2024-25

OPA

OFFICE OF THE PUBLIC ADVOCATE SOUTH AUSTRALIA

ANNUAL **REPORT**

Government of South Australia

Office of the Public Advocate

OFFICE OF THE PUBLIC ADVOCATE SOUTH AUSTRALIA

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Date presented to Minister:	25 September 2025

Acknowledgement of Country

We acknowledge that this report was prepared on the traditional lands of the Kaurna people and that we respect their spiritual relationship with their country.

We also acknowledge the Kaurna people as the custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kaurna people today.

To:

Hon Kyam Maher MLC
Attorney-General

I am pleased to present this annual report to Parliament in accordance with the requirements of section 24 of the *Guardianship and Administration Act 1993* (SA) and the requirements of Premier and Cabinet Circular *PC013 Annual Reporting*.

This report is verified to be accurate for the purposes of annual reporting to the Parliament of South Australia.

Submitted by the Public Advocate.

Anne Gale
Public Advocate

About the artwork

The artwork by Ngarrindjeri artist, Jordan Lovegrove, illustrates the important role of the Public Advocate in supporting people with disabilities who need help making decisions.

At the centre of the artwork is a meeting place that represents the Public Advocate. Surrounding it are four coloured rings, each symbolising our core value:

- **People Focused:** advocating for the dignity and rights of vulnerable individuals
- **Agile:** adapting to meet the needs and expectations of the community and clients
- **Accountable:** acting truthfully, fairly, and professionally
- **Resilient:** supporting each other in a challenging environment.

Smaller meeting places throughout the artwork represent the diverse individuals and communities supported by the Public Advocate. A pathway connects these elements, showing how the Public Advocate assists people and families through:

- **Guardianship:** making important life decisions (such as where someone lives, their health care, and the services they receive)
- **Information and education:** helping South Australians understand how to support people who need decision-making assistance while respecting their rights
- **Mediation**: helping resolve disagreements within families about decision-making responsibility
- **Advocacy:** promoting the rights and safety of adults with impaired decision-making ability.

The Public Advocate is supported by the Office of the Public Advocate (OPA), which works to protect and promote the rights of people with impaired decision-making ability across South Australia. Public Advocate clients live in a range of settings, including homes, supported disability housing, residential facilities, and aged care. OPA is committed to understanding and respecting the wishes of people with guardianship orders which appoint the Public Advocate as their guardian.

OPA acknowledges that First Nations peoples' spiritual, social, cultural, and economic practices are deeply connected to their traditional lands and waters. We recognise the importance of First Nations culture, heritage, languages, and laws.

Terminology in this report

First Nations: Used respectfully to refer to all Aboriginal and Torres Strait Islander peoples living in South Australia.

Client: Refers to a person for whom the South Australian Civil and Administrative Tribunal (SACAT) has appointed the Public Advocate as guardian.

Impaired decision-making ability: Preferred term used in this report, except where the legal term 'mental incapacity' is required under the *Guardianship and Administration Act 1993* (SA)

People with disabilities: Refers to the disability community. OPA acknowledges diverse views on language and supports individuals' right to self-identify.

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Introduction

Message from the Public Advocate

South Australia has continued to see a rise in adult guardianship appointments. We assisted 2,772 clients during the year.

Our state has one of the highest rates of guardianship per capita nationwide. Although the growth rate has steadied to around 10% per annum, legal nuances around detention mean a number of guardianship orders continue without ongoing decision-making needs, but with detention order requirements for six-monthly reviews. This is also relevant for NDIS participants, where orders cannot be revoked due to ongoing reviews of plans.

On Tuesday 30 July 2024, I welcomed the Attorney-General, Chief Executive, and senior staff from the Attorney-General's Department to our office. The visit provided an opportunity to acknowledge last year's budget commitment to additional resources for our Office (OPA) and to showcase our work.

I was pleased to later read in the *Legislative Council Hansard* that the Attorney-General recognised the valuable contributions of our office. I thank the Attorney-General and the department for the support they provide to the OPA.

I continue to advocate on critical issues affecting clients with guardianship orders, including:

- limited housing availability and suitability
- barriers to accessing mental health services such as assessments, and treatment in inpatient and community services
- inappropriate incarceration of forensic mental health clients in prisons due to a lack of facilities, particularly James Nash House which requires upgrade or replacement
- limited access to aged care placements and home care packages
- ongoing concerns relating to the National Disability Insurance Scheme (NDIS), such as delays in plan reviews, challenges with the PACE system, and service providers overspending clients plans - leading to plan failure and avoidable hospitalisation.

I discuss these topics in greater detail later in this report.

In October 2024, I was pleased to co-host the Australian Guardianship and Administration Council (AGAC) meetings with the Public Trustee (PT) and South Australian Civil and Administrative Tribunal (SACAT).

Public Advocates, Guardians, Public Trustees, and Heads of Tribunals gathered from across Australia for a series of meetings concluding with the Annual General Meeting. The Attorney-General officially opened the meeting, following a Welcome to Country by Uncle Frank Wanganeen, a proud Kaurna and Narungga man.

The Attorney-General acknowledged the vital role AGAC members play in safeguarding vulnerable individuals. Meetings included presentations and discussions on key disability and aged care issues, restrictive practices, Disability Royal Commission recommendations, and NDIS funding and reform.

Advocating for the rights of people with impaired decision-making ability takes dedication and commitment. I want to thank the individuals and organisations who have supported the OPA in our efforts to uphold and advance the rights of guardianship clients and vulnerable South Australians more broadly. I sincerely thank the staff at the Office of the Public Advocate for their professionalism, dedication, and commitment in supporting those we assist through guardianship, dispute resolution, and the information and education service.

Good news story

Many positive outcomes for Public Advocate clients often go unnoticed. One such story is Paul's[1], a guardianship client, recently returned to live with his family in Romania with support from OPA. He had migrated to Australia in 1958 and lived in Coober Pedy, and after visiting family over time, he had lost contact in the past two to three years. Concerned for his wellbeing, his family reached out to Australian authorities and were referred to the OPA.

Honouring Paul's wishes, OPA staff worked closely with him, his family, Coober Pedy Hospital, and the Public Trustee to arrange his return to Romania. In September 2024, the Public Advocate met Paul, his niece, and his sister, who had travelled to Australia to accompany him home. Paul now lives with his sister in their childhood home in Romania, where he is settled and happy. Without this support he would have remained in hospital in Coober Pedy without family connection.

A message from Paul's family[2]:

"I spoke with my uncle today and I told him that we shall go to take him and that we bought the plane tickets. I did not tell him anything until now because I waited to finish all formalities. He was very happy, and he started to make plans what he will do when will be back to Romania. We are also very happy that we managed to bring my uncle back home. This is possible only because of your work and all your colleagues involved in this special case."

[1] Not his real name.
[2] Shared with the family's permission.

2024-25 Snapshot

A quick look at our achievements this past year

Guardianship Clients

606 new clients

2,772 clients assisted during the year

2,345 active clients on 30 June 2025

68% of active clients had a NDIS plan

427 files closed

1,924 client visits

Dispute Resolution

63 new dispute resolution applications

54 finalised dispute resolution applications

Systemic Advocacy

13 written submissions from the Public Advocate

Information Service

2,044 queries to the OPA Information Service

Education Services

45 information sessions delivered

1,207 people attended an education session

Functions of the Public Advocate

Purpose and role

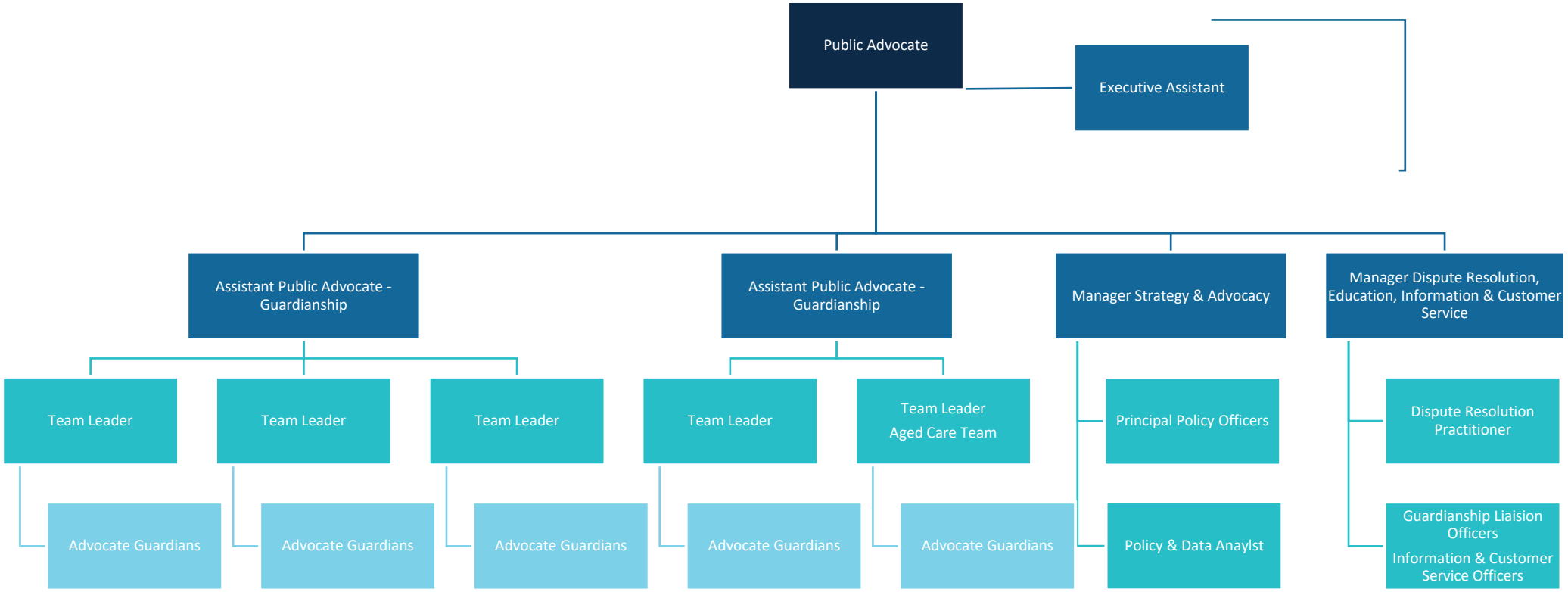
The Public Advocate (PA) is appointed under the *Guardianship and Administration Act 1993* (SA) to promote and protect the rights of people with mental incapacity (impaired decision making).

Under the *Advance Care Directives Act 2013* (SA) and the *Consent to Medical Treatment and Palliative Care Act 1995* (SA) (the Consent Act), the Public Advocate has legislative authority to provide dispute resolution related to advance care directives and consent to medical treatment.

In fulfilling these statutory obligations, the Public Advocate also:

- reviews programs, and advises minister of unmet need or inappropriately met need
- advocates for people with impaired decision-making ability, both individually and systemically
- provides public information on guardianship, administration, advance care directives, Powers of Attorney and related matters
- conducts investigations as directed by SACAT and acts as guardian when no suitable alternative is available.

Organisational chart



Key services

OPA works with and on behalf of South Australian adults with impaired decision-making ability to provide the following services:

Guardianship (decision-making)

When no suitable person is available, SACAT may appoint the Public Advocate as guardian to make decisions about a person's accommodation, health care and access to services or people.

Investigating

SACAT can direct the Public Advocate to investigate the circumstances of individuals involved in guardianship, administration, or advance care directive matters. The findings help SACAT ensure the person's safety and well-being.

Resolving and mediating

The Public Advocate helps resolve disagreements about health, accommodation, and lifestyle decisions through mediation.

Informing

The Office of the Public Advocate provides guidance to the public, service providers and professionals.

Advocating and promoting rights

The Public Advocate advocates for clients and promotes systemic change, including making legislative and operational recommendations to ministers.

Key issues and reform

Housing availability and suitability

Safe, suitable, affordable, and stable housing remains a major issue for guardianship clients. Later sections of this report detail the specific challenges faced by different client groups.

The Public Advocate works to improve housing options and stability for clients by engaging with key agencies, including:

- South Australian Housing Trust (SAHT)
- Department of Health and Wellbeing (DHW)
- Department of Human Services (DHS)
- Department of Correctional Services (DCS)
- Forensic Mental Health Service (FMHS)
- National Disability Insurance Scheme (NDIS)
- Specialist Disability Accommodation (SDA) Alliance
- Community Housing Providers (CHP)
- Homelessness alliances (Toward Home Alliance).

The Public Advocate met with the Chief Executive of the Department for Housing and Urban Development and Acting General Manager of SAHT to submit proposals towards future housing considerations for people with disability. This includes a State housing action plan that addresses:

- capital works
- policy plan
- unlocking unused SDA funding
- housing evictions.

OPA is working with SAHT, DHS, and Access 2 Place (a CHP) on an SDA project to support clients at risk of homelessness. Funded through SDA income, the project will deliver housing for approximately 27 State clients. Eleven Public Advocate clients have been approved for bespoke property builds under this initiative.

Barriers to accessing mental health services

People with intellectual disabilities face significant barriers to accessing appropriate mental health assessments and treatments in both inpatient and community settings. Mental health conditions are often overlooked or misinterpreted as behaviours related to disability - a phenomenon known as 'diagnostic overshadowing'. This leaves individuals with complex needs and coexisting conditions particularly vulnerable, due to a lack of specialist support.

Models of care, diagnostic criteria, and intake processes need to be reviewed to ensure equitable access for those with complex behaviours, psychosocial disabilities, autism, borderline personality disorder (BPD) and intellectual disabilities (ID).

The current voluntary engagement model for accessing mental health services is also inadequate, especially for Public Advocate clients.

These clients often have multiple diagnoses and face psychosocial challenges such as self-harm, suicidal ideation, and other serious behaviours. They are frequently excluded from services due to refusal or inability to engage, perpetuating a cycle of crisis hospital presentations and instability.

Often, access to support only occurs when risk escalates to the point of requiring involuntary interventions, undermining early and person-centred care.

An assertive model of care that enables voluntary service access with consent provided by the Public Advocate is needed.

Forensic Mental Health Services (FMHS)

The OPA has seen an increase in guardianship clients with forensic mental health needs.

These clients are overrepresented in FMHS and are often detained under criminal court orders or awaiting conditional release. Limited bed availability and outdated facilities place pressure on both health and correctional systems, resulting in patients being held in emergency departments or diverted to prisons.

Infrastructure issues:

- James Nash House (JNH) urgently needs refurbishment or replacement. The current building impacts clinicians' ability to treat patients safely and therapeutically.
- Tarnanthi Sub-Acute Forensic Service for clients with a disability, requires relocation from the Glenside campus. Appropriate long-term community-based accommodation for patients is needed.

Gazettal Notices (4 July 2024):

The Chief Psychiatrist issued two notices concerning:

- James Nash House:
    - **Admission of female, gender-diverse and young patients** – to enhance gender safety through a more rigorous admission approval processes, and alignment with the Chief Psychiatrist Sexual Safety Standard.
    - **Use of Clare Ward** – admission to dual occupancy rooms will be subject to an additional bed allocation procedure, lodged and reported 6-monthly to the Chief Psychiatrist. This recognises the limitations of dual occupancy rooms in FMH care.
    - **Safety of patients, staff, and visitors** – admission to Aldgate, Birdwood, Clare and Ken O'Brien wards is only permitted with the Chief Psychiatrists approval of a risk mitigation plan and system testing plan. These are in place to address the unreliability of the electronic security systems and support safe operations.
    - **Prevention of restrictive practices and seclusion** – seclusion can only be applied under the *Mental Health Act 2009* (SA) in line with the Chief Psychiatrist Restraint Seclusion Standard (a standard to reduce and eliminate where possible the use of restraint). In the absence of seclusion rooms in Aldgate and Birdwood wards, the Clinical Director and Director of Nursing can authorise the use of a bedroom. Prolonged seclusion outside the parameters of the standard must be reported to the Chief Psychiatrist.
    - **Progress on infrastructure upgrades** – following the Chief Psychiatrist Inspection Report December 2023, a report must be provided to the Chief Psychiatrist each month detailing the progress on asset recommendations.
- Ashton House:
    - **Safety of patients, staff, and visitors** - may continue to admit patients providing an approved risk mitigation plan is in place. This is in relation to the duress system to provide for the safety of patients, visitors and staff.

These conditions remain in place until 4 July 2025.

In January, the Public Advocate provided feedback on the Government's supplementary consultation on the *Mental Health Act 2009* (SA). The recognition of co-morbidities such as neurodevelopmental disorders, mental illness and substance misuse is a welcome development.

While the proposed legislative changes are positive, critical issues remain. These include ageing infrastructure, and a shortage of forensic mental health beds resulting in forensic patients being accommodated in custodial prison settings.

Forensic patients in prison

Since 2023, the number of forensic patients in prison has increased by 220%. Of these, 40% are Public Advocate clients.

The majority (98%) are male, primarily aged between 20-30, with complex conditions such as treatment resistant schizophrenia, BPD and drug use disorder.

Around 20% are young First Nations men with overlapping mental health, intellectual disability (ID), trauma, and substance misuse issues.

The Public Advocate attends the bi-monthly *Forensic Patients in Prison Oversight Meeting*, chaired by the Clinical Director of FHMS. Attendees include representatives from FHMS, the Office of the Chief Psychiatrist (OCP), DCS, Prison Health, Prison Assessment and Consultation Team, OPA, DHS and National Disability Insurance Agency (NDIA).

Under delegated authority from the Minister of Health, the Chief Psychiatrist can issue directions regarding the custody and care of forensic patients. In line with s269(V)(2) of the *Criminal Law Consolidation Act 1935* (SA), some guardianship clients were placed in mainstream custody due to the lack of practical alternatives.

While the Public Advocate was consulted, these arrangements are neither ideal nor sustainable for client wellbeing.

Key issues faced by clients with disabilities in the FMH system include:

- shortage of acute forensic beds at JNH
- over-reliance on prisons and hospitals for patients
- lack of staff with forensic expertise
- the need for a dedicated forensic disability service
- extended custody (due to inadequate NDIS funding and lack of State support for forensic care in the community)
- inability to implement community-based forensic detention as required by court orders
- use of unskilled disability providers to manage high-risk forensic clients in the community.

Public Advocate clients and the criminal justice system

As both victims and defendants, Public Advocate clients with disabilities, mental health conditions, or complex behaviours remain over-represented in the criminal justice systems. The OPA seeks legal assistance, advice and representation for clients charged with offences in criminal court proceedings.

The *Statutes Amendment (Vulnerable Witnesses) Act 2015* (SA) which amended various Acts to make provisions for special arrangements relating to vulnerable persons in the justice system is overdue for review.

The OPA has built stronger partnerships with South Australia Police (SAPOL), the DCS, FMHS, the Legal Services Commission, and the Aboriginal Legal Rights Movement.

Strong connections with the DCS NDIS Offender Services Team and Justice Liaison Officers within the NDIA have also led to improved identification of prisoners with disability, and better release planning and outcomes for this highly vulnerable population.

These partnerships enable the Public Advocate to better assist clients engaged with the criminal justice system.

Missing Person Reporting to South Australian Police

Rates of Public Advocate clients with complex psychosocial needs who leave or abscond from care and accommodation settings and become missing persons is an ongoing cause for concern, particularly due to risks of abuse and exploitation.

In 2024-25, the Public Advocate received 183 missing person reports for 101 clients. Most were located within 1-2 days, reflecting good collaboration with SAPOL.

Challenges in Aged Care access and placement

The number of Public Advocate clients with dementia requiring care in specialised Memory Support Units is rapidly increasing with the ageing population.

There is a shortage of aged care home packages, leaving many clients inadequately supported in the community or prematurely placed in residential aged care. Hospital bed and discharge pressures further compound this issue, and at times, clients have been discharged without consultation or consent from the OPA.

The OPA has observed residential aged care facilities (RACFs) increasingly rejecting clients with complex needs-such as people with disabilities, mental health conditions or dementia resulting in prolonged hospital stays and repeat re-admissions.

Due to the limited availability of suitable aged care beds, it is difficult for staff to apply the section 5 principles of the *Guardianship and Administration Act 1993* (SA) and the Public Advocate's choices are sometimes constrained.

RACFs are also increasingly expecting OPA staff to source alternative placement options when they are no longer willing to support clients. A legislative change, mandating these facilities to accept clients with higher and complex needs, or establishing a specialised, provider of last resort is needed.

Unlike the NDIS, aged care lacks a dedicated authorising body for restrictive practices. Consequently, RACFs require consent for the use of restrictive practices by a guardian. This means more people unnecessarily fall under guardianship to consent to restrictive practices and more work is created for guardianship staff.

National Disability Insurance Scheme

On 30 October 2023, the NDIS introduced the Provider and Participant Communication Environment (PACE) system, replacing its previous client record platform.

PACE requires service providers to be endorsed before payments can be processed. If endorsement does not happen during the planning meeting, OPA staff must contact the NDIA, sending a SACAT order and calling a dedicated guardian line. Each endorsement call takes around 45 minutes due to identity verification, and each client typically has 4-5 providers. While a dedicated guardian phone line initially improved communication, its effectiveness has declined, with staff receiving inconsistent responses and needing to resend requests and repeat calls.

PACE has also shifted all NDIA correspondence to paper format, resulting in excessive mail. In one case, OPA received 17 separate letters on the same topic for a single client, requiring staff to manually check and log each item.

OPA has raised these concerns with the NDIA multiple times, but an effective solution has not been provided. The administrative burden caused by PACE represents a cost shift from the Commonwealth to the State and has created significant administration when supporting clients. These concerns are shared nationally among Public Advocates and Guardians.

Non-acute hospital admissions

South Australian hospitals are under significant strain, often leading to extended stays for Public Advocate clients. In some cases, social admissions are used as a last resort to protect vulnerable individuals. The Public Advocate works with Commonwealth, State, and non-government partners to prevent admission and support timely discharges.

Since the introduction of the NDIS, several providers have withdrawn support for clients with complex needs once funding is exhausted.

The recent shift to fixed funding periods in NDIS plans has raised concern about a rise in non-acute hospital admissions, particularly from Supported Independent Living (SIL) providers.

In response, the Public Advocate is working with service providers, the NDIA, the NDIS Quality and Safeguards Commission, and the DHW to maintain community-based supports and promote trauma informed care to reduce avoidable hospital admissions.

Decision-making

Guardianship

When a person has impaired decision-making ability and no other suitable support, SACAT may appoint the Public Advocate as their guardian. Under the *Guardianship and Administration Act 1993* (SA) (GAA) this person is known as the 'protected person'. Day-to-day decision-making is delegated to trained staff within OPA who observe the section 5 principles of the GAA when making substitute decisions for the protected person.

Decisions may include:

- **Accommodation:** choosing appropriate living arrangements or alternative housing options
- **Health:** consenting to medical or dental treatment, palliative care, or withdrawal of treatment when necessary
- **Lifestyle:** supporting decisions about social activities, education or employment
- **Access:** managing who the protected person has contact with.

Client profile

The Public Advocate was guardian for 2,345 clients on 30 June 2025.

- **Gender identity[3]:** 1,326 clients (57%) were male, 1,018 (43%) were female, and 1 was non-binary
- **NDIS participants:** 1,597 clients (68%) had a NDIS plan
- **Age:** 862 clients (37%) were 65-years-of-age or older and 1,483 (63%) were under 65
- **First Nations People:** 287 clients (12%) identified as First Nations.

First Nations people are over-represented in public guardianship in South Australia, comprising 12% of clients but only 2.4 % of the population[4].

[3] The Public Advocate is seeking enhancements to the client information recording system to enable non-binary gender information recording

[4] 2021 census of population and housing (Australian Bureau of Statistics: link)

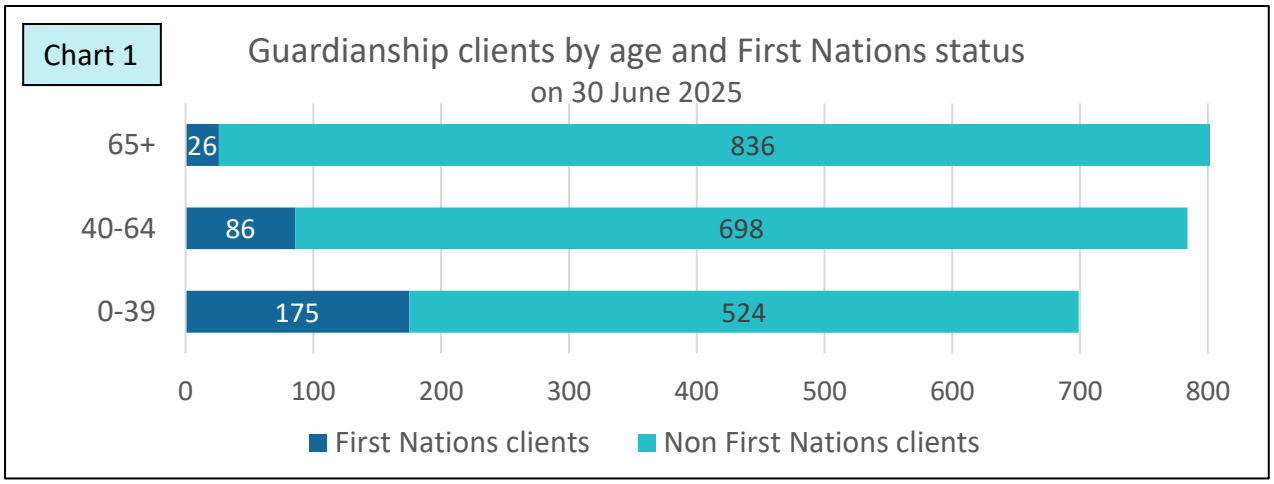
Age

56 years was the median age for clients with active guardianship orders on 30 June 2025. The median age for all South Australians aged 18 years or older[5] was 49.

Table 1: Client's age and First Nations status on 30 June 2025

	All Clients
65+ years	862 (36.8%)
40-64 years	784 (33.4%)
0-39 years	699 (29.8%)

	First Nations Clients		Non-First Nations Clients	
65+ years	26	(3.0%)	(97.0%)	836
40-64 years	86	(11.0%)	(89.0%)	698
0-39 years	175	(25.0%)	(75.0%)	524



First Nations people are further over-represented among guardianship clients who are under 40 years-of-age (25.0%).

Over-representation drops significantly as age increases, reflecting the lower life expectancy of First Nations people.

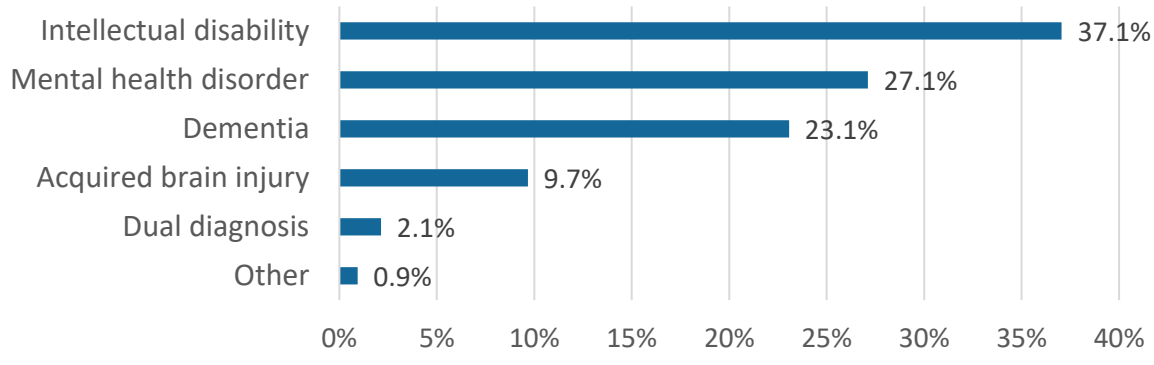
Diagnoses

Of the clients with active guardianship orders as of 30 June 2025, 96.9% were diagnosed with a decision-making impairment falling within four primary categories:

- intellectual disability (37%)
- dementia (23%)
- mental illness (27%)
- acquired brain injury (10%)

[5] Australian Bureau of Statistics, 2021 Census DataPack for South Australia (link)

Chart 2



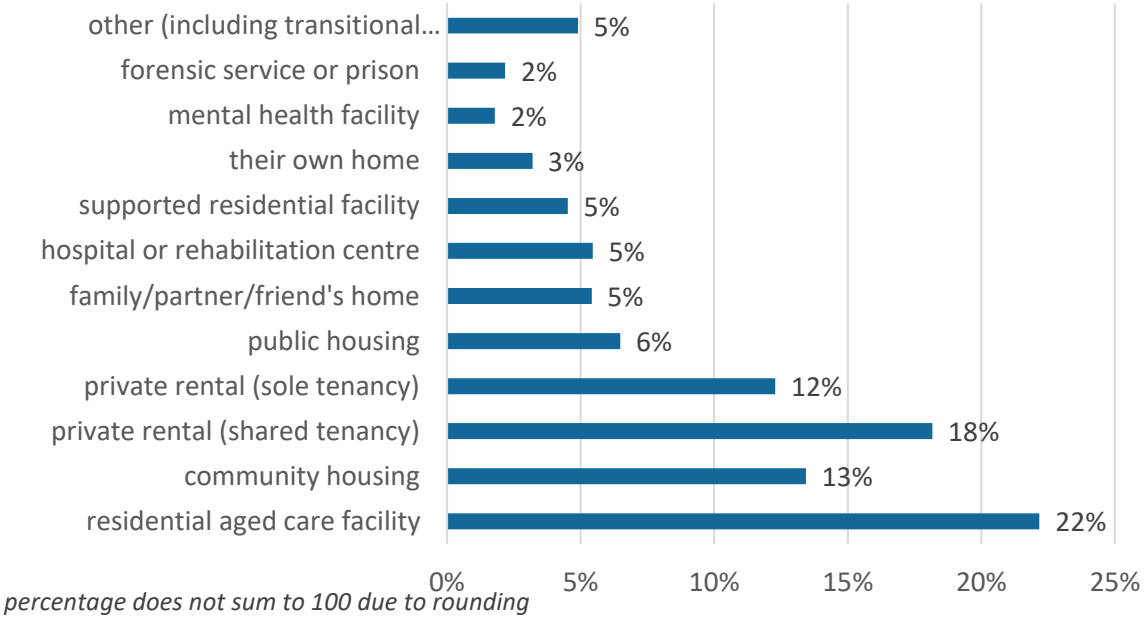
First Nations clients followed a similar diagnostic profile with two significant exceptions:

- lower rate of dementia (7.3% for First Nations clients), likely reflecting the lower life expectancy of First Nations people
- higher rate of intellectual disability (46.3% for First Nations clients).

Accommodation

Most clients with guardianship orders appointing the Public Advocate reside in disability-specific accommodation, including supported single-living arrangements and groups homes, or RACFs.

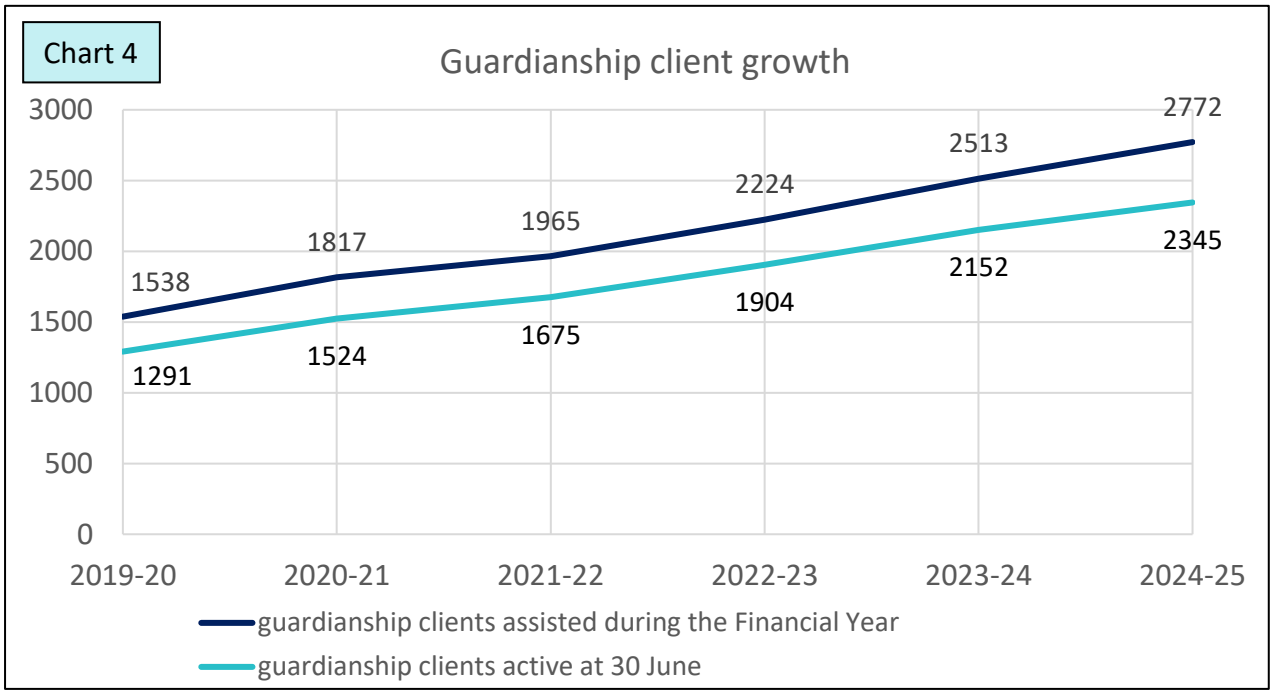
Chart 3



percentage does not sum to 100 due to rounding

Growth in guardianship

The number of people with guardianship orders appointing the Public Advocate rose 9% (from 2,152 to 2,345) during the 2024-25 financial year.



Guardianship client numbers have increased by 82% over the past five years, rising from 1,291 in June 2020 to 2,345 in June 2025.

The increase in appointments reflects the impact of:

- an increased number of older people affected by dementia or stroke
- the implementation of the NDIS
- changes to the regulation of restrictive practices in disability and aged care sectors
- the Full Court of the Supreme Court of South Australia's decision[6] in May 2019 regarding the detention of people in RACF or disability-specific accommodation, and the subsequent reduced capacity to revoke guardianship orders where the Public Advocate's role as guardian has otherwise ceased in terms of regular decision-making.

[6] The Public Advocate v C, B [2019] SASCFC 58

New appointments

The OPA attends initial SACAT hearings for guardianship applications that nominate the Public Advocate as guardian, or where SACAT considers it likely that the Public Advocate will be appointed.

During 2024-25:

- SACAT held 889 initial hearings of guardianship applications where the Public Advocate was nominated or considered likely to be appointed
    - applications remained comparable with the previous financial year
- The Public Advocate was appointed as guardian for 606 people (68%) with impaired decision-making ability.
- Since 2021–22, SACAT hearings for guardianship applications, as well as new guardianship appointments, have steadily increased. During 2024–25, these activities were similar to the previous financial year.

Table 2: Guardianship applications and appointments	2022–23	2023-24	2024-25
SACAT hearings for guardianship applications^	740	894	889
New guardianship appointments^^	549	609	606

^ where the Public Advocate is nominated or considered likely to be appointed
^^ where the Public Advocate is appointed guardian

Closed matters

The OPA closed 427 guardianship matters during 2024-25, representing 15% of all guardianship matters that were active at any point. New appointments (606) exceeded matter closures by 179.

Matters are closed for a number of reasons, including:

- clients passing away (49%)
- SACAT revoking guardianship orders (17%)
- guardianship orders expiring (16%)
- appointment of a private guardian (13%)
- SACAT dismissal of urgent temporary guardianship orders (5%).

The Public Advocate seeks revocation of guardianship orders through SACAT if there is no longer a role for the Public Advocate as guardian.

Certain orders and circumstances require the Public Advocate to play an ongoing role as guardian, including for people:

- who are NDIS participants, because NDIS plans and services are regularly reviewed and changed, and a guardian must make NDIS-related decisions
- who have restrictive practices in place, as their use is regularly reviewed.

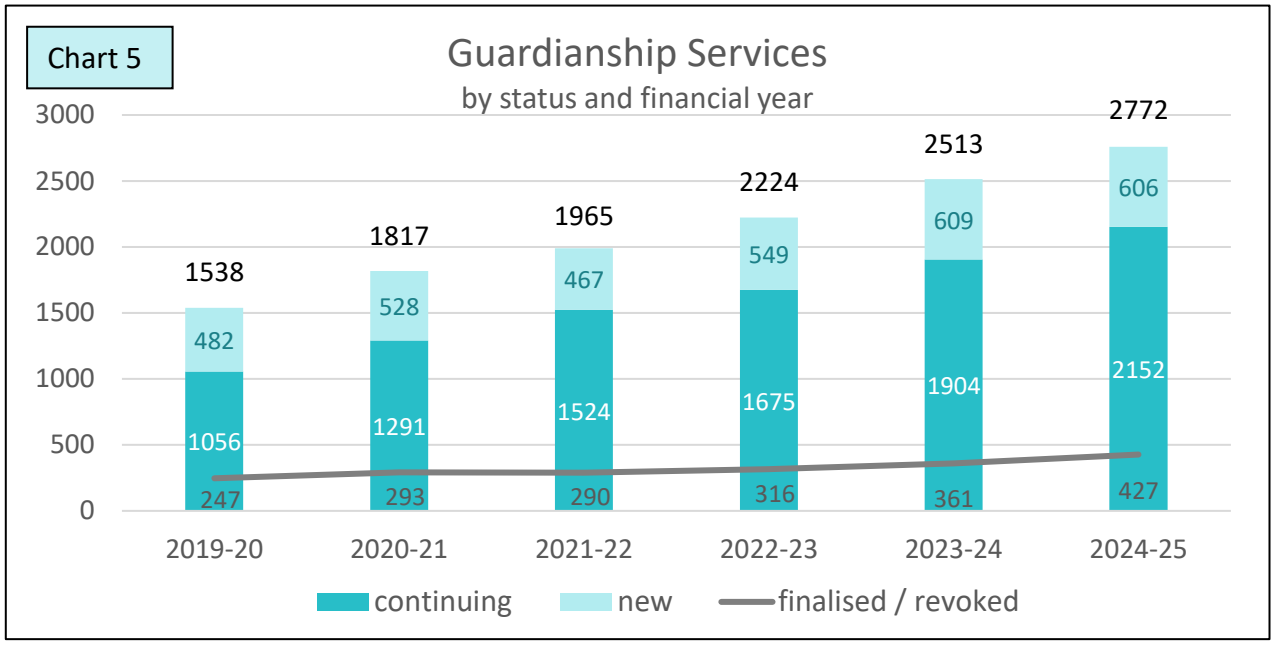
While the use of restrictive practices can sometimes be eliminated or reduced over time, the need for detention orders for people who are living in 'closed' facilities or accommodation (where the person is not permitted to leave the location at will, particularly for their own safety) will usually remain.

Of the 427 guardianship matters that were closed in 2024-25, 124 matters (29%) were in place for over three years, and 197 matters (46%) were in place for less than one year. Usually due to expiry of short-term orders made for urgent medical and accommodation decisions or the appointment of a private guardian.

The most common reason for closures across all guardianship matters was death (49%) of older people reflecting the growth in guardianship orders for an ageing population.

Table 3: Length of closed guardianship matters

Length of guardianship matter	2023-24	2024-25
0 – < 12 months	191	197
1 year – < 2 years	42	66
2 – < 3 years	44	40
3+ years	84	124
Total closed matters	**361**	**429**



Further information on guardianship

Further information about guardianship can be found on the OPA website in fact sheets. Data for the last five-years can be found at Data SA.

Decisions

A key role of the Public Advocate is to make decisions for people with impaired decision-making ability when no other appropriate person can be appointed as guardian. These decisions relate to health care, accommodation, services and supports and lifestyle.

In 2024-25, the Public Advocate and OPA staff made the following decisions for people with guardianship orders:

Table 4: Decisions made for guardianship clients

Decisions	2023-24	2024-25	% ↑/↓
Health care	2,240	2,770	↑24%
Accommodation	1,459	1,855	↑27%
Service / support	1,123	2,132	↑90%
Lifestyle	525	571	↑9%
Access	592	747	↑26%
Other[7]	179	186	↑4%
Total decisions	**6,118**	**8,261**	**↑35%**

In the past year, decisions required for guardianship clients increased by 35%, compared with a 9% growth in client numbers. This rise reflects several contributing factors: the steady increase in guardianship clients, ongoing instability in the disability sector and housing market, and improvements in OPA's recording practices to more accurately capture decision-making activity.

After-hours decision-making

The OPA provides an after-hours service to assist with urgent medical or emergency decision-making. This may require an application to SACAT for an order. The service operates outside of standard business hours on weekdays, weekends, and public holidays.

In 2024-25, the OPA responded to 2,401 after-hours calls, an increase of 405 calls (20% increase) from the previous year, with a monthly average of 166 after-hours calls. The peak call periods were 5pm to 9pm on weekdays, and 9am to 6pm on weekends and public holidays.

During 2024-25, the OPA made 673 urgent after-hours decisions for clients, a rate of one decision for every four calls (28%). A significant majority of decisions were health related (619 or 92% of decisions).

[7] Category "other" includes legal decisions and decisions to apply for SACAT orders

The use of OPA's after-hours service has shifted, with more health practitioners seeking SACAT hearings outside business hours. The service is also being used for non-urgent matters, including provider operational issues. OPA is reviewing the operating model and reinforcing that the service is for urgent matters only.

Investigations

SACAT can direct the Public Advocate to investigate and report on whether guardianship or administration orders are needed, and the most suitable appointee. These reports offer a clear, balanced summary of the individual's circumstances.

Public Advocate staff conduct these investigations by interviewing the person involved and other relevant parties. Key issues examined include:

- need for guardianship and/or administration orders
- accommodation
- access
- health
- finances
- appropriateness of sterilisation
- suitability of proposed private guardians.

Reports are presented at SACAT hearings and considered alongside other evidence.

Table 5: Investigations for the SACAT in 2024-25

Investigations	2023-24	2024-25
New investigations undertaken for the SACAT	17	16
Finalised investigations	22	15
Active at end of financial year	9	10

Litigation guardianship

Courts may appoint the Public Advocate as litigation guardian for individuals with impaired decision-making ability, who are not able to provide instructions to a lawyer. In this role, the Public Advocate:

- reviews legal advice
- consults with the individual
- provides instructions to the lawyer
- supports the person's understanding of legal proceedings.

In some cases, the Public Advocate may give substitute instructions based on legal advice.

The Attorney-General's Department (AGD) funds the Uniting Communities Law Centre (UCLC) to provide litigation guardian services for Youth Court matters. The *Children and Young People (Safety) Act 2017* (SA) establish the Youth Court's Care and Protection jurisdiction, which empowers the Court to hear applications relating to the care and protection of children and young people.

The Youth Court may request a litigation guardian when a parent has impaired decision-making capacity, affecting their ability to manage legal proceedings independently. Most matters for a litigation guardian from the Youth Court are referred directly to UCLC. This assists with resources as OPA is not funded for litigation guardianship for non-OPA clients.

The Public Advocate continues to accept requests for litigation guardianship from the Youth Court when they are the appointed guardian.

They also continue to receive regular requests to act as litigation guardian for non-OPA clients across various legal matters including criminal, civil, family, tenancy, and immigration, which fall outside its scope, expertise, and resources.

The lack of access to litigation guardians outside of the Youth Court, for people with impaired decision-making is a systemic gap.

Complaints and decision review requests

In 2024-25, the OPA addressed 60 complaints or decision reviews, received 4 compliments and 38 ministerial enquiries. These issues involved OPA staff decisions, communication concerns, or conflict amongst parties.

There were no Freedom of Information applications. The OPA is an exempt agency (in respect of certain functions) under the *Freedom of Information (Exempt Agencies) Regulations 2023* (SA).

Complaints and decision review requests concerned only 2.1% of the 2,772 clients assisted during the year. Ministerial enquiries concerned only 1.3% of clients.

Table 6: Complaints and decision review requests 2024-25

Complaints and decision review requests	2023-24	2024-25
Complaints and decision reviews	62	60
Ministerial enquiries	19	38
Freedom of Information requests	0	5

Warrants

Under section 69 of the *Guardianship and Administration Act 1993* (SA), SACAT may issue a warrant requiring a person to undergo a mental capacity assessment. This assessment must be conducted by a psychiatric, psychological, or medical professional who submits a report to the SACAT.

In 2024-25 SACAT made one order under S69 of the *Guardianship and Administration Act 1993* (SA). OPA staff worked with the client to support their attendance for a psychological assessment and no warrant was required.

Resolving and mediating

Dispute resolution

The Public Advocate delegates authority to the Dispute Resolution Service (DRS) staff to resolve disputes under the *Advance Care Directives Act 2013* (SA) (ACD Act) and the *Consent to Medical Treatment and Palliative Care Act 1995* (SA) (Consent Act). The DRS employs qualified mediators who are trained in mediation and complex conflict resolution.

The Public Advocate can assist or mediate in:

- disputes about Advance Care Directives (ACD) under the ACD Act
- disputes about consent to medical or dental treatment, including for children under 16, under the Consent Act
- disputes about decisions or decision-makers under both Acts.

An eligible person is someone who demonstrates a proper interest in the matter in relation to the Advance Care Directive or the consent to treatment.

Advance Care Directives Act 2013

The *Advance Care Directives Act 2013* (SA) enables adults with decision-making ability to write an ACD outlining their wishes for future healthcare, living arrangements and personal matters if they become unable to make a decision or communicate. It does not cover financial matters.

The Act also permits the appointment of substitute decision-makers who must act according to the preferences and values expressed in the ACD.

Throughout 2024-25, the Public Advocate contributed to the 'ACD and End of Life Collaborative Projects Forum', led by the Office for Ageing Well (OFAW) in DHS. The forum brings together local councils and OFAW-funded organisations to share ACD knowledge and implement review recommendations.

Consent to Medical Treatment and Palliative Care Act 1995

If a person cannot consent to medical or dental treatment, valid consent must be obtained from an authorised person under the Consent Act. The Act also authorises the Public Advocate to resolve consent disputes.

When a person cannot consent to their own treatment, approval may come from a substitute decision-maker (SDM) under an ACD. If no SDM is available, consent can be given by a 'person responsible' as defined in section 14 of the Consent Act, who must be available and willing to decide, in the following hierarchical order:

1. a guardian appointed by SACAT to make healthcare decisions
2. a 'prescribed relative', who is a spouse/domestic partner/relative by blood or marriage, or an adult related to the person by blood, marriage, adoption, or First Nations kinship/marriage, with a close and continuing relationship with the person
3. an adult friend who has a close and continuing relationship with the person
4. someone charged with the person's ongoing day-to-day care and well-being (such as a Director of Care in aged or supported care, except for chemical restraint).

The Consent Act often eliminates the need for SACAT to make a guardianship order for health decisions. In 2024-25, the OPA received five (5) formal dispute resolution applications under the Consent Act and addressed many more consent disputes alongside ACD issues. The OPA Information Service also responded to 115 enquiries about the Consent Act and prescribed treatment.

Prescribed treatments are medical procedures that require special consent from SACAT due to their nature or impact. Under the *Mental Health Act 2009* (SA), these include electro-convulsive therapy and neurosurgery for mental illness. The *Guardianship and Administration Act 1993* (SA) identifies sterilisation and termination of pregnancy for people with a mental incapacity as prescribed treatments. Where a person lacks the ability to give their own consent for these treatments, consent must be sought through SACAT.

Dispute Resolution Service (DRS) applications

The DRS provides dispute resolution assistance for issues arising from ACDs, such as preventing visits, disagreements about living arrangements, and concerns about substitute decision-makers.

The DRS helps families resolve conflict and repair relationships, encouraging families to avoid formal SACAT processes and work together to uphold the relevant person's rights and wishes.

In 2024-25, 59 of the 63 new matters related to a person aged over 65. The most common age bracket was 80-89 years, with the average age across all matters being 79 years.

Most applications came from family and friends, but they can also come from health care professionals, social workers, service providers, and SACAT under section 49 of the *Advance Care Directives Act 2013* (SA).

Table 7: DRS matters 2024-25

DRS matters	2023/24	2024/25
Interested parties assisted	142	211
Matters brought forward from previous year	9	10
New Matters opened	45	63
Referrals to DRS by SACAT (Figure also included in New Matters)	4	1
Matters closed	44	54
Open matters carried forward to following year	10	19

Service model for dispute resolution and conflict management

The DRS model addresses disputes involving a high level of conflict through preliminary assistance and mediation.

All OPA's qualified mediators have undertaken national elder mediation[8] and family dispute resolution training.

The DRS prioritises the rights and voice of the person at the centre of the dispute. The model, based on State legislation (*Advance Care Directives Act 2013, the Consent Act* and Commonwealth and International laws (*United Nations Convention on the Rights of Persons with Disabilities* (CRPD*)*, *Disability Discrimination Act 1992* (Cth)) integrates various dispute resolution and conflict management approaches.

Mediators use different mediation styles and approaches to assist parties in dispute, depending on the type of conflict. They include:

- facilitative negotiated mediation— the mediator helps parties negotiate to reach their own solution
- narrative mediation—focuses on storytelling to separate individuals from issues and reshape narratives for better understanding and resolution
- transformative mediation— aims to empower parties to resolve their conflict by recognising each other's needs and interests.

[8] Elder Mediation Australasian Network – Elder Mediation Australasian Network (elder-mediation.com.au)

The DRS primarily uses the facilitative approach but will adopt others as needed to address each family's unique requirements and uphold the vulnerable person's rights.

Finalised DRS matters

Table 8: DRS finalised matters 2024-25

Finalised DRS matters	2023/24	2024/25
Resolved	14	19
No further action	18	20
Referred to SACAT	3	3
Referred to Adult Safeguarding Unit	1	0
Application withdrawn	7	9
Client deceased	1	3
Total	**44**	**54**

The DRS finalised 54 matters involving 211 interested parties. No action was possible in 20 matters due to unwillingness to mediate, lack of response, or scope issues; three (3) clients passed away during the process.

Of the 19 resolved cases:

- 13 were resolved by parties reaching agreement, including nine (9) through formal mediation and four (4) through preliminary assistance
- 10 mediations were facilitated, with a 90% resolution rate (9 out of 10)
- 5 additional matters were resolved with preliminary assistance without the need for a written agreement.

Improved data processes

In 2024-25 the DRS enhanced its data recording and reporting processes. DRS-specific information is now captured for each matter and compiled into customised client displays, updated nightly.

These improvements provide up-to-date information for practice supervision, help assess case complexity for resource planning and assist with service evaluation through client feedback.

Conflict coaching

Since 2020, the DRS has included conflict coaching in the preliminary assistance stage to help individuals manage interpersonal conflicts. Coaching supports people to:

- understand the conflict from a new perspective
- build skills for difficult conversations
- understand their own and others' values, needs, and beliefs, and
- explore options for a preferred future.

Conflict coaching emphasises resolving underlying issues, de-escalating conflict, and improving communication, with a focus on modelling respectful language and behaviour.

Case study: Advance Care Directives

Jan, a long-standing resident of a residential aged care facility (RACF), began displaying inappropriate behaviours due to a frontal lobe stroke and advanced dementia. She was settled in the facility and had long been a valued member of the community. However, the combination of Jan's behaviour and conflict with her family over how to best support her was causing the RACF manager to question whether Jan could continue to live there.

With no Advance Care Directive in place, Jan's partner and sister, identified as Persons Responsible under the Consent Act, were asked to consent to medication recommended by her GP. Behaviour strategies had been ineffective, but Jan's family was hesitant to approve medication.

The RACF manager submitted an application to the DRS. After speaking with staff and family, the DRS practitioner visited Jan, where he learned that Jan had worked in disability support. Jan shared a story about caring for a man with dementia, reflecting on her deep respect for carers.

During the subsequent mediation, this story helped shift perspectives. The practitioner guided the group in acknowledging past communication challenges, fears about Jan's future, and appreciation for the care she was receiving. This opened the way for collaborative problem solving.

All parties agreed that it was preferable to use the least restrictive measures available, including consent for the prescribed medication, as part of a wholistic approach, to help manage Jan's behaviour and ensure a safe environment for her carers, honouring the values Jan had lived by.

The dispute in this case involved: caregiving issues; disability or progressive dementia or cognitive impairment; medical consent issues; abuse/safety/self-neglect allegations; legal issues (e.g. enduring power of attorney); end-of-life planning; enduring conflict between family members; and mental health or trauma issues.

Informing

The OPA provides information to community members, health professionals and service providers regarding, adult safeguarding, the SACAT application process, decision-making ability, Guardianship and Administration orders and Advance Care Directives.

Information is provided in three ways:

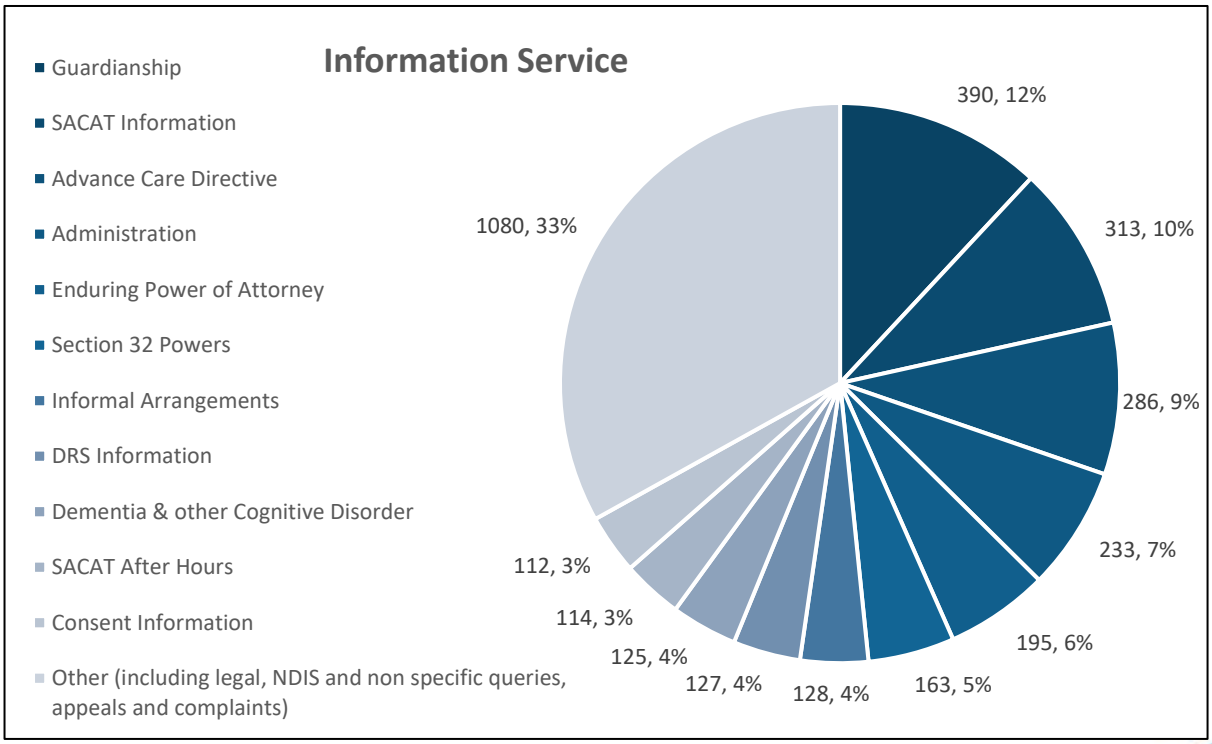
- consulting with the Information Officer by phone and email
- face-to-face information sessions
- the OPA website.

Information Service statistics

In 2024-25, the OPA recorded 2,111 enquiries (phone and email) resulting in 3,266 instances of information provided across a broad range of issues. The most common enquiries were about Guardianship (12%), SACAT information (10%), Advance Care Directives (9%), Administration (7%) and Enduring Powers of Attorney (6%).

The OPA website provides a range of information and resources including easy read and plain English fact sheets. In 2024-25, the website had 33,928 visitors with 90,306 page views.

Table 9: Information requests



Information sessions

The Information Service supports South Australians and service providers by clarifying advance care planning documents, SACAT processes and the role of the Public Advocate. It also delivers information sessions on:

- *Guardianship and Administration Act 1993* (SA)
- *Advance Care Directives Act 2013* (SA)
- *Consent to Medical Treatment and Palliative Care Act 1995* (SA).

Table 10: Information sessions 2024-25

Information session	2023-24	2024-25
Sessions delivered	53	45
Participants	1,139	1,207

In 2024-25, the Information Service increased session efficiency by raising the average attendance from 21 to 26 participants.

The Information Service developed a targeted presentation, “Find Me a Decision-Maker”, to support health professionals in identifying authorised decision-makers. It explains the role of a *Person Responsible*, under the Consent Act, offers resources on dispute resolution, and encourages professionals to contact the OPA before seeking a guardianship order.

This approach promotes timely, rights-based decision-making, helps avoid unnecessary guardianship applications, and ensures SACAT and OPA resources are utilised for cases with no other available decision-maker.

In 2024-25, OPA presented 13 information sessions, primarily focused on the “Find Me a Decision-Maker" presentation and resources related to the Consent Act.

Advocacy and promoting rights

Systemic Advocacy

The Public Advocate undertakes systemic advocacy about issues affecting people who need support with decision-making.

Under section 21 (1) (a-h) of the *Guardianship and Administration Act 1993* (SA), the Public Advocate recommends improvements to legislation, programs, and systems to the Attorney-General, and relevant ministers, addressing unmet need and promoting better outcomes. The Public Advocate undertakes this advocacy through regular meetings with Ministers, providing advice and written submissions.

Key areas of systemic advocacy included improving access to services such as the NDIS, My Aged Care, housing, the criminal justice system and health, mental health and FMHS.

The Public Advocate continues to advocate for changes to the *Guardianship and Administration Act 1993* (SA). Areas for reform include addressing recommendations of the Royal Commission into Abuse Neglect and Exploitation of People with Disabilities, and the Royal Commission into Aged Care Quality and Safety. They also seek to modernise the legislation to align with the intent of the *United Nations Convention on the Rights of Persons with Disabilities* (CRPD) and *National Decision-Making Principles*[9].

Under Part 2 section 21 (3) of the *Guardianship and Administration Act 1993* (SA), the Public Advocate may form advisory committees to support this work.

The Public Advocate convenes the *OPA Disability Forum*, and the *Public Advocate Clients* and *Domestic Violence Working Group*. These groups bring together government and non-government representatives to improve service access and coordination for clients with complex needs and aim to support some of South Australia's most vulnerable individuals by addressing barriers across multiple service systems.

[9] National Decision-Making Principles | ALRC

Minister meetings

In 2024-25, the Public Advocate met with key South Australian Ministers to discuss systemic issues affecting clients:

- Hon Kyam Maher MLC, Minister for Aboriginal Affairs and the Attorney-General
- Hon Chris Picton MP, Minister for Health and Wellbeing
- Hon Nat Cook MP, Minister for Human Services.

Topics raised included:

- growth in guardianship appointments and contributing factors
- guardianship and law reform
- adult safeguarding
- housing and homelessness, including for clients with complex needs
- supply of housing and supported accommodation
- trauma responsive services to reduce hospital admissions
- mental health services
- use of restrictive practices
- domestic family, relationship and sexual violence
- Disability Royal Commission recommendations
- NDIS Review and legislative reforms
- aged care legislative reforms including restrictive practices
- OPA-Uni SA research collaboration regarding supported decision making
- Supported Decision-Making project in aged care (OFAW grant)
- information sharing and interagency collaboration.

Public Advocate Clients and Domestic Violence

The Public Advocate continues to lead the *Public Advocate Clients and Domestic Violence Working Group*, collaborating across-government to address risks faced by socially mobile clients vulnerable to abuse, violence, and exploitation.

A significant outcome this year has been the development of information sharing protocols between OPA and SAPOL which is an important step in safeguarding these clients.

The working group welcomed the Royal Commission into Domestic, Family, and Sexual Violence in South Australia. The Public Advocate and several working group members made submissions to the Commission.

OPA also hosted two listening sessions for the Commissioner, involving around 60 invitees including disability service providers and NDIS behaviour support practitioners. These sessions highlighted the complex intersection of disability, domestic violence, and support systems - revealing a significant systemic gap in support.

OPA Disability Forum

The Public Advocate established the *OPA Disability Forum* in 2016. Since then, the forum has evolved to include representatives from OPA, DHS, NDIA, NDIS Quality and Safeguards Commission, PT and SACAT.

The forum serves as a platform for connection, collaboration and information sharing among all parties. It also enables the Public Advocate to raise systemic issues affecting guardianship clients, such as delays in NDIS plan reviews, safeguarding concerns, bundled tenancy and support arrangements, challenges with the NDIA client portal (PACE) and other related matters.

Recently, at the request of the Commonwealth Department of Social Services, the Public Advocate convened a national meeting. This brought together representatives from the NDIA and the NDIS Quality and Safeguards Commission, with statutory guardians and advocates from across Australia to strengthen national collaboration.

Australian Guardianship and Administration Council (AGAC)

The Public Advocate is a member and Deputy Chair of the Australian Guardianship and Administration Council (AGAC), which brings together Public Advocates, Public Guardians, Tribunal Heads and Public Trustees from across Australia.

From 16 - 18 of October 2024, OPA, PT and SACAT co-hosted AGAC meetings in Adelaide. Separate meetings were held on the first two days, followed by the full AGAC meeting on 18 October which was officially opened by the Minister for Aboriginal Affairs and Attorney-General, Hon Kyam Maher MLC.

Topics discussed included:

- reform priorities across guardianship and administration
- recommendations from the Disability Royal Commission
- use and oversight of restrictive practices in aged care and disability services
- NDIS funding, reform, and information sharing.

In early 2025 AGAC released the fourth edition of the National Public Guardianship Guidelines. This follows the release of the final report from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability in 2023. Among its recommendations, the Commission (Recommendation 6.15) called on AGAC to update this document to better support ways that enable people to make their own decisions.

AGAC continues to play a key role in shaping national policy and systemic advocacy, particularly in areas such as enduring powers of attorney, supported decision-making, restrictive practices, and adult safeguarding. More information is available on the AGAC website.

Written submissions

The Public Advocate contributes to proposed legislative and systemic reform affecting clients and adults with impaired decision-making ability.

In 2024-25, the following submissions were made:

- Royal Commission into Domestic Family and Sexual Violence (SA)
- SA Autism Strategy 2024-2029
- Criminal Law Consolidation (Mental Incompetence) Amendment Bill 2024
- Children and Young People (Safety and Support) Bill 2024
- Aged Care Act 2024 (Cth) (Rules consultation release 3)
- Ageing and Adult Safeguarding Amendment Bill 2024
- NALHN Forensic Mental Health Services Model of Care
- National Plan to end Elder Abuse of Older People 2024-2034
- Review of Mental Health Act 2009 – Supplementary consultation
- Select Committee on the Children and Young People (Safety and Support) Bill
- Modernising Statutory Declarations and Affidavits 2024
- Office of the Chief Psychiatrist – Towards Suicide Prevention Pathways (SPP)
- Review of Sexual Consent Laws in SA.

In 2024-25 the Public Advocate provided advice on legislative and policy reforms impacting people with impaired decision-making. This included:

- NDIS Review and NDIS supports
- Suicide Prevention Action Plan
- Closing the Gap framework
- Foundational Supports
- State Disability Inclusion Plans Outcome Framework
- Australia's Disability Strategy – Data Improvement Plan
- Disability Royal Commission bi-annual report.

Safeguarding Adults

The Public Advocate plays a vital role in safeguarding adults with impaired decision-making capacity in South Australia, through both individual advocacy for guardianship clients and systemic advocacy, to improve laws, policies, and services.

In undertaking this work, the OPA works closely with other safeguarding bodies at both a State and Commonwealth level. These include the DHS Adult Safeguarding Unit (ASU), SAPOL Multi Agency Protection Service (MAPS), the DHS Restrictive Practices Unit (RPU) and Exceptional Needs Unit (ENU), the NDIA and NDIS Quality and Safeguards Commission, and the Aged Care Quality and Safety Commission. To support this collaboration, the OPA shares information with state-based agencies under the Information Sharing Guidelines and Information Sharing Privacy Principles. OPA also has memoranda of understandings for information exchange between the Department for Child Protection (DCP), the DHS Restrictive Practices Unit and the NDIS Quality and Safeguards Commission.

Representatives from these agencies attend meetings such as the *OPA Disability Forum* and the *Public Advocate Clients and Domestic Violence Working Group*. Staff also convene regular meetings with specific agencies to collaborate to support clients on an operational level.

The Public Advocate has a Memorandum of Administrative Arrangement with the ASU to refer potential abuse cases and play a key role in the Abuse Prevention phone line and the ASU Implementation Workgroup. The Workgroup meets quarterly to review referral pathways, safeguarding outcomes, and phone line operations.

The Abuse Prevention phone line serves as a gateway to the ASU, offering support, referrals, and information. Staff respond to reports of abuse and develop tailored safeguarding plans for those affected.

Australian Elder Abuse Conference 2024

On 22 July 2024, the Public Advocate and Assistant Public Advocate presented at the *Australian Elder Abuse Conference* held at the Adelaide Convention Centre. The theme, “Turn up the Volume!”, aimed to spotlight uncomfortable truths about elder abuse and neglect.

OPA representatives spoke on the topic of *Substitute Decision-Making: A Hindrance or a Help in Safeguarding Older Persons*.

The conference also explored key issues including ageism, financial safety, elder abuse in First Nations communities, LGBTQI+ inclusivity, and coercion, capacity, and consent.

The event brought together diverse voices to advocate for change and promote the rights and wellbeing of older Australians.

Unmet need

Housing

Unmet need in housing

Housing and homelessness continue to be among the most significant gaps for people with disability impacting their safety, welfare, and basic human rights.

Key issues for the OPA include:

- lack of access to Public and Community Housing
- over reliance on private rental and Supported Independent Living (SIL)
- evictions and lease non-renewals in Public Housing
- lack of single tenancy Specialist Disability Accommodation (SDA)
- lack of SDA robust housing
- lack of access to emergency accommodation and homelessness pathways
- the need for a disability housing strategy and action plan
- returning to Country for First Nations clients.

Public Advocate clients are among South Australia's most vulnerable, with homelessness remaining a critical risk. Systemic housing responses are often inadequate, exclusionary, or entirely absent, making safe and affordable housing difficult to secure. The Public Advocate is seeing a growing number of clients facing housing instability, with significant impacts on both the individuals and the broader community.

Lack of access to Public and Community Housing

The South Australian Housing Trust (SAHT) manages around 33,000 public housing properties, including specialised housing for First Nations peoples and has an interest in around 12,000 community housing properties, managed by independent providers. These services offer low-cost housing to those at risk of homelessness[10].

[10] Public Housing | SA Housing Trust (accessed 21/7/2025)

SAHT has traditionally been the housing provider of last resort in South Australia, with the community housing sector now increasingly playing that role for people with a disability who require supported accommodation. Clients pay 25% of income on rent (plus Commonwealth Rent Assistance in community housing). While this strategy is supported, the supply of housing in this sector has not kept pace with demand.

Clients of the Public Advocate, particularly younger individuals with psychosocial disabilities can face the risk of eviction and homelessness. Many do not receive adequate NDIS support, experience exclusion from voluntary community support programs, and do not qualify for mental health services. These gaps directly affect their ability to maintain public or community housing, and result in hospital and correctional facilities filling housing and homelessness gaps.

As a result, clients are often forced to rely on homelessness services (which are often unsuitable) or enter the private rental market (which is unaffordable for most who rely on the Disability Support Pension).

Over reliance on private rental and Supported Independent Living (SIL)

For those requiring 24/7 support, at times SIL providers will lease a property and sublet to the client. This is a suboptimal "closed SIL" arrangement, where NDIS providers both lease the property and deliver support services. These dual roles create conflicts of interest and are not adequately protected by the *Residential Tenancies Act 1995* (SA), leaving clients vulnerable to housing loss if the arrangement breaks down.

This model contributes to housing instability, transience, and homelessness, often resulting in costly outcomes, such as hospitalisation, hotel stays, or extended time in inpatient or correctional settings. These arrangements rarely reflect client preferences and impose significant costs to both the State and individuals.

Despite longstanding policy separating housing provision from support servicessupport providers are acting as landlords and clients with complex needs are frequently directed to "SIL accommodation" (effectively private rentals) rather than being prioritised for social housing.

Public Advocate clients, as protected people of the State, should have access to secure, affordable housing. The over-reliance on expensive private rental accommodation masks the urgent need for investment in social and community housing.

Lack of single tenancy Specialist Disability Accommodation (SDA)

SDA is designed for NDIS participants with extreme functional impairment or very high support needs. Properties must meet the SDA design standards and be assessed by an accredited assessor who classifies them into categories such as, “Improved Liveability”, “Robust” or “Fully Accessible”. They must then be registered with the NDIS Commission to attract SDA funding and house SDA-eligible NDIS participants.

While the NDIA estimated that 6% of participants are eligible for SDA, OPA data suggests up to 16% of Public Advocate clients meet the criteria.

Accessing SDA requires participants to have a “Home and Living” goal in their NDIS plan, supported by evidence for both SIL and SDA needs. The process is complex and slow, often involving lengthy reviews and appeals. Shared support models (e.g. 1 staff to 3 participants) further complicates matching clients with appropriate housing and support, and other clients.

Although some Public Advocate clients have SDA funding in their plans, housing supply remains insufficient, particularly for those needing “robust” single occupancy accommodation.

The majority of SDA stock is shared accommodation, as it is more cost effective to have two or three people paying rent rather than one. As a result, many Public Advocate clients rely on the private rental market, which is unaffordable and unsuitable for their needs.

Lack of access to emergency accommodation and homelessness pathways

When tenancies or accommodation placements break down, Public Advocate clients have limited alternatives. Homeless services are often at capacity and unable to meet the support needs of clients with complex disabilities. Strategies targeting homelessness do not include persons with disabilities as a priority cohort, with assumptions that their emergency accommodation and homelessness response needs are already met by disability services and accommodation providers. The Public Advocate continues to advocate for a broader range of emergency housing options for clients and others facing similar barriers.

The need for a disability housing strategy and action plan

South Australia urgently needs a dedicated housing, homelessness and support strategy which addresses the needs of people with complex disabilities and impaired decision-making ability. This group is particularly vulnerable and often unable to access suitable accommodation with appropriate supports.

A consistent supply of specialised housing, including for those with psychosocial disabilities and challenging behaviours is essential. Without it, individuals face homelessness, hospitalisation, and placement in inappropriate settings, carrying significant cost to the State and compromising and wellbeing.

The OPA has developed principles and model contracts to support engagement with SDA providers, but broader leadership and investment is needed.

While the SAHT is not an SDA provider, the State has a leadership role in expanding community and SDA housing stock. People with impaired decision-making ability are at the highest risk of housing insecurity and often require funded support to maintain tenancies. Evictions from public housing have led to homelessness, hospitalisation, and incarceration for OPA clients, highlighting the State's responsibility to protect vulnerable South Australians with disability.

Returning to Country

First Nations clients are disproportionately affected by homelessness or unsuitable accommodation. Many report feeling disconnected from Country and their culture, with no clear pathways to return under current service structures.

The OPA has undertaken a project to better understand and respond to the wishes of First Nations clients. As part of this, OPA is working to incorporate culturally meaningful goals and funding into NDIS plans, to support reconnection with Country and community.

Addressing unmet need in housing

Priority actions identified by the OPA to address gaps in housing.

1. Develop a State Disability Housing Strategy to:
    a) Expand the supply of social, community, and SDA housing
    b) Strengthen policies to prevent evictions and lease non-renewals, reducing hospital admissions, homelessness, and reliance on unsuitable housing (e.g. hotels)
    c) Create a coordinated system to match housing supply with demand and support relocation for State clients at risk of eviction.
2. Increase the availability of housing and robust SDA accommodation, for people with disabilities, especially those with complex or psychosocial needs.
3. Support for community housing providers to grow the supply of SDA, with a focus on “robust” builds for clients with high support needs.
4. Prioritise access to community housing for NDIS participants who do not receive SDA funding.
5. Ensure tenancy agreements comply with the *Residential Tenancies Act 1995* (SA). to protect the rights and stability of tenants with disability.

Disability Services

Issues in disability services

The most pressing issues for people with disabilities who are NDIS participants continue to be:

- access to the NDIS for Public Advocate clients
- changing criteria and processes with the NDIS
- timely review processes when NDIS plans are inadequately funded
- sourcing support workers with skills and experience supporting complex clients
- NDIS supports and revisiting Commonwealth and State responsibilities in the Applied Principles and Tables of Support (APTOS)
- clarity of State and NDIS funding for clients with safety and security needs
- avoiding preventable hospitalisation of guardianship clients
- lack of crisis responses and clear escalation pathways
- the lack of case management support
- the need for a service provider of last resort, and
- improved pathways from child to adult guardianship.

Access to the NDIS for Public Advocate clients

Over two-thirds of Public Advocate clients are NDIS participants. The OPA ensures that all clients under 65 are assessed for NDIS eligibility.

As at 30 June 2025:

- 1,597 clients (68%) had a NDIS plan: 1,397 clients under 65 years of age, and 200 clients over 65
- 86 clients under 65 were not identified as NDIS participants, mostly because they were new clients of the Public Advocate. OPA staff investigate the circumstances of all clients under 65 who are not NDIS participants and ensure they gain access.

Overall, the NDIA has generally improved funding and access to services and supports for Public Advocate clients, in response to OPA's strong advocacy. However, the lack of case management within the NDIS and the introduction of PACE, the NDIA's information management system, has seen OPA's administrative workload increase, leading to the need for additional ongoing roles.

The OPA continues to negotiate the schedule for information sharing between the OPA and the NDIA under the Memorandum of Understanding for Information Exchange between the National Disability Insurance Agency and South Australian State Government Agencies. This will provide for better information for OPA about the NDIS packages of its clients.

Regular meetings with NDIA representatives and participation in various forums help address urgent client matters and systemic issues.

Changing criteria and processes with the NDIS

To address overspending, the NDIS has introduced funding periods that restrict claims outside designated timeframes. While this aims to control costs, it can create problems when funding changes are not communicated to providers, or when a client's support needs change. Delays in plan reviews and complex NDIA processes further deplete allied health and support coordination funding, often triggering reactive responses - only after funds are exhausted. The sector has raised concerns about the lack of consultation around the introduction of funding periods.

This issue is compounded by PACE. Difficulties in endorsing providers has led to unpaid services and threats to withdraw support for guardianship clients. For OPA, which already struggles to find suitably skilled providers for clients with complex needs, these changes add further pressure. While the full impact of the introduction of funding periods on guardianship clients is yet to be seen, there is concern that hospitals may be increasingly used as temporary solutions until new funding periods begin.

Timely review processes when NDIS plans are inadequately funded

While the NDIA aims to meet timelines in the Participant Service Guarantee, delays persist for plan reviews and reassessments despite increased resourcing. These delays have been compounded by the rise in review requests, following the NDIS Review and changes to the definition of NDIS supports under S10 of the *National Disability Insurance Scheme Act 2013* (Cth). Although the NDIA has communicated these changes, many participants remain anxious and concerned about missing out on necessary supports. These delays impact Public Advocate clients who may have a plan roll over instead of a plan review meeting where OPA staff can advocate for their needs.

Sourcing support workers with skills and experience supporting complex clients

Recruitment challenges persist, especially to source staff trained to support clients with complex psychosocial disabilities. This is exacerbated by the continued sector growth. The proliferation of unregistered sole traders complicates oversight and safeguarding for high-needs participants. Specialist support coordinators often lack experience in sourcing housing or providing evidence for support needs. Additionally, changes to NDIA pricing have led some providers to cease essential services, disadvantaging participants. This has been especially noticeable in specialist support coordination and support coordination, where pricing has remained unchanged for several years, leading to a loss of skilled professionals in the sector.

NDIS supports and revisiting Commonwealth and State responsibilities in the Applied Principles and Tables of Support (APTOS)

The Department of Social Services is currently consulting on the NDIS Support Rules. Defining what constitutes a NDIS support requires revisiting the APTOS, which have not been updated in nearly a decade. APTOS outlines the responsibilities of the Commonwealth (NDIS) and those of States and Territories. Both the NDIS Review (Recommendation 2.6) and the Disability Royal Commission (Recommendations 7.39 and 8.17) have called for its review.

While APTOS distinguishes jurisdictional responsibilities, the NDIS support lists define what the Scheme will and will not fund. These documents overlap in areas such as health, mental health, early childhood, education, housing, transport, justice, and aged care, highlighting the need for a coordinated review.

This complexity will increase with the introduction of Foundational Supports, which involve jointly funded services outside individual NDIS plans. A formal agreement, like the former Commonwealth-State Disability Agreement, is needed to clarify:

- supports funded by the NDIS within participant plans
- jointly funded Foundational Supports, and
- mainstream services funded by States and Territories that include people with disability.

It is inappropriate for the Commonwealth to unilaterally define NDIS supports without consulting States and Territories. Restricting NDIS funded services without a shared framework risks leaving participants without essential supports, unless States absorb the cost. This issue must be formally acknowledged and negotiated.

Clarity of State and NDIS funding for clients with safety and security needs

Applying the APTOS principles to NDIS participants in prison, often creates tension between State and Commonwealth responsibilities. The NDIS does not fund in-custody supports. This creates delays in completing risk assessments to assure the court of sufficient support for community safety. Disputes arise over whether support needs are disability-related or criminogenic. Court-ordered supervision levels frequently exceed NDIS funding, and safety-related requirements often lack a funding source, resulting in prolonged incarceration.

Avoiding preventable hospitalisation of guardianship clients

The South Australian acute care sector is under strain, with other State and Commonwealth service systems failing to respond early enough to prevent avoidable hospital admissions and discharge delays. Public Advocate clients often require more intensive support following health decline, however, delays in accessing increased NDIS or aged care supports can lead to hospitalisation. These 'social admissions' often become the last resort to protect vulnerable individuals, when support systems break down or do not provide a timely response.

A lack of aged care placements and suitable SIL options mean Public Advocate clients ready for discharge, remain in hospital longer than necessary. In some instances, OPA staff are expected to fill gaps by taking on a quasi-case management or coordination roles. At other times, clients are discharged without OPA consultation, commonly into unsafe or unsuitable arrangements, resulting in avoidable hospital re-admissions.

OPA staff actively work to prevent unnecessary admissions and support timely discharge, through prioritisation and collaboration across Commonwealth, State and NGO sectors. Some interstate jurisdictions have established dedicated hospital guardianship teams to manage health sector interfaces more effectively. South Australia should consider this.

Lack of crisis responses and clear escalation pathways

Although the OPA can access the Critical Services Issues Response pathway of the NDIA, the Exceptionally Complex Support Needs program, and a dedicated guardianship phone line to the NDIA, they rarely provide same-day crisis support. Also, the timeframes outlined in the NDIS Participant Service Guarantee do not meet crisis response needs.

In the absence of timely Commonwealth support, responsibility often shifts to the State, where crisis options are inadequate and typically limited to hospitals or unsuitable alternatives, such as hotels.

The OPA has built effective working relationships with the NDIA's National Service Delivery Team in South Australia, enabling more timely responses for clients. However, a more responsive crisis pathway is urgently needed, particularly for temporary and emergency accommodation.

The lack of case management support

The absence of case management in the NDIS significantly impacts clients and others with impaired decision-making, who need help navigating the system. Some require assertive case management to access essential services to keep them safe. By avoiding case management, the NDIS does not meet the needs of individuals who struggle with choice and control or are disengaged from services. Support coordination is available but limited to plan funding and duration. In an emergency, additional funding or services are not accessible outside business hours.

This gap is compounded by a general misunderstanding of the role of OPA staff, whose decision-making authority is restricted to what is defined in SACAT orders and the *Guardianship and Administration Act 1993* (SA). As a result, OPA staff are often expected to fill case and clinical management gaps outside of their role. These issues affect both NDIS participants and those receiving aged care services.

The need for a service provider of last resort

A service provider of last resort is needed when people are excluded from all NGO services in the market. The NDIS has marketised disability support, enabling service providers to choose who they provide services to. Provider services can cease at short notice, leaving participants in dire situations and without consequence/penalties. While the NDIS Commission regulates registered providers, there has been a significant growth in unregistered providers, who are effectively unregulated (only bound by the NDIS Code of Conduct). These providers are often inexperienced in working with complex cases which places clients at risk.

The Commission regulates registered SIL, SDA and providers using restrictive practices, but these providers can also withdraw services, often relinquishing care to hospitals as social admissions. While the Commission is the regulator, it's regulatory functions may not prevent the withdrawal, interruption of services and homelessness for clients.

Finding a replacement provider at short notice is difficult, highlighting the need for a last-resort provider. The OPA has been working with DHS Disability Services to address this issue for clients who have exhausted other options. The NDIS Review and the Royal Commission into Abuse Neglect and Exploitation of People with Disabilities also recommended the establishment of a provider of last resort.

Improved pathways from child to adult guardianship

Each year, a significant number of young people transition from the guardianship of the Chief Executive of DCP to guardianship of the Public Advocate. OPA works closely with DCP to identify young people who may need SACAT to appoint the Public Advocate when they reach adulthood. This is supported by a Memorandum of Understanding (MOU) between the two agencies.

This transition can be challenging, as the relationship shifts from a care-based model to a formal decision-making role, which may affect the young person's trust and sense of continuity. Many of these individuals have experienced complex trauma and may have cognitive or psychosocial disabilities, making it difficult to engage with services, make informed decisions, and to navigate adult systems. Factors such as unstable housing, limited support networks, and behavioural challenges in SIL arrangements, further increase their vulnerability.

Services are often bundled at the point of transition, making adjustments difficult. A gradual, person-centred approach that includes the young person's voice is needed. The MOU supports this by identifying key issues to enable smoother transitions.

DCP and OPA maintain a strong working relationship, but limited sharing of retrospective information can hinder proactive planning.

Good news story

An 18-year-old client with autism successfully transitioned from DCP to share a new home with another person with similar disabilities and previously with DCP. This client is very sociable but unable to express themselves verbally. There have been positive reports that both are enjoying joint activities such as visiting the beach and getting to know each other through outings and having a coffee together. A lot of hard work went into supporting this move and building rapport with the clients.

Addressing unmet need in the disability sector

Strategies identified by the OPA to address unmet need in the **disability sector**.

1. Better regulation and accountability of NDIS providers via the NDIS Quality and Safeguards Commission and other regulatory bodies.
2. The implementation of increased safeguarding and monitoring of NDIS plans to protect NDIS participants from plan overspend and exhaustion, and to avoid hospitalisation or hotel accommodation.
3. Redefining the APTOS to clarify the funding responsibilities of the State and Commonwealth in relation to disability care and support.
4. A review and appeal mechanism to address and adjudicate on funding discrepancies between the State and Commonwealth that is timely and effective.
5. The introduction of comprehensive case management in the NDIS for participants, which is not time or funding limited.
6. Establishment of a 'provider of last resort' to address the current market failure for highly vulnerable and at-risk adults with impaired decision-making ability.
7. Establishment of responsive crisis pathways and gateway services to safeguard vulnerable clients who are in urgent need of crisis, temporary and immediate accommodation (including after business hours).
8. Greater supply of suitably trained providers and support specialists, who are experienced in the care and support needs of vulnerable adults with impaired decision-making ability, and who present with complex needs including dual diagnosis, psychosocial disabilities, and challenging behaviours.

Mental Health Services

Issues in mental health

Access to mental health services for protected adults with a State guardianship order is a particular area of concern.

Key mental health related issues for Public Advocate clients include:

- access to mental health services for people with cognitive disabilities
- the capacity of the SA Intellectual Disability Health Services (SAIDHS)
- the need for a specialist forensic disability service
- NDIS issues and gaps in funding, particularly for psychosocial clients
- clarifying responsibilities between the State and the NDIS
- voluntary modes of engagement
- the need for a trauma informed step-down service.

Access to mental health services for people with cognitive disabilities

People with cognitive disabilities, particularly those with ID, BPD, autism spectrum disorder (ASD), or complex trauma, face significant barriers to accessing appropriate mental health care. These individuals often exhibit behaviours such as self-harm, suicidal ideation, and emotional dysregulation, which is frequently misunderstood or misattributed to their primary diagnosis. This misinterpretation contributes to a cycle of crisis escalation, service disengagement, and repeated hospitalisation or detention.

Mental health conditions for these clients are often overshadowed by their cognitive disability, resulting in missed opportunities for assessment and treatment. Without tailored support or discharge planning, outcomes remain poor and access to care is limited.

Community Mental Health Services (CMHS) apply eligibility criteria that exclude individuals with complex presentations, including those with co-occurring substance misuse or primary diagnoses of ID, ASD, ADHD, or Acquired Brain Injury (ABI). Access is contingent on a formal clinical mental health diagnosis, which excludes many who require crisis intervention or ongoing support for fluctuating conditions.

Clients supported by the OPA who are eligible for the NDIS cannot access clinical mental health services through the NDIS. The NDIS funds non-clinical supports aimed at improving functional capacity and participation, while referring patients to mainstream mental health services for clinical care.

The philosophical divide between the recovery-oriented mental health models (episodic and short term) and the NDIS model (ongoing and disability focussed) creates confusion over

funding responsibilities. Activities such as occupational therapy may be classified differently depending on language used, leading to service gaps and inconsistent support.

South Australian Intellectual Disability Health Services (SAIDHS)

SAIDHS is a state-wide specialist service funded by SA Health, providing general health and mental health care for adults with ID and complex needs (including ASD, mental illness, and behavioural challenges). However, SAIDHS does not offer emergency or crisis support, ongoing psychiatric care, or IQ assessments.

To access the service, a referral from a GP or disability provider, (with alternate pathways available for those unable to see a GP) is required. There is a significant waitlist, with limited capacity for urgent cases, leading to delays in critical assessments and medication reviews, and impacting client outcomes. Individuals often rely on emergency departments, SAAS, or SAPOL services that are not equipped to manage their complex needs, due to limited crisis intervention options.

Expansion of the service to respond to urgent situations is needed to ensure timely support for high-priority cases, complementing the existing MOU between OPA and SAIDHS.

The need for a specialist forensic disability service

Forensic patients in South Australia are often placed in prisons under Ministerial direction (s269V(2), *Criminal Law Consolidation Act 1935* (SA) due to the lack of beds in forensic mental health facilities. Prisons are not equipped to meet the complex clinical and disability support needs of these individuals.

The current forensic mental health system is primarily for psychiatric conditions and a specialised service for clients with cognitive disabilities is required. The JNH building is custodial in design, lacking the therapeutic environment essential for recovery-focused care. The Tarnanthi Sub-Acute service at Glenside is a ward environment, not suitable as a long-term placement for people living with a disability. A community-based model is required for forensic disability clients.

The shortage of forensic mental health beds results in clients being placed in correctional settings, and cycling between prison, hospital, and community services without sustained support. This leads to system inefficiencies and poor outcomes.

There is an urgent need to upgrade or replace JNH and to establish a dedicated community based Forensic Disability Service that offers secure residential care tailored to individuals with cognitive disabilities in the criminal justice system.

NDIS issues and gaps in funding

Public Advocate clients who are NDIS participants in forensic mental health settings face similar challenges to those in the justice system, including, funding gaps and inadequate support. Despite being on the Complex Support Needs pathway, individuals with diagnoses such as BPD, PTSD, ASD, or forensic-related behaviours, often receive insufficient funding and inappropriate support ratios, contrary to clinical recommendations.

The responsibility for funding is unclear with ongoing disputes between the State and Commonwealth over whether needs are forensic, or disability related. This is compounded by the lack of clear guidance in APTOS and a fragmented approach to client's needs.

As with correctional settings, NDIS funding ceases in forensic mental health facilities, shifting costs to DCS or DHW. Upon release, clients are frequently placed in underfunded accommodation with inadequately trained support workers, leading to behavioural escalations, plan overspends, service breakdowns, and costly emergency hospital admissions, which place further strain on the State.

Clarifying responsibilities between the State and NDIS

There is ongoing confusion around the roles and responsibilities of the State and the NDIA, resulting in fragmented services and inefficiencies. A formal Working Arrangement or MOU between State Government agencies and the NDIS is needed to establish a clear, collaborative framework.

Areas for clarification include:

- funding and service responsibilities across custodial, forensic, hospital, and community settings
- escalation pathways for high-risk individuals whose needs exceed standard NDIS provisions
- service continuity obligations to prevent gaps during transitions between systems
- mechanisms for collaboration between the NDIS, health and mental health services, correctional services, and disability providers to support safe and sustainable placements.

Without clear agreements, clients with cognitive disabilities and complex forensic or behavioural needs often have needs unmet. This leads to inconsistent access, delayed placements, and over-reliance on crisis services, such as hospitals and emergency departments.

A formalised agreement would:

- define roles and responsibilities
- enable joint funding or escalation when NDIS plans are insufficient
- support continuity of care across settings
- improve long-term outcomes and reduce systemic gaps.

This is essential to ensure vulnerable individuals receive timely, appropriate, and coordinated support.

Voluntary engagement with community mental health services

Unless there is a Community Treatment Order, Community mental health services operate a voluntary model of engagement, assuming individuals can consent and actively engage in their treatment. While this respects autonomy, it creates a barrier for Public Advocate clients who, due to impaired decision-making capacity, are often unable to meet these expectations.

CMHS frequently close cases when clients miss appointments or appear disengaged. This disproportionately affects those who are most unwell, such as those experiencing homelessness, self-harm, or suicidal ideation. These clients are often excluded from care until their risk escalates to the point of requiring involuntary intervention. This reactive approach undermines early intervention and person-centred care.

Although the Public Advocate has authority to make healthcare decisions, many services still require direct consent from the individual, limiting access for those with a guardianship order.

To address this, more inclusive mental health engagement models are required to:

- recognise ambivalence, fear, and avoidance as clinical indicators, not non-compliance
- use assertive outreach and trauma-informed, flexible service delivery
- accept guardian consent as sufficient for voluntary engagement for people with guardianship orders
- include regular assessments of capacity to involve individuals in decisions when possible.

Clear protocols and staff training are needed to support this approach. Without reform, mental health systems will continue to serve only those able to navigate them, leaving behind those most in need.

The need for a trauma-informed step-down service

There is a need for a trauma-informed step-down service to support individuals with complex trauma and co-occurring conditions such as ASD, BPD, and C-PTSD, many of whom experience self-harm and suicidal ideation. At any given time, 15–20 Public Advocate clients present with extremely complex needs, and are at high risk of exploitation, abuse, and repeated crisis. Though small, this cohort places significant demand on emergency and hospital services.

Acute mental health services are not designed to provide the long-term, stabilising care these individuals require. Hospital environments can exacerbate trauma symptoms, and premature discharge without adequate follow-up leads to re-traumatisation, service disengagement, and repeated crisis presentations.

A trauma-informed step-down service would:

- bridge the gap between hospital care and community reintegration
- offer structured, therapeutic support in a safe environment
- provide outreach clinical support to help maintain accommodation
- enable a wrap-around, person-centred model focused on long-term recovery.

A specialised service would be grounded in trauma-informed principles, tailored to the cognitive and psychosocial needs of this vulnerable group emphasising safety, choice, collaboration, and empowerment.

This model would reduce reliance on emergency departments, inpatient units, and custodial settings, while supporting sustainable recovery and community inclusion. It would fill a major gap in the current care continuum and offer a more effective, person-centred response.

Addressing unmet need in the mental health sector

Priority actions identified by the OPA to address gaps in support for **people with mental health conditions**.

1. Develop new models of mental health care that are inclusive of individuals with cognitive disabilities and complex behaviours.
2. Expand the SAIDHS to meet the growing demand for mental health services for individuals with cognitive disabilities and complex comorbidities, including crisis situations.
3. Upgrade or replace James Nash House with increased capacity.
4. Develop a specialised forensic disability service which is residential, and community based for individuals with cognitive impairment.
5. Establish a formalised agreement such as a MOU or Working Arrangement between the State and the NDIA, to clarify responsibilities and address funding gaps for individuals with complex diagnoses and forensic needs.
6. Establish an inclusive and assertive model of engagement that qualifies Public Advocate clients as voluntary patients of mental health services when consent is provided by the Public Advocate.
7. Establish a trauma-informed step-down service for individuals with complex trauma and complex diagnoses, who repeatedly present at hospital emergency services and repeatedly demand emergency service responses from SAPOL and SAAS.

Aged Care

Issues in aged care

Key issues for the OPA in aged care include:

- increased guardianship appointments
- receiving necessary care at home
- challenges in Aged Care access and placement
- use and authorisation of restrictive practices
- quality and safety standards
- workforce planning
- accessing My Aged Care
- hospital discharge.

The OPA Aged Care Team, created to support the growing number of clients in aged care, has now operated for over a year. This team strengthens stakeholder engagement, delivers education, and addresses restrictive practices, particularly detention and chemical restraint.

Increased guardianship appointments

Increasing family conflict around the care of older South Australians has led to a rise in Public Advocate appointments. This trend reflects more complex family dynamics, including blended families and the broader ageing of the population.

To help avoid unnecessary appointments, the Public Advocate encourages families and services to identify a responsible person to assist with decision-making, and to engage in mediation or dispute resolution early. The inclusion of a mediation and dispute resolution function within the *Guardianship and Administration Act 1993* (SA), like those in the *Consent to Medical Treatment and Palliative Care Act 1995* (SA) and the *Advance Care Directives Act 2013 (SA)* could support families in working through disagreements, and where a suitable family member is identified, may prevent the need for public guardianship.

Receiving necessary care at home

The Aged Care Quality and Safety Commission identified significant unmet demand and long wait times for home care packages. These delays often require OPA staff to consent to premature residential care placements, contrary to clients' wishes, to ensure their safety.

The Public Advocate strongly supports Recommendation 39 of the Aged Care Quality and Safety Commission, which calls for an immediate increase and allocation of home care packages.

Challenges in Aged Care access and placement

A shortage of aged care home packages is leaving many clients under-supported in the community or prematurely placed in residential aged care. Hospital discharge pressures driven by ramping, are compounding this issue.

The OPA has observed RACFs are increasingly reluctant to accept clients with complex needs-such as those with disabilities, mental illness, dementia, from culturally and linguistically diverse populations, or family conflict. While respite placements once commonly led to permanent care, this is no longer the case. This results in repeated hospital admissions and urgent searches for alternative placements. The Public Advocate's choices are usually constrained by the availability of suitable aged care facilities, making it difficult to uphold the section 5 Principles of the *Guardianship and Administration Act 1993* (SA).

Most guardianship clients cannot afford the Refundable Accommodation Deposit, which further limits placement opportunities. Providers are becoming more selective, and the absence of case management in the aged care sector has led to an expectation that OPA staff will take on this role.

The upcoming *Aged Care Act 2024* (Cth) with its human rights focus, and emphasis on supported decision-making is a welcome reform. The implementation from November 2025, will determine the effectiveness of those reforms for guardianship clients.

Use and authorisation of restrictive practices

Restrictive practices limit a person's rights or movement to prevent harm and should only be used as a last resort for those with impaired decision-making ability, after all other options have been exhausted.

The Public Advocate supports reducing and ultimately eliminating restrictive practices. However, their limited use with appropriate authorisation, review and fade-out plans is acknowledged where it is not possible or safe to eliminate them immediately.

Authorisation processes for restrictive practices differ between NDIS participants and people in aged care settings.

Restrictive Practices for NDIS participants are authorised and regulated via the *Disability Inclusion Act 2018* (SA) by DHS RPU. The scheme does not extend to 'detention orders', which the SACAT continues to authorise under the *Guardianship and Administration Act 1993* (SA). Although the Public Advocate no longer authorises these restrictive practices, the office is consulted on their use and can seek reviews of decisions made by NDIS providers and the Senior Authorising Officer.

Unlike the NDIS, the aged care system requires an appointed decision maker to consent to the use of restrictive practices. While DHS has established the RPU for NDIS services, where guardians are consulted but are not authorisers, in aged care, guardians are still asked to authorise certain restrictive practices as needed and at least every three months.

RACF's require education about consent requirements for restrictive practices, particularly chemical restraint. The OPA is often asked to consent to a psychotropic medication prescribed for a diagnosed mental health condition. However, when medication is used to treat a mental illness, not to manage behaviours of concern, there is ambiguity as to whether it as a restrictive practice.

The Public Advocate continues to provide consent for restrictive practices in RACFs, in consultation with care providers and general practitioners. However, without a central authorising body, it remains difficult to track the type and extent of restrictive practices in use. Ultimately, the DHS RPU would be the logical authorising body, including for restrictive practices in RACFs. This would support consistency, expertise, education and a coordinated approach to minimisation of restrictive practices in aged care.

Quality and safety standards

The Public Advocate receives concerns from residents, families, citizens, and care providers about the quality of care in aged care facilities. Additionally, the Aged Care Quality and Safety Commission reports providers failing to meet key standards, particularly:

Standard 3: Personal Care and Clinical Care

Issues included pressure injuries, falls, wound care, pain management, chemical restraint, and COVID-19 infection control.

Standard 7: Human Resources

Concerns related to staff qualifications, staffing levels, and delayed responses to call bells, leading to care deficits.

Standard 8: Governance and Accountability

The governing bodies of aged care services are responsible for ensuring compliance with the standards and delivering quality care.

Facilities consistently failing to meet standards require effective oversight and sanctions. Upon notification, the Public Advocate assesses the situation, which may involve client visits, risk assessments, and mitigation planning. In some cases, relocating clients is the most appropriate action.

Workforce planning

The shortage of trained health professionals, allied health staff, and support workers in aged care poses risks to both the sector and its clients.

The Public Advocate highlights the urgent need for workforce planning and strategies to attract and retain skilled staff across both disability and aged care sectors, including a review of qualifications and competencies.

Accessing My Aged Care

OPA staff face ongoing challenges when advocating for Public Advocate clients through the My Aged Care (MAC) system. The primary barrier is that the system doesn't recognise the Public Advocate as the person's representative. This limits the Public Advocate's ability to represent clients effectively because staff cannot easily obtain crucial information or initiate actions. Staff spend considerable time on the phone to MAC staff, resulting in delays to clients' access to community services and supports, which can lead to hospital admissions. It can also result in delays to hospital discharge to residential aged care facilities.

This issue is not unique to the Public Advocate in South Australia. In February 2025, the Public Advocate provided feedback to the Inspector-General of Aged Care as part of a nationwide request for feedback from all Public Advocates and Guardians about their experience using the MAC system.

Hospital Discharge

The health system experiences ongoing pressure from ambulance ramping and overcrowded emergency departments and wards. Timely discharge of medically fit patients is essential. Delays can occur due to the limited bed availability and the acceptance of clients with complex and diverse needs by aged care facilities. The Public Advocate must also fulfil statutory obligations under the *Guardianship and Administration Act 1993* (SA), including considering the client's past and present wishes. The OPA works collaboratively with the DHW, including through escalation pathways to expedite consent for aged care placements.

Addressing unmet need in the aged care sector Strategies identified by the OPA to address unmet need in **the aged care sector**.
1. Align regulatory frameworks for restrictive practices across aged care and NDIS services.
2. The Commonwealth Government introduce a Senior Practitioner to authorise restrictive practices in aged care, like the disability sector. Alternatively, the State expand the DHS RPU to include authorisation of restrictive practices in the aged care facility sector.
3. Expand the number of RACFs equipped to support complex clients, including mental health conditions.
4. Increase access to behaviour support specialists with expertise in dementia and older people's care.
5. Implement Recommendation 39 of the Aged Care Royal Commission, to ensure timely access to home care packages.
6. Recognise and fund supported decision-making in My Aged Care plans to help older people express their preferences and plan for future care.

Innovating

OPA initiatives and projects

Evaluation of My Life My Wishes

In 2025, the University of South Australia began evaluating the effectiveness of the My Life My Wishes tool in capturing the will and preferences (wishes) of guardianship clients.

The tool has been in use at OPA since 2023, with 1,350 clients having completed one at the end of 2024-25. It is regularly updated during visits to record client's wishes. However, it does not replace the need to consult clients directly when substitute decision-making is required.

My Life My Wishes was developed through the *Living My Life* project - a collaboration between the South Australian Health and Medical Research Institute, OPA, and DHW and funded by the Commonwealth Community Grants Hub on behalf of the NDIA.

The OPA has trialled the tool with sample groups of First Nations people and those in residential aged care. First Nations people represent around 11% and people living in RACF represent 23% of all guardianship clients.

The evaluation includes interviews with OPA staff and will inform its final report and recommendations. This timely review will help improve the tool and its application.

Supported decision-making in residential aged care

The OPA in partnership with OFAW, led the *Supported Decision-Making in Residential Aged Care* project, to explore how best to support older people living in residential aged care to make their own decisions, and maintain control over their lives.

The project focussed on individuals for whom the Public Advocate is appointed guardian and aimed to develop practical resources for OPA staff, representatives, supporters, and aged care providers. These tools promote respectful decision-making that upholds the rights, dignity and autonomy of residents, and help providers meet the supported decision-making principles in the *Aged Care Act 2024* (Cth).

Key achievements include:

- trialling *My Life My Wishes* with 42 OPA clients in residential Aged Care
- a supported decision-making guideline for OPA staff
- the production of three videos (one public, two for internal training)
- the publication of two articles in Weekend Plus magazine.

Resources will be available on the OPA and OFAW websites.

Return to Country

At the end of 2024-25, there were 287 First Nations people (11% of Public Advocate clients) who have guardianship orders appointing the Public Advocate as their guardian. The Public Advocate acknowledges the deep cultural significance of returning to Country for First Nations people. In January, the OPA conducted a comprehensive review of guardianship clients who identify as First Nations. This review helped OPA better understand their needs and additional barriers they face in returning to Country.

The Public Advocate continues to raise return to Country with the NDIA, as it is not explicitly defined in the NDIS Support Rules and yet is very important to First Nations people.

OPA staff continue to advocate for funding to support return-to-Country initiatives during NDIS planning meetings for participants.

In 2023-24 the OPA undertook the *Culturally Safe Supported Decision-Making* project. As part of this initiative, a guideline and video were developed to help OPA staff and others engage with First Nations clients in a culturally sensitive and respectful way.

When completing the *My Life My Wishes* document with First Nations clients, staff actively explore their desire to return to Country.

Two First Nations men recently made a meaningful return to their Country

During the visit, they spent time with one of their mothers at an Aged Care facility in northern South Australia, where they cooked and shared kangaroo tails with her and another resident, creating a warm and culturally rich moment for everyone involved.

Both men had long expressed a deep desire to reconnect with their Country. This journey was made possible thanks to the dedication of OPA staff, who successfully advocated for funding through the men's NDIS plans, and the support of the service provider who helped facilitate the trip.

More visits like this are planned, continuing the important work of supporting cultural connection.

Business improvement projects

Welcome pack

The OPA has developed an easy-read and a plain English welcome pack for people with guardianship orders appointing the Public Advocate as their guardian, and their supporters.

The pack includes an introductory letter and handout with information about OPA and its role.

OPA staff go through the pack (which is also available on the OPA website) with new clients during their first visit after being appointed by SACAT.

The letter was developed in consultation with people who have cognitive and intellectual disability and the South Australian Council for Intellectual Disability (SACID).

Its development aligns with the Attorney-General's Department Disability Access and Inclusion Plan 2020-2024, and meets requirements under the *National Public Guardianship Guidelines 2025*, which call for accessible information about topics such as:

- the role and authority of the guardian
- relevant legislation and principles
- substitute decision making and consent processes
- customer service standards and use of interpreters
- complaints, decision, and order review processes.

Supported decision-making resources

The OPA has recently updated the supported decision-making section on its website. The refreshed pages are now easier to navigate and provide improved access to key information, including details about OPA-led projects, helpful videos and resources, and the community version of the *My Life My Wishes* tool.

Wellbeing Working Group

The OPA Wellbeing Working Group, established in early 2024 with representatives across OPA teams, advises the leadership team on wellbeing initiatives. Its key roles include:

- gathering staff feedback on wellbeing ideas
- recommending and supporting wellbeing activities, including organising social and team-building events
- promoting wellbeing resources, including AGD initiatives.

In 2024 -25, the working group coordinated activities for NAIDOC Week, Wear it Purple Day, and International Day for Persons with Disabilities, along with collections for the Hutt St Centre and Catherine House, to mark World Homelessness and World Mental Health Day.

Student program

The OPA continues to partner with the University of Adelaide to offer fifth-year Bachelor of Laws students a 22-day internship in the Strategy and Advocacy team. During their placement, students engage in a variety of activities, including visits to the SA Parliamentary Counsel and observing SACAT hearings.

Each student is assigned a legal question relevant to OPA's work and presents their findings to the Public Advocate and leadership team at the end of the placement. In 2024-25, OPA hosted three students whose papers are published on the OPA website.

Professional development and training

The OPA offers various professional development opportunities for staff, including training modules from the Attorney-General's Department, guest speakers and guardianship practice sessions. Over the past year, guest speakers and training has included:

- Thriving through Resilience
- How we work together - Individual strengths and values
- Department of Health and Ageing – Aged Care legislative reform
- NDIA Justice Liaison Officer – NDIS Supports
- DHS Coordination and Assessment Team
- Mental Health Commissioner – Activism, Advocacy & Advice
- Exceptional Needs Unit.
- Internal Felix training and Q&A
- Department of Correctional Services
- Borderline Personality Disorder Collaborative
- Legal Services Commission and
- Relationships Australia Post Care Service.

Over the past year Guardianship practice sessions have covered the following topics.

- Electro-convulsive therapy
- Selecting and engaging service providers
- On call, after hours training
- Section 49 of the *Advance Care Directives Act 1993* (SA) where a matter can referred to the DRS
- Felix computer system - tips and tricks
- Culturally Safe Supported Decision-Making
- Notifications to the Public Advocate
- Guardianship and Administration Act - S32 detention orders
- SACAT hearing guide – preparing and attending
- NDIS Change of Circumstances applications
- Engaging service providers for clients who are NDIS participants with forensic orders
- Wellbeing in the workplace
- Housing options and practice
- Good practice tips for dealing with client behaviours.

Organisational reporting

The OPA has continued to enhance reporting capabilities throughout 2024-25. Improvements include:

- Automated monitoring and prioritisation of key business activities to reduce manual administration, including:
    - assessment of the complexity of client circumstances to guide risk management and resource allocations
    - automated monitoring of the process for reviewing guardianship orders within required timeframes and providing advice to the SACAT under section 57 of the *Guardianship and Administration Act 1993* (SA).
- Improved monitoring and reporting for guardianship clients who are in hospital, particularly for clients who are awaiting an appropriate housing option to enable hospital discharge.
- Enhanced reporting on the after-hours service, to inform future service delivery and ensure that the service is used for urgent decision-making only where alternative options are not available.

These new capabilities provide additional safeguards for guardianship clients, and strengthen trend analysis, forecasting, and risk management strategies within the OPA.

Business Process Improvement Projects

The OPA is progressing several projects focussed on managing the growing volume of correspondence from service providers and interested parties. These initiatives aim to improve business processes and deliver better outcomes for clients and stakeholders.

Achievements during 2024-25:

- embedding best practice in email management
- streamlining outbound communication.

Ongoing projects and improvements:

- improving task prioritisation and allocation of work
- embedding flexible daily operational management
- strengthening client onboarding
- enhancing data collection from stakeholders
- supporting specific client groups.

Appendices

Appendix 1: Legislation

The general functions of the Public Advocate are set out in section 21(1) of the *Guardianship and Administration Act 1993* (SA):

a) to keep under review, within the public and private sector, all programmes designed to meet the needs of mentally incapacitated persons;
b) to identify any areas of unmet needs, or inappropriately met needs, of mentally incapacitated persons and to recommend to the Minister the development of programmes for meeting those needs or the improvement of existing programmes;
c) to speak for and promote the rights of any class of mentally incapacitated persons or of mentally incapacitated persons generally;
d) to speak for and negotiate on behalf of any mentally incapacitated person in the resolution of any problem faced by that person arising out of his or her mental incapacity;
e) to give support to and promote the interests of carers of mentally incapacitated persons;
f) to give advice on the powers that may be exercised under the Act in relation to mentally incapacitated persons, on the operation of the Act generally and on appropriate alternatives to taking action under this Act;
g) to monitor the administration of the Act and, if he or she thinks fit, make recommendations to the Minister for legislative change.

The Public Advocate may be appointed as the guardian (or joint guardian) of a person with mental incapacity but only if the SACAT considers that no other order would be appropriate.

Other applicable legislation

Advance Care Directives Act 2013 (SA) and Regulations

Aged Care Act 1997 (Cth)

Aged Care and Other Legislative Amendment (Royal Commission Response No. 1) Act 2021 (Cth)

Ageing and Adult Safeguarding Act 1995 (SA)

Children and Young People (Safety) Act 2017 (SA)

Consent to Medical Treatment and Palliative Care Act 1995 (SA) and Regulations

Criminal Law Consolidation Act 1935 (SA)

Disability Inclusion Act 2018 (SA) and Regulations

Disability Inclusion (Restrictive Practices – NDIS) Amendment Act 2021 (SA)

Disability Services Act 1993 (SA)

Freedom of Information (Exempt Agencies) Regulations 2023 (SA)

Mental Health Act 2009 (SA) and Regulations

National Disability Insurance Scheme Act 2013 (Cth)

Powers of Attorney and Agency Act 1984 (SA)

Problem Gambling Family Protection Orders Act 2004 (SA)

Residential Tenancies Act 1995 (SA)

Supported Residential Facilities Act 1992 (SA)

Wills Act 1936 (SA)

Appendix 2: List of acronyms

ABI	Acquired Brain Injury
ACD	Advance Care Directive
ADHD	Attention Deficit Hyperactivity Disorder
AGAC	Australian Guardianship and Administration Council
AGD	Attorney-General's Department (SA)
APTOS	Applied Principles Tables of Support
ASD	Autism Spectrum Disorder
ASU	Adult Safeguarding Unit (DHS)
BPD	Borderline Personality Disorder
CHP	Community Housing Provider
CMHS	Community Mental Health Services
CRPD	Convention on the Rights of People with Disabilities
DCP	Department for Child Protection (SA)
DCS	Department of Correctional Services (SA)
DHS	Department of Human Services (SA)
DHW	Department of Health and Wellbeing (SA)
DRS	Dispute Resolution Service (OPA)
ENU	Exceptional Needs Unit
FMH	Forensic Mental Health
FMHS	Forensic Mental Health Service
GAA	*Guardianship and Administration Act 1993* (SA)
ID	Intellectual Disability
JNH	James Nash House
MAPS	Multi Agency Protection Services
MOU	Memorandum of Understanding
NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
OAW	Office for Ageing Well

OPA	Office of the Public Advocate
PA	Public Advocate
PACE	Provider and Participant Communication Environment
PT	Public Trustee
PTSD	Post Traumatic Stress Disorder
RACF	Residential Aged Care Facility
RPU	Restrictive Practices Unit
SAAS	South Australian Ambulance Service
SACAT	South Australian Civil and Administrative Tribunal
SAIDHS	SA Intellectual Disability Health Services
SAHT	South Australian Housing Trust
SAPOL	South Australian Police
SDA	Specialist Disability Accommodation
SDM	Substitute Decision Maker
SIL	Supported Independent Living
UCLC	Uniting Communities Law Centre

Appendix 3: Compliance with Premier and Cabinet Circular (PC013) on Annual Report Requirements

The following table demonstrates the Office of the Public Advocate's compliance with the Department of Premier and Cabinet Circular (PC013) on Annual Report Requirements:

PC013 Statutory Reporting Requirement	
Employment opportunity programs	Refer to the Attorney-General's Department (AGD) Annual Report 2024-25
Agency performance management and development systems	Refer to the AGD Annual Report 2024-25
Work health, safety and return to work programs of the agency and their effectiveness	Refer to the AGD Annual Report 2024-25
Work health and safety and return to work performance	Refer to the AGD Annual Report 2024-25
Fraud detected in the OPA	Number of instances: 0
Strategies implemented to control and prevent fraud	Refer to the AGD Annual Report 2024-25
Whistle-blowers' disclosure	Refer to the AGD Annual Report 2024-25
Executive employment in the agency	Refer to the AGD Annual Report 2024-25
Summary of complaints by subject (table)	Refer to the AGD Annual Report 2024-25
Complaint outcomes (table)	Refer to the AGD Annual Report 2024-25

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