

2020-21 Annual Report

**Office of the Public Trustee,
Public and Official Guardian**

Note to Readers:

Copies of the annual report are available online.

Office of the Public Trustee, Public and Official Guardian
Department of Justice & Public Safety

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Office of the Public Trustee, Public and Official Guardian

Annual Report 2020-21

- Preface 1
- Director’s accountability statement..... 2
- Message from the Director 3
- Results analysis 4
 - Section overview..... 4
 - Ministry..... 4
 - Organizational structure 4
 - Responsibilities 5
 - PGPT strategic direction (2020-2025) 11
 - Outcomes..... 12
 - Discussion of risks 12
 - Key factors influencing performance 14
- Performance Measures..... 15

Preface

This annual report provides a detailed look at the Office of the Public Trustee, Public and Official Guardian’s activities. It outlines actual performance results and develops performance standards for consideration in the upcoming fiscal year.

Following the end of the 2020-2021 year, the Office is moving its financial year end to December 31st. This will result in a change in reporting to calendar year. It will also create a shorter, nine-month fiscal year from April-December 2021. As a result, the Office intends to file its next annual report in December 2022, which will cover two year ends between April 2021-December 2022.

The Office of the Auditor General has confirmed that they are delaying undertaking our 2020-2021 financial statement audit until the AG undertakes the shorter year audit for April – December 2021. This will report will be updated with audit statements once they are made available by the AG Office.*

*This report was amended on May 2, 2022 to remove references to attaching draft statements to the report as they were not available at the time of publication, however, the reference in the report was missed.

Director's Accountability Statement

The Office of the Public Guardian and Trustee's annual report for the year ended March 31, 2021, was prepared under my direction in accordance with the recommendations of the Auditor General in the 2017 Auditor report and with the government's accounting policies.

Clare Henderson
Director of Family Law and Court Services
Department of Justice and Public Safety

Message from the Director

I am pleased to present the Annual Report for the Office of the Public Trustee, Public and Official Guardian (PGPT) for the period of April 1, 2020 to March 31, 2021.

This year was partially focused on finishing our implementation of the recommendations of the Auditor General. I am pleased to report that the Department of Justice and Public Safety has reported completion on all recommendations. However, as we were able to report that we completed implementation, we have also been able to move forward with examining other priorities including how we operate. We focused on finding ways that we could change how we communicate to be sure our communication is more accessible to our clients and service providers. We implemented new processes for communication and identified priorities for next year in terms of communication goals both with clients and with the public.

The Office has seen similar trends with client demographics as with previous years. However, new protocols and procedures implemented within the Office has also seen an increased workload for Office staff. I continue to be impressed by the dedication of the staff of the Office who at every instance are committed to the well-being and respect of our clients.

I would be remiss not to also note that this year saw the retirement of Jessie Frost-Wicks, Public Trustee at the end of this year. Ms. Frost-Wicks guided the Public Trustee Office through the transformation work done to meet and exceed the recommendations of the Auditor General and we are grateful for the work she did, for her leadership and guidance and wish her the best in her new adventure.

Clare Henderson
Director of Family Law & Court Services

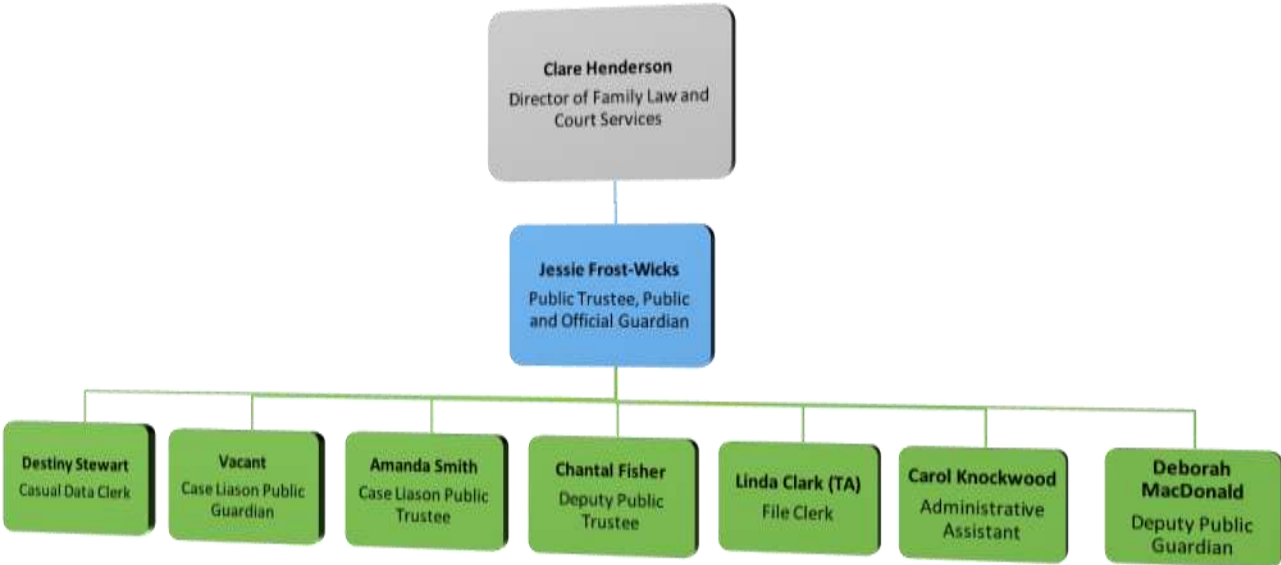
Results Analysis

Section Overview

Ministry

The PGPT is a section of the Family Law and Court Services Division within the Prince Edward Island Department of Justice and Public Safety (JPS).

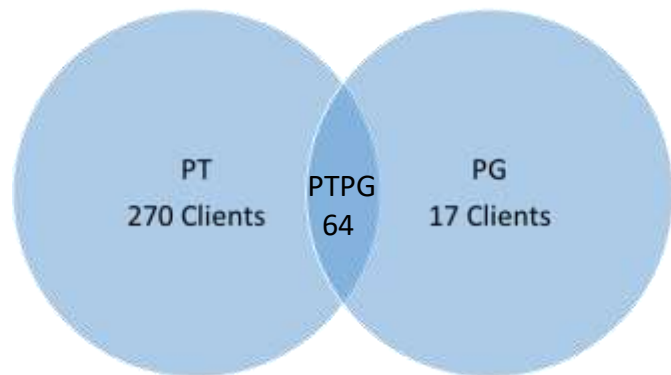
Organizational Structure



Responsibilities

❖ Guardianship and Trusteeship

As of March 31, 2021, a total of 351 Islanders were under Trusteeship or Guardianship by the Public Trustee and Public Guardian. The total caseload remained relatively static from the previous year due to similar numbers of new files and file closures. The Public Trustee office opened 45 new files in this fiscal year and closed 45 files. The Public Guardian office opened 17 new files and closed 1.

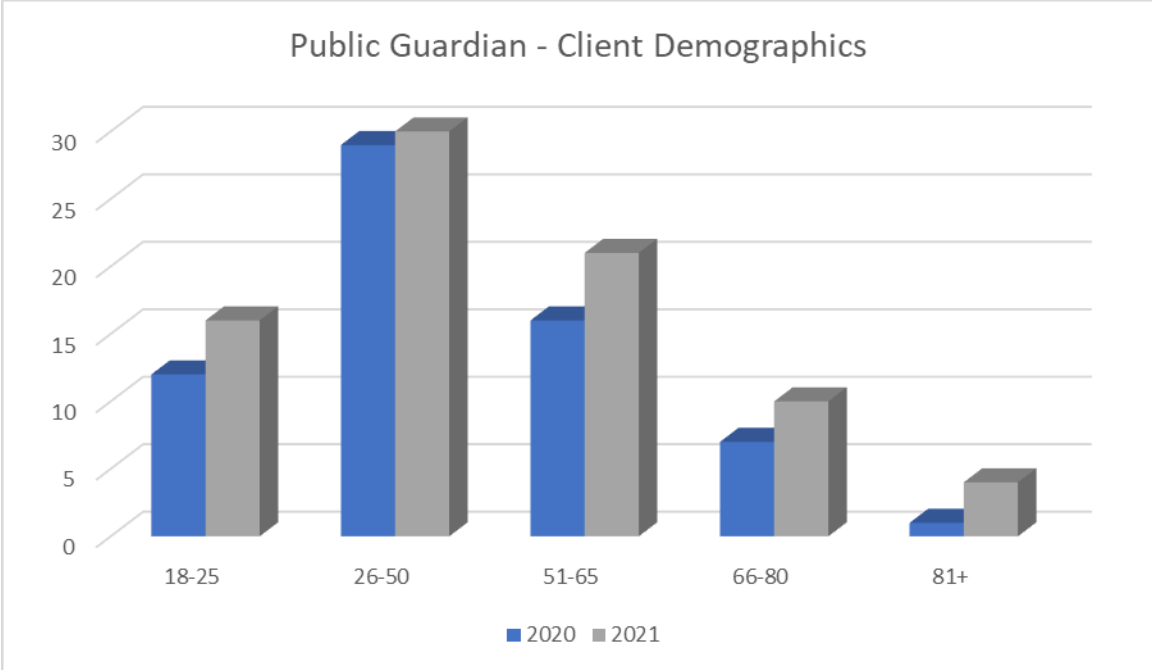
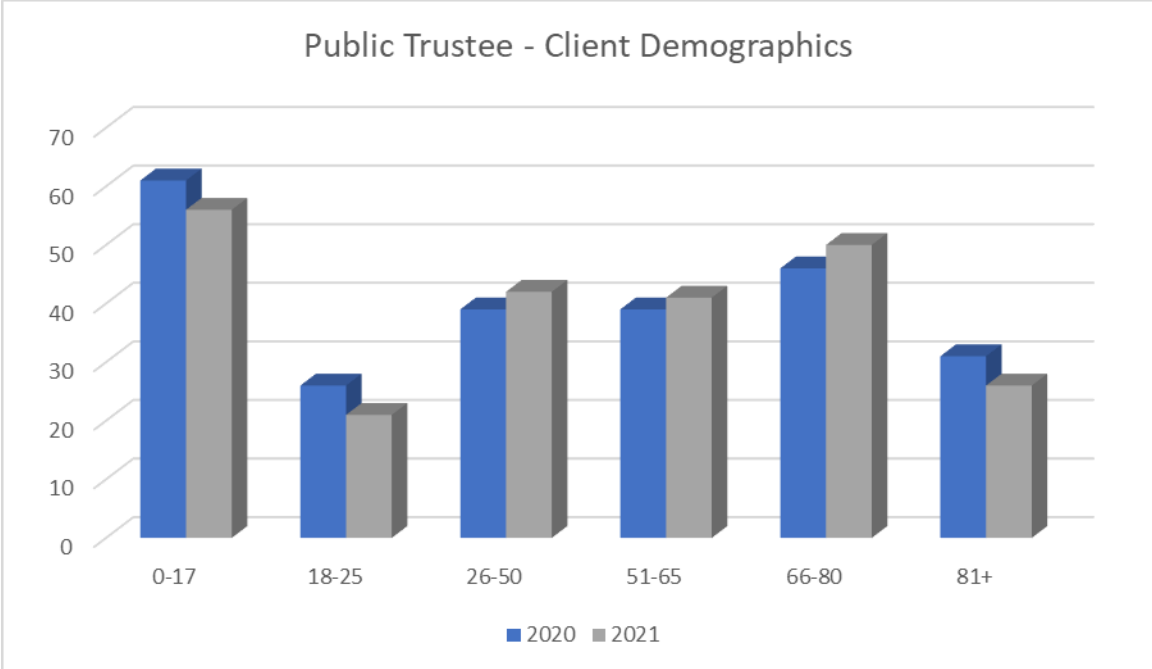


The PGPT is considered to be the office of last resort. When a friend or family member assumes this role, they are called a private guardian and/or trustee.

Of the 351 clients of the Office, 270 are exclusively clients of the Public Trustee, 17 are exclusively Public Guardian clients, and 64 are clients of both the Public Trustee and the Public Guardian.

When someone applies to become a private guardian and/or trustee, the PGPT reviews the formal application package before it goes to court, and there is authority for the PGPT to intervene in cases where the PGPT considers the application to be inappropriate.

If there is no one willing or able to act as guardian or trustee for an adult who needs one, the Public Guardian may apply to become the Guardian and the Public Trustee may receive the required Certificates of Incompetence to become the committee, or trustee, for the individual.



Most PGPT clients are under the age of 65 and have developmental disabilities, psychiatric disorders, brain injuries, fetal alcohol spectrum disorder, or another condition that has rendered them unable to make their own decisions. The PGPT acts as a substitute decision maker and makes decisions on their behalf. To the degree that clients are able, we involve them in the decisions that impact their lives. It is our core belief that people should have as much personal autonomy as possible.

Other Decision-Making Options

In addition to formal guardianship and trusteeship, the Office of the Public Trustee, Public and Official Guardian can also provide support in other circumstances. Examples include:



When someone goes to the hospital for treatment, before the hospital can treat them, the individual has to give their consent. If the person lacks the capacity to give consent (for example, they are unconscious and have no loved one or guardian), the Public Guardian may be asked to step in temporarily to provide consent and determine a treatment plan. In 2020-21, we acted as a **substitute decision-maker of last resort under the *Consent to Treatment and Health Care Directives Act***.



There may be situations where an individual is not incompetent to manage their financial affairs but is physically incapable of conducting their day to day affairs. In those situations, the Public Trustee may, if no one else is willing or able, accept a Power of Attorney from the individual to manage their financial affairs. In 2020-21, the Public Trustee acted on behalf of three clients under the authority of a Power of Attorney.

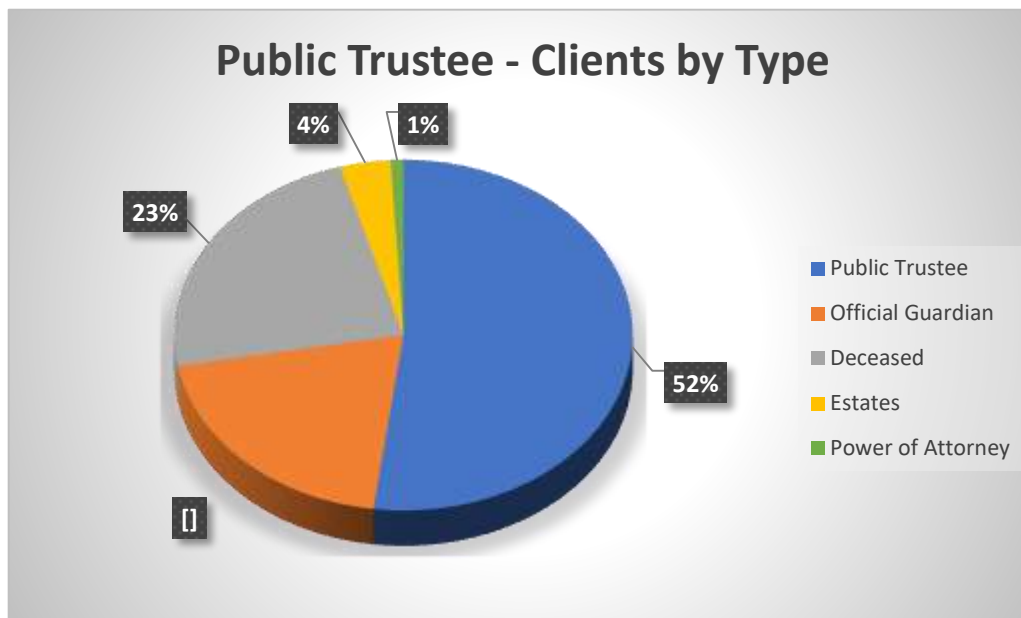
❖ Deceased Estates

The Office of the Public Trustee may, in certain circumstances, administer estates for Clients of the Public Trustee who pass away but do not have a will or executor who is able to administer the estate. Administering a client estate includes paying debts and funeral costs as well as distributing inheritance to known heirs or beneficiaries. In 2020-21, we had an active caseload of 12 deceased estates.

❖ Official Guardian

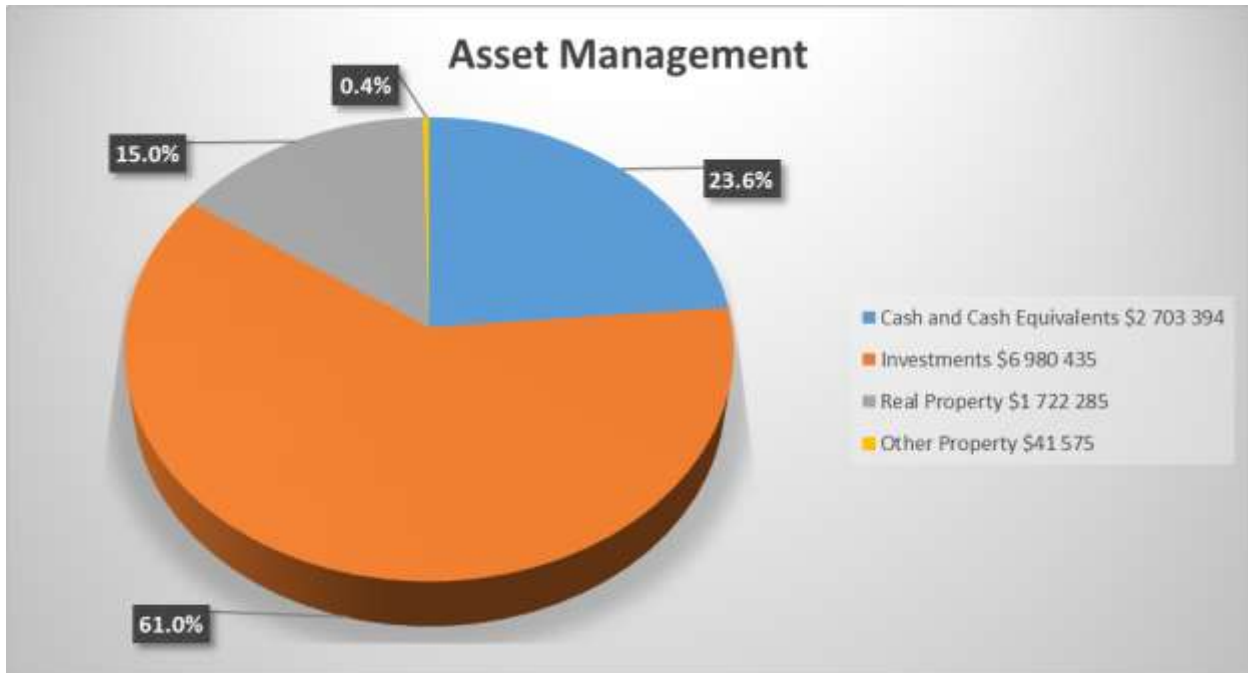
Parents and guardians can make personal decisions for minors about things like education, medical care and social activities. However, they do not automatically have the power to receive and manage money or property for their child.

If a minor or a party with a disability receives cash or property through things like a personal injury settlement, a life insurance policy or even a will that is not drafted properly, the PGPT may be called upon to manage the assets on the child's behalf until they turn 18 as the Public Trustee also holds the role of Official Guardian for the Province. Alternatively, parents can apply to the court to take on this role. In 2020-2021, the PGPT Office administered 67 Official Guardian files.



Asset Management

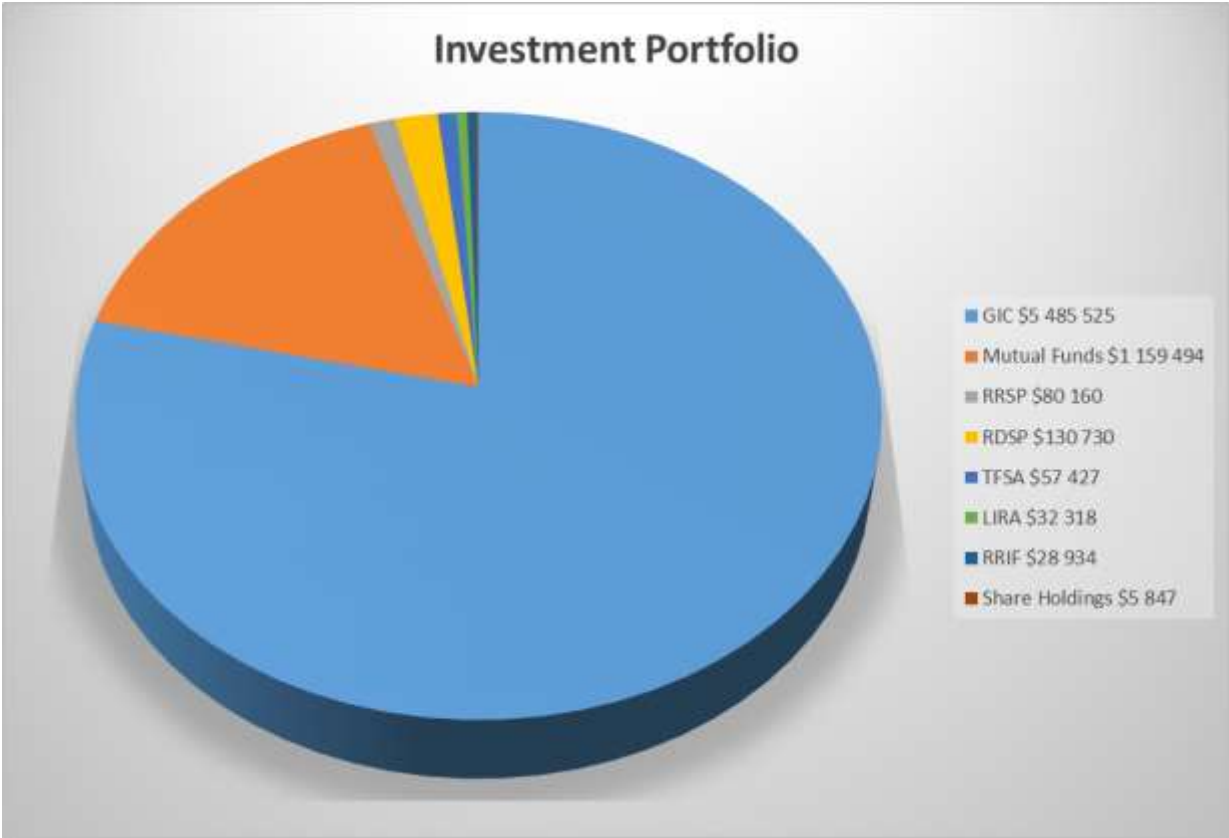
PGPT manages and protects approximately \$11 450 000 in trust for represented adults and Official Guardian files.



In 2020-21, we processed 9499 transactions on behalf of clients – everything from paying for the interim care of property for someone who is deceased to depositing monthly support payments for clients with a disability. We work with daily financial services for our clients ranging from banks, governments and private pension plans, employers, care facilities, utility companies, pharmacies, phone companies, etc. Hundreds of thousands of dollars flow through the Public Trustee Office each year in payments for the clients of the Office. That’s why it is so important that the proper checks and balances are in place.

Clients' monies are held separate from PGPT operating funds and, depending on the amount of funds in each client's estate, they are invested to earn interest, much like they would at a bank.

The Public Trustee has adopted a risk adverse approach to investments, as it is believed to offer the greatest protection to our clients' assets while still offering a return on their investments.



PGPT strategic direction (2020-2025)

VISION

The PGPT will work with clients and community care providers to provide excellent, proactive, timely and respectful service to vulnerable adult Islanders and all Islanders.

MISSION

The PGPT acts as a substitute decision maker for vulnerable Islanders:

- By protecting and advocating for individuals who are under the care of our office and deemed unable to make personal and financial decisions for themselves.
- By providing legal guardianship to adults ordered under the Guardianship of the Public Guardian: making decisions regarding health care, where to live, with whom to associate, social activities, education, employment, and non-financial legal proceedings.
- By administering the property of represented adults, Official Guardian clients and deceased clients.
- By providing information, education and support to the public about the role of the PGPT.

VALUES

RESPECT

ACCOUNTABILITY

INTEGRITY

EXCELLENCE

GOAL

By 2025, PGPT is an innovative organization that meets or exceeds client, staff and stakeholder expectations and supports the dignity and welfare of clients under the care of the Office.

PRIORITIES

Efficient Service
Delivery



Operational Excellence



Continued Implementation
of AG Recommendations



CLIENT

PGPT

CULTURE

Outcomes

In 2020-2021, the PGPT continue to strive to achieve three outcomes:



Outcome one – Efficient Service Delivery: Islanders under the care of the Office receive quality service designed to meet their individual needs.



Outcome two – Operational Excellence: PGPT’s operating systems and processes support excellence and foster public trust.



Outcome three – Finalizing Implementation of the Recommendations of the Auditor General: The PGPT Office considers that we have completed the implementation of the 2017 & 2018 recommendations of the Auditor General relating to the PGPT Offices.

Discussion of Risks

As a part of the 2020-2021 operational review in the preparation of this Annual Report, the PGPT identified two key risks to achieving identified outcomes:

1. **Workload:** PGPT’s caseload is growing as the population of PEI ages. In addition, the Office continues to see increases in the number of younger adults coming under the care of the Office due to mental health issues and drug related mental health issues.

Update: The Office of the Public Guardian and Public Trustee continues to see increases in the number of clients in the 26-50 and 51-65 age bands. This creates an increase in workload but also creates a circumstance where workload can be uncertain. As circumstances which bring individuals under the care of the office are beyond the control or knowledge of the PGPT, it is difficult to forecast operational demands.

2. Global Pandemic: Like many areas of government, operations within the PGPT Office were impacted by the global COVID-19 Pandemic. The Office had to be vigilant about changing public health requirements throughout the ongoing waves during the year. While the Office was able to continue and has continued services through the pandemic, it reinforced that unknown circumstances can impact daily operations.

Update: The PGPT Office continued to consider public health requirements and health and safety concerns during the continued waves of the COVID-19 pandemic. The Office, which had greatly expanded the use of electronic funds transfer and other electronic methods of providing services to facilitate social distancing during the 2019-2020 year, expanded and improved protocols. The provision of services to PGPT clients is an essential service. The needs of clients do not stop because a global pandemic intervenes. The Office was able to provide laptops to all staff as a result of requisitions in March of the prior year which greatly improved office efficiency and potential resiliency. PEI continued to be fortunate in that it did not experience as significant disruptions from the COVID 19 pandemic as other provinces. However, there were both direct challenges from the pandemic and from the effects it had on our partner organizations, some of which operate outside the province.

3. Performance Measures: The Office was able to establish performance measures for this fiscal, however we continue to review appropriate performance measures for the Office. The risk is that some of the data currently being tracked may be influenced by factors beyond PGPT's control. If so, a different measure may be required.

Update: In 2020-21, the PGPT the Office implemented the CompuTrust update. This has provided potential access to a wider set of data points to monitor performance. However, the office had to undertake significant data entry requirements following roll out. This took the majority of the 2020-2021 year to work toward completion. Following completion, the Office will be able to identify more detailed reporting capabilities and even future broader reporting requests.

Key Factors Influencing Performance

Demands on PGPT are increasing.

As identified in previous years, client and community needs are evolving as well. This has not changed. For example, many of the represented adults PGPT serves have complex needs. Physical and mental health issues, substance abuse, complex family structures and involvement with the justice system are increasingly common. In addition, the PGPT is not a care service provider. While we act as a substitute decision maker for clients, we do not provide care homes or therapeutic services for clients. Availability of resources for clients is subject to the availability of services provided by our community partners. The availability of supportive housing, secure mental health resources and locations for clients with complex case needs remains a challenge.

Despite these challenges, PGPT staff have always been and will remain committed to meeting the needs of clients and to helping them live their best lives possible. They see firsthand the impact that quality programming can have on individuals and communities, and often take a leadership role in creating positive change.

Performance Measures

Discussion of Measures and Approach

Establishing Performance Measures

The PGPT Office has been engaged in a comprehensive review of the Office procedures and protocols in responses to opportunities presented by the Office of the Auditor General in 2017 (PT) and 2018 (PG). Significant work has been undertaken to implement the recommendations of the AG. The Office moved to tracking statistics in order to examine the office function and to monitor movement toward our newly established strategic direction.

Key Performance Measures

- 1. Satisfaction Survey: evaluate the current intake and community partner communication strategy for each client group (i.e. Public Trustee Clients, Public Guardian Clients, Official Guardian minors and deceased client estates).**

In 2020-2021, we conducted a satisfaction survey with service providers that resulted in an overall satisfaction rate of 82% and a dissatisfaction rate of 4%. Areas of strength included the good relationships between our staff and partner agencies and the responsiveness of our staff. The one area that was identified as a potential area of improvement was in the accessibility of information regarding the services we offer.

We have already begun to address the communication issue by placing an emphasis on creating plain language documents. These documents are being provided to new clients during their initial meetings with staff members.

In 2021-2022 we will:

- Develop more accessible information to help inform partner organizations and the community at large about the services we provide including prioritizing making our website more informative;
- Recognize staff for their efforts in building and maintaining relationships with our partner organizations;
- Review all policies and procedures relating to clearly communicating what services we do and do not provide; and
- Continue to develop more plain language documents to assist clients and their family members in understanding our processes and procedures.

2. The PGPT will establish a benchmark minimum interest rate for annual rate of return on client investments

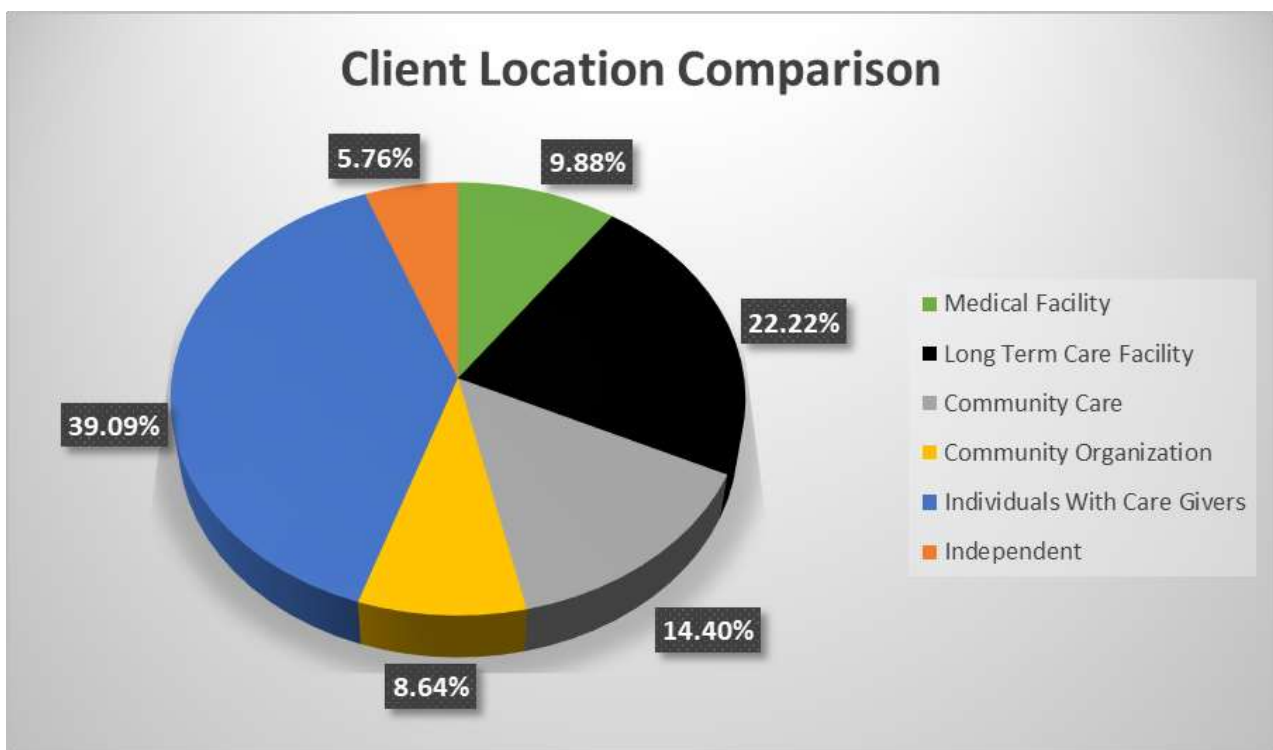
Due to the ongoing pandemic and its destabilizing effects on markets as well as the necessity to take a risk adverse approach to handling trust funds, we were unable to establish a benchmark interest rate for annual returns on client investments over the last year.

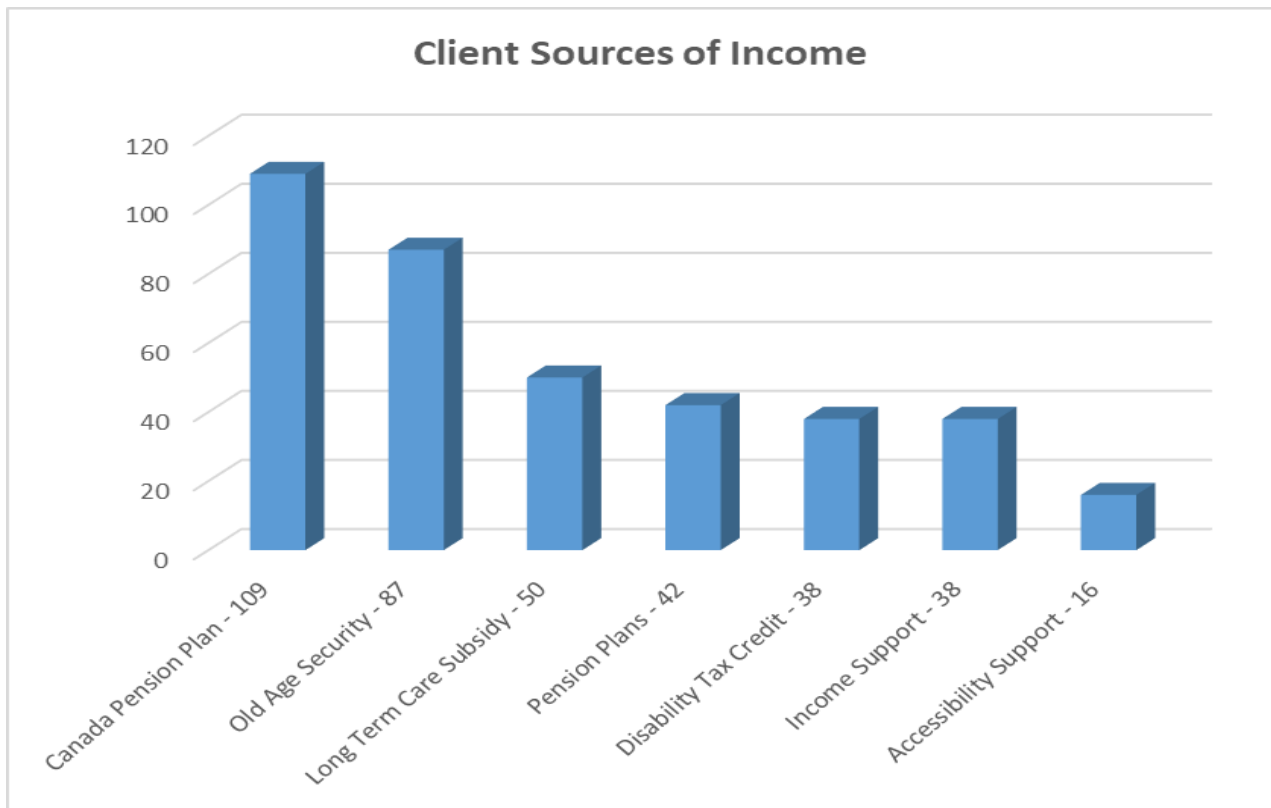
In 2021-2022 we will:

- Watch market interest rates and if the market moves into a more normal phase, establish a minimum interest benchmark for annual rate of return on client investment; and
- Once we are able to establish a minimum, begin reporting annually on client interest status against benchmark comparators.

3. The PGPT will develop broader statistical and risk tracking through the new CompuTrust upgrade and report annually on developing trends

In 2020-2021, we continued to gain access to more statistics through our CompuTrust system. Some of the new statistics include sources of income/subsidies and type of care facility clients reside in.





In 2021-2022 we will:

- Develop broader data sets for tracking statistical client information and trends through the implementation of the software upgrade of CompuTrust;
- Develop and identify process trends and compliance reports to track and identify risks and opportunities; and
- Report annual on trends.