Public Guardian

Annual Report

2025-26

Public Guardian
Department of Justice

Tasmanian Government

Acknowledgement of Country

In recognition of the deep history and culture of this island, the Office of the Public Guardian (OPG) acknowledges Tasmanian Aboriginal people, the original and continuing Custodians of the Land, Sea and Sky. We acknowledge and pay our respects to all Tasmanian Aboriginal Communities, all of whom have survived invasion and dispossession, and continue to maintain their identity, culture and Aboriginal rights.

Office of the Public Guardian

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Tasmanian Government

The Hon Guy Barnett MP
Attorney General, Minister for Justice
10th Floor Executive Building
15 Murray St
HOBART, TAS 7000

Dear Minister,

In accordance with Section 84 of the *Guardianship and Administration Act 1995*, I have the pleasure in presenting to you the Annual Report for the Public Guardian for the financial year ending 30 June 2026.

Following the tabling of the report in Parliament, it will be available for public access via the Office of the Public Guardian website, www.publicguardian.tas.gov.au.

Yours sincerely

Jeremy Harbottle
Public Guardian

25 September 2026

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Introduction

I am pleased to present the Public Guardian's 2025-26 Annual Report.

Firstly, I want to thank the dedicated staff of the Office of the Public Guardian (OPG) for their passion and commitment to supporting the rights of Tasmanians for whom the Public Guardian is appointed. The role of the Public Guardian is one that is often misunderstood and which has many different facets as broadly set out in section 15 and 17 of the *Guardianship and Administration Act 2005 (*the Act).

However, the vast majority of the OPG's time and limited resources continue to be spent fulfilling the function of acting as a person's guardian when appointed. This primary responsibility is not negotiable, and the Public Guardian has no discretion to accept or refuse appointments. As a result, this function operates almost at the exclusion of the other functions, as the OPG does not have dedicated staff for systemic advocacy, dispute resolution, policy or education.

Role of a guardian

The term 'guardian' is often interpreted literally as a person's protector. While this may have been true historically, this interpretation now seems paternalistic in nature. A focus on human rights and related legislative reform has changed this traditional role to one more appropriately based on the protection and promotion of a represented person's rights, and as an appointment and decision-maker of last resort.

However, this change can be challenging when there is an expectation that the appointment of a guardian will stop someone from making 'poor' decisions, and/or achieve an immediate change in a person's behaviour. For example, guardians appointed for people whose criminal offending or behaviour is impacting on themselves and/or others. For guardians, making substitute decisions in these cases is often about reducing the impact of offending behaviour by ensuring that supports remain available to respond to their needs where possible. Any change in behaviour or outcomes for the person is a much longer-term goal.

I appreciate that this can sometimes be frustrating for families and other supports, however a guardian must balance an individual's right to autonomy, dignity and self-determination with the need to protect them from harm, abuse, neglect and exploitation. There is also the question of what practical effect a decision can have. The challenge is ensuring that protective interventions are proportionate, respect the person's wishes and preferences, and impose the least possible restriction on their freedom and independence.

Systemic Challenges

Achieving such a balance is made more difficult through systems or processes that are limited in capacity, or which require extensive administrative involvement from clients.

National reforms to legislation governing both the National Disability Insurance Scheme (NDIS) and the Aged Care system include strengthening the principles of supported decision-making and informed consent. While these are appropriate principles, the unintended impact of these reforms has the potential to increase the number of applications for guardianship.

In the case of the NDIS, ongoing concerns about the manipulation and exploitation of participants by providers is leading to applications for guardianship, despite the NDIS including multiple safeguards and oversight mechanisms that should support a participant engaging with the scheme.

For example, recent changes to the NDIS will require the participant or their substitute decision-maker to submit any plan reassessment requests. On the face of it, this sounds like a reasonable protection, but it has the potential to mean that guardianship appointments will become longer (if not virtually perpetual) as the expectations placed on the participant increase. For some participants, any additional administrative requirement compromises their ability to be supported to make decisions without a guardian.

The increasing complexity of the NDIS also has the potential to be a barrier to families supporting their loved ones as substitute decision-makers. For some families, the appointment of the Public Guardian may become a necessary option as the demands of the scheme become too great for them to manage on behalf of their loved ones.

Both areas of policy reform, while well intentioned, are potentially at odds with the rights basis of current guardianship law – and may instead require the most restrictive option for a person to access the minimum supports necessary to promote their personal and social wellbeing.

Jeremy Harbottle
Public Guardian

Guardianship

The Public Guardian is appointed by the Tasmanian Civil and Administrative Tribunal (TASCAT) as a guardian of last resort for an adult who has impaired decision-making ability when there is no other suitable person in their life who is available or willing to assist with decision-making for personal matters.

Decisions may include:

- **Health** - decisions about health care and medical/dental treatment
- **Accommodation** - decisions about where and with whom the person lives, whether permanently or temporarily
- **Service** - decisions about the provision of care services for the represented person
- **Access** - decisions about a represented person's contact with other people
- **Lifestyle** - decisions about education, training or employment
- **Legal** - matters relating to the personal affairs of the person.

Client profile

As at 30 June 2026, the Public Guardian was appointed for 293 Tasmanians with impaired decision-making ability.

- 196 (66.9%) were living in the south, 53 (18.1%) in the north and 44 (15%) in the North-West of the state.
- 170 (58%) identified as male, while 122 (42%) identified as female.
- 180 people (61.4%) were under 65 years-of-age, 113 (38.6%) were 65 years-of-age or older, and 38 (13%) of this group were aged 80 years of age or older.
- 193 (66%) had a NDIS plan (were NDIS participants).

Type of decision-making impairment

Of the 293, the majority (73%) were diagnosed with a decision-making impairment falling within these three categories:

- Intellectual disability (36%)
- Psychiatric (20%)
- Dementia (17%)

Snapshot of key performance data

Activity Information	2024-25	2025-26		% Variance
Active appointments as of 30 June	279	293	↑	5%
Total appointments across financial year	468	517	↑	10%
New appointments	103	127	↑	23%
Investigations	22	13	↓	- 41%
Continued appointments (OPG)	43	45	↑	5%
Cases closed	207	252	↑	22%
Emergency orders	62	100	↑	61%
Emergency orders – proportion extended for a further 28 days	5%	6%	↑	
Emergency orders – proportion continued as ongoing guardianship orders	19%	28%	↑	

Table 1. 2025-26 activity figures compared to previous year

Key Performance Indicators	2025-26 (%) Actual	2025-26 (%) Target
Meet in person with represented person[1]	53	100
Contact with represented person via telephone/email or SMS	22	N/A
Tribunal hearing attendance in substantive guardianship applications	74	90
Tribunal hearing attendance in emergency guardianship applications	94	90
Completion of referrals for investigation within timeframe set by Tribunal in accordance with section17(2) of the *Guardianship and Administration Act 1995*[2]	77	100

Table 2. 2025-26 Key Performance Indicators

[1] Face to face meetings is one way in which represented persons engage with their delegated guardian. Not all represented persons wish to meet in person. In cases where the represented person has expressed a preference for telephone, online or email communication, the guardian must respect that preference.
[2] Investigations may be delayed slightly, pending the provision of information. The variance in 2024-25 reflects a small number of investigations where such delays were encountered.

Attendance at hearings and appointments.

OPG staff attended 602 hearings across the state in 2025-26, and the Public Guardian was appointed (including on an interim basis) or reappointed as guardian for 271 people with impaired decision-making ability. This was a significant increase in the number of hearings attended (26%) and appointments (55%) compared to the previous year of 476 and 175 respectively.

It is difficult to identify a single reason for this increase, with both hearings for emergency guardianship and substantive guardianship orders having increased. One observation would be that applications related to medical treatment and/or accommodation decisions to support the transition of patients from hospital to residential aged care have increased this financial year.

Emergency/interlocutory orders

Section 65 of the Act allows the Tribunal to make interlocutory orders in circumstances where it considers that a represented person is in immediate risk of harm to the health, welfare, property or financial situation of a person, including the risk of abuse, exploitation or neglect of the person, or self-neglect. In these cases, the Tribunal can appoint the Public Guardian for a period not exceeding 28 days in the first instance.

In 2025-26, the Public Guardian was appointed on 100 occasions, compared to 62 appointments in 2024-25. This 61% increase reflects an overall increase in the number of emergency guardianship hearings over the same period. Similarly, the proportion of emergency orders extended for an additional period not exceeding 28 days increased slightly from 5% in 2024-25 to 6% in 2025-26.

Active, total and closed appointments

In 2025-26 the number of appointments with active orders at 30 June 2026 was 293, which was a small increase from 2024-25 (279). Across the 2025-26 reporting period, the total number of orders appointing the Public Guardian was 517, which represented an increase of 10% from the 468 total numbers reported in the previous period. There was also a 22% increase in closed appointments in 2025-26, up from 207 to 252.

The most common reasons for an appointment to be closed were no further need for a guardian, or that a private guardian was appointed. This arises from efforts by the guardian to work with the person's family and network of support to increase the person's autonomy in decision-making to the extent a substitute decision-maker is no longer required, or to identify and support an alternative substitute decision-maker.

Powers granted under orders

In 2025-26 the most common decision-making powers granted in a guardianship order appointing the Public Guardian were: accommodation (where someone is to live) (30%), health care and/or medical or dental treatment (28%), and care services-including NDIS (22%). These proportions are broadly consistent with the previous year.

Decisions made

The guardianship order that appoints the Public Guardian as legal decision maker sets out the type and scope of decisions the guardian is authorised to make, and decisions may only be made in accordance with those powers set out in the order.

In 2025-26, decisions related to NDIS services made up 36% of the decisions made by guardians, slightly less than the previous period (46%). Medical and dental treatment decisions (28%) and accommodation decisions (14%) were the next highest categories of decision-making, which is a small increase for both from 2024-25.

Safeguarding decisions can only be made consistent with section 9 of the legislation, meaning that the views, wishes and preferences of the person with impaired decision-making ability can only be overridden in limited circumstances, including where it is necessary to prevent serious harm, or the risk of serious harm, to the person or another person.

Similarly, decisions are categorised as advocacy/supported or will and preference to reflect the legislative requirements.

In 2025-26, guardians recorded 764 decisions, of which 84% (645) were advocacy/supported and/or gave effect to a person's will and preference. Only 16% (119) decisions were categorised as safeguarding.

Emergency on-call service

The OPG operates an emergency on-call service to provide advice and guidance in relation to urgent matters, to screen and refer requests for new emergency orders to the Tribunal, and to undertake emergency substitute decisions and other urgent action in relation to our existing represented persons. The after-hours calls are taken by an external call centre, who screen for urgency and refer any non-urgent matters to the OPG for follow up during business hours.

In 2025-26:

- 141 after-hours enquiries/requests were forwarded to the on-call guardian for immediate urgent action. This compares to 156 in the previous year.
- 62% of calls (88) requiring urgent action were in relation to existing appointments. These calls mostly related to medical treatment.
- There were 23 after-hours emergency hearings attended for this reporting period, compared to 7 for 2024-25.

The remaining enquiries required the provision of advice, typically in relation to the provision of medical treatment without consent, as provided for under section 40 of the Act (in relation to urgent medical treatment) or section 41 (in relation to circumstances where the person is not objecting and there is no person responsible).

Investigations

Section 17(2) of the Act sets out the Public Guardian's role in investigating complaints and allegations at the request of TASCAT about actions of guardians (enduring or Tribunal appointed), administrators or anyone acting as or purporting to be, an enduring power of attorney. The Public Guardian may also undertake, on receipt of a complaint, an investigation about actions taken or proposed to be taken in relation to an advance care directive.

In 2025-26 the OPG received 13 requests for investigation from the Tribunal, a decrease of 41% on the previous year, all were investigations related to guardianship applications, and most of the requests related to south of the state. This variation could be reflective of the nature of the information provided in applications requiring further investigation or clarification.

In 2025-26, 77% (10) of these investigations by the OPG were completed within the timeframe set by the Tribunal. This is marginally less that the target of 90%, with a small number of cases where the investigation timeframes could not be met. This is attributable to the delayed provision of information to the investigation guardian, which then delayed the subsequent report being submitted.

Dispute resolution

Under the Act, the Public Guardian may provide preliminary assistance to resolve:

- Disputes relating to advance care directives under Part 5A section 35ZI; and
- Disputes relating to decisions or the decision maker of an enduring or private guardian, or private administrator under Part 10 section 69.

In 2025-26, there were no referrals for formal assistance. There have been five instances of preliminary assistance given in response to public enquiries made to the Public Guardian. All matters were resolved through the provision of information about roles and responsibilities under the Act.

Community education

The Public Guardian has a legislated systemic advocacy and community education function about the Act and the role of the Public Guardian, and whilst not resourced with dedicated staff to provide community education or any broad awareness raising campaigns, this function is provided on request. For the most part, community education consists of information sessions delivered to professionals and community groups across the state.

In 2025-26, there were 25 education sessions held across the state with approximately 150 people attending. This was a reduction compared to 2024-25, which had included several well-attended online education sessions about supported decision-making delivered prior to the September 2024 legislative changes.

Public enquiries

Responding to public enquires is a key function of the Public Guardian to ensure people with impaired decision-making ability understand their rights and those who are private or enduring guardians understand their responsibilities.

The OPG received 172 enquires from the public (general community, service providers and medical professionals). These enquiries were mostly received by phone (69%) and by email (29%).

The most common enquiries related to enduring guardianship or powers of attorney (25%) and potential guardianship orders (23%).

Complaints and feedback

The Public Guardian has a publicly available complaints and feedback policy that is premised on a commitment to providing fair, equitable and effective support to the Tasmanian community and maintaining a culture of continuous improvement.

Whilst the Act does not require the Public Guardian to provide written reasons for its decisions, our policy is to communicate our decisions in a manner that the represented person best understands, including in writing. In addition, guardians will from time to time prepare a written statement explaining the reasons for a decision if it is particularly controversial or if the guardian considers it would assist with comprehension and

acceptance of the decision. Formal reasons for a decision may be provided to family members, but only within the confidentiality requirements of section 86 of the Act.

In this reporting period the Public Guardian received two formal requests for an internal review of a guardian's decision whereby the decision was upheld, and five complaints about the process of the guardian's decision-making. In addition, the Public Guardian was subject to four enquiries/complaints to the Attorney-General and/or another Member of Parliament. There were also two complaints referred from the Ombudsman and the Disability Commissioner respectively.

Financial summary

	2024-25 Actual	2025-26 Actual
Salary related expenditure	1,572,173	1,632,969
Non salary expenditure*	304,331	378,687
Total operating expenditure	1,876,504	2,011,656

**includes IT, materials, travel, office rental, worker's compensation and other.*