

ASpire – Financial Harm Affecting Older Adults



Presented by: Fiona Brown, Public Guardian
Date: 27 February 2025

Office of the
Public Guardian (Scotland)



Agenda

Office of the
Public Guardian (Scotland)



OPG - Who we are and what we do

Powers of Attorney

Investigations

Adult Support & Protection

Guardianship, Intervention Order & Access to Funds

Questions

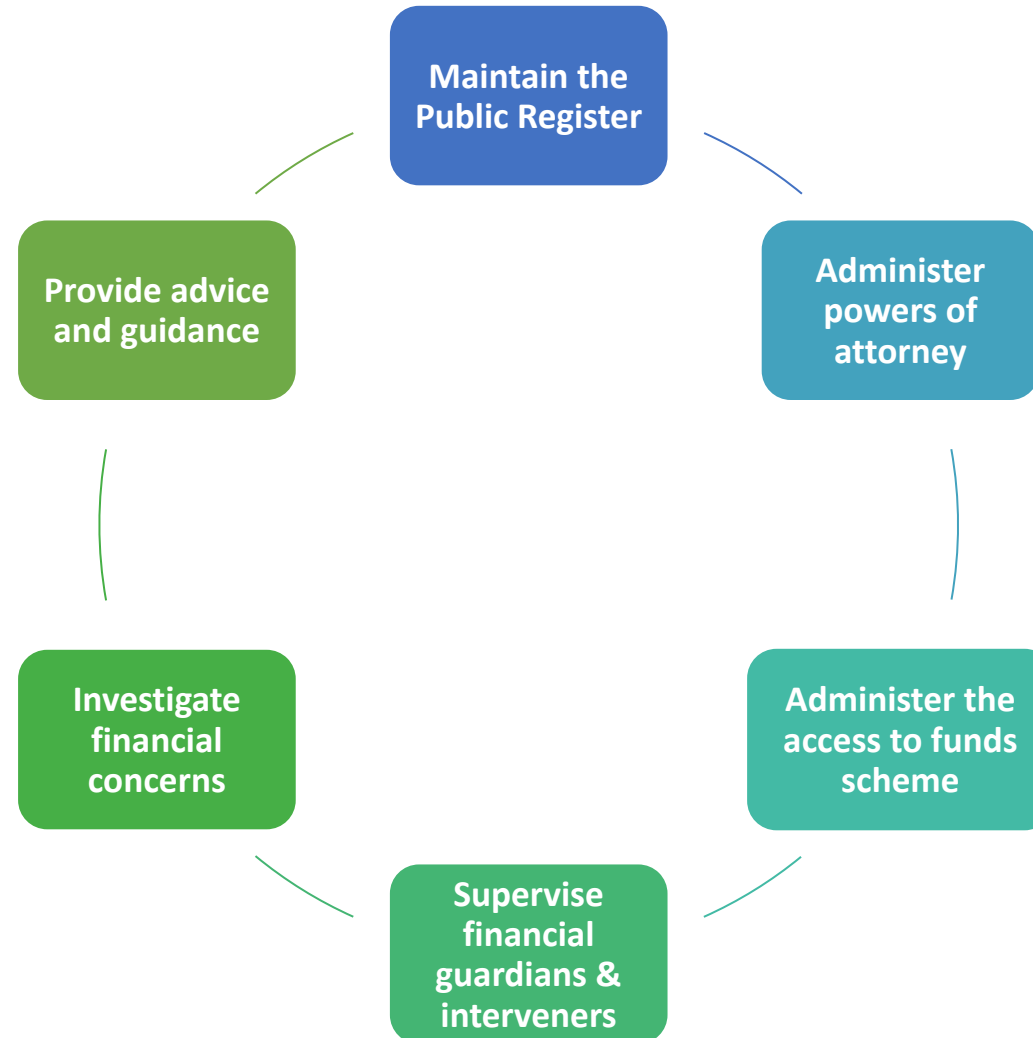
About OPG

- Based in Falkirk
- 110 permanent members of staff
- Have a National remit
- Authority from the Adults with Incapacity (Scotland) Act 2000
- Some ASP responsibilities
- Primarily a financial focus.



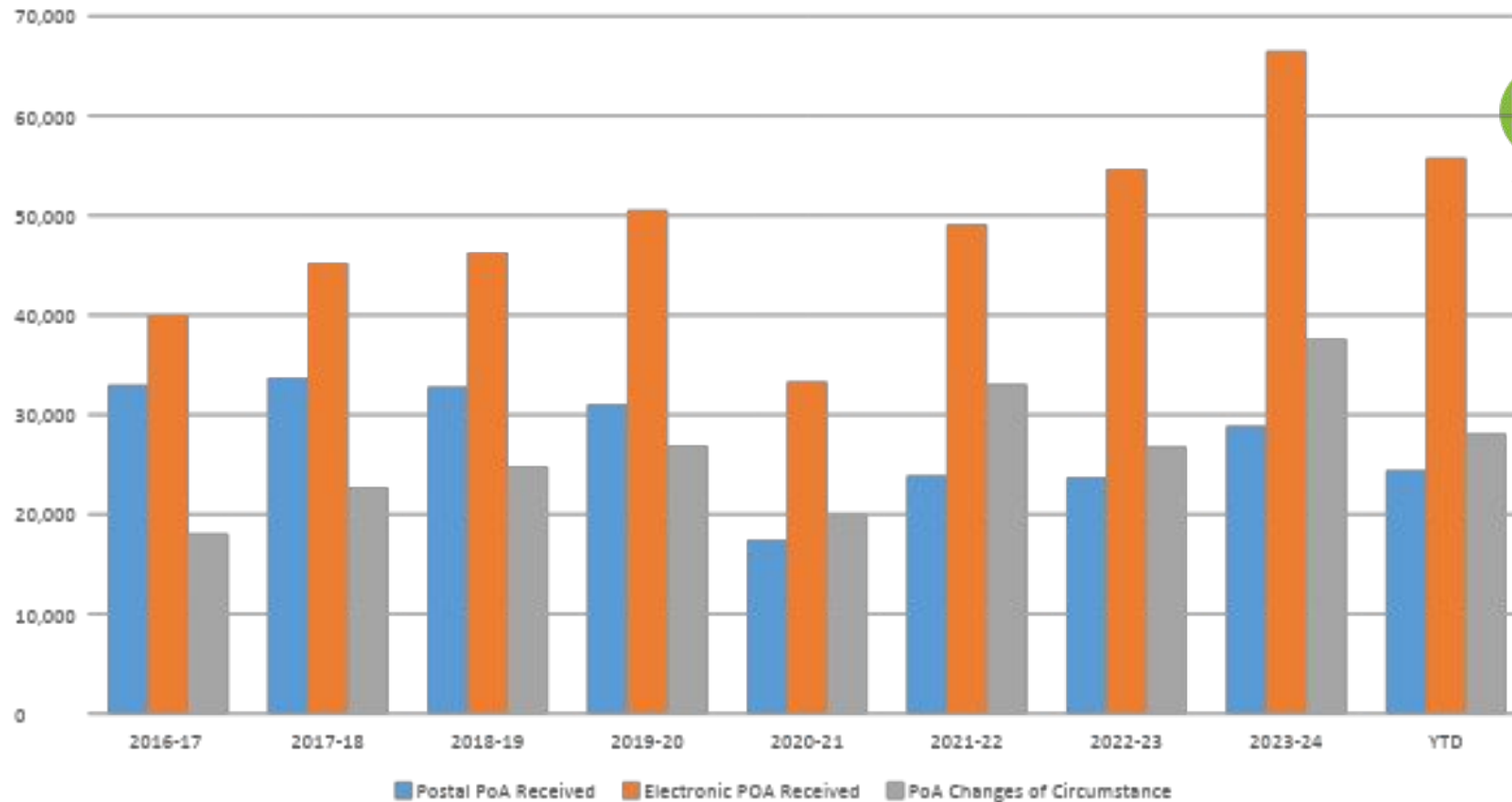
OPG - What we do

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Power of Attorney

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Investigations

Part 1 – Section 6 of AWI

OPG receive and investigate any complaints regarding the exercise of functions relating to the property or financial affairs of an adult



Common Concerns

Examples of common concerns:

- Failure to pay care costs
- Welfare concerns – often with financial links
- Late payment of bills
- Failure to furnish financial information
- Lack of consultation with Interested parties
- OPG identify risk during annual review in gua cases

Making a Referral

- Financial concern
- Complete OPG's investigation referral form
- Provide as much information and evidence as you can
- Email OPG POA-INV@scotcourts.gov.uk
- Contact OPG on 01324 678300

Adults with Incapacity (Scotland) Act 2000

Investigation referral form



Please refer to our [guidance for information](#) about making a referral. This explains more about what we can investigate and what we do. When completing the referral form, provide as much information and evidence as you can to support your concerns. This will help us establish whether we have a remit to commence an investigation. We are required by law to report the facts and circumstances to the local authority if we reasonably consider the adult to be at risk.

1.0 Your details

| | |
|---|----------------------|
| Name: | <input type="text"/> |
| Address: | <input type="text"/> |
| Postcode: | <input type="text"/> |
| Telephone number: | <input type="text"/> |
| E-mail address: | <input type="text"/> |
| Relationship to adult: | <input type="text"/> |
| Please provide your details if completing this referral in your professional capacity | |
| Job title: | <input type="text"/> |
| Organisation: | <input type="text"/> |

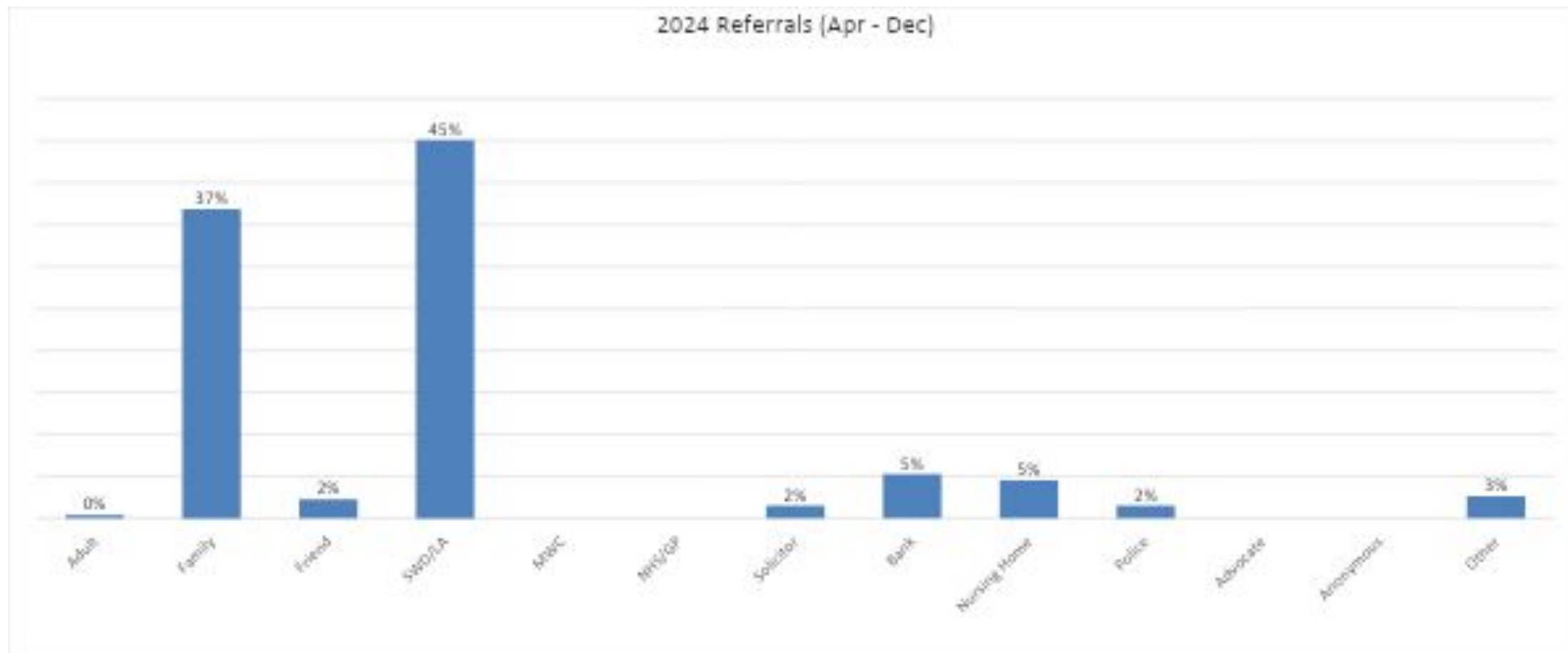
2.1 Details of the adult

| | |
|----------------------------|----------------------|
| Name: | <input type="text"/> |
| Date of birth: | <input type="text"/> |
| National insurance number: | <input type="text"/> |

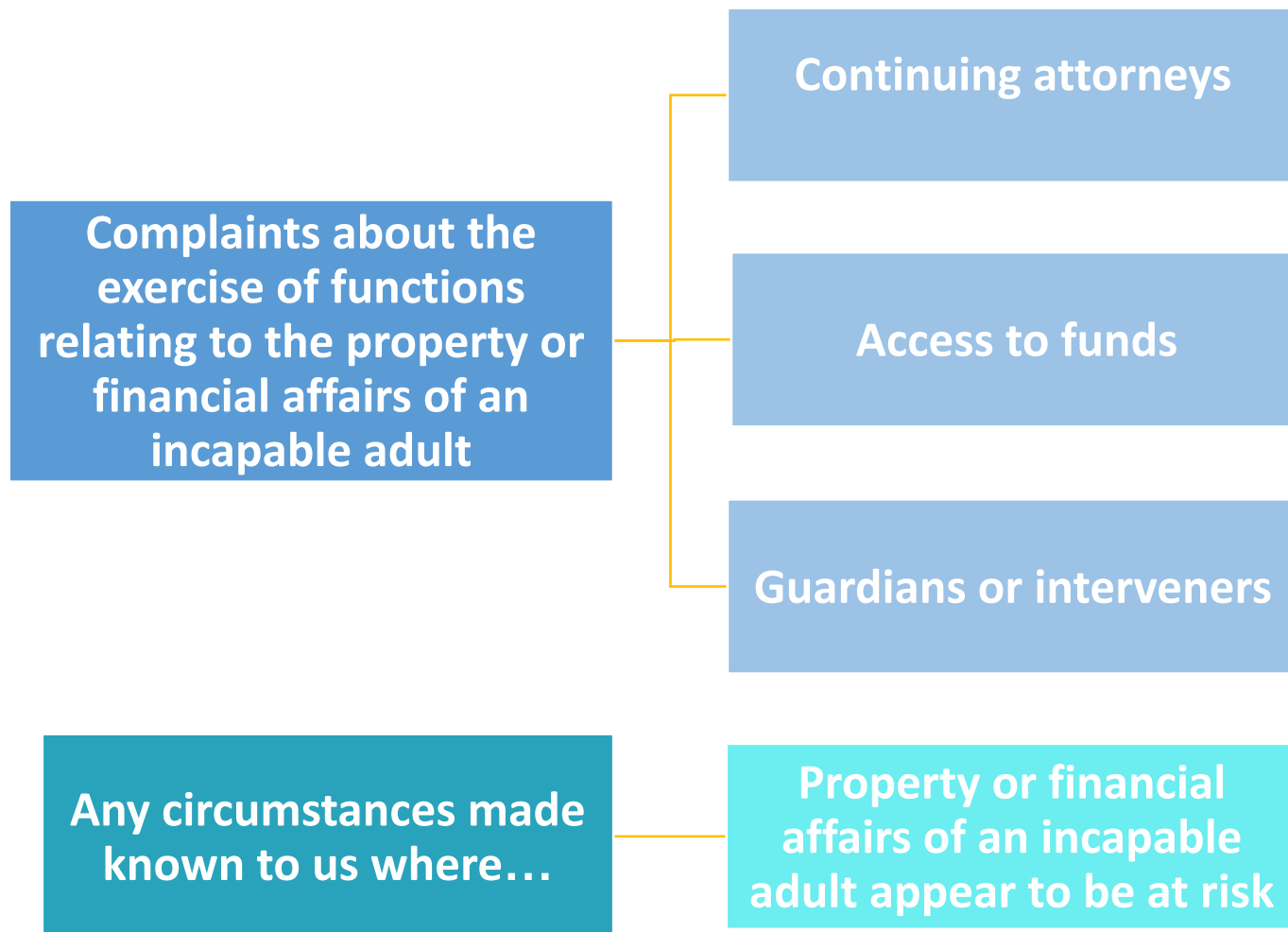
2.2 Adult's home address

| | | | | |
|--|-------------------------------------|--------------------------|--------------------------|-----------|
| Home address: | <input type="text"/> | | | |
| Post code: | <input type="text"/> | Y | N | Not known |
| Is the adult currently living at this address? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Does the adult own this property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Does the adult own any other property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Is there a charging order on any property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Tell us about any other property owned by the adult: | | | | |
| <input type="text"/> | | | | |

Who sends us a referral



When we can Investigate





What we can't Investigate

- Personal welfare concerns
- Adult is capable or capable but vulnerable
- Adult is deceased
- Historic issues
- Recovering lost or misused funds
- Deprivation of capital concerns



Potential Outcomes

No risk ID or Family Dynamics Issues

- Advice and guidance provided to attorney

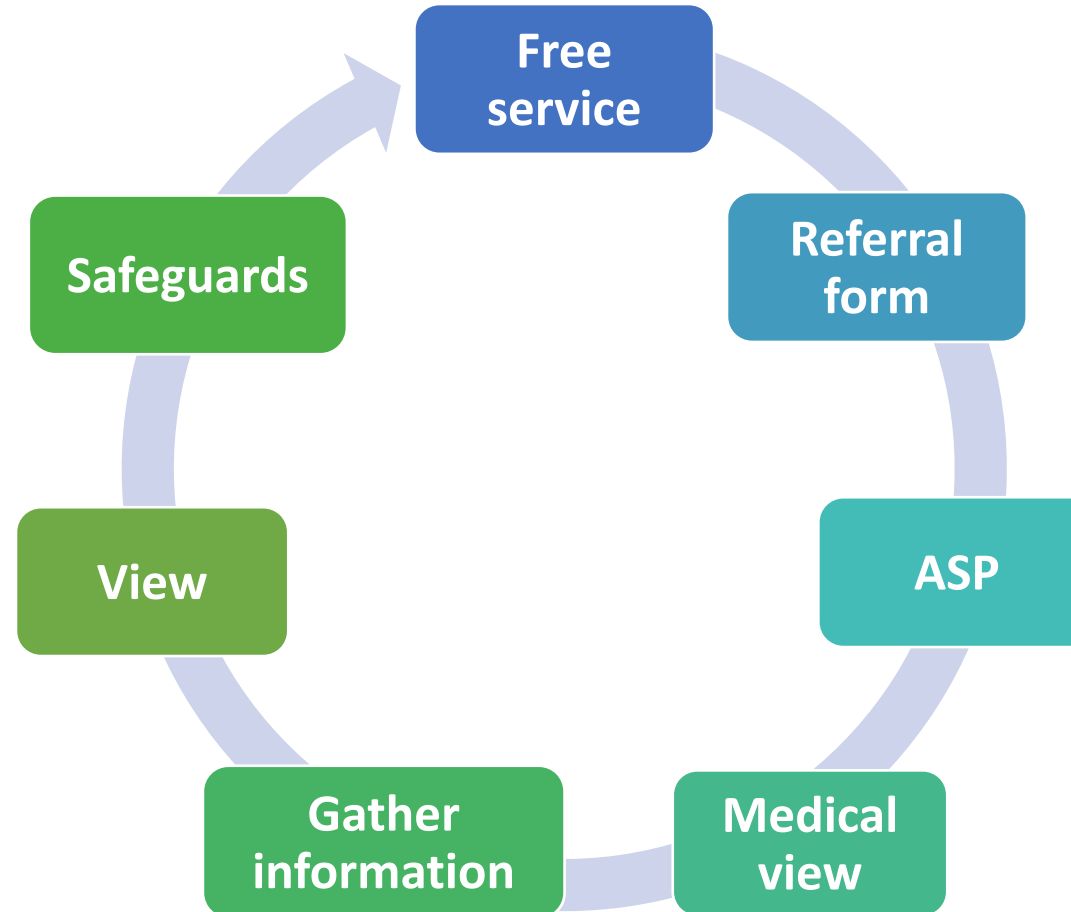
Risk established

- Safeguards applied
- Attorney may resign
- Application to Court for Removal
- Referral to Police Scotland



Investigation Overview

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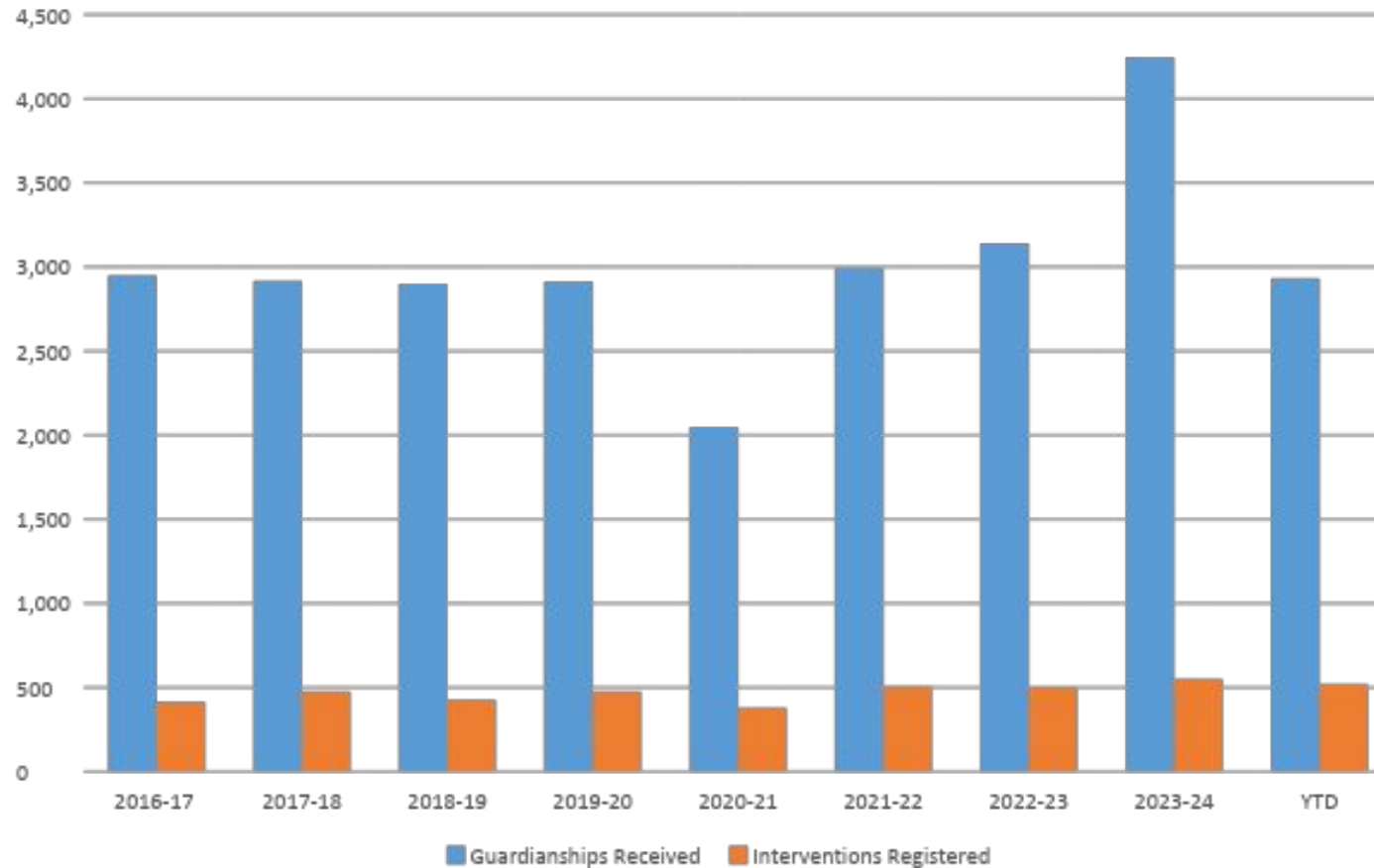


ASP Role

Key responsibility for OPG, under ASP is to assist and co-operate with local authorities and other statutory bodies. We do this by:

- Carrying out public register searches and supplying relevant information for local and national cases
- Taking part in local case conferences, where required
- Assisting with significant case reviews
- Advising the LA when we commence/conclude an investigation
- Making ASP referrals where appropriate
- Offering training and support to Stakeholders

Guardianship & Intervention Orders



Supervision



Concerns about a Guardian, Intervener or Withdrawer

- Inventory and Management Plan not provided or insufficient information – an early red flag
- Annual Accounts issues or avoidance all ID potential abuse
- Internal Process - Risk Register and escalation
- ASP

Access to Funds (ATF)

- Incapable adult
- Non-complex estates – as guardianship not the least restrictive option
- Individuals or organisations can apply
- Can pay day to day living expenses
- Can vary amount to be intromitted with
- OPG Monitor Withdrawers
- Proposals to change under Reform



Potential Outcomes

After investigation - no risk established

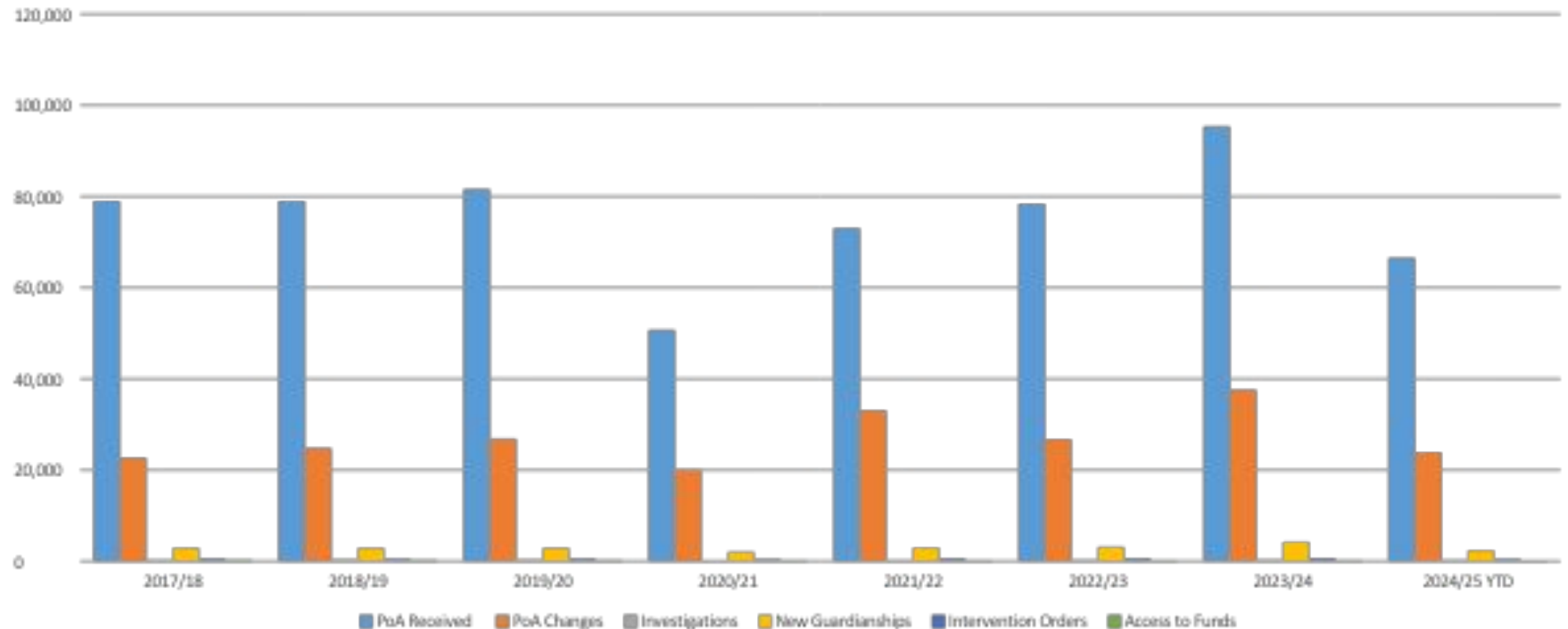
- Advice and guidance

Risk established

- Safeguards applied
- Resignation sought, or
- Application to court for removal and replacement
- Referral to Police Scotland
- Possible caution claim in Gua



Business Trends



What can we do for you!

In addition to ASP assistance previously mentioned, don't forget OPG can:

- Carry out a Public Register Search if you are unsure if a legal proxy is appointed, or who it is
- Some statutory bodies may be entitled to copy deeds and orders
- OPG investigation powers can be utilised for speedier safeguards and access to financial records e.g. Police need a warrant for statements
- We offer outreach/training in your areas
- General advice, assistance or a second opinion

Our ask of you!

1st and foremost – your expertise! but

Please also inform us if you have a suspicion of financial abuse where there are concerns re:

- An attorney
- A financial guardian
- A financial intervener
- A withdrawer (ATF)

Please remember when risk is identified in welfare cases, finances can also be at risk (and visa versa) & keep us posted on your own investigations

Please use new form to request public register search

Questions

Office of the Public Guardian

Email: opg@scotcourts.gov.uk

Website: www.publicguardian-scotland.gov.uk

X (formerly known as Twitter) @OPGScotland

