

THE PUBLIC ADVOCATE
OF WESTERN AUSTRALIA

Annual Report
2002/2003



Department of Justice
Government of Western Australia



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M H Roberts BA DipEd MLA
Minister for Justice

In accordance with Section 101 (1) of the *Guardianship and Administration Act 1990*, I am pleased to submit the Annual Report of the Public Advocate for the financial year 2002/2003.

The *Guardianship and Administration Act 1990* became fully operational in Western Australia on 20 October 1992.

As well as recording the operations of the agency for the year ending 30 June 2003, this report also reflects on the emerging trends and the issues which impact on people with decision-making disabilities.



Michelle Scott
Public Advocate
30 September 2003

About this Annual Report

The Public Advocate is an independent statutory officer.

Under the *Guardianship and Administration Act 1990*, the Public Advocate is required to submit an annual report on the performance of her functions to the responsible Minister.

The Office of the Public Advocate is administratively responsible to the Department of Justice and its financial and administrative accountability requirements are fulfilled through the Director General of the Department of Justice.

The role of the Public Advocate

In society, a community's ability 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 protect the rights of adults with reduced decision-making abilities, and reduce the incidence of their risk, neglect and exploitation. This is the major role of the Public Advocate. In addition, the Public Advocate conducts community education programs to key stakeholders promoting awareness of the Guardianship and Administration system.

An estimated 63,000 Western Australian citizens (approximately three percent of the State's population) are limited in their capacity to make reasoned decisions in their own best interests. This may be because they have dementia, an intellectual disability or mental illness or acquired brain injury.

The Public Advocate is an independent statutory officer appointed under the *Guardianship and Administration Act 1990* to:

- ▶ conduct investigations and provide advocacy regarding complaints or allegations that the well-being of a person with a decision-making disability may be jeopardised;
- ▶ provide guardianship services when the Guardianship and Administration Board determines that there is no one else suitable or willing to act as the person's guardian; and
- ▶ coordinate community education programs to promote awareness of the Guardianship and Administration system.

The Guardianship and Administration Board is an independent statutory tribunal established under the *Guardianship and Administration Act 1990*.

The Public Advocate and the Guardianship and Administration Board are independent statutory bodies with distinct and separate functions. They must each carry out their respective roles having total regard for the best interests of the person or persons with a decision-making disability.

What we do

The Public Advocate's **MISSION** is:

- ▶ To protect and promote the rights, dignity and autonomy of people with decision-making disabilities, and to reduce the risk of neglect, exploitation and abuse.

Our key **AIMS** are:

- ▶ To focus on the core responsibilities of advocacy, guardianship and community education as set out in the *Guardianship and Administration Act 1990*.
- ▶ To maximise operational efficiencies.
- ▶ To offer resources and services that meets the needs of our clients.

From the Public Advocate



The 2002/2003 year has been one of significant challenge and change for the Public Advocate. Most significant has been the restructure of my Office to ensure an improved level of service. This has been achieved within the existing budget.

The restructure has seen the creation of two specialist sections, one to deal with advocacy and investigation, and the other to deal with guardianship services. This initiative means that the advocacy and investigation section now carries out all investigations referred by the Guardianship and Administration Board and the community – whether it is an investigation into financial matters, or other forms of abuse and neglect. Meanwhile, the guardianship section focuses exclusively on providing guardianship services.

To ensure the best possible service, the advocacy and investigation section has been restructured with a new position of manager created. The position of senior advocate has been created to undertake more complex cases and provide a consultancy service for investigators. The senior advocate has specialist knowledge in guardianship issues and complements the work of the senior investigator.

The result has been an improvement in service provision for applications identified as being in need of advocacy and investigation. This year the Public Advocate was able to support 72 percent of all applications requiring advocacy and investigation compared with 64 percent in 2001/2002. It is pleasing that 88 percent of people surveyed in relation to this service were satisfied or very satisfied with the service provided.

The demand for all of the services provided by the Public Advocate continues to grow. This is due to the increasing awareness of the role of the Public Advocate and the changing demographics of the Western Australian community.

This year has seen a major focus on review and service improvements in our key services of advocacy and investigation, guardianship and community education.

In the forthcoming year, the Public Advocate will focus on further initiatives aimed at supporting the core services of advocacy and guardianship.

Another challenge this year has been identifying and implementing strategies that will result in a seamless interface between the Public Advocate and the new State Administrative Tribunal. The Government has announced that the new Tribunal will take the place of some 40 industry and public sector boards and tribunals, to provide a more accessible and user-friendly system to review decisions. That includes the Guardianship and Administration Board, and it is anticipated the Board's functions will be taken over by the State Administrative Tribunal as of January 2004.

An important initiative to achieve an effective interface has been the establishment of the position of a duty officer, who will be based at the Tribunal. This officer will work closely with the members of the

Tribunal and my Office to undertake some advocacy work within the Tribunal and to ensure my Office is appropriately involved.

A report commissioned by my predecessor and released in October 2001 revealed that the needs of indigenous people were not being reflected in the delivery of guardianship and administration services in this State. Since then, the Public Advocate has been working to address that situation, and during the 2002/2003 year some important steps have been taken. I have commenced consultation with Government and non-Government agencies to identify improved mechanisms for communicating and working in partnership with indigenous organisations. I have also been pro-active in offering training for indigenous service providers.

Providing improved advocacy and investigation services to remote and regional communities continues to be a focus. A successful pilot that provided services in Bunbury has been the springboard for a more integrated approach to regional services.

I was an active member of the stakeholder committee that assisted in a review of the *Mental Health Act 1996* and the *Criminal Law (Mentally Impaired Defendants) Act 1996*. Professor D'Arcy Holman, who chairs the committee, will report to the Attorney General and the Minister for Health on recommendations to change both Acts.

I prepared a detailed submission on the relationship between the *Guardianship and Administration Act 1990* and the two Acts under review and also submitted a case for strengthening the rights of people with a mental illness and the need for adequate safeguards in the legislation.

In particular the submission argued that the authority of the guardian and the Chief Psychiatrist be clarified in relation to the consent for medical treatment when a person is detained as an involuntary patient in an authorised hospital. Specific proposals were also made in regard to the treatment of mentally-impaired defendants – in particular, that the legislation be amended to provide for a wider range of custody options for people with decision-making disabilities other than a mental illness.

I welcome this review, which is due to report in late 2003, and in particular I acknowledge the extensive consultation undertaken by Professor Holman and the committee.

The issue of an ageing population is one that has ramifications for all sections of the community, and for Government. It is also an issue that needs to be addressed in a coordinated partnership between the community and Government, and by all Government agencies.

The Public Advocate has a particular interest in this issue, not only because of the increasing age of the Western Australian population, but also because of the increasing prevalence of dementia which has the potential to impact significantly on the services my Office provides.

The Active Ageing Taskforce established by the Minister for Seniors, the Hon Sheila McHale and chaired by the Hon Cheryl Davenport reported in June 2003 of the need for a whole-of-Government approach to the issue of ageing and the need for a coordinated approach to implement the recommendations of the Taskforce.

My Office made a submission to the Taskforce, and supports the need for a community-wide response to the issues canvassed in the Taskforce's report.

One of the significant issues raised by the Taskforce was that of elder abuse, and it called for initiatives to improve community awareness and training of service providers so incidences of abuse can be more readily identified and responded to. My Office has advocated that the issue of elder abuse in indigenous communities also be addressed as a matter of priority. The Public Advocate will actively participate in the implementation of those recommendations. As a member of the Western Australian Network for the Prevention of Elder Abuse, my Office has assisted with the organisation of a one-day seminar on elder abuse and has provided specialised training for service providers working with older people with decision-making disabilities who may be abused.

During the year my Office has worked with the Guardianship and Administration Board to draft a regulation under Section 119 (3) (f) of the *Guardianship and Administration Act 1990* to enable approved disability service providers to consent on behalf of people with a decision-making disability to medical and dental treatment. This will allow approved disability service providers to make decisions regarding certain medical and dental treatment for people in their care without the necessity to appoint a guardian. It is anticipated that the regulation will come into effect in 2003/2004.

I have also undertaken a comprehensive review of our grievance policy and procedures to ensure compliance with best practice. This is an important customer service initiative and I have consulted with other advocacy agencies and Government authorities, to ensure that the grievance procedures put in place do not create obstacles for people wishing to make complaints, and that any complaints received are assessed and acted upon in a timely manner.

The community education program is a particularly important function of the Public Advocate, and is the principal means of ensuring that the community is aware of and understands the services provided. During the year, the Public Advocate has undertaken a strategic review of the community education program to assess its effectiveness. As a result, an improved program has been established with a particular focus on targeting our resources to achieve the most efficient and effective outcomes.

It has indeed been a year of challenge and change, and I commend the dedicated and committed staff of my Office for their willingness to embrace these changes, and their enthusiasm as they have tackled the challenges we face.

I look forward to a year ahead where we can consolidate the achievements we have already made, and continue our ongoing work to provide the most effective service we can for people in our community who have decision-making disabilities.

Michelle Scott
Public Advocate

Major Initiatives and Achievements

In 2002/2003 the Public Advocate:

Statistics

- ▶ Provided investigation and advocacy services to more applicants (up from 64 percent in 2001/2002 to 72 percent in 2002/2003)
- ▶ Provided advocacy and investigation services in regard to 662 applications
- ▶ Responded to 91 community-referred investigations
- ▶ Was appointed Guardian of Last Resort on behalf of 71 people
- ▶ Responded to 4385 public inquiries
- ▶ Made personal and lifestyle decisions for 242 represented persons
- ▶ Resolved the issue that led to the appointment of the Public Advocate with a 100 percent effectiveness rate
- ▶ Exceeded the target for timeliness in allocating decision-making authority within one working day of the Guardianship and Administration Board appointing a guardian, with a 99 percent efficiency rate
- ▶ Made recommendations to the Guardianship and Administration Board which were accepted in 93 percent of all cases.

Policy and Practice

- ▶ Developed and implemented policy in the area of consenting to the use of physical and chemical restraint for represented persons
- ▶ Evaluated and progressed the results of a report into the needs of indigenous people in the guardianship and administration system, and undertook initiatives to improve services for indigenous people
- ▶ Completed a restructure to meet the increasing demands of the community
- ▶ Successfully piloted an advocacy service in Bunbury and started investigating other methods of increasing advocacy and guardianship services for remote and regional communities
- ▶ Participated in a review of the *Mental Health Act 1996* and the *Criminal Law (Mentally Impaired Defendants) Act 1996*
- ▶ Prepared a submission to the Active Ageing Taskforce
- ▶ Reviewed grievance policy and procedure to ensure compliance with best practice
- ▶ Conducted a strategic review of the community education program to ensure effectiveness
- ▶ Provided specialised training for service providers working with older people with decision-making disabilities who may be abused.

Future Directions

In 2003/2004 the Public Advocate plans to:

- ▶ Continue to identify and implement strategies to ensure an effective partnership with the new State Administrative Tribunal
- ▶ Implement, in partnership with indigenous organisations, initiatives to ensure the needs of indigenous people are addressed in the guardianship and administration system
- ▶ Ensure advocacy, guardianship and community education services are more widely available to regional and remote communities
- ▶ Develop new initiatives to assist the core functions of advocacy and guardianship.

Customer Focus

The Public Advocate serves three main customer groups:

▶ **Primary Customers**

The primary customer group represents Western Australians who have a decision-making disability.

▶ **Secondary Customers**

The secondary customer group represents carers, paid or unpaid, to people who have a decision-making disability.

▶ **Potential Customers**

This group of potential customers does not, at present, have a decision-making disability. They seek to make provision to safeguard their financial future by implementing Enduring Powers of Attorney (EPA) in the event they could lose their decision-making capacity.

It's estimated that more than 63,000 Western Australians are limited in their capacity to make reasoned decisions in their own best interests due to:

- ▶ **An ageing population.** The number of Western Australians with severe to moderate dementia is currently estimated at 17,000 people, of whom 70 percent have Alzheimer's Disease. With the continued ageing of the population, this number is expected to double to represent approximately 10 percent of the entire population of seniors within the next decade. The prevalence of dementia has increased by 62 percent over the past 10 years and is predicted to be the number one cause of disability for our ageing baby boomer population – ahead of cardiovascular disease, cancer and depression. *(Source: Alzheimer's Association of Western Australia)*
- ▶ **Acquired brain injuries.** More than 7,000 Western Australians are admitted to hospital each year with a head injury and possible Acquired Brain Injury (ABI). Most will make a full recovery, but it is estimated that about 600 people a year sustain permanent ABI. Of these, more than half will require intensive and ongoing support. *(Source: ABS Survey of Disability, Ageing and Carers 1998)*
- ▶ **Psychiatric condition.** An estimated one in four people will develop a short or long-term mental illness at some stage in their lives that may affect decision-making abilities. In Western Australia 27,400 people have a psychiatric condition. *(Source: 1998 DSC Report "Disability in Western Australia")*
- ▶ **Intellectual disability.** Nearly 12,000 Western Australians have an intellectual disability. *(Source: 1998 DSC Report "Disability in Western Australia")*

Core Operational Values

The Public Advocate has adopted the five principles set out in the *Guardianship and Administration Act 1990* as the core operational values for the Office. They guide the provision of all services.

▶ **Best Interests**

The primary goal is always to focus on the best interests of the person with the decision-making disability.

▶ **Presumption of Competence**

Every person is presumed to be competent unless conclusively proved otherwise.

▶ **Least Restrictive Alternative**

A guardian or administrator is only appointed if it is established there is no alternative to meeting a person's needs in a less restrictive way of impacting on their freedom of decision and action.

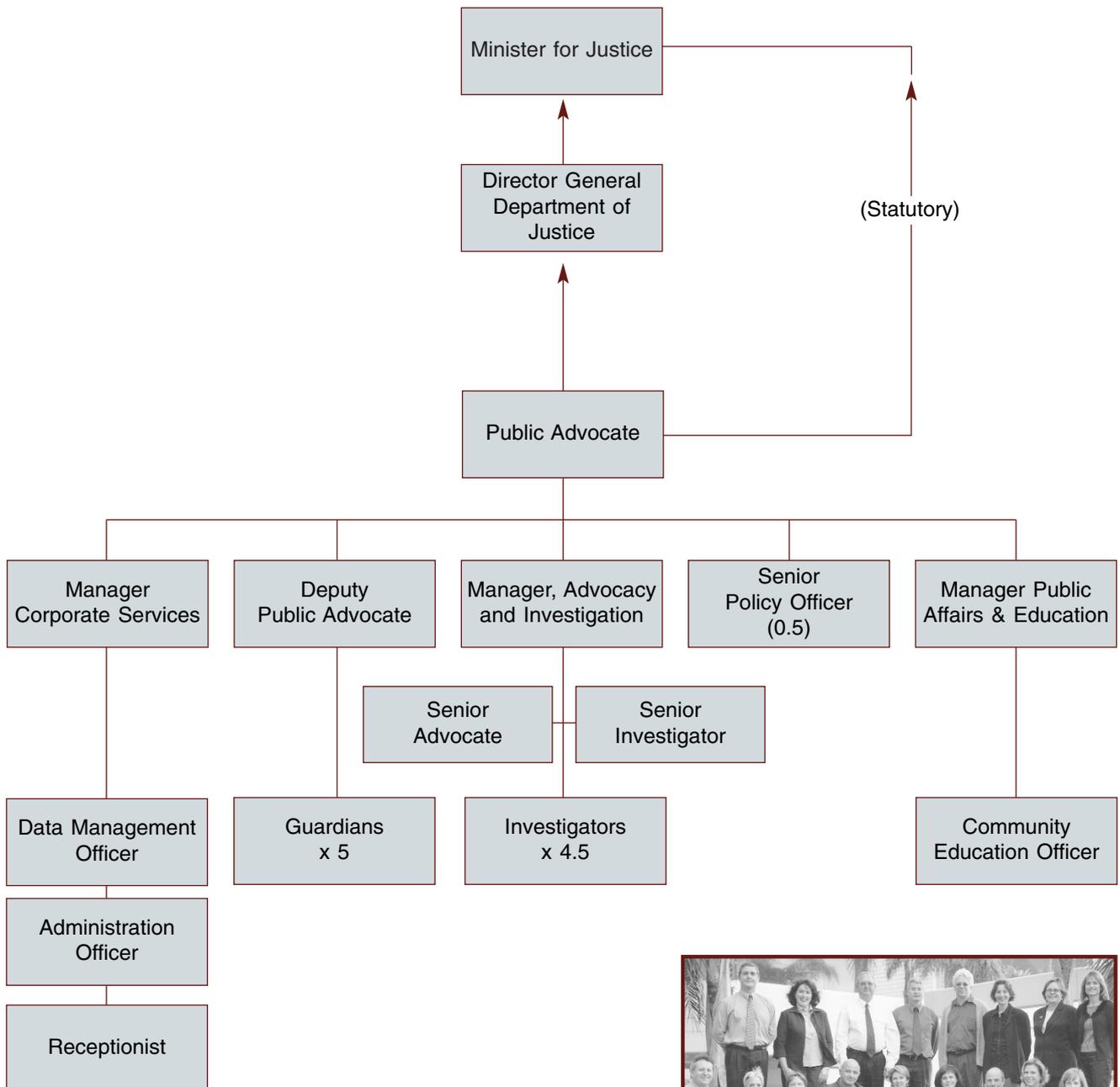
▶ **Limited Versus Plenary**

The authority of an appointed substitute decision-maker will be limited to those areas in which the person with the decision-making disability is experiencing the greatest need for decision-making support.

▶ **Current Wishes / Previous Actions**

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

Organisational Structure



Resources

During the past year, the roles and responsibilities of the Public Advocate in relation to the needs of Western Australians with a decision-making disability and other key stakeholders was supported by:

- ▶ 21 staff
- ▶ An operational budget of \$1.9 million



Bottom row, left to right: Keith Van Dongen, Mary Bairstow, Janine Hawker, Gino Coniglio, Michelle Scott, Nola Bradshaw, John Hodges, Laurie Lehmann-Bybyk, Lee Pickens.
Top row, left to right: Lancelot Peter Sermon, Helen Hart, Malcolm Innes, Peter Watts, Jack Mansveld, Maryann Howley, Robyn Baker, Kathy Pulford.

Advocacy and Investigation

The advocacy and investigation section investigates, represents and makes recommendations in the best interests of adults with decision-making disabilities on the need for guardianship or administration at hearings of the Guardianship and Administration Board and in the community.

To achieve this outcome the advocacy and investigation section adopts the following key strategies:

- ▮ investigates and identifies the circumstances and needs of people with decision-making disabilities who are the subject of an application for the appointment of a guardian or administrator, and to ensure that their best interests are represented at hearings before the Guardianship and Administration Board;
- ▮ ensures the appointment of a guardian or administrator is only made where there is no alternative to the presenting problem;
- ▮ investigates community complaints or concerns that a person with a decision-making disability may be at risk of neglect, exploitation or abuse and may be in need of a guardian and/or administrator; and
- ▮ informs 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

A major restructure initiated in 2002/2003 has resulted in a separation of the roles of investigators and guardians.

To address the increased demand for services and the complexity of cases referred to the Public Advocate, the Office has been restructured by establishing two sections, one focusing solely on advocacy and investigation, the other focusing on guardianship.

A manager of advocacy and investigations, reporting directly to the Public Advocate, has been appointed and a new position of senior advocate has been created. The senior advocate undertakes more complex investigations in regard to allegations of abuse or neglect (other than financial) and provides a consultancy service to investigators. The senior advocate complements the work of the senior investigator who has a similar role in relation to financial abuse or neglect.

Most applications investigated by the Public Advocate are either for administration or guardianship. Other applications the Office has investigated include:

- ▮ intervention into an Enduring Power of Attorney;
- ▮ administrator requests for gifts from the estate of the represented person;
- ▮ administrator and guardian requests for directions from the Guardianship and Administration Board;

- ▮ reviews of administration sought by the represented person;
- ▮ reviews of administration initiated by the Guardianship and Administration Board when there is a concern that the administrator has defrauded the represented person's estate; and
- ▮ reviews of guardianship orders.

During the year the Public Advocate prepared for the introduction of the State Administrative Tribunal, which will take over the functions of the current Guardianship and Administration Board in early 2004.

A significant addition to the investigation and advocacy section will be the appointment of a duty officer to assist the Tribunal to determine what applications the Public Advocate should investigate. The duty officer will also be expected to lead and assist in the development of policies and procedures that will facilitate the process of guardianship and administration applications through the Tribunal. During the year the Public Advocate has worked closely with the existing Guardianship and Administration Board to establish a framework to help decide the applications the Public Advocate should investigate. This groundwork is expected to ease the transition from the Board to the Tribunal.

Investigative work in rural and remote areas continues to be a challenge. This is time-intensive work because of the nature of the investigative process and the need to meet with the proposed represented person and other interested parties. The Bunbury pilot project continues to provide advocacy and investigation services in the south-west.

Privacy legislation and policies pose particular difficulties for investigators seeking to obtain information about their clients' affairs from Government agencies, community service providers, the medical profession and financial institutions. This is causing time delays in the investigations, particularly in relation to Community Referred Investigations.

The Public Advocate is currently liaising with a number of agencies regarding the establishment of protocols to facilitate appropriate information sharing, and there may be a need to amend the *Guardianship and Administration Act 1990* to enable the Public Advocate to *require* reports to be provided when a matter is being investigated under the authority of the Act.

Demand for Services

The Public Advocate investigates, represents and makes recommendations in the best interests of adults with decision-making disabilities, on the need for guardianship or administration at hearings of the Guardianship and Administration Board. The Guardianship and Administration Board may also direct the Public Advocate to investigate and report on any matter before the Board.

In 2002/2003, the Public Advocate provided advocacy and investigation services for 662 applications considered by the Guardianship and Administration Board. Services could not be provided on 293 applications considered in need of advocacy. However, services were provided to 69 percent of all applications, a nine percent increase from 2001/2002.

Demand for Service

	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003
Needing support	562	696	717	771	955
Support provided	484	516	470	459	662
Support not provided	78	180	247	312	293
Percentage supported	86%	74%	66%	60%	69%

Note that the new statistical recording system introduced during the year records outputs in terms of applications rather than outputs provided to individuals. It is therefore not possible to fully compare 2002/2003 statistics with previous years.

An emerging trend is the increasing complexity of applications being investigated. The Public Advocate is increasingly investigating cases in which the proposed represented person has significant and varying business interests, detailed financial arrangements, or pending legal matters. Other applications involve the challenge of working with people with fluctuating mental illness, or where there is significant family conflict.

These investigations often require the expenditure of intense resources over a period of weeks and months. While the Office has been restructured to meet the increasing demand for advocacy services, the demographic changes in the Western Australian community will continue to see an increase in the demand for services.

CASE STUDY

“Allan” is a young man with an acquired brain injury due to the effects of a motor vehicle accident. His close friend died in the accident and Allan has severe cognitive impairment.

There is intense conflict between the nursing home where Allan lives and his family members regarding the care he is receiving - in particular, the extent and type of medical treatment, allied health therapies and whether the existing accommodation is suitable.

A solicitor is representing Allan in a damages compensation claim, which, if successful, will be significant. Before the accident, Allan was involved in a number of businesses, including some partnerships and trusts including family members. There are now disputes about ownership of business assets and the extent of Allan’s interests in the ongoing businesses.

The nursing home lodged applications for guardianship and administration with the Guardianship and Administration Board. The Public Advocate investigated Allan’s business structure, including discussions with accountants, lawyers and Allan’s business associates. After intensive financial analysis the investigator was able to construct a framework of Allan’s business interests.

The Office then arranged a number of family meetings, firstly to deal with the financial issues. Conciliation and mediation allowed Allan’s family and business associates to agree to a set of arrangements which enabled the businesses to continue and Allan’s interests to be protected. Because of the complexity and the potential for conflict of interests it was also agreed that Allan’s accountant should become his administrator. This action was ultimately sanctioned by the Guardianship and Administration Board.

Meetings, chaired by the Public Advocate, were facilitated between the nursing home representatives and family members. Despite the seemingly unresolvable conflict, after much conciliation the nursing home representatives supported the other’s proposal that a neutral family friend be proposed as guardian for Allan. At the subsequent hearing the Guardianship and Administration Board upheld the proposal.

Community-Referred Investigations

Under the *Guardianship and Administration Act 1990* the Public Advocate has a mandate to investigate cases where no application has been made, but where there are concerns that a person is in need of a guardian or administrator or is under inappropriate guardianship and/or administration.

During 2002/2003, 91 Community-Referred Investigations were conducted. All issues of concern referred by the community were investigated by the Public Advocate.

Community-Referred Investigations

	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003
Investigations	53	82	115	94	91

As the guardianship and administration system becomes better known in the community, referrals are identifying gaps in services provided by other agencies. Community-Referred Investigations are a continuing source of allegations of abuse, neglect and exploitation of people with a decision-making disability.

CASE STUDY

“Sylvia” is a young woman with an intellectual disability and a mental illness. She lives in a supported accommodation option in a country town. Her family lives in another town. It was alleged that Sylvia’s family inappropriately took her from the accommodation option, and there were concerns regarding her care arrangements and suggestions that her mental health could suffer.

The Public Advocate investigated the need for urgent intervention. It was discovered that since being ‘removed’ from the accommodation option there had not been contact between Sylvia’s family and appropriate service providers. Thus the level of risk for Sylvia had not been assessed. The Public Advocate requested a risk assessment as per the appropriate agency’s care and protection policy.

Within a week the Office had visited Sylvia and had extensive discussions with her family and relevant support agencies and facilitated a risk assessment.

The outcome was that Sylvia was assessed as not being at risk in the new arrangement and that the new arrangement met her care needs. After better communication was fostered between the family and the agencies it was assessed that there was no need for an application for guardianship as a least restrictive alternative was available via appropriate informal decision-making from the family.

Total Individual Advocacy and Community-Referred Investigations

The new statistical recording system introduced during the year, which records outputs in terms of applications rather than outputs provided to individuals, means it is not possible to fully compare 2002/2003 statistics with previous years. However, it is worth noting that the Public Advocate was able to support 72 percent of all applications for individual advocacy and community-referred investigations compared with only 64 percent in 2001/2002.

Total Individual Advocacy and Community-Referred Investigations

	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003
Total support provided	537	598	585	553	753
Total needing support	615	778	832	865	1046
Percentage supported	87%	77%	70%	64%	72%

Cultural Background of Advocacy and Investigation Cases

Nearly three percent of new advocacy matters with which the Public Advocate assisted during the year involved people from a culturally and linguistically diverse background. The Public Advocate found the Translating and Interpreting Service helpful in this advocacy role.

The Public Advocate is mindful of the ongoing need for indigenous people to have improved access to the guardianship and administration system. During the year approximately two percent of new applications investigated by the Public Advocate involved indigenous persons.

Geographic Location of Advocacy and Investigation Cases

During the year 84 percent of advocacy undertaken by the Public Advocate was for people who live within the metropolitan area. Rural and remote areas accounted for 16 percent of all advocacy work. Rural work poses particular challenges to the Public Advocate in the allocation of advocacy resources. Strategies such as the use of videoconferencing will be explored in the coming year with the aim of making rural advocacy more efficient and effective.

Issues for New Cases of Individual Advocacy

The majority of new advocacy cases involved financial abuse or the risk of financial abuse. Forty-two percent of new advocacy cases involved financial issues. The major lifestyle issues investigated by the Public Advocate continued to be accommodation and medical (27 percent). The Public Advocate had a greater involvement in reviews of administration and guardianship orders (23 percent of advocacy) than in the previous year (15 percent).

Performance Indicators for 2002/2003

Effectiveness	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003	Target
The proportion of cases provided with an advocacy service relative to the number in need of service	87%	77%	70%	64%	72%	63%

This indicator measures the extent to which the Public Advocate provides advocacy to those identified as requiring advocacy to protect the rights of people with decision-making disabilities and reduce the risk of neglect, exploitation or abuse. The indicator is derived by dividing the number of cases provided with advocacy support by the number of cases assessed by the Public Advocate as requiring independent advocacy.

Effectiveness	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003	Target
The extent to which advocacy service recommendations are accepted by the Guardianship and Administration Board	93%	94%	97%	97%	93%	92%

This indicator measures the extent to which the individual advocacy service meets the needs of people with decision-making disabilities in determining their best interests. The advocacy service investigates the circumstances and needs of a person who is subject to an application and makes recommendations to the Guardianship and Administration Board on what is considered to be in the person's best interests. The Board's acceptance of recommendations made on behalf of a person for whom advocacy is provided is indicative of the effectiveness of the advocacy.

Timeliness	1999/2000	2000/2001	2001/2002	2002/2003	Target
Percentage of advocacy and community referral cases completed within eight weeks	78%	79%	61%	63%	75%

This indicator measures the ability to complete advocacy cases subject to applications before the Guardianship and Administration Board from the time allocated to completion. This indicator is derived from dividing the number of individual advocacy and community referred cases completed within eight weeks by the total number of advocacy and community referred cases handled.

The best practice standard of eight weeks used by the Guardianship and Administration Board is used. This standard is directly affected by the Guardianship and Administration Board's scheduling of hearings.

Issues for Advocacy and Investigation

The Public Advocate's advocacy and investigation work is guided by the principles set out in the *Guardianship and Administration Act 1990* – in particular, that any action taken is in the best interests of the person with the decision-making disability and is the least restrictive option. The advocacy and investigation undertaken may be resource intensive, particularly in those cases where the Public Advocate is working with families and agencies to achieve a less restrictive option to guardianship and administration.

During the year a number of new and complex issues emerged. These included:

- ▶ Acting as an advocate before the Full Board of the Guardianship and Administration Board for a person in custody under the *Criminal Law (Mentally Impaired Defendants) Act 1996*. The Full Board hearing explored the extent to which a guardian might still have a role when the personal decision-making rights of the person are held by another authority (in this case, the Mentally Impaired Defendants Review Board). The Guardianship and Administration Board is still to hand down its decision, which may have implications for the extent of a guardian's role and functions – in particular, whether a guardian's role is limited to decision-making or whether it includes case management activities such as service coordination and advocacy only.
- ▶ Investigating an application for guardianship made on behalf of a person detained under the *Migration Act (1958) (Commonwealth)*. The investigation supported the appointment of a private guardian to enable the person to be cared for in the community. Commonwealth authorities did not oppose the appointment.

- ▮ Acting as an advocate in a Full Guardianship and Administration Board matter, which explored the relationship between the authority of the Chief Psychiatrist and a guardian to make general medical decisions for an involuntary patient in an authorised hospital. The Board is yet to hand down its decision.
- ▮ A referral from the District Court seeking the Public Advocate's view on a person with a decision-making disability.
- ▮ Acting as an advocate in a Full Guardianship and Administration Board matter, which explored the issue of the use of restraint on people with a decision-making disability. The Full Board decision clarified certain aspects of what restraint might be, and when its use is restraint rather than part of medical treatment. The Public Advocate is currently advocating at the Board in five specially-chosen guardianship cases that will help determine those circumstances when a formally-appointed guardian might be needed to authorise restraint.
- ▮ Responding to a Community-Referred Investigation involving a person seeking a termination of pregnancy. The person was assessed by a medical practitioner as being able to consent to the procedure, but as a result of our investigation it was found that the existing legislation might be deficient for people who cannot give informed consent to a termination due to their decision-making disability.
- ▮ Advocating in a Full Guardianship and Administration Board Directions Hearing to consider the Supreme Court decision in April 2002 that determined a person under administration needed approval of the Board to execute a will. Subsequent to the Directions Hearing the Board referred the matter to the Full Court of the Supreme Court. The Supreme Court is yet to hand down its decision.

CASE STUDY

"Mrs Jones" is a 78-year-old retired school teacher. Her husband died four years ago, and she now lives in a hostel and has been diagnosed with early dementia. She enjoys her life at the hostel and has made new friends.

She has two daughters and a son. All her children visit quite regularly but there is some friction between the siblings. Mrs Jones appointed her son Albert as her sole attorney shortly after the death of her husband. She wanted someone she trusted to be there if required in the future.

Mrs Jones had called upon her son to help her with bill payment and managing her share portfolio. Albert now pays all of her accounts and Mrs Jones receives a weekly allowance which is adequate for her needs.

But staff at the hostel became increasingly concerned as Mrs Jones began to get extremely anxious about her affairs and her son's role in them.

One of Mrs Jones' daughters, Jan, who does not communicate with Albert, lodged an administration application with the Guardianship and Administration Board. She wanted the earlier-signed Enduring Power of Attorney in favour of Albert revoked and she wanted to be her mother's decision-maker. Because of their lack of communication, Jan was unclear what actions Albert had taken regarding their mother's affairs.

The Public Advocate investigated Mrs Jones' financial affairs and found the estate was intact and appropriately secure. Because Mrs Jones' decision-making disability was exacerbating the situation, the Public Advocate provided information whereby Albert could keep his mother better updated and assured regarding her financial affairs.

When the matter was heard by the Guardianship and Administration Board it was found that Mrs Jones' previous wish to have her son as her donee should be upheld, because there was no evidence of misappropriation and the Board was confident that communication could be improved in Mrs Jones' best interests.

Listening To Our Customers

To measure customer satisfaction of individual advocacy and investigation services, the Public Advocate distributed 208 surveys in 2002/2003. A total of 77 responses (33 percent) were received. Of those surveyed, 88 percent indicated that they were satisfied or very satisfied with the services they received.

Because the primary customers of the Public Advocate are people identified as not being able to make reasoned decisions for themselves, it is very difficult or impossible to survey the group directly for feedback on customer satisfaction. The surveys are distributed to secondary customers, who have a direct personal or professional involvement in the lives of people in the primary customer group.

Overall Performance Rating

Results of the Customer Survey for 2002/2003 are very positive. The response indicates that in relation to all service standards measured there is a satisfaction rate of between 84 percent and 97 percent. The Public Advocate's involvement in providing advocacy and investigation often occurs in cases of intense family conflict, where these factors can significantly impact on the satisfaction rating, particularly where difficult decisions have to be made in variance to those of other family members. It is therefore very pleasing to see such positive results.

Service Standards	SATISFACTION BY CATEGORY	
	2002/2003	2001/2002
ACCESS Staff are accessible Services physically accessible	96% 97%	87% 50%
INDIVIDUAL NEEDS Services are sensitive to people's individual needs	86%	86%
DIGNITY Services promote personal dignity, independence and choice wherever possible	92%	88%
PRIVACY The Public Advocate respects privacy of customers and does not release personal information unless required to protect the person's safety	94%	85%
INFORMATION The Public Advocate provides services information and advice to customers to enable greater choice and to ensure accountability	84%	82%
PROFESSIONALISM Services meet the highest professional and service standards	89%	85%
FEEDBACK The Public Advocate encourages, and is responsive to customer feedback on its services	90%	76%
GRIEVANCES The Public Advocate treats customers' complaints seriously and deals with them as soon as possible to ensure a satisfactory resolution	89%	47%

Profile of Respondents

- ▶ 58 percent of customer respondents had a personal relationship to the represented person (i.e. family, friend).
- ▶ 40 percent of customer respondents had a professional relationship to the represented person (i.e. service provider, social worker, Director of Nursing).
- ▶ Two percent of customer respondents did not select a category.

Systemic Advocacy

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

The systemic advocacy role undertaken by the Public Advocate aims to enhance and strengthen the principles of individual advocacy to the broader community. It focuses on the cause of the issues that need individual advocacy, and works to resolve them. In 2002/2003 the Public Advocate has worked with various key stakeholders, including State and Commonwealth agencies and non-Government agencies. The detail of this work is addressed in the Public Advocate's report.

Guardian of Last Resort

The appointment of the Public Advocate as guardian, when the appointment of a guardian is considered necessary by the Guardianship and Administration Board and there is no one else suitable or available to take on this role.

To achieve this outcome the Office of the Public Advocate employs the following key strategies:

- ▶ ensures timely decisions are made in the best interests of the represented person;
- ▶ protects the represented person from neglect, exploitation and abuse; and
- ▶ ensures, wherever possible, that decisions made on behalf of people for whom the Public Advocate has been appointed Guardian of Last Resort:
 - ▶ consider the wishes of the represented person either verbally expressed or intimated through previous lifestyle practices
 - ▶ preserve personal autonomy
 - ▶ enable the person to live and participate in the community
 - ▶ encourage and assist the person to become capable of caring for themselves
 - ▶ maintain supportive relationships
 - ▶ maintain familiar cultural, linguistic and religious practices and contacts.

The year in review

The restructure implemented during the year has had a significant impact on the guardianship section of the Office. The distinct separation of guardianship and advocacy roles means the guardians' role no longer includes advocacy and investigation casework, which has considerably improved the delivery of the guardianship service. However, the guardianship section has been reduced by one position to accommodate the advocacy service requirements, leaving five full-time equivalents in the guardianship section.

The increase, and complexity, of guardianship services provided by the Public Advocate means that the guardianship section has increasing demands placed on it. An ageing population and the continuing increase in demand for service means that pressure within the guardianship section will continue to grow.

The Public Advocate's role as Guardian of Last Resort is confronted with complex and challenging decision-making in relation to personal and lifestyle issues on behalf of represented persons. Legal issues, a lack of service options, an ageing population, issues regarding medical treatment decisions and conflict with families have impacted on the guardianship section in 2002/2003.

Legal Issues

The Public Advocate is increasingly involved in legal issues and court matters. During the year the Public Advocate acted as guardian in Family Court proceedings regarding care and protection matters for represented persons' children; applying for misconduct and violence restraining orders as witness in court proceedings; preparing represented persons as witnesses; liaising with legal support services such as the Child Witness Service and Victim Support Services; and assisting with the development of victim impact statements.

As "next friend", the Public Advocate ensures the rights of parents are upheld in relation to contact or residency issues with their children when their ability to parent is being considered by the courts. In other instances, the Public Advocate may seek restraining orders to protect clients who are vulnerable. It is the Public Advocate's role to keep clients safe and restraining orders may be sought to prevent physical, financial and emotional abuse.

Another significant legal issue is where a represented person may be a victim of crime, but seen as an "unreliable witness" because of their disability. The Public Advocate works to ensure impact statements are as comprehensive as possible so that clients are treated in the same manner as other members of the community and that a just outcome is achieved.

Lack of Community Funding and Service Options

Our ageing population is impacting on the resources and services available in the community and in turn on the Public Advocate. Two issues in particular are causing concern - the shortage of community aged care packages to assist seniors to stay in their homes, and the increasingly long waiting lists for residential aged care facilities.

As a community, it is important that we provide sufficient resources to enable aged people to stay in their own homes if at all possible, rather than an aged care facility. The shortage of in-home support, combined with the shortage of residential care services, means a growing number of elderly people are in hospitals waiting for beds in care facilities.

The Public Advocate is also confronted with the difficult situation where vulnerable adults wish to maintain relationships with family or friends who have previously abused or neglected them. One solution is to provide supervised contact for represented persons with family members or friends to ensure their safety. However, it is often impossible to obtain assistance or funding for formal supervised access.

The current focus on productivity in supported employment options for people with decision-making disabilities has meant less able employees have lost their jobs. For many this has resulted in the need for the Public Advocate to seek full-time care for the represented person in their own homes due to the lack of alternative employment.

Medical Treatment Decisions

Assessing the medical needs of represented persons who have complex medical conditions, chronic illness or are terminally ill is an important role for the Public Advocate. Another important issue is determining the reproductive rights of women with decision-making disabilities.

During the year the Public Advocate developed and implemented policy in the area of consenting to the use of physical and chemical restraint for represented people. The Public Advocate supports the concept of a restraint-free environment and will only consider the physical or chemical restraint of a person in prescribed circumstances.

The policy guides the staff in defining and determining the standards of practice associated with the use of restraint, as it is a measure of last resort when all alternative options to address a person's situation have been explored and have failed or been deemed inappropriate.

Conflict with Families and Interested Parties

Working with relatives who are opposed to the involvement of the Public Advocate can pose significant problems. In particular, it can result in review hearings before the Guardianship and Administration Board and protracted disputes with families engaging legal advisers.

The role of the Public Advocate is to preserve, wherever possible, the involvement of significant relationships when a represented person is removed from their care, as well as balancing the rights of the represented person to make their own decisions against their need for protection.

CASE STUDY

The Public Advocate was appointed by the Guardianship and Administration Board as "Mr Donald's" limited guardian to determine where he should live.

The Guardianship order was made by the Guardianship and Administration Board because Mr Donald is 81 years old, has dementia and is incapable of looking after his own health and safety. His wife died 10 years ago and his only relative is an older brother who, due to his own ill health, is not able to assist Mr Donald.

Mr Donald is not able to manage living at home without an in-home community support service but due to the nature of his illness is not accepting or trusting of people giving this support.

The Public Advocate requested that the Aged Care Assessment Team (ACAT) assess Mr Donald's need for residential care after all attempts to provide in-house support had failed. The ACAT determined that Mr Donald was eligible for hostel level care because of his inability to manage the basic activities of daily living.

After assessing all the available information and options the Public Advocate consented to hostel care for Mr Donald. This was against his wishes, but his health and welfare was at substantial risk if he continued to live alone at home without any assistance and he remained resistant to any support at home.

Demand for Services

In 2002/2003, as Guardian of Last Resort, the Public Advocate provided guardianship services to 242 people. Seventy-one of these were new appointments, while 171 were carried over from the previous year. In 2001/2002 guardianship services were provided to a total of 206 people, of which 74 were new appointments and 132 were existing clients.

While the number of new appointments (71) in 2002/2003 is slightly down from the previous year (74) there has been an increase in total guardianship services of 154 percent in the past four years.

Due to the complexity of cases in which the Public Advocate is appointed as Guardian of Last Resort, the appointment often extends beyond a 12-month period. There has been a significant increase (200 percent in four years) in the number of people for whom the Public Advocate is required to provide continuing decision-making support from year to year.

Services provided as Guardian of Last Resort

	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003	Change	
						1 year	4 years
Carried forward	57	74	102	132	171	30%	200%
New appointments	38	59	60	74	71	-4%	86%
Total for year	95	133	162	206	242	17%	154%

Length of Guardianship Order

Of the 71 new Public Advocate guardianship orders made during the year, more than half were for five years – the maximum period the Guardianship and Administration Board can set. This directly contributes to the high number of cases carried forward each year.

Limited Versus Plenary Guardianship Orders

Plenary guardianship orders require the Public Advocate to make all personal and lifestyle decisions on behalf of a represented person while a limited order refers to specific decision-making support. A limited order may, for example, specify that the Public Advocate's authority applies only to decisions about where the represented person will live.

Sixty-three limited guardianship orders (89 percent) were made during the year, consistent with the legislative principle requiring a preference for appointments to the specific area in which decision-making support is required.

The other eight orders (11 percent) were for plenary guardianship to make all personal and lifestyle decisions on behalf of a represented person. This result is in-keeping with legislative principles, that is, a plenary guardian should not be appointed if the appointment of a limited guardian would be sufficient to meet the needs of the person.

Authority Contained in Limited Guardianship Orders

The two most common reasons that precipitate the need for a guardian relate to accommodation and medical and dental treatment. Decision-making authority in relation to these issues is usually granted in situations where the person with a decision-making disability does not have family or friends to make decisions in their best interests, or where there is a dispute about where and with whom the person will live or a dispute about medical treatment or the continuation of medical treatment.

Of the Public Advocate's 63 limited guardianship orders in 2002/2003:

- ▶ 47 (or 32 percent) included the authority to make medical and health care decisions
- ▶ 38 (or 26 percent) included the authority to make accommodation decisions

Authority Contained In Limited Guardianship Orders

Reason for Appointment	Number	Percentage
Medical/Dental	47	32%
Accommodation	38	26%
With whom represented person is to live	25	17%
Education/Training	2	1%
Work	2	1%
With whom represented person is to associate	6	4%
Next friend	4	3%
Guardian ad litem	2	1%
Other	22	15%

Cultural Background of Represented Person

Many people for whom the Public Advocate is appointed as guardian come from a diverse range of cultural backgrounds. In 2002/2003:

- ▶ Five (or seven percent of) new appointments were made on behalf of people from an Aboriginal or Torres Strait Islander background
- ▶ Eight (or 11 percent of) new appointments were made on behalf of people from culturally and linguistically diverse backgrounds

The Public Advocate is concerned about the lack of awareness and understanding of the guardianship and administration system in the indigenous community and has embarked on a concerted community education program to ensure a wider knowledge and understanding of the system.

Guardians have also involved family members from indigenous and culturally and linguistically diverse communities, service providers and agencies in the identification and development of appropriate care options for vulnerable people from these communities.

Geographic Location of Represented Person

During 2002/2003, 50 of the 71 new appointments were made on behalf of people with a decision-making disability living in the metropolitan area. The remaining 21 lived outside the metropolitan area.

This represents a significant increase in rural and regional clients - up from 13 in the previous year. The Public Advocate is committed to extending its community education program so that more communities outside the metropolitan area are aware of the care options available to people with a decision-making disability.

However, rural appointments pose particular challenges to the Public Advocate in establishing and sustaining personal contact with a represented person to ensure as much personal autonomy and respect for their wishes as possible.

CASE STUDY

“Cathy” has an intellectual disability and is the victim of family violence from her husband, who prevented her from leaving him.

The Guardianship and Administration Board appointed the Public Advocate as limited guardian with authority to determine where and with whom Cathy should live and with whom she might associate. The Public Advocate was appointed because all Cathy’s family live in eastern states and believe they are too far away to help her. The family also supports the appointment of the Public Advocate because they fear Cathy’s husband.

The Public Advocate ascertained Cathy’s wishes in relation to her marriage and where she wanted to live. She was scared and didn’t know how to leave her partner, but she did want to leave.

The Public Advocate sought the involvement of a Disability Services Commission social worker to help Cathy find emergency accommodation because her husband was refusing to leave their home and she remained at risk of further abuse in this environment.

The Public Advocate consented to temporary refuge accommodation on behalf of Cathy, even though this was opposed by her husband.

In time, Cathy was helped to locate a Homeswest unit and was given support to rebuild her life.

In consultation with Cathy, the Public Advocate did not release the details of her whereabouts to her estranged husband due to ongoing concerns for her safety.

Condition Affecting Represented Person

An ageing population and the increasing incidence of dementia in our society is reflected in the increasing number of appointments made on behalf of people with dementia. In 2002/2003 the Public Advocate was appointed as Guardian of Last Resort for 31 people with dementia, a 12 percent increase from the previous year.

Represented persons with an intellectual disability (37 percent) were higher than those with dementia (31 percent) in 2001/2002. However, this year the trend has been reversed with more represented persons having dementia (44 percent) than an intellectual disability (32 percent). This data again reflects the impact of the ageing population in Western Australia.

Condition of Represented Person

	2001/2002		2002/2003	
	Count	Percentage	Count	Percentage
Dementia	23	(31%)	31	(44%)
Intellectual disability	28	(38%)	23	(32%)
Psychiatric disability	12	(16%)	10	(14%)
Acquired Brain Injury – trauma/stroke	11	(15%)	7	(10%)
Total	74		71	

CASE STUDY

The Public Advocate was appointed limited guardian with medical treatment authority for “Mrs Charles”, who has advanced Huntingdon’s disease – a degenerative hereditary disease that affects a person’s neurological functioning and physical capabilities.

Mrs Charles has resided in a care facility for two years. She has a husband, a son and daughter and a number of grandchildren who visit regularly.

The Public Advocate was appointed because Mrs Charles’ condition deteriorated and she had difficulty swallowing food and her family was in disagreement about what medical treatment she required.

The speech pathologist assessed Mrs Charles and said her swallowing reflex was poor due to her condition. A physician’s assessment recommended a gastrostomy, which would allow food and fluid to be directly inserted into her stomach.

Mr Charles and his daughter would not accept the doctor’s recommendation, while the son believed the operation should proceed. Mrs Charles was unable to make decisions regarding her own medical treatment.

Finally, Mrs Charles was admitted into hospital and a temporary nasal gastric tube was inserted to provide nutrition and keep her hydrated.

The Public Advocate spoke with Mrs Charles’ doctor and speech pathologist and requested a specialist assessment of her current treatment options. The specialist advised that a gastrostomy was the only treatment option.

The Public Advocate met with all family members to explain the Specialist’s recommended treatment plan. While Mr Charles did not agree with a gastrostomy for his wife, the Public Advocate consented to the procedure in Mrs Charles’ best interests.

Mrs Charles’ condition stabilised and she was discharged from hospital and returned to her care facility.

Performance Indicators for 2002/2003

Timeliness	2000/2001	2001/2002	2002/2003	Target
Guardian of Last Resort appointments allocated within one working day.	100%	100%	99%	98%

This indicator measures the extent to which a represented person is provided with a substitute decision-maker to advance their best interests immediately after the need has been identified.

The short timeline of appointments allocated within one working day reflects the importance of the Public Advocate formally delegating her authority promptly to a Guardian to ensure that, if required, the necessary authority is available for important decisions to be made in a timely manner on behalf of the represented person.

Effectiveness	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003	Target
The extent to which the problem precipitating the need for the Public Advocate to be appointed as Guardian of Last Resort has been resolved	93%	95%	100%	100%	100%	90%

This indicator measures the extent to which the Public Advocate provides appropriate guardianship services when appointed to do so. Resolution of problems precipitating the need for appointment of the Public Advocate may include taking action to protect the represented person from neglect, abuse or exploitation, resolving conflict over major lifestyle decisions and/or providing legal consent. The indicator is derived by dividing the number of resolved Guardian of Last Resort cases by the total number of cases, excluding those cases where the person died during the period under review.

Due to the small numbers involved, small fluctuations can result in high percentage changes from year to year. The effectiveness rate was 10 percent higher than the target.

Efficiency	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003
The average cost of providing advocacy and guardianship services	\$2,546	\$2,783	\$2,448	\$2,484	\$1,878

This indicator is calculated by dividing the total cost of providing advocacy and guardianship services by the number of advocacy and guardianship cases handled. The average cost of providing advocacy and guardianship during 2002/2003 was \$1,878 per service, representing a reduction of \$606 from the previous year.

Issues for Guardianship

The complex nature of the work undertaken by the Public Advocate poses ongoing challenges. As well as the achievements reported, the Office continues to develop initiatives to ensure a high standard of service for people with decision-making disabilities. These include:

► **Revocation of appointments**

Resource constraints meant that in the 2002/2003 year the Public Advocate has focused on represented people in priority need of assistance.

A priority in the forthcoming financial year will be to seek the revocation of existing Public Advocate appointments before the Guardianship and Administration Board. This is an important undertaking, which returns a person's decision-making rights where there is no further need for a guardian or an alternative decision-maker.

► **“Prescribed Person” for medical treatment**

There has been a growing need for the Public Advocate to be appointed guardian for people with intellectual disabilities so that medical/dental treatment decisions can be made in the absence of family or friends.

This has created additional pressure for the Office. However, in 2003/2004 the introduction of a regulation under Section 119 (3)(f) of the *Guardianship and Administration Act 1990* for “prescribed persons” will allow approved service providers to consent to medical and dental procedures on behalf of their clients. This will reduce the need for the Public Advocate to be appointed as guardian for medical treatment purposes.

► **Community misconceptions**

The Public Advocate's role as guardian is as a legal decision-maker, not case manager, service coordinator or direct care service provider. Promoting community awareness and understanding of the role and authority of the Public Advocate as Guardian of Last Resort poses a significant and ongoing challenge.

In 2003/2004 a concerted community awareness campaign will be implemented to address this issue. A focus of that campaign will involve educating medical/hospital practitioners regarding the need to seek the Public Advocate's consent in relation to treatment decisions for represented persons.

Community Education

Promoting community awareness and understanding of the Guardianship and Administration Act 1990, of sources of help available in the community and of other options which may be an alternative to guardianship and administration.

To achieve this outcome the Public Advocate employs the following key strategies:

- ▶ promotes public and professional awareness and understanding about the rights and needs of people with decision-making disabilities, including access to resources, advice and support available to enhance their quality of life;
- ▶ responds to public enquiries and initiating the provision of information and community education strategies that raise awareness about the principles, provisions, requirements and application of the *Guardianship and Administration Act 1990*; and
- ▶ provides published and electronic information and resources that directly and indirectly support service providers and the general community in making appropriate applications and/or referrals on behalf of people with decision-making disabilities.

The year in review

An expected increase in the number of people with decision-making disabilities, as a direct result of the ageing population, requires a much broader-based community response to protect and promote the rights of vulnerable people, and to educate the community about the options available for people who need the services of the Public Advocate.

The focus of the 2002/2003 year has been to review the existing community education programs and resources to ensure they meet the needs of professional groups and the community. This assessment has resulted in the development of a new community education strategy, which will more accurately target relevant groups.

The Public Advocate's community education strategies seek to reach:

- ▶ People with decision-making disabilities (due to dementia, intellectual disability, psychiatric illness and acquired brain injury);
- ▶ Carers – people who care for or provide support either in a paid or unpaid capacity to people with decision-making disabilities, including appointed guardians and administrators;
- ▶ Potential customers – people who do not, at present have a decision-making disability but who seek to make provision for the possibility that they may lose their decision-making capacity and require the support of a substitute decision-maker at some time in the future;

- ▮ Health professionals, including nurses, social workers, psychiatrists, psychologists and general practitioners;
- ▮ Legal, financial and superannuation professionals; and
- ▮ Other service providers, including Government departments and non-Government agencies.

Public Presentations and Training Seminars

A total of 36 public presentations and training seminars were held throughout 2002/2003, consisting of scheduled training for service providers and key professionals and groups, and information sessions requested by members of the public and/or community groups. Two of the presentations were held in regional Western Australia.

The presentations and training sessions were rated as very helpful by 92 percent of attendees.

The number of presentations given by the Office of the Public Advocate has declined over the past two years as new strategies for community education have been developed. For example, the use of video links is being explored as a more cost-effective way of providing presentations to regional areas.

Activity

	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003
Public Presentations	37	64	56	24	24
Country Presentations	5	10	6	4	2
Training Seminars for Service Providers	5	4	2	3	3
Administrators' Training Seminars	4	5	5	5	4
Professionals' EPA Forum	n/a	1	2	3	3
Community Seminars				4	-
TOTAL	51	84	71	43	36

Publications

An Administrator's Guide has been developed during the year and is due for release in the next financial year. The Guide is designed to assist private administrators to carry out their responsibilities and will detail the issues and accountabilities administrators need to keep in mind when acting on behalf of a person with a decision-making disability.

The design and development of a brochure specifically for indigenous service providers was commenced. It outlines the services provided by the Public Advocate and is a general introduction to the guardianship and administration system. The brochure will be produced and distributed in the next financial year.

Advice and Information

The Telephone Advisory Service provides a valuable and accessible service for people who have a personal or professional interest in the rights and needs of people with decision-making disabilities. Advice and information is offered on a broad range of issues for professionals, service providers and members of the community.

In 2002/2003, the Telephone Advisory Service handled 4385 enquiries (a 23 percent increase from the previous year) on 5021 topics.

Telephone Advisory Service

	1999/2000	2000/2001	2001/2002	2002/2003	Change	
					1 year	3 years
Number of Enquiries	3,405	3,584	3556	4385	+23%	+49%
Topics of Enquiry	3,879	4,208	4469	5021	+12%	+29%

The Telephone Advisory Service acts as a first point of call for the Public Advocate. Almost all enquiries (97 percent) were handled through the service, and more than half of those enquiries related to requests for information regarding Enduring Powers of Attorney. Information was subsequently provided to three percent of callers in a personal interview.

Topics of Enquiry

	1999/2000		2000/2001		2001/2002		2002/2003		Change	
									1 year	3 years
Guardianship	509	13%	525	12%	665	12%	760	15%	+14%	+49%
Administration	762	20%	763	18%	1020	18%	1051	21%	+3%	+38%
EPA	2,087	54%	2,363	56%	2172	48%	2382	47%	+10%	+14%
General	521	13%	557	14%	612	14%	828	17%	+35%	+59%
TOTAL	3,879		4,208		4,469		5021		+12%	+29%

The Year Ahead

In the year ahead, the community education section will:

- ▮ develop an integrated approach to the provision of regional services;
- ▮ review the Telephone Advisory Service to improve efficiency and service; and
- ▮ establish partnerships with indigenous community groups and develop appropriate resources to promote the services provided by the Public Advocate.

Corporate Services

To ensure the services provided by the Public Advocate are supported through effective administration, management and information systems and that Government accountability requirements are fulfilled.

To achieve this outcome the Public Advocate employs the following key strategies:

- ▶ plan and provide office management and administration requirements; and
- ▶ provide financial and human resource management, procurement and physical resource management.

These services are supported by the Department of Justice under a Service Level Agreement and costs are proportionately allocated to the Public Advocate and reflected in the Treasury Budget Statement.

The following services are supported under the Service Level Agreement:

- ▶ Asset Management
- ▶ Human Resources
- ▶ Organisational Performance
- ▶ Financial Services
- ▶ Information Services

The year in review

During 2002/2003 the Corporate Services section has been refining and developing a statistical reporting system for measuring performance and providing information for analysis to identify trends and issues to assist with planning and research. The reports are to be generated from the Office's database system, called OSCAS. These reports will be finalised and online in the 2003/2004 financial year.

Budget Summary

Financial and budget management is included as one output – Advocacy and Guardianship services under the Department of Justice appropriation. The budget allocation for the Public Advocate is included in the Department's Financial Statements and audited by the Office of the Auditor General.

A Financial Summary of the budget allocation and total expenditure on a total cost of output basis which includes Department of Justice corporate overheads is provided below:

	\$'000 Actuals 2002/2003	\$'000 Budget 2002/2003	\$'000 Variations from Budget
Total cost of output	1,873	1,955	(82)

There were savings of \$71,000 on Department of Justice corporate overheads with operational savings of \$11,000.

Corporate Governance

The Public Advocate is administratively responsible to the Department of Justice and fulfils its financial and performance accountability requirements through the Department's reporting framework.

Access and Equity

In accordance with Government requirements, the Public Advocate seeks to ensure that all services provided to the public are accessible, and has identified and removed any barriers that may exist, particularly in relation to gender, disability, ethnic origin and place of residence.

Information relating to the Public Advocate can be located within the Department of Justice's website at www.justice.wa.gov.au under the heading *Guardianship, Administration and Advocacy*. The *Enduring Power of Attorney Form* can also be located on this website.

Freedom of Information

Under the *Guardianship and Administration Act 1990* the Public Advocate is required to maintain customer confidentiality. However, if it is seen to be in the best interests of the represented person or proposed represented person, the Public Advocate does seek to explain the basis for decision-making and provide access to information wherever possible.

In 2002/2003 the Public Advocate received three valid applications for information under the *Freedom of Information Act 1992*.

All three applications were declined based on an exemption provision under the *Freedom of Information Act 1992*. One application was declined based on exemptions under clause 3 schedule 1 (personal information concerning third parties). One based on clause 8 (a) and 5 (1)(b) of schedule 1 (confidential communications and law enforcement exemptions respectively) and the other based on clause 6 (1) of schedule 1 (deliberative process)

The average time taken to respond to applications was eight days, which is well below the average duration across all agencies of 21 days. The manager of corporate services is the designated officer to receive and handle enquiries about Freedom of Information:

*Freedom of Information Designated Officer
Manager, Corporate Services
Office of the Public Advocate
PO Box 6293 EAST PERTH WA 6892*

Ombudsman Complaints

The Public Advocate encourages the public to seek the advice of the Ombudsman as an avenue of last resort if they have a complaint. There were no complaints to the Ombudsman in 2002/2003 with respect to the Office of the Public Advocate.

Compliance with Government Policies and Plans

The Public Advocate has complied with Government requirements to develop and report on its:

- ▶ Disability Services Plan to ensure equal access to services for people with disabilities
- ▶ Language Services Plan to ensure access to information and services for people from linguistically and culturally diverse backgrounds

In addition, the Public Advocate seeks to ensure that people living in rural areas are not disadvantaged in their access to services or to information about services.

Advertising and Marketing Expenditure

The Public Advocate includes the following statement relating to advertising, direct mail and market research expenditure, as required under section 175ZE of the *Electoral Act 1907*.

Advertising	Amount (\$)
Marketforce Productions: Recruitment Advertisements	7,756
Department of Premier and Cabinet: Intersector – Recruitment Advertising	1,290
Direct Mail Organisation	0
Market Research Organisation	0
TOTAL EXPENDITURE	\$9,046

Legislative Authority

The Public Advocate's legislative authority comes from 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 includes:

- ▶ *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 Defendants) Act 1996*

Management and Accountability Legislation

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

- ▶ *The Workers' Compensation and Rehabilitation Act 1981*
- ▶ *The Equal Opportunity Act 1984*
- ▶ *The Occupational Health and Safety Act 1984*
- ▶ *The State Supply Commission Act 1991*
- ▶ *The Freedom of Information Act 1992*
- ▶ *The Public Sector Management Act 1994*
- ▶ *The Financial Administration and Audit Act 1995*
- ▶ *The Electoral Act 1907*

Terminology

Administration: The legal appointment of a responsible person who can make financial and legal 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 make those decisions for themselves.

Individual Advocacy: Investigating, representing and making recommendations in the best interests of adults with decision-making disabilities, on the need for guardianship or administration at hearings of the Guardianship and Administration Board.

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.

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.

Publications and Resources

Office of the Public Advocate

- ▶ Customer of the Public Advocate brochure (general introductory brochure)
- ▶ Indigenous brochure –(general introductory brochure)
- ▶ Customer Service Standards and Grievance Procedures brochure

Guardianship and Administration Brochure Series

- ▶ An Introduction to Guardianship and Administration in Western Australia
- ▶ Before You Apply for Appointment of a Guardian or Administrator
- ▶ An Application has been made for Appointment of a Guardian or Administrator
- ▶ You have been Appointed to Make Decisions on Behalf of a Person with a Decision-making Disability

Enduring Power of Attorney

- ▶ Enduring power of Attorney – updated information kit and form (Making a Decision to Safeguard Your Own Financial Future)
- ▶ EPA A4 Poster “The Power to Choose”

Professional Guides

- ▶ A Guide for Service Providers 3rd Edition (Practice Manual) (\$38.50)
- ▶ Private Administrators’ Guide (\$10.00)
(one free copy provided to appointed administrators)
- ▶ The Practical Guide to Enduring Powers of Attorney in Western Australia (Professional Guide) (\$30.25)

Research Report

- ▶ Safeguarding the Financial Interests of Vulnerable Seniors
- ▶ Needs of Indigenous People in the Guardianship and Administration System in Western Australia (\$16.50)

Newsletter

- ▶ Office of the Public Advocate Newsletter (published twice a year)

Annual Report

- ▶ Annual Report of the Public Advocate

Video

- ▶ Guardianship and Administration (12-minute information videotape) (\$22.50)

Static Display Boards

- ▶ Office of the Public Advocate and the Guardianship and Administration System
- ▶ Enduring Powers of Attorney
- ▶ Safeguarding the Financial Interests of Vulnerable Seniors