



Office of the Public Trustee

Annual Report

2015-2016



September 11, 2017

The Honourable Mark Furey
Attorney General and Minister of Justice
Department of Justice
Province of Nova Scotia
1690 Hollis Street, P.O. Box 7
Halifax, Nova Scotia B3J 1A1

Dear Minister Furey:

Pursuant to Section 47 of the *Public Trustee Act*, I submit this Annual Report for the fiscal period ending March 31, 2016.

Yours very truly,



Shannon Ingraham-Christie, BBA LLB
Public Trustee of Nova Scotia

SIC/lb
Encl.

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MESSAGE FROM THE PUBLIC TRUSTEE

The period April 1, 2015 to March 31, 2016 was busy in the Office of the Public Trustee. Effective November 1, 2014, former long-time Public Trustee, Estelle Theriault, retired. I filled her position as Acting Public Trustee from November 1, 2014 to June 16, 2015, when I had the honour of being appointed Public Trustee of Nova Scotia.

The Public Trustee protects the interests of the most vulnerable people in our society; minor children, missing persons and incompetent adults. We do this by providing professional and cost-effective guardian, custodian and trustee services in a variety of situations. We also administer the estates of deceased persons and we are the substitute decision maker of last resort for incompetent persons who need personal care or non-emergency medical care and are not able to consent to same on their own behalf. We become involved through orders issued by a court, appointments under various laws and in some cases when appointed under a will, power of attorney document or trust. Generally, we become involved when it is determined there is no one else willing or able to act.

The Public Trustee Office has a staff of twenty-five individuals although we ended this fiscal year with only 23 positions filled. The Office of the Public Trustee is located in Halifax. It renders services throughout Nova Scotia. No additional staff were hired during the fiscal year, although a review of cases under management continues to show an increasing demand for the Public Trustee's services.

In preparing this report, I reviewed Estelle Theriault's first report dated March 31, 1992, and made the following observations:

	<u>March 31, 1992</u>	<u>March 31, 2016</u>
Client Numbers:	529	1720
Value of Assets under trustee management:	\$10,964	\$56,830,441
Staff numbers:	11.5	23 (of 25 FTE's)
Revenue Earned:	\$290,226	\$971,672

The Public Trustee has always been regarded as a public resource for information about guardianship, trust administration, the administration of deceased estates, estate litigation representation and the law pertaining to healthcare decisions for incompetent persons and the elderly. Information requests are received from many sources including lawyers, social workers, law enforcement officers and the general public. Many individuals are referred to us by the Probate Courts.

We strive to provide accurate general information about the issues raised. Due to the high cost of retaining legal services, many individuals are trying to find free legal information that will help them understand and resolve the problems they face. Access to justice is currently an issue throughout Canada. These calls put pressure upon our already limited legal resources. However, many the enquiry calls and letters we receive pertain to cases that potentially could become Public Trustee files. These calls help identify the matters that should be further investigated by the Public Trustee and the matters that can be managed in the private sector. The number of enquiry calls we are receiving is increasing from year to year.

We continue to see that the management of estates for incompetent adults is our largest file category. As the average age of the population of Nova Scotia continues to increase, the Public Trustee forecasts that the request for financial management of the estates of incompetent adults will continue to increase. The Public Trustee will need additional staff and resources to meet this demand.

We continue to observe that the more complex and demanding files are often referred to the Public Trustee. These files are referred to our office by the judiciary, hospital staff, social service agencies, financial institutions and the general public. The Public Trustee has a competent, well trained, experienced and hard-working staff. They find solutions where most would not. The people of Nova Scotia are well served by them.



Shannon Ingraham-Christie
Public Trustee of Nova Scotia

PUBLIC TRUSTEE PROGRAM OF NOVA SCOTIA

MISSION

The Public Trustee is committed to the proper administration of estates of deceased persons, incompetent persons, children and missing persons. It is also committed to providing informed consents for health care, placement in continuing care homes and the provision of home care services using an approach that is client-oriented, respectful of human rights and freedoms and in the client's best interests if prior wishes, values and beliefs are not known.

ORGANIZATION

The Public Trustee Office is a corporation sole, created pursuant to the *Public Trustee Act*.

A 'corporation sole' is a legal entity consisting of a single incorporated office that is occupied by a single natural person.

The Office of the Public Trustee has perpetual succession and an official seal. It may sue and be sued in its corporate name. The person appointed to be Public Trustee has the status of a Deputy Head. They must be a lawyer with a minimum of ten years practising experience and in good standing with the Nova Scotia Barrister's Society. For administration purposes, the Public Trustee reports to the Attorney General.

Fully complemented, the Office of the Public Trustee has a staff of 25. During this fiscal period, we were operating with a staff of 23, which consisted of the following:

- the Public Trustee
- three lawyers
- five trust officers
- three health care consultants
- support staff

Although our office is located at 5670 Spring Garden Road, Halifax, Nova Scotia the Public Trustee's jurisdiction is province wide.

The Public Trustee may perform the duties of and be a guardian, custodian of property, trustee, personal representative of deceased estates and for healthcare purposes substitute decision

maker of last resort, under numerous pieces of legislation, including the following:

- *Public Trustee Act*
- *Hospitals Act*
- *Personal Directives Act*
- *Patient's Abandoned Property Act*
- *Adult Protection Act*
- *Guardianship Act*
- *Incompetent Persons Act*
- *Probate Act*
- *Presumption of Death Act*
- *Survival of Actions Act*
- *Involuntary Psychiatric Treatment Act* and
- *Residential Tenancies Act*

Generally, the Public Trustee:

- manages the property and finances of living adults and minor children who need the services of a trustee, guardian, attorney or other fiduciary that are not readily available to them in the private sector;
- acts as custodian of the property of missing persons;
- administers the estates of deceased persons and has standing to apply for a Grant of Administration or Administration with Will Annexed in cases where no Grant of Probate or Administration has been issued;
- may consent to health care and long-term care facility placement decisions for incapable persons when consent cannot be obtained from the person, a named health care decision maker, a court appointed guardian of the person or a statutory decision maker; and
- may act as guardian *ad litem* or legal representative in litigation involving minors, incompetent, deceased, missing or unascertained litigants.

ACTIVE CASES

During this fiscal year, we opened 381 new files and we closed 266 files leaving us with a total of 1720 active files, up from the total of 1321 files we were managing at the end of 2012. I refer you to Schedules "A", "B", and "D" attached hereto. These schedules set out the different categories of files that the Public Trustee manages, the number of files in each category that have been opened and closed during the fiscal year and the number of active files at year end.

Our largest category of files are Adult Living Estate files at 498. Our second largest category of files are Infant Living Estate files at 164 and the third largest category of files are Deceased Estate files at 156.

We renounced our right to administer 87 deceased estates this year. When Estelle Theriault retired, we were already short staffed by one lawyer. Her leaving effectively meant we were down to 2 lawyers in the office, including myself. One of the solicitor positions was filled, leaving us short staffed by only one lawyer. Fees earned from the administration of deceased estates is the main source of revenue for our office. An increase in the number of renunciations is an indication of lost revenue to our office.

We continue to see a growth in the number of consent to medical treatment files in our office. Knowledge of the services provided by our Health Care Consultants has continued to grow. The Public Trustee is the substitute decision maker of last resort for individuals who have been assessed and determined to lack capacity to make their own decisions concerning health care and placement in continuing care facilities. As of March 31, 2016, the Public Trustee had 449 cases compared to 425 cases at March 31, 2015.

We opened 484 enquiry files during this fiscal period and note that the volume of materials and number of calls received on each enquiry file is increasing.

REVENUE AND COSTS OF PROGRAM

Pursuant to the *Public Trustee Act* and the regulations thereto, the Public Trustee is entitled to charge for its legal, trustee and guardianship services. The Public Trustee is also entitled to receive administration fees when it acts as personal representative of a deceased estate. The Public Trustee does not earn any revenue for providing general advice on enquiry files nor does it earn any fees for acting as substitute decision maker of last resort and providing consents for medical treatment.

On an annual basis, the government forecasts what income the Public Trustee may earn for its services. This income is very important as it off-sets the cost of running the office.

During the fiscal year ending March 31, 2016, it was forecasted that the Public Trustee would earn \$900,000.00 in legal, administrative and trustee fees. The Public Trustee exceeded this goal, earning \$971,672.00 (excluding accruals) during the fiscal year. These fees have been transferred to the Department of Finance.

The Public Trustee recovered \$17,276.00 from its clients for disbursements including photocopy and postage fees incurred in carrying out our duties and responsibilities to our clients during the fiscal year.

The Public Trustee also earned income in its Special Reserve Fund in the amount of \$100,893.00. This income has been transferred to the Department of Finance.

If we total the legal, administrative and trustee fees earned by the Public Trustee (excluding accruals), its recovery fees from disbursements and the income earned from its Special Reserve Fund, the total revenue earned by the Office of the Public Trustee totalled \$1,089,841.00 during the fiscal period (see Schedules "E" and "E1" attached hereto).

Public expenditures for the general operating costs of the Public Trustee program, including rent, are funded by allocations from one of the global appropriations voted to the Department of Justice.

Funding sought to operate the Public Trustee Office for the fiscal year ending March 31, 2015 was \$2,375,000.00. The actual cost to operate the office was \$2,192,605.00. In other words, the Public Trustee was \$182,395.00 under budget.

Considering the total cost to operate the office and the revenue earned from all sources by the Office of the Public Trustee, the cost of providing this valuable service (excluding accrued fees) was \$1,102,764.00.

LEGISLATION SIGNIFICANT TO THE PUBLIC TRUSTEE PROGRAM

HOSPITALS ACT

Section 59 and related sections of the *Hospitals Act* proclaimed in force April 1, 1979 created a mechanism whereby the Public Trustee, being notified by a hospital to do so, may "assume management" of the estate of a patient who has been found to be incompetent and has no one to administer his or her property and finances. Hospital officials and community care officials were the leading proponents of this mechanism. It is the source of many of the Public Trustee's growing caseload of adult living estate files. Of the 115-new adult living estate files opened during this fiscal year, 70 or 61% originated from Section 59 *Hospitals Act* referrals.

Many of these referrals are sent to the Public Trustee when the patient is ready for discharge and a long-term care facility bed has been found. The long-term care facility will not accept the patient unless there is a financial trustee available to manage the person's estate and to pay the long-term care facility bills, deal with their taxes, secure their pension(s) and work out their daily rates with the Eligibility Review Unit of the Department of Health and Wellness. By referring the client to the Public Trustee, the placement in the long-term care facility can be achieved, and very often achieved much more quickly, which benefits the patient and helps the hospital free up acute care and emergency room beds. This provides a valuable benefit to the province's health care budget. Unfortunately, we are not able to accept all the section 59 *Hospitals Act* referrals received due to our limited resources. Each of our five Trust Officers carry a case load of approximately 95-105 cases. In our experience, the cases are becoming more complex, often involving individuals who have property located in more than one province and country and with complex family dynamics. We must be cautious in accepting files as it is very important that we have the resources necessary to thoroughly investigate, locate, take control of and protect the assets of our incompetent client's in a timely fashion. If we are not able to do this, assets may be missed, stolen, misappropriated or damaged while technically under our care, thereby exposing our office to a high level of liability.

ADULT PROTECTION ACT

The *Adult Protection Act* came in force in 1985. The purpose of this legislation, as set out in section 2 of the Act, is to provide a means whereby adults who lack the ability to care and fend adequately for themselves can be protected from abuse and neglect.

An "adult in need of protection" is defined in Section 3(b) of the Act as being a person who is sixteen or older and in the premises where he resides

- (i) is a victim of physical abuse, sexual abuse, mental cruelty or a combination thereof, is incapable of protecting himself from it by reason of physical disability or mental infirmity and who refuses, delays or is unable to make provision for his protection;
- or
- (ii) is not receiving adequate care and attention and is unable to care adequately for himself by reason of physical disability or mental infirmity and refuses, delays or is unable to make provision for his adequate care and attention.

When the Minister of Health and Wellness receives a report that a person is an 'adult in need of protection', they must make inquiries into the matter and if they find there are reasonable and probably grounds to believe the adult is in need of protection, they must do an assessment. This may include having a medical practitioner assess the adult. After the assessment, if the

Minister is satisfied the person in an 'adult in need of protection', they assist the person, if the person is willing to accept the assistance, in obtaining services that will help the adult adequately care for themselves or to protect the person from the abuse.

If an adult is being assessed and they refuse to consent to the assessment or a person having care or control of the adult interferes or obstructs the assessment, the Minister will take the matter to court to get an order authorizing entry into the home of the adult to complete the assessment.

Once the assessment is complete, if the Minister is satisfied there are reasonable and probable grounds to believe that a person is an adult in need of protection, they can apply for a court order declaring the person to be an 'adult in need of protection' pursuant to section 9 of the Act.

Pursuant to section 9(3) of the Act, if the court finds that a person is an 'adult in need of protection', they can make an order authorizing the Minister to provide the adult with services, including placement in a facility approved by the Minister, which will enhance the ability of the adult to care and fend adequately for himself or which will protect the adult from abuse or neglect.

Where the court makes an Order pursuant to section 9(3) of the Act, the court may advise the Public Trustee that there appears to be no guardian to act on behalf of the adult in need of protection or that it appears that there is a guardian or a person acting pursuant to a Power of Attorney who is neglecting or dealing with the estate contrary to the best interests of the adult in need of protection pursuant to section 9(4) of the Act. This would allow the Public Trustee to investigate and if appropriate to make application to the court to be appointed guardian of the finances of the individual pursuant to the *Incompetent Persons Act*. No ability to assume immediate management of the assets of the adult in need of protection is conferred to the Public Trustee under this section. And, the Office of the Public Trustee does not have the budget or the staff to make these court applications.

Section 10 of the Act is entitled "Removal for Protection". Sections 10 and 13 are the only sections in the Act that use the term "removal". Section 10 states that when an assessment is made and the Minister is satisfied that there are reasonable and probable grounds to believe that

- (i) the life of a person is in danger;
- (ii) the person is an adult in need of protection; and
- (iii) the person is not mentally competent to decide whether or not to accept the assistance of the Minister or is refusing the assistance by reason of duress,

the Minister may authorize the immediate removal of the person to such place as the Minister considers fit and proper for the protection of the person and the preservation of his life. The Minister then must apply to the Court for an Order declaring that the person is an adult in need of protection under section 9.

Section 13(1) of the Act is entitled, "Public Trustee informed of removal of adult". It states that where an adult is "removed" from the premises where he resides to another place pursuant to this Act and it appears to the Minister that there is an immediate danger of loss of, or damage to, any property of his by reason of his temporary or permanent inability to deal with the property and that no other suitable arrangements have been made or are being made for the purpose, the Minister shall inform the Public Trustee.

Section 13(2) of the Act is entitled, "Powers of Public Trustee". It allows the Public Trustee, if she feels it is appropriate after receiving notice pursuant to section 13(1) of the Act, to assume *immediate management* of the estate of the adult in need of protection and safely keep, preserve and protect it until the happening of a future event. It is not necessary for the Public Trustee to make an application to the court to obtain a guardianship order pursuant to this section.

Shortly after the *Adult Protection Act* was proclaimed in 1988, then Public Trustee M. H. Bushell, Q.C., encountered difficulties with section 9 of the Act. Specifically, that 9(4) of the Act did not enhance the Public Trustee's standing to apply for a guardianship order nor did it confer upon the Public Trustee any immediate authority to undertake even a limited administration of the estate of the adult in need of protection. Mr. Bushell lobbied the government to amend section 9 so that when a Notice was received pursuant to section 9(4) it was the equivalent of receiving a Notice pursuant to section 13. That is to say, authorizing and empowering the Public Trustee to assume immediate management of the adult's estate. The Legislative Committee of Cabinet reviewed this request but decided not to proceed. This issue was revisited again in 1990, 1993 and again in 2004 but no changes have been made to the legislation.

The Public Trustee has seen a decline in referrals from Adult Protection Services. Of the 115 new adult living estates opened in this fiscal year, only 24 or 21% came from Adult Protection as they are aware we lack the statutory authority to assume immediate management of the property and finances of individuals who have been determined by the courts to be 'adults in need of protection' but were not "removed" from their homes pursuant to section 10 of the Act.

PERSONAL DIRECTIVES ACT

The *Personal Directives Act* was proclaimed on April 1, 2010. This legislation enables Nova Scotians to document their wishes concerning personal care and health care. An individual can now name who they wish to make personal care and health care decisions for them if, in the future, they are found to be incapable of doing so. If an individual does not prepare a Personal Directive the legislation provides a hierarchal list of statutory decision makers to make decisions regarding health care, placement in a continuing care homes and home care for the mentally incapable person. The Public Trustee is named the substitute decision maker of last resort on this list.

If a Delegate named in a Personal Directive or a Substitute Decision Maker makes a decision on behalf of a mentally incapable person to accept an offer of placement in a continuing care home or regarding the provision of home care services and it is discovered that the individual also lacks the capacity to manage their property and finances and they have no financial guardian or Attorney acting pursuant to an Enduring Power of Attorney document, the *Personal Directives Act* establishes a mechanism whereby a statutory notice may be sent to the Public Trustee. The legislation allows the Public Trustee to then investigate whether the individual needs a guardian of his property and finances. If the Public Trustee determines its services are required, the Public Trustee can immediately become statutory guardian of the individual's property and finances. It is not necessary to make a court application to assume the authority as the authority is given under the legislation.

This has been a source of additional requests for the Public Trustee's services as statutory guardian of property and finances. Of the 115 adult living estate files opened during this fiscal period, 18 or 16% were opened pursuant to the *Personal Directives Act*. It is anticipated that the number of files opened pursuant to the *Personal Directives Act* will continue to increase each year as the legislation becomes better understood by long-term care facility staff, continuing care workers, adult protection workers and social workers generally. Staff in our Health Care Decisions Division have been actively conducting educational sessions around the province concerning the *Personal Directives Act*.

POWERS OF ATTORNEY ACT

Enacted in 1988 to validate "Enduring Powers of Attorney" the *Powers of Attorney Act*, c.352, R.S.N.S. 1989 contains references to the Public Trustee. Section 4 provides that the Attorney named in the document and not the Public Trustee shall administer a patient's estate pursuant to S.59 of the *Hospitals Act*, if the instrument of enduring power of attorney includes a provision expressly excluding the operation of subsection (2) of Section 59 and the attorney wishes to act.

Subsection (2) of s. 5 provides that an Attorney shall, when the court so orders, submit his accounts to the Public Trustee for approval.

Subsection (3) of s. 5 provides that an attorney may apply to the court for an order substituting another person as attorney upon giving notice of the application to the Public Trustee.

Subsection (4) of s. 5 provides that if an attorney voluntarily submits his accounts to the Public Trustee the Public Trustee "shall consider the accounts when submitted". However, the legislation does not give the Public Trustee the authority to order money be repaid by and Attorney appointed under an Enduring Power of Attorney document if after reviewing the accounts the Public Trustee finds any problems or discrepancies. Nor does this legislation or the *Public Trustee Act* give the Public Trustee any powers of investigation or the ability to order the Attorney to provide them with additional information.

The Public Trustee received many calls from the public during the fiscal year seeking general information about Enduring Powers of Attorney and reporting suspicious or fraudulent conduct on behalf of attorneys. Many of these calls dealt with questions of accountability and the concerns individuals have on the way the attorney was managing the trust funds. Of the 115 adult living estate files opened during this fiscal period, 3 were opened as an individual named the Public Trustee as their Attorney in their Enduring Power of Attorney document or an application was made to the court pursuant to section 5 of the Act to have the Public Trustee substituted as Attorney.

The Public Trustee does not have the legislative authority or resources to investigate private power of attorney relationships.

HEALTH CARE DECISIONS

The Public Trustee acts as the substitute decision maker of last resort for health care decisions for mentally incapacitated persons. The authority to do so is found in the *Hospitals Act*, the *Involuntary Psychiatric Treatment Act* and the *Personal Directives Act*.

The *Personal Directives Act* also empowers the Public Trustee to serve as substitute decision maker of last resort to make decisions concerning the provision of home care services, placement in a continuing care home and health care.

The Public Trustee's Health Care Decisions Division reviews all requests for consent. The Division has a Coordinator and two Health Care Consultants. The Coordinator and Health Care Consultants can provide consent to Level-1 and Level-2 health care decisions and the Public Trustee provides consent to Level-3 health care decisions, such as consent for amputations.

Detailed policy and procedures were developed to guide the Health Care Consultants in their deliberations. Underpinning the Health Care Decisions Division policies are the *best interest principles* and the *principle of informed consent*.

Health Care Decision Division policies also employ the four commonly held principles of health care ethics, namely: respect for autonomy; non-injury; beneficence; and justice. Respect for autonomy is demonstrated by respecting the client's prior capable wishes, values and beliefs, if known, and consideration of the client's rights to independence and freedom; non-injury is demonstrated in decision-making that avoids or minimizes risk to the client; beneficence is demonstrated in decisions that benefit the client; and justice is demonstrated in decisions that are fair and equitable.

The Health Care Decisions Division stands in the place of the client and is entitled to the same information and freedom of choice as the client would have received if he or she had capacity. Decisions are made using the *reasonable person standard*; after carefully considering the available relevant information, the Health Care Decisions Division makes a reasonably well-informed decision to consent, to not consent, or to withdraw consent as a reasonably prudent and careful lay person would do in similar circumstances and not as a health care professional.

All three performance indicators of the Health Care Decisions (HCD) division (i.e. complaints, response times and attendance at client conferences) were within established targets for 2015/16 fiscal year. Monitoring of the Health Care Decisions program was conducted and reported to the Public Trustee on a quarterly basis. The following is a summary of annual statistics for the fiscal year ending March 31, 2016, which are detailed in this report:

- 92 new client files were opened and 68 client files were closed during the year
- 587 referrals were received in 2015/16 as compared to 512 referrals for 2014/15
- 70% of referrals were received under the *Personal Directives Act*, 15% under the *Hospitals Act*, and 15% under *Involuntary Psychiatric Treatment Act*
- The largest number of referrals (245 or 42%) were received from agencies in the Central Region (Zone 4) of the Nova Scotia Health Authority and the least number of referrals (96 or 16%) came from agencies in the Eastern Region (Zone 3)
- A total of 2383 decisions were made in 2015/16, which is up from 1631 in 2014/15; 2027 under *Personal Directives Act*, 169 under the *Hospitals Act* and 187 under *Involuntary Psychiatric Treatment Act*

- The average number of decisions per referral was 4, which is an increase from 3.2 decisions per referral in 2014/15
- 95.3% of decisions were Level-1, 3.3% of decisions were Level-2 and 1.3% of decisions were Level-3
- Seven external education sessions were provided to stakeholders in 2015/16 and a webinar-based education pilot was implemented in December 2015

I am extremely pleased that the Public Trustee Office has been empowered to be the substitute decision maker of last resort for those who are mentally incapable of making their own personal and health care decisions. This process helps protect these individuals. The Annual Report for the Health Care Decisions Division is attached to this report.

REPRESENTATIVE LITIGATION

The Public Trustee can be appointed to act as guardian *ad litem* or legal representative in litigation involving mentally incompetent adults, minors, missing persons, unascertained persons and estates of deceased persons (when estates have not been formally opened in Probate Court). When acting pursuant to an *Incompetent Persons Act* guardianship order the Public Trustee is *ipso facto*, guardian *ad litem* of the incompetent person, unless the court orders otherwise. Further, to accommodate the Bar and the Court, the Public Trustee will consent to act, if appointed by the court, as guardian *ad litem* or representative of a person or deceased person or interest that is not otherwise on the Public Trustee's caseload (see Schedule "H" attached hereto). No resources have been allocated to the Public Trustee specifically for this function. No fees are awarded to the Public Trustee by the court if this appointment is undertaken.

During the fiscal period under review 3 representative litigation files were opened and 1 was closed.

RENUNCIATIONS

In certain fact situations, more particularly defined in Sections 15, 23 and 24 of the *Public Trustee Act* and in Section 32 of the *Probate Act*, the Public Trustee "is entitled to apply for and to receive a grant of letters of administration or administration with will annexed of the estate" of a deceased person. Before the Public Trustee does renounce its right to administer an estate considerable time is spent reviewing the facts of each estate to ensure the beneficiaries, heirs and creditors would be properly protected and served if someone other than the Public Trustee

is appointed to administer the estate. The Public Trustee also considers the assets that are contained in the estate. Are there funds in the estate that will allow the Public Trustee to properly administer the estate and will the administration of the estate generate revenue for the Public Trustee Office, which then assists the Public Trustee in providing services on the many cases that provide little or no revenue to the Public Trustee? All factors are considered when the Public Trustee decides whether it will administer a deceased estate or whether it will renounce.

Pursuant to section 36 of the *Public Trustee Act*, the Public Trustee is empowered in a case where "the Public Trustee is entitled to take out letters of administration under this Act" to authorize and appoint by writing under his hand some other person to take out such letters of administration" and "the Court of Probate shall, upon the application of a person so authorized and appointed by the Public Trustee as aforesaid, grant to such applicant letters of administration". Customarily the Public Trustee declines to act pursuant to section 36 of the *Public Trustee Act* and prefers to leave this determination to the Court of Probate.

During this fiscal year, 87 renunciations were given by the Public Trustee (see Schedule "G" attached hereto).

Public Trustee Trust Funds

Management's Responsibility for the Financial Statements

Management is responsible for the integrity of the financial information reported by the Public Trustee of Nova Scotia. Fulfilling the responsibility requires the preparation and presentation of financial statements and other financial information in accordance with International Financial Reporting Standards ("IFRS"). These standards are consistently applied.

The Management of Public Trustee confirm that, to the best of our belief,

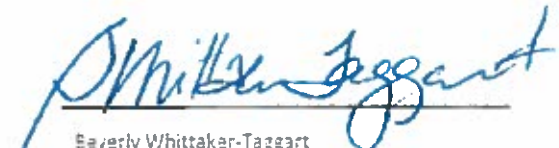
- the preparation of the financial statements is in accordance with IFRS;
- significant assumptions used by us in making accounting estimates, including those measured at fair value and at nominal value, are reasonable; and
- significant accounting policies under IFRS have been determined by us to represent the activities of the Office,

The Office of the Auditor General of Nova Scotia has audited the Public Trustee financial statements in accordance with International Financial Reporting Standards.

The Auditor's responsibility is to express an opinion on the fairness of management's financial statements. The Auditor's Report outlines the scope of the audit and the Auditor's opinion.



Shannon Ingraham-Christie
Public Trustee



Beverly Whittaker-Taggart
Director, Finance, Administration & Systems



Auditor General of Nova Scotia

Report on the Financial Statements

To the Public Trustee and to the Attorney General.

Report on the Financial Statements

I have audited the accompanying financial statements of the Public Trustee Trust Funds, which comprise the statement of Net Assets Held in Trust as at March 31, 2016, and the statements of Net and Comprehensive Loss, Continuity of Net Assets Held in Trust, and Cash Flows, for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibilities for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

Basis for Qualified Opinion

Due to the nature of the court process of assigning clients to the Public Trustee, it is not possible to verify by audit procedures that all client assets or the income related to these assets, came under the administration of, or were recorded by, the Public Trustee. Accordingly, my verification of trust assets and related income was limited to those recorded in the accounts.

Qualified Opinion

In my opinion, except for the possible effects of the matter described in the Basis for Qualified Opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the Public Trustee Trust Funds as at March 31, 2016, and its financial performance, and its changes in net assets and its cash flows for the year then ended in accordance with International Financial Reporting Standards.

Michael A. Pickup, CPA, CA
Auditor General of Nova Scotia

Halifax, Nova Scotia
July 11, 2016



	2016	2015
Assets		
Estates and Trusts		
Cash	\$ 5,007,831	\$ 1,758,705
Securities, real estate and other assets (Note 5)	45,596,581	47,713,056
Common Fund Securities (Note 6)	2,987,536	2,974,186
Special Reserve Fund (Note 7)	3,120,446	3,001,938
Accounts receivable and accrued interest	<u>587,919</u>	<u>705,811</u>
	<u>57,300,313</u>	<u>56,153,696</u>
Liabilities		
Estates and Trusts		
Due to Special Reserve Fund	124,514	115,957
Accounts payable	<u>345,358</u>	<u>511,843</u>
	<u>469,872</u>	<u>627,805</u>
Net Assets Held in Trust	<u>\$ 56,830,441</u>	<u>\$ 55,525,891</u>

Approved


Public Trustee
Shannon Ingraham Christie

See accompanying notes to the financial statements

	2016	2015
Revenues		
Pension	\$ 8,030,619	\$ 7,539,697
Investment income	800,481	680,378
Other	790,601	1,004,406
Annuities	<u>660,632</u>	<u>668,345</u>
	10,282,333	9,892,826
Common Fund interest and investment income (Note 6)	<u>124,106</u>	<u>117,025</u>
	<u>10,406,439</u>	<u>10,009,851</u>
Expenses		
Accommodation	7,174,578	7,032,420
Fees charged by the Public Trustee paid to the Province (Note 9)	1,152,404	1,030,073
Taxes	855,142	590,194
Funeral	513,260	445,458
Medical	377,845	373,725
Allowances	371,783	346,455
Real estate	222,747	115,394
Legal costs	195,228	200,024
Property care	192,744	206,432
Utilities	140,292	142,064
Common Fund interest income to be transferred to the Special Reserve Fund (Note 7)	124,514	115,957
Insurance	101,669	135,243
Miscellaneous	<u>76,266</u>	<u>36,919</u>
	<u>11,553,477</u>	<u>10,820,363</u>
Loss from operations	(1,152,038)	(810,512)
Realized loss on sale of assets held in trust	(543,054)	(745,576)
Unrealized (loss) gain on assets held in trust at year end	<u>(134,121)</u>	<u>173,498</u>
Net and comprehensive loss	<u>\$ (1,829,213)</u>	<u>\$ (1,373,592)</u>

See accompanying notes to the financial statements

	2016	2015
Balance, beginning of year	\$ 55,525,891	\$ 52,508,079
Add: Estates and trusts of new clients and additional assets of existing clients	13,972,525	18,916,733
Net and comprehensive loss	(1,829,213)	(1,378,592)
Special Reserve Fund Income (Note 7)	<u>219,401</u>	<u>211,497</u>
	<u>12,362,713</u>	<u>17,749,638</u>
Less: Distribution of estates and trusts	10,887,629	14,500,079
Undistributable estates and trusts (per Section 25)	69,641	136,654
Special Reserve Fund Distribution (Note 7)	<u>100,893</u>	<u>95,093</u>
	<u>11,058,163</u>	<u>14,731,826</u>
Balance, end of year	<u>\$ 56,830,441</u>	<u>\$ 55,525,891</u>

See accompanying notes to the financial statements

	2016	2015
Operating Activities		
Net and comprehensive loss from operations	\$ (1,829,213)	\$ (1,378,592)
Deduct non-cash transactions:		
Unrealized (losses) gains	<u>134,121</u>	<u>(178,498)</u>
Net and comprehensive loss from operations - cash basis	<u>(1,695,092)</u>	<u>(1,557,090)</u>
Increase in Estates and Trusts		
Sale of securities	9,156,396	5,234,044
Sale of real estate and other assets	1,062,504	1,850,909
Cash holdings of estates and trusts	<u>7,673,219</u>	<u>6,255,612</u>
	<u>17,892,119</u>	<u>13,340,565</u>
Decrease in Estates and Trusts		
Purchase of securities	(7,413,914)	(3,131,760)
Distribution of cash holdings in estates and trusts	(5,435,789)	(3,088,580)
Change in Common Fund cash position	(8,557)	19,280
Transfer to Province – Section 28	<u>(69,641)</u>	<u>(136,654)</u>
	<u>(12,947,901)</u>	<u>(11,337,714)</u>
Increase in cash	3,249,126	445,751
Cash, beginning of year	<u>1,758,705</u>	<u>1,312,944</u>
Cash, end of year	<u>\$ 5,007,831</u>	<u>\$ 1,758,695</u>

See accompanying notes to the financial statements

1. Reporting Entity

The Public Trustee was established pursuant to the Public Trustee Act and is independent of government. The Public Trustee is set up as a corporation to protect the financial and personal well-being of clients. The Public Trustee is empowered to perform the duties of a guardian, custodian, trustee, and executor or administrator of an estate. All investments by the Public Trustee are to be made in accordance with the Trustee Act.

This set of financial statements reflects the net assets held in trust and the activity for the estates and trusts administered by the Public Trustee. Separate operating costs for the Public Trustee are presented in Note 9.

2. Basis of Preparation

(a) Statement of Compliance

These financial statements have been prepared in accordance with the principles of International Financial Reporting Standards (IFRS).

(b) Basis of Measurement

The financial statements have been prepared on the historical cost basis except for securities, real estate, other assets, and amounts receivable and payable which are presented at fair value.

(c) Functional and Presentational Currency

The financial statements are presented in Canadian dollars, which is the functional currency for the Public Trustee.

(d) Use of Estimates and Judgments

The preparation of these financial statements in conformity with IFRS requires management to make judgments, estimates, and assumptions that affect the application of accounting policies and the reporting amounts of assets, liabilities, income, and expenses. Actual results could differ from management's best estimates as additional information becomes available in the future.

3. Summary of Significant Accounting Policies

The accounting policies set out below have been applied consistently to all periods presented in the financial statements.

(a) Initial Recognition and Valuation of Assets and Liabilities

The Public Trustee administers client investments, real property, and other assets (eg. vehicles, jewelry). On initial recognition, these assets and liabilities are recorded at fair value on the effective date the Public Trustee commences administration of the asset or liability.

Other assets, including personal effects, are carried at fair value. Fair value is determined through appraisal where deemed appropriate. For some other assets where no observable market exists, these assets remain valued at a nominal amount (\$1) until such time that more reliable valuation information is available.

(b) Subsequent Valuation

Real Property

IFRS requires that, in the absence of an IFRS that can be specifically applied to a situation, management should use judgment in developing and applying an accounting policy to provide relevant, reliable, and prudent information. In these instances, it is suggested that IFRS requirements in dealing with similar issues are applied, as well as measurement concepts included within the IFRS framework.

Real property included within the statement of net assets held in trust primarily represents the value of residential properties currently occupied by the clients administered by the Public Trustee, or forming part of their estates. Real property is carried at fair value in the statement of net assets held in trust, as determined by professional appraisals or, where an appraisal is not available or is not current, as determined from the most recent property assessment or other relevant valuation data.

Investments

Client securities are carried at fair value in the statement of net assets held in trust as determined by external third party information.

The composition of securities administered by the Public Trustee is as follows:

i) Guaranteed Investment Certificates	75%
ii) Equity Securities	14%
iii) Bonds	2%
iv) Other (RRSPs, RRIFs, Mutual Funds)	9%

3. Summary of Significant Accounting Policies (continued)

Other Assets

Other client assets are carried at fair value in the statement of net assets held in trust as determined by appraisal where deemed appropriate, or, where no active market exists, are held at a nominal value (\$1).

(c) Revenue Recognition

Income from pensions, benefits and settlements, as well as interest and other investment income are recognized as earned on an accrual basis.

Gains and losses on assets represent the appreciation or depreciation in the value of assets administered by the Public Trustee from the value assigned on the date of the commencement of administration of assets by the Public Trustee, the date of purchase, or the value at the prior year end. Such gains and losses become realized on the date the assets are sold or released to clients, beneficiaries or heirs. Both realized gains and losses and changes in unrealized gains and losses are reported in the statement of net and comprehensive loss.

(d) Cash and Cash Equivalents

Investments held by the Public Trustee are highly liquid and may be easily drawn upon by the Public Trustee in administering the estates and trusts.

4. Financial Risk Management

Section 3(1) of the *Public Trustee Act* grants all trustees the authority to invest in any form of property or security, including a security issued by a mutual fund. The standard of care, skill, diligence, and judgment imposed by the section is that of a prudent investor. The Public Trustee utilizes a conservative investment management orientation. All trust property must be invested in a manner that reflects the standard and high duty of care required to fulfill the responsibilities of the Public Trustee. The Public Trustee's long-term objectives as a prudent investor are threefold:

- i) to minimize any loss of capital;
- ii) where possible, to provide income sufficient to meet the individual client's or trust's ongoing income needs; and
- iii) for clients or trusts with higher risk tolerances or longer term investment horizons, the potential for capital appreciation.

4. Financial Risk Management (continued)

The majority of the accounts held by the Public Trustee are administered on behalf of clients and are not held in a pooled fund. Clients with five years or less projected investment horizon with the Public Trustee may have their excess funds invested in a combination of cashable guaranteed investment certificates (GICs), treasury bills, fixed term GICs and bonds with a maximum investment period of five years.

Liquidity risk

Liquidity risk is the risk that a client account is unable to meet its financial obligations as they come due. The Public Trustee minimizes this risk by ensuring that client accounts hold sufficient cash funds to meet current liabilities and expenses and considers liquidity risk at March 31, 2016 to be insignificant.

Credit risk

Credit risk is the risk that a counterparty to a financial instrument will fail to discharge an obligation or commitment it has entered into, resulting in a financial loss. The investment policy established by the Public Trustee limits credit risk in the following manner: client excess funds invested in GICs are not to exceed \$95,000 from a national bank or trust company or \$235,000 from a credit union. This ensures that if a financial institution defaulted, the client would receive from the insurance plan the client's principal plus any accrued interest. Bonds purchased with client excess funds must have a minimum rating of BBB by the Dominion Bond Rating Service or an equivalent rating by another recognized rating agency.

Interest rate risk

Interest rate risk is the risk that the fair value or cash flows of interest bearing investments will fluctuate due to changes in market interest rates. Investments in guaranteed investment certificates and other term deposits with a maturity greater than one year are subject to interest rate risk. The effect on net income of a 1% change in interest rates on term deposits with a maturity of greater than one year would be estimated at \$110,807 (2015 - \$112,688). Because most term deposits held by the Public Trustee have a term to maturity of one year or less, interest rate risk is not considered significant. The Public Trustee mitigates this risk by investing excess client funds in a diversified portfolio, including investing in fixed rate securities.

5. Securities, Real Estate, and Other Assets

Securities, real estate, and other assets are comprised of the following balances:

	2016	2015
Securities	\$ 33,733,051	\$ 39,589,172
Real Estate	6,442,393	7,591,650
Other Assets	<u>370,637</u>	<u>432,234</u>
	<u>\$ 40,546,081</u>	<u>\$ 47,613,056</u>

6. Common Fund Securities

Section 30 of the Public Trustee Act permits the Public Trustee to invest monies, not subject to any express trust or direction for investment thereof, into a Common Fund. Investments of the Common Fund are valued at market value as of March 31, 2016. The Common Fund serves as a general bank account for its clients and allows the Public Trustee to pool small value client accounts in order to provide more substantial balances used to purchase income-generating investments.

The interest to be paid to clients with funds in the Common Fund is determined by a regulation which is as follows: the prescribed rate of interest is a floating rate ascertained by the Public Trustee half yearly, and is one percent less than the rate arrived at by averaging the lowest rate offered during the period on savings - non chequing accounts by the Canadian Imperial Bank of Commerce and the Royal Bank of Canada at their respective Halifax branches. In addition, the regulation provides that, in order to earn interest, the client's account must have had a minimum quarterly balance of \$1,000 or more and must have been held in trust by the Public Trustee for more than three months.

Due to the fact that the current interest rate is below the prescribed rate, all interest received in the Common Fund during the year will be transferred to the Special Reserve Fund after providing for bank fees and other charges in the Common Fund, in accordance with the Public Trustee Act.

A continuity of the Common Fund is as follows:

	2016	2015
Balance, beginning of year	\$ 2,974,136	\$ 2,959,406
Add: Purchase of securities	19,629	7,532
Interest and investment income	<u>124,106</u>	<u>117,025</u>
	3,117,921	3,093,963
Less: Disbursements	(5,871)	(3,920)
Amount to be transferred to the Special Reserve Fund	<u>(124,514)</u>	<u>(115,957)</u>
Balance, end of year	<u>\$ 2,937,536</u>	<u>\$ 2,974,136</u>

The balance of the Common Fund consists of:

Cash	\$ 124,514	\$ 115,957
Investments	2,993,315	2,976,933
Payables (including \$124,514 to the Special Reserve Fund 2015 - \$115,957)	<u>(130,793)</u>	<u>(113,703)</u>
	<u>\$ 2,927,536</u>	<u>\$ 2,974,136</u>

7. Special Reserve Fund

Section 32 of the Public Trustee Act provides for the establishment of a Special Reserve Fund. The Fund is administered by the Public Trustee and held in joint trust with the Deputy Minister of Finance and Treasury Board.

The stated purpose of the Fund is to provide for any future deficiency in the Common Fund. Investment income earned in the Common Fund in excess of the prescribed interest paid to clients' accounts is transferred to the Special Reserve Fund annually as required by the Public Trustee Act.

Income received on investments in the Special Reserve Fund may be transferred to the Province's general revenues in such amounts as may be determined by the Public Trustee and the Deputy Minister of Finance and Treasury Board. Such transfers are applied to the cost of administration of the Common Fund, the Special Reserve Fund, and the Public Trustee Office.

On an annual basis the Public Trustee consults with the Deputy Minister of Finance and Treasury Board, and the decision has been to transfer the Special Reserve Fund interest to the Minister of Finance for the purposes prescribed in legislation. Interest received during the year to be transferred to the Province totalled \$95,018 (2015 - \$100,893).

The continuity of the Special Reserve Fund is as follows:

	2015	2015
Balance, beginning of year	\$ 3 001,933	\$ 2 835,534
Add: Interest income	94,837	95,540
Net amount to be transferred from the Common Fund	<u>124,514</u>	<u>115,957</u>
	3,221,339	3,097,031
Less: Amount transferred to the Province of Nova Scotia	<u>(100,893)</u>	<u>(95,093)</u>
Balance, end of year	<u>\$ 3,120,445</u>	<u>\$ 3,001,933</u>

The balance of the Special Reserve Fund consists of:

Cash	\$ 102,956	\$ 103,712
Receivables	156,130	157,703
Investments	<u>2 851,350</u>	<u>2 735,521</u>
	<u>\$ 3,120,445</u>	<u>\$ 3,001,933</u>

8. Fair Values

Client investments and Common Fund assets as well as other financial assets are reflected in the statement of net assets held in trust at fair value. In management's opinion, the fair value of cash and accrued interest approximates their carrying value due to the short term to maturity.

Fair Value Hierarchy - The three levels of the fair value hierarchy are as follows:

Level 1 – Unadjusted prices in active markets for identical assets or liabilities

Level 2 – Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities, quoted prices in markets with insufficient volume or infrequent transactions (less active market).

Level 3 – Inputs that are unobservable; there is little, if any, market data. Fair value determination would generally require significant management judgment or estimation.

As at March 31, 2016, client investments and Common Fund investments were valued using Level 2 inputs. During the year ended March 31, 2016, there was no transfer between Level 2 and the other levels in the fair value hierarchy.

9. Operating Costs

Operating costs of the Public Trustee are absorbed by the Nova Scotia Department of Justice and are not reflected in the Statement of Net and Comprehensive Loss. These costs are offset by fees charged for administering estates, recoveries of client expenses paid by the Public Trustee, and transfers of investment income from the Special Reserve Fund. Included in fees charged by the Public Trustee is HST totalling \$146,583 (2015 - \$135,075), which the Public Trustee collects on behalf of the Province. These amounts are not included as part of fees used to offset operating costs.

	2016	2015
Department of Justice		\$
Salaries and benefits	\$ 1,857,657	1,971,339
Other operating costs	168,793	245,792
Rent	<u>156,165</u>	<u>156,165</u>
	<u>2,192,605</u>	<u>2,373,236</u>
Less transfers to the Province		
Fees	971,672	896,673
Recoveries	17,276	17,646
Special Reserve Fund Income	<u>100,833</u>	<u>95,092</u>
	<u>1,089,841</u>	<u>1,009,411</u>
Net cost to the Province	<u>\$ 1,122,764</u>	<u>\$ 1,363,825</u>

Fees and recoveries totaling \$988,943 (2015 - \$914,324) represent cash payments to the Province. They are net of HST of \$146,583 (2015 - \$135,075) and net accrued fees of \$45,868 (2015 - \$30,574). The total gross amount of these fees and recoveries is \$1,132,414 (2015 - \$1,080,073) and is disclosed on the Statement of Net and Comprehensive Loss.

PUBLIC TRUSTEE STATISTICS

SCHEDULE "A"

CASES ACTIVE AS OF MARCH 31, 2016

<u>ESTATES AND TRUSTS</u>													
Estate of Deceased	Adult's Estate (Living)	498	164	7	5	8	Patients' Abandoned Property Act	Specific Renunciation Trust	Renunciation	TOTAL			
156								27	357	1222			
<u>REPRESENTATIVE LITIGATION</u>													
Presumption of Death Act	Missing/ Unascertained Person						Guardian ad litem of Incompetent Adult	Guardian ad litem of Infant					
14		9		21		2		3		49			
<u>CONSENT TO TREATMENT</u>													
										<u>449</u>			
										<u>1720</u>			
<u>REQUESTS, COMPLAINTS, INQUIRIES, LITIGATION & REFERRALS</u>													
Individual General Inquiries April 1, 2015 - March 31, 2016											<u>484</u>		
											<u>484</u>		

PUBLIC TRUSTEE STATISTICS

SCHEDULE "B"

VOLUME AND PROGRESS OF CASELOAD

<u>FISCAL YEAR</u>	<u>VOLUME AT START</u>	<u>NEW CASES ADDED</u>	<u>CASES CLOSED</u>	<u>VOLUME AT YEAR END</u>
April 1/15 – March 31/16	1605	381	266	1720
April 1/14 – March 31/15	1470	372	237	1605
April 1/13 – March 31/14	1468	387	385	1470
April 1/12 - March 31/13	1321	415	268	1468
April 1/11 - March 31/12	1189	428	296	1321

PUBLIC TRUSTEE STATISTICS

SCHEDULE "C"

BREAKDOWN OF CASES CLOSED

FISCAL YEAR ENDING	ESTATE OF DECEASED	ADULT'S ESTATE (LIVING)	INFANT'S ESTATE (LIVING)	UNDISTRIBUTABLE ESTATE OR TRUST	MISSING PERSON'S ESTATE	PATIENTS' ABANDONED PROPERTY ACT	SPECIFIC TRUST	CONSENT TO TREATMENT	RENUNCIATION	TOTAL
March 31/16	49	89	22	5	Nil	Nil	1	68	32	266
March 31/15	61	94	28	2	Nil	Nil	4	47	Nil	236
March 31/14	70	101	34	5	2	Nil	1	52	118	383
March 31/13	88	92	35	3	1	Nil	6	41	Nil	266
March 31/12	66	91	31	6	Nil	1	Nil	39	62	296

PUBLIC TRUSTEE STATISTICS

SCHEDULE "D"

BREAKDOWN OF NEW CASES ADDED

FISCAL YEAR ENDING	ESTATE OF DECEASED	ADULT'S ESTATE (LIVING)	INFANT'S ESTATE (LIVING)	UNDISTRIBUTABLE ESTATE OR TRUST	MISSING PERSON'S ESTATE	PATIENTS' ABANDONED PROPERTY ACT	SPECIFIC TRUST	CONSENT TO TREATMENT	RENUNCIATION	TOTAL
March 31/16	53	115	18	5	2	1	3	92	87	376
March 31/15	69	113	20	2	Nil	3	1	78	83	369
March 31/14	59	113	32	4	1	1	6	91	69	376
March 31/13	73	145	24	5	Nil	1	5	96	65	414
March 31/12	58	109	23	3	1	1	3	163	61	422

PUBLIC TRUSTEE STATISTICS

SCHEDULE "E"

FUNDS TRANSFERRED TO DEPARTMENT OF FINANCE

YEAR ENDING	PUBLIC TRUSTEE FEES	EXPENSE RECOVERIES	SPECIAL RESERVE FUND INVESTMENT INCOME	SECTION 28
	Revenue *1	Revenue *2	Revenue	Trust Funds *3
March 31, 2016	\$971,672.00	\$17,276.00	\$100,893.00	\$69,641.00
March 31, 2015	\$896,678.00	\$17,646.00	\$95,093.00	\$136,654.00
March 31, 2014	\$1,214,553.00	\$21,819.00	\$95,949.00	\$217,682.00
March 31, 2013	\$881,970.00	\$23,852.00	\$94,784.00	\$287,546.00
March 31, 2012	\$1,159,693.00	\$23,883.00	\$94,121.00	\$124,758.00
March 31, 2011	\$861,842.00		\$155,649.00	\$90,208.00

*1 Fees of counsel and solicitor, proctor's fees, administrator's commission collected from estates and transferred; figures do not include accruals.

*2 Pre-tax expenses recovered from clients eg postage, photocopy. Figures first included in March 31, 2012.

*3 May be subject of claims, *Public Trustee Act*, s. 35. ; figures do not include accruals.

PUBLIC TRUSTEE STATISTICS

SCHEDULE "E1"

YEAR ENDING	COMMON FUND INVESTMENT INCOME TRANSFERRED TO SPECIAL RESERVE FUND	SPECIAL RESERVE FUND ACCUMULATED NON-TRANSFERABLE EQUITY
March 31, 2016	\$124,514.00	\$3,025,428.00
March 31, 2015	\$115,957.00	\$2,901,045.00
March 31, 2014	\$135,237.00	\$2,790,439.00
March 31, 2013	\$137,924.00	\$2,656,084.00
March 31, 2012	\$146,732.00	\$2,518,722.00
March 31, 2011	\$150,231.00	\$2,370,705.00

PUBLIC TRUSTEE STATISTICS

SCHEDULE "F"

HEALTH CARE DECISIONS

Client Files	2014-15	2015-16
Active Files at April 1st	394	425
New Client Files Opened	78	92
Deactivated Files Reopened	Nil	Nil
Client Files Closed	(47)	(68)
Active Files at March 31st	425	449

REFERRALS RECEIVED 2015-16

Legislation	2014-15	2015-16
Hospitals Act	97	91
Involuntary Psychiatric Treatment Act	77	86
Personal Directives Act	338	411

TOTAL DECISIONS

YEAR ENDING

NUMBER OF DECISIONS

March 31, 2016
March 31, 2015
March 31, 2014

2383
1631
1678

PUBLIC TRUSTEE STATISTICS

SCHEDULE "G"

RENUNCIATIONS

<u>YEAR ENDING</u>	<u>NUMBER OF RENUNCIATIONS</u>
March 31, 2016	87
March 31, 2015	83
March 31, 2014	69
March 31, 2013	65
March 31, 2012	61

PUBLIC TRUSTEE STATISTICS

SCHEDULE "H"

REPRESENTATIVE LITIGATION CASES OPENED

FISCAL YEAR ENDING:	PRESUMPTION OF DEATH ACT	MISSING/ UNASCERTAINED PERSON	SURVIVAL OF ACTIONS ACT	GUARDIAN <i>ad litem</i> OF INCOMPETENT ADULT	GUARDIAN <i>ad litem</i> OF INFANT	TOTAL
March 31, 2016	1	Nil	4	Nil	Nil	5
March 31, 2015	2	Nil	1	Nil	Nil	3
March 31, 2014	6	2	1	2	Nil	11
March 31, 2013	Nil	1	Nil	Nil	Nil	1
March 31, 2012	2	1	3	Nil	Nil	6



Health Care Decisions

Annual Statistical Report

2015-16

SUMMARY

Pursuant to the *Hospitals Act (HA)*, *Involuntary Psychiatric Treatment Act (IPTA)*, and *Personal Directives Act (PDA)*, the Public Trustee through the Health Care Decisions division acts as decision-maker of last resort for individuals who lack the capacity to make decisions concerning medical, surgical, and psychiatric treatment, as well as decisions related to health care, home care services, and placement to a continuing care home, and have no higher-ranked substitute with capacity who is willing and able to act on their behalf.

Both performance indicators of the Health Care Decisions (HCD) division (i.e. complaints, response times) were within established targets for 2015-16 fiscal year. Monitoring of the Health Care Decisions program was conducted and reported to the Public Trustee on a quarterly basis.

The following is a summary of annual statistics for the fiscal year 2015-16, which are detailed in this report:

- There were 449 active client files at March 31, 2016, an increase of 6% over 2014-15.
- 92 new client files were opened during the year and 68 client files were closed during the year.
- 587 referrals were received in 2015-16 as compared to 512 referrals for 2014-15.
- 70% of referrals were under PDA, 15% under HA, and 15% under IPTA, compared to 66%, 19%, and 15%, respectively for 2014-15.
- The most referrals - 245 (42%) - were submitted from agencies in Central Region (Zone 4) of Nova Scotia Health Authority; the least - 96 (16%) referrals – came from agencies in Eastern Region (Zone 3).
- A total of 2383 decisions were made in 2015-16 (2027 under PDA, 169 under HA, and 187 under IPTA).
- The average number of decisions per referral was 4, which is an increase from 3.2 decisions per referral in 2014-15.
- 95.3% of decisions were level-1, 3.3% of decisions were level-2, and 1.3% of decisions were level-3.
- Seven external education sessions were provided to stakeholders in 2015-16 and a webinar-based education pilot was implemented in December 2015.

Recommendations

1. Continue the annual quality and operational review;
2. Continue to provide external stakeholder education throughout the province regarding the Health Care Decisions division's role, policies, and processes; and
3. Continue to seek feedback from external stakeholders with respect to HCD policies and processes to promote continuous quality improvement and best practice in decision making.

HEALTH CARE DECISIONS DIVISION

Public Trustee Mission

The Public Trustee is committed to the proper administration of estates of deceased persons, incompetent persons, children, and missing persons. It is also committed to provide informed consents for health care, placement to a continuing care home or home care services using an approach that is client-centred, respectful of human rights and freedoms, and in the client’s best interests if prior wishes, values, and beliefs are not known.

Principles and Standards

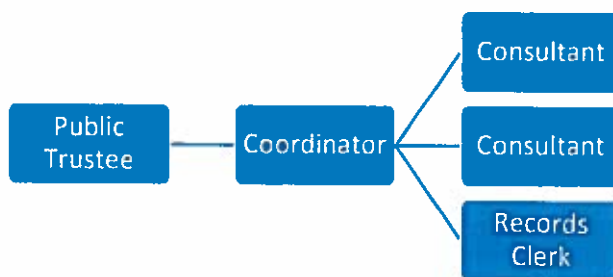
Together with the *Personal Directives Act*, the *Hospitals Act*, and the *Involuntary Psychiatric Treatment Act*, the foundation documents supporting the Health Care Decisions Division are the Canadian Charter of Rights & Freedoms and the *Nova Scotia Human Rights Act*.

Underpinning Health Care Decision program policy are *best interest principles* and the *principle of informed consent*. Division policies also employ the four commonly held *principles of health care ethics*, namely: respect for autonomy; non-injury; beneficence; and justice. Respect for autonomy is demonstrated by respecting the client’s prior capable wishes, values and beliefs if known and consideration of the client’s rights to independence and freedom; non-injury is demonstrated in decision-making that avoids or minimizes risk to the client; beneficence is demonstrated in decisions that benefit the client; and justice is demonstrated in decisions that are fair and equitable.

The Health care Decisions division, on behalf of the Public Trustee, stands in the place of the client and is entitled to the same information and freedom of choice as the client would have received if he or she had capacity. Decisions are made using the *reasonable person standard*; after carefully considering the available relevant information, the Health Care Decisions division make a reasonably well-informed decision to consent, to not consent, or to withdraw consent as a reasonably prudent and careful lay person would do in similar circumstances and not as a health care professional.

Structure

Health Care Decisions Division



The Health Care Decisions Division team serves all of Nova Scotia and, in addition to the Public Trustee, is made up of three full-time equivalents (FTE), namely: the Coordinator and two Consultants. The Records Clerk provides records management support to the Health Care Decisions division.

PROGRAM

2015-2016 Statistical Overview

92 new client files were opened in 2015-16. With the closure of 68 files, the year-end balance of 449 active files represents a 6% increase in the total number of active files at March 31, 2015.

Table 1 – Year over year comparison of active and closed client files

Client Files	2013-14	2014-15	2015-16
Active files at April 1 st	352	394	425
New Client Files opened	91	78	92
Deactivated Files reopened	3	0	0
Client Files closed	(52)	(47)	(68)
Active Files at March 31 st	394	425	449

Chart 1 – Comparison of active files at year beginning and year end

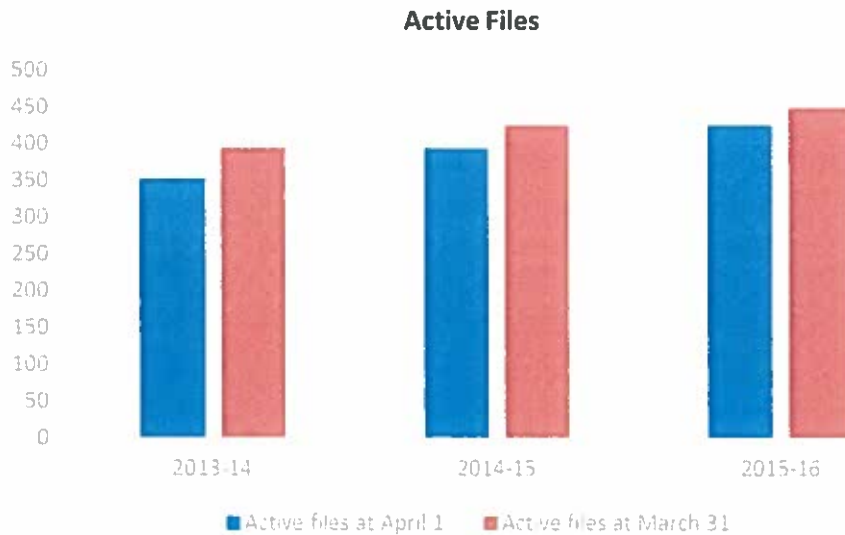


Table 2 – Closed Files

Reason for Closing	2013-14	2014-15	2015-16
Client death	38	40	49
Higher-ranked statutory decision maker	11	6	12
Delegate or proxy identified	1	0	1
Capacity regained	2	1	1
Left jurisdiction	0	0	6
Total	52	47	69

Referrals

Total Referrals by legislation

In the fiscal year 2015-16, a total of 587 referrals were received: 86 (15%) referrals under *Hospitals Act*; 91 (15%) referrals under *Involuntary Psychiatric Treatment Act*; and 410 (70%) referrals under *Personal Directives Act*.

Chart 2 – Referrals by legislation

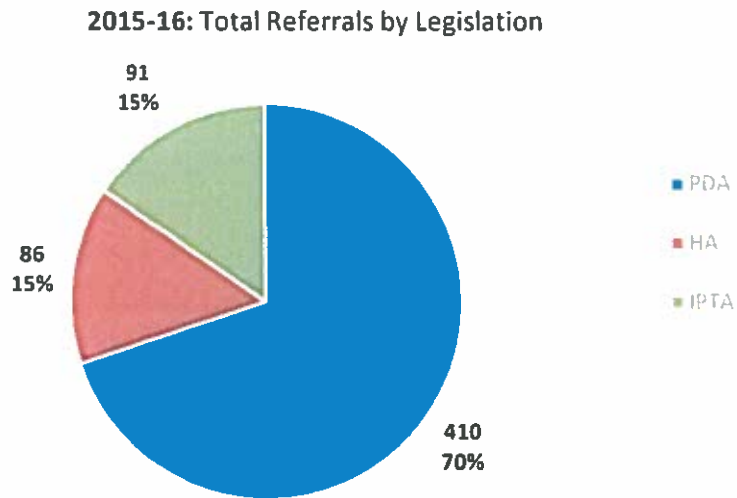
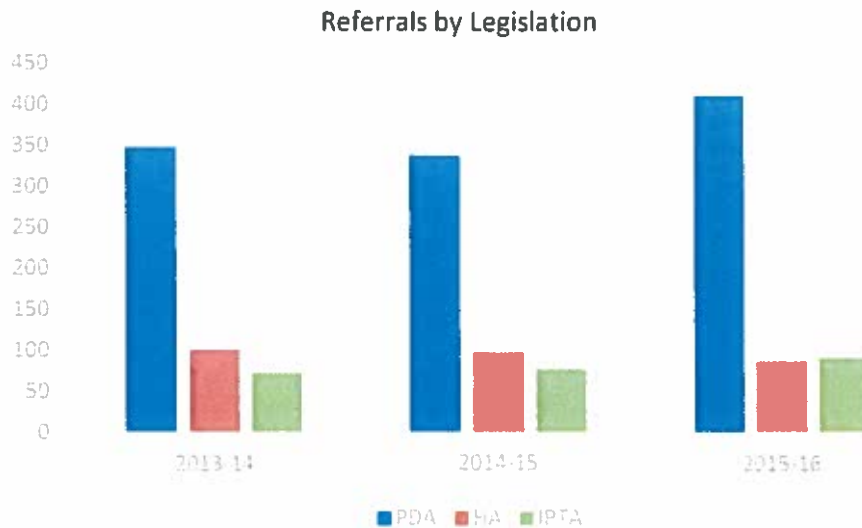


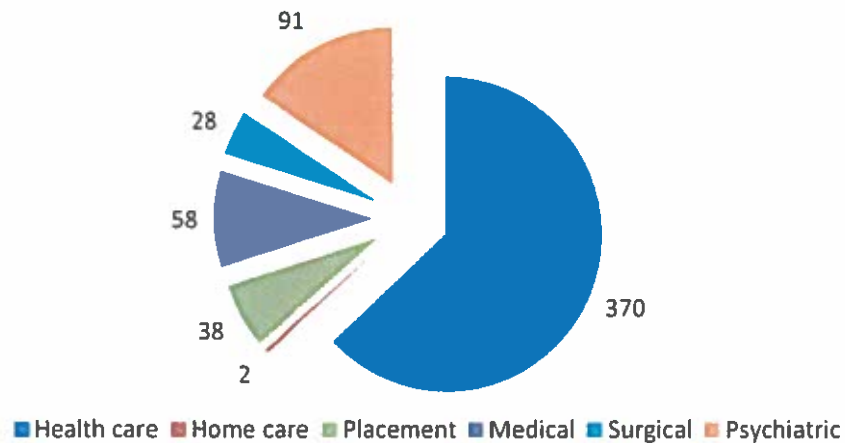
Chart 3 – Referrals - Year over year by Legislation



Referrals by Type

Chart 4 – Referrals by type

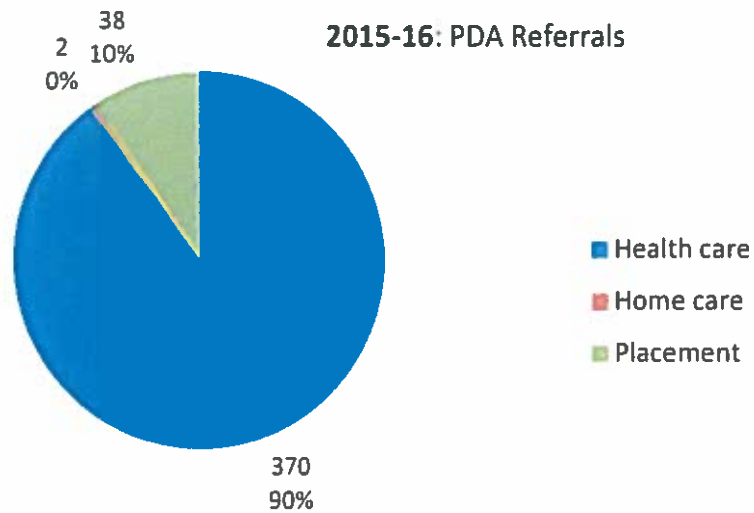
2015-16: Referrals by Type



Referrals under Personal Directives Act

Referrals under the *Personal Directives Act* include health care, home care, and placement to a continuing care home. In 2015-16 a total of 410 referrals were received under PDA.

Chart 5 – 2015-16 Referrals: Health Care, Home Care, Placement

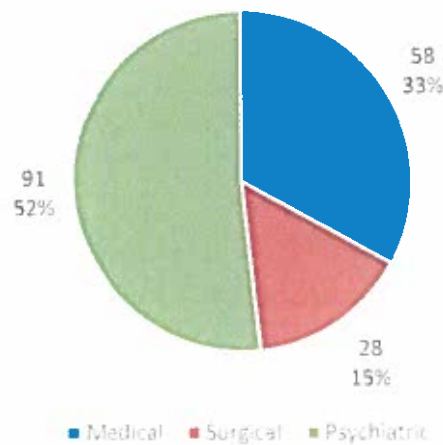


Referrals under Hospitals Act and Involuntary Psychiatric Treatment Act

Hospitals Act referrals include medical treatment and surgical treatment. *Involuntary Psychiatric Treatment Act* referrals include psychiatric treatment in hospital and community treatment orders. In the fiscal year ending March 31, 2015, the Public Trustee received 86 referrals under the *Hospitals Act* and 91 under the *Involuntary Psychiatric Treatment Act*.

Chart 6 – 2015-16 Total medical, surgical, and psychiatric treatment referrals

2015-16: HA and IPTA Referrals



Referrals by month

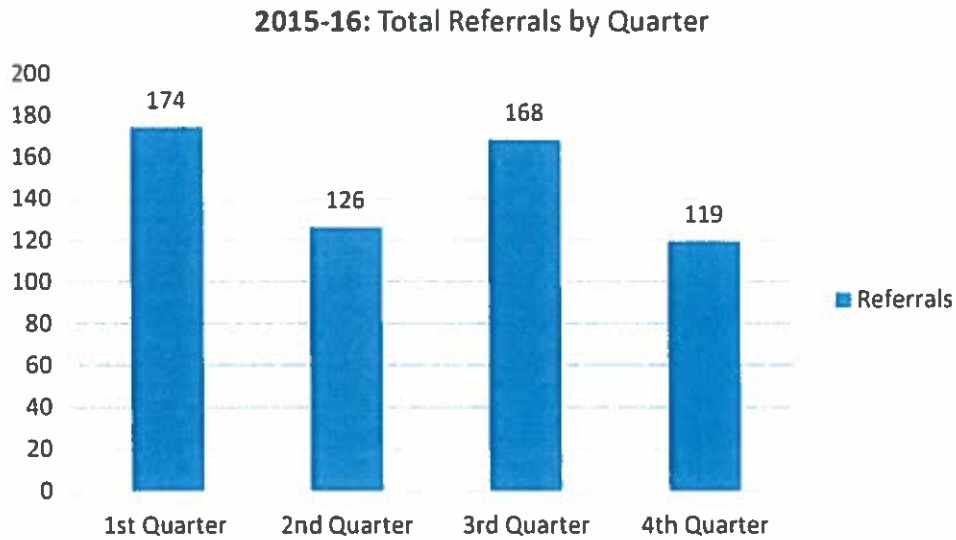
The average number of referrals received each month in 2015-16 was 49. The three previous years each averaged 43 referrals per month. May had the most referrals received in a month at 67; January had the fewest at 26 referrals.

Chart 7 – 2015-16 Referrals per month by legislation

2015-16: Referrals by month and legislation



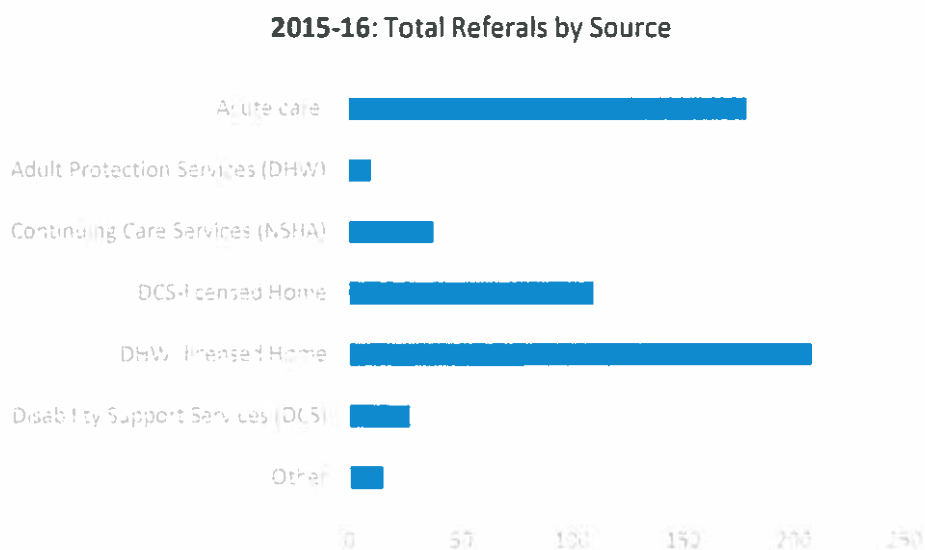
Chart 8 – Total Referrals by quarter



Referrals by Source

Referrals come from several sources, including hospitals (acute care), continuing care homes licensed under Departments of Community Services (DCS) and Health and Wellness (DHW), Adult Protection Services, Care Coordination and Placement Services (NSHA) and Disability Supports Program (DCS). Other sources may include primary care health professionals in the community, e.g. dentist, general practitioner.

Chart 9 – Total Referrals by source

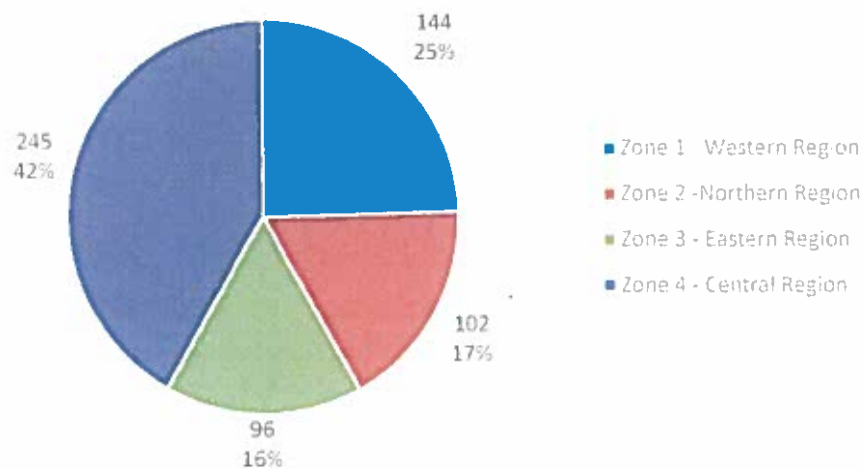


Referrals by Geographic Area

On April 1, 2015, the nine District Health Authorities (DHAs) were consolidated resulting in one Nova Scotia Health Authority (NSHA) divided into four geographic zones. DHAs 1, 2, and 3 became Zone 1 (Western); DHAs 4, 5, and 6 became Zone 2 (Northern), DHAs 7 and 8 became Zone 3 (Eastern), and DHA 9 became Zone 4 (Central).

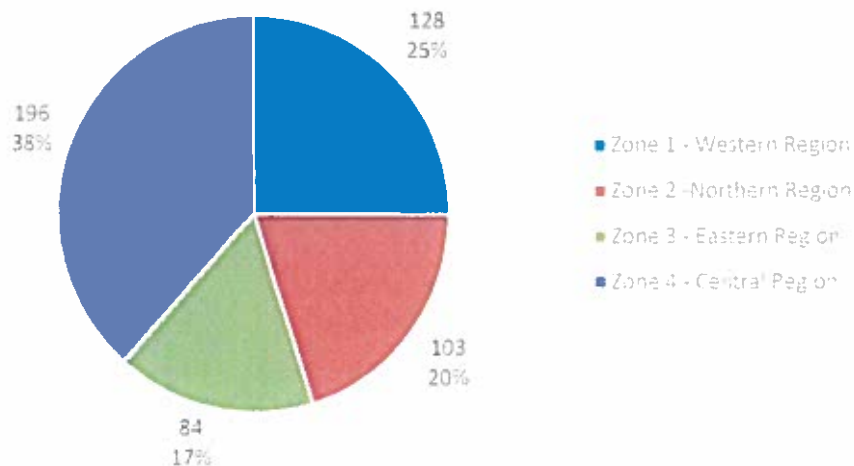
Chart 10 – 2015-16 Total Referrals by Zone

2015-16: Referrals by NSHA Zone



If 2014-15 data is organized using the new Zone configuration, the following chart demonstrates that the 2015-16 referral pattern with respect to geographic area has remained consistent.

2014-15: Referrals by NSHA Zone

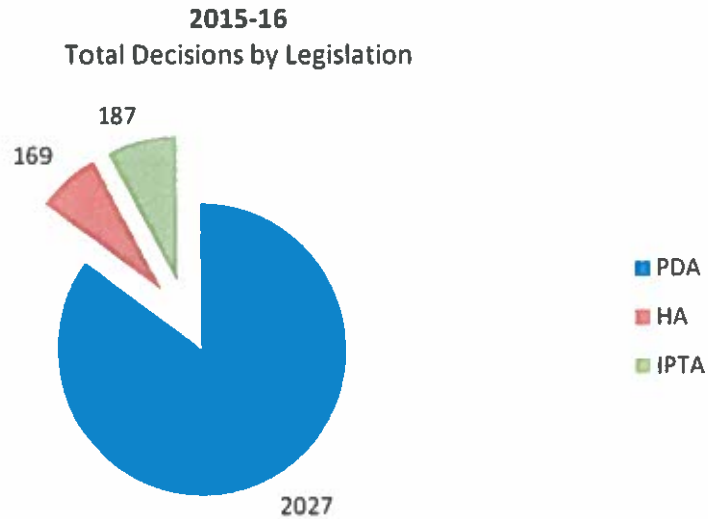


Decisions

Total Decisions

In the fiscal year 2015-16, a total of 2383 decisions were made compared to 1631 decisions made in 2014-15. Of the 2383 decisions made: 7% were made under *Hospitals Act*; 8% were made under *Involuntary Psychiatric Treatment Act*; and 85% were made under *Personal Directives Act*, which is consistent with 2014-15.

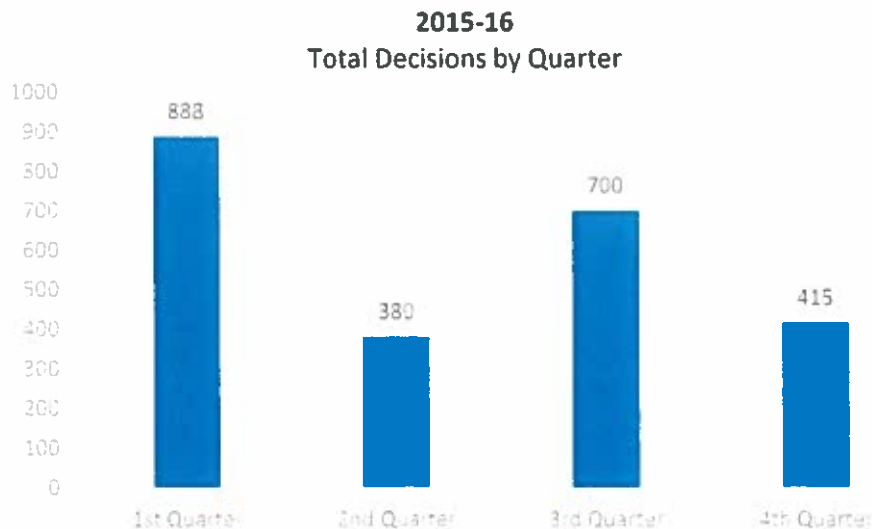
Chart 12 – Decisions by legislation



Total Decisions each Quarter

There was an average of 4 decisions made per referral as compared to 3 decisions per referral in 2014-15. The number of decisions made per quarter is relatively consistent.

Chart 13 – Total Decisions by quarter



Decision Levels

Each decision is categorized as level 1, level 2, or level 3 in accordance with the degree of risk to the client, with level 3 having the most risk. In 2015-16, 94.3% decisions were level-1 and 3.3% were level-2. Level 3 decisions represent 1.3% of all decisions made and specific level-3 decision types made in 2015-16 are shown in Table 3.

Chart 14 – Total Decisions by level

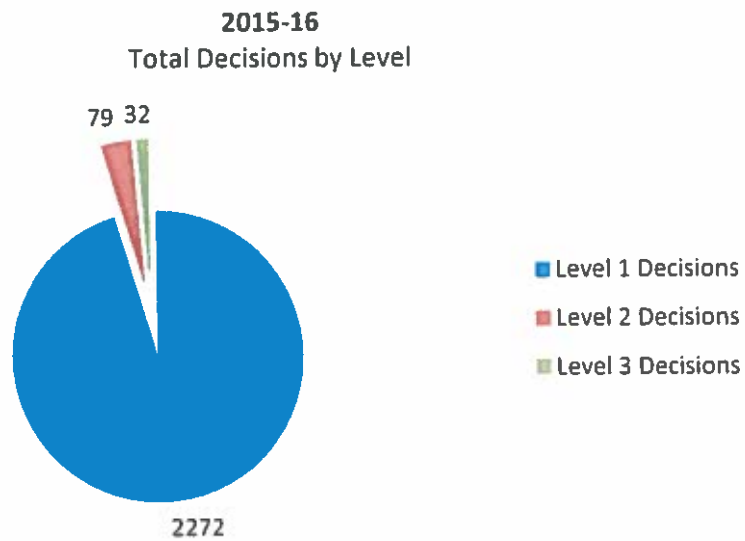


Table 3 – Level 3 Decisions 2015-16

Level 3 Decision	Number
Electroconvulsive therapy (includes maintenance schedules)	15
Community treatment orders (CTO) and CTO renewals	16
Amputation of limb	1
Total	32

QUALITY

Quality Indicators

Complaints

2015-16 target was fewer than 5 complaints received during the year

No complaints were received during the 2015-16 fiscal year.

Response times

2015-16 target was 95% of decisions letters sent within response time standard

587 of 587 (100%) of decision letters were issued within the established response time standard of within 3 business days of receipt of all relevant and required referral information.

External Education

In 2015-16, seven (7) external education sessions were provided about the role of the Public Trustee as substitute decision maker and the referral processes of the HCD Division. In addition to these, a pilot using webinar-based education was implemented in December 2015. Several webinars were prepared, which provided information on specific topics, e.g. consent and capacity, financial referrals, substitute decision-making and the role of the Public Trustee. Continuing care homes were the main target audience and a specialized webinar was created specifically for Adult Protection Workers. Although the webinars were promoted to all existing homes, the uptake was not as robust as anticipated in the first few months. An evaluation of the pilot will be completed at the one year mark to determine the cost/benefit of this mode of education.

RECOMMENDATIONS

1. Continue the annual quality and operational review;
2. Continue to provide external stakeholder education throughout the province regarding the Health Care Decisions division's role, policies, and processes; and
3. Continue to seek feedback from external stakeholders with respect to HCD policies and processes to promote continuous quality improvement and best practice in decision making.