



ANNUAL REPORT 2019-20





GUARDIANSHIP AND ADMINISTRATION BOARD

ANNUAL REPORT
2019-20

This publication is available online at guardianship.tas.gov.au
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Guardianship and Administration Board

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The Hon. Elise Archer
Attorney General
Minister for Justice

Dear Attorney

Guardianship and Administration Board Annual Report 2019-20

I am pleased to present the Annual Report for the Guardianship and Administration Board in accordance with Section 84 of the *Guardianship and Administration Act 1995*, for the year 1 July 2019 to 30 June 2020.

Following the tabling of the report in Parliament, it will be available for public access on the Board's website.

Yours sincerely

Rowena Holder
President

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REPORT OF THE PRESIDENT

It is my privilege to present on behalf of the Guardianship and Administration Board the annual report for the 2019-2020 financial year.

The Board has statutory decision making powers in relation to determining applications for guardianship and administration and reviews of these orders, reviews of enduring guardian instruments and enduring powers of attorney, certain medical and dental procedures, and restrictive interventions under the *Disability Services Act 2011 (TAS)* and statutory wills. The Board determines emergency order requests, and can provide advice or direction to administrators, guardians (including enduring) and attorneys, and determines requests for access to confidential information.

The Board holds an enduring guardian register, for registration of enduring guardian instruments of appointment. There are currently 38,134 Instruments (including revoked instruments) registered.

The Board also performs a compliance function of auditing reports from public and private guardians, and auditing reports and financial statements from public and private administrators. The total number of annual report reviews conducted in the reporting year has been 1934.

In this reporting year, the Board experienced a 4.6% increase in applications. There has been an 11.2% increase in the number of hearings listed. Given an increasing number of complex applications, more than one hearing is often required and hearing times are longer.

There has also been an 87% increase in Applications for the Approval of Restrictive Interventions under the *Disability Services Act 2011(Tas)*. Personal restrictions can only be approved by the Board while both the Senior Practitioner and the Board are able to approve the use of environmental restrictions. These type of Applications often require longer hearings given the volume of evidence that needs to be considered, the number of interested persons and experts present at hearing and at times the complexity of matters. It is expected that these applications will continue to increase given the work of the NDIS Quality and Safeguards Commission (the Commission) which commenced operations in Tasmania on 1 July 2019 and the increased training and education focus with disability service providers by the Senior Practitioner and his team. NDIS registered disability service providers are now operating under two separate legislative and regulatory frameworks – namely the *National Disability Insurance Scheme Act 2013* and associated Rules, where regular reporting of the use of a restrictive intervention is required, as well as the *Disability Services Act 2011*. A review of the *Disability Services Act 2011* is intended in the next 1-2 years.

It is noteworthy to compare the growth of the Board's workload over the last four years, that is since 2015/16. The Board has experienced a 49% increase in the number of applications, a 62% increase in new applications, a 177% increase in reviews of guardianship and/or administration orders and a 108% increase in the total hearings held. This significant increase in workload has occurred with negligible increase in the Board's resourcing. As a result the Board Registry staff work under constant pressure to meet the growing workload and the daily

processes and operations are frequently impacted. It is hoped that the Board will be successful in this next reporting year in obtaining further funding for positions it sees as critical to operate and perform all necessary Registry functions in an efficient manner. Ongoing submissions and business cases have been made to the Department of Justice in this regard.

This is supported by statistical and financial modelling of the Board's operations completed in the last reporting period. The modelling indicated new applications will continue to grow. The majority of applications before the Board involve people over 65 years of age, with the most common disability being dementia. The modelling showed the predicted growth in application numbers will continue due to increased dementia and mental health disabilities, and an ageing population. The modelling indicated the Board will require additional funding for hearings and additional administrative staff to meet its statutory functions. The financial and human resource risk associated with the increased demand on the Board was highlighted. The human resource risks currently could not be clearer.

COVID-19 - The Board continued to perform its statutory functions and daily operations while taking necessary action in accordance with advice from Public Health to ensure a safe and effective response to the COVID-19 pandemic. The Board conducted its hearings by telephone in all matters unless determined by the President or presiding Board, to allow an in-person hearing. While telephone hearings are not the best way to communicate with a person with cognitive impairment, the Board adapted processes and increased hearing times to ensure procedural fairness was afforded to the person and parties. The person subject to the application was encouraged to attend the hearing and where possible with a support person to support them during the hearing process. Throughout this period there has been increased attendance and participation of the person, parties and interested persons.

Legislation –The Board was invited to participate in the steering group of the review of the operation of the *Mental Health Act 2013*. The steering group met numerous times to consider the operations of the *Mental Health Act 2013* and an Outcomes Report was delivered in June 2020 to the Minister, and is now published. The President and Registrar has also been involved in considering the development of the *Tasmanian Civil and Administrative Tribunal Bill 2020*

Engagement – The Board has been regularly invited to speak to varied audiences, including THS hospitals and facilities, aged care, disability and other service providers and teaching institutes. The President or Registrar of the Board meets with stakeholders where appropriate.

The Board has also been invited to make submissions on projects such as the Principles for Nationally Consistent restrictive practice authorisation, and Enhancing Protections Relating to Use of Enduring Power of Attorney Instruments.

Board members – Board Members have a range of qualifications and experience with people with disabilities across the health, disability and community sectors. During the reporting period, one Board member open recruitment process was undertaken State-wide seeking legal, medical and disability-focussed professionals. In total 15 members were appointed or reappointed to the Board in the reporting period. A one-day Member Induction Training Session was held with new members.

Member training on Tribunal Craft was conducted on the 8 November 2020. Excellent presentations were provided by Ms Anne Britton, Principal Member of NCAT, Chair of COAT and Mr Hugh Dillon Deputy President NSW Mental Health Review Tribunal, Adjunct Professor and retired magistrate. Unfortunately resourcing does not allow for more than one training session per year.

The Board Registry –The Registry progressed the revision of some of the Board’s written resources and will continue this work in the year ahead. With the assistance of the Information and Communications Technology output, Department of Justice, the Board registry was able to establish an automated document generator which resulted in the generation of template orders and facilities to automatically generate electronic records and file structures. Members now have access to template orders on the member only extranet.

The Registry is still reliant on its 20+ year old unsupported case management system and looks forward to the implementation of a much needed new Case Management System to reduce further intensive manual processes.

Thanks - I record my sincere thanks to the Members of the Board who ensure the Board meets its statutory functions through their ongoing commitment, availability and professional expertise they bring to hearings. I thank the outgoing Deputy President Mr Colin McKenzie and incoming Deputy President Mr Matthew Verney for their support during the reporting year. I also extend thanks to Mr David Sealy, Registrar, for his proficient leadership of the Registry and to the Registry staff for their unfailing support, and willingness to facilitate the efficient functioning of the Board. I also acknowledge Deputy Secretary Kristy Bourne for her support in this reporting year and her ongoing willingness to sit on interview panels for the recruitment of Members.

Despite the ongoing challenges of limited resourcing, I look forward to the year ahead, particularly with the move to new premises. The move to 38 Barrack Street with custom built hearing rooms and improved technology will provide improved accessibility for persons with disability. The Board remains focused on continuing to serve the most vulnerable in our community by ensuring our processes and hearings are conducted in a timely, efficient and appropriate manner.

Rowena Holder
President

WHO WE ARE

OUR LEGISLATIVE FRAMEWORK

The Board

The Guardianship and Administration Board (the Board) is an independent statutory authority established under the *Guardianship and Administration Act 1995* in Tasmania.

The Board is constituted by a President and at least 5 other members, one of whom is to be the Deputy President.

The President and Deputy President

The President is responsible for the overall operation and administrative functions of the Board and the allocation of its work. The President, who is a legal practitioner, sits on hearings as the presiding member. The President is the only full-time member of the Board. The Deputy President may exercise the functions of the President if delegated by the President or if the President is absent from Tasmania or is prevented by illness or incapacity from exercising those functions.

Board Members

Board members are appointed by the Governor on the recommendation of the Attorney-General for a period of up to 3 years. Board members are appointed on a sessional basis to conduct hearings and determine the applications made to the Board.

Board Members have a range of skills, qualifications and experience with people with disabilities across the health, disability, aged and community sectors. Board members have a background in legal, medical, pharmacy, nursing, disability or other relevant disciplines.

At the end of the reporting year, the Board had 33 members. [Appendix 1](#) provides names of Board members during the reporting year.

Board Registry Staff

The Board has a Registrar appointed under section 9 of the *Guardianship and Administration Act 1995* and registry staff. In consultation with the President, the Registrar ensures the proper functioning and operations of the Board Registry.

[Appendix 2](#) provides the Board's organisational chart.

Guardianship and Administration Act 1995

The functions of the Board are established by the *Guardianship and Administration Act 1995*. The Act grants the Board jurisdiction to hear and determine applications for guardianship and administration and reviews of those orders. The Board also has jurisdiction to consent to medical and dental treatment.

The Board keeps a register of any instruments of appointment of an enduring guardian under Part 5 of the *Guardianship and Administration Act 1995*. The Board has authority to review an instrument of appointment of an enduring guardian. The Board can give advice and directions to guardians (including enduring guardians), and administrators.

Powers of Attorney Act 2000

The Board has authority under the *Powers of Attorney Act 2000* in relation to enduring powers of attorney to review an enduring power of attorney. It can also give advice and direction to an attorney.

Disability Services Act 2011

Under the *Disability Services Act 2011* the Board determines applications for restrictive interventions for people with disabilities by services funded or managed by disability and community services and has authority to approve the use of personal and environmental restrictive interventions.

Wills Act 2008

The Board has functions under Part 3 of the *Wills Act 2008*. The Board may order the execution of a statutory will for a person who lacks testamentary capacity and who has never made a valid will.

HOW WE WORK

Our Vision

To respect the rights of people with disabilities to make their own decisions wherever possible, and when it is not possible, to ensure that processes that we employ are accessible, impartial, expeditious, highly competent and result in just decisions by the Board.

Our Mission

The Board will:

- operate in accordance with the law and in a manner sensitive to the needs of its users
- make decisions that reflect the rights and interests of people with decision-making disabilities, their families and carers, and the Tasmanian community
- be an efficient, effective and highly skilled independent statutory authority.

Principles

In all of its operations, the Board must observe the principles which are set out in section 6 of the *Guardianship and Administration Act 1995*. These principles state that a *function or power conferred, or duty imposed, by this Act is to be performed so that:*

- the means which is the least restrictive of a person's freedom of decision and action as is possible in the circumstances is adopted; and
- the best interests of a person with a disability or in respect of whom an application is made under this Act are promoted; and
- the wishes of a person with a disability or in respect of whom an application is made under this Act are, if possible, carried into effect.

Pre-hearing Process

The Board receives an application and most applications need to include a Health Care Professional Report from a medical practitioner or psychologist which provides evidence about the disability and capacity of the subject person to make decisions about the issues raised in the application. The Board's staff may contact persons relevant to an application and will obtain copies of relevant documents.

Most applications to the Board are prepared for hearing by a Registry officer. The role of the Board Registry is to provide information about the Board's

practice and procedure, to list the application for hearing, and to send notices of the hearing to the parties. The Board Registry officer will often speak with the person or the applicant to identify how the person can best participate in the proceedings.

Before the hearing, the Registry officer will send out a Matter Summary itemising the information received by the Board.

Section 72 of the *Guardianship and Administration Act 1995* requires that the Board commence to hear an application within 45 days after the application is received by the Board. Parties and persons with a proper interest in a matter (including the person with a disability) will be invited to a hearing. The Board must give all parties and persons with a proper interest not less than 10 days' notice of the hearing, as required by Section 69(1) of the *Guardianship and Administration Act 1995*.

Where appropriate, interpreter services are used to assist parties to participate in the hearing.

Hearing Process

Whenever possible the Board conducts hearings with the person subject to the application, in attendance. This is important, so the person can give evidence as to their wishes, pursuant to section 6 of the *Guardianship and Administration Act 1995*. Attendance can also be by telephone.

The Board will consider the relevant written evidence that has been provided. The Board will also hear evidence from other parties and witnesses participating in the hearing. Evidence is usually not taken on oath. Written submissions can also be made prior to the hearing and form part of the Board's hearing papers.

The Board is not bound by the rules of evidence; however, it must act in accordance with procedural fairness.

The Board may sit in a division of one or three members. In most but not all cases, a panel of three members will hear and determine a new application. Reviews of existing orders may, be determined by one or three members.

Hearings are held regularly at:

- Level 2/144 Macquarie Street, Hobart*
- Roy Fagan Centre, Lenah Valley
- 111-113 St John Street, Launceston
- Reece House, 46 Mount Street, Burnie
- 57-59 Oldaker Street, Devonport

The Board will also conduct hearings at other venues when appropriate to do so, to facilitate the attendance and participation of the person subject to the application, at the hearing. During the reporting period the Board also held hearings at the Magistrates Courts in Launceston, Burnie and Devonport.

*From July 2020 the Board will hold hearings in Hobart at 38 Barrack Street.

After the Hearing

Most decisions are delivered immediately at the end of each hearing with brief verbal reasons being provided by the chairing Board Member to the parties. A formal typed order is then sent to all parties.

A person aggrieved by a determination of the Board may request in writing within 21 days after the making of the determination, a written statement of reasons.

Post-Hearing Procedures and Support

To ensure the accountability of all private or public guardians and administrators, the Board specifies:

- A person applying for appointment as administrator and/or guardian must sign a declaration in the application acknowledging their duties under the *Guardianship and Administration Act 1995*.
- The publication *Information for Private Administrators – A Handbook for Private Administrators and Information for Private Guardians* provides instructions about their duties and is provided at the end of a hearing appointing a private administrator and/or guardian.
- Administrators are required to submit a report and financial statement annually or when ordered by the Board to do so. Guardians are required to submit annual reports on the decisions they have made relating to a person and/or circumstances. The Board has a sessional member whose duties include the receipt, and verification of reports submitted by administrators and guardians. All reports and financial statements by administrators are audited and verified by the member. Where an annual report is not approved, the Board will usually require a review of the order on the Board's 'own motion'.



WHAT WE DO

Guardianship

The Board may appoint a guardian to make personal decisions for a person with a disability who, because of their disability, is incapable of making those decisions. This power arises from Part 4 of the *Guardianship and Administration Act 1995*.

The Board will only appoint a guardian after there has been evidence that a person, about whom an application has been made, is a person with a disability, and is unable because of the disability, to make reasonable judgements about their person or circumstances, and is in need of a guardian.

The guardian may be appointed to make a range of personal decisions for example, where a person with a disability lives, temporarily or permanently, or what health care and support services the person with a disability will receive or restriction of visitors. The duration of the order and the specific decision-making powers of the guardian is set out in the guardianship order.

A guardian must act at all times in the best interests of the person under guardianship, consult with that person, taking into account, as far as possible, his or her wishes, advocate for that person, encourage that person to participate as much as possible in the life of the community, encourage and assist that person to become capable of caring for himself or herself and of making reasonable personal judgements and protect that person from neglect, abuse or exploitation.

Section 21 of the *Guardianship and Administration Act 1995* sets out what a Board must consider when assessing the suitability of a proposed guardian. If there is no family member or friend who is suitable the Board can appoint the Public Guardian as the guardian for the person. Under an emergency guardianship order, only the Public Guardian can be appointed. Similarly, only the Public Guardian can be appointed under an interim guardianship order.

Administration

Part 7 of the *Guardianship and Administration Act 1995* provides the framework for the appointment of administrators who undertake financial management on behalf of people who, by reason of disability, are incapable of making reasonable financial judgements. The Board must be satisfied that the person about whom an application has been made, is a person with a disability, unable because of the disability of making reasonable judgements about his or her estate or finances and is in need of an administrator.

The duration of the order and whether the administrator is responsible for the whole estate or only a limited part of the estate, is set out in the order. An administrator must always act in the best interests of the person with a disability, consult with that person, taking into account as far as possible, his or her wishes.

Section 54 of the *Guardianship and Administration Act 1995* sets out what a Board must take into account when assessing the suitability of a proposed administrator.

Under an emergency administration order, only the Public Trustee can be appointed. Similarly, the Public Trustee can only be appointed under an interim administration order.

REVIEWS

Reviews of Existing Administration or Guardianship Orders

Applications for reviews of guardianship or administration orders are made pursuant to section 67 of the *Guardianship and Administration Act 1995*, either as a consequence of the expiry of the order or because a person believes an order, or a term of the order is no longer needed.

Review of an Instrument of Appointment of an Enduring Guardian

The Board has power under the *Guardianship and Administration Act 1995* to review an instrument of appointment of an enduring guardian. An application can be made to the Board to review an enduring guardianship if a person believes that:

- An instrument appointing an enduring guardian is not valid; or
- A guardian is not capable or willing to perform the functions of a guardian; or
- A guardian acting under an enduring guardianship is not acting in the best interests of the person who appointed the guardian or has been incompetent or negligent as a guardian.

The Board can make an order to revoke an instrument of appointment of an enduring guardian, or vary a term of an instrument, including appointing a substitute guardian, dismiss the application or give advice or direction to a guardian.

Review Enduring Powers of Attorney

The Board can make orders and declarations and give advice or directions in relation to enduring powers of attorney created under the *Powers of Attorney Act 2000*.

The Board may declare an enduring power of attorney is invalid, because:

- the donor did not have the mental capacity to make the enduring power of attorney; or
- it does not comply with other requirements of the Act for example, it was not witnessed correctly; or
- the donor was induced to make it because of dishonesty or undue influence.

The Board may make a range of orders concerning the making or operation and effect of an enduring power of attorney:

- vary a term or a power granted by the enduring power of attorney
- appoint a substitute attorney
- revoke the enduring power of attorney
- appoint an administrator of the donor's estate under the *Guardianship and Administration Act 1995*.

In emergency circumstances, the Board can suspend an enduring power of attorney and may appoint the Public Trustee as attorney or administrator for up to 28 days without a hearing.

The Board may direct or offer advice to an attorney about any matter arising under the enduring power of attorney.

Consent to Medical and Dental Treatment

The *Guardianship and Administration Act 1995* provides for substitute decision-making in relation to medical and dental consent for persons who are unable to consent to their own treatment. Section 4 of the *Guardianship and Administration Act 1995* establishes "person responsible" who is able to give consent for medical or dental treatment. The Board can also provide consent to medical and dental treatment pursuant to Part 6 of the *Guardianship and Administration Act 1995* for a person who is incapable of consenting themselves. The Board may consent to the proposed treatment if it is satisfied: that the

treatment is lawful; and that the person does not have capacity to consent; and the treatment is in the person's best interests.

The Board can provide consent to Regulation 12 treatments for an adult with a disability. Regulation 12 treatments include: electroconvulsive therapy (ECT); the removal of all or a substantial number of teeth; treatment with a drug where the primary purpose is to control the conduct of the person to whom it is given; treatment with a drug of addiction other than in association with the treatment of cancer or palliative care of a terminally ill patient; the treatment involves a substantial risk of death, brain damage, paralysis, permanent loss of function of any organ or limb, permanent and disfiguring scarring, or extreme pain or distress to the person.

Only the Board can give consent to Special Treatments which are defined under the *Guardianship and Administration Act 1995*, as treatments likely to lead to permanent infertility; termination of pregnancy; removal of tissue for transplant; psychosurgery; any treatment involving an aversive stimulus.

Applications for Approval of a Restrictive Intervention

The Board has jurisdiction to determine applications for approval of restrictive interventions for persons with disabilities managed or funded by disability and community services, pursuant to Part 6 of the *Disability Services Act 2011*. An approval for the carrying out of a type of restrictive intervention (personal and/or environmental) in relation to a person with a disability may only be granted by the Board if it is satisfied that:

- a. the type of restrictive intervention will be carried out only for the primary purpose of ensuring the safety, health or wellbeing of the person or other persons; and
- b. the restrictive intervention is the type of restrictive intervention that is the least restrictive of the person's freedom of decision and action as is practicable in the circumstances.

The Board will either approve or not approve the restrictive intervention or dismiss the applicator if the requested restrictive intervention is taken for therapeutic purposes. The Board can also give directions about the use of a restrictive intervention.

Statutory Will

The Board can, pursuant to the *Wills Act 2008*, make a statutory will for a person who lacks testamentary capacity and has not made a prior will or purported will. The Board must be satisfied:

- a. that the person making an application for a statutory will is an 'appropriate person' to do so;
- b. that the proposed testator is incapable of making a will; and
- c. having made reasonable enquiries, that the proposed testator has not made a will or any purported will; and
- d. that adequate steps have been taken to allow representation of all persons with a legitimate interest in the application, including persons who have reason to expect a benefit from the estate of the proposed testator; and
- e. that it is appropriate to make an order for the execution of a will for a proposed testator; and
- f. that the proposed will is, or is reasonably likely to be one that would have been made by the proposed testator if he or she had testamentary capacity.

Emergency Requests

Pursuant to section 65 of the *Guardianship and Administration Act 1995*, the Board may, in circumstances of urgency, make an emergency guardianship or administration order without the need to give notice to any person or to hold a hearing. The Board can make such enquiries as it deems necessary. Under s 65(2) only the Public Trustee can be appointed as administrator and only the Public Guardian can be appointed as guardian for a person who is not a represented person.

An emergency order can be made for a period up to 28 days and can be extended only once for a further period up to 28 days.

The Public Guardian is the initial contact for out-of-hour's emergency applications. The Board provides the Public Guardian with a contact list of Board Members who can determine out-of-hours emergency applications.

Registrations of Instruments Appointing Enduring Guardians

Part 5 of the *Guardianship and Administration Act 1995* enables a person with decision-making capacity, to appoint an enduring guardian to make personal decisions for him or her in the event that the person is no longer capable of making those decisions.

An instrument of appointment of an enduring guardian must be registered with the Board. The Board keeps a register of all Enduring Guardians.

ENGAGEMENT

Law and Policy Reform

The Board participates in law reform consultations where it is appropriate and consistent with its role. This last reporting period has seen a number of law reform consultations at a State level which the Board has been involved in and which have been referred to earlier in this Report:

- Development of the *Tasmanian Civil and Administrative Tribunal Bill 2020*
- Review of the *Mental Health Act 2013*

Professional Education and Engagement

The Board promotes understanding of relevant guardianship issues by providing training to professional organisations. The Board also meets with stakeholders from time to time and when appropriate.

Website and Publications

The Board's website includes application forms, Health Care Professional Report forms, facts sheets, policies, process information, and Annual Reports.

All the Board's publications can be downloaded from the website. www.guardianship.tas.gov.au

THE YEAR IN REVIEW - STATISTICS

Applications Received

The total number of applications (including statutory review of orders) received for the period 1 July 2019 to 30 June 2020 by the Board was 1776.

This is a 4.6% increase in applications as compared to the previous reporting year. Of these 1776 applications, 1264 were new applications with the remainder being statutory reviews of existing orders.

Hearings

The Board conducted 1413 hearings in 286 sittings this year. This is an 11.2% increase from the previous reporting year. The Board heard an average of 4.9 matters per sitting.

Of the 1413 hearings held in 2019-20, 59.5% were held in the South, 24.5% in the North and 16% in the North West.

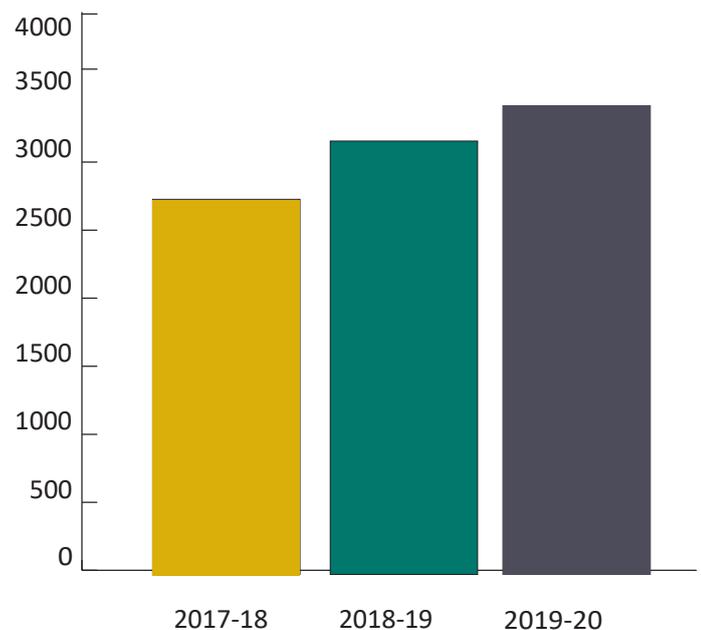
Hearings were conducted by single members or a panel constituted by 3 members.

Register of Enduring Guardianship Instruments

38,134 Instruments of Appointment of an Enduring Guardian were registered as at 30 June 2020.

The Board has registered 3278 instruments in the reporting year.

Instruments of Appointment of an Enduring Guardian



Requests for Statements of Reasons

Statements of reasons are produced upon request by a party aggrieved by a decision of the Board pursuant to section 74 of the *Guardianship and Administration Act 1995* or where the Board members determine that reasons ought to be produced. 48 statements of reasons were written during the reporting year.

The Board regularly publishes decisions which are carefully de-identified to provide members of the community and users of the Board an understanding of the work of the Board and the principles that are applied, which can be located at www.austlii.edu.au.

Appeals to the Supreme Court

There was one appeal to the Supreme Court from a decision of the Board in the reporting year.

STATISTICAL SUMMARY

	2016-17	2017-18	2018-19	2019-20	Percentage difference between 2018-19 and 2019-20
					Applications received
Guardianship normal	270	324	357	312	-12.61
Guardianship emergency	213	215	187	177	-5.35
Administration normal	371	348	422	340	-19.43
Administration emergency	135	67	74	66	-10.81
Extension of Emergency orders	181	134	80	67	-16.25
Medical and dental consent	3	13	5	4	-20.0
Statutory Will	4	1	0	0	-100
Restrictive Interventions	4	7	15	28	86.67
Review of Enduring Guardian	16	14	10	10	0
Review of Enduring Power of Attorney	90	34	34	32	-5.88
Other (gifts, advice, emergency EPA etc.)	76	72	57	106	85.96
Review of existing orders ³	519	425	456	634	39.04
Total applications received	1772	1654	1697	1776	4.6
Hearings Listed					
Hearings listed ¹	1027	1148	1270	1413	11.2
Finalisations for the 2018-19 period					
Finalisations ²	1876				
Emergency Guardianship	174				
Emergency Administration	66				
Total	2116				

¹Total applications listed before a Board, but not including emergency orders, renewals of emergency orders or applications withdrawn (with Board approval) prior to hearing.

²Includes renewals of emergency orders.

³Includes Statutory Reviews and Applications for Review of Guardianship and Administration Orders.

FINANCES

A summary of the Board's financial expenditure is at Appendix 2.

BUDGET and OPERATING COSTS

The operating budget allocated to the Board in 2019/20 was \$751,109. This was approximately 23% under the Board's actual expenditure of \$980,044.87. For several years the Board has been funded below base running costs. The Board managed its finances with the assistance provided by the Department's transfer of funds from retained revenue and consolidated funds. The underfunding impacts on the Registry's operations and planning, its ability to provide a level of customer service consistent with contemporary standards, and the ability to fulfil statutory functions.

This table sets out the financial position for the past 3 years:

Year	Annual budget	Actual expenditure	Variance
2017-18	734 490	1 223 179	(488 689)
2018-19	746,688	1,219,286	(472,598)
2019-20	751,109	980,044	(228,935)

Despite the significant increases in the Board's workload and productivity there has not been a substantial revision of the budget to meet the minimal operational costs and the ever increasing demands on the Board. Instead, the Board continues to commence each financial year on a deficit budget. That continual shortfall has implications for the Board and its ability to operate optimally, respond appropriately to growing need, and attend to future planning.

As in previous years, the primary expenses continue to be salaries, member fees and rent.

A full financial summary is at Appendix 2.

Salaries and Staff

Primary expenditure for the period was salaries and wages at \$757,367.18 (\$39,624 under budget).

This table shows the salaries and wages for comparison:

Year	Budget	Actual	Variance
2017-18	735 606	647 202	88 404
2018-19	729,335	792,697	(63,362)
2019-20	796,992	757,367	39,624

Aside from the President and the Acting Registrar there were no legal staff employed by the Board during the period.

Member Fees

The President is the only permanent member and there are an additional 32 member's state-wide who are constituted to a hearing panel when needed.

There was an increase in the budget from the previous year for member fees. In 2018-19 the budget for member fees was \$187,536 (\$180,000 for member fees and \$7,536 for members paid on invoice) with actual expenditure equalling \$230,856 (\$221,930 salaries and \$8,926 on invoice). In this reporting year the budget for member fees was \$240,000 (\$232,000 for member fees and \$8,000 for members paid on invoice) with actual expenditure of \$281,256 for member fees and members paid on invoice (equating cumulatively to \$41,256 over budget).

The Board members sit in a half-day hearing list (morning or afternoon session of 4 hours).

Facilities

South

The rent of the registry premises, at 144 Macquarie St Hobart, totalled \$87,369.

North and North West

The Board wishes to express its thanks to the Magistrates Court of Tasmania and Community Corrections for sharing their facilities with the Board, at no cost.

Technology

The total budget for IT/computer was \$43,131. This includes IT/computer hardware, e-mail and computer leases. There was no budget for website expenses, which totalled \$326. The actual expenditure in this reporting period for IT/computer totalled \$40,856.

REVENUE

Appropriation was \$751,109 plus there was an additional \$250,000 inter-fund budget reallocations, totalling \$1,001,109.

Registry Fees

The total revenue received this financial year through fee collection is \$319,275. Fees generated by the Board are applied directly back to fund the functions of the Board.

Application Fees

The Board does not charge any fees for applications. The protective nature of the jurisdiction means that the core work of the Board cannot generate revenue. However, fees are collected for certain administrative tasks and also the Appointment of Enduring Guardian Register (pursuant to the *Guardianship and Administration Amendment (Fees) Regulations 2012*).

Enduring Guardian Register

Lodgement of instruments for registration are made with payment to Service Tasmania. The fee for lodging an Appointment of Enduring Guardian was \$72.90 and Revocation was \$51.84

There is also statutory provision for fee waivers in circumstances where an appointor satisfies financial hardship.

Examination of Annual Reports for Administration

The fee for examinations of statements of accounts for administrators was \$191.16. These are subject to a generous means test in order to protect a represented person's finances.

FUTURE

There is an urgent need for the Board's budget to be reviewed. There are organisational performance and other risks if the agency continues to be chronically underfunded into the future. The pressing needs of the Board into the coming year include:

- Obtaining funding to engage a full-time Senior Legal and Policy Officer/Member.
- Member remuneration: this is currently insufficient to reflect the expertise required and to attract and maintain a diverse and skilled membership.
- Records management: the case management system is outdated and there is a need to digitise the Enduring Guardian Register.
- Staffing: additional staff are required to enable the Board to meet the current and increasing demands and diverse needs of the output.
- Information access: the Board's educational resources such as the website, handbooks and practice directions are overdue to review and updating.
- Member training: This should be at least twice yearly.

SUMMARY

The Board continues to meet its statutory obligations, however, as a consequence of the ongoing underfunding this is, by default, the minimum level of service. The Output operates in a reactive rather than proactive way in service delivery.



CONTACT DETAILS

The Board's office is located at:

Department of Justice
38 Barrack Street, Hobart

Postal address:

GPO Box 1307, Hobart TAS 7001

Telephone Number:

(03) 6165 7500 or 1300 799 625

Facsimile Number:

(03) 6173 0211

Email Address:

guardianship.board@justice.tas.gov.au

Website:

www.guardianship.tas.gov.au

38 Barrack Street
Hobart

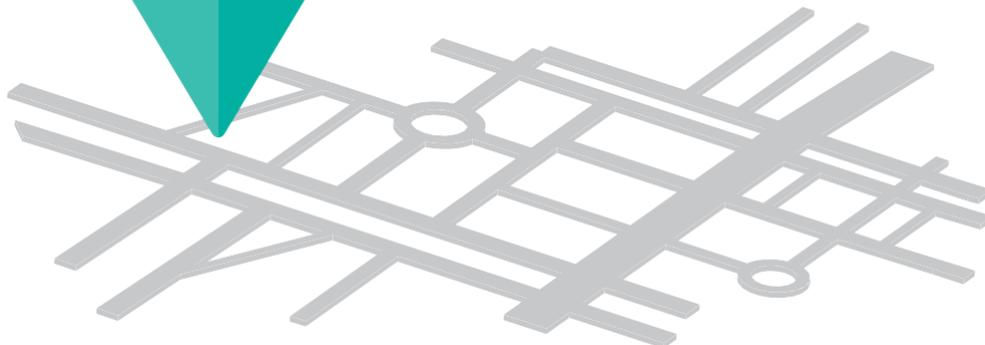


CONTACT US:

guardianship.board@justice.tas.gov.au



1300 799 625



APPENDIX 1 - MEMBERS OF THE GUARDIANSHIP AND ADMINISTRATIONS BOARD

Full Time Member	
President	
Ms Rowena Holder	
Deputy President	
Mr Colin McKenzie *	
Sessional Members	
Dr Juanita Breen	Dr Kylie McShane
Ms Colleen Cheek *	Dr Colin Merridew
Ms Elizabeth Clippingdale	Mr Anthony Mihal
Ms Mary Davies	Ms Louise Mollross
Mr Gerard Dibley	Mr Simon Nicholson
Dr Matthew Fasnacht	Mr Clifford Partridge
Anne Gott	Ms Marie Pedersen
Mr Richard Grueber	Mr Stuart Roberts
Ms Kim Hambly	Ms Mary Anne Ryan
Ms Wendy Hudson	Dr David Saner
Ms Virginia Jones	Mr Matthew Verney (DP)
Ms Anna Jordan	Dr Robyn Wallace
Mr Grant Kingston	Mr James Walker
Mr Cameron Lee	Ms Lindi Wall
Mr Rodney Lester	Ms Marilyn Williams
Mr William Lester	Ms Madeleine Wilson
Ms Angela McKenzie	

*Members retired or completed their terms of appointment during the financial year

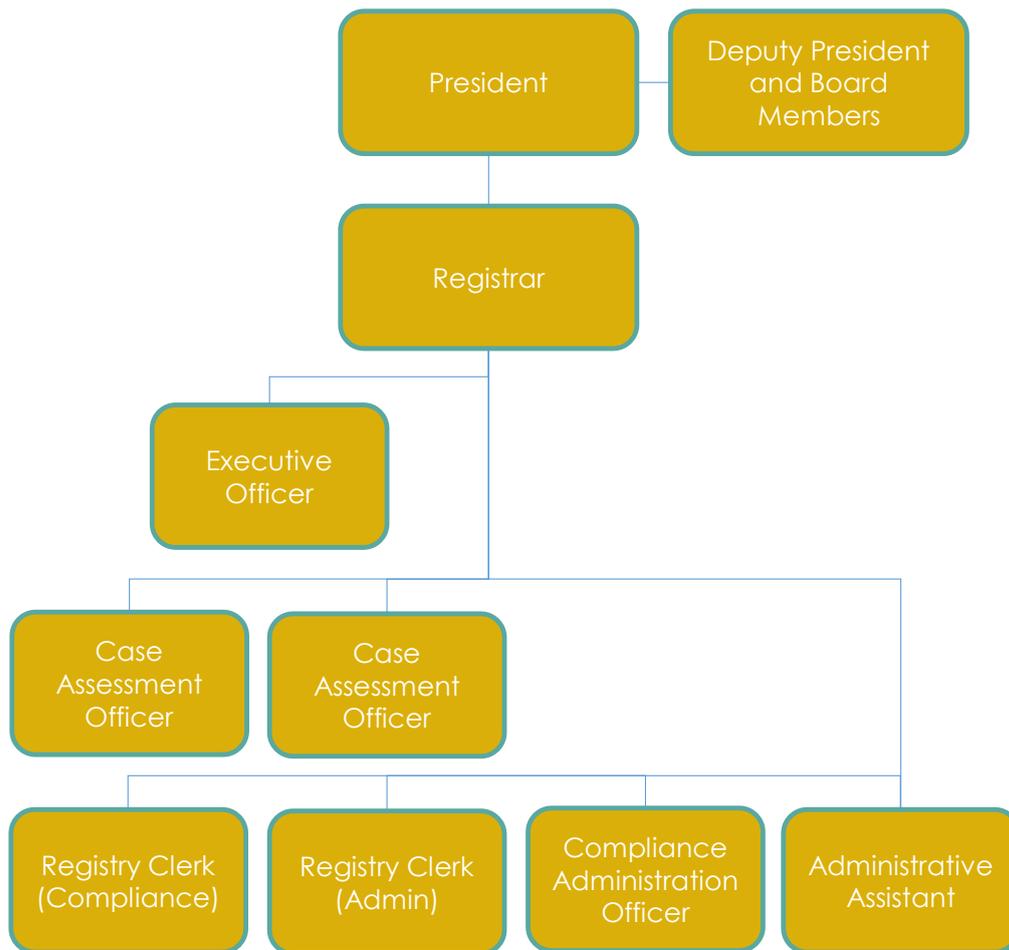
(DP) Deputy President

APPENDIX 2 - FINANCIAL SUMMARY 2019-2020

The following table provides a summary of the budgeted revenue and expenditure for Guardianship and Administration Board for 2019-20:

	\$	2019-20 Budget \$
Revenue		
<i>Appropriation</i>		
- Recurrent	751,109.00	
- Capital	0.00	
- Reserved By Law	0.00	
Total appropriation		751,109.00
Other Revenue (retained)		250,000.00
Total Revenue		1,001,109.00
Expenditure		
<i>Recurrent Expenditure</i>		
Salaries, Wages & Employee Related Expenses (Includes Reserved by Law)	1,258,682.40	
Property Expenses (e.g., rent, power, cleaning, security etc.)	105,542.89	
Information Technology Expenses	40,856.63	
Grants	0.00	
Internal Transfers	0.00	
Other Non-Salary Expenses (e.g., stationery, telephone, travel etc.)	119,474.52	
Total recurrent expenditure		1,524,556.40
<i>Capital Expenditure</i>		
Capital Expenditure - Software/systems	0.00	
Capital Expenditure - Property	0.00	
Capital Expenditure - Other	0.00	
Total capital expenditure		0.00
Total Expenditure		1,524,556.40
Total cash movement		-544,511.64
Opening cash position		
- Section 8A(2) carry forward (prior year funding)		0.00
- Other retained revenues		1,190,031.89
Total opening cash position		1,190,031.89
Closing cash position (should not be negative)		645,520.20
Revenue collected on behalf of Treasury ('Y' accounts)		0.00

APPENDIX 3 - ORGANISATIONAL CHART





Guardianship and Administration Board

Email: guardianship.board@justice.tas.gov.au
Website: www.guardianship.tas.gov.au

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