



Inquiry to improve mental health mental health outcomes for Queenslanders

**Submission to the Mental Health Select
Committee**

February 2022

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About the Office of the Public Guardian

The Office of the Public Guardian (OPG) is an independent statutory office which promotes and protects the rights and interests of adults with impaired decision-making capacity and children and young people in out-of-home care or staying at a visitable site.

OPG promotes and protects the rights and interests of adults with impaired decision-making capacity for a matter through its guardianship, investigations and adult community visiting and advocacy functions:

- The guardianship function undertakes structured (supported and substitute) decision-making in relation to legal, personal and health care matters, supporting adults to participate in decisions about their life and acknowledging their right to live as a valued member of society.
- The investigation function investigates complaints and allegations that an adult with impaired decision-making capacity is being neglected, exploited or abused or has inappropriate or inadequate decision-making arrangements in place.
- The adult community visiting and advocacy function independently monitors visitable sites (authorised mental health services, community care units, government forensic facilities, disability services and locations where people are receiving NDIS supports, and level 3 accredited residential services), to inquire into the appropriateness of the site and facilitate the identification, escalation and resolution of complaints by or on behalf of adults with impaired decision-making capacity staying at those sites.

When providing services and performing functions in relation to people with impaired decision-making capacity, OPG will support the person to participate and make decisions where possible and consult with the person and take into account their views and wishes to the greatest practicable extent.

OPG also provides individual advocacy services to children and young people through the following functions:

- child advocacy, which offers person-centred advocacy for children and young people in the child protection system, and elevates the voice and participation of children and young people in decisions that affect them; and
- child community visiting, which monitors and advocates for the rights of children and young people in the child protection system including out-of-home care (foster and kinship care), or at a visitable site (residential facilities, youth detention centres, authorised mental health services, and disability funded facilities).

The *Public Guardian Act 2014* and *Guardianship and Administration Act 2000* provide for OPG's legislative functions, obligations and powers. The *Powers of Attorney Act 1998* regulates the authority for adults to appoint substitute decision-makers under an advance health directive or an enduring power of attorney.

Position of Office of the Public Guardian

OPG welcomes the opportunity to provide a submission to the *Inquiry to improve mental health outcomes for Queenslanders*. The views of OPG contained in this submission do not represent the views of the Queensland Government.

This submission and its recommendations relate to the experiences of OPG and the people we serve. A summary of OPG's recommendations appears below.

OPG recommends:

1. A commitment to improve collaboration between service systems to ensure individuals with a dual diagnosis of mental health issues and intellectual disability receive targeted support to address their needs.
2. Greater working knowledge of mental health comorbidities across all service systems that may have contact with a vulnerable person requiring support.
3. That appropriate and individually designed discharge plans be put in place for people with impaired decision-making capacity who are exiting a health or mental health facility.
4. That law enforcement utilises diversionary mechanisms to refer individuals for social or medical intervention when a person's antisocial behaviour is linked to a mental health condition.

Service gaps

OPG has observed that gaps in service coordination across support systems, particularly for individuals with complex challenges, can impede the meaningful participation of people with mental illness in society. In Queensland, a person with a dual diagnosis of mental illness and intellectual disability will have their mental health needs met through the mental health system and their disability needs met through the National Disability Insurance Scheme (NDIS). However, the lack of coordinated and integrated support for persons experiencing both mental health issues and intellectual disability can leave these vulnerable individuals poorly served by all systems. In OPG's experience, joint agency funding approaches are limited and often requires the identification of a 'primary condition', which can be challenging for adults with a dual diagnosis. This can leave individuals with significant intellectual impairments and mental health problems without targeted support and risk deterioration of their condition in the absence of appropriate treatment.

It has also been the experience of OPG that, despite the presentation of mental health disturbances to various allied health professionals and emergency services, the specific treatment needs of a person with a mental health condition can be overlooked for extended periods of time which, in some cases, can amount to several years. This may be due to gaps in service coverage and information sharing or, in some instances, the need for greater working knowledge of mental health comorbidities across all service systems that have contact with a vulnerable person requiring support. Greater awareness and understanding of the signs and symptoms of individuals with a dual diagnosis can assist with managing difficult behaviours of vulnerable clients to ensure they receive adequate supports to meet their needs.

Case example

Country	Share of GDP
United States	1.2%
Germany	1.1%
France	1.0%
Italy	0.9%
Spain	0.8%
Japan	0.7%
China	0.6%

Country	Share of GDP
United States	10.5%
Germany	10.0%
France	9.5%
Italy	9.0%
Spain	8.5%
Japan	8.0%
United Kingdom	7.5%
Canada	7.0%
China	6.5%
India	6.0%
Brazil	5.5%
South Africa	5.0%
Russia	4.5%
South Korea	4.0%
Sweden	3.5%
Netherlands	3.0%
Belgium	2.5%
Australia	2.0%
Switzerland	1.5%
Denmark	1.0%
Portugal	0.5%
Greece	0.0%
Poland	-0.5%
Czech Republic	-1.0%
Slovak Republic	-1.5%
Hungary	-2.0%
Slovenia	-2.5%
Lithuania	-3.0%
Latvia	-3.5%
Estonia	-4.0%
Finland	-4.5%
Ireland	-5.0%
Malta	-5.5%
Cyprus	-6.0%
Singapore	-6.5%
Israel	-7.0%
United Arab Emirates	-7.5%
Qatar	-8.0%
Saudi Arabia	-8.5%
Oman	-9.0%
Bahrain	-9.5%
Kuwait	-10.0%
Yemen	-10.5%
Somalia	-11.0%
Sierra Leone	-11.5%
Liberia	-12.0%
Ivory Coast	-12.5%
Ghana	-13.0%
Senegal	-13.5%
Mali	-14.0%
Niger	-14.5%
Chad	-15.0%
Cameroon	-15.5%
Cote d'Ivoire	-16.0%
Guinea	-16.5%
Sierra Leone	-17.0%
Liberia	-17.5%
Ivory Coast	-18.0%
Ghana	-18.5%
Senegal	-19.0%
Mali	-19.5%
Niger	-20.0%
Chad	-20.5%
Cameroon	-21.0%
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Ghana	-35.0%
Senegal	-35.5%
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Cameroon	-37.5%
Cote d'Ivoire	-38.0%
Guinea	-38.5%
Sierra Leone	-39.0%
Liberia	-39.5%
Ivory Coast	-40.0%
Ghana	-40.5%
Senegal	-41.0%
Mali	-41.5%
Niger	-42.0%
Chad	-42.5%
Cameroon	-43.0%
Cote d'Ivoire	-43.5%
Guinea	-44.0%
Sierra Leone	-44.5%
Liberia	-45.0%
Ivory Coast	-45.5%
Ghana	-46.0%
Senegal	-46.5%
Mali	-47.0%
Niger	-47.5%
Chad	-48.0%
Cameroon	-48.5%
Cote d'Ivoire	-49.0%
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Chad	-64.5%
Cameroon	-65.0%
Cote d'Ivoire	-65.5%
Guinea	-66.0%
Sierra Leone	-66.5%
Liberia	-67.0%
Ivory Coast	-67.5%
Ghana	-68.0%
Senegal	-68.5%
Mali	-69.0%
Niger	-69.5%
Chad	-70.0%
Cameroon	-70.5%
Cote d'Ivoire	-71.0%

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Recommendation 1

A commitment to improve collaboration between service systems to ensure individuals with a dual diagnosis of mental illness issues and intellectual disability receive targeted support to address their needs.

Recommendation 2

Greater working knowledge of mental health comorbidities across all service systems that may have contact with a vulnerable person requiring support.

Interface with the NDIS

OPG has observed many positive outcomes for people with disability under the NDIS, with improved situations, increased supports, and a real opportunity for choice and control in their lives. However, for some participants, the interface between the NDIS and the mental health system can be problematic, creating confusion, frustration and disappointment. OPG has observed that NDIS planning is particularly challenging for our clients when the NDIS planner is required to interact with the mental health system to facilitate the client's access to the NDIS. For those detained in authorised mental health services, effective planning during the period of detention is vital to ensure the client's successful transition to community living with funded disability supports. One critical interface issue noted by OPG is the insufficiency of resources to support collaboration across the NDIS and mental health systems and to coordinate individual planning processes for people with complex support needs, resulting in poor discharge planning and extended stays in hospital.

OPG has observed that where a client has fluctuating mental health issues requiring regular inpatient treatment, there is no consistent support available when the person returns to live in the community. In OPG's experience, if a person's mental health is stable, the NDIA will engage and be supportive of the person attending planning meetings. However, the NDIA generally does not meet with clients who are in a mental health facility, as the clients are deemed not well enough to participate in the planning meeting. Any planning that occurs when a client is in a mental health facility is based on the person's current situation as an inpatient, rather than holistically to capture support needs after discharge.

Discharge planning

Poor discharge planning is an obstacle to positive mental health outcomes for adults with impaired decision-making capacity. From OPG's observations, this often results from a lack of forward planning and collaboration between the parties involved in providing support to OPG clients with impaired decision-making capacity who are transitioning out of health care and mental health facilities. The sheer number of parties that may play a role in the discharge of these adults necessitates a high level of coordination that has historically not occurred. In some instances, effective discharge of a client could involve service providers, health care providers, Queensland Health, various NDIS representatives (for example an NDIS Support Coordinator, NDIS Portfolio Manager and others where escalation is required), disability accommodation providers and appointed guardians, among others. Depending on the complexity of a client's personal and medical circumstances, a successful discharge could necessitate any number of parties playing a role. OPG has been made aware of several instances in which clients with complex needs have been discharged from health care environments without the necessary supports in place, due to a lack of timely coordination between service providers and NDIS funding.

This gap in support can leave vulnerable people in a state of uncertainty, which can cause significant stress and anxiety and exacerbate their already compromised health status. There have also been cases of clients being repeatedly discharged from care environments without follow up by support representatives with an obligation to provide care. In some cases, this has led to unnecessary and repeated admissions to mental health facilities.

Case example

[Redacted text block containing a case example, consisting of multiple lines of blacked-out text.]

Recommendation 3

That appropriate and individually designed discharge plans be put in place for people with impaired decision-making capacity who are exiting a health care or mental health facility.

Criminal justice system

Access to bail

It is an unfortunate reality that people with impaired decision-making capacity and mental health conditions are more susceptible to attempting suicide. This could be due to any number of factors inherent to their disability or mental health condition, including depression, delusions and impulsivity. However, instead of support and compassion, some OPG clients have been charged with offences such as public nuisance or interference with a railway when they attempt suicide in public. OPG considers that the criminal justice system is an inappropriate response to a person with impaired decision-making capacity or mental health condition attempting to take their own life.

OPG is also aware of people with impaired decision-making capacity, coupled with significant mental health conditions, being charged with minor offences such as public nuisance or begging in a public place, as opposed to referring them for social or medical intervention. OPG clients have also been charged, while residing as an inpatient in a mental health ward, as a result of violent incidents between co-tenants and/or support staff at their places of residence. OPG's experience is that these charges may not properly take into account our clients' impairments and mental health conditions in all instances.

Case example

[Redacted case example text]

Recommendation 4

That law enforcement utilises diversionary mechanisms to refer individuals for social or medical intervention when a person's antisocial behaviour is linked to a mental health condition.

Access to bail

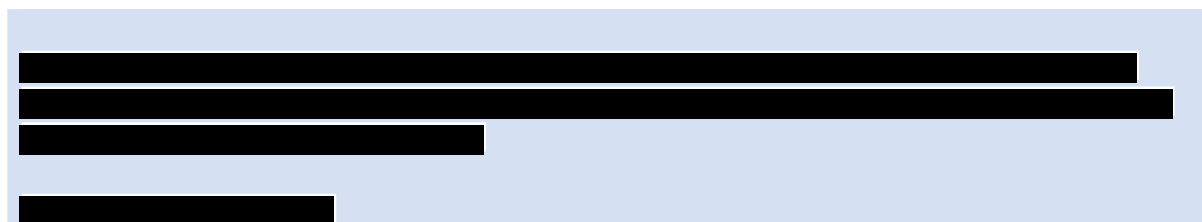
An issue encountered by OPG clients with a mental health condition who interact with the criminal justice system is impeded access to bail. OPG has specific concerns about our clients who are on remand in custody with legal proceedings on foot (as opposed to having been sentenced to a term of actual imprisonment). These clients, who have not been sentenced for a crime, experience significant difficulties bringing successful applications for bail within a reasonable timeframe.

Delays and barriers to obtaining NDIS funding and/or examinations for functional needs assessments means these clients are frequently unable to source appropriate accommodation and the relevant supports in a timely manner. As a consequence, these clients have no choice but to serve time in custody, some for lengthy periods, when they are otherwise eligible to apply to be released on bail.

This delay can be further protracted by the interplay of responsibilities between service providers when our clients are remanded in custody, but already subject to orders made under the *Mental Health Act 2016*, and the Chief Psychiatrist or the client's treating team must authorise or approve the client's bail address or accommodation within the community. Additional delays are also experienced by OPG clients who, while remanded in custody, are charged with further serious offences and a reference of the client's mental state for the charges is filed with the Mental Health Court. These are unnecessary periods of detention that can have a detrimental effect on a client's wellbeing, their sense of stability and may further compromise their mental health.

Case example

[Redacted case example text]



Conclusion

OPG welcomes the Queensland Government's *Inquiry into the opportunities to improve mental health outcomes for Queenslanders*. OPG's submission highlights aspects of the mental health and other systems which could be improved to better support adults with impaired decision-making capacity and therefore result in more positive outcomes for them. We look forward to the recommendations from the Committee about how to improve Queensland's mental health system and its interaction with other state-based systems.