

Appendix A:

Submissions and comments

We have consulted with the Office of the Public Advocate, the Department of Justice and Community Safety, and the Victorian Civil and Administrative Tribunal, and we considered their views when reaching our audit conclusions. As required by the *Audit Act 1994*, we gave a draft copy of this report, or relevant extracts, to those agencies and asked for their submissions and comments.

Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

Responses received

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Office of the Public Advocate

Safeguarding the rights and interests of people with disability

10 May 2024

Mr Andrew Greaves
Auditor-General
Victorian Auditor-General's Office
Melbourne VIC 3000

Dear Mr Greaves,

Thank you for the opportunity to respond to the report on *Guardianship and decision-making for vulnerable adults*.

OPA's vision is for a just and inclusive society that respects and promotes the dignity and human rights of all people. OPA's purpose is to promote and protect the rights and interests of people with disability, and work to eliminate abuse, neglect and exploitation.

The report recognises the complex and challenging environment in which OPA delivers vital guardianship and investigation services to thousands of Victorians with disability each year. I am pleased the report acknowledges positive findings, including highlighting several initiatives already underway to improve OPA's engagement with represented persons.


OPA accepts ten recommendations in full and three recommendations in principle, noting that some recommendations require the commitment of additional resources and support from the Department of Justice and Community Safety where those recommendations are to be delivered in concert.

The development of an action plan to address the recommendations has highlighted the need for additional resources to ensure the recommendations are completed within a reasonable timeframe. The outcome of the FY24/25 fiscal budget position is a decrease in funding for OPA and this will impact on service delivery. As noted in the report, OPA is already under pressure to deliver on its statutory functions and is therefore compromised in its ability to undertake the work required to support timely implementation of the action plan.

Notwithstanding this, OPA is committed to improving our guardianship and investigation services to better protect and promote the rights and interests of people with disabilities who engage with and rely on these essential services.

Enclosed is a high-level action plan to address the recommendations in the report. OPA welcomes the opportunity that this audit provides to inform the actions the office will take to make progress against the proposed report's key findings.

Yours sincerely,


Dr Colleen Pearce AM
Public Advocate

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Office of the Public Advocate action plan to address recommendations from Guardianship and decision-making for vulnerable adults

No.	VAGO recommendation	Acceptance	Agreed management actions	Target completion date
1	<p>Within 14 days of receiving an order, give clients on the waitlist information about guardianship and investigations, including:</p> <ul style="list-style-type: none"> the Office of the Public Advocate's role the Office of the Public Advocate's contact information how to make a complaint about the Office of the Public Advocate (see Section 1). 	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> In part <input type="checkbox"/> In principle <input type="checkbox"/></p>	<p>Enhanced engagement will continue to be a key element of OPA's approach to meeting its statutory obligations and will, within 14 days of receiving a new order from VCAT, provide information to the 'client' – represented persons in the case of guardianship orders, and the person about whom an application has been made in the case of investigations. Activity has already commenced, and the design of the information pack is underway.</p>	<p>December 2024</p>
2	<p>Require investigators to consult with proposed represented people during investigations as far as practicable (see Section 1)</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> In part <input type="checkbox"/> In principle <input type="checkbox"/></p>	<p>The investigations team will meet proposed represented persons as soon as practical where this is relevant to the VCAT investigation order. In relation to investigations of applications for urgent orders, where practical the investigator will seek to consult by telephone with the proposed represented person. Updated guidance has already been issued to the investigations team.</p>	<p>June 2024</p>
3	<p>Review and update its guidance to staff, including guidance about allocating orders and balancing the risk of harm when making decisions (see Section 1).</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> In part <input type="checkbox"/> In principle <input type="checkbox"/></p>	<p>OPA is committed to building robust processes to understand and manage the risks inherent in our work to seek improved client outcomes. This will be operationalised through a review and update of practice guidance, the documentation of expected standards as well as monitoring and refining outcomes through cyclical operational and performance planning and review.</p>	<p>December 2025</p>

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No.	VAGO recommendation	Acceptance	Agreed management actions	Target completion date
4	<p>Improve its training program by:</p> <ul style="list-style-type: none"> ○ introducing mandatory training for guardians and investigators that, at a minimum, covers: <ul style="list-style-type: none"> ● its legislative obligations ● managing complaints ● communicating effectively ● making decisions that promote human rights and individuals' wills and preferences ○ recording staff attendance at all training sessions (see Section 1) 	<p>Acceptance</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In part <input type="checkbox"/> In principle</p>	<p>OPA is committed to a learning and development approach that enables professional development and competency in achieving necessary capabilities.</p> <p>OPA's is adopting a considered and staged approach to this recommendation, noting that the induction program was updated in 2023, and it will continue to make refinements based on participant feedback, including identifying mandatory training sessions for guardians and investigators. These refinements include a commitment to improved data capture of staff attendance at training.</p>	<p>June 2025</p>
5	<p>Develop internal reporting on:</p> <ul style="list-style-type: none"> ● emerging themes from supervision and file reviews ● timeliness of guardianship and investigation matters ● compliance with documentation requirements ● whether staff contact and visit clients within agreed timeframes (see Section 1). 	<p>Acceptance</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In part <input type="checkbox"/> In principle</p>	<p>OPA maintains a Service Review and Improvement Committee, the purpose of which is to monitor and report key areas of risk. OPA is committed to enhancing its emerging data analytics capabilities to ensure robust performance reporting and refined metrics.</p> <p>OPA is committed to improving client outcomes and the functions of this Committee, noting that identified reporting gaps and opportunities to refine performance reports will assist in addressing emerging priorities and improving performance.</p>	<p>June 2026</p>

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No.	VAGO recommendation	Acceptance	Agreed management actions	Target completion date
6	Implement a risk-based quality assurance process to review a sample of guardianship, investigation and complaint files at least every 12 months (see Section 1).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In part <input type="checkbox"/> In principle	OPA is committed to fostering a culture of continuous improvement and accountability. The first step in implementing a risk-based quality assurance process will be the development of an audit framework which includes identifying critical parameters and standards in addition to identifying the resources to implement an annual review.	December 2026
7 (w/ DICS)	Revise their recruitment process to give the Office of the Public Advocate greater independence in its recruitment process and decisions (see Section 2).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In part <input type="checkbox"/> In principle	OPA strongly supports this recommendation, and believes it is critical to enhancing its ability to recruit staff in a timely manner and retaining staff, noting the impact of elongated recruitment processes have had on operational performance prior to and during the period of the audit. OPA is ready to amend its existing instrument of delegation and associated policies and procedures implement this recommendation.	December 2024
8 (w/ DICS)	Work together to: <ul style="list-style-type: none"> model future demand for the Office of the Public Advocate's services evaluate the resources, including staff, cost and technology, the Office of the Public Advocate needs to deliver its services (see Section 2) 	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In part <input checked="" type="checkbox"/> In principle	OPA agrees in principle to this recommendation. OPA notes addressing this recommendation requires the commitment of additional resources to enable the implementation of this recommendation.	30 June 2027

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No.	VAGO recommendation	Acceptance	Agreed management actions	Target completion date
9 (w/ DJCS)	Seek amendments to the Office of the Public Advocate's performance measures in Budget Paper 3: Service Delivery performance to ensure it has a meaningful mix of quantity, quality and timeliness measures that provide appropriate service coverage, subject to available data.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In part <input type="checkbox"/> In principle	OPA supports the recommendation to seek amendments to its performance measure in Budget Paper 3: Service Delivery as the current measures do not reflect available resource levels. Through DJCS, OPA will work with DTF to review its performance measures and explore alternative approaches that better capture and demonstrate OPA's effectiveness.	30 June 2025
10	Determine the ideal caseload for guardians and investigators to operate effectively, considering case complexity and staff experience (see Section 2).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In part <input type="checkbox"/> In principle	OPA supports the recommendation. OPA is committed to identifying appropriate caseloads that recognise and benefit from a guardian or investigator's knowledge, skills and experience in their role. In determining the ideal caseload, OPA will be guided by the Provisional Improvement Notice specifying the appropriate caseload range. This will be considered alongside capability, practice changes and continuous improvements in technology and processes.	June 2026
11	Ensure it assesses all guardianship orders against its complexity tool before allocating cases to staff (see Section 2).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In part <input type="checkbox"/> In principle	OPA has developed a complexity tool to assist in determining the allocation of cases and is using it in for the allocation of at least 30% of all new cases. Following refinement and review, OPA is committed to the rollout of a complexity tool across the totality of the guardianship program.	December 2024

OFFICIAL: Sensitive

No.	VAGO recommendation	Acceptance	Agreed management actions	Target completion date
12	<p>Consider the skills, size, shape and source of its future workforce to design and implement a workforce model that:</p> <ul style="list-style-type: none"> is responsive to changes in its operating environment, including future demand enables it to deliver efficient and effective services (see Section 2). 	<p> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In part <input checked="" type="checkbox"/> In principle </p>	<p>OPA accepts this recommendation in principle, and notes that it will require additional resources in order to undertake the development of a detailed, responsive model that sensitively caters to changes in the future operating environment.</p>	<p>June 2027</p>
13	<p>Implement changes to its client management system to improve the quality of data it collects and reports. Ensure this data is accurate, complete, timely, consistent and collected appropriately (see Section 2).</p>	<p> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In part <input checked="" type="checkbox"/> In principle </p>	<p>OPA acknowledges and has identified that changes to its client management system can be beneficial to the work it undertakes to support vulnerable Victorians through its the guardianship and investigations functions.</p> <p>An internal taskforce has been established. The purpose of the taskforce includes the identification and recommended prioritisation of informational system changes. While minor changes can be made in-house without additional resources, it is expected that more complex upgrades (and implementing staff training for same) will not be able to be actioned in the absence of additional resources.</p>	<p>June 2027</p>

Response provided by the Secretary, DJCS



Department of Justice and Community Safety

Secretary

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Mr Andrew Greaves
Auditor-General
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Level 31/35 Collins Street
MELBOURNE VIC 3000

By email: [REDACTED]

Dear Mr Greaves

Thank you for your letter of 26 April 2024 and the opportunity to respond to the proposed report for your audit on *Guardianship and decision-making for vulnerable adults*.

The department is committed to working collaboratively with key entities across the justice system, such as the Office of the Public Advocate, to ensure legal policy reform is strategic, relevant, holistic and people centred.

The department has reviewed the report and accepts the 3 recommendations directed jointly to the department and the Office of the Public Advocate in full or in-principle. Please find attached a copy of the department's action plan. I am pleased to report that work is already under way to address one of the recommendations: to give OPA greater independence in its recruitment process and decisions.

If you have any questions or require further information, your office can contact Julianne Brennan, Executive Director, Governance and Assurance, on [REDACTED] or via email [REDACTED].

Yours sincerely

[REDACTED]

Kate Houghton PSM
Secretary

10/05/2024

Encl. DJCS letter to VAGO, DJCS action plan



DJCS action plan

Guardianship and decision-making for vulnerable adults

#	VAGO recommends that DJCS:	Response	#	By:	By:
7	Revise their recruitment process to give OPA greater independence in its process and decisions.	Accept	7	Consider options (and implement preferred improvements) for giving OPA greater independence in its recruitment processes including changes to the Secretary's HR delegations.	30-Jun-24
8	Work together to: <ul style="list-style-type: none"> model future demand for OPA's services evaluate the resources, including staff, funding and technology OPA needs to deliver its services. 	Accept in principle	8a	Subject to funding and available resources, provide support or enabling services to assist OPA to model future demand for OPA's services.	31-Dec-24
			8b	Subject to funding and available resources, provide support or enabling services to assist OPA to evaluate the resources, including staff, cost and technology, OPA needs to deliver its services.	31-Dec-24
9	Seek amendments to OPA's performance measures in Budget Paper 3 to ensure it has a meaningful mix of quantity, quality and timeliness measures that provide appropriate service coverage, subject to available data.	Accept in principle	9	Work with OPA to review its performance measures as part of the Budget Process. Where data is available, the department will work with OPA to introduce new measures, or revise existing measures, to enhance compliance with the Resource Management Framework.	30-May-25

15 May 2024

Mr Andrew Greaves
Auditor-General of Victoria
Victorian Auditor-General's Office

Dear Mr Greaves

Guardianship and decision-making for vulnerable adults

The Victorian Civil and Administrative Tribunal (VCAT) is grateful for the opportunity to participate in consultations on your audit of the Office of the Public Advocate's (OPA) delivery of guardianship and investigation services for vulnerable adults. VCAT is confident that the resulting report will provide a strong foundation for improving OPA's services as part of the guardianship system in Victoria. VCAT is committed to improving outcomes for represented persons and values its strong working relationship with OPA.

While the report's scope is formally limited to the work of OPA, the report makes two findings in relation to the impact of VCAT's activity on OPA's service delivery. These findings are in respect of "Receiving orders from VCAT" and "Why some revocations are delayed", respectively.

In relation to "receiving orders from VCAT", VCAT acknowledges that there has been a delay in sending orders and supporting documentation to OPA where they have been appointed as guardian or to undertake an investigation. However, in circumstances where VCAT has made an urgent order appointing OPA, processes are in place to ensure that such orders and supporting material are sent to OPA within two business days (as opposed to the current average of 10 days for other orders). In addition, VCAT provides a monthly report to OPA identifying orders where OPA has been appointed to enable cross-referencing.

In relation to "Why some revocations are delayed", the report correctly notes that VCAT has a procedure in place to ensure that recommendations by OPA for revocation of an order are actioned in a timely way. We note that the same procedure is open to other persons with a direct interest or a party.

Yours sincerely



Stuart Moran
Executive Director, Governance and Legal
Victorian Civil and Administrative Tribunal

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