

2020 Vision

Serving British Columbians
Over the Next Decade



PUBLIC GUARDIAN
AND TRUSTEE OF
BRITISH COLUMBIA



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June 30, 2011

The Honourable Barry Penner
Attorney General
PO Box 9044, Stn Prov Govt
Victoria BC V8W 9E2

Dear Attorney General:

I have the honour of presenting *2020 Vision: Serving British Columbians over the Next Decade*.

This report represents the vision statement for the Public Guardian and Trustee from now through the year 2020. This vision statement was developed following extensive consultation with government, our staff, public, not-for-profit and private agencies, as well as many stakeholders.

I wish to thank all who provided their time and energy. The responsibility for the final content however, rests with the Public Guardian and Trustee.

Yours truly,

Jay Chalke, Q.C.
Public Guardian and Trustee

Enclosure

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1. INTRODUCTION

Over the next ten years and beyond, the services provided by the PGT will be profoundly affected by demographic changes. With the leading edge of the baby boom generation already turning 65, the number of people experiencing diseases of aging affecting their mental capacity is predicted to rise significantly. This increase in numbers will have a large effect on demand for PGT services. The PGT will also experience many long-term effects from shifts in immigration patterns, family mobility and income distribution.

Legislative changes on the horizon will reshape many areas of PGT work. Some of the changes reflect the policy trend in BC and elsewhere to more self-reliance and self-determination by the public and could forecast a shift in the predominant role of the PGT from one of providing direct fiduciary management services to one of regulating and monitoring the services provided by others.

What will the next ten years mean for the PGT and how should it be organized to deliver the services that will be needed? What standards of service quality should the PGT be expected to meet and how will these be established? Should the PGT take an active role in delivering selected services where the public chooses the PGT as a service provider? Or should the PGT concentrate on acting only when required by statute?

This paper will begin to answer these and other questions. While most strategic planning takes place in the PGT within the context of the three year cycles mandated under Part 3 of the *Public Guardian and Trustee Act*, this ten year vision is an effort to look beyond that horizon and provide an overarching framework for the development of service delivery plans over the next decade. It is hoped that the ideas put forward here, lead to constructive dialogue and careful planning for the future.

2. LOOKING BACK

Just over eleven years ago, on February 28, 2000, the Public Guardian and Trustee of British Columbia began a major process of change. The symbol of this change was a new name – the Public Guardian and Trustee, no longer the Public Trustee; and the legislative framework of the change was a new statute – the *Public Guardian and Trustee Act*. This statute set out new expectations for how the work of the PGT would be carried out. Most significantly, it required annual performance reporting on each program area. This meant that the PGT's work became much more visible, accountable and transparent than at any time in the past.

Also on February 28, 2000, other parts of BC's Adult Guardianship statutes were brought into force. Many of these statutes gave new legislative and policy roles to the PGT including: acting as a temporary substitute decision-maker for adults unable to make health care decisions for themselves and without family members able to act; appointing a close friend or other appropriate person to act as a temporary substitute decision-maker for an adult; supporting the development of Community Resource Networks focused on preventing adult abuse and neglect; and protecting vulnerable adults by investigating reports about representation agreements.

Many other changes have happened over the past 11 years. Among the most significant was the opening of regional offices in Victoria in 2003, and Kelowna in 2004. These offices provide services to mentally incapable adult clients in their respective regions, and are important contributors to service delivery planning and coordination among local service delivery partners.

A major focus for the PGT has been to improve the timeliness of client service. In the past, PGT services have been subject to some criticism that a number of them were too slow. Through sustained multi-year efforts – and despite ongoing workload pressures – the PGT has made significant improvements in the timeliness of virtually all services. Backlogs have been eliminated or reduced everywhere.

Another important change was an amendment to the *Estate Administration Act* in 2003 giving the PGT discretion to decide whether it would or would not administer an estate. By exercising discretion to decline to administer small estates where there is no material benefit in formal administration, the PGT has been able to reallocate resources from low value-added work using a great deal of staff time, to focus on estates where formal administration makes a material difference. The resulting increase in the quality of service delivery has been widely noted.

In a similar way, through an amendment to the *Patients Property Act* in 2002, the PGT has been able to move from being required to review the accounts of all private guardians on a bi-annual basis to establishing a variable account passing cycle based on an assessment of risk. This has enabled the PGT to focus support on those private guardians who need it most and reduce the backlog created by the prior filing requirement.

Major changes have also taken place in the way the PGT carries out its role as financial guardian for children in care. An important breakthrough in this field came in the negotiation of two protocols with the Ministry of Children and Family Development in 2002 and 2006 that established a system of regularly notifying the PGT about children who have been brought into care. This has enabled the PGT to better determine if a child for whom PGT has become guardian of estate has any outstanding legal or financial issues. The PGT has, through a pilot outreach office, also been taking a more active role in directly reaching out to children in care to better understand and meet their needs. This pilot will be evaluated in due course.

3. LOOKING AHEAD: ENVIRONMENTAL SCAN

The PGT's services are situated in a societal, public service, familial, medical and legal context that is undergoing rapid change. Much of the change is external and is simply part of the environment all organizations face. Some is part of the fiscal context and policy decision-making of the provincial government; and finally some relates to issues, including an aging technology infrastructure, particular to the PGT itself.

A. Demographic Issues

i) Aging Population

Population demographics are likely to be the single most important societal trend affecting the PGT. Along with increased life expectancy, the aging of the baby boom generation will result in a significant increase in both the proportion and number of seniors. This has the potential for multiple demands on the PGT and other public services.

With the number of seniors rising, it is expected that policy discussions will increasingly focus on the issues that matter to this demographic. Health care will likely continue to lead the public's agenda.

Although the leading edge of the baby boomers only turns 65 in 2011, the number of seniors over 85 – those most susceptible to dementia including Alzheimer's – is already the fastest growing segment of the BC population.

In *Rising Tide: The Impact of Dementia on Canadian Society*,¹ the Alzheimer Society of Canada predicted that by 2039 approximately 177,684 British Columbians will be living with dementia. This is an increase from 1.6% to 3.2% of the total population. This major study noted that not only will the number of people with dementia increase as a consequence of the increasing numbers of older people, but the incidence of dementia is also forecast to rise.

Since a large number of the PGT's adult clients have become clients in part because they are suffering from dementia, the PGT anticipates there will be a high on-going demand for its services both as guardian and as the monitor of private guardians. This demand, however, will exceed the PGT's current capacity to provide services, as already the PGT must ration its service by focussing on those adults who are also experiencing abuse, neglect or self-neglect.

ii) Increasing Diversity

Statistics Canada reports that according to Citizenship and Immigration Canada, Canada has welcomed roughly 5.1 million immigrants over the past 30 years.² During the 1980s the average intake was about 133,000 individuals per year. During the 1990s, this increased to over 200,000 individuals and between 2001 and 2006 an annual average of 242,000 individuals were admitted as permanent residents.

The rising number of immigrants and the relatively slow rate of natural growth of the population are reasons that the proportion of the foreign-born in Canada's population has been increasing since the 1990s. The 2006 Census identified approximately one in five (18.7%) of the Canadian population as foreign born. In BC, this proportion was higher than the average, at 27.5% of the population, second only to Ontario at 28.3%.

¹ This report published in 2010, can be found on the website of the Alzheimer Society of Canada: www.alzheimer.ca.

² This and the subsequent information come from *Immigration in Canada: A Portrait of the Foreign-born Population, 2006 Census: Findings*, found at www.statcan.gc.ca

Seniors in immigrant communities face an increased risk of abuse if they are economically dependent and linguistically isolated. In addition, lack of familiarity and/or understanding of Canadian law among newcomers and even among some longer-term immigrants about such things as property ownership, inheritance and the rights of women and children, present special challenges for PGT staff members who may be required to intervene in immigrant families to protect the interests of either children or vulnerable adults. Over the coming decade, demonstrating cultural literacy and being able to provide services and information in a variety of languages will be increasingly important for the PGT in order to effectively deliver services mandated under BC law to an increasingly diverse population.

iii) Increasing Mobility

Immigration and population mobility, both within and outside Canada, mean that families are often widely dispersed. Local family supports, particularly for seniors and other vulnerable persons, may not be available. This presents challenges given that the PGT often acts only when there are no supportive family members available.

In the estate administration area, increased mobility adds to the challenge of locating heirs, beneficiaries and family members of people who have died and whose estates have come into PGT administration. It can also mean dealing with assets in many different jurisdictions. This can be time consuming and expensive as there is no globally recognized system to deal with assets or with substitute decision making authority.

This more mobile and diverse population can be expected to make demands on PGT services in a number of areas:

- More estates will involve foreign assets and heirs
- More adults will need services in languages other than English
- More adults will have substitute decision making, testamentary and other planning documents made outside BC

B. Social and Economic Trends

i) Fiscal Constraints and Workload

Slow economic growth and declining revenue from some resource sectors have limited the ability of the provincial government to meet rising cost pressures in health, education and social services.

As a public agency, the PGT has accepted its share of constraints and has additionally absorbed some of the spill-over effects of reductions in other areas for example, services formerly provided by hospitals in planning for patient discharge.

To contend with rising costs in an environment of constraint, the PGT has used the legislative discretion it has been given to focus its resources on those situations where it can provide the

most value added service. In relation to adults and in estate administration, however, this has meant that the clients or estates accepted need a fairly high level of service. This has workload implications for PGT staff.

PGT clients are, almost by definition, not a powerful lobby group. In the case of adult clients, many are near the end of their lives. They are not, however, without advocates. As the number of seniors rises and their issues become more central, the community organizations dedicated to advancing their interests will likely gain greater prominence.

ii) Awareness of Adult Abuse and Neglect

Since the coming into force of Part III of the *Adult Guardianship Act* in 2000, the PGT has been actively involved in providing support and assistance to adults experiencing financial abuse. It also works with partners in the regional health authorities dealing with incapable adults experiencing physical abuse, neglect or self-neglect, who are in need of a financial guardian.

Major public awareness campaigns in the past several years led by the Federal, Provincial and Territorial Ministers Responsible for Seniors, along with the RCMP, other police organizations, and a variety of national seniors' organizations, have heightened concern about the issue of elder abuse and led to much more reporting of cases of abuse by citizens and financial institutions.

It is expected that this heightened level of concern will continue to be reflected in the on-going demand for PGT investigation of potential financial abuse. Financial institutions, in particular, are training their staff to recognize signs of financial abuse and to report concerns to the PGT or the police before it's too late.

The number of times the PGT has used its investigative powers to protect the assets of vulnerable adults continues to increase. During the past year, the PGT used its freezing powers on approximately 300 occasions to protect the assets of a vulnerable adult.

iii) Individual Self-Determination

In a wide variety of policy areas, government has pursued an objective of increasing citizen self-reliance and personal choice. This arises partly in response to the public's demand for highly individualized responses and partly as an effort to reduce the costs of publicly funded services. The PGT supports this effort in relation to incapacity planning by capable adults by encouraging safe and responsible pre-planning through public education materials on its website and in print.

The PGT also has a strategy of actively encouraging the friends and relatives of incapable or vulnerable adults to work out alternatives to the PGT becoming guardian if at all possible. As noted, the PGT has had to concentrate its services on the most needy adults, in particular those experiencing abuse, neglect or self-neglect.

With the *Representation Agreement Act*, the new Part 2 of the *Power of Attorney Act*, and other self-planning statutes providing BC residents with new opportunities to exercise self-determination in planning for potential incapacity, it is expected that more people will create

planning documents. For the PGT, a potential consequence may be increasing pressure to investigate and intervene when that self-planning fails for whatever reason.

In addition to wanting more control over who should be their guardian, many people want more control over what their guardian can do. In the field of adult guardianship, it is considered best practice to intervene only to the extent that is absolutely necessary to protect an adult who is incapable of managing his or her own affairs. The PGT has been able to make some changes under current BC law, for example, adjusting its monitoring role in the case of incapable adults with private court appointed guardians to establish different levels of scrutiny based on an assessment of risk, however, it does not have that same flexibility when it comes to the provision of direct service.

Under the current statutory and common-law framework the PGT is still, for the majority of its clients, a direct service provider with obligations to deliver those services according to a common standard of care, common legal requirements and a common fee schedule. These obligations are increasingly at odds with current social expectations of flexible response in public services.

iv) Increasing Disparity of Income

Recently released data on earnings and income from the 2006 Census reveal a significant increase in income inequality.³ Based on the median earnings of full-time, full-year earners between 1980 and 2005, the data show:

- earnings increased by 16.4 per cent for those in the top income group
- earnings stagnated for those in the middle income group
- earnings fell by 20.6 per cent for those in the bottom group

Canada was very successful in the last half of the 20th Century in dramatically reducing the poverty rate among older Canadians. This is largely attributed to the implementation of the Canada Pension Plan and Quebec Pension Plan in 1966. As reported by the Conference Board of Canada, “pensions as a proportion of disposable income among Canada’s elderly more than doubled between 1980 and 1996, from 21 to 46 per cent. The first cohort to receive full public pensions turned 65 in 1976. The generation that followed became the first beneficiaries of private occupational pensions that were expanded between the 1950s and the 1970s.”⁴

With this greater wealth, however, has come greater complexity in relation to asset management and asset disposition as well as more challenging family dynamics. As the reason for PGT involvement in the affairs of an incapable adult is often directly related to disagreements within families over the management of an adult’s assets, the increased wealth of some older British Columbians will likely increase demand for PGT services.

³ <http://www.conferenceboard.ca/hcp/Details/society/income-inequality.aspx#evidence>

⁴ <http://www.conferenceboard.ca/hcp/Details/society/elderly-poverty.aspx#poverty>

It should be noted that though some older adults in BC have increased wealth, the low poverty rate among elderly Canadians is starting to rise and there are concerns that the current levels of Canada Pension Plan and Old Age Security benefits are not sustainable.

As PGT clients are mostly incapable of working to supplement their income, PGT fees can for some clients cause hardship to adults who must subsist on very limited and fixed incomes.

C. Policy and Legislative Issues

i) Adult Guardianship

Contemporary efforts to reform adult guardianship laws in British Columbia began in the late 1980s. In 1993, four statutes aimed at creating an integrated and modern framework for supporting adults who are incapable of making their own decisions were passed by the BC legislature. Practical and fiscal difficulties associated with these statutes meant that it was not until 2000 that they were partly proclaimed and even now, a core piece of adult guardianship has not been proclaimed, leaving this area of law stuck in the past, belonging to a time when most people experiencing mental incapacity were institutionalized.

Reform of adult court and statutory guardianship law is no longer just overdue, it's urgent. The *Patients Property Act* does not support the kinds of decisions or the decision-making roles that are needed when people live in the community. Striking the right balance between an individual's need for protection (from themselves and others) and their right to self-determination and autonomy in a way that is affordable is the challenge that must be faced.

Following the PGT's 2005 Special Report "Court and Statutory Guardianship: The *Patients Property Act* and the *Adult Guardianship Act (Part 2)*, A Discussion Paper on Modernizing the Legal Framework", amendments were developed and introduced by way of the *Adult Guardianship Statutes Amendment Act, 2007* that aimed to achieve this balance. Several times it appeared that proclamation was imminent, but the fiscal challenges presented by the global economic downturn in 2008 have held it back. While the 2007 amendments removed many of the costly features of the 1993 proposals, some increased costs over the *Patients Property Act* are inevitable. Modern expectations are such that the loss of rights associated with the appointment of a guardian must be accompanied by due process. While there still can be much debate about how much and what kind of due process is appropriate, the 2007 amendments reflect a reasonable compromise. Funding is the missing ingredient.

The good news is that some reforms are proceeding notwithstanding the economic slowdown. Reforms to strengthen BC's incapacity planning laws are coming into force on September 1, 2011. These changes will add necessary safeguards. The focus on safeguards will heighten awareness of PGT's protective function for vulnerable adults.

ii) Care Facility Admission

A second aspect of the 1993 adult guardianship legislation that is also waiting to be proclaimed is care facility admission. Admission procedures in BC currently exist in a risk-laden grey zone

where care facility operators take in residents in need of a safe and secure environment, but can't always point to the legal authority that explains how the residents were admitted. This issue is particularly acute since such facilities are typically ones in which egress is controlled and thus the liberty of residents constrained.

With an increasing number of seniors likely to require placement in care facilities and an on-going shortage of the options available, this issue will become even more pressing.

The care facility admission portion of the *Health Care (Consent) and Care Facility (Admission) Act* would resolve this issue and ensure that the legal framework for obtaining consent to admission is accessible to all. Once again, funding represents the current barrier that must be overcome.

iii) Uneven Property Protection for Children and Youth

When the Provincial Court of British Columbia places a child in continuing care, the *Child, Family and Community Service Act* requires the Guardian of Person – MCFD or Delegated Aboriginal Child and Family Service Agencies (DAAs) – to notify the PGT that the court has made this order. The PGT relies on this notification because, under the law, it has no direct involvement in the child protection court proceedings prior to the granting of a continuing custody order. Each month, approximately 90 children and youth become Guardian of Estate clients of the PGT, usually because a continuing custody order has been granted.

At March 31, 2010, the PGT was Guardian of Estate for 5,455 children and youth. Though a large number, this does not fully represent the number of children receiving protective services from the province. Only 58% of the children in care of MCFD and DAAs have been the subject of a continuing custody order. The remaining 42% receive services under an alternative care arrangement and are therefore ineligible to receive services from the PGT. The increasing practice of providing child protective services through means other than a continuing custody order is creating a significant gap in service. Children in alternative provincial care options need someone to protect their legal and financial interests.

Recently, the PGT has increased efforts to raise financial literacy levels among children at risk, particularly Aboriginal youth. This has involved a broad partnership with Aboriginal organizations, financial services organization and MCFD. Once a child turns 19 and actually receives their funds, however, they are presumed capable in law and largely on their own.

The challenges faced by the PGT in providing Guardian of Estate services include:

- Developing effective relationships with DAAs as well as MCFD
- Lack of funds to support role beyond strict financial management and specifically targeted services (e.g., critical incident investigations)
- Lack of a regional office in the North where a great many Guardian of Estate clients are located
- Inability to provide transitional support once clients turn 19
- The restriction of services to those children and youth in continuing care excluding those in other forms of provincial care

iv) Gaps in Private Trustee Services

A growing issue for middle class citizens is the lack of affordable access to professional services related to the legal and financial management of both estates and personal trusts. For example, beginning in the 1990s the minimum fees charged by trust companies for administering trusts and estates began to rise such that it became uneconomic to appoint a trust company to administer an estate or manage a trust fund unless the sums involved were substantial. This has restricted access to corporate trust services for people needing the protection of a personal trustee during their lifetimes as well as for people needing someone willing to administer their estate upon their death.

In the personal trust services area this issue is particularly acute for parents of adult children with disabilities trying to plan for how the child's affairs will be managed if they die before their child dies. Unless there is a family member willing to take on the long-term responsibility, or there are substantial assets to be managed, there are few options.

In relation to the estates of deceased persons, this issue particularly affects the appointment of executors under a will. Family mobility and other factors can make it difficult to identify a family member willing to administer an estate. If the value of the estate is less than \$500,000, it can also be difficult to find a trust company or other private executor willing to take it on as their business models favour higher valued estates where the financial returns from fees are substantially more.

In other jurisdictions, notably New Zealand and Australia, the need for trustee and executor services has been met by the public trustees entering into the market in a vigorous way. While there are obstacles to the PGT doing something similar in BC, these jurisdictions have shown how trust and estate administration services can be delivered using a model that ensures access to service by lower valued estates.

D. Technology and Information

The trust accounting computer program on which a large part of the PGT's work depends was put in place in the 1980s. While potential replacements for this program have been sought, difficulties in finding a system able to accommodate the range of work that a new system would be expected to support, at a price that can be afforded, have so far proven insurmountable. As a result the old system has been maintained through a series of major and minor add-ons and upgrades.

Client expectations about being able to obtain their own personal and financial information cannot be met by the PGT's current technology. This is particularly frustrating for youth who will be receiving trust funds on their 19th birthdays and who could benefit from becoming involved earlier on in making decisions about how their money is invested and/or being used for their benefit. Parents of children with trust funds also find it difficult to understand why the PGT cannot provide on-line access to information about their child's funds.

E. Emergence of New Aboriginal Authorities

The creation of new Aboriginal Authorities through treaties and other legislative action is increasing the number of ways in which the PGT is interacting with First Nations and Aboriginal peoples and increasing the need for new relationships and more flexible service delivery models.

One of the most rapidly changing service areas concerns the devolution of child protection services from MCFD to statutory Delegated Aboriginal Child and Family Service Agencies. This devolution has resulted in the PGT becoming co-guardian with these agencies, in addition to MCFD, for children in continuing care. This has significant resource implications for the PGT including the need to develop and maintain numerous organizational relationships, educate organizations unfamiliar with the PGT role about the process and respective responsibilities, and develop and implement information sharing agreements and reporting with growing numbers of co-guardian organizations.

The implementation of treaties can also affect the PGT. In the case of treaties involving the devolution of federal authority to provincial and aboriginal governments, matters previously dealt with by federal officials may now come under the jurisdiction of the PGT, in particular children's trusts, adults under legal disability and deceased estates on reserves. In addition to different legal rules and different kinds of services, there are differences in what fees are paid by clients. In future treaty negotiations, it is important that better preparation for these changes become part of the process.

While the PGT is eager to improve service delivery to Aboriginal and First Nations people, its ability to do so is constrained by several factors. These include the lack of a regional office in the North as well as the need for resources to develop appropriate protocols and procedures. The PGT also needs to increase the employment of persons of an aboriginal background and/or with expertise in aboriginal issues.

4. WHAT WE HEARD FROM THE COMMUNITY, STAKEHOLDERS AND PROFESSIONALS

A. Who We Talked To

Part of developing 2020 Vision involved a series of interviews and conversations with a variety of groups and organizations with whom the PGT interacts or who represent the interests of one or more PGT client groups in some way. The format of the interviews varied. Some were on the phone, some in person either individually or in small groups, and some were written responses to questions sent by email.

The goal of the interviews was to gather a sampling of viewpoints. At some point during the next 10 years, a more broadly based consultation could be considered that would include people directly connected to PGT service delivery, such as youth in care, children with trust funds and their families, heirs of estates, and people providing care for adult committee of estate clients. For now, this sampling provided by mostly service delivery organizations, advocacy groups and legal practitioners provides a glimpse of how the PGT is perceived and how certain people think it should position itself to deal with issues over the next 10 years.

B. Questions Asked

The following five questions formed the basic structure of each interview or discussion.

1. What do you consider the most important change the PGT has made in the services it has provided over the past 10 years?
2. Looking ahead, where do you see the greatest need for change in PGT services?
3. Is there a new area of work (i.e., a new role) that you think the PGT should be providing to British Columbians?
4. Is there a current area of work (i.e., an existing role) that you think the PGT should stop providing to British Columbians?
5. Do you think the PGT is doing enough to communicate with British Columbians about its role and the services it provides?

C. What People Said

There was considerable variety in the responses to the questions. Most organizations and individuals are involved with only one of the PGT's three major client groups, and so confined their remarks to the one area. Many felt they did not know the PGT well enough to respond to some of the questions.

The comments provided by the PGT's community partners can most helpfully be categorized by reference to the client group the partner organization deals with.

Children and Youth

- PGT should expand its role in relation to financial education of kids - hold exit interviews when kids age out of care in order to provide financial advice – and not just to kids with funds.
- More help is needed in transition from kids to adults, especially for kids with disabilities.
- More info is needed in traumatic brain injury and disabled child communities about PGT role.
- PGT should look at having a role in relation to pooled special needs trusts.
- PGT has made a fantastic improvement in favour of kids.
- The legal and financial needs of children in temporary care and alternative care arrangements are not being met under the current system; the PGT needs to be given a role though it doesn't have to be the same as Guardian of Estate.
- PGT may need to look at filing a class action suit to redress the consequences for children of the current temporary care order/continuing care order systems of child protection.

Services to Adults

- Regional office openings have been a very positive development – being part of a community and having a presence in community activities enables the PGT to meet with and speak to local organizations.
- Substitute decision-making for adults needs to be properly staffed and funded in order to carry out role with both an expanding population and an expanding awareness of adult abuse and neglect.
- PGT needs to get more involved in acting on behalf of someone who is injured, e.g., a victim of crime, but who has no money and no family members able to look out for their interests and sign for claims.
- There is a big gap in support for people who are abused but not incapable. Also in dealing with situations that don't fit into the current legal framework such as temporary incapability because of delirium or alcohol issues.
- PGT should be actively promoting representation agreements.
- The focus should be on preventative measures that will support and protect the growing population of aging people many of whom will be in the “grey zone,” i.e., not fully capable, but not incapable either.

- There is a need to educate people who are acting under a Power of Attorney about their responsibilities; there is also a need to monitor attorneys who have made mistakes.
- PGT should develop standards and accreditation for financial guardians; also need to do more audits including looking at more than financial risk.
- PGT should be given responsibility to investigate and replace Representatives for Health and Personal Care who are not living up to their duties under the *Representation Agreement Act*.
- Very important to get the *Adult Guardianship Act* proclaimed so that services can be provided on a more integrated basis for vulnerable adults. This will also enable common reporting standards for guardians, etc.
- People are confused about how the PGT fits into Part 3 of the *Adult Guardianship Act*; they are even more confused about which organizations are a “designated agency” under Part 3. The PGT would be a good alternative.

Estates and Personal Trust Services

- PGT could meet the needs of older adults who want to preplan, e.g., prepare an Enduring Power of Attorney, Representation Agreement, or Will but who do not have friends or family able to take on the role; the demand for this is only going to increase.
- An opportunity exists for the PGT to play an expanded role in managing personal trusts for adults with a mental illness (though this can be very demanding).

General Comments

- If the PGT is going to better serve non-English speaking communities, it will need to develop its cultural competencies in languages and other areas.
- There is a need for someone to look out for the interests of refugees and temporary foreign workers – nobody is dealing with them and they are very vulnerable.
- The PGT is doing a good job of public education given its current resources, but more would be better as there is a lot of misunderstanding out there.
- The PGT needs to increase its integration into the community (e.g., more services carried out by regional offices) and build more partnerships with health authorities and community agencies.

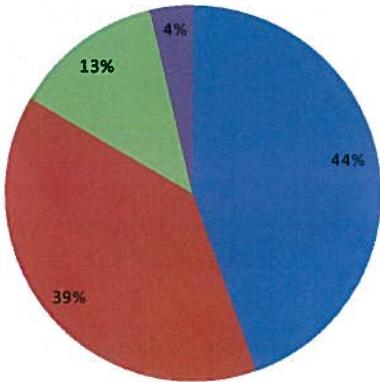
5. WHAT OUR STAFF ENVISION

The following discussion provides a summary of responses to an on-line questionnaire about 2020 Vision distributed to PGT staff members by an independent consultant. The voluntary and anonymous questionnaire was completed by 65 individuals representing every division within the PGT.

The questionnaire allowed staff members to fill in their own answers to the questions – no pre-defined multiple choice responses were provided. However, for public reporting and summary purposes, the consultant tabulated the answers and placed them into the general categories set out under each question below.

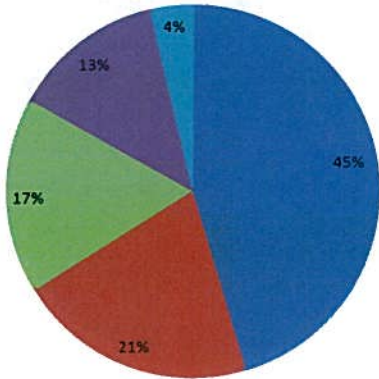
Question 1: Thinking about your current division, what work have you done in that division that you are especially proud of?

- Providing high quality service for client
- Improving internal procedures and processes result in better service delivery
- Building and strengthening relationships with the community
- Improving the effectiveness of our team



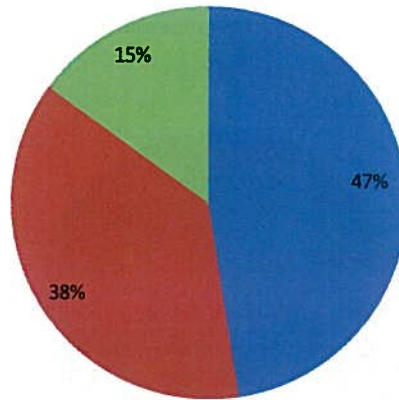
Question 2: Still thinking about your current division, what area(s) of work do you think your division does particularly well?

- Meeting client needs
- Managing well despite obstacles and large caseloads
- Working together as a team
- Communication and outreach
- Identifying and implementing service improvements



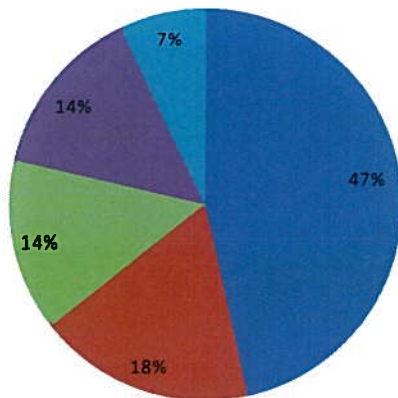
Question 3: Thinking about the PGT in general, what area(s) of work outside your current division do you think the PGT does particularly well?

- Serving clients in general
- Serving one or more specific client groups
- Public education and outreach



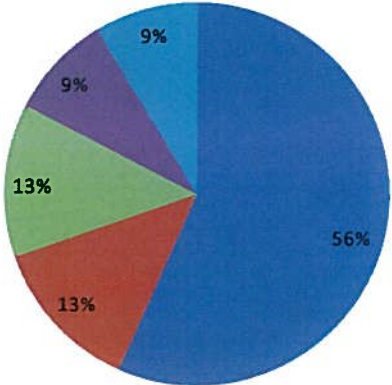
Question 4: In your division, what area(s) of work have you seen improve over the past 10 years?

- Better procedures, technology and work environment
- Clients services in the areas of Guardian of Estate services
- Community connections
- Speed of work / overall service
- Client services in the area of estate and trust administration



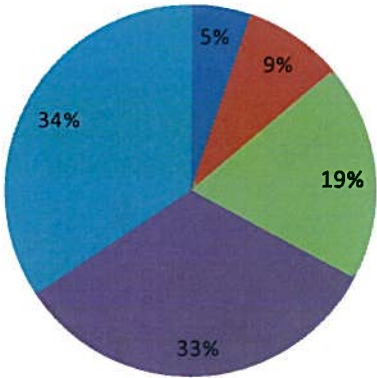
Question 5 – Thinking about the PGT in general, what area(s) of work have you seen improve over the past 10 years?

- Business processes and practices (e.g., use of checklists, internal controls)
- Family and community connections
- Internal communication
- Technology
- Hiring practices



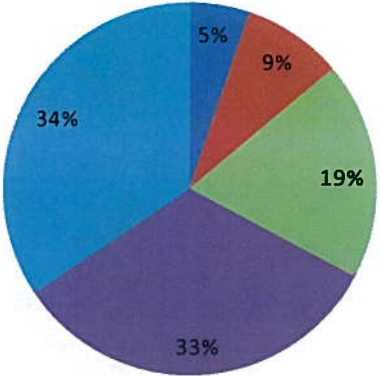
Question 6 – Thinking about the division in which you currently work, what area(s) of work would you like to see improve?

- Opportunity to market expertise
- More interaction with clients/community
- Improved work environment/training/communication
- Better procedures/practices for doing work
- More manageable workloads or more staff



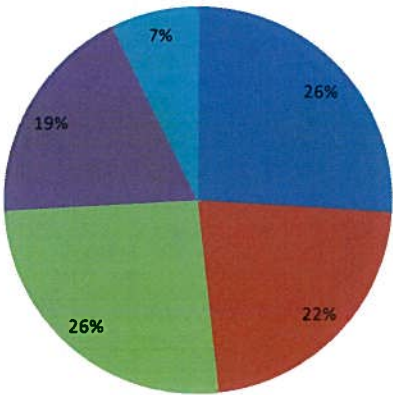
Question 7 – Thinking about the PGT in general, what area(s) of work would you like to see improve?

- Opportunity to market expertise
- More interaction with clients/community
- Improved work environment/training/communication
- Better procedures/practices for doing work
- More manageable workloads or more staff



Question 8 – Is there a new area of work (i.e., a new role) that you think the PGT should be providing to British Columbians?

- Need to better manage/resource current work before taking on something new
- Proactive public education/advocacy about advance planning and abuse prevention/providing financial literacy education for youth and providing transitional care past 19
- Marketing services, e.g., estate administration, personal trusts/helping people prepare wills and powers of attorney
- Providing financial literacy education for youth and providing transitional care past 19/engaging both guardian of estate youth and youth without an active guardian
- The work outlined in the un-proclaimed parts of the AGA/non-commissioned (i.e., publicly funded) care for adults with small fixed incomes such as those on disability assistance



6. THE NEXT DECADE

Over the next decade the PGT will have opportunities to plan for the changes it must make and for the changes it should make. The more opportunity there is to structure the changes carefully and in a way that best meets the needs of clients, their friends and families, PGT partners and PGT staff members, while respecting government priorities and fiscal considerations, the more likely the changes will be implemented in an effective and orderly manner.

The major areas where planning for change needs to take place are in: service quality; law reform; organizational capacity and infrastructure development; and in relations with Aboriginal organizations. Proposals for the types of changes to be considered in each area are set out below.

A. Service Quality

Providing high quality service to clients is highly valued by PGT staff members. Community partners see it as an area where the PGT has been trying hard and with some success to improve. While gains have been made in service delivery through strategies aimed at reducing caseloads and benchmarking certain performance measures, there are opportunities for further improvements – that also address the workload concerns of staff members – through changes in the following areas.

i) Visiting Clients

Regular visits to clients need to become part of the standards expected of the PGT. Currently the PGT is only able to carry out annual visits to the adult clients for whom it is Committee of Person. Visits to Committee of Estate clients and personal trust clients are less frequent. Visits with children or youth for whom the PGT is Guardian of Estate are very rare.

Regular visits have been demonstrated to be an important tool in increasing the potential for good outcomes in client care and financial management. Visits help secure the client's safety and reduce the potential risk to the client's health and financial assets. They help the PGT directly identify client needs which is particularly important for clients unable to initiate communication due to their incapacity.

In the area of Guardian of Estate services to children and youth in care, a visit offers a much greater opportunity for the PGT to engage in some of the financial literacy education that is needed by this group.

ii) Personalizing the Service

The statutory framework in which the PGT operates requires it to deliver essentially the same service to all clients served under a particular legal authority and to charge fees to every client on the same basis. While the discretion the PGT has gained in the past 10 years has enabled it to concentrate resources where they are needed the most it has meant turning away many adults who need the services of a financial guardian but who are not at high risk for abuse, neglect or self-neglect.

A statutory framework that allows the PGT discretion to determine what services will be offered based on the specific needs and best interests of the individuals the PGT is trying to protect, is an alternative model. It is one component of a strategy to better enable the PGT to address the forecast increase in demand through a more streamlined allocation of resources. It also respects the value of preserving for clients as much self-determination as is possible within a reasonable level of risk.

The factors which could assist in determining the appropriate the level of individualized service include financial risk, care needs, living circumstances and family support. Regular visits to clients would help to identify any need for changes in the level of service. Before this can be implemented, however, changes to the governing statutes would need to be made.

iii) National and International Standards and Accreditation

In Canada there are no national standards or accreditation available for guardians. While each province and territory has legislation governing the conduct of fiduciaries, it is generally up to individual guardians themselves to interpret what that legislation means in their particular circumstances.

In this field, Canada is out of step with other countries and with international bodies. In the United States, for example, the National Guardianship Association has adopted standards of practice for public and private guardians. Also, at the World Congress on Adult Guardianship Law 2010, held in Yokohama, Japan, delegates affirmed the Hague Convention on the International Protection of Adults (2000) and UN Convention on the Rights of Persons with Disabilities (2006) and declared that adults who lack the capacity to make a particular decision are entitled to have competent guardians who act according to prescribed standards. The delegates declared further that “states should address the development of professional standards, provide appropriate instruments of control and guarantee a satisfactory infrastructure supported by adequate resources.”

In the public realm, the PGT is one of few guardians to publish and report on the service standards expected of staff members when acting as guardians. These standards take the form of annual performance measures and are reported on in the PGT’s Annual Report.

The development of national standards for guardianship services for all public guardians would be an effective means of providing governments with appropriate benchmarks for service delivery as the aging population places increasing demands on services over the next 10 years.

For private guardians, becoming accredited would be a way to lessen the need for monitoring and supervision. As people continue to seek more control over who they want their guardian to be and how they want decisions to be made, accreditation can provide an alternative to PGT account passing of private committees. Of note is a new study underway by the British Columbia Law Institute on Regulation of Private Fiduciaries. This is an important issue and a welcome step.

iv) Addressing Gaps in Regional Services

The PGT is able to deliver services to children on a regional basis only in Vancouver. For adults, regionally based services are delivered through Vancouver, Kelowna and Victoria.

Establishing offices in Victoria (2003) and Kelowna (2004) have brought adult services closer to clients and support the doctrine of “aging in place”. The most pressing need is to bring the PGT service closer to the northern parts of the province.

Regionalizing both children’s and adult services in all parts of BC is a way to improve service and better meet the PGT’s statutory obligations to its vulnerable client groups. This will involve establishing an office in northern BC and reallocating resources among the other regional offices, including Vancouver, to provide services to both children and adults in all regions.

v) Strengthening Services to BC’s Diverse Communities

As British Columbia’s population continues to diversify and reflect a broader range of language and cultural traditions, the PGT must learn new ways to reach out and work with communities unfamiliar with an organization like the PGT and the mission it serves.

Building relationships with organizations on the front line of working with immigrant and multi-cultural communities is an important part of this process. These organizations can be effective as mediators and interpreters in helping the PGT understand what information and resources can support better service delivery to both clients and their families. Building greater cultural capacity within the PGT itself is another important part of the process.

vi) Meeting Demand for Market Services

The PGT receives many requests from people in need of a fiduciary to manage a personal trust, be an Attorney under a Power of Attorney, or be an Executor for a Will. While there is no legal impediment to the PGT taking on these roles, there are organizational and financial obstacles to the PGT expanding its activities in these areas. Chief among them is a fiscal model that historically has not allowed the PGT to manage its service delivery on a “business-line” basis such that staffing and service levels can be linked to revenue. Delivering market services without being able to increase staffing levels to meet the demand for service would degrade the level of service the PGT would be able to provide and would not benefit British Columbians.

Recent changes to the fiscal structure make expansion into some areas of demand a possible development. In situations where the PGT is able to fill a gap in service on a cost-recovery basis, a case for expansion may be justified provided it does not prejudice existing service providers. In addition to careful planning about how the expansion will be managed, it will be critical to ensure that staffing needs can continue to be met as demand rises.

B. Law Reform

The PGT's wide variety of statutory roles makes it very conscious of the need for law reform in areas that have lagged behind modern expectations of what the law should be. The issues created by the need for reform have been outlined in the environmental scan section of this document. Four areas are highlighted here.

i) Court and Statutory Guardianship of Adults

Bringing into force the Court and Statutory Guardianship aspects of Bill 29, accompanied by appropriate resources, is the main step remaining in reforming the BC system of appointing guardians for adults who are not able to make decisions about their own financial and legal matters or about their personal needs. This law will provide BC's guardians, both public and private, with a legal framework that more closely resembles the reality of their role and expectations. It will also put into law some additional due process considerations that act as safeguards when taking away an individual's right to self-determination.

Following implementation of that new law, the PGT can begin to look to some of the international protocols and conventions and identify how BC's laws can be further updated to take international developments into consideration. With the increasing mobility of BC's population, these international issues will gain in prominence.

ii) Care Facility Admission

As with court and statutory guardianship, the care facility admissions portion of the *Health Care (Consent) and Care Facility (Admissions) Act*, only needs to be brought into force and funded to have this important element of due process put in place for the frail and vulnerable elderly in BC.

Facility operators also need the protection afforded by having clearer legal authority for the placement of incapable adults in their care facilities.

iii) Children's Property Rights Modernization

The law governing most aspects of the property rights of children and youth is a little known and ancient statute known as the *Infants Act*. It is in dire need of an overhaul to ensure it reflects modern society's expectations of how children's property is to be governed. Furthermore, it includes other matters involving children, such as health care consent, that would benefit from legislative attention.

iv) Strengthening Safety for Vulnerable Adults in Facilities

Vulnerable adults living in facilities are particularly reliant on effective protective laws and services. Ensuring that employees of such facilities are free from conflicts of interest and are motivated solely to act on behalf of the residents in their care is particularly important. This includes appropriate employee screening, legislative protections and tenure protections. In each of these three areas, steps have been taken but more needs to be done.

C. Strengthening Organizational Capacity and Infrastructure Development

Within the PGT, changes are needed to the technology infrastructure, the fiscal framework and some of the ways that the PGT engages in staff training, public education and research. The following proposals gather together a diverse set of ideas for improvement and change.

i) Information Technology Renewal

There are three major systems that the PGT must address over the coming decade: trust management, document management and case management.

The PGT maintains a highly proprietary trust accounting system known as COMET. COMET is over 20 years old and is showing its age, standing as a barrier to service improvements, as well as posing a material risk to the organization. A business case for replacement funding has been completed and submitted to the provincial government. Moving forward with this replacement is essential.

The PGT is a document-intensive organization due to the wide variety of legal and administrative documents required, service durations that can span decades, and extensive retention periods associated with fiduciary obligations. As data and documentation increasingly is becoming electronic the different types of records to be maintained are multiplying. To ensure ready access to the right information at the right time the PGT needs a document management system.

The PGT's primary client information system, known as CASE, has been in use for about five years. Recent acquisition of new rights to modify this licensed program will allow PGT to make needed modifications. CASE should meet PGT needs for the next seven or so years by which time consideration should be given to a new system.

ii) Rationalizing the Fiscal Framework

Though the PGT generates revenue from many of the services it provides, the government's fiscal model does not effectively distinguish between the work the PGT provides on a fee-for-service basis and the work it undertakes on a public service basis. This poses barriers to the PGT from increasing spending (to hire staff) even in areas where the increased spending would be more than offset by increased revenue from fee-paying clients or future clients. Furthermore, retained corporate earnings of the PGT are effectively "trapped" in the PGT Operating Account which poses further obstacles to meeting the needs of fee-paying clients.

iii) Public Education

The need for more public education activities by the PGT was pointed out by many community partners. The PGT must be strategic in developing these activities as funds are limited and getting the attention of the public, even the interested public, is very difficult.

Developing and disseminating information using on-line tools will continue to be a priority as it is highly cost effective. Responding to requests for printed materials, workshops and seminars will also continue as an effective way to reach specific audiences.

On the broader front, there may be opportunities for the PGT to do more in outreach to its community partners concerning the role of the PGT. The purpose of this outreach would be to help community partners better understand what the PGT is able to do and in what circumstances. These partners can in turn carry a clearer message about the PGT into the work they do in the community.

iv) Create a Research Agenda

Over the years, the PGT has accumulated a large amount of data related to the issue of adult abuse and neglect. Up until now the PGT has not actively promoted research into issues affecting PGT clients due to logistical and capacity issues. As more data is gathered and stored electronically – making it easier to retrieve in a manner consistent with obligations to protect client privacy – cooperation with the academic research community becomes more feasible.

By developing a research strategy on matters affecting PGT clients, the PGT can proactively work with the academic community to identify matters needing study as well as ensure a broad range of experience is considered in research studies. Such research can act as a cost-effective supplement to public education initiatives.

v) A Degree Program for Prospective Employees

As complexity and sophistication of PGT work increases, so do the demands on PGT staff. This includes rising expectations about the knowledge, skills and experience of incoming staff. PGT employees frequently come from diverse fields such as law, accounting, business or social work. Because there currently is no specific academic program or professional qualifications to be a case worker for a public fiduciary, new employees face a tremendous learning challenge.

One method of addressing the need for training is to work with the post-secondary educational community to establish a certificate or degree program for PGT work. This may involve cooperation with other Canadian public fiduciaries to ensure a critical mass of students. On-line learning could address the geographic challenges inherent in a national student base. The National Association of Public Trustees and Guardians recently identified this as a potential solution to a problem shared across the country.

D. Strengthening Relationships with Aboriginal Organizations

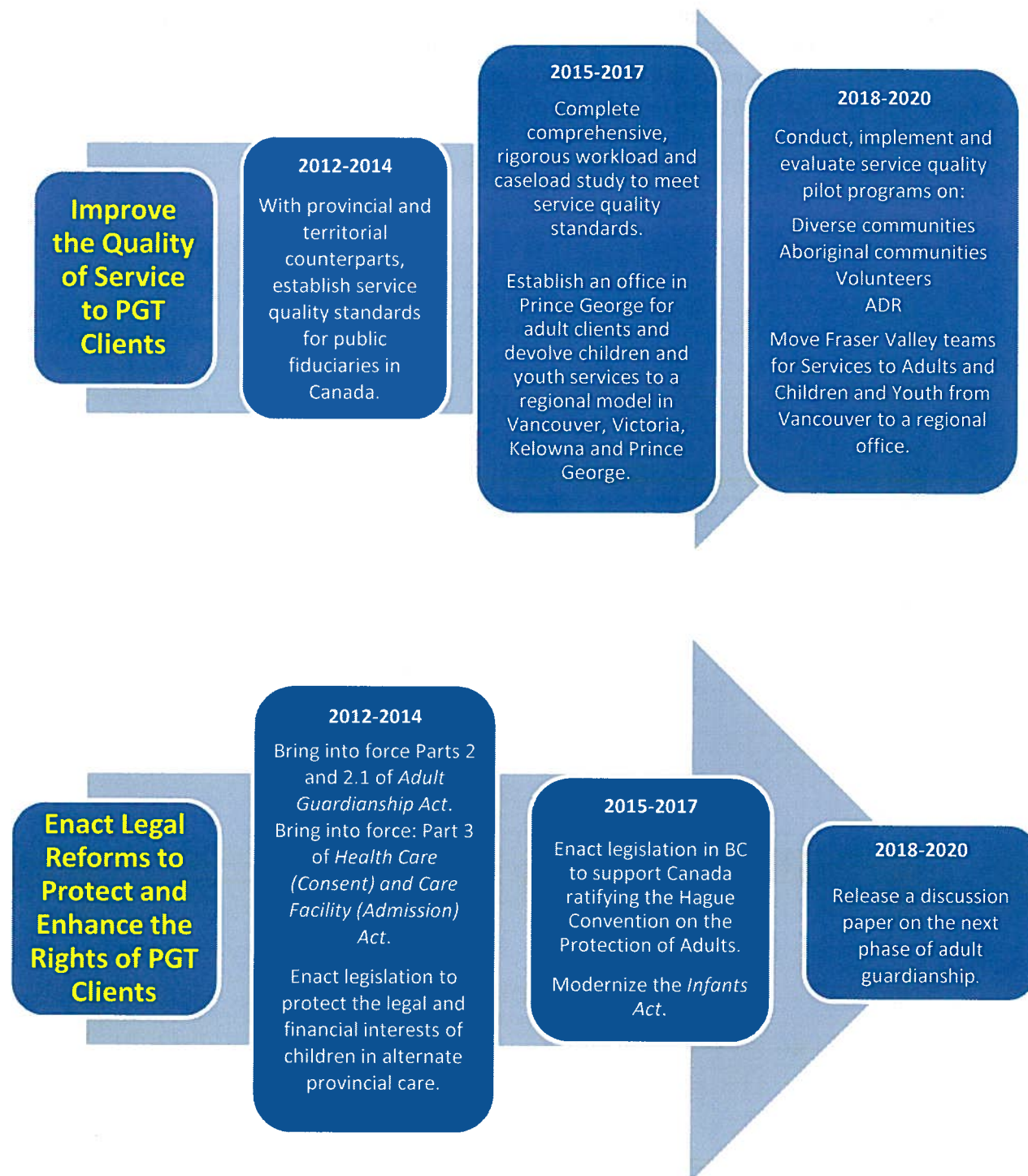
With the number of interactions between the PGT and Aboriginal organizations forecast to continue increasing, developing stronger relationships with Aboriginal organizations needs to be a priority. This will require capacity to be built both within the PGT and within Aboriginal organizations.

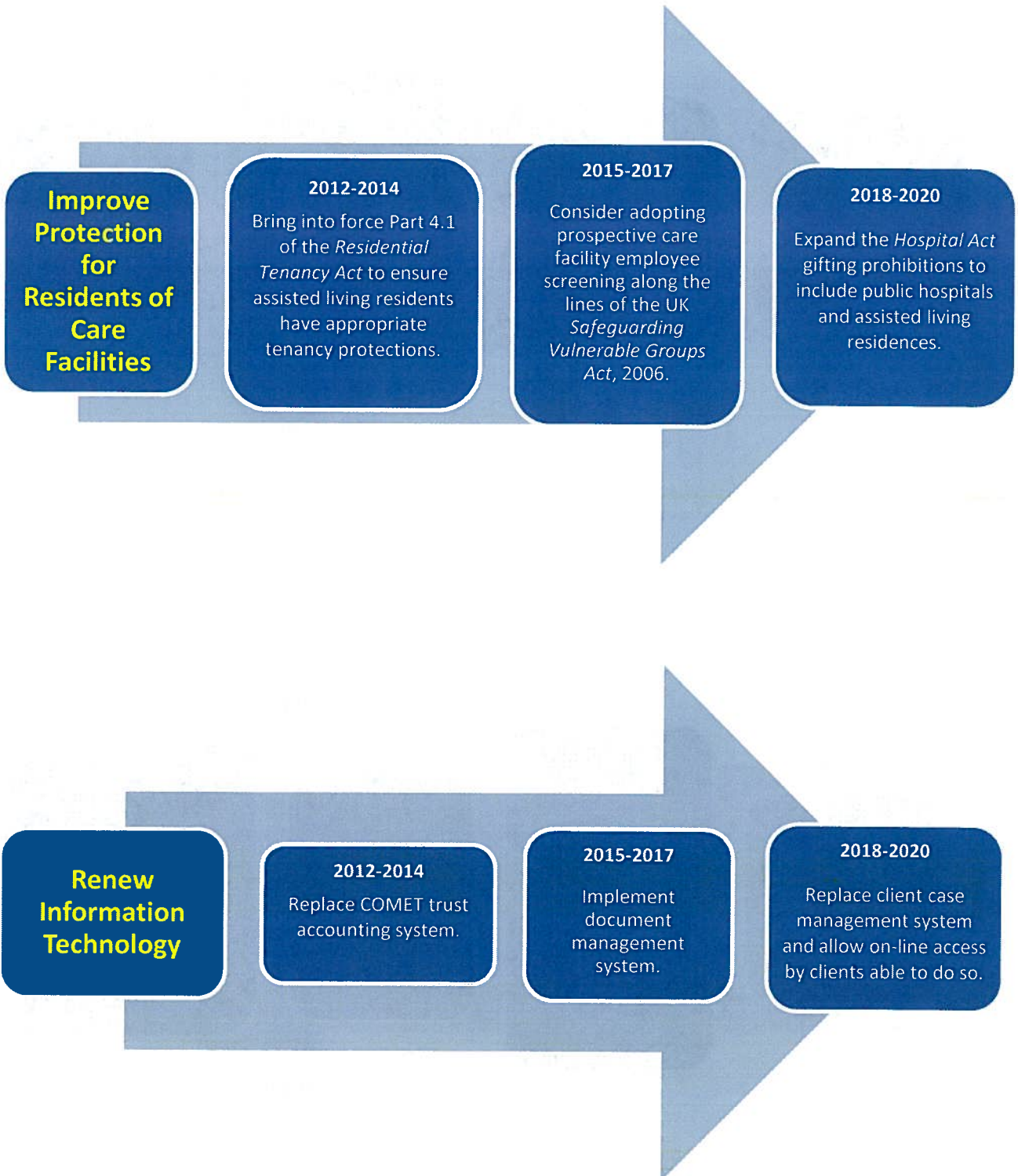
A critical area in which to focus this effort is in relation to the Delegated Aboriginal Child and Family Service Agencies, who, along with the PGT and MCFD, are responsible for many children in continuing care. A stronger relationship and clearer understanding of roles will support better the delivery of service to children in care who may have legal claims or other financial benefits the PGT can identify.

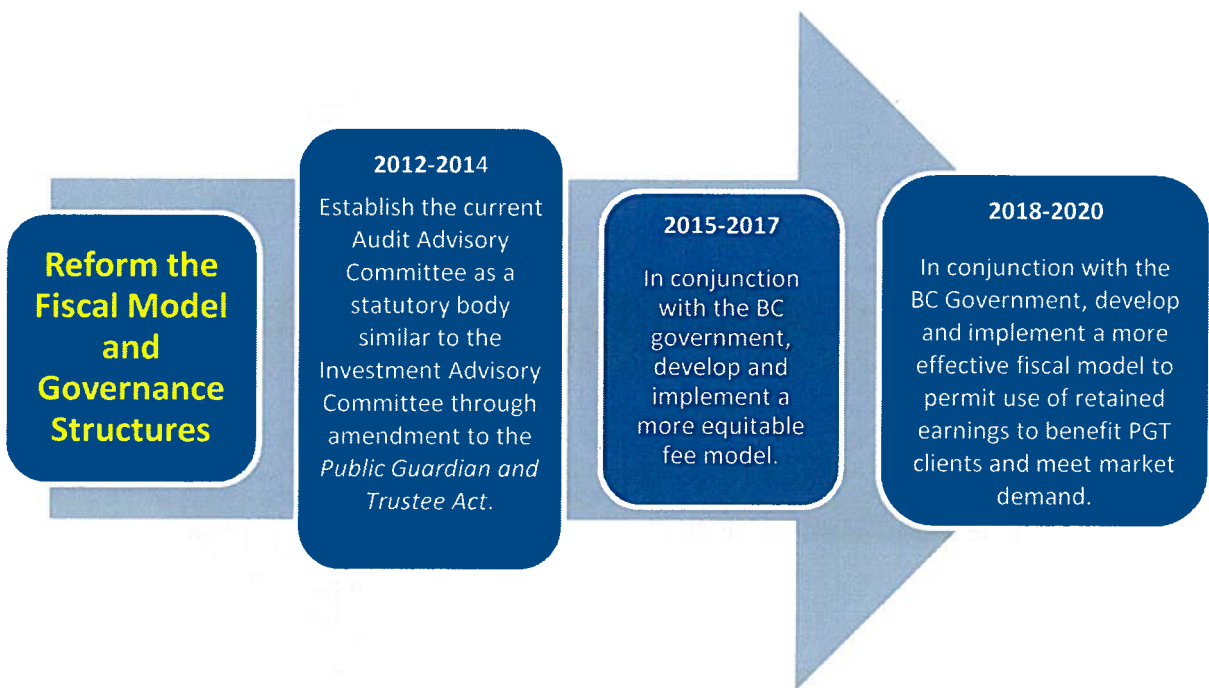
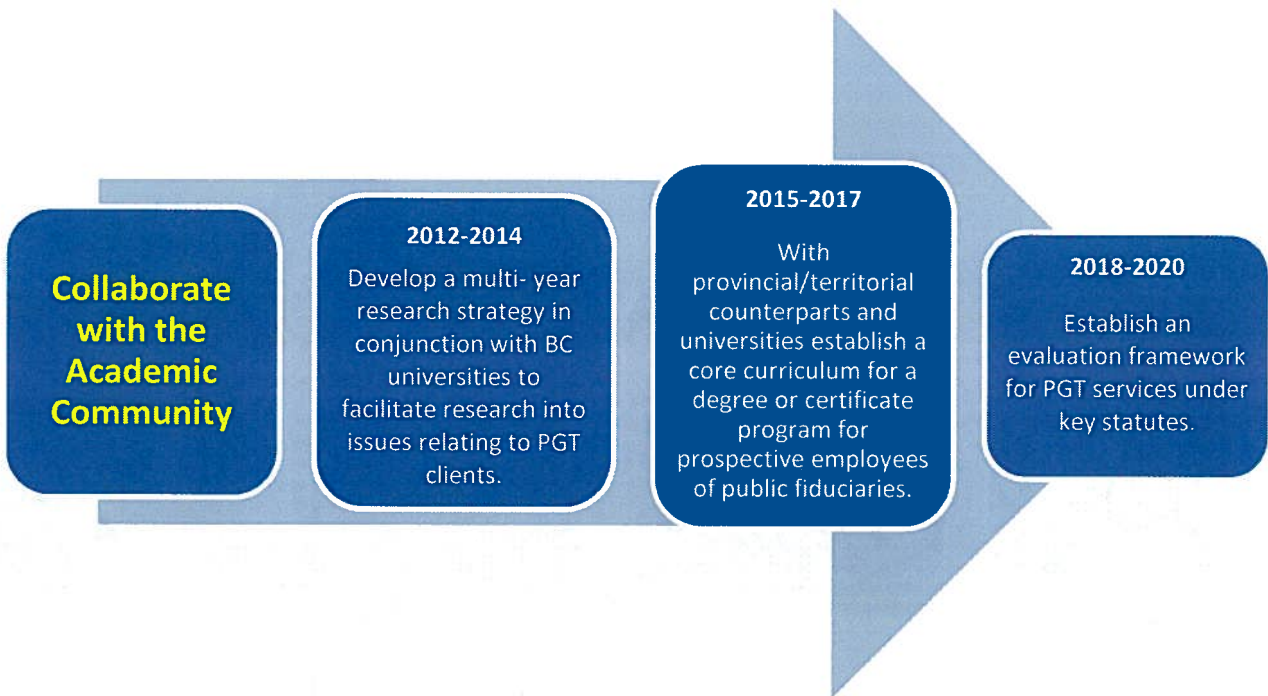
A second area of focus is to ensure that parties to treaty negotiations where federal authority is being transferred understand the implications of the transfer and how services might change if the PGT becomes the service provider. Further, it is important to proactively identify the fiscal implications in such treaties where there is effectively a “down-loading” from the federal Aboriginal Affairs and Northern Development department to the PGT.

7. A PHASED APPROACH

Given the many challenges facing the PGT, a planned decade of phased changes is the most cost effective and manageable approach. This will allow PGT to build sequential successes in a logical order.







8. CONCLUSION

The Public Guardian and Trustee occupies a unique and vital role in British Columbia's society. Indeed the quality and scope of PGT services is a key hallmark of how a society treats and protects those individuals who need assistance. The challenges facing the PGT over the next decade are substantial. However, through comprehensive planning and sequential improvements, the PGT and its services can be maintained and enhanced. Our clients, and indeed all British Columbians, deserve nothing less.