

The Public Advocate of Western Australia Annual Report 2006–2007

Protecting the human rights of people with
decision-making disabilities

Foreword

The Hon J A McGinty
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Attorney General

In accordance with Section 101(1) of the *Guardianship and Administration Act 1990* of Western Australia, I am pleased to submit the Annual Report of the Public Advocate for the year ending 30 June 2007.

This report records the operations and performance of my Office during 2006–2007 and also outlines the issues and general trends impacting upon the human rights of an estimated 65,300 people in Western Australia who have a decision-making disability.



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30 September 2007

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About the Public Advocate

The Public Advocate is an independent statutory officer appointed by Government under the *Guardianship and Administration Act 1990* which is

“an Act to provide for the guardianship of adults who need assistance in their personal affairs, for the administration of the estates of persons who need assistance in their financial affairs, to confer on the State Administrative Tribunal jurisdiction in respect of guardianship and administration matters, to provide for the appointment of a public officer with certain functions relative thereto, to make provision for a power of attorney to operate after the donor has ceased to have legal capacity, and for connected purposes.”

Mission

The Public Advocate protects and promotes the human rights of adults with a decision-making disability to reduce their risk of abuse, exploitation and neglect.

A person’s ability to make reasoned decisions in their own best interests can be restricted by an intellectual disability, a short or long-term mental illness, an acquired brain injury or dementia.

Function

The functions of the Public Advocate are primarily set out in Section 97 of the *Guardianship and Administration Act 1990*. They include:

- information, advice and training on how to protect the human rights of people with decision-making disabilities
- investigation of concerns about the wellbeing of people with decision-making disabilities and whether there is a need for an application for a guardian or administrator
- investigation of specified applications made to the State Administrative Tribunal (SAT) to assist it to determine whether a guardian or administrator should be appointed
- guardianship (for personal, medical and lifestyle related decisions) when the SAT determines that there is no one else suitable or willing to act as the person’s guardian

Values

Five principles set out in Section 4 of the *Guardianship and Administration Act 1990* guide the Public Advocate in the provision of all services. Broadly they are:

- **Presumption of competence**
Every person is presumed to be capable of managing their own affairs and making reasonable judgements about themselves, their safety and their finances unless this is proved to the contrary
- **Best interests**
The primary concern is the best interests of the person with the decision-making disability
- **Least restrictive alternative**
A guardian or administrator is only appointed when a person’s needs can no longer be met in a less restrictive way, without impacting on their freedom of decision and action

- **Limited versus plenary**

The authority of an appointed guardian or administrator will be limited to those areas in which the person with decision-making disability needs the greatest decision-making support

- **Current wishes and previous actions**

The Public Advocate, as far as possible, seeks to ascertain the views and wishes of the person concerned, expressed in whatever manner, either at the time or gathered from the person's previous actions

Stakeholders

Primary stakeholders

These are the estimated 65,300 Western Australians¹ with a reported cognitive impairment or behavioural disorder which may limit or restrict their ability to make reasoned decisions in their own best interests.

These disabilities can include intellectual and developmental disability, brain injury as a result of trauma, degenerative disease or substance abuse, or mental illness.

A decision-making disability can result from:

- **Dementia**

Access Economics predicts that the number of Western Australians diagnosed with dementia will grow from 17,000 in 2004 to more than 79,000 by 2050. Growth of dementia in Western Australia is the third fastest in Australia, after the Northern Territory and Queensland. Around 80% of people with dementia in WA live in the metropolitan area.²

- **Intellectual disability**

The Disability Service Commission of Western Australia funded and provided services to 9,573 Western Australians with intellectual disability as their primary condition in 2005–2006. This included service users of all ages.³

- **Acquired brain injury**

An acquired brain injury (ABI) results in deterioration of cognitive, physical, emotional or independent functions and can occur as a result of trauma, hypoxia, infection, substance abuse, degenerative neurological disease or stroke. In 1999, the Australian Institute of Health and Welfare estimated that 2% of the WA population had a disability related to ABI and that about half of those diagnosed with ABI are severely or profoundly affected. Overseas figures state that of those who experience traumatic brain injury, 68% have a history of substance misuse and 14% develop an alcohol or drug problem after an injury.⁴ Headwest quotes a 1994 study estimating that 600 additional Western Australians acquire a brain injury each year.⁵ The Disability Services Commission funded and provided services to 507 Western Australians in 2005–2006 with acquired brain injury reported as their main disabling condition.⁶

1 Persons with a Disability by Main Health Status: mental and behavioural disorder specifically limiting or restricting a person, WA 2003; Australian Bureau of Statistics, 4430.0 Disability, Ageing and Carers, Table 11, 2004.

2 Access Economics; Dementia Estimates and Projections: Western Australia and its Regions, 2005.

3 Disability Services Commission Annual Report, 2005–2006, p28.

4 The Definition, Incidence and Prevalence of Acquired Brain Injury in Australia; Australian Institute of Health & Welfare, 1999 <<http://www.bia.net.au>>.

5 Acquired Brain Injury Accommodation and Support Needs, Stanton, 1994 <<http://www.headwest.asn.au>>.

6 DSC Annual Report 2005–2006, p28.

- **Mental illness**

According to the 1997 National Mental Health and Wellbeing Survey, around 19% of people in WA had experienced a mental disorder in the previous 12 months, with the prevalence being highest among those aged 18-24 years and decreasing with age. Six per cent of Western Australians aged 65 years and over reported some form of mental disorder. The prevalence of high or very high psychological distress in WA was 9.2% in 2004 (ABS, 1999a and b; Commonwealth Department of Health and Ageing, 2004).⁷

Secondary stakeholders

These are family members, carers or people and organisations supporting people with a decision-making disability.

Potential stakeholders

These are people who do not have a decision-making disability but who seek to safeguard their financial future by nominating a trusted family member or other individual under an Enduring Power of Attorney to make financial decisions on their behalf should they lose their decision-making capacity.

Agency stakeholders

These are Government and non-government agencies and organisations in the health, disability, legal, financial, justice and community sectors with an interest in protecting the human rights of people with decision-making disabilities.

Resources

The role and functions of the Public Advocate in 2006–2007 were supported by:

- 29 staff
- Total operating costs of \$2,781,000 (actual, includes shared Department of the Attorney General corporate expenditure)

Accountability

The Public Advocate is an independent statutory office holder appointed by Government and accountable to the Western Australian Attorney General.

The Office of the Public Advocate was supported administratively and financially through the Department of the Attorney General.



Corporate Services, Community Education and Policy staff.

Standing (l-r) Chris Paparo, Dora Parfitt, Rebecca Gilleland, Amy Tait. Seated (l-r) Jay Townsend, Michelle Scott (Public Advocate), Janine Hawker (Guardian). Absent: Helen Hart, Tim Macintyre.

⁷ Health Measures 2005: A Report on the Health of the People of Western Australia; Department of Health, 2005.

About this Report

As an independent statutory officer under the *Guardianship and Administration Act 1990* (the Act), the Public Advocate is required to prepare and submit to the responsible Minister, an Annual Report on the performance of her functions.

This report is tabled by the responsible Minister in each House of State Parliament and subsequently published by the Public Advocate.

The Office of the Public Advocate reports on financial and administrative matters to the Director General of the Department of the Attorney General.

This Annual Report for 2007 is published on the Public Advocate's webpage at www.publicadvocate.wa.gov.au and a PDF can be downloaded.

Copies of the report are also held in the Library of State Parliament, the State Library of Western Australia, the National Library, Canberra and at www.pandora.nla.gov.au, the web archive of the National Library of Australia.

Executive Summary

As I approach the fifth anniversary of my appointment as Public Advocate, I am confident there is increasing awareness and recognition in Western Australia of the human rights of people with decision-making disabilities.

The Public Advocate is appointed by Government to protect these rights and to promote the concepts of dignity and autonomy for the estimated 65,300 adult Western Australians who have limited or no ability to make vital decisions for themselves in their own best interests.

The year 2006–07 has been one of unprecedented demand for the services of the Public Advocate. The State Administrative Tribunal appointed the Public Advocate as guardian for an additional 114 individuals. This is an increase of 22%. Demand is also growing in the Public Advocate's role in educating the community, particularly in regional and Aboriginal communities.

As predicted in a study I commissioned in 2004¹, the ageing of the population and the increasing incidence of dementia is now having an impact on the numbers of people for whom the Public Advocate is appointed guardian of last resort.

In 2006–2007, 46% of new guardianship appointments were for people diagnosed with dementia — an increase of 4% on 2005–2006. People with dementia now account for just under one third of continuing guardianship orders where the Public Advocate is appointed, compared with 40% who have an intellectual disability.

Forty-seven per cent of new investigations conducted in 2006–2007 also involved people with dementia, equal to the previous year.

The Western Australian Government has recognised both the escalating demand and the increasing complexity of matters requiring the involvement of the Public Advocate. Consequently in 2006–2007, my Office received the first instalment of additional funding totalling more than \$2 million over four years to expand guardianship services and to boost education and awareness of the guardianship and administration system in regional and remote parts of Western Australia with a particular focus on Aboriginal communities.

At the community level my Office conducted 32 training and information sessions this year and further extended the reach of our education programs into regional and remote Western Australia.

My staff addressed key government and industry forums both here and elsewhere in Australia on issues as diverse as safeguarding the financial rights of older people; protocols for vulnerable people who are victims of sexual assault; and ways of engaging Aboriginal communities in the guardianship and administration system.

There was also wider recognition in the news media of the rights of people with decision-making disabilities, including older people at risk of abuse and, in particular, older Aboriginal people.

This year saw a change in the role of the Department for Child Protection in relation to young people leaving its care at 18 years of age. The Public Advocate has a particular concern for young people with disabilities who are extremely vulnerable to homelessness and sexual abuse.



Michelle Scott,
Public Advocate

¹ Christopher Milne and John Henstridge, *Forecasting the Demand for the Services of the Public Advocate, Data Analysis Australia, 2004*

Effective planning by the Department together with other key government agencies is required to safeguard these young people.

To assist this process, in 2006–2007 my Office and the Department for Child Protection reached agreement on an approach to planning for young people leaving the care and protection of the State at the age of 18.

A memorandum of understanding between the Public Advocate and the Department promotes early comprehensive planning to ensure young people make the transition with support to adulthood.

Following the Public Advocate's report into the Mistreatment of Older People in Aboriginal Communities in 2005–2006, I was pleased to work in collaboration with the Aboriginal training organisation Marr Mooditj and Curtin University of Technology on strategies to increase awareness of elder abuse in Aboriginal communities. This resulted in the securing of a grant of \$100,000 from the Office of Crime Prevention to develop education packages to assist Aboriginal health providers to recognise and report elder abuse.

I am keenly aware of the need to develop better relationships with people in regional and remote parts of Western Australia, especially those working with Aboriginal people. This has been a major focus in 2006–2007 and will continue to be in the forthcoming year.



Aboriginal cross cultural awareness presenters Kim Collard (left) and Noel Nannup (right) with OPA's Gino Coniglio and Janine Hawker. All staff attended a full day cultural awareness program in May 2007.

Maintaining sustainable partnerships with agencies and organisations whose contribution adds value to our joint efforts is critical to achieving positive outcomes in the lives of people with decision-making disabilities.

Enhancing the capability of my Office to meet the growing demand for services has been a feature of our work in 2006–2007. Development of a new case management system to support the work of guardians and investigators has commenced. A comprehensive review of the policies and procedures that guide the work of guardians and investigators has been completed and new practice standards issued.

The implementation of the Community Guardianship Program will result in greater community responsibility for people with decision-making disabilities and my thanks go to the volunteers who continue to participate in the program with enthusiasm.

The year 2007–2008 promises to be one of continuing advancement with debate set to resume in the Legislative Council on legislation to introduce Enduring Powers of Guardianship and Advanced Health Directives in Western Australia.

I would like to thank the staff for their contribution in this year of consolidation and change.

Congratulations go to guardian Janine Hawker who was a finalist in the 2006 Statewest Achievement Awards for her outstanding employee contribution during a decade of service with the Office.

I would also like to acknowledge the important and positive relationships that I have with a range of government and non-government agencies.

These significant relationships are critical to ensuring the human rights of people with decision-making disabilities are protected.

As we approached 30 June 2007, the Attorney General proposed to introduce a Human Rights Act in Western Australia. The Public Advocate supports the introduction of wide-ranging Human Rights legislation in Western Australia.

While civil and political rights are critical to the lives of people with decision-making disabilities, legislated economic, social and cultural rights would also have a significant positive impact on their lives and should be included in a WA Human Rights Act.

My Office will continue to promote in diverse forums that the human rights of our most vulnerable citizens should be afforded recognition and protection.



Guardian Janine Hawker (left) was a finalist in the Statewest Achievement Awards. She is pictured at the award ceremony with the Public Advocate, Michelle Scott, who nominated Janine for her outstanding contribution as an employee.

Michelle Scott

Michelle Scott
Public Advocate

30 September 2007

Achievements and Initiatives

In 2006–2007, the Public Advocate:

- made personal and lifestyle decisions as Guardian of Last Resort on behalf of 370 Western Australians with a decision-making disability
- of these, 114 were new appointments in 2006–2007, an increase of 22% on 2005–2006
- conducted 624 new investigations into the need for a guardian or administrator
- undertook investigations into all new cases identified as requiring investigation
- closed 82 Guardian of Last Resort cases, including 57 where successful applications to the State Administrative Tribunal (SAT) were made for orders to be revoked in favour of appointments or arrangements less restrictive to the person with the decision-making disability
- responded in person to 4880 public enquiries for information and 135 after hours calls to guardians
- in 92% of cases, allocated decision-making authority within one working day of a SAT appointment as Guardian of Last Resort (measure of efficiency)
- attracted high levels of customer satisfaction for guardianship and investigation services, recording an increased overall satisfaction rate of 88% for guardianship (an increase on 2006–2007) and an overall 83% for investigations work
- fully implemented the community guardianship program with 13 volunteers
- created three new guardianship positions to reduce the risk of abuse for people with complex needs
- developed the business requirements for a new case management system
- provided 32 information and education sessions to 442 service providers and community representatives
- increased the number of regional education sessions to 9, of which 5 (55%) were specifically for Aboriginal service providers
- achieved a 97% satisfaction rate in community education surveys asking respondents to rate the quality and benefit of information provided
- created a new Aboriginal community education position to improve information to Aboriginal communities and people working in those communities
- helped secure \$100,000 in funding, in partnership with Marr Mooditj and Curtin University, from the Office of Crime Prevention to develop programs around the prevention and reporting of elder abuse
- provided cultural awareness training for all staff
- provided training from the St James Ethics Centre for all guardians and investigators in ethical decision-making
- further developed initiatives to protect and support older people from culturally and linguistically diverse backgrounds
- contributed to the development of a new service model for mentally-impaired accused people who are currently detained in prison because of the lack of other service options

Report on Operations

In this section the Public Advocate provides a detailed account of the way in which her Office has met:

- The Government Goal of “People and Communities”: to enhance the quality of life and wellbeing of all people throughout Western Australia
- The Government’s Strategic Outcomes:
 - o safe and secure Western Australian communities
 - o enhanced safety, security and wellbeing for the vulnerable within our community
 - o a positive difference to the lives of people with disabilities, their families and carers
 - o a society where Indigenous Australians have greater economic and social opportunities and the capacity to determine their own lives

Reducing risk to people with decision-making disabilities

Better Services strategic outcome 1.3

Regional Development strategic outcome 4.1

In 2006–2007, my Office received the first instalment of an additional State Budget allocation of \$2 million over four years to provide critical statutory guardianship and investigation services for adults with decision-making disabilities.

Three additional guardianship positions and an Aboriginal community education position were created to:

- reduce the risk to people with decision-making disabilities who have multiple, complex problems and people with dementia who are increasing in number in WA¹
- protect Aboriginal people with decision-making disabilities under the *Guardianship and Administration Act 1990* (consistent with the Gordon Inquiry)
- ensure regional and remote communities receive essential guardianship and investigation services

The latest Census figures show that the population of Western Australia is ageing at a rate faster than the overall population is increasing. At June 2006 people aged 65 and over comprised 11.7% of the State’s population (compared with 11% at the previous Census taken in 2001). The overall population rose 8.3% over the same period. The median age of the population rose from 34.9 to 36.2 years, slightly lower than the national figure of 36.6 years.²

The following table shows the total Public Advocate guardianship appointments since 2003–2004:

	2003–2004	2004–2005	2005–2006	2006–2007
New guardianship appointments	77	85	93	114
Continuing guardianship appointments	218	232	256	288

1 Australian Bureau of Statistics 3235.0 – Population by Age and Sex, Western Australia, 2006 (published July 2007)

2 Australian Bureau of Statistics 3235.0 – Population by Age and Sex, Western Australia, 2006 (published July 2007)

Other factors resulting in additional demand for guardianship services include:

- ageing and longer life expectancies for people with intellectual disability
- increasing vulnerability of people with decision-making disabilities, especially those with dual diagnoses, e.g. mental illness and acquired brain injury
- more young people with decision-making disabilities exiting the care and protection of the State at 18

The three new positions allowed my Office to:

- meet the increased demand for guardianship services
- respond more effectively to the increasing numbers of clients with complex and multiple needs including:
 - o cases involving the sexual abuse of people with decision-making disabilities
 - o people with dual diagnoses whom agencies find it challenging to support

Initiatives to protect those at risk in regional communities

Regional Development *strategic outcomes 4.1 and 4.4*

Governance *strategic outcome 5.3*

In March 2007, I established a new community education position as part of a program to expand community education services in regional and remote communities, including Aboriginal communities.

The Aboriginal community education officer establishes relationships with individuals and organisations that provide services to Aboriginal people and assists in developing culturally appropriate material to raise awareness about the human rights of people with decision-making disabilities, especially older people in Aboriginal communities.

My Office conducted nine community education sessions in regional locations throughout WA in 2006–2007, compared with eight in 2005–2006 and supported two further regional forums with community education material. Five of the nine regional sessions (55%) were targeted to Aboriginal service providers.

Partnering agencies in the community

Governance *strategic outcome 5.3*

In April 2007, the Office for Crime Prevention accepted my submission to award \$100,000 to Curtin University and the accredited Aboriginal training organisation Marr Mooditj Foundation Inc. to develop a training program to assist Aboriginal workers to identify and reduce mistreatment of older people in their communities.

Research for the culturally appropriate program will be conducted by Curtin University's Department of Social Work and Social Policy in partnership with Marr Mooditj and my Office. The project will be conducted over two years in three phases: analysis of the current situation; development and trial of a pilot program; and evaluation. My Office will provide the Government liaison for the project.

Throughout 2006–2007 the Public Advocate was a member of the Alliance for the Prevention of Elder Abuse in WA (APEA:WA). As part of that peak body I helped to develop protocols to assist agencies to develop policies and procedures to help their staff identify and respond to incidents of elder abuse. I participated in a Financial Round Table with representatives of other agencies and the financial and banking sectors and in June 2007, addressed an Advocare conference on World Elder Abuse Awareness Day. Other Alliance members include Government and non-government organisations from the legal, financial, health, aged and community sectors.

In June 2007, I welcomed the Banking and Financial Services Ombudsman Colin Neave and University of Queensland researcher Dr Cheryl Tilse who spoke to staff about their practice and research relating to asset management and elder abuse.

My staff participated in forums for senior banking and financial delegates and older members of the community during Seniors Week in September 2006.

In April 2007, my Office participated in an APEA:WA Crisis Intervention Working Group designed to assist Police in dealing with extreme and urgent allegations of exploitation of older peoples' financial assets.

In February 2007, my Office and the Office for Seniors Interests and Volunteering began collaborative research into the human rights of older people and agency responses to elder abuse with Curtin University's Human Rights Centre. The research is due to be completed in December 2007.

Working in collaboration with Government

Governance strategic outcome 5.2

Governance strategic outcome 5.3

Regional Development strategic outcome 4.4

In July 2006, the Department of Premier and Cabinet agreed to undertake research based on a Public Advocate recommendation for the development of a coordinated case management system for individuals in the community with multiple and complex needs. A report was completed in February 2007. Relevant agencies are now considering the findings of this report and how recommendations will be implemented.

My Office participated in a working group set up in February 2007 to develop guidelines for responding to and managing the psychosocial, medical and forensic needs of patients within mental health services who allege recent sexual assault. Other representatives are from the Office of Mental Health, the Office of the Chief Psychiatrist and the Sexual Assault Referral Centre (SARC).

During 2006–2007, my Office progressed a review of amendments to the *Guardianship and Administration Act 1990* in conjunction with the State Administrative Tribunal (SAT), the Public Trustee and the State Solicitor's Office, aimed at making the legislation more contemporary.

The Law Reform Commission of Western Australia's report into Aboriginal Customary Law released in October 2006 incorporated a number of recommendations reflecting my submissions in relation to Aboriginal people coming into contact with the criminal justice system and the guardianship and administration system.

I was also a member of a senior officers' group, established by the Human Services Directors General Group, developing a new service model for mentally-impaired accused people who are currently detained in prison because of a lack of other service options.

My Office was part of an interdepartmental working group throughout 2006–2007 which recommended amendments to the *Criminal Law (Mentally Impaired Accused) Act 1996*. Recommendations to strengthen the rights of people with a decision-making disability who come into contact with the criminal justice system while at the same time maintaining community safety were accepted by the Government.

In December 2006, I made a submission to the Commonwealth's Standing Committee on Legal and Constitutional Affairs' Inquiry into Older People and the Law which detailed my Office's experience with the Enduring Power of Attorney provisions in Western Australia and the need for education around financial safeguards for older Western Australians.

Also in May 2007, my Office began preparation of a submission in response to the Attorney General's proposal for a Human Rights Act in Western Australia. I welcome the proposed legislation as an opportunity for improving and promoting the human rights of people with disabilities, especially with decision-making disabilities.

Legislation to enact an enduring power of guardianship and advanced health directives — the *Acts Amendment (Consent to Medical Treatment) Bill 2006* — was passed in the Legislative Assembly in November 2006 and introduced into the Legislative Council in December 2006.

At 30 June 2007 the Bill was yet to be debated in the Upper House. In readiness for the passage of the legislation, my Office prepared a detailed plan for a community education campaign about enduring powers of guardianship.

The year 2006–2007 saw an increase in the number of applications to the SAT for guardianship orders for young people leaving the care and protection of the State.

Changes to legislation (the *Children and Community Services Act 2004*) mean care and protection orders can no longer be extended beyond an individual's 18th birthday. A number of these young adults have significant decision-making disabilities, coupled in many cases with education and employment issues, substance abuse and poor social support systems. Without well-planned transition arrangements and support towards independent living, these young adults are at risk of homelessness and vulnerable to exploitation and abuse.

My Office has successfully reached agreement with the Department for Child Protection on a protocol for forward planning to better protect these vulnerable young adults and ensure their wellbeing in the least restrictive way possible.

In June 2007, my Office also developed in close consultation with the newly-formed WA Police Sexual Assault Squad, a protocol for police investigating the sexual assault of people with a decision-making disability.

Written submissions were also prepared for several other inquiries and conferences including:

- The Legislative Assembly's Education and Health Standing Committee: Inquiry into Successful Initiatives in Remote Aboriginal Communities (October 2006)
- The Legislative Council's Standing Committee on Legislation: Inquiry into the Criminal Law and Evidence Amendment Bill 2006 (April 2007)
- The Commonwealth Ministerial Council on Drug Strategy: National Amphetamine-type Stimulants Strategy (April 2007)
- The Government of Western Australia's Active Ageing Strategy 2008–2012
- The Australian Guardianship and Administration Committee: Disability Conference (March 2007)

My Office convened a planning group in March 2007 to prepare for a major conference to highlight the needs of people with decision-making disabilities within the criminal justice system. The Disability and Justice Conference will be held in Perth in November 2007. My Office will coordinate this national conference in conjunction with the Western Australian Departments of the Attorney General, Corrective Services and Health, the Disability Services Commission, WA Police and the Office of Crime Prevention.

Community Guardianship Program

Better Services strategic outcome 1.3

The Public Advocate fully implemented the Community Guardianship Program with 13 of the inaugural volunteers successfully recruited in 2005–2006 remaining with the program in 2006–2007. At 30 June 2007, seven community volunteers were matched with people with a decision-making disability for whom the Public Advocate is the appointed guardian. The first

application for the formal appointment of a Community Guardian was heard by a three-Member panel of the State Administrative Tribunal in May 2007. The Tribunal has reserved its decision.

The matching process enables volunteers to make an informed decision about becoming the guardian for a person with a decision-making disability. It is vital that volunteers are given ample opportunity to consider all of the issues before deciding to proceed with the application to become guardian, particularly given that the commitment once a volunteer is appointed guardian is a significant and long-term one. During 2006–2007, volunteers received biannual newsletters and matched volunteers were fully supported by the coordinators of the Community Guardianship Program. Feedback from the matched volunteers and service providers has been extremely positive.

The Public Advocate hosted two information sessions for volunteers in December 2006 and June 2007.

Managing change in the workplace

Governance *strategic outcomes 5.1, 5.3, 5.4*

Increasing demand for service has also resulted in the need for my Office to improve its case management system. During 2006–2007, my Office finalised business requirements for a new system aimed at:

- improving the service that clients receive affording greater transparency and accountability
- enhanced reporting for staff

My Office has called for tenders to commission the system with the aim of having the new system in place in 2008.

As outlined previously, the WA Government recognised the challenges faced by the Public Advocate to meet demand for services, especially in regional areas, when it allocated an additional \$2 million over four years to the Office in the 2006 State Budget.

Additional guardians and community education staff were appointed from July 2006 and there was a significant restructure of positions in the Corporate Services area in November 2006.

A number of improvements were made to improve the efficiency and productivity of the Office including:

- refurbishing the reception and corporate services sections of the Office in December 2006
- establishing a staff training sub-committee in January 2007 to identify, record and evaluate professional development opportunities
- conducting a climate/organisational staff survey in May 2007 to determine staff satisfaction and identify further opportunities for organisational development
- reviewing all policies and procedures for guardians and investigators and in June 2007, publishing new practice standards
- providing cultural awareness training for all staff
- providing training from the St James Ethics Centre in ethical decision-making for guardians and investigators
- reviewing all standard templates for reports and correspondence
- evaluating the operation and efficiency of the Telephone Advisory Service and making recommendations for change

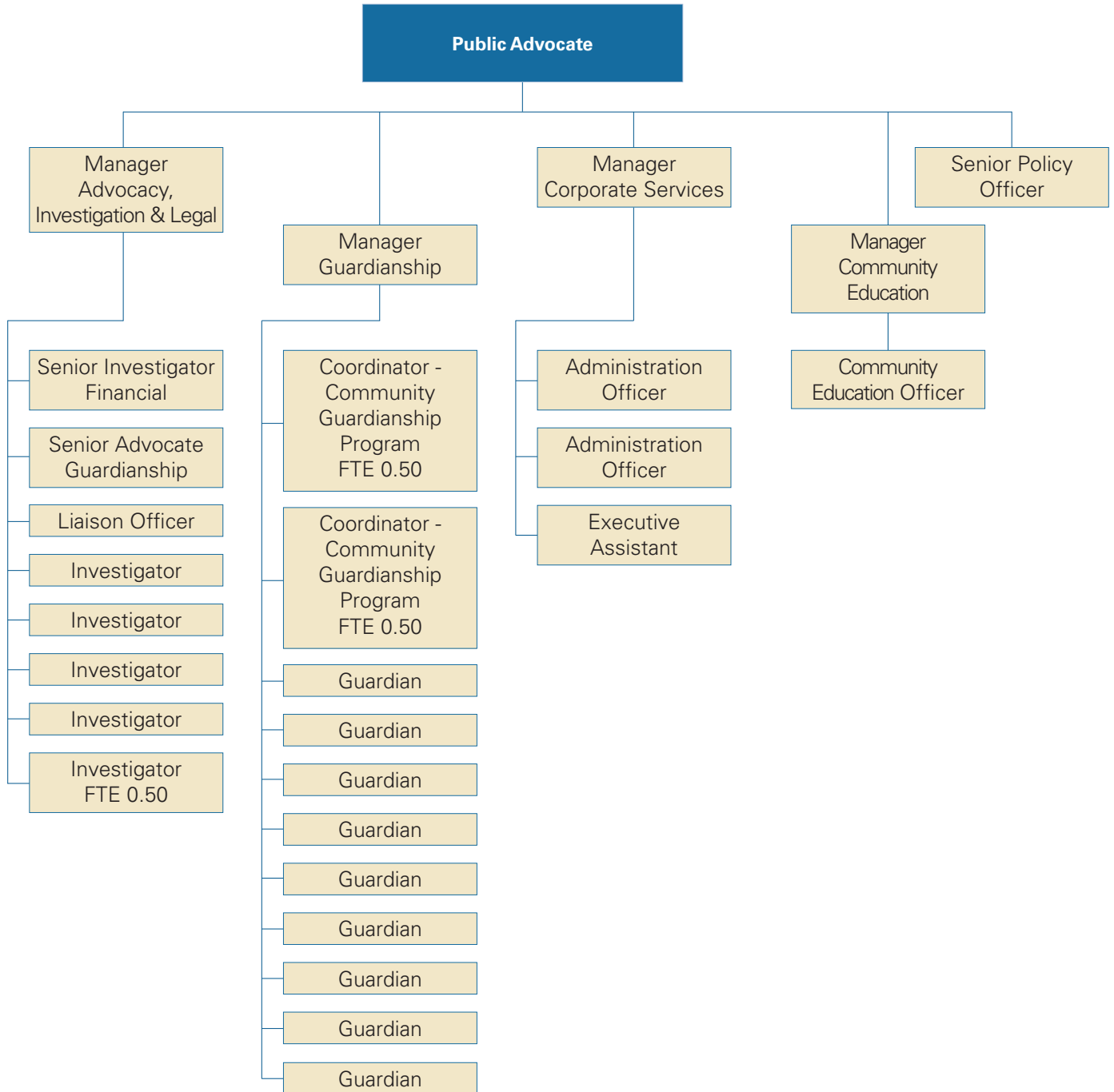
Future Directions

In 2007–2008, my Office will:

- fully develop a case management system to complement the guardianship and investigation services, to improve transparency and accountability and to improve reporting to management
- develop a business model to better plan for growth and service provision
- implement the major recommendations of the Office of the Public Advocate climate and organisational report
- review administrative policies and procedures that guide all staff
- implement enduring power of guardianship legislation if passed by the Western Australian Parliament
- complete a review of the *Guardianship and Administration Act 1990*
- establish a regional team for guardianship, investigation and education services
- host a national conference on the criminal justice system

The Organisation

Fig. 1



Summary of Audited Key Performance Indicators

In any society, the ability of a community to care for those who are unable to care for themselves is a measure of its maturity. In Western Australia, the maintenance of a safe and orderly community requires that the State safeguards the rights of adults with reduced decision-making abilities and reduces the incidence of risk, neglect and exploitation.

The Public Advocate represents and advances the best interests of people with decision-making disabilities, both at hearings for the appointment of a guardian and in the community.

The current Key Performance Indicators (KPI) were established in 2005–2006.

Service 6: Advocacy, Guardianship and Administration Services

Output Description

To advocate for the best interests of people with decision-making disabilities in the community, both at hearings of the State Administrative Tribunal (SAT) — to decide the need for a guardian and/or administrator — and in the investigation of complaints of allegations of abuse, exploitation or neglect; and in the carrying out of duties as guardian when appointed by the SAT.

The Office of the Public Advocate (OPA) conducted a review of its core business system — OPA Statistical Collection Access System (OSCAS) — in March 2004. Business rules were reviewed and established for all performance indicators.

In late 2006, investigation commenced into the use of the Department of Attorney General Data Warehouse system as a means of producing KPI-related and other management reports using data sourced from the OSCAS database. This is continuing. Business modelling of a new case management system concluded in March 2007. Tenders have been called for the development of the new case management system for implementation in 2008.

Indicator 6.1: Proportion of customers provided with advocacy relative to the number of referrals

6.1	2004–05	2005–06	2006–07	Target
The proportion of customers provided with advocacy relative to the number of referrals	100%	100%	100%	95%

This indicator measures the number of matters allocated for advocacy as a percentage of the total referrals, including community referrals. It measures the ability to provide advocacy to clients identified as requiring advocacy.

It is considered a key indicator because it shows the extent to which the OPA is able to protect the rights of adults with decision-making disabilities and reduce the risk of neglect, exploitation or abuse.

The Manager, Advocacy, Investigation and Legal, receives applications referred by the SAT, as well as community referrals, and assesses their priority before allocating the highest priority applications to investigators. Applications not able to be allocated are placed on a waitlist.

Indicator 6.2: Client satisfaction with services

6.2	2004–05	2005–06	2006–07	Target
Percentage of customers surveyed satisfied with information and advice provided by OPA	N/A	97%	97%	90%

The Public Advocate undertakes a community education role by providing training, information and advice to secondary customers i.e. people with a direct personal or professional involvement with OPA's primary customers.

This indicator measures the satisfaction level of surveyed secondary customers in respect to the information and advice received at training sessions. Feedback questionnaires are distributed to the target group at the conclusion of every training course. It is measured by collating the ranking level (1 = high satisfaction and 4 = unsatisfied) assigned to the feedback questions by clients.

In 2006–2007, 442 people attended community education sessions held by the Office of the Public Advocate. All attendees were given survey forms at the end of each session. A total of 346 responses were received, yielding a response rate of 78%.

This KPI was introduced under the Justice System Framework in 2005–06.

The indicator relates directly to one of the key elements of the Public Advocate's outcome statement of providing information and advice to the community about the guardianship and administration system.

Indicator 6.3: Guardian of Last Resort appointments allocated within one working day

6.3	2004–05	2005–06	2006–07	Target
Guardian of Last Resort appointments allocated within one working day	93%	93.5%	92%	95%

This indicator measures the timeliness of the Public Advocate in allocating a guardian to a represented person to make decisions on their behalf and protect them from neglect, abuse or exploitation. A guardian is appointed by the SAT only when considered necessary and when there is no one else suitable or available to take on the role.

The indicator is based on the Public Advocate's best practice to ensure the needs of the represented person are met immediately. It is measured by the number of appointments of Guardians of Last Resort made by the SAT at the hearing and accepted by the Public Advocate's delegate within one working day of receipt of the guardianship order.

Indicator 6.4: Average cost per case of providing advocacy and guardianship services

This indicator measures the average cost per case of providing advocacy and guardianship services on behalf of people with decision-making disabilities. It is calculated by dividing the total cost of providing the services by the number of advocacy and guardianship services provided.

6.4	2004–05	2005–06	2006–07	Target
The average cost of providing advocacy and guardianship services	\$2,219	\$2,395	\$2,506	\$2,430

Guardianship

Service Area – Guardian of Last Resort

The Public Advocate makes personal, medical and/or lifestyle decisions in the best interests of a person with a decision-making disability when the State Administrative Tribunal (SAT) determines there is no one else available, suitable or willing to be appointed as that person's guardian.

Function

- ensures that timely decisions are made in the best interests of the represented person
- protects the represented person from neglect, exploitation and abuse
- ensures wherever possible that the decisions made on behalf of the person with the decision-making disability:
 - take into account the expressed wishes of the represented person or reflect their previous wishes and actions
 - preserve personal autonomy
 - enable the person to live and participate in the community
 - encourage and assist the person to make judgements and become capable of caring for themselves
 - are supportive of the person's relationships with others
 - maintain familiar cultural, language and religious practices and contacts

Demand for the Public Advocate's guardianship services rose sharply in 2006–2007.

The Public Advocate made personal, medical and lifestyle decisions as Guardian of Last Resort for 370 Western Australians in 2006–2007. New guardianship orders appointing the Public Advocate rose 22% to 114, compared with 9.4% in 2005–2006.

By comparison, the growth in new guardianship orders in 2004–2005 was 10% and 9.4% in 2005–2006. There were 82 guardianship cases closed during 2006–2007, resulting in 288 ongoing appointments at 30 June 2007.

As forecast,¹ the number of orders for people with dementia dominated the new guardianship orders for 2006–2007 — of the 114 new orders appointing the Public Advocate 52 or 46% were diagnosed with dementia (see **Fig. 2**).

By contrast the majority of continuing guardianship appointments was for adults with a reported intellectual disability (see **Fig. 3**). At 30 June 2007, 40% of the 288 open guardianship cases had a reported intellectual disability. This compared with numbers for dementia (33%), mental illness (14%) and acquired brain injury (10%).



Standing (l-r) Serena Dale, Peter Watts, Steven Shaw, Caroline Gitonga, Greg Palmer, Lisa Jones. Seated (l-r) Bethany Faye, Nola Bradshaw (Investigator), Gillian Lawson (Manager, Guardianship), John Hodges. Absent: Debra Casey, Gail Worley.

1 Ibid. Data Analysis Australia

As a result of a successful budget bid in 2006, three additional guardians were appointed to take the number of full-time positions to 10.

The additional three guardians have assisted in meeting increased demand and helped to improve the service's response to the increasing numbers of people with decision-making disabilities who have multiple and complex needs.

They have also facilitated the effective monitoring of all people for whom the Public Advocate is guardian. Under a new monitoring program, a single guardian is delegated to support a larger caseload of clients who require less intensive decision-making and/or decisions of a minor nature.

Of the 114 new appointments, the two most common issues prompting appointment of the Public Advocate are decisions around medical treatment and health care (86 orders or 75%) and accommodation (67 orders or 59%) (see **Fig. 4**).

The high numbers of medical treatment orders reflect the lack of a spouse, child, relative or friend to act on a person's behalf as allowed under Section 119 of the *Guardianship and Administration Act 1990*, or alternatively their unsuitability or refusal to make decisions.

The substantial number of appointments to make decisions about accommodation continues to reflect concern in the community for appropriate supported accommodation for people with decision-making disabilities, especially for younger people. The Office is sometimes appointed when conflict surrounds where a person should reside, or there is a need for consent to residential care on behalf of a person diagnosed with dementia who does not wish to move to residential care, or people neglect their personal health and welfare or refuse support services.

Of the 114 new orders appointing the Public Advocate, 51 (45%) were made because the SAT found there was no other suitable person to act and in 34 cases (30%) there was no family or other person who could be appointed guardian (see **Fig. 5**).

Abuse of the person with the disability was a factor in 20 (18%) of the new appointments in 2006–2007 (see **Fig. 6**).

Of the 114 new appointments, 88 (77%) were for people living in the Perth metropolitan area and 26 (23%) were for people outside Perth (see **Fig. 7**).

Four of the people with decision-making disabilities were people of Aboriginal or Torres Strait Islander descent (3.5%) and a further 14 (12%) were born outside Australia.

Of the new guardianship orders, 10 gave the Public Advocate plenary powers and 104 gave her limited decision-making powers. These figures reflect the principles of the *Guardianship and Administration Act 1990* which requires a less restrictive approach to the appointment of a guardian or administrator.

Challenges for guardianship services

The growth in demand for guardianship services is compounded by the increasing complexity of the issues surrounding the protection of adults with decision-making disabilities.

Clients with multiple and complex needs

These people may have more than one diagnosed condition combined with a drug, alcohol or other substance problem and challenging behaviour. Sometimes as a result of their behaviour they come into contact with the criminal justice system.

Decision-making for such people involves the guardian working with a number of agencies to provide an intensive level of support.

End of life decision-making

In a number of instances in 2006–2007, the Public Advocate was required to make medical treatment decisions for people nearing the end of their life, in line with a decision of the Full Board of the Guardianship and Administration Board in 2004 which clarified the definition of “treatment” to include the withdrawal or withholding of treatment.

This is a sensitive and important area of decision-making involving carers, family and the medical treatment team.

Sexual assault of people with decision-making disabilities

People with decision-making disabilities are extremely vulnerable to sexual assault and sexual exploitation. In 2006–2007, the Manager, Guardianship, worked closely with WA Police through the newly-formed Sexual Assault Squad to develop protocols to be followed in cases of sexual assault where, for example, people were unable to give informed consent for medical examination and the collection of forensic samples.

The Public Advocate continued its close relationship with the staff and volunteers of the Sexual Assault Referral Centre who provide medical and counselling services to the victims of sexual assault.

Revocation

Of the 82 closed guardianship orders in 2006–2007, 57 were as a result of the SAT revoking the appointment of the Public Advocate as Guardian of Last Resort. This compared with 46 revocations in 2005–2006.

The orders were revoked when a review of the orders determined there was no further need for such a restrictive appointment, for example because a less restrictive alternative existed or another decision-maker was identified (a family member or friend).

The SAT re-appointed the Public Advocate in 52 of the guardianship orders it reviewed in 2006–2007 after periods of appointment ranging between six months and five years.

The number of orders appointing the Public Advocate for the maximum five years rose in 2006–2007 (see **Fig. 8**). There were 43 such appointments compared with 34 in 2005–2006.

Community Guardianship Program

At 30 June 2007, 13 of the inaugural 15 volunteers recruited in January 2006 to become the Public Advocate’s community guardians underwent training throughout 2006/2007 and seven had been matched with people in their community with a decision-making disability.

The program provides the opportunity for community members to take a more active role in the lives of people with decision-making disabilities in their locality.

Volunteers attended information sessions and training programs in December 2006 and June 2007 and a manual for Community Guardians was produced.

In May 2007, the Public Advocate applied to the SAT to have the first community guardian appointed. At 30 June 2007, the SAT had not ruled on the application.

Fig. 2

Profile by condition of disability of new guardianship orders appointing the Public Advocate 2006–07

Acquired brain injury	12
Dementia	52
Intellectual disability	27
Psychiatric condition	17
Other	6
TOTAL	114

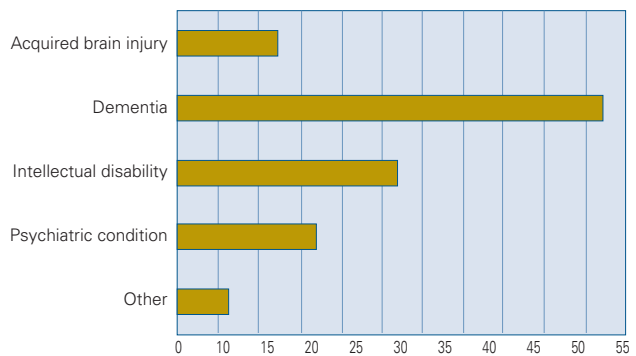


Fig. 3

Profile by condition of disability of all guardianship orders appointing the Public Advocate at 30 June 2007

Acquired brain injury	28
Dementia	94
Intellectual disability	114
Psychiatric condition	40
Other	12
TOTAL	288

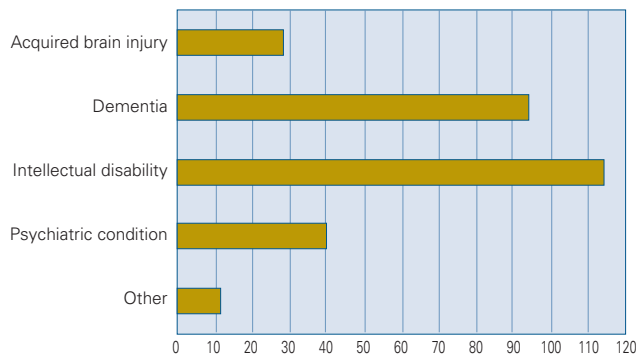


Fig. 4

Profile of all guardianship orders by decisions to be made 2006–07

Medical/dental	86
Accommodation	67
With whom RP is to live	61
Education/training	8
With whom RP is to associate	24
Next friend	15
Other	58

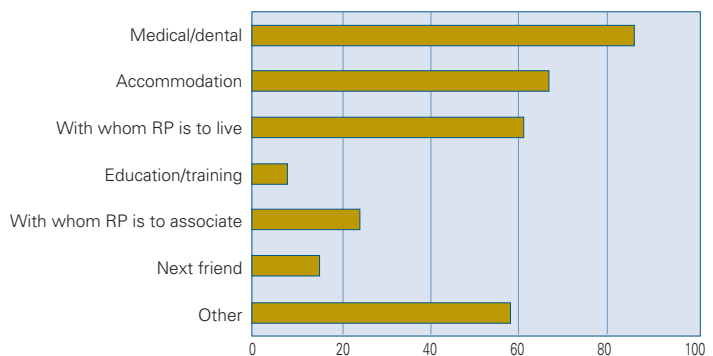


Fig. 5

Profile of new guardianship orders by reason for appointment 2006–07

No Family/No one else to act	34
No one suitable to act	51
No one willing to act	23
Other	6
TOTAL	114

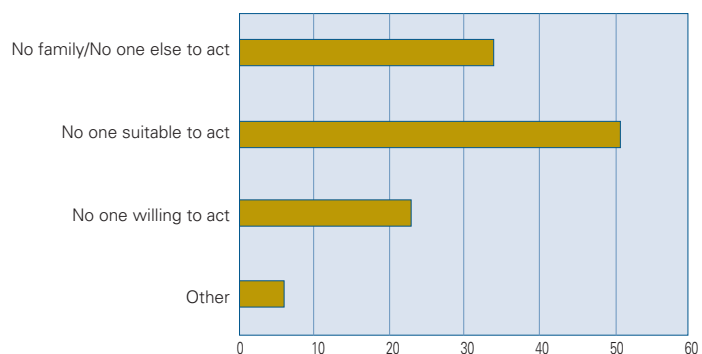
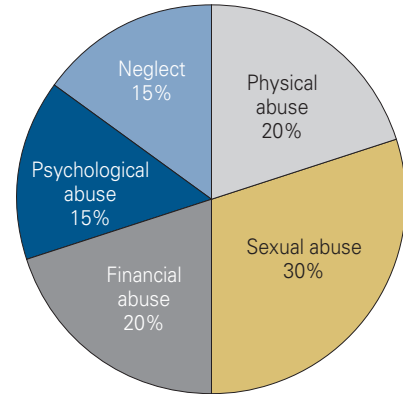


Fig. 6

Profile of type of abuse alleged of new guardianship alleging abuse 2006–2007

Sexual abuse	6
Physical abuse	4
Neglect	3
Psychological abuse	3
Financial abuse	4
TOTAL	20



NB. More than one abuse type can be chosen per application

Fig. 7

Profile of new guardianship orders by geographical location 2006–07

Central Coast	2
Goldfields	4
Great Southern	4
South West	7
Metro	88
North	3
Other Location	6
TOTAL	114

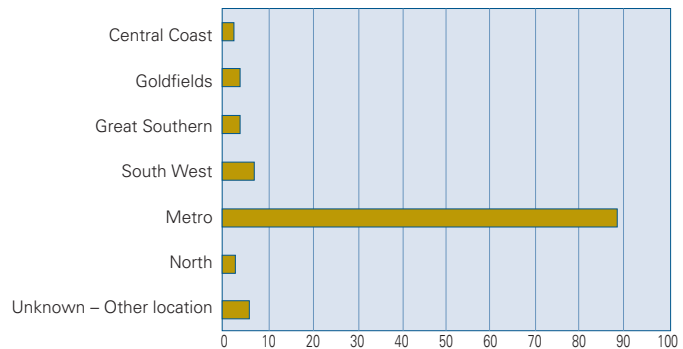
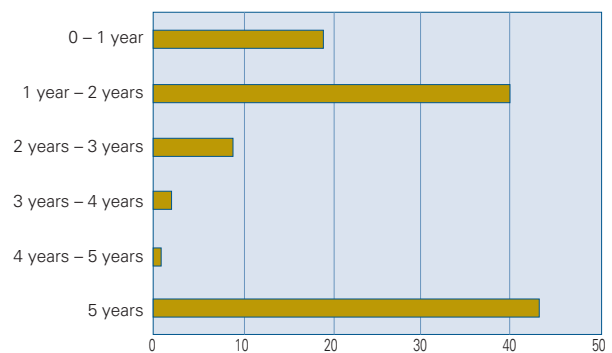


Fig. 8

Length of new guardianship orders appointing the Public Advocate 2006–07

0 – 1 year	19
1 year – 2 years	40
2 years – 3 years	9
3 Years – 4 years	2
4 Years – 5 years	1
5 Years	43
TOTAL	114



Case study

Public Advocate's role upon the death of an appointed family member as guardian

T is 48 years old and has an intellectual disability. He has lived in a group home for the past six years where he receives 24-hour care support.

T's mother had been appointed his limited guardian to determine where and with whom he should live and to consent to his medical treatment and health care. At the time of the appointment, the SAT was concerned that T's estranged father was trying to remove T from his group home to take him to Queensland where he lived with his new partner. The SAT heard evidence that T and his father had been estranged for many years and that T had told his father that he did not want to live with him in Queensland.

T's parents were divorced and although they disagreed on their son's care needs the SAT was satisfied that T's mother would act in his best interests.

Recently, the Public Advocate was notified by T's carer that T's mother had died. Section 99 of the *Guardianship and Administration Act 1990* makes provision for the Public Advocate to become the guardian upon notification of the death of a legally-appointed guardian.

The Public Advocate assumed the same powers and functions as T's late mother had held as his guardian within one day of being notified of her death.

Because T's living arrangements and health were stable, there were no immediate decisions to be made on his behalf. Instead the Public Advocate filed an application to the SAT for a review of T's guardianship order.

The SAT heard evidence from T's father who indicated that he had long accepted his son's choice to live in WA and that he was prepared to consent to his medical treatment when any health issues arose. T's father also indicated a desire to improve his relationship with T.

The SAT revoked T's guardianship order as it determined there was no longer a need for an order.

Case study

Complex guardianship matter

M suffered a brain injury as a young child as the result of a motor vehicle accident. M is totally dependent on others for decision-making and all activities of daily living and relies on a wheelchair for her mobility.

As a result of the strain of caring for M, her parents separated and now, at 19, M lives with her mother in a wheelchair-accessible home. M's mother is her primary carer.

A disability support worker becomes concerned with the deterioration in M's level of care. The worker notices that M no longer attends her activities program, her daily hygiene and therapy regime is not being followed and M is frequently still in bed when she arrives in the afternoon.

The worker tries without success to encourage M's mother who appears depressed and is refusing offers of additional help with M's care. The disability support worker then files a guardianship application with the SAT.

The SAT hears reports from M's care workers and doctor and appoints the Public Advocate as M's plenary guardian against her mother's wishes. The SAT urges M's mother to cooperate with the Public Advocate and to accept services and support for her daughter.

M's mother does not accept the Public Advocate's involvement and a good working relationship is unable to be developed. She will not allow the Public Advocate to visit M at home.

After more concerns are expressed for M's welfare, and as a result of her mother's failure to respond to phone calls, letters or home visits, the Public Advocate seeks the family's doctor's involvement in assessing the situation.

When the doctor is given permission to visit the family home, he notes the unsatisfactory conditions, M's evident ill health and her mother's deteriorating mental state. He coordinates with the Public Advocate to have M hospitalised. At the same time, he arranges psychiatric treatment for M's mother.

After M's hospital admission the Public Advocate arranges temporary respite care for M while her mother recovers. Later, the Public Advocate begins arrangements for M to have short stays with her mother to determine whether she can manage her care.

While the Public Advocate acknowledges the mother's desire to have the full-time care of her daughter, the Public Advocate wants to ensure that M accepts care support services and exhibits some insight into her own health issues.

Case study

Revocation of a guardianship order

C is an elderly widow with progressive dementia and her daughter has found it increasingly difficult to meet her care needs. The hospital Aged Care Assessment Team has advised that C is eligible for high-level care in a nursing home.

However, C refuses to move into residential care. C has no insight into the risks she is exposed to by living alone and her daughter feels unable to act against her mother's wishes. She wants to preserve the relationship she has with her mother.

The hospital social worker applies to the SAT for a guardianship order for C when all avenues to support her at home have been exhausted and C's at-risk behaviours have increased.

The SAT appoints the Public Advocate as C's guardian with authority to determine her accommodation and make decisions regarding her medical treatment.

After information gathering that includes consultation with C and her family, the Public Advocate determines that it would be in C's best interests to be placed in a residential aged care facility.

The situation is greatly improved by the involvement of C's daughter who encourages and supports her mother through the transition into care. The Public Advocate also ensures that C is linked with a new doctor and provides consent for the administration of her medications.

The Public Advocate applies to the SAT after six months to seek a revocation of C's guardianship order as there is no longer a need for the guardianship authorities. C has settled very quickly in to her nursing home and has benefited from her daughter regularly visiting her. The SAT hears that C's daughter now agrees with the Public Advocate that her mother is appropriately placed.

The SAT is satisfied that C no longer requires a guardianship order and revokes the Public Advocate's order. It considers that C's daughter is able to make medical decisions on behalf of her mother as her next of kin without the need for guardianship authority.

Advocacy, Investigation and Legal

Service Area – Advocacy, Investigation and Legal

The Public Advocate investigates, advocates and provides recommendations on the need for guardianship and administration in the best interests of a person with a decision-making disability.

Function

- examines and reports at listed or urgently called hearings of the State Administrative Tribunal (SAT) on whether it is in the best interests of adults with decision-making disabilities to have a guardian or administrator appointed
- advocates for the appointment of a guardian or administrator when appropriate and in the best interests of the person with the decision-making disability when there is no other way of meeting the person's needs
- investigates any complaint or allegation from the general public that a person may be at risk of neglect, exploitation or abuse and may be in need of a guardian or administrator or is under an appropriate order
- investigates whether a person held in custody under the *Criminal Law (Mentally Impaired Accused Act) 1996* is in need of an administrator
- provides on-site assistance to the SAT through the Liaison Officer by conducting brief investigations, providing guidance and advice to staff
- informs and advises Government, community and business organisations on the best interests of adults with decision-making disabilities in the development of legislation, policy and services

The year in review

During 2006–2007, the Public Advocate investigated 736 cases involving the personal or financial welfare of people with a decision-making disability.

The large majority of these matters was referred by the SAT and related to either new applications for guardianship and administration or reviews of existing appointments.

Individuals and organisations in the community concerned about the welfare or wellbeing of a person with a decision-making disability directly referred 105 cases to the Public Advocate for investigation.

There were 624 new investigations this year compared with 595 reported in 2005–2006. However, from 1 July 2006, the Public Advocate changed the way that work undertaken by her Liaison Officer at the SAT was reported.

Matters referred to the Liaison Officer by the SAT where brief investigations were conducted which did not result in a referral to this Office were included in the investigations for 2006–2007. Previously this work was not recorded and the resources involved were not measured.



Ir Jo Keane, Val Flashman, Bev Turner, Denise Fallon (Manager, Advocacy, Investigation and Legal), Gino Coniglio, Kim Dudgeon. Absent: Malcolm Innes.

In 2006–2007 there were 30 such cases. As a result, the number of new investigations undertaken in 2006–2007 remained unchanged in comparison with 2005–2006.

Of the new matters 55 (9%) were categorised by the SAT as urgent. By implication, investigators who advocate on behalf of the proposed represented person at an urgent hearing have limited time to prepare and gather information.

Depending on the degree of urgency and how quickly a hearing is listed, urgent matters require investigators to be skilful in gathering relevant information expeditiously.

Issues for Advocacy and Investigation

Investigations have the potential to resolve the need for a guardianship or administration order through less restrictive means. This is consistent with the principles set out in Section 4 of the *Guardianship and Administration Act 1990*.

When family members increase their involvement and assistance to a person with a decision-making disability, or where interested parties become more informed about the role of a substitute decision-maker as a result of the investigation process, the need for an order is frequently negated.

Investigators also play a role in seeking referrals to service providers for the person and assisting family members, again often negating the need for an order.

The Public Advocate's Liaison Officer continued to work closely with the SAT to screen applications for guardianship and administration to establish whether a full investigation by the Public Advocate was necessary.

While the SAT finally determines whether applications are referred to the Public Advocate, both the SAT and the Public Advocate recognise the critical and valuable service the Liaison Officer provides.

In 2006–2007, the Liaison Officer conducted preliminary investigations into 452 applications (guardianship, administration and intervention into Enduring Powers of Attorney) referred to her by the SAT; and recommended that further investigation be undertaken by the Public Advocate in 220 applications.

As well, the Manager, Advocacy, Investigation and Legal, met regularly with senior SAT staff to discuss matters of mutual interest and resolve any systemic problems as they arose. This forum is a useful mechanism for resolving issues at a local level.

Our customers

Of the 624 new investigation matters, allegations of abuse were made in 71 cases (see **Fig. 9**). Allegations of financial abuse continue to be the most commonly reported form of abuse (46%). This is followed by neglect (16%), psychological abuse (14%), physical abuse (13%) and sexual abuse (11%).

In 48 of these 71 matters, the victim was aged over 65 years (see **Fig. 10**). It is not possible to reliably compare data from previous years due to data integrity issues. It is anticipated that the new case management system foreshadowed in this report will overcome these data integrity issues.

Overwhelmingly, most new investigation matters were conducted in the metropolitan region (468 or 75%), with 21% (134) of matters originating from rural or remote areas (see **Fig. 11**).

Of the new investigations, 46% concerned people with dementia, while 21% had an intellectual disability, 15% a psychiatric condition and 10% an acquired brain injury (see **Fig. 12**).

Accommodation considerations (28%) and reviews of guardianship orders (24%) dominated the new matters investigated in 2006–2007 (see **Fig. 13**).

Legal Issues

Enduring Powers of Attorney — Gifting decision

The Act does not make provision for an attorney to make gifts from the estate of the donor (the person for whom they are making decisions). However, the SAT has recently formed the view that an attorney is not precluded from making a gift on behalf of the donor (unless the EPA prohibits gifting). The attorney must be directed by his or her duties and obligations to the donor and, in particular, must consider whether the giving of the gift is in the interests of the donor.

Some factors that the attorney may wish to consider when making this decision are:

- The relationship between the donor and the beneficiary of the gift
- The purpose of the gift
- The extent of the donor's estate
- The needs of the donor and any other person dependent on the donor
- The likelihood of the donor making the gift if he or she had capacity
- The attitude of those likely to benefit from the donor's estate on his or her death

The attorney must also comply with any conditions or restrictions in the EPA.

It would not be usual for an attorney to gift to himself or herself on behalf of the donor. If in doubt about gifting from the estate of the donor, the attorney may apply for directions from the SAT.

In March and April 2007, the Public Advocate worked closely with the State Solicitor's Office to review and significantly revise the *Guide to Enduring Power of Attorney* and the *Enduring Power of Attorney Information Kit* with respect to advice about gifting and other considerations.

Consultation was also undertaken with the SAT and with Landgate.

Recognition of 'foster parents'

The year 2006–2007 saw an increase in the number of applications, and subsequent appointments of the Public Advocate, involving a young person with a decision-making disability leaving the care of the Department for Child Protection (DCP).

In some of these cases, long-term foster parents remain involved with the young person and provide ongoing care and support after the person turns 18.

Under the *Children and Community Services Act 2004*, DCP cannot extend care and protection orders beyond a child's 18th birthday when its legal decision-making role ceases.

For many of the 18-year-olds with a decision-making disability, this means that services and the corresponding funding for those services are met by other agencies such as the Disability Services Commission (DSC).

A number of cases arose in 2006–2007 where 'foster parents' indicated to the Public Advocate that they would like to become the young person's legally-appointed guardian or administrator. They felt it would legitimise their relationship with the young person and be an acknowledgement of the significant role they continued to play in the young person's life.

The Public Advocate has successfully argued in some cases before the SAT that foster parents could be considered able to consent to medical treatment under the provisions of Section 119 of the *Guardianship and Administration Act 1990*. This section allows a person to consent if they maintain a close personal relationship with the person needing treatment.

However, the DSC's *Family Members as Paid Carers* policy prevents carers who receive financial assistance from it to meet care costs (similar to that made available to them by DCP as foster carers), from being appointed a person's guardian and/or administrator.

In June 2007, the Public Advocate sought review of this policy from the Acting Director General of the Disability Services Commission. In the interim, the Acting Director General has agreed to consider an exemption from the policy on the individual merits of specified cases.

Other issues

Another noticeable trend is an increase in applications referred for investigation to the Public Advocate by the SAT, where family members are reportedly reluctant to become the substitute decision-maker for a person with a disability. An example of this is when a decision may need to be made for someone with dementia about relocating the person away from their family home.

Often the rationale is a desire to reduce the potential for such a decision to adversely affect their relationship with the person subject to the application. With the ageing of the population and the greater prevalence of dementia, the Public Advocate may be called upon to intervene in decision-making when families are reluctant to take on this role themselves.

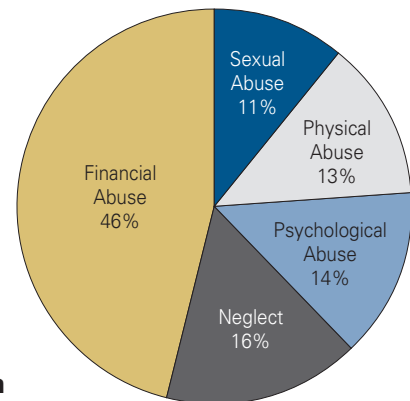
It can often be difficult during an investigation to gather extensive information needed to establish whether a person with a decision-making disability is in need of a guardian or administrator.

Often, limited information is provided by the applicant about nearest relatives or friends of the person who is the subject of the application. While the investigation process seeks to remedy this situation, more professionals could benefit from the training and education provided by the Office in its annual training calendar.

Fig. 9

Profile of type of abuse alleged of new investigations alleging abuse 2006–07
(which includes statistics of elder abuse)

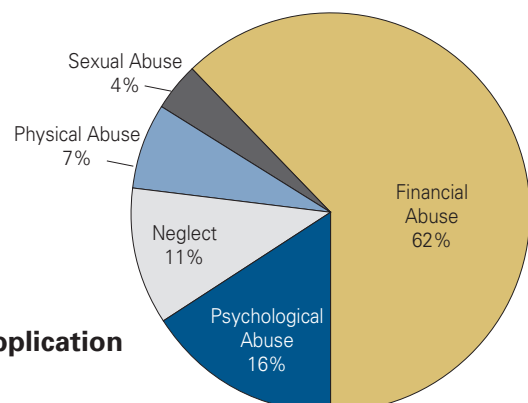
Allegations of Abuse	71 people
Sexual Abuse	10
Physical Abuse	12
Neglect	15
Psychological Abuse	13
Financial Abuse	45
TOTAL	95



NB More than one abuse type can be chosen per application

Fig. 10

Elder 65+ Abuse	48 people
Physical Abuse	4
Sexual Abuse	2
Financial Abuse	35
Psychological Abuse	9
Neglect Abuse	6
TOTAL	56



NB More than one abuse type can be chosen per application

Fig. 11

Profile by geographical location of new investigation referrals 2006–07

South West	55
Great South	27
Eastern Goldfields	19
Central Coast	21
North	12
Metropolitan	468
Unknown	20
Unknown - Overseas	1
Other Australian State	1
Metropolitan and Other Location	624

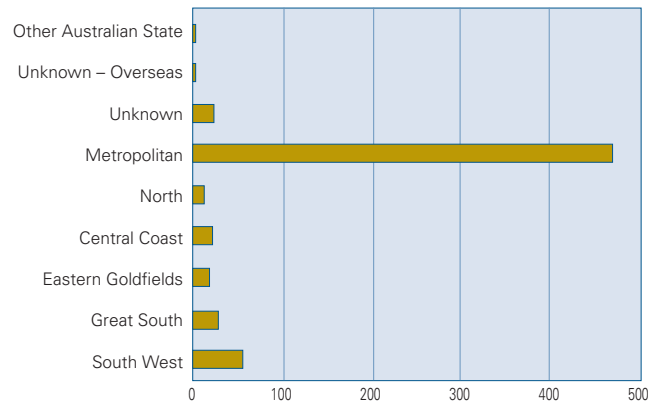


Fig. 12

Profile of new investigation referrals by condition of disability 2006–07

Acquired Brain Injury	64
Dementia	290
Intellectual Disability	129
Psychiatric Condition	96
Other	45
06–07 TOTAL NEW ADVOCACY	624

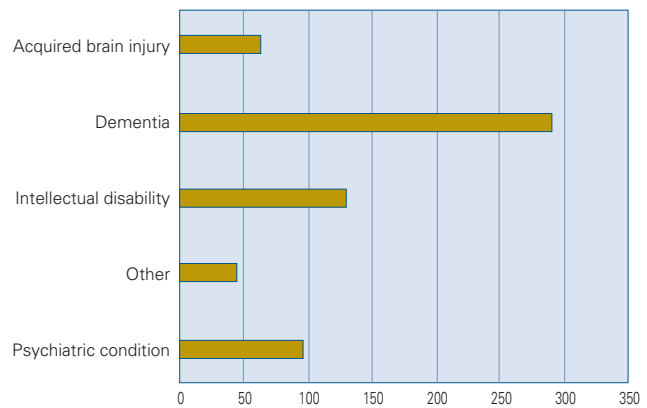


Fig. 13

Profile by issue of new investigation referrals 2006–07

Major Issues Type	
Access to Services	15
Accommodation	173
Assist with Money	50
Business Operations	1
Enduring Powers of Attorney	11
Legal Administration	11
Legal Guardianship	20
Management of Assets	71
Medical/Dental	65
Review of Administration	21
Review of Guardianship	148
Self Neglect	2
Relationship Contacts	15
Sterilisation	1
Other Guardianship	13
Other Administration	7
TOTAL	624

Case study

Investigation process can reunite families

D is a 75-year-old man living in a nursing home in a regional area of Western Australia who has been diagnosed with dementia.

Nursing home representatives asked the SAT to appoint an administrator for D's financial affairs as its records indicated that D had no known relatives.

The SAT appointed the Public Trustee as D's plenary administrator. In the course of the hearing, concern was raised by the SAT Member about D's personal and medical decision-making ability. The SAT referred the matter to the Public Advocate to conduct further inquiries.

As a result of an investigation by the Public Advocate, several of D's relatives were located. They were concerned that they had not been listed at the nursing home as D's next of kin and were not involved in the original hearing.

The Public Advocate subsequently initiated a review of the administration order for D and applied for the appointment of a guardian to give consent to D's medical treatment; to make decisions about D's accommodation; and to review the need for certain measures to restrain D.

As a result of the Public Advocate's investigation and report, the SAT appointed D's relative his plenary administrator and guardian.

Case study

Young adult leaving the care and protection of the State

S is a young woman with a severe intellectual disability and significant physical disabilities. She is about to turn 18 years of age. For the past 14 years S has been a ward of the State.¹

During the period she has been under the care and protection of what is now the Department for Child Protection (DCP), S has been cared for by the same foster family, Mr and Mrs Z. For all intents and purposes S has become a part of the Z family. The family has supported S through many health crises and has a long-term commitment to her future wellbeing. S has irregular contact with her biological family.

The DCP's leaving care plan for S for when she reached 18, was for her to remain in the care of the Z family for as long as it was in her best interests to do so.

S is registered with the Disability Services Commission (DSC) and has been successful in obtaining a funding grant which will enable her to remain living with the Z family while also being eligible for respite and community support.

The DCP made application to the SAT for both a guardian and administrator to be appointed for S. The DCP recommended that Mr and Mrs Z would be highly suitable to take on either of these decision-making roles due to their long-term relationship and commitment to S and understanding of S's medical treatment needs.

However, should they be legally appointed guardians or administrators for S, the Zs would be considered under DSC policy to be ineligible for funding for S's care. Mr and Mrs Z therefore decided they were not willing to be appointed as such an arrangement would affect S's funding.

Initially the SAT had no alternative to appointing the Public Advocate and the Public Trustee S's guardian and administrator respectively. But through the advocacy of the Public Advocate, the DSC agreed to exempt Mr and Mrs Z from the application of their policy to enable them to be appointed S's guardian with the authority to consent to medical treatment.

¹ i.e. in the care of the Chief Executive Officer of the Department for Child Protection

Case study

No need for formal appointment

Mr M migrated to Australia more than 40 years ago and is now in his early 70s. He had been living in the community in shared accommodation with only minor informal supports. Due to a recent decline in health, Mr M was admitted to hospital where an Aged Care Assessment Team assessment confirmed that he could not return to live in the community and was eligible for low-level residential care.

Mr M suffers from dementia and other treatable conditions, which require ongoing monitoring of diet and wellbeing. He has never married and has no family members living in Australia. However, he has maintained a friendship with a fellow migrant since arriving in Australia. This friend, Mr P, was concerned Mr M's concerns or preferences would not be taken into account if he had to go into care. Mr P was, in the interim, informally looking after Mr M's finances and assisting him to attend medical appointments while in care awaiting placement. Mr P had received information that he could become guardian and administrator for Mr M, but was unsure of what this entailed and if he could fulfil the role. Mr P was just a few years younger than Mr M and was concerned that it may be too much for him.

Mr P made an application to the SAT for a guardian and administrator for Mr M, proposing himself as guardian and the Public Trustee as administrator. At this time Mr P came into contact with the Office of the Public Advocate and received information relating to the role of guardian and how, as a long-term friend, he could continue to informally assist Mr M in the same way he had been previously as there were no other interested parties or family members available. Mr P confirmed that he was willing and available to take on the role and understood that if any specific concerns emerged that he could seek assistance from the Office of the Public Advocate's Telephone Advice Service (TAS).

On hearing the applications for guardianship and administration, the SAT determined that Mr P had had a long and significant relationship with Mr M, that Mr M had no other relatives, and that Mr P was suitable, willing and available to act informally as Mr M's guardian. Mr M was in attendance at the hearing and confirmed that it was his wish that Mr P continued to assist him with his decision making. The Public Trustee was appointed plenary administrator for Mr M, taking the strain of that role away from Mr P to concentrate on finding appropriate long-term accommodation for Mr M. The application for guardianship was dismissed as there was no need for a formal order in this instance.

Community Education

Service Area — Community Education and Awareness

Promotes the human rights of people in Western Australia with decision-making disabilities under the provisions and operation of the *Guardianship and Administration Act 1990* through community education, awareness and understanding.

Function

- develops a framework for the delivery of effective community and professional education and training which promotes the human rights of people with decision-making disabilities
- produces and publishes written and other material accessible to the community in a variety of formats and languages
- develops partnerships with other government agencies, non-government organisations and community groups to disseminate information about guardianship and administration
- promotes community responsibility for the wellbeing of vulnerable adults with decision-making disabilities at risk of exploitation, neglect and abuse

There was a stronger emphasis on facilitating community education in the regions in 2006–2007 and this will continue in 2007–2008.

Of the 32 community education presentations conducted by Office of the Public Advocate staff to 30 June 2007, nine (28%) were either held in regional locations or video conferenced to locations outside the Perth metropolitan area. Five of these presentations (55%) were targeted specifically at people providing services to Aboriginal communities.

A total of 468 people registered for Guardianship and Administration, Enduring Power of Attorney and Private Administrator training seminars on the Public Advocate's training calendar or to attend presentations outside the calendar coordinated by the Manager, Community Education.

Each person who attends a Public Advocate presentation is asked to complete a survey indicating their level of satisfaction with the seminar and the information provided.

Of the 346 who responded to the surveys in 2006–2007, 97% indicated they were either satisfied or very satisfied with the education received.



OPA Investigator Nola Bradshaw conducts a Guardianship and Administration training seminar.



OPA Investigator Liz Palmela gave a free presentation about Enduring Power of Attorney for Law Week 2007.

Expanding community education in Aboriginal communities

Widely acknowledged research by the Public Advocate into elder abuse¹ in Aboriginal communities in Western Australia identified the need for greater awareness about the rights of vulnerable Aboriginal people in their own communities.

The Public Advocate met Aboriginal community and local government stakeholders in July 2006, and a need was established for a series of community forums focusing on care and respect for older people.

A Community Education Officer was appointed in March 2007 under Section 50(d) of the *Equal Opportunity Act 1984*, to raise awareness of the guardianship and administration system, the role of the Public Advocate and the rights of people with decision-making disabilities in Aboriginal communities.

A forum for community members and individuals working with vulnerable Aboriginal people focusing on elder abuse and the rights of adults with decision-making disabilities was held in May 2007 in conjunction with the City of Melville with input from Aboriginal presenters. While attendance at the forum was small, there was an acknowledgement that further sessions, perhaps with small groups of community members, would be useful.

There were seven community education sessions held for Aboriginal service providers in 2006–2007 in Perth, Esperance, Geraldton, Katanning, Broome and Karratha.

Telephone Advisory Service

Nearly 4000 customers contacted the Public Advocate's advisory service in 2006–2007, with 3813 calls to the Telephone Advisory Service line.

Guardians and investigators answered 4880 enquiries with questions about Enduring Power of Attorney (2068) dominating the calls (see **Figs. 14** and **15**).

There were two reviews of the Telephone Advisory Service in 2005–2006. Postgraduate students from Curtin University's Graduate School of Business reviewed the effectiveness of the service and its structure (staffing, hours of operation, feedback).

The reviewers received generally positive feedback from users of the service. Comments included:

"It's so reassuring to have this support with this very complex area. Many thanks."

Health professional.

"I was very satisfied with the service I received, and we were able to complete the forms after speaking to you."

Senior citizen.

It is clear from some comments that the general public favours the advice line and would like to see it extended to incorporate information from other relevant bodies such as the SAT and the Public Trustee:

"A one-stop shop would be more efficient and easier for the public instead of having to go to another Department to access the required forms. Not everyone has the internet to access online."

Regional resident.

The daily-call data collected and recorded by guardians and investigators who operate the service was also analysed in December 2006.

¹ *Mistreatment of Older People in Aboriginal Communities*, Public Advocate of WA, 2005.

The call-data review found that many of the requests for information were frequently repeated. It recommended that the existing Enduring Power of Attorney recorded information line be substantially expanded to incorporate information answering frequently asked questions about guardianship and administration as well as Enduring Power of Attorney. The review found that this could substantially reduce the number of calls being forwarded to guardians and investigators, freeing up time for more complex enquiries from the general public and service providers.

Fig. 16 shows figures from a review of a three-month sample of enquiries about Enduring Power of Attorney, illustrating the 10 most frequently asked questions.

A trial of a new recorded information freecall service, similar to that trialled and successfully implemented in another business area of the Department of the Attorney General, is expected to begin in August 2007.

Publications

The text of the Public Advocate's *Guide to Enduring Power of Attorney* and the *Enduring Power of Attorney Information Kit* underwent extensive revision in 2006–2007 in consultation with the State Solicitor's Office, the SAT, Landgate and, in the case of the Kit, the State Law Publisher. New plain-English editions of both publications will be published in the latter half of 2007.

The *Enduring Power of Attorney Information Kit* continues to be one of the most popular State Government publications and website downloads. Figures released by the Department of the Attorney General show that it was the most popular downloaded item from the Department's website in several weeks of 2006–2007.

The Public Advocate's Information Sheets and Position Statements continue to be popular, with more than 800 kits of information sheets distributed to service providers and individuals in 2006–2007.

A manual for Community Guardians was published in-house.

A survey was conducted into the quality and usability of the Public Advocate's *Guide for Service Providers*. Of the 40 individuals surveyed, 13 responded (32%). While not a representative result, the feedback was positive and will be taken into account when the publication is revised in the second half of 2007–2008.

Work also commenced on a brochure specifically designed to inform Aboriginal people about the role of the Public Advocate.

Legislation to introduce Enduring Powers of Guardianship

Planning for the introduction of enduring powers of guardianship is under way after the legislation successfully passed through the Legislative Assembly in November 2006.

A comprehensive communication plan will guide the Public Advocate in the provision of education to professionals and awareness of the concept of enduring guardianship among members of the general public when legislation is proclaimed.

Website development

The Office of the Public Advocate web page is located within the J-Net portal and accessible through the Department of the Attorney General home page.

The Public Advocate prepared a submission and framework for a Department-wide review of the J-Net website, recommending an independent, dedicated and accessible web presence for the Office.

A new pathway means that from June 2007, members of the public now access the Public Advocate homepage directly via a dedicated webpage address.

Design commenced in June 2007 on a new structure, graphic layout and revised content for the Public Advocate website. The design will observe accessibility and e-government guidelines.

The developments will ensure a more accessible, user-friendly online service for members of the public and service providers.

Media relations

The Public Advocate seeks to promote the human rights, dignity and autonomy of people with decision-making disabilities across all sectors.

The work of the Office has been featured throughout 2006–2007 in articles in community and State newspapers, in a special television segment as part of Seniors Week and on ethnic and mainstream radio programs in the metropolitan area and in the regions.

Fig. 14

Type of Enquiries to the Telephone Advisory Service 2007–08

	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
Guardianship	73	98	83	101	89	102	105	68	79	79	104	83	1064
Administration	89	97	91	132	94	77	104	87	87	98	73	79	1108
EPA	179	205	157	183	179	122	206	149	165	176	176	171	2068
General	46	77	50	58	66	43	47	55	34	54	34	76	640
Total	387	477	381	474	428	344	462	359	365	407	387	409	4880

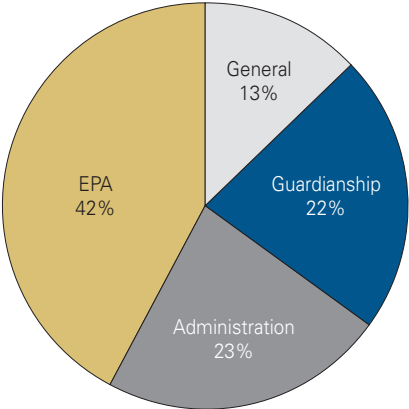


Fig. 15

Mode of Handling Enquiries

	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
Phone	323	369	290	349	337	264	360	288	277	312	319	325	3813
Interview	2	8	10	10	10	4	9	5	11	9	7	11	96
Email/Letter	4	4	11	3	3	1	13	4	7	5	4	4	63
Total	325	377	300	359	347	268	369	293	288	321	326	336	3909

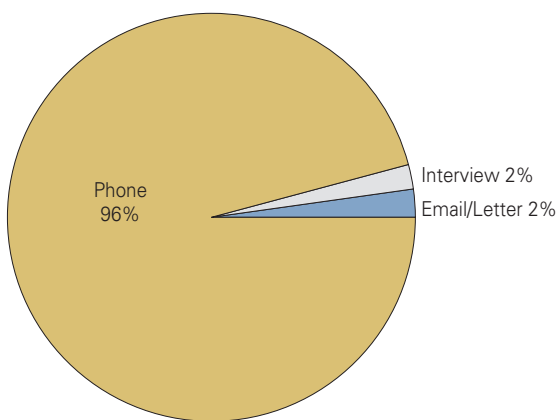


Fig. 16

Enquiries about Enduring Power of Attorney Sept–Nov 2006

Lodging/Registering	63
Witnessing	58
How to complete form (general)	55
Capacity	43
Need	33
Interstate/Overseas	30
Revocation	26
Administration (generally EPA v Administration)	26
CRI, possible abuse	18
4(a) versus 4 (b)	16

Corporate Services

Service area — Corporate and Governance

Supports the Office by facilitating effective administration, management and information systems and ensures that Government accountability requirements are fulfilled.

Function

- plans and provides Office management and administration requirements
- provides financial and human resource management, procurement, information technology and physical resource management

These services are supported by the Department of the Attorney General under a service-level agreement and costs are proportionally allocated to the Public Advocate and reflected in the Treasury Budget statements. The budget allocation and subsequent expenditure for 2006–2007 are as follows:

	Total Cost of Output (\$,000)
\$'000 Actuals 2006–2007	2,781
\$'000 Budget 2006–2007	2,828
\$'000 Variations from Budget	47

Highlights for Corporate Services in 2006–2007

Human resources

A review of the function and roles of the Corporate Services area which commenced in December 2005 recommended staff be multi-skilled to achieve greater efficiency and productivity. The recommendations were implemented in 2006–2007 and administrative and data management support is now shared between members of the team.

Corporate Services staff also supported the Management Team and Community Education areas throughout 2006–2007.

There was a significant increase in the Office's full-time staff and the recruitment and appointment of additional guardians and community education staff resulted in a greater administrative workload.

Additional funds were allocated to refurbish the Office to create a new reception area, two additional secure meeting areas and more workstations to accommodate the new team arrangements in Corporate Services, new guardians and community education staff.

The Public Advocate commissioned an organisational climate survey which was conducted in April 2007. The recommendations were reported to staff in June 2007 and are under consideration by management.

In recognition of the ongoing training and development needs of staff, a sub-committee of representatives of the four service areas within the Office was formed to identify, recommend, record and evaluate professional development opportunities for all staff.

Statistical reporting

An important part of both the Office's guardianship and investigation services is the collection, recording and secure storage of data about customers which allows trends to be analysed effectively.

Between October 2006 and March 2007 a business analysis and data modelling project was undertaken.

As a result, guardians and investigators adopted new guidelines for the recording of electronic client data.

Tenders closed in June 2007 for a new case management system developed throughout 2006–2007 to replace the Office's statistical information database.

The new electronic-based system will allow greater accountability, will be more user friendly and will improve the integrity and security of collected data.

Information technology

The Office's videoconferencing equipment continued to be well used with 19 client interviews, training or seminar conferences conducted during 2006–2007.

Six staff participated in a videoconferencing training program conducted by the State Government's videoconferencing provider, Conferwest.

The Office's electronic shared storage drive was rationalised to improve security and accessibility of stored information. Staff were provided with intensive training in the Microsoft Outlook, Word and Excel programs.

A new PC-based teletypewriter (TTY) facility was installed to assist hearing-impaired clients. The computer-based system enables people who are hearing impaired and have access to a TTY facility to contact the Office directly. The Office is the first business area with the Department of the Attorney General to install the TTY system.

Preliminary preparation for the installation of a new, integrated, voice-recorded telecommunications facility, enabling recorded information and a menu system for callers, began in May 2007. The system is expected to be installed in August 2007.

Financial management

Internal auditors reviewed the Office's financial and statistical management in June 2007.

Record keeping

A Departmental team conducted a review of the Office's record-keeping arrangements in November 2006.

Corporate Governance

Access and equity

The Office of the Public Advocate's practice is guided by the following service standards:

Access: Staff are accessible. Services are physically accessible

Individual needs: Services are sensitive to people's individual needs

Dignity: Services promote personal dignity, independence and choice wherever possible

Privacy: Staff respect privacy of customers and do not release personal information unless required to protect the person's safety or to explain the decision-making process

Information: The Office of the Public Advocate provides information about services and advice to customers to enable greater choice and to ensure accountability

Professionalism: Services meet the highest professional and service standards

Feedback: The Office of the Public Advocate encourages and is responsive to customer feedback about its services

Grievances: The Office of the Public Advocate treats customer complaints seriously and deals with them as soon as possible to ensure a satisfactory resolution

The Public Advocate ensures that all its services are accessible to the public, particularly in relation to gender, disability, ethnic origin and place of residence.

The Public Advocate's web pages are located at www.publicadvocate.wa.gov.au where more detailed information about the guardianship and administration system can be found under the heading *Guardianship, Administration and Advocacy*. The *Enduring Power of Attorney Information Kit* can also be downloaded from this website, as can past Annual Reports.

The Public Advocate web pages can be accessed through the website of the Australian Guardianship and Administration Committee and the website of the Alliance for the Prevention of Elder Abuse.

The Public Advocate is also listed in the physical and electronic pages of the White Pages.

Public participation in the formulation of Public Advocate policy and performance:

The Office of the Public Advocate undertakes public consultation and gathers customer feedback. Participation in the consultative process is encouraged through the media, the electorates of State Parliamentarians, mail-outs or through invitation from the Office.

Individuals or organisations are also able to post comments in the Contact and Feedback section of the Guardianship, Administration and Advocacy page at the website address: www.publicadvocate.wa.gov.au

Freedom of information

The *Guardianship and Administration Act 1990* requires the Public Advocate to maintain the confidentiality of its customers and the details of any proceedings before the SAT. However, the Public Advocate will explain the basis for decision-making and wherever possible, will provide access to information if it is seen to be in the best interests of the represented person or proposed represented person.

One application for information under the *Freedom of Information Act 1992* was received by the Public Advocate in June 2007.

Anyone who wishes to access information held by the Public Advocate should contact the Freedom of Information Coordinator on 9278 7300 or 1300 858 455. They may be invited to submit their request in writing.

If a request is denied, an application may be lodged with the Public Advocate. If the application is denied or a person is unhappy with the decision of the Public Advocate, he or she may lodge a complaint with the Information Commissioner.

Customer feedback and complaints

The Office surveyed customers of its guardianship, investigation and community education services in 2006–2007. Respondents rated access to staff and services, responsiveness to individual needs, confidentiality, provision of information, professionalism, response to feedback and grievances, and overall satisfaction.

Surveys of guardianship and investigation customers were conducted at random — a change from previous years where a targeted survey was conducted over a three-month period. The result was that 163 customers responded, which was a 20% improvement in the response rate.

At 30 June 2007, 94 customers of the guardianship service had responded. On average¹:

- 88% were satisfied with the overall level of service (compared with 82% in 2005–06)

In the investigation area, 69 individuals responded. On average:

- 83% were satisfied or very satisfied with the overall level of service (85% in 2005–06)

The combined satisfaction level averaged 85%. This compares with 84% in 2005–2006.

In 2006–2007, three complaints were received by the Office and all were resolved to the satisfaction of the customer.

One complaint concerned changes to witnessing arrangements affecting the validity of a signed Enduring Power of Attorney. The customer who complained was sent a replacement EPA information kit within a day of his complaint and his concerns referred to the Manager, Justices of the Peace Branch of the Department, who agreed to contact him personally. New procedures will see the State Law Publisher updated more quickly about changes to legislation affecting the EPA information kits.

A complaint concerning the decisions made by the Public Advocate on behalf of a person with a decision-making disability in care was resolved following a meeting between the service provider who made the complaint and the Manager, Guardianship.

For people who lodge a formal complaint with the Public Advocate, either in writing, via email or telephone, the Office undertakes to:

- respond to all grievances within 10 working days of the complaint being received
- keep records of all relevant proceedings including details of the grievance, the investigation, methods of resolution and customer feedback
- make documentation of the investigation available to the person who lodged the complaint (except where this contravenes confidentiality requirements)
- communicate the outcome in writing, together with any corrective action to be taken, to all parties

¹ Measured as an average percentage of respondents who answered questions in nine survey fields

Ombudsman complaints

No formal complaints were received in 2006–2007.

Disability services

The Office provided input into the Department-wide Disability Access and Inclusion policy and plan.

The Office's Training Calendar provides professionals in the health, aged care, mental health, disability services and community area the opportunity to receive training on the rights, dignity and autonomy of people with decision-making disabilities.

The Office installed a computer-based teletypewriter line (TTY) to improve access to advice and information for hearing-impaired clients.

Cultural diversity and language services

In July 2006, the Office of the Public Advocate released her *Report into Elder Abuse in Culturally and Linguistically Diverse Communities in Western Australia*.

The report was launched by the Attorney General at a function attended by representatives from Western Australia's ethnic community organisations.

The report's 14 recommendations are being progressed by the Office for Seniors' Interests and Volunteering. They included:

- more information and assistance for parents coming to Australia to join their children
- culturally-appropriate community education programs raising awareness about elder abuse
- cross cultural training for service providers
- the establishment of a telephone hotline/helpline service with interpreters for people who want to discuss concerns about elder abuse but have limited or no English

Community education brochures for culturally and linguistically diverse communities translated into eight languages other than English were reprinted and further distributed to agencies and organisations providing multicultural services in Western Australia.

The Office of the Public Advocate participated in a display and seminar run by the Multicultural Aged Care Services of WA in May 2007.

To ensure that language is not a barrier to services for customers with limited fluency in English, the Public Advocate subscribes to translation and interpreter services. In 2006–2007, 11 on-site interpreters and one telephone interpreter were used. The translation service was provided in Serbian, Croatian, Polish, Italian, Macedonian and Vietnamese.

Cultural awareness training was provided for all staff at the Office of the Public Advocate in June 2007.

Waste paper recycling and Energy Smart policy

The Office monitors and reports on energy consumption and wastepaper recycling in accordance with these policies. The Office also recycles printer and copier toner cartridges.

Advertising and marketing expenditure

The Public Advocate discloses the following information relating to advertising, direct mail and market research expenditure as required under Section 175ZE of the *Electoral Act 1907*:

Fig.17

Advertising and marketing expenditure 2006–07	Amount \$
Marketforce Productions/Media Decisions: Recruitment Advertising & Community Education	3,869
Department of Premier and Cabinet: Intersector – Recruitment Advertising	0
Direct Mail Organisation	0
Market Research Organisation	0
TOTAL EXPENDITURE	3,869

Legislative authority

The Public Advocate's legislative authority is contained in the *Guardianship and Administration Act 1990*. The Act was proclaimed to come into full operation on 20 October 1992.

Related legislation

Other legislation relating to the circumstances and needs of people with decision-making disabilities include:

The State Administrative Tribunal Act 2004

The Health Act 1911

The Supreme Court Act 1935

The Public Trustee Act 1941

The Disability Services Act 1993

The Mental Health Act 1996

The Criminal Law (Mentally Impaired Accused) Act 1996

The Carers Recognition Act 2004

Transparency and accountability

A rationalisation of the Office's electronic data storage in December 2006 resulted in improved security for electronically-held, confidential client files.

The Public Advocate also complies with legislation that relates to the management and accountability requirements of Government, including:

The Equal Opportunity Act 1984

The Public Sector Management Act 1994

Freedom of Information Act 1992

The Electoral Act 1907

State Records Act 2000

The Workers' Compensation and Rehabilitation Act 1981

The Occupational Safety and Health Act 1984

The State Supply Commission Act 1991

The Financial Management Act 2006

The Public Interest Disclosure Act 2003

Record keeping

A Department of the Attorney General records-keeping compliance team conducted a review in November 2006 of records held by the Public Advocate.

The recommendations were that the Office should rationalise its record-keeping system to bring it into line with the Department's classification system.

Existing files will be closed at 30 June 2007, and the new system will begin in 2007–2008 to increase compliance with statutory requirements and improve links with Departmental records.

Publications and Resources

Care and Respect for Older People (Prevention of Elder Abuse)

Brochures and wallet cards in English, Chinese, Vietnamese, Italian, Greek, Dutch, Polish, Serbian, Croatian

Care and Respect in Aboriginal Communities Poster

Office of the Public Advocate brochure

Community Guardianship Program brochure

Telephone Advisory Service wallet cards

Enduring Power of Attorney Poster “The Power to Choose” (A4 size)

Office of the Public Advocate Information Sheets

- 1 Introduction to the Guardianship and Administration System
- 2 Role of the Public Advocate
- 3 Role of the State Administrative Tribunal
- 4 Guardianship
- 5 Administration
- 6 Sterilisation
- 7 Public Advocate — Customer Complaints and Service Standards
- 8 Enduring Power of Attorney

Office of the Public Advocate Position Statements

- 1 Consent to Medical and Dental Treatment
- 2 Restraint
- 3 Role of the Public Advocate as Guardian of Last Resort in Accommodation Decisions
- 4 Role of the Public Advocate as Guardian of Last Resort in Medical Decisions
- 5 Role of the Public Advocate as Guardian of Last Resort in Contact Decisions

These are all available online at www.publicadvocate.wa.gov.au

Enduring Power of Attorney Information Kit

The kit can be purchased at the State Law Publisher, 10 William Street, PERTH, WA, 6000 or at selected Newspower newsagents. There is no recommended retail price.

It is also available as a free download at www.publicadvocate.wa.gov.au

Professional guides

A Guide for Service Providers 2005 Edition (Practice Manual) (\$38.50)

This is also available as a free download at www.publicadvocate.wa.gov.au

Research reports

Mistreatment of Older People in Aboriginal Communities — an Investigation into Elder Abuse Care and Respect — Elder Abuse in Culturally and Linguistically Diverse Communities

These are also available at www.publicadvocate.wa.gov.au

Newsletter

Office of the Public Advocate Newsletter (electronic document only)

Available at www.publicadvocate.wa.gov.au

Annual Report

Available at www.publicadvocate.wa.gov.au or upon request to

Office of the Public Advocate

Level 1, 30 Terrace Road, EAST PERTH, WA, 6004 or email opa@justice.wa.gov.au

Glossary

Administration: The legal appointment of a responsible person who can make financial and property decisions on behalf of a person who is not capable of making those decisions for themselves.

Community-Referred Investigation: The investigation of any complaint or allegation made by an interested party that a person is in need of a Guardian or Administrator, or is under inappropriate guardianship or administration. This type of investigation is carried out under Section 97(1)(c) of the *Guardianship and Administration Act 1990*.

Enduring Power of Attorney (EPA): A means for competent people to appoint another person or agency to manage their property and/or financial affairs. Unlike an ordinary Power of Attorney, an EPA authority continues even when the person granting it loses their capacity to make decisions for themselves.

Guardianship: The legal appointment of a responsible person who can make personal, medical and lifestyle decisions in the best interests of a person who is not capable of making those decisions for themselves.

Individual Advocacy: Investigating and making recommendations in the best interests of adults with decision-making disabilities, on the need for guardianship or administration at hearings of the State Administrative Tribunal.

Interested Parties: Any person or persons with a personal or professional interest in the outcome of a guardianship or administration application.

Limited Guardianship or Administration Order: The authority given to an appointed substitute decision maker to make guardianship or administration decisions on behalf of the represented person, limited to certain specified areas.

Plenary Guardianship or Administration Order: The authority given to an appointed substitute decision maker to make all guardianship or administration decisions on behalf of the represented person.

Proposed Represented Person: Refers to the person for whom an application for appointment of a Guardian or Administrator is made.

Represented Person: Refers to a person for whom a Guardian or Administrator has been appointed.

State Administrative Tribunal (SAT): An independent statutory tribunal that makes and reviews orders appointing guardians and administrators and considers applications for intervention into Enduring Powers of Attorney.

Systemic Advocacy: To inform Government, community and business organisations on the best interests of adults with decision-making disabilities in the development of legislation, policy and services.