder Abuse* – prepared in conjunction with the Queensland Law Society (QLS).

Reference is made to these papers and reports throughout this report.



Disability

Royal Commission into Violence, Abuse, Neglect, and Exploitation of People with Disability

During 2022-23 the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Disability Royal Commission) continued to investigate a broad range of issues of concern to the community.

As 2023 is the final year of the Commission's operation, many of the preliminary themes and issues identified during the past four years were revisited and finalised in preparation for the final report, which is due to be tabled in the Australian Parliament on 29 September 2023.

It is anticipated that the recommendations of the Commission will have significant ramifications for the disability services sector and for, more generally, Australia's general treatment of people with disability in the future.

Given that many of the systems with which people with disability interact are state legislated (health, housing, guardianship and administration, transport etc) how the recommendations, if accepted by the Australian government, will be operationally implemented may be particularly challenging.

Public Advocate involvement

Following his attendance at two stakeholder roundtable sessions on guardianship and supported decision-making hosted by the Disability Royal Commission, in June 2022 the Public Advocate prepared a submission to the Commission on behalf of the Australian Guardianship and Administration Council (AGAC).

This submission was prepared in response to the Commission's publication, on its website, of a discussion paper, entitled *Roundtable, Supported decision-making and guardianship: proposals for reform*.⁸

In this submission the range of supported decision-making reforms proposed by the Commission were explored, including the proposed national supported decision-making principles.

The submission noted key operational and legislative reforms that would need to be implemented to put into effect the Commission's proposals, and also suggested ideas and alternatives that could potentially alleviate or eliminate operational challenges associated with the proposals.

As it is for the Commission, the overall goal of Public Advocates and Guardians across Australia is to reduce reliance on the guardianship and administration system in favour of methods (like supported decision-making) that provide people with impaired decision-making ability with improved autonomy and independence in decision-making.

Adult Safeguarding project

The Adult Safeguarding project was initiated by the Public Advocate in 2021-22 and continued during the 2022-23 financial year.

On 8 December 2022, *Adult Safeguarding in Queensland, Volume 2: Reform Recommendations* was tabled in the Queensland Parliament by the then Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, the Hon. Shannon Fentiman, MP.

The report includes 17 recommendations related to the safeguarding of 'at risk' adults living in the general community, a term defined to refer to 'people aged 18 years of age and over who a) have care and

⁸ Royal Commission into Violence, Neglect, and Exploitation of People with Disability, *Roundtable, Supported decision-making and guardianship: proposals for reform*, < <https://disability.royalcommission.gov.au/system/files/2022-10/Roundtable%20-%20Supported%20decision-making%20and%20guardianship%20-%20Proposals%20for%20reform.pdf>>, 3 June 2022.



support needs, b) are being abused or neglected, or are at risk of abuse or neglect, and c) are unable to protect themselves from abuse or neglect because of their care or support needs'.⁹

These recommendations were made to address a range of critical issues identified in the first volume of the report (*Adult Safeguarding in Queensland: Volume 1. Identifying the Gaps*) including:

- elder abuse;
- financial abuse;
- scams and fraud;
- health emergency and disaster preparedness;
- first responders and crisis responses;
- authorisation and use of restrictive practices;
- information sharing;
- NDIS service provision;
- navigating complex systems and system interfaces;
- appropriate, accessible, and affordable housing;
- separation of housing and support services;
- supporting transition to community living;
- decision-making;
- developing, strengthening, and maintaining informal safeguards; and
- investigation of adult safeguarding issues.

The two key reform recommendations made in the report include:

- The introduction of an adult safeguarding agency in Queensland, led by an Adult Safeguarding Commissioner (Recommendation 1).
- The development of regionally based adult safeguarding networks to encourage community ownership and action regarding local adult safeguarding concerns (Recommendation 10).

Since tabling of the report, the Public Advocate has been in discussions with relevant government agencies and Ministers regarding the reform recommendations.

The National Disability Insurance Scheme (NDIS) Review

The election of the Albanese-led Labor Federal Government in May 2022 came with a commitment to review the NDIS, with the objective of making sure that the 'national disability safety net is strong and responsive, generous, and reasonable'.¹⁰

The NDIS Review is being led by an independent panel, which includes Professor Bruce Bonyhady AM (co-chair), Ms Lisa Paul AO PSM (co-chair), Mr Kevin Cocks AM, Ms Judy Brewer AO, Dr Stephen P King, Mr Dougie Herd and Ms Kirsten Deane OAM.

It is expected to report its findings and recommendations to Government in October 2023.

To date, the Public Advocate has made two detailed submissions to the review, as well as being involved in informal meetings and consultation with members of the Review Panel.

The Public Advocate's first submission was made on behalf of Public Advocates and Guardians from across Australia.

This submission highlighted a range of critical issues for people with impaired decision-making ability when interacting with the NDIS. It also set out a number of proposed reforms for consideration by the Review Panel, which have the potential to significantly improve the well-being of people with impaired decision-making ability.

⁹ Australian Law Reform Commission, Report 131 - Elder Abuse – A National Legal Response, 2017, p. 387

¹⁰ Commonwealth of Australia, *Transcript – Message from the Minister for the National Disability Insurance Scheme*, <<https://www.ndisreview.gov.au/>>, 2022.



The suggestions covered six potential reform areas for the NDIS and included:

- better supporting individuals to make their own access and service decisions;
- better recognising informal caring and support relationships (where these do not give rise to genuine concerns about the well-being of the participant or prospective participant);
- simplifying and streamlining administrative technicalities that can result in unnecessary guardianship applications;
- improving escalation pathways for people with complex support needs;
- improving NDIS safeguarding mechanisms; and
- improving interfaces with other systems.

The Public Advocate's second submission to the review focussed on the NDIS Quality and Safeguarding framework.

This submission highlighted that the original framework may not have been sufficiently resourced to enable the successful operationalisation of its three core components – developmental, preventative and corrective measures. The Public Advocate also noted that the corrective component of the safeguarding model has been hampered by information exchange practices between the Commission and state based safeguarding measures like Community Visitor programs, which appear to prioritise participant privacy over participant wellbeing.

In considering improvements to the Quality and Safeguarding framework the Public Advocate stressed the importance of:

- improving individual safeguards for particularly vulnerable NDIS participants;
- the increased use of supported decision-making to enable participants to exercise greater control over their lives;
- the availability of advocates to assist participants to navigate the NDIS and other systems with which it interacts;
- identifying a clear single contact point for the reporting of safeguarding issues, concerns and emergencies;
- improving information sharing amongst safeguarding agencies (as noted); and
- outreach and visitation services, including independent Community Visitor programs, to ensure that someone other than service providers has 'eyes on' participants with significant support needs.

Health care for people with disability

Comprehensive Health Assessment Program (CHAP)

The completion of a comprehensive health assessment is vital to people with intellectual disability and related complex health conditions. It assists in maintaining a person's health and wellbeing, with the conduct of a thorough assessment by a medical professional designed to document health needs as well as identify and monitor specific health conditions that may be commonly missed or poorly managed. Once a comprehensive health assessment is completed, it should form the basis of a health action plan, agreed to by a medical professional in conjunction with the person themselves or those involved in providing support or services to the person.

The Queensland Centre for Intellectual and Developmental Disability initially developed and licenced CHAP, which consists of a questionnaire that documents a person's health history and provides their General Practitioner (GP) with prompts and guidelines relating to health issues.

Access to CHAP documentation by Queenslanders with an intellectual disability was initially supported by the Queensland Government, however the Commonwealth Department of Health and Aged Care has recently acquired a permanent licence to develop and publish the CHAP.

This means that the CHAP can now be accessed for free on the Commonwealth Department's website.

The Public Advocate welcomes this development and the recurrent funding of the program, which plays a vital role in monitoring the health and wellbeing of people with impaired decision-making ability.



Transitioning people with disability living long-term in public health facilities to the community

A long-standing issue for the Public Advocate has been the need to transition people with impaired decision-making ability, who are medically ready for discharge, into appropriate community-based living arrangements. The Public Advocate has been reporting for several years on the number of people with disability living long-term in public health facilities and those discharged to the community.

Since 2020-21, significant work has been undertaken by Queensland Health (specifically the Long-Stay Rapid Response Team) to reduce the number of long-stay patients residing in health facilities.

Based on figures supplied by Queensland Health, in the period between 23 February and 29 May 2023:

- 150 long stay younger patients (under 65 years) were discharged from Queensland Health facilities; and
- 42 long stay older patients were discharged from Queensland Health facilities.¹¹

However, as of 29 May 2023, 241 long-stay younger patients and 539 long-stay older patients remained in Queensland Health facilities awaiting discharge to appropriate accommodation in the community.

Discharge barriers continue to be related to, for younger patients, NDIS plan approval and accommodation delays; while for older patients the availability of residential aged care facility places can delay discharge.¹²

While welcoming the efforts by state government agencies and other agencies (like the NDIS), the Public Advocate continues to have concerns regarding the number of patients remaining in health facilities (who are essentially institutionalised), as well as about the facilitation of appropriate and sustainable discharge solutions.

The Public Advocate will continue to liaise with Queensland Health and other appropriate agencies to address these issues and work towards sustainable solutions to facilitate the safe discharge of people with disability from hospital environments back into the community.

Specific residential facilities operated by Queensland Health – the Halwyn Centre (Brisbane), Birribi (Rockhampton) and the Giabal Unit (Toowoomba)

In line with a commitment to deinstitutionalisation and with the introduction of the NDIS, Queensland Health has been involved in the transition of people housed in specific health operated facilities to community-based living.

The three facilities in operation during the 2022-23 financial year included the Halwyn Centre, based in Red Hill Brisbane, the Birribi Residential Service in Rockhampton and the Giabal Unit in Toowoomba.

Birribi Residential Service

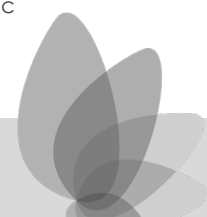
During 2022-23, the eight permanent residents of the Birribi Residential Service in Rockhampton were transitioned into community-based accommodation. All transitions were conducted in collaboration with (where available) the person's informal and formal support networks and were inclusive of the disability or related supports (through NDIS plans) the person requires to maintain a sustainable residence within the community.¹³

This development is significant, and the Public Advocate congratulates Queensland Health for the facilitation of this process over several years.

¹¹ Letter from Ms Tricia Matthias, Executive Director, Systems Policy Branch, Queensland Health, to Dr John Chesterman, Public Advocate, 9 August 2023.

¹² Ibid.

¹³ Ibid.



Giabul Unit, Toowoomba and Halwyn Centre, Red Hill

As at 1 August 2023, sixteen people were residing in the Giabul Unit and a further twenty in the Halwyn Centre, Red Hill.

The Public Advocate supports deinstitutionalisation and the provision of more community inclusive accommodation options for people with disability. He is continuing to advocate for and support the safe transition to community living of residents of these facilities if they make the decision to move.

Forensic Disability Service (FDS)

The FDS is a purpose-built, medium security residential and treatment facility that can accommodate and provide care for up to 10 people who are subject to a Forensic Order (Disability) under the *Mental Health Act 2016* (Qld). The service was established and operates under the *Forensic Disability Act 2011* (Qld) and is managed by the Department of Child Safety, Seniors and Disability Services (DCSSDS).

The FDS was established following concerns raised in two separate reviews, which identified the need for a more appropriate model of care for people with intellectual disability or cognitive impairment who are charged with criminal offences and found to be of unsound mind or unfit for trial. The FDS was intended to provide a specialised model of care for this cohort of people, including programs to assist FDS clients with their habilitation and rehabilitation.

Successive Public Advocates have taken an interest in the operation of the FDS, particularly the protection of clients' human rights, their access to appropriate programs, and plans to transition clients out of the service. Every year, the Public Advocate seeks data on the number of clients entering and transitioning from the FDS, the profile of clients, and the programs in place for clients.

During 2022-23, two of the five clients detained in the facility on 30 June 2022 were transferred out of the facility, and three remained. Two new clients arrived at the FDS during 2022-23, meaning that a total of five clients were detained in the facility on 30 June 2023.¹⁴

Two clients have been detained at the FDS for over ten years, which is troubling to note. Work is currently underway to transition these clients to suitable and safe accommodation including the appropriate level of disability and other supports required to ensure their safety and wellbeing, as well as facilitating community involvement and interaction.

Those clients who have entered the facility more recently participate in a variety of programs, with the aim of facilitating their transition back into the community. The progress made in relation to transitioning some clients out of the facility demonstrates the continuing efforts made by the FDS to focus on supporting clients to return to living in the community.

Disability advocacy funding

Disability advocacy seeks to ensure that all people with disability can be included in the social, civic, and economic life of their community.¹⁵ Advocacy support helps people to understand that they have rights, helps them to realise these rights, and promotes positive societal change.

Following a period of instability in terms of the funding provided towards advocacy at a state level, the Disability Advocacy Program was developed. The Program delivers (via non-government organisations):

- a centralised advocacy referral service called Disability Advocacy Pathways. This service, operated by Queensland Advocacy for Inclusion, is an information and referral service that assists Queenslanders with disability, their families, friends, and carers to find advocacy services to suit their needs and location.¹⁶

¹⁴ Letter from Dr Chris Sarra, Director-General, Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships, to Dr John Chesterman, Public Advocate, 21 July 2022.

¹⁵ Department of Health and Human Services (Vic), *Victorian disability advocacy futures plan 2018-2020*, Victorian Government, Melbourne 2018.

¹⁶ Disability Advocacy Pathways, *About Pathways*, <<https://disabilitypathways.org.au/>>, 2022.



- specialist services providing individual advocacy support for Aboriginal and Torres Strait Islander people with disability, people with disability from culturally and linguistically diverse backgrounds, and children and young people with disability; and
- regionally delivered individual advocacy support to people with disability throughout Queensland.¹⁷

At the time it was introduced, the Queensland Government made a commitment to fund the program until June 2023. DCSSDS has, however, recently confirmed that the program received recurrent funding under the Queensland Government's Mid-Year Fiscal and Economic Review (MYFER). This means that all services currently funded under the program will continue for a full five years under existing service agreements.

Over the 2022-23 financial year, Disability Advocacy Pathways assisted 760 Queenslanders with information or connections with advocacy services. These consisted of 648 simple referrals (providing a person with information and contact details for a suitable organisation for independent contact) and 112 facilitated referrals, where connections to a service are made directly, through the completion of an intake process on behalf of a person.¹⁸

The most common types of disability experienced by people contacting pathways include; psychosocial disability (19%), Autism Spectrum Disorder (12%), and physical disability (11%).¹⁹

Contribution to whole-of-government initiatives

The *Disability Services Act 1986* (Cth)

In January 2023, the Public Advocate was asked to comment on the Commonwealth *Disability Services Act* (DSA), specifically regarding what should be included in a new Act, given that the existing Act had not been substantially reviewed in more than thirty years.

In his submission the Public Advocate noted that the revised Act should affirm Australian's obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) as well as being consistent with the objectives of the *National Disability Insurance Scheme Act 2013* (Cth) (NDIS Act).

He also noted the opportunity for the DSA to integrate national plans and strategies like Australia's Disability Strategy and the National Disability Advocacy Program, to potentially assist with their realisation and review in the future.

Australia's Disability Strategy

Australia's Disability Strategy (ADS) 2021-2031 was officially launched on 3 December 2021. The strategy is endorsed by all levels of government which have committed to the progression of a unified, national approach to building inclusion for people with disability.²⁰

The Strategy includes seven outcome areas: employment and financial security; inclusive homes and communities; safety; rights and justice; personal and community support; education and learning; health and wellbeing; and community attitudes.

During 2022-23, the Public Advocate was asked to comment on two areas associated with implementation of the strategy:

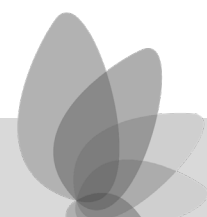
- involving people with disability in evaluation; and
- developing a guide to the guiding principles of the strategy.

¹⁷ Queensland Government, *Advocacy Supports*, < <https://www.qld.gov.au/disability/legal-and-rights/advocacy#:~:text=The%20Queensland%20Disability%20Advocacy%20Program,to%20understand%20their%20rights>>, 31 January 2022.

¹⁸ Letter from Queensland Advocacy for Inclusion (QAI), to Dr John Chesterman, Public Advocate, 7 August 2023.

¹⁹ Ibid.

²⁰ Australian Government, Department of Social Services, *Disability and Australia's Disability Strategy*, < <https://www.dss.gov.au/disability-and-australias-disability-strategy-2021-2031>>, 24 March 2023.



In relation to involving people with disability in the evaluation of programs, services and other initiatives, the Public Advocate stressed the importance of accessibility to evaluations (including accessibility for those with cognitive impairments), the need for a balance to be maintained between disaggregating data to better understand the views and experiences of people and respecting their privacy and anonymity, and the importance of evaluations adhering to relevant ethical and quality standards.

The Guiding Principles used in Australia's Disability Strategy are based on Article 3 of UNCRPD. The guide to the guiding principles has been designed to assist governments, business and the community apply the principles to make sure that policies, programs and services are appropriate and accessible for people with disability.

The Public Advocate's comments on the guide to the guiding principles focused on four of the eight principles included in the guide.

The submission raised the need for:

- the design of new systems and services to accommodate and respect supported decision-making, which may take somewhat longer than traditional decision-making but constitutes a reasonable adjustment to respect the right of people with disability to be involved in decisions that affect their lives;
- the principles to acknowledge and incorporate relevant state and territory anti-discrimination and human rights legislation;
- the explanation of accessibility to be broader than physical access to a premises or program, incorporating emotional and cultural accessibility requirements and drawing on knowledge of the experiences people with disability may have had when accessing government systems, programs and services in the past; and
- consultation to occur with a diverse range of groups and individuals when developing or changing a service, system, policy or program.

On 19 June 2023, the Public Advocate attended an ADS Queensland Jurisdictional Forum, hosted by Queenslanders with Disability Network (QDN) and funded by the Queensland government. The forum was designed to bring together key stakeholders from across Queensland to generate engagement with, and commitment to, the strategy, and to start thinking about how collective actions can contribute to plan outcomes, under the common objective of access and inclusion.

National Disability Advocacy Framework 2023-25

Consultation on the National Disability Advocacy Framework began in 2015, when the Commonwealth Department of Social Services called for submissions to inform their review of the framework. This initial consultation was followed by a decision, in April 2015, by the then Council of Australian Governments' Disability Reform Council to fund systemic advocacy and legal review and representation outside of the NDIS.²¹ Further to this, in 2019 it was agreed that funding of independent disability advocacy is a responsibility that is to be shared by all jurisdictions.

In June 2022, the Public Advocate was again requested to provide feedback regarding the revised draft framework. In this feedback, he noted the importance of the framework acknowledging the various systems with which people with disability may interact including, but not limited to; health, housing, transport, aged care, criminal justice and welfare and social services, in addition to the NDIS.

The Public Advocate also stressed the importance of the framework incorporating other government system frameworks into the new National Disability Advocacy Framework. This should include things like, as relevant examples, the Aged Care Diversity Framework (2017)²² and the National Aged Care Advocacy Framework (2018).²³

²¹ COAG Disability Reform Council Communique, 24 April 2015, [COAG Disability Reform Council Communique | Former Ministers and Parliamentary Secretaries \(dss.gov.au\)](#)

²² Department of Health, "Aged Care Diversity Framework", December 2017. [Aged Care Diversity Framework \(health.gov.au\)](#)

²³ Department of Health, "National Aged Care Advocacy Framework", December 2018. [NATIONAL AGED CARE ADVOCACY FRAMEWORK \(health.gov.au\)](#)



The finalised National Disability Advocacy Framework 2023-25 was released in June 2023. The framework includes a number of person-centred and rights-based principles for state and territory governments to accept and follow to guide the provision of advocacy for people with disability nationally.

Queensland's Disability Plan 2022-2027

Following the release of Australia's Disability Strategy on 3 December 2021, *Queensland's Disability Plan: Together, a better Queensland* was launched by the then Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships in 2022.

The Public Advocate contributed to the consultation process associated with the development of this plan during 2021-22.

The plan's intention, in line with Queensland's commitment to Australia's Disability Strategy, is to be the mechanism by which this strategy is implemented in Queensland. It requires Queensland government departments to 'develop, publish and deliver key actions under Queensland Government disability service plans that align with this plan'. The plan will also 'invite and encourage all levels of government, businesses, industries and communities to make the same commitment to work collectively with people with disability towards a common objective of access and inclusion'.²⁴

DCSSDS is now responsible for the plan and hosts a website on which the plans of Queensland government departments are published. The website also includes a series of training resources to promote community awareness and support for developing inclusion plans.

²⁴ Queensland Government, *Queensland's Disability Plan 2022-2027*, <<https://www.dsdsatsip.qld.gov.au/campaign/queenslands-disability-plan/about-plan/queenslands-disability-plan-2022-27>>, 21 February 2023.



Older people

Royal Commission into Aged Care Quality and Safety – Implementation of Recommendations

The final report of the Royal Commission into Aged Care Quality and Safety was tabled in the Australian parliament on 1 March 2021. The report included 148 recommendations aimed at re-building and re-focusing the aged care system in Australia.

Since that time, reforms have been underway in the lead up to the introduction into Parliament of a new Aged Care Act, expected towards the end of 2023.

Many of the reform initiatives proposed have been subject to submissions from the Public Advocate, which are detailed later in this report.

The Public Advocate will continue to monitor the Australian government's progress in implementing the recommendations of the report, particularly in relation to addressing the needs and protecting the rights of older people with impaired decision-making ability.

Aged Care Structural Reforms

During 2022-23, the Public Advocate responded to a series of consultations related to:

- the Aged Care Code of Conduct;
- the Aged Care Quality Standards;
- the Aged Care Quality and Safety Commission;
- the in-home aged care model; and
- the new model for regulating aged care.

In each of the submissions prepared by the Public Advocate, a focus was placed on upholding and protecting the rights of older people with impaired decision-making ability when in receipt of aged care services.

In relation to the exposure draft of the *Aged Care Quality and Safety Commission Amendment (Code of Conduct and Banning Orders) Rules 2022*, the Public Advocate highlighted:

- The need for the code to reference the UNCRPD to cover the full range of rights that are held by people with disabilities in Australia.
- The concept of supported, rather than substitute, decision-making which recognises that all people with a disability have the right to participate in the making of decisions that affect them (also included in the UNCRPD).
- Linking the Code of Conduct to other measures (like the Aged Care Quality Standards) so that they are measured proactively, rather than only being linked to a reactive response when a potential breach of the code is reported to the Aged Care Quality and Safety Commission.

The Public Advocate also raised considerations related to the practical implementation of the Code, which included the need for training for aged care service providers as to its provisions and what they practically mean and building awareness and understanding of the Code amongst aged care consumers and their support persons.

The Public Advocate's submission regarding the reform of the Aged Care Quality Standards again highlighted similar human-rights based concepts, including having the standards more explicitly refer to supported decision-making when considering 'the person', and ensuring that communication with aged care service recipients with impaired decision-making ability about their rights is appropriate and person-centred.



In this submission the Public Advocate also highlighted concerns regarding the use of a consent-based model in aged care for the use of restrictive practices. These concerns are discussed in further detail later in this report.

The Public Advocate's submission regarding a new model for in-home aged care acknowledged the importance of this sector, given that most people would prefer to remain at home in their older years, rather than move into residential aged care or another form of care accommodation.

Issues noted in relation to the new in-home aged care model included:

- Assessment for in-home care while in hospital. It was noted that the new model will allow for assessments to take place in hospital as well as other locations. While this was welcomed as part of a more responsive system, the need for assessments to be expedited was highlighted, as a decline in a person's health in these circumstances can be rapid, due to them being in a hospital bed for an extended period of time. The issue is particularly relevant for older people with a degree of cognitive decline as they are often unable to access allied health services while in hospital.
- The development of an appropriate safeguarding framework for vulnerable people receiving in-home aged care. Comments made by the Public Advocate highlighted the need for an appropriate safeguarding framework to be implemented in addition to the complaint-based system currently operating. It is understood by the Public Advocate that most in-home aged care package participants may not require additional safeguards and protections. However, he also understands that particularly vulnerable people, especially those experiencing cognitive decline, mobility issues, or difficulty communicating, do need these additional safeguards and protections. Participants may also be classified as vulnerable if they live alone (without a partner, carer or other family member) or do not have a support network of family and friends living nearby. A safeguarding framework will need to include a provision for there to be 'eyes on the person' as opposed to other types of contact. It will also be critical to monitor key physical and mental changes that could potentially indicate that the person is subject to abuse, exploitation or neglect.
- The need for a commitment to supported decision-making in the model, with policies and practices that contribute to meeting obligations under the UNCRPD as well as guardianship and administration legislation provisions applicable in a number of states, including Queensland.

In his submission regarding the proposed new aged care regulatory model, the Public Advocate also raised a number of human-rights and safeguarding issues. His comments regarding the model included:

- Linking a definition of high-quality care to the rights of older people that are to be embedded into the new Aged Care Act, in accordance with recommendations made by the Royal Commission into Aged Care Quality and Safety.
- Specifically including a number of critical human rights related to the right to complain, to be centrally involved in decision-making, and to have a person of choice provide support or speak on a person's behalf.
- Including a system of safeguarding within the regulatory model designed to capture and address incidents involving violence, abuse, neglect and exploitation of aged care recipients.

The Public Advocate's submission regarding the Aged Care Quality and Safety Commission focused on the ability of people with impaired decision-making ability to be heard if requiring the assistance of the Commission or lodging a complaint.

Several pieces of research, which the Public Advocate highlighted, have established that traditional complaint mechanisms do not work for people with impaired decision-making ability. To be more suitable, complaint systems need to incorporate mechanisms that maximise accessibility and support people to actively engage with the complaint making process.



Improvements to the Commission's complaint management system that the Public Advocate suggested included:

- A communications audit to assess the relevance and accessibility of information provided to older people in aged care settings about complaints and how to make them.
- Improving the complaint reporting mechanisms employed to provide greater transparency and accountability. One example of this is making complaint data available at a state and territory level, to allow for additional analysis and the identification of systemic issues that may be particular to certain jurisdictions.

The Public Advocate also highlighted the importance of additional safeguards, including advocacy and community visitor programs, to complement and improve formal complaint mechanisms, particularly for people with impaired decision-making ability.

Use of restrictive practices in residential aged care

The unauthorised use of restrictive practices in residential aged care has been an ongoing issue for the Public Advocate, highlighted in several systemic reports, media releases, position statements and advocacy activities since 2016.

The issue rose to prominence nationally during the Royal Commission into Aged Care Quality and Safety and consequent media reports, including a major story on the ABC's Four Corners program. Since that time various amendments to aged care legislation and regulations have been made, including the introduction of a consent-based model for the use of restrictive practices across the aged care sector.

The Public Advocate is continuing to advocate for further reform. In May 2022, the Public Advocate's position in relation to restrictive practices was published in the Australian Ageing Agenda. This article noted various concerns associated with the aged care legislation as it currently stands, the most prominent of which is the limited protection provided by a restrictive practices regime that relies on consent or substitute consent for authorisation.

The Public Advocate has proposed that a new model for the authorisation of restrictive practices be employed across residential aged care services and other facilities (like disability care and accommodation services and health care). This model, known as a senior practitioner model, operates using authorisation rather than consent.

During 2022-23 the Public Advocate has continued to advocate for change across the disability and aged care sectors. He had three additional articles published in the Australian Ageing Agenda, each reiterating the flaws inherent in consent-based models for the use of restrictive practices and proposing the use of a senior practitioner model.

In March 2023 the Public Advocate was invited to brief the Commonwealth Parliamentary Joint Committee on Human Rights, which later highlighted, in its report to Parliament regarding the legislation, that 'there may be a risk that in simplifying consent arrangements, this instrument has the effect of facilitating the use of restrictive practices, which is inconsistent with Australia's obligation to minimise, and ultimately eliminate, the use of restrictive practices'.²⁵

The Committee went on to recommend some amendments to the legislation, however noted 'that further consideration should ... be given to whether the consent model to the use of restrictive practices is the best approach to protect the rights of aged care residents'.²⁶

The legislation in its current form has been introduced, according to the Minister for Aged Care Ms Anika Wells MP, as an interim measure 'until state and territory guardianship and consent laws can be amended, or until 1 December 2024'.²⁷ It is not anticipated that the provisions will be included in the new Aged Care Act, which is currently being drafted.

²⁵ Parliamentary Joint Committee on Human Rights, Report 3 of 2023 – Quality of Care Amendment (Restrictive Practices) Principles 2022; [2023] AUPJCHR 25, p 21.

²⁶ Ibid, p 22.

²⁷ Parliamentary Joint Committee on Human Rights, Report snapshot, Report 3 of 2023 – Quality of Care Amendment (Restrictive Practices) Principles 2022; [2023] AUPJCHR 26, p 1.



Draft Psychotropic Medicines in Cognitive Disability or Impairment Clinical Care Standard

This draft standard was released by the Australian Commission on Safety and Quality in Health Care (the Commission) in April 2023 for public consultation.

The standard details the Commission's commitment to reduce the inappropriate use of psychotropic medicines as a form of restrictive practice to control the behaviour of people who exhibit behaviours of concern, particularly older people with cognitive disability or impairment.

In his submission regarding the draft, the Public Advocate made a number of suggestions for improvement including:

- The standard noting, in addition to Aged Care and NDIS Commonwealth legislation, specific pieces of legislation that apply to the use of restrictive practices in certain jurisdictions. In Queensland, this includes the *Disability Services Act 2006*, the *Mental Health Act 2016* and the *Forensic Disability Act 2011*.
- The move from decisions being made in the 'best interests' of people (as mentioned in the draft standard) and towards models for decision-making based on the person's 'will and preferences', which provides for a stronger alignment with the rights of the individual.
- When substitute decision-makers are used to provide consent for the use of chemical restraints, that there may be different decision-makers for different purposes, as well as jurisdictions in which substitute consent cannot be sought.
- That all forms of restrictive practice, including chemical and physical restraint, should be used as a last resort and only after a series of other non-restraint based strategies have been considered or applied.

The Public Advocate also suggested that the guide for consumers developed to accompany the standard, if intended to provide information to people with impaired decision-making ability, would benefit from review in consultation with peak disability advocacy and service organisations to enhance its accessibility for this cohort and their support networks, including carers, family and friends.

National Dementia Action Plan

In November 2022, the Commonwealth Department of Health and Aged Care released a draft National Dementia Action Plan, designed to improve the supports, services and system responses to people living with dementia, their carers and families.

The Public Advocate, in response to the call for submissions regarding the draft plan, requested that the plan consider the following issues prior to finalisation:

- Referring to the fundamental human rights principles described in the UNCRPD which apply to people with dementia.
- Including references and actions in the plan that relate to; promoting the awareness and use of supported decision-making for people with dementia, even if a substitute decision-maker has been appointed, applying the concept of 'dignity of risk' for people with dementia, and promoting awareness and understanding of the advance care planning legal documents available for people to document their future wishes and preferences.
- The plan facilitating improved access to independent advocacy for people with dementia, to facilitate people's participation in decision-making and help to ensure that they receive appropriate care and support that reflects their needs and preferences.
- Linking of the action plan with other relevant Commonwealth and State and Territory strategies and plans including, most notably; Australia's Disability Strategy 2021-2031, The National Plan to Respond to the Abuse of Older Australians [Elder Abuse] 2019-2023, and The National Agreement on Closing the Gap.



Care and Support Economy Strategy

In May 2023, the Department of Prime Minister and Cabinet released the draft National Care and Support Economy Strategy 2023 for consultation.

The Public Advocate's feedback supported the provision of high-quality care as a key goal for the care and support economy, including services that are person-centred. He suggested that the fundamental human rights of those accessing, or seeking to access, care and support should be included as a central component of high-quality care.

The submission also recommended that, given the significant reviews and work simultaneously occurring in relation to the disability, aged care and veterans' care sectors (for example the NDIS Review and the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability), the timing of the finalised Strategy should enable the findings from these reviews to be appropriately incorporated.

Contribution to whole-of-government initiatives

National Plan to respond to the abuse of older Australians

The National Plan to respond to the abuse of older Australians is currently in an evaluation phase. The Public Advocate has completed a survey associated with this evaluation and anticipates being involved in further consultation regarding the development of a new plan to be undertaken throughout 2023-24.

Throughout the life of the previous plan (2019-2023), the Public Advocate's work that contributed to the achievement of plan goals included:

- Advocating on behalf of older persons with impaired decision-making ability through consultation with key stakeholders; this involved participation in various committees, reference groups, forums and conferences aimed at addressing elder abuse.
- Advocating for improved legislation, policies, service standards and care of older Australians with impaired decision-making ability.
- Continuing to monitor the legislative, policy and practice aspects of Queensland's guardianship and administration system.
- Advocating for the national harmonisation of financial enduring powers of attorney legislation through the Commonwealth Attorney-General's Department's Stakeholder Reference Group – Enduring powers of attorney reform.

Future Directions for an Age-Friendly Queensland

Future Directions for an Age-Friendly Queensland was released in October 2022. It details the Queensland Government's continuing commitment to seniors, and the development of a new seniors strategy which is expected to be released in 2023.

The Public Advocate looks forward to contributing to the development of the new strategy during 2023-24.



Health

Use of restrictive practices in health care settings

Concerns about the use of restrictive practices in health care settings were initially raised with Queensland Health in 2020 by the Public Advocate and Public Guardian.

Currently there is no legal framework in Queensland to authorise the use of restrictive practices in Queensland public hospitals or other Queensland Health-operated facilities. In the absence of a legal framework, the use of restrictive practices in health settings is potentially unlawful.

Queensland's *Guardianship and Administration Act 2000* and the *Disability Services Act 2006* regulate the use of restrictive practices in relation to people with disability. The *Mental Health Act 2016* also includes limited restrictive practice provisions which apply to people detained under that Act. There is no such regulation or legal framework that applies to the broader health system.

The Public Advocate will continue to work with Queensland Health regarding potential legislative and policy responses to authorise the use of restrictive practices in health care settings across Queensland.

As noted in the reform options paper released by the Public Advocate in October 2021, the senior practitioner authorisation model for the use of restrictive practices could be employed in health care settings across Queensland, as well as being an appropriate system for disability and residential care settings.

Universal Access to Reproductive Health Care

Late in 2022, the Senate Standing Committee on Community Affairs (Cth) sought feedback on barriers to 'universal access to sexual and reproductive health information, treatment and services that offer options to women to empower choice and control in decision-making about their bodies'.

The Public Advocate made a submission to this inquiry noting that, in Queensland, section 216 of the *Criminal Code* effectively criminalises sexual activity for people with an 'impairment of the mind', which has been interpreted to not only include people with impaired decision-making ability, but also people with disabilities that do not impact on their decision-making ability. This has led to reluctance amongst some service providers and disability support workers to provide sex education to clients with disability, which can negatively affect their sexual and reproductive health literacy.

The submission asked the Committee to note this barrier to services for some women with disability and the need for legal reform in this area.

Health care for people with disability

The 'Disability' section of this report provides detail about the Public Advocate's systemic advocacy in relation to the accessibility and provision of health care for people with disability, particularly for people with intellectual disability or other cognitive impairment.



Mental health

The Chief Psychiatrist

Under the *Mental Health Act*, the Chief Psychiatrist's functions are to protect the rights of patients and make policy and practice guidelines for Authorised Mental Health Services (AMHSs). The Chief Psychiatrist also investigates, when required, matters or incidents involving involuntary mental health patients.

The Public Advocate meets with the Chief Psychiatrist regularly to discuss concerns relating to the operation of the involuntary mental health system. Topics addressed include: processes employed to admit patients to AMHSs, including the use of substitute decision-makers; the treatment and care of involuntary patients and the upholding of their rights; and the conditions experienced in mental health units in Queensland hospitals.

The Public Advocate and the Chief Psychiatrist enjoy a positive dialogue and have continued, during 2022-23, to work through issues relating to the rights and interests of patients in AMHSs, including critical systemic changes related to the recommendations included in the Public Advocate's acute mental health system review (below).

Better Pathways: Improving Queensland's delivery of acute mental health services

During 2022-23 the Public Advocate continued to advocate for reforms to the acute mental health system in Queensland, driven by this report, which was released in August 2022.²⁸

The *Better Care Together* plan released in 2022 by the Queensland Government²⁹ has addressed some of the issues included in this report.

The Public Advocate is continuing to work with the Office of the Chief Psychiatrist to progress his recommendations, with a particular emphasis on systemic changes to improve:

- the experience of mental health patients in emergency department settings;
- the experiences of voluntary and involuntary patients admitted to inpatient AMHSs, addressing, in particular, the locked ward policy, restrictive practices, and the assessment and treatment of dual disability patients;
- the accountability and transparency of the Mental Health Review Tribunal;
- independent system safeguards and protections, inclusive of Independent Patient Rights Advisers and community visitors;
- discharge planning processes, to facilitate the increased involvement of patients, families, and supporters;
- data collection and reporting to monitor the system; and
- the development of Disability Service Plans by Hospital and Health Services that include specific mental health-based strategies.

Mental Health Review Tribunal (MHRT)

Recording of proceedings

The absence of formal recordings of MHRT proceedings has been a concern of the Public Advocate for some time, and a focus of ongoing systemic advocacy.

An Audio Recording Project to trial electronic audio recordings of proceedings was implemented early in the 2020-21 financial year. Following this trial, the Tribunal continued to liaise with Queensland Health and

²⁸ Public Advocate (Qld), *Better Pathways: Improving Queensland's delivery of acute mental health services*, August 2022, Brisbane, Queensland.

²⁹ State of Queensland (Queensland Health), *Better Care Together: a plan for Queensland's state-funded mental health, alcohol and other drug services to 2027*, 2022, Brisbane, Queensland.



the Department of Justice and Attorney-General to implement an appropriate framework for electronic recording to proceed.³⁰

In May 2023, the Tribunal provided the following update on its website:

The Tribunal is pleased to report that the Queensland Government has recently passed amendments to legislation which provide a clear framework for the Tribunal to create and distribute electronic recordings. Whilst a commencement date is yet to be confirmed, the Tribunal continues to prepare for implementation. Further updates will be provided in due course.³¹

The Public Advocate welcomes these developments but retains some concerns regarding the extended time period associated with implementation. In a jurisdiction which has the power to detain people indefinitely in a mental health facility or authorise involuntary treatment including the administration of powerful medications and electroconvulsive therapy (ECT), it is critical that all proceedings are recorded to ensure fairness of process and accountability. It is hoped that proceedings in the tribunal will be fully recorded by the time of next year's Annual Report.

Rockhampton Hospital

In last year's annual report the Public Advocate discussed concerns that he had raised with the Central Queensland Hospital and Health Service (CQHHS) about the Rockhampton Hospital Mental Health Inpatient Unit.

In February 2023, the Public Advocate was provided with an extensive in-person tour of this facility.

His immediate observation was the dated fabric and amenity of most parts of the Unit, with the possible exception of the Older Person's section, which make it quite clearly not fit for purpose. He was, however, advised about immediate, medium and long-term plans in this regard. Immediate plans include remodelling an internal courtyard, with medium-term plans including refurbishment of existing spaces, with a minor extension being added which will accommodate a small number of additional beds in keeping with government commitments. The longer-term aim, which the Public Advocate strongly supports, is the building of an entirely new Unit to meet modern human rights and design expectations.

In August 2023, the Queensland Government announced a \$92 million funding commitment to mental health facilities in Rockhampton which includes the construction of a new 32-bed Rockhampton Mental Health Unit. Construction is anticipated to begin in mid-2024.³²

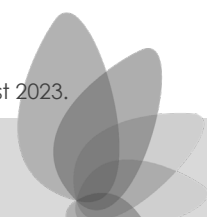
The Public Advocate was advised that other concerns that he and others have raised, including about organisational culture, are being addressed with the addition of new staffing positions, including at senior management level, and a commitment from CQHHS's leadership to drive organisational cultural change.

The Public Advocate appreciated the opportunity to visit Rockhampton Hospital's Mental Health Inpatient Unit and acknowledges the genuine way in which existing challenges have been identified and are being worked upon. He plans to return to see how reforms are progressing.

³⁰ Correspondence from the President of the Mental Health Review Tribunal to the Public Advocate, dated 15 July 2022.

³¹ Queensland Government, Mental Health Review Tribunal, Electronic Audio Recording Project, May 2023.

³² S Fentiman (Minister for Health, Mental Health and Ambulance Services and Minister for Women), *New mental health facilities for Rockhampton under \$92m funding commitment*, media release, Queensland Government, Brisbane, 18 August 2023.



Law and justice

Queensland Parliamentary Inquiry into the support provided for victims of crime

This inquiry was conducted by the Queensland Parliamentary Legal Affairs and Safety Committee from March to May 2023. The Public Advocate's submission to the Committee, and consequent appearance at a public hearing, focussed on the particular issues that impact on people with impaired decision-making ability when they are victims of crime.

These issues include:

- Crimes committed in shared home environments, including incidents involving domestic and family violence arising from relationships with other residents or support staff. Often these types of crimes are either not reported or not afforded a similar level of priority and attendance as that which is provided to situations of domestic and family violence in other environments. When crimes are reported and police attend, negative attitudes and discrimination can mean that people with impaired decision-making ability are viewed as unreliable witnesses and consequently any further investigations are not initiated.
- People with disability reporting crimes and the problems they face, feeling that they will not be believed or will be viewed as lacking credibility. This is a particular issue for women with impaired decision-making ability who have experienced sexual violence.

The issues mean crimes against people with impaired decision-making ability often will not enter the criminal justice system at all, highlighting the need for supports to be provided at the point that crime actually occurs and is reported, as well as within the criminal justice system itself.

The Public Advocate recommended that the Committee consider the following to improve the supports provided to people with impaired decision-making ability who are victims of crime:

- Disability-specific support, training and education for police to assist people with impaired decision-making ability to report crimes, have them taken seriously and then investigated fully. He noted that there is promising work currently being undertaken in this area by the Queensland Police Service's Vulnerable Persons Unit that could potentially be expanded and continued.
- The introduction of specific programs providing support persons for people with impaired decision-making ability to assist with reporting crimes. A program operating in Victoria, Independent Third Persons (ITP), currently uses trained volunteers to support people with impaired decision-making ability communicate with police as either alleged offenders, victims or witnesses.
- The extension of schemes like the Queensland Intermediary Scheme (QIS) to assist people with impaired decision-making ability. The QIS, which is currently being piloted across Queensland, assists witnesses in child sexual offence matters to overcome any communication and other barriers related to the giving of evidence in proceedings.

Optional Protocol to the Convention Against Torture (OPCAT) forum

In December 2022, the Public Advocate co-hosted the Queensland OPCAT Forum along with the Queensland Human Rights Commission (QHRC) and Queensland Advocacy for Inclusion (QAI). This forum brought together stakeholders from government and civil society to discuss implementation of the protocol throughout Queensland.

More than 120 people attended the event, which featured presentations from; the Queensland Human Rights Commissioner (Scott McDougall), the Public Advocate, the Australian Human Rights Commissioner (Lorraine Finlay) and the Commonwealth Ombudsman (Iain Anderson). The CEO of QAI (Matilda Alexander) also led a lived experience panel which featured speakers with powerful lived experiences of detention in Queensland settings.



During the Civil Society Forum, facilitated in the afternoon by QAI, a suite of recommendations for the effective implementation of OPCAT in Queensland was developed and consequently sent to the then Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, the Hon Shannon Fentiman MP, for government consideration.

Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2022

This Bill was introduced into the Queensland Parliament in December 2022, following a number of issues experienced by the United Nations Subcommittee on Prevention of Torture when attempting to visit (in accordance with OPCAT requirements) Queensland detention facilities, namely AMHSs across the state.

The Bill provided a framework to facilitate physical access by members of the Subcommittee to inpatient units of AMHSs and the Forensic Disability Service. It also made provisions for members of the Subcommittee to interview detainees and other people at the place of detention in private.³³

In his submission the Public Advocate, while welcoming the Bill and the steps it made towards the implementation of OPCAT in Queensland, proposed that 'places of detention' be extended to include disability care accommodation and residential aged care facilities where the use of restrictive practices amounts to detention, on the basis that OPCAT has 'broad application to any place where an individual cannot leave of their own free will, and where that place of detention is linked, either directly or indirectly, to a public authority'.³⁴

The Bill was enacted by the Queensland Parliament in May 2023. The Act does not include residential aged or disability care accommodation as places of detention, however it does facilitate access by the UN Subcommittee to a range of other institutions and facilities across Queensland, including AMHSs.

Queensland Parliamentary Inquiry into the Decriminalisation of Certain Public Offences, and Health and Welfare Responses

This inquiry was conducted by the Queensland Parliamentary Community Support and Services Committee from June – October 2022.

The Public Advocate's submission to the Committee, and consequent appearance at a public hearing, focussed on the health and welfare responses that could be provided to people with impaired decision-making ability. This includes people (some of whom may have a psychosocial disability) who may find themselves in a cycle that can typically involve; a withdrawal of informal supports and networks, unstable accommodation or homelessness, a lack of health and social welfare-based supports, and then contact with the criminal justice system for offences similar to those explored in the inquiry, and potentially others of a more serious nature.

With this in mind the Public Advocate drew the Committee's attention to his review of the acute mental health system, completed in August 2022.

This review, *Better Pathways: Improving Queensland's delivery of acute mental health services*, includes a range of reform recommendations that could constitute appropriate health and welfare-based responses to the issues highlighted in the Inquiry.

³³ S Fentiman (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Family and Domestic Violence), *New laws to enable UN Subcommittee on Prevention of Torture to visit Queensland detention amenities*, media statement, Queensland Government, 1 December 2022.

³⁴ Australian Human Rights Commission, *Implementing OPCAT in Australia*, 2020, p. 42.



The recommendations included in the report of relevance to the Inquiry included various mental health based diversionary and support initiatives, such as the proposed extension of:

- mental health Acute Care Teams to deliver 24-hour outreach services in the community;
- co-responder programs which provide expert allied health support to frontline emergency staff;
- crisis support spaces to provide more appropriate emergency room based services to people who present to hospital with mental health concerns; and
- mental health training for first responders.

The Public Advocate also noted the report's recommendation in relation to the improvement of mental health patient discharge processes. This would involve additional engagement with the person and their support networks in relation to ongoing treatment and care, and the provision of more detailed information to general practitioners when a patient is discharged from an AMHS.

Review of *Public Interest Disclosure Act 2010* (Qld)

In February 2023, the Public Advocate made a submission to the Department of Justice and Attorney General (Public Interest Disclosure Review Secretariat) regarding a review of the *Public Interest Disclosure Act 2010* (Qld).

In this submission, the Public Advocate referred to the Act's vital role for people with impaired decision-making ability, as it currently allows for any member of the public to gain the protections of the Act when reporting substantial and specific dangers to the health and safety of a person with disability.

By including this provision (which was carried over from the *Whistleblower Protection Act 1994*), the Act acknowledges that people with disability are particularly vulnerable to abuse, and consequently allows people (and particularly disability service providers) to report practices and actions that threaten the safety and wellbeing of people (clients).³⁵

In 2017 it was recommended, in a review conducted by the Queensland Ombudsman, that this provision be removed from the Act. In making this recommendation, the Ombudsman noted low numbers of reports being made under the provision, and that there are a 'range of alternative legislative and administrative schemes' that allow such reports to be made about people with disability.³⁶

It is contended by the Public Advocate (and included in his submission to the current review of the Act) that this recommendation from 2017 did not consider factors including:

- A low level of public awareness about the Act itself, meaning that people are unlikely to be aware that they can make reports of this nature. Given that one of the functions under the Act is for the Ombudsman to promote and provide education about the Act,³⁷ there may need to be some consideration given to the development of a public awareness campaign regarding the Act and how it works.
- The alternative legislative and administrative schemes available through which to report issues for people with disability are largely 'complaint' based mechanisms, where specific issues must be reported to agencies which have relevant jurisdiction. The Act, however, allows for a 'no wrong door' approach, where referrals can be made from one agency to another more appropriate agency while still guaranteeing whistle-blower protections.
- People with disability can have specific vulnerabilities that do not allow them to speak out for themselves. The Act makes it possible for another person to report concerns, which is appropriate in these circumstances.

Unfortunately, as has been evidenced at the hearings of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, people with disability remain exposed to practices that threaten their safety and wellbeing. The Public Advocate subsequently stressed the critical importance of maintaining any existing safeguards that encourage reporting of such practices and make individuals and communities safer.

³⁵ Explanatory Notes, *Whistleblower Protection Bill 1994* (Qld) p13.

³⁶ Clarke, P, *Review of the Public Interest Disclosure Act 2010*, Brisbane, QLD: Queensland Ombudsman, 2017, p25.

³⁷ *Public Interest Disclosure Act 2010* (Qld) s 59.



The final report associated with the 2023 review of the Act was released on 8 August 2023. This review has also recommended that this provision be removed, due to the existence of 'multiple mechanisms for raising issues of this type without the need for the report to be considered a Public Interest Disclosure (PID)'.³⁸

Consistent with the issues detailed above, the Public Advocate will continue to advocate for this provision to remain in the Act when the review is considered by the Queensland Government.

Section 216 of the *Criminal Code 1899*

Section 216 of the *Criminal Code 1899* (Qld) criminalises sexual activity with a person who has an 'impairment of the mind'. This provision effectively prohibits any sexual contact with a person who has a condition that falls within the definition of 'impairment of the mind', regardless of whether the person has the capacity to consent to and understand the nature of those activities (a defence exists if the relationship is non-exploitative). This law constitutes a restriction on the rights of people with impaired decision-making ability to exercise autonomy and choose to engage in sexual relationships.

In January 2022, the Public Advocate released the paper: *A discussion of section 216 of the Queensland Criminal Code – A call to review the criminalisation of sexual relationships involving people with 'an impairment of the mind'*.

The paper examined section 216 of the Queensland *Criminal Code*, along with how other jurisdictions in Australia address this issue. The paper found that Queensland's approach appears to be the most restrictive of all Australian jurisdictions and that a review of this provision is warranted. The Public Advocate recommended that the Queensland Law Reform Commission (QLRC) review the ongoing need for this provision, as any changes to Section 216 will require wide consultation to consider the views of various stakeholders.

National principles to address coercive control

In September 2022, the meeting of Attorneys-General commenced consultation on a set of draft national principles to address coercive control. The Public Advocate's submission to the consultation focused on two particular cohorts of people who may experience coercive control:

- People with impaired decision-making ability residing in shared home environments. Many people with disability live in shared accommodation and may have had limited choice as to the setting or people with whom they live. The relationships that they develop with other residents and service providers, while not 'traditional' family relationships, can still involve coercive control. It may also be difficult for people to leave these situations due to the disability supports that they require or the lack of alternative accommodation.
- People experiencing elder abuse. Older adults experiencing elder abuse may also experience coercive control. However, as the perpetrators of elder abuse (e.g. adult children and other relatives) are less often associated with coercive control, it may not be readily recognised.

The Public Advocate recommended that the national principles recognise these cohorts and relationships as potentially involving coercive control, to ensure that appropriate action can be taken for people in these situations who may be experiencing this type of abuse.

Restrictive Practices – Options for reform

As noted in this report, the Public Advocate is continuing to advocate for restrictive practices reform across a range of settings.

³⁸ The State of Queensland (Department of Justice and Attorney General), *Review of the Public Interest Disclosure Act 2010, Report*, June 2023, Brisbane, Queensland
< <https://www.publications.qld.gov.au/dataset/d350f6cc-2c6c-4d7d-a27d-59afd4abd5ce/resource/163329e9-3aa2-4601-9ff8-725458170b6b/download/public-interest-disclosure-act-review-report.pdf>>.

He is calling, as noted, for the introduction of a senior practitioner model to authorise the use of restrictive practices in Queensland, rather than the consent-based system that currently operates in residential aged care settings and the complex regulatory framework, including the appointment of restrictive practice guardians, that currently operates in the disability sector.

This model could operate consistently across multiple settings including disability services, residential aged care facilities and health care. It also has the potential to be applied in other areas such as education and residential settings for children.

Human Rights Act 2019

The Public Advocate strongly supports the objects and purpose of the *Human Rights Act 2019*, which protects and promotes human rights, aims to build a culture in the Queensland public sector that respects and promotes human rights, and encourages a dialogue about the nature, meaning and scope of human rights.

The Public Advocate continued to participate in the DJAG Human Rights Implementation Working Group during 2022-23. The purpose of this working group is to coordinate a cohesive and consistent approach to implementation activities across the Department, including training, capacity building, and embedding the principles of the Act into 'business as usual' operations.

A wide range of training, developed by the Human Rights Unit within DJAG, is now available online, including staff induction packages and a toolkit for managers. All staff who support the Public Advocate have undertaken induction and 'Human Rights 101' training, which is now a mandatory requirement for all new staff joining the office. Other relevant policies and procedures of the Office are also aligned with the Act, including staff position descriptions and recruitment procedures.

The Public Advocate also contributes information regarding the office's human rights activity and advocacy for inclusion in the DJAG Annual Report.

Legal interventions

Although the main function of the Public Advocate is to undertake systemic advocacy, the Public Advocate may also intervene in legal proceedings involving the protection of the rights or interests of adults with impaired decision-making ability where systemic issues are involved.

In the last annual report, it was noted that the Public Advocate intervened in a matter regarding the use of restrictive practices on a resident in an aged care facility. At the time, QCAT was seeking submissions regarding whether personal guardians or attorneys have the authority to approve restrictive practices in a residential aged care facility.

The *Guardianship and Administration Act* specifically allows for guardians for restrictive practices in the context of the provision of disability services, but the legislation does not specify whether appointments can be made in other contexts.

The Public Advocate submitted to QCAT that the way in which the law is constructed in Queensland allows QCAT to appoint guardians for restrictive practices in all situations. The position was supported by reference to specific provisions in the *Guardianship and Administration Act* and various amendments, together with precedents from Queensland and other jurisdictions.

In October 2022, QCAT handed down its decision,³⁹ confirming that the *Guardianship and Administration Act* does allow appointments for restrictive practices in aged care settings. This resulted in QCAT appointing the Public Guardian for this purpose.

The Public Advocate has also made submissions in relation to another matter involving the same issue in QCAT, which is currently subject to appeal. At this time, the Public Advocate is awaiting an update from QCAT regarding this matter.

³⁹ NJ [2022] QCAT 283



Limitation orders

Under the *Guardianship and Administration Act*, QCAT may make what is called a limitation order. A limitation order can take the form of:

- an adult evidence order — which allows the tribunal in certain circumstances to obtain evidence from a person in the absence of anyone else;
- a closure order — which allows the tribunal in certain circumstances to close a hearing to the public or exclude a person from the hearing;
- a non-publication order — which allows the tribunal to prohibit the publication of information about a tribunal proceeding; or
- a confidentiality order — which allows the tribunal to withhold a document or information before the tribunal from a party to the hearing or another person.

In making a limitation order, QCAT must balance the protection of people and information from disclosure with the fundamental principle that a legal process should be open and transparent.

QCAT is also required, under the *Guardianship and Administration Act*, to provide the Public Advocate with a copy of the limitation order decision and its reason for making the order. The Public Advocate is then able to report on any systemic issues based on the information provided by the tribunal.

During 2021-22, the Public Advocate prepared his first report analysing limitation orders – *Public accountability, private lives – Reconsidering the Queensland guardianship system's confidentiality requirements*.

In addition to limitation orders, the report also considered a related issue – section 114A of the *Guardianship and Administration Act*, which prohibits the identification of an adult involved in a guardianship proceeding.

The report made three recommendations, two of which related to improving the consistency and efficiency of the limitation order process. The final recommendation was that Section 114A of the *Guardianship and Administration Act* be repealed, as its 'protective' benefit is now outweighed by its cost in inhibiting people from talking publicly about their experiences.

During 2022-23, several reports on ABC television, including one on the Four Corners program and two on the 7.30 program, highlighted Section 114A of the Act and the constraints it places on people when talking about their individual experiences under guardianship or administration in Queensland. The Public Advocate was interviewed for the 7.30 program segment aired on 20 June 2023, where he detailed his concerns regarding the confidentiality provisions included in the Act and noted his calls for legislative reform.

Implementation of Coroners Court recommendations

In 2019, the Public Advocate made submissions to an inquest held at the Coroners Court of Queensland⁴⁰ where the Coroner made two recommendations, the first being that the Queensland Government publish a policy on the provision of personal and health care for prisoners who are ageing and/or requiring palliative care, and the second that Queensland Corrective Services and the Office of Prisoner Health and Wellbeing develop policies regarding prisoners who require substitute decision-makers if they lack decision-making ability.

The Public Advocate is currently waiting for further developments on these recommendations by the Office of Prisoner Health and Wellbeing.

⁴⁰ Coroners Court, *Inquest into the death of Barry Haynes* (COR 207/1416, 16 November 2020).



Guardianship and Administration



Guardianship and administration

During 2022-23, the Public Advocate continued to monitor the operation of legislation, policy and practice concerning Queensland's guardianship and administration system and contributed to systemic improvements through working with DJAG, the Public Guardian, the Public Trustee and QCAT.

Confidentiality in the guardianship system

Section 114A of the *Guardianship and Administration Act* currently prohibits an adult from identifying themselves and speaking about their experiences with QCAT and the guardianship system unless Tribunal permission has been given.

In the Public Advocate's opinion, this approach disempowers the individual and can potentially be considered an outdated and paternalistic approach to this issue.

In his report, *Public Accountability, Private Lives: Reconsidering the Queensland guardianship system's confidentiality requirements*, which was released as a discussion paper in August 2022, the Public Advocate called for Section 114A of the *Guardianship and Administration Act* to be repealed.

The matter has received national prominence over the past 2 years, with the Australian Broadcasting Corporation (ABC) airing several news stories, the first on the Four Corners Program (2022) and most recently on the 7.30 program (June 2023). These stories have placed significant prominence on the compelling argument that the individuals themselves were prohibited from telling their own stories without a tribunal or court order first being made that enabled them to do so.⁴¹

The Public Advocate appeared on the 7.30 program, speaking to his report (above) and recommending that this section of the *Guardianship and Administration Act* be repealed.

His recommendation is currently under consideration by the Queensland Government.

Enduring documents

Enduring powers of attorney law reform and a national register

The harmonisation of enduring financial powers of attorney laws has been an ongoing issue in Australia for decades, with the challenge of recognising interstate enduring powers of attorney on the agenda of the Standing Committee (now Council) of Attorneys-General as far back as 2000.

Harmonisation has been recognised as a key elder abuse reform measure, considered in both the Australian Law Reform Commission's Elder Abuse report in 2017 and the National Plan to Respond to the Abuse of Older Australians [Elder Abuse] 2019-2023.

The benefits of harmonised financial enduring powers of attorney laws include:

- Greater knowledge and certainty throughout the country on enduring powers of attorney creation, usage and safeguards.
- The possibility of meaningful national education on enduring powers of attorney, including on the responsibilities of attorneys.
- Increased consistency and efficiency in the practices and expectations of institutions which deal with enduring powers of attorney (such as banks and other financial services providers).
- The forthcoming national register of enduring powers of attorney (which is currently being developed) would be optimally effective.

⁴¹ 'State Control: Australians trapped, stripped of assets and silenced', Four Corners (ABC, 14 March 2022), 'Revealed' and 'By order of the state', 7.30 (ABC, 19 and 20 June 2023).



During 2022-23 the Public Advocate drafted a model financial enduring powers of attorney law, with the assistance and endorsement of key individuals and agencies including: the Queensland Law Society, the Age Discrimination Commissioner, the Victorian Public Advocate and the Law Institute of Victoria. This model law has now been referred to the Commonwealth Attorney-General, as one possible way in which the goal of harmonised laws across the country may be achieved.

Preserving the financial futures of vulnerable Queenslanders: A review of Public Trustee fees, charges, and practices

In 2020-21, the previous Public Advocate (Ms Mary Burgess) finalised a project examining the Public Trustee's fees and charges levied on its financial administration clients.

The systemic report resulting from this project, *Preserving the financial futures of vulnerable Queenslanders: A review of Public Trustee fees, charges, and practices*, was tabled in the Queensland Parliament by the then Attorney-General and Minister for Justice, Minister for Women, and Minister for the Prevention of Domestic and Family Violence, the Honourable Shannon Fentiman MP, on 10 March 2021.

The report identified significant concerns about the fees, charges, and practices of the Public Trustee.

Each 12 months, coinciding with the anniversary of the report being tabled in Parliament, the Public Advocate releases an implementation update, monitoring progress on the thirty-two recommendations included in the report.

The 2023 update noted:

- The completion of a fees and charges review by independent consultancy firm PricewaterhouseCoopers, the results of which have been presented to government, with some immediate changes implemented.
- The implementation by the Public Trustee of several transparency initiatives, including a fees and charges 'ready reckoner', and the establishment of a customer advocate office.
- The official establishment, following the enactment of the *Public Trustee (Advisory and Monitoring Board) Amendment Act 2022*, of the Public Trustee Advisory and Monitoring Board.

Some other reforms recommended in the report are still under consideration or in progress.

The Public Advocate will continue to monitor Public Trustee reform developments and initiatives in the future.

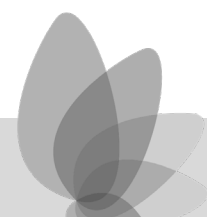
Remote guardianship hearings (in-hospital)

This project, also known as the QCAT Guardianship Process Initiative, operates as a partnership between Queensland Health and QCAT to assist vulnerable patients medically ready for discharge from hospital to access adult guardianship hearings should they require a substitute decision-maker to assist with future accommodation decisions.

The program is primarily accessed by older vulnerable patients who have impaired decision-making ability and for whom a change of living arrangements may be required, such as entry into a residential aged care facility rather than returning home.

Specifically, the program funds the holding of QCAT hearings in hospital settings, rather than moving through the normal application and hearing process where hearings take place in tribunal locations.

The Public Advocate is currently a member of the Queensland Health QCAT Guardianship Program Governance Group which meets quarterly to discuss the program and any issues it may be experiencing.



While acknowledging the ability of the program to have guardianship matters dealt with expediently, the Public Advocate has also identified a number of critical risks that need to be managed, including:

- Risk to the person. A hospital setting is typically an unfamiliar environment for any patient, who may well be at a point in their life where they are least able to participate meaningfully in a hearing, or to perform optimally in any assessment of their cognitive functioning.
- Risk to the independence of the guardianship program. It is important that the hospital hearings program is not simply about faster clearance of hospital beds (noting that a guardianship appointment itself is not a discharge decision). The independence of the program – and the ability of the tribunal and other key elements (such as the Public Guardian) to resist the pressure on hospitals to discharge patients is important.

In the interests of mitigating these risks, the Public Advocate is monitoring, via membership of the Governance group;

- The extent to which people are able, and supported where necessary (including by advocates), to engage in the hearing process;
- How assessments of cognitive functioning are performed, and invigilated by the tribunal, to ensure that they have as much longer-term accuracy as is feasible (and are not conducted, for instance, when the person is at their lowest ebb).



Appendices



Financial summary

The Public Advocate is not a statutory body under the *Statutory Bodies Financial Arrangements Act 1982* or the *Financial Accountability Act 2009*. Funding for the office is provided by the Queensland Government as part of the appropriation for DJAG, with the Director-General of the department being the accountable officer pursuant to the *Financial Accountability Act*. Detailed financial information relating to the operations of the department are reported in the annual report for DJAG.

A summary of office expenditure in 2022-23 is presented below.

Expenditure item	Amount
Employee related expenses	\$756,170
Supplies and Services	\$100,130
Total	\$856,300

Other payments of note

During 2022-23, the Office of the Public Advocate procured the services of Multicap, a not-for-profit disability service organisation, to undertake a supported decision-making demonstration project.

This project, to which a contribution of \$20,000 plus GST was made by the Public Advocate, is being completed in collaboration with the Office of the Public Guardian.

The project involves the provision of one-on-one supports to a selected group of adults (up to 8) currently under guardianship orders, with the objective being that the order for a particular matter will be revoked and the person will be able to make decisions regarding the matter either independently or with support from an informal network.

The Office has also continued to monitor the expenditure of a grant of \$9,900 (GST not applicable) provided to Queensland Advocacy for Inclusion (QAI) in 2018-19 for the purpose of Mental Health Review Tribunal appeals and other applications under the *Mental Health Act*, for adults with impaired decision-making capacity.

Overseas travel

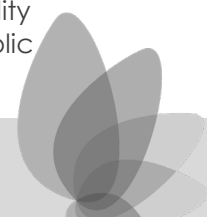
There was no work-related overseas travel undertaken by the Public Advocate or office staff in 2022-23.



Appendix 1: List of submissions

The following table presents a list of publicly available submissions made by the Public Advocate in 2022-23.

Date	Submitted to	Subject
August 2022	Queensland Parliament Community Support and Services Committee	Inquiry into the Decriminalisation of Certain Public Offices, and Health and Welfare Responses
October 2022	The Australian Department of Health and Aged Care	A Code of Conduct for Aged Care – Exposure draft of the Aged Care Quality and Safety Commission Amendment (Code of Conduct and Banning Orders) Rules 2022
October 2022	Australian Attorney-General's Department	Draft national principles to address coercive control
November 2022	Australia's Disability Strategy Governance and Engagement Section	Developing a guide on how to involve people with disability in evaluation – Full Consultation Paper
November 2022	The Australian Department of Health and Aged Care	Revised Aged Care Quality Standards
November 2022	The Australian Department of Health and Aged Care	The development of a new program for in- home Aged Care
November 2022	Australia's Disability Strategy Governance and Engagement Section	Developing a guide to the Guiding Principles – Full Consultation Paper
November 2022	The Aged Care Quality and Safety Commission Capability Review Support Team	Independent Capability Review of the Aged Care Quality and Safety Commission
December 2022	Queensland Parliament Health and Environment Committee	Health and Other Legislation Amendment Bill 2022
December 2022	Queensland Parliament Legal Affairs and Safety Committee	Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2022
December 2022	Australian Senate Standing Committee on Community Affairs	Universal access to reproductive healthcare
January 2023	The Australian Department of Health and Aged Care	National Dementia Action Plan
February 2023	Department of Social Services	A new Act to replace the <i>Disability Services Act 1986</i> (Cth)
February 2023	Department of Justice and Attorney General	Review of the <i>Public Interest Disclosure Act 2010</i>
March 2023	NDIS Review Secretariat – Department of Prime Minister and Cabinet	NDIS Review
April 2023	Australian Commission on Safety and Quality in Health Care	Psychotropic Medicines in Cognitive Disability or Impairment Clinical Care Standard – Public Consultation



Date	Submitted to	Subject
April 2023	Queensland Parliament Legal Affairs and Safety Committee	Inquiry into Support for Victims of Crime
May 2023	Department of Justice and Attorney General	Civil Surveillance Reforms
May 2023	NDIS Review Secretariat – Department of Prime Minister and Cabinet	NDIS Quality and Safeguarding Framework Issues Paper and NDIS Participant Safeguarding Proposals Paper
June 2023	Care and Support Economy Taskforce – Department of Prime Minister and Cabinet	Draft National Care and Support Economy Strategy
June 2023	Australian Department of Health and Aged Care	New model for regulating Aged Care
June 2023	Queensland Sentencing Advisory Council	Review of sentencing for sexual violence offences and aggravating factors for domestic and family violence offences



Appendix 2: Speaking engagements and public hearings

Queensland Disability Advocacy Conference (panel member)

Panel topic: Supported decision-making
Host: Queensland Advocacy for Inclusion (QAI)
22 June 2023

World Elder Abuse Awareness Day (panel member)

Hosts: Caxton Legal Centre, Elder Abuse Prevention Unit, ADA Australia, Brisbane City Council, South Bank Corporation and OPALS (Older Persons Advocacy and Legal Service)
15 June 2023

'Safer spaces for people with disability in Australia – reporting crime and abuse' (presenter – digital conference)

Presentation topic: 'Barriers facing people with disability when reporting crime and abuse'
Host: Victim Support Service (South Australia)
26 May 2023

'Realising the human rights of older people: Decisions and discharge from hospital to aged care' (roundtable discussion facilitator)

Host: Caxton Legal Centre
18 May 2023

'Capacity for decision-making and guardianship: Strengthening your practice' (seminar presentation)

Presentation in conjunction with Anne-Louise McCawley (Metropolitan South Health and Hospital Service) and Colette Bots (Caxton Legal Centre)
Host: Royal Brisbane and Women's Hospital
2 May 2023

'Capacity for decision-making and guardianship: Strengthening your practice' (seminar presentation)

Presentation in conjunction with Anne-Louise McCawley (Metropolitan South Health and Hospital Service) and Tilé Imo (Caxton Legal Centre)
Host: Princess Alexandra Hospital
26 April 2023

Inquiry into Support for Victims of Crime in Queensland (oral evidence)

Legal Affairs and Safety Committee
Queensland Parliament
17 April 2023

Supported Decision-Making Community of Practice online meeting (presenter)

Presentation topic: 'Supported decision-making and substitute decision-making'
Host: Supported Decision-Making Community of Practice online meeting
4 April 2023

Queensland Advance Care Planning Week (keynote speaker)

Presentation topic: 'What constitutes successful advance care planning'
Host: Office of Advance Care Planning Queensland
20 March 2023

Queensland Law Society Symposium (panel facilitator)

Panel topic: 'Quality of Care – human rights and understanding the framework for restrictive practices in aged care facilities'
Host: Queensland Law Society
10 March 2023

Adult Safeguarding Forum (presenter and panel facilitator)

Presentation topic: 'Adult Safeguarding in Queensland project'
Host: Office of the Public Advocate Queensland
9 March 2023

Parliamentary Joint Committee on Human Rights (Cth) (briefing)

Topic: The 'Quality of Care principles' and alternative ways of regulating aged care restrictive practices
Commonwealth Parliament
8 March 2023



Commonwealth Attorney-General's Department (presenter)

Presentation topic: 'Harmonisation of financial enduring powers of attorney laws' to State and Territory Senior Officials
Host: Attorney-General's Department
2 March 2023

Gold Coast Elder Abuse Forum (presenter)

Presentation topic: 'Human Rights and Agency'
Host: ADA Australia Law
28 February 2023

Queensland Disability Reform and Implementation Interdepartmental Committee (presenter)

Presentation topic: 'Key systemic advocacy issues in Queensland'
15 February 2023

Health and Other Legislation Amendment Bill (oral evidence)

Health and Environment Committee
Queensland Parliament
31 January 2023

TASC Legal and Social Justice Services (presenter)

Presentation topic: 'Systemic advocacy issues in Queensland'
Host: TASC Legal and Social Justice Services Ipswich
25 January 2023

Queensland Law Society 'Callover' podcast (interview)

Recorded on 11 January 2023 for release in February 2023

Queensland OPCAT Forum (presenter)

Presentation topic: 'Monitoring Disability Specific Places of Detention'
Hosts: Office of the Public Advocate Queensland and Queensland Human Rights Commission
1 December 2022

Residential Aged Care Communique (webinar presenter and panel member)

Presentation topic: 'Residential aged care: Balancing risk and duty of care'
Hosts: Professor Joseph Ibrahim and Dr Bronwyn O'Gorman, Monash University
16 November 2022

Succession and Elder Law Conference (panel member)

Panel topic: 'Life in the village - a panel discussion on aged care and retirement living'
Host: Queensland Law Society
11 November 2022

Public Lecture (presenter)

Presentation topic: 'The future of adult safeguarding in Australia'
Host: Australian Centre for Health Law Research, Queensland University of Technology
8 November 2022

Australian Guardianship and Administration Council Conference (panel facilitator and member)

Panel facilitator topics: 'Human rights and adult safeguarding'; 'The NDIS and hard to reach groups' and 'Enduring powers of attorney: Harmonisation and national registration'
Panel participant topic: 'Restrictive practices in aged care'
20 and 21 October 2022

National OPCAT Symposium (presenter)

Presentation topic: 'The importance of monitoring "secondary" places of detention'
Host: Australian Human Rights Commission
9 September 2022

Brisbane Roundtable – human rights of older people (panel facilitator)

Topic: 'Realising the human rights of older people: Decisions and discharge from hospital to aged care'
Host: Caxton Legal Centre
2 September 2022



Inquiry into the Decriminalisation of Certain Public Offences, and Health and Welfare Responses (oral evidence)

Community Support and Services Committee

Queensland Parliament

29 August 2022

Peer Participation in Mental Health Services Network Meeting (online presenter)

Presentation topic: 'Systemic Advocacy projects in Queensland'

Host: Peer Participation in Mental Health Services Network

12 July 2022



Appendix 3: Working and advisory groups

Commonwealth Attorney-General's Department Stakeholder Reference Group – Enduring powers of attorney law reform

This group is advising the Department about potential harmonisation of financial enduring powers of attorney laws and the establishment of a national register.

Australian Guardianship and Administration Council (National)

The Australian Guardianship and Administration Council (AGAC) is the national forum of Public Advocates, Public Guardians, Guardianship Tribunals, and Public Trustees or their equivalents across Australia. AGAC's biannual meetings focus on matters of mutual concern or national significance. Dr John Chesterman is currently the chairperson of AGAC, commencing in this role in October 2021.

Queensland Health – Health and Disability Interface Advisory Group

This group emerged out of the COVID-19 Working Group convened by Queensland Health during the pandemic. It consists of a range of disability service providers, government and non-government agencies who meet on a monthly basis to discuss critical issues impacting on the disability sector, with a particular focus on health-related concerns and new programs and initiatives.

Queensland Health – Voluntary Assisted Dying (VAD) – Residential Aged Care Committee

This Committee advised on the implementation of VAD legislation in residential aged care settings.

Queensland Health QCAT Guardianship Program Governance Group

This group advises on the operation of the Queensland Health QCAT guardianship program.

Mental Health and Disability Legal Assistance Forum

The purpose of the group is to promote cooperation and collaboration between legal and non-legal service providers, including social, community and health services working with people with mental health issues, intellectual disability, or other cognitive impairments. Participating in this group enhances the Public Advocate's knowledge and understanding of the needs of, and the current and emerging systemic issues that affect, this vulnerable cohort.

Queensland Law Society Committees

The Public Advocate has been a regular attendee at the Health and Disability Law, and Elder Law Committees of the Queensland Law Society. This engagement with members of the legal profession has provided invaluable opportunities to learn more about the intersection between the law, medicine, disability, and social policy and to gain a better understanding of emerging issues for vulnerable members of the Queensland community.



DJAG Human Rights Implementation Working Group

The DJAG Human Rights Implementation Working Group assists the department and its portfolio agencies to comply with the *Human Rights Act*. The Working Group consists of representatives from each business unit within DJAG. The group is responsible for contributing to plans for human rights implementation in DJAG which align with government priorities, identifying and managing any implementation risks, promoting a positive approach to human rights implementation, sharing information, learnings, challenges, and successes, and assisting to resolve identified issues.

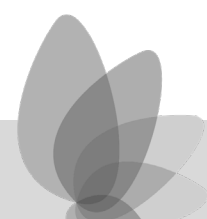
Public Interest Disclosures Agency Network

The Public Advocate is represented at Public Interest Disclosures Agency Network meetings, which are convened by the Queensland Ombudsman. The network is comprised of Public Interest Disclosure Coordinators and practitioners in human resources, corporate governance, ethical standards, and complaints areas who may be required to assess and manage public interest disclosures. The network meetings provide an opportunity to discuss current issues, developments in case law, and improve understanding of the application of the *Public Interest Disclosure Act 2010* (Qld).



Appendix 4: Glossary of acronyms

AGAC	Australian Guardianship and Administration Council
ADA Australia	Aged and Disability Advocacy Australia
ADS	Australia's Disability Strategy
CHAP	Comprehensive Health Assessment Program
CQHHS	Central Queensland Hospital and Health Service
DSDSATSIP	Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships
DCSSDS	Department of Child Safety, Seniors and Disability Services
DJAG	Department of Justice and Attorney-General
ECT	Electroconvulsive therapy
FDS	Forensic Disability Service
MHRT	Mental Health Review Tribunal
MNHHS	Metro North Hospital and Health Service
MYFER	Mid-year Fiscal and Economic Review
NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
NHMRC	National Health and Medical Research Council
OPCAT	Optional Protocol to the Convention Against Torture
PID	Public Interest Disclosure
QAI	Queensland Advocacy for Inclusion
QCAT	Queensland Civil and Administrative Tribunal
QDN	Queenslanders with Disability Network



QLRC	Queensland Law Reform Commission
QLS	Queensland Law Society
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
VAD	Voluntary Assisted Dying



