

When reform meets real life

What aged care change means for older people, providers and NSW TG

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Acknowledgement of Country

Our Journey Together by Artist Deahane Fineran



Our purpose

To support the rights, welfare and interests of the people of NSW.

We do this by working with people to plan ahead and to make decisions about their lives.

Legislative framework

Paramountcy principle...

“...the welfare and interests of [represented] persons should be given paramount consideration...”

The role of a guardian

- A guardian is a legally appointed substitute decision maker for health and lifestyle decisions under the (NSW) *Guardianship Act 1987*.
- The role of a guardian is to stand in the shoes of the person and try to make the decisions that the person would have made themselves if they were able to.
- Guardianship is the **last option** if important decisions need to be made and the person does not have capacity to make the decision themselves.
- Decisions are limited to specific areas of the person's life (functions).





The role of a Financial Manager

A financial manager is appointed by a court or tribunal to manage and make substitute decisions about the financial affairs of a person who does not have the ability to make those decisions themselves.

The key functions of a financial manager are to:

- Make a budget, make payments, pay bills.
- Maintain real estate and other property.
- Set up and manage a bank account (trust account).
- Communicate with the person, their family, close friends or guardian about decisions.
- Provide information and support to private financial managers.



Financial
Management



Private Financial
Management

NSW Trustee Services

Estate Planning and Administration

- May be appointed as a attorney , trustee, executor, or estate administrator
- Drafting Will, PoA, Enduring Guardianship documents
- Community education about estate planning

Other NSW Trustee services:

- Managing restrained and forfeited assets
- Trustee of victim support payments
- Holding funds paid into court on an at-call basis
- Act as nominal title holder of assets of the people of NSW from death until grant of probate or administration



Power of Attorney



Enduring
Guardianship



Estate
Administration



Trusts



Will



Will Safe

Service snapshot 2024 -25



At 30 June 2025
we were managing

\$6.86 billion

customer assets



40,081

customer matters



1,981

vehicles



2,735

properties



244

vehicles sold,
purchased or transferred



\$36.6 million

paid from proceeds of sale of
restrained and forfeited
property

600

properties were
sold or purchased



6,037

financial plans/records
of advice developed or reviewed



6,527

tax returns prepared



14,415

estate planning
documents executed

16,009

guardianship decisions made

3,968

medical consents
provided



82

community
education events held



we provided services to
52,000+
customers

2.44 million

transactions



worth
\$3.5 billion

processed for
customers



The promise: rights -based aged care

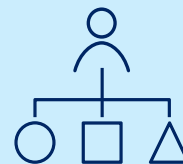
Reform direction and why it matters for complex lives

The new aged care framework places older people at the centre of their aged care experience and recognises rights, choice, dignity and accountability.

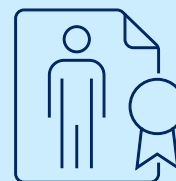
Core challenge: a rights -based system must also work for older people who cannot easily assert their own rights.



Rights and dignity



Choice and control



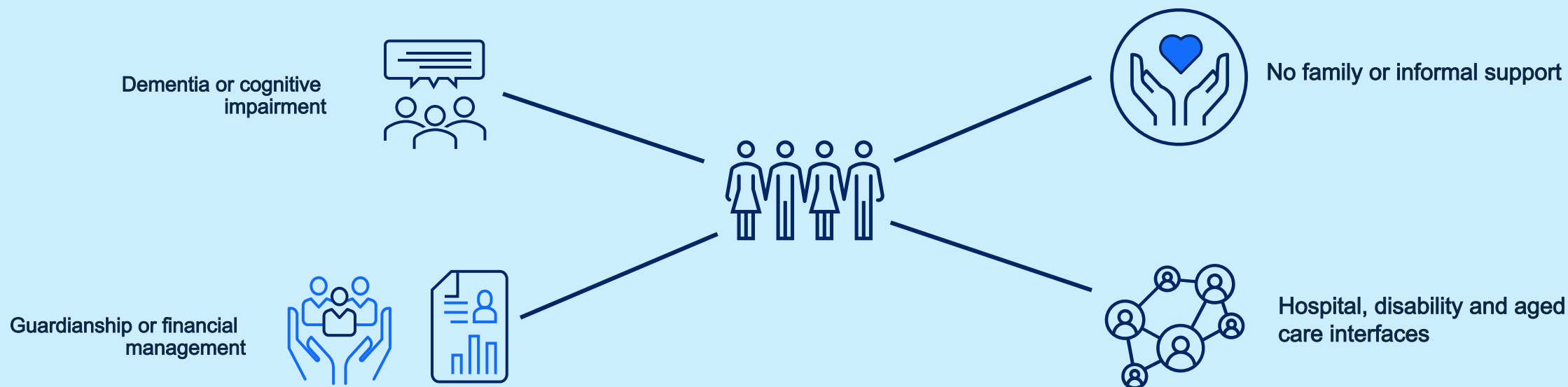
Provider accountability



Safeguards

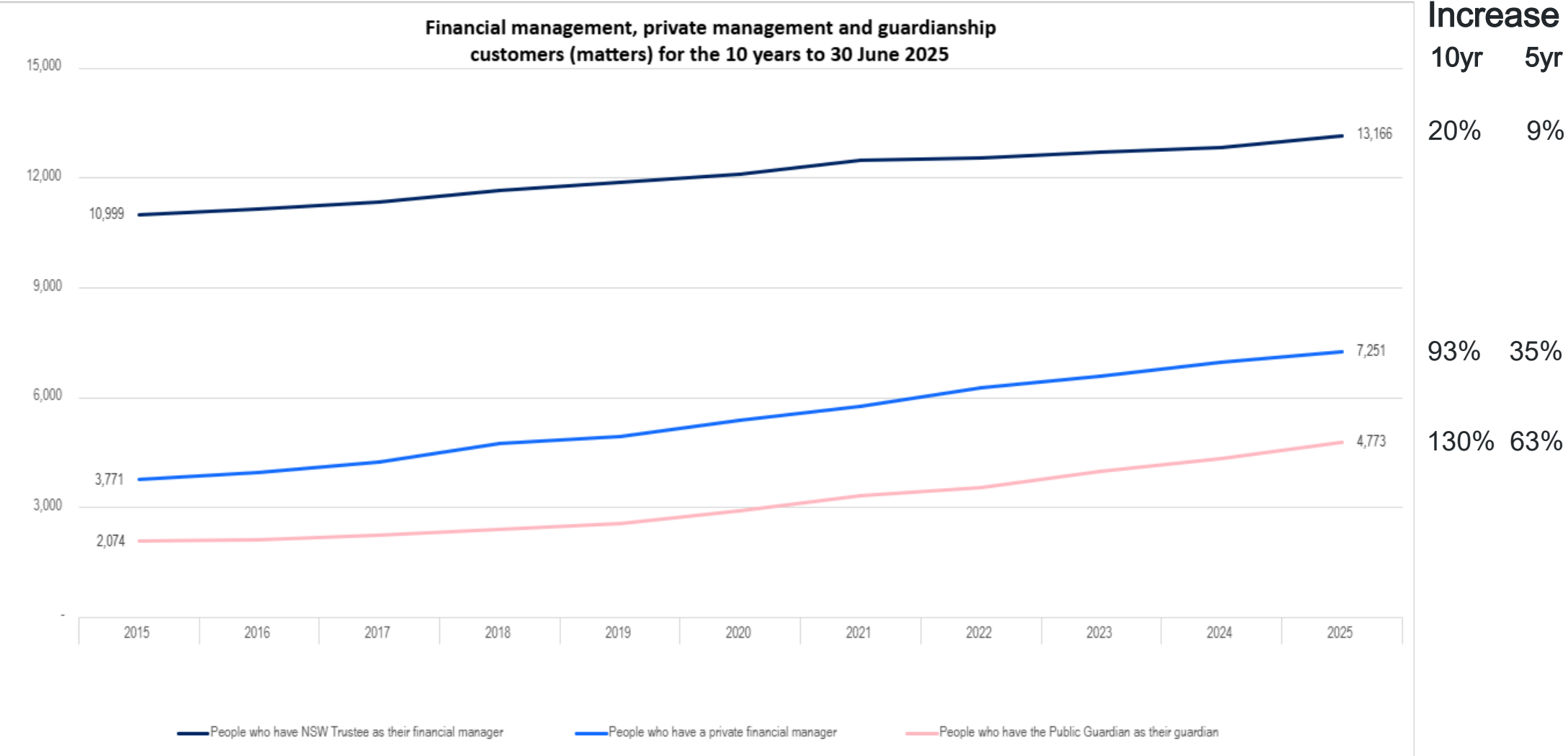
The older people most at risk of being left behind

The real test of reform is the person with the least system power



If reform only works for people with capacity, money, family support and digital confidence, it has not fully succeeded.

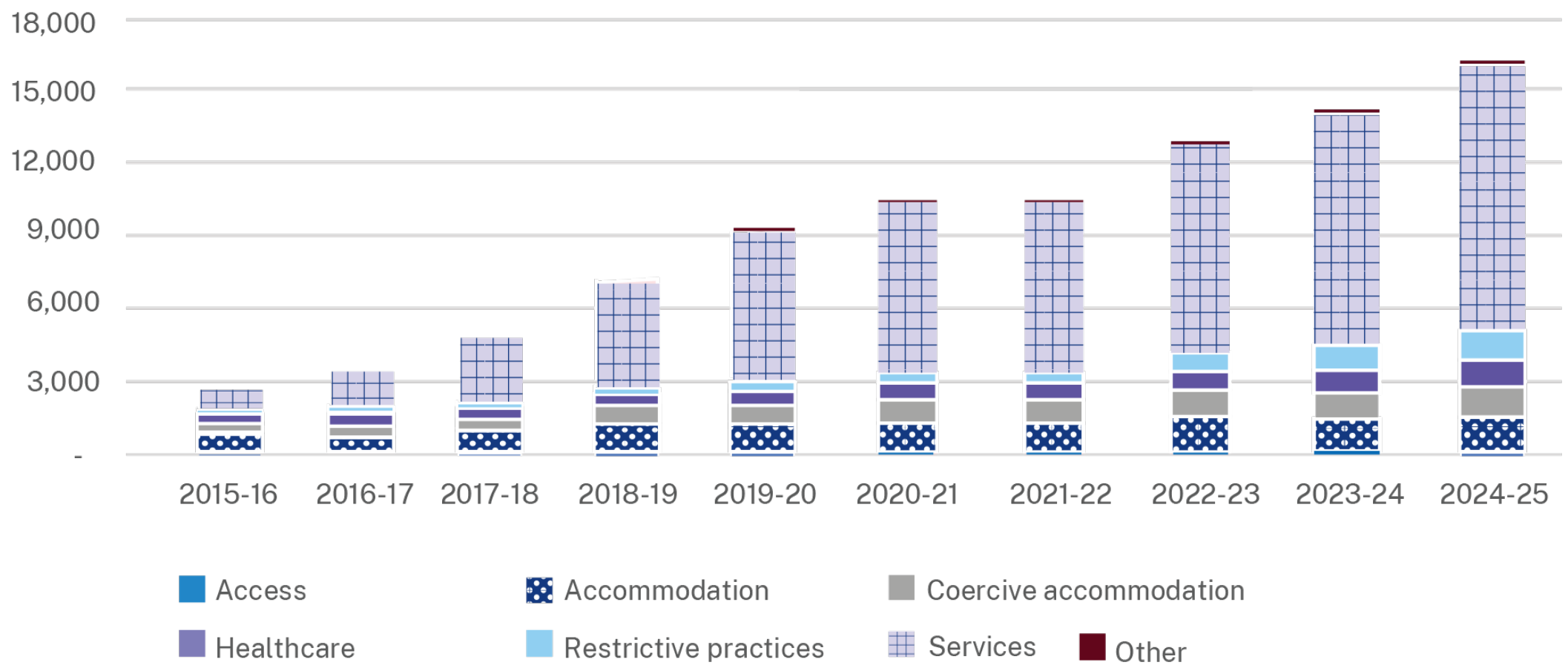
What are we seeing at NSW TG?



What are we seeing at NSW TG?



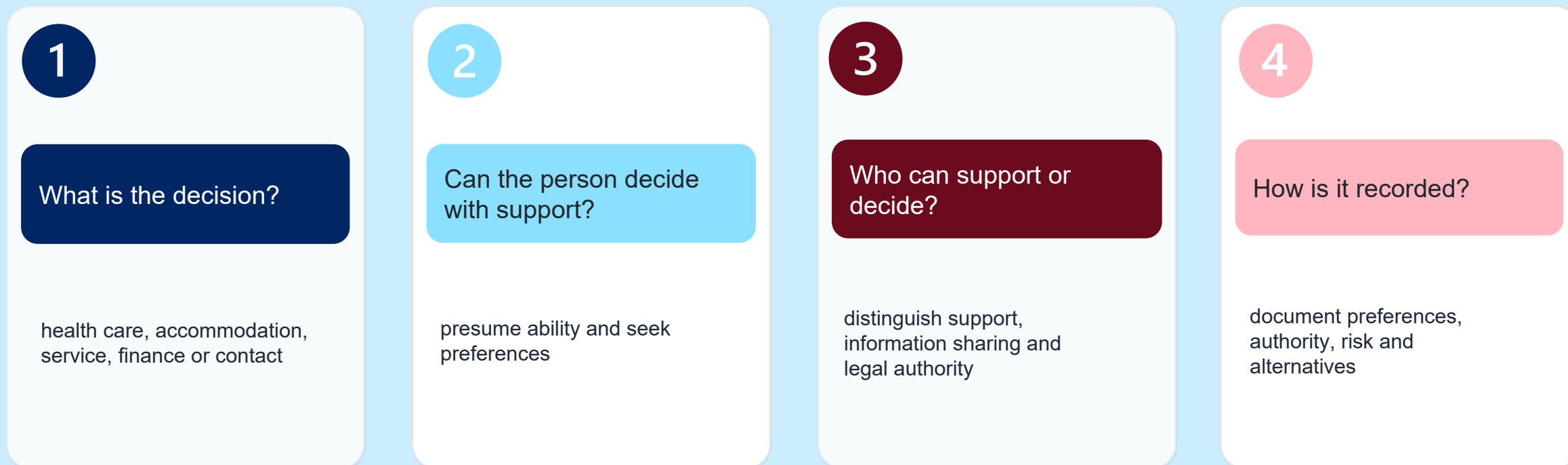
Increase in Guardianship customer decisions for the ten years to 30 June 2025



Supported decision -making: promise and practice



Support should keep the person at the centre, not blur accountability



Done well, supported decision -making expands agency. Done poorly, it creates confusion about who can consent, support or decide.

Restrictive practices: intent versus impact

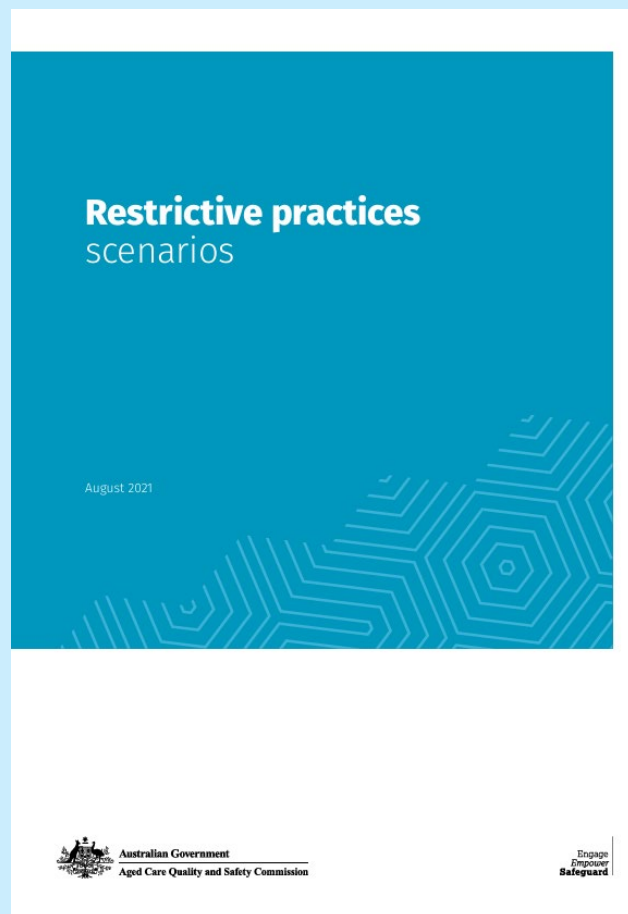
Are we protecting one human right by taking away another?

The NDIS and aged care legislation each defines a 'restrictive practice' to be 'any practice or intervention that has the effect of restricting the rights or freedom of movement of' the relevant person.

The Commonwealth NDIS rules and the aged care 'Quality of Care Principles' each then define particular restrictive practices.

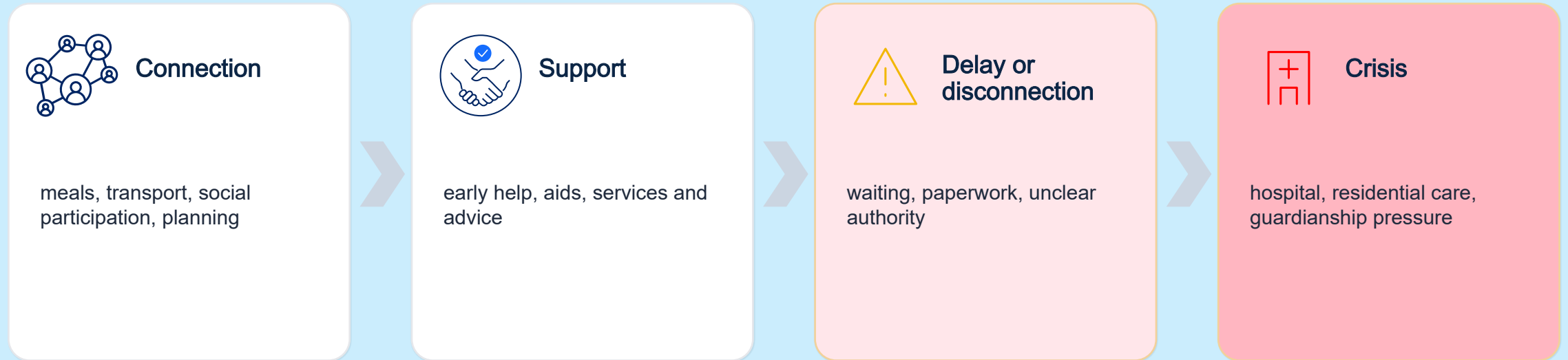
While the broad definitions in federal regulations largely align, there remain ongoing practice challenges in identifying whether particular interventions satisfy the relevant legislative criterion.

For instance, does the use of a locked keypad front door – a standard feature of residential aged care facilities – always constitute an environmental restraint?



Independence, vulnerability and prevention

Early support is both humane and economically sensible



The system should ask: what support prevents decline before formal crisis pathways are triggered?

What the evidence is telling us

Abuse, neglect and exploitation are not edge cases

17,342

calls to the Ageing and Disability
Abuse Helpline

ADC Annual Report 2024 -25

5,864

statutory reports about adults with
disability or older people who were
alleged to be subject to, or at risk of,
abuse, neglect or exploitation.

ADC Annual Report 2024 -25

504

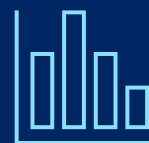
Abuse enquiries – contacts that relate
to abuse, neglect and exploitation, but
do not meet the criteria of a statutory
report.

ADC Annual Report 2024 -25

607

general enquiries - contacts that do
not involve abuse, neglect or
exploitation, such as requests for
publications.

ADC Annual Report 2024 -25



Research from the
University of NSW Social
Policy Research Centre
(SPRC) looked at 474
reports made to the
NSW Ageing and
Disability Commission.

- **73%** involved a failure to meet the person's support needs, such as their personal care, mobility, or other support need.
- **33%** involved alleged medical neglect, such as a failure to get medical assistance, provide prescribed medication, or follow -up on recommended treatment.
- **38%** of reports, the person experienced 'serious neglect'. This was where: the person was very unwell or critically unwell at the time of the report to the ADC, and/or the allegations included that there was a 'failure to provide the necessities of life', and/or the case had been referred to police by the ADC in relation to neglect, and/or the person died prior to case closure and related to the neglect event(s).

....many reports involved more than one form of neglect...

What are we collectively doing to address these matters and what more can we do?

A practical call to action



Reform meets real life
where the person has the least
power.

That is where our shared work
matters most.

