



**MINISTERIAL STATEMENT
to the Senate**

by

**Senator the Hon Kim Wilkerson, JP
Attorney-General and Minister of Justice**

**“Update on the Establishment of the Office
of the Public Guardian”**

Wednesday 15th July 2026

Madam President:

I rise today to update this Honourable Senate on the Government’s progress in establishing the Office of the Public Guardian, a commitment first made in the 2020 Throne Speech. I am conscious that for many in our community this Office cannot come soon enough. As such, it is my duty to give an account and I do so today.

The case for this Office is not abstract. During the Government’s consultations, families, care home administrators and hospital staff described the situations they confront. Seniors who are property rich and cash poor, left in hospital for months while relatives claiming to hold powers of

attorney occupy their homes. Adults with intellectual disabilities who, upon turning eighteen, pass beyond the reach of the Children Act 1998 with nothing to take its place. Families who cannot afford to apply to the Supreme Court for receivership, and families who can, but who emerge from the process divided, because a parent made no plan and each child recalls his wishes differently. These accounts came directly from Bermudians and they explain why the Government has treated this work as a matter of real consequence.

Madam President:

It is also important that the public understands who this Office will serve, because it is broader than is sometimes suggested. It will serve our seniors, certainly. But it will equally serve adults living with mental illness, intellectual and developmental disabilities, acquired brain injury and dementia; persons in group homes and on long-stay hospital wards; and vulnerable persons in the community who have no one able or willing to act in their best interests. At present, the Senior Abuse Register Act 2008 protects persons aged sixty-five and over, and the Children Act protects those under eighteen. An adult between those ages with impaired capacity has, outside the narrow provisions of the Mental Health Act 1968, almost no protective

framework at all. That gap has existed in our laws for generations and this legislation will close it for the whole of our vulnerable population.

Madam President:

Let me set out what has been done. The need for an office of this kind was formally documented in 2015 by the Seniors Law Reform Committee. In response, the Government commissioned a scoping exercise which was completed in June 2023 and which produced the policy foundation for the Office with an analysis of the gaps in every relevant Bermuda statute; a review of public guardianship systems in Scotland, England and Wales, Australia and the United States; an assessment of the population in need of these services; and a phased implementation plan. In October 2024, Cabinet approved the establishment of the Office of the Public Guardian as a two-year pilot programme, approved its funding, mandated annual reporting to Cabinet on the Office's activities and effectiveness and authorised the issuance of drafting instructions for the necessary legislation. I can advise this Honourable Senate that those instructions have now been issued to Parliamentary Counsel and the Public Guardian Bill is in active drafting.

I wish to address the question that “if Cabinet approved a pilot programme, why has the pilot not simply begun?” The answer is that the pilot cannot lawfully be conducted until the legal framework is in place to allow the Office to function. The Public Guardian’s work will involve investigating the circumstances of persons who may lack capacity, obtaining access to medical and financial records, applying to the Court for guardianship orders and making welfare, health and financial decisions on another adult’s behalf. No public officer may exercise powers of that kind without statutory authority. Indeed, one of the reasons this legislation is needed at all is that officers of Ageing and Disability Services have for years been performing functions akin to guardianship out of sheer necessity, without a purpose-built framework, exposing both those officers and the Government to civil liability. It would be irresponsible to launch the Office on the same unsound footing. The legislation must come first; the pilot follows from it. That is the correct sequence and it is the sequence the Government is following.

Madam President:

The Bill is modelled on the Public Guardian Act 2014 of Queensland, Australia, which our jurisdictional review

identified as the most suitable framework for Bermuda, adapted to our circumstances and reconciled with the Senior Abuse Register Act, the Mental Health Act, the Children Act and the Powers of Attorney Act 1944. It will define the functions and responsibilities of the Public Guardian; authorise the Public Guardian to investigate whether guardianship is warranted; provide for applications to the Court and prescribe the criteria the Court must apply before ordering guardianship; and permit both sole guardianship, where no other person is acting, and guardianship oversight, where care is being provided but with shortcomings that require monitoring and supervision. Ageing and Disability Services will serve as the primary referral gateway and corresponding amendments to its enabling legislation are being pursued in parallel. Because these powers engage fundamental rights under the Bermuda Constitution and the Human Rights Act 1981, the Bill builds in the necessary safeguards; appointment by the Court, rights of appeal, periodic review and strict limits on emergency powers. The law must serve the people it is intended to protect, and these safeguards are how it will do so.

Madam President:

As to next steps, the draft Bill, once complete, will be released for consultation. We will consult with external stakeholders, with the Courts, within Government and with the public, because those who live with these realities daily have practical knowledge that the legislation must reflect. It is the Government's intention to table the Bill thereafter, and to bring the Office into operation with a Public Guardian recruited and in post so that the pilot begins on a proper footing from its first day.

Madam President:

There has been evidence that data from Ageing and Disability Services show that reports of senior abuse rose from 100 in 2023-24 to 211 in 2025-26. The Government takes those figures seriously, however, it should be noted that the department attributes a significant portion of the increase to greater public awareness of what constitutes senior abuse, an awareness generated in part by that department's own campaigns encouraging people to come forward. Reporting is how hidden abuse is brought into the light and rising reports reinforce, rather than undermine, the case for the Office we are establishing.

Madam President:

It should not be suggested that vulnerable persons stand unprotected in the meantime as the Senior Abuse Registrar and the officers of Ageing and Disability Services continue to investigate reports, to intervene in cases of abuse and to apply to the Courts to safeguard the welfare and funds of clients with diminished capacity who have no responsible person to act for them. This legislation will give those officers the full authority of law and extend that protection to the many more who need it.

Madam President:

The measure of our justice system is whether it serves those least able to protect themselves. I will return to this Honourable Senate as the Bill progresses.

The work ahead remains substantial, but it is essential, and it is well advanced.

Thank you, Madam President.