



THE PUBLIC ADVOCATE
OF WESTERN AUSTRALIA

Annual Report
2003/2004



Department of Justice
Government of Western Australia



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Contact Details

Public Advocate
 Level 1, 30 Terrace Road
 EAST PERTH WA 6004
 Tel: 08 9278 7300
 Fax 08 9278 7333
 Freecall: 1800 807 437
 Email: opa@justice.wa.gov.au
 Internet: www.justice.wa.gov.au
 EPA Information Line (24 hours): 08 9278 7301

The Hon. Michelle Roberts BA Dip Ed MLA
Minister for Justice

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 financial year 2003/2004.

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 2004, this report also reflects on emerging trends and the issues impacting upon people with decision-making disabilities.



Michelle Scott
Public Advocate

30 September 2004

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

The position of the Public Advocate was established under the *Guardianship and Administration Act (1990)* to protect and promote the rights of any adult with a decision-making disability. This may be because the person has a mental illness, intellectual disability, dementia or an acquired brain injury. The functions of the Public Advocate are primarily set out in Section 97 of the *Guardianship and Administration Act (1990)* (the Act).

The Public Advocate's statutory role as set out in the Act is to:

- ▶ conduct investigations when complaints or allegations arise that the wellbeing of a person with a decision-making disability may be jeopardised, to determine whether a guardian or administrator may need to be appointed;
- ▶ provide guardianship services for personal, lifestyle or medical decisions when the Guardianship and Administration Board determines that there is no one else suitable or willing; and
- ▶ promote the Guardianship and Administration system and the rights of people with decision-making disabilities through community education, awareness and understanding.

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 their risk of neglect, exploitation and abuse.

From the Public Advocate



My responsibility as Public Advocate this year has been to ensure that my office provides timely and effective investigation, advocacy and guardianship services on behalf of an increasing number of Western Australian adults with decision-making disabilities throughout the State.

People with decision-making disabilities are some of the most vulnerable members of our society and their needs are becoming increasingly complex.

The demand for guardianship services continued to rise in 2003/2004. The Public Advocate was appointed as guardian for an additional 77 Western Australians this year and continued to act for another 218 adults with a decision-making disability. During the same period, the Public Advocate ceased to be the guardian for 74 people.

My office investigated some 875 matters in 2003/2004. I am pleased to report that 97 per cent of the matters determined as needing investigation were responded to.

In all, the volume of work carried out by the investigation section increased by 16 per cent on the previous year. Of the 726 new matters referred to the Public Advocate for investigation this year, 200 involved allegations of abuse, ranging from financial exploitation through to neglect and physical abuse. Six out of 10 of those claims identified the alleged victims as being over the age of 65.

The ability of staff to cope with an increased workload has been enhanced by last year's restructure of the office. This has been the first full financial year of operation of two specialist sections, one dealing with guardianship services, the other with advocacy and investigation.

This growth in the demand for services is likely to continue. Access Economics last year released the results of a nationwide survey¹ which showed that dementia was the second largest cause of disability in Australia, rising by 62 per cent in the last decade. The report predicts that dementia will become the largest cause of disability by 2016, outstripping other chronic illnesses including cardiovascular disease, diabetes and depression.

This year, more than half of the new investigations undertaken, and correspondingly half of the new appointments of the Public Advocate as Guardian of Last Resort, were for people with dementia. At present there are approximately 17 000 Western Australians with moderate to severe dementia and that number is expected to double in the next 10 years.²

In 2003/2004 I commissioned an inaugural study by Data Analysis Australia into the likely demand for investigation and guardianship services over the next five years in Western Australia. The study took into account population projections as well as patterns of referrals and guardianship appointments to the Public Advocate over the past three years.

1. The Dementia Epidemic: Economic Impact and Positive Solutions for Australia, Access Economics Pty Ltd, Canberra 2003.
2. Dementia - A Major Health Problem for Australia, Professor Anthony Jorm, Alzheimer's Association of WA website.

The forecast is for an annual growth of nearly six per cent for guardianship orders, two per cent for community-referred investigations and two per cent for investigations referred from the Guardianship and Administration Board. As this is the first such study it remains to be seen whether the forecast corresponds with actual change in demand. The study will be a guide for future planning.

Data Analysis Australia predicts people with dementia will dominate both investigations undertaken by the Public Advocate and guardianship appointments. People with intellectual disabilities will account for more than half of the guardianship work done by the Public Advocate due to the life of the appointment.

To address the increasing demand for guardianship services the Government allocated an additional \$177 000 in the 2004/2005 State Budget to employ two new guardians, one of whom will coordinate an innovative Community Guardianship Program. This is welcome recognition of the impact on the resources of the Public Advocate of the increasing demand for guardianship services.

In 2003/2004 I implemented a major review of guardianship cases to determine whether guardianship orders carried forward from previous years were still required. This resulted in the Guardianship and Administration Board revoking 52 orders where it was determined that it was no longer necessary for the Public Advocate to be appointed Guardian. This will continue to be a priority in the forthcoming year.

In addition, the implementation of a Community Guardianship Program in Western Australia in 2004/2005 will work to provide guardianship services in partnership with the community. Volunteers will be recruited, trained and supported to be guardians in their local community.

My office will continue to review processes and develop policies and procedures that further enhance the capacity of the Public Advocate to respond to the growing demand for services, while at the same time maintaining the highest standard of service.

I am conscious of the need to expand our services, particularly to people in remote and regional Western Australia. I remain committed to providing better access to the Guardianship and Administration system for Aboriginal people in Western Australia.

Concerted efforts have been made over the past 12 months to improve access to our services for Aboriginal people, by providing training for service providers working with vulnerable Aboriginal adults in both metropolitan and regional locations.

Throughout 2003/2004 I have successfully developed links with Aboriginal organisations and government agencies working with Aboriginal people and communities. The aim is to raise awareness among Aboriginal people of the role of the Public Advocate, to gather from them information on their needs and to work with them to identify ways to meet the needs of people in their community with decision-making disabilities.

Cross-cultural training was provided in 2003/04, offering staff of my office the opportunity to develop a better understanding of the needs of Aboriginal people and communities. Further training will be provided next year.

Community education sessions have been developed and offered to Aboriginal organisations and individuals in metropolitan and regional areas, aimed at raising awareness of the needs of adults with decision-making disabilities, elder abuse and the services available.

My office published and distributed widely across Western Australia a brochure designed to better inform Aboriginal people and communities about my role and the operation of the Guardianship and Administration system.

During the year, I also developed protocols with the Department of Indigenous Affairs, the Disability Services Commission and the Department for Community Development for responding to referrals about Aboriginal people with decision-making disabilities.

The Public Advocate was also successful in securing \$50 000 through the State Government's Active-Ageing Strategy to launch a two-year project with Aboriginal and other culturally diverse communities to identify and develop local responses to elder abuse in regional communities.

Community education is an area through which we can promote awareness and understanding about the rights of people with decision-making disabilities. This year I explored video conferencing as a cost-effective way of reaching service providers in some of the most remote parts of Western Australia. The first video-conference for service providers in the Kimberley was held in May.

The format has proved very successful and will be continued next year. In addition my office has developed an integrated approach to regional service delivery.

Throughout the year my staff have been working with those responsible for the implementation of the proposed State Administrative Tribunal to ensure that my office is well placed to respond to new procedures, systems, and policies that will come into effect.

The establishment of a new liaison officer position located at the Guardianship and Administration Board in 2003/2004 has been successful in streamlining communication with the Board and ensuring appropriate investigation referrals to the Public Advocate. The liaison officer will perform a similar role in the proposed State Administrative Tribunal.

This year I commenced a comprehensive review of Western Australia's *Guardianship and Administration Act (1990)* with the aim of making the legislation more contemporary and relevant. I expect this review to be completed in the first half of 2004/2005.

Improvements have also been made to the Telephone Advisory Service of the Public Advocate with a 24-hour specialist line now available to handle straightforward queries about Enduring Powers of Attorney.

In the Corporate Services area a review is under way of the information technology systems to enhance existing systems and provide better case management.

Looking ahead, a major challenge is to develop in conjunction with other government agencies and departments, a whole of government response to people with decision-making disabilities, particularly those with complex needs. I note the Government's *Inquiry into the Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities* chaired by Sue Gordon. This inquiry provides a framework not only in relation to Aboriginal people but also in terms of a whole of government response to working with vulnerable people. The risk when agencies operate in isolation is that vulnerable people, especially those with complex needs and challenging behaviours, will simply fall through the cracks.

People with decision-making disabilities are not simply the responsibility of the Public Advocate or the Guardianship and Administration system. The situation of those individuals with the most complex needs demands a whole of government response from agencies and departments such as the Disability Services Commission, Mental Health Services, Justice, Health, Housing and Indigenous Affairs. What is required is a commitment from agencies and departments to a new way of working which involves the sharing of information, knowledge and resources to respond creatively and effectively to the challenging circumstances in which some people find themselves.

The more complex a person's needs, the more sophisticated is the approach required to meet those needs. This has been recognised in Victoria, Tasmania and South Australia where models are being developed to enable effective, whole of government solutions to the problems of people with decision-making disabilities.

In conclusion I would like to acknowledge the contribution of my staff who in 2003/2004 have provided a high quality service to people with decision-making disabilities, their families, carers and service providers. I appreciate their focus, commitment, capacity and support over the past 12 months.



Michelle Scott
Public Advocate

Major Initiatives and Achievements

Statistics

- ▶ Conducted 875 investigations during the year, an increase of 16 per cent on the matters investigated in 2002/2003
- ▶ Responded to 85 community-referred investigations, and completed inquiries into 61
- ▶ Was able to undertake investigations in 97 per cent of all new cases identified as requiring investigation
- ▶ Was appointed Guardian of Last Resort on behalf of an additional 77 people
- ▶ Closed 74 Guardian of Last Resort cases, including the revocation of 52 cases by the Guardianship and Administration Board
- ▶ Responded to 4 632 public enquiries for information
- ▶ Made personal and lifestyle decisions for 295 represented persons
- ▶ Resolved the issue that led to the appointment of the Public Advocate with a 100 per cent effectiveness rate
- ▶ Exceeded the target for effectiveness in making recommendations to the Guardianship and Administration Board which were accepted in 96 per cent of all cases
- ▶ Allocated decision-making authority within one working day of the Guardianship and Administration Board appointing a guardian, with a 94 per cent efficiency rate
- ▶ Continued to attract high levels of customer satisfaction in the investigation services area, recording an overall satisfaction rate of 89 per cent in this area in 2003/2004
- ▶ Measured, for the first time, customer satisfaction in the guardianship services area, recording an overall satisfaction rate in this area of 86 per cent

Policy and practice

- ▶ Commissioned and received a report into the likely demand for investigation and guardianship services over the next five years
- ▶ Implemented a major review of guardianship cases to determine whether a Guardianship Order was still required
- ▶ Established the position of liaison officer located at the Guardianship and Administration Board
- ▶ Published and distributed widely throughout Western Australia, a brochure designed to better inform Aboriginal people and communities about the role of the Public Advocate and the Guardianship and Administration system

- ▶ Implemented training programs specifically designed for service providers working with Aboriginal people
- ▶ Secured funding under the Government's Active Ageing Strategy to identify and develop responses to elder abuse within Aboriginal and culturally diverse communities
- ▶ Improved delivery of community education programs to regional Western Australia
- ▶ Established an improved telephone information service for people inquiring about Enduring Power of Attorney matters

Future directions

- ▶ Expand guardianship services to meet growing demand
- ▶ Recruit volunteers under an innovative Community Guardianship Program
- ▶ Conclude a review of the *Guardianship and Administration Act (1990)*
- ▶ Provide further opportunities for training to service providers and community organisations in regional Western Australia
- ▶ Implement local responses to elder abuse in culturally and linguistically diverse communities, including Aboriginal communities
- ▶ Further increase opportunities to engage effectively with Aboriginal people and communities about the Guardianship and Administration system
- ▶ Create policies and processes to ensure streamlined interface with the proposed State Administrative Tribunal
- ▶ Actively seek the revocation of guardianship orders where there is a less restrictive alternative
- ▶ Review the information technology system to enhance existing systems and provide better case management
- ▶ Continue to review processes and develop policies that enhance the Public Advocate's capacity to respond to the growing demand for services

Customer Focus

The Public Advocate serves three main customer groups:

Primary customers

Western Australians who have a decision-making disability.

Secondary customers

Carers, paid or unpaid, who support people with a decision-making disability.

Potential customers

These people do not, at present, have a decision-making disability. They seek to safeguard their financial future by implementing an Enduring Power of Attorney (EPA) in the event that they could lose their decision-making capacity.

It is estimated that as many as 65 000³ Western Australians are limited in their capacity to make reasoned decisions in their own best interests due to:

▮ Dementia

The number of Western Australians with moderate to severe dementia is currently estimated at 17 000, of whom 70 per cent have Alzheimer's Disease. Because the population is ageing this number is expected to double, to represent 10 per cent of the entire population of people aged 65 and over by 2016 (*Source Alzheimer's Association of Western Australia and Access Economics Pty Ltd*).

▮ Intellectual disability

Nearly 12 000 Western Australians are classified as having a primary intellectual disability. Another 1 000 have an intellectual disability they classify as secondary to their physical, psychological or sensory disability (*Source: Disability Services Commission Annual Client & Service Data Collection 2003/2004*).

▮ Acquired brain injury

More than 700 Western Australians have an acquired brain injury (ABI) deemed to be permanent. For some the injury is the primary cause of their disability, for others it is a secondary factor to intellectual, physical or sensory disability (*Source: Disability Services Commission Annual Client and Service Data Collection 2003/2004*).

▮ 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, more than 27 000 people have a psychiatric condition (*Source: 1998 DSC Report "Disability in Western Australia"*).

³ Disability Services Commission data

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 act in 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 without 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 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.

Advocacy and Investigation

The Public Advocate investigates and makes recommendations on the need for guardianship and administration in the best interests of a person with a decision-making disability at hearings of the Guardianship and Administration Board and in the community.

The Public Advocate's investigation section undertakes to:

- ▶ examine and report on whether it is in the best interest of adults with decision-making disabilities to have a guardian or administrator appointed by the Guardianship and Administration Board;
- ▶ ensure that the appointment of a guardian or administrator is appropriate; is in the best interests of the person with the decision-making disability and is made only when there is no other way of meeting the person's needs;
- ▶ investigate any complaint or allegation from the community that a person may be at risk of neglect, exploitation or abuse and may be in need of a guardian or administrator;
- ▶ investigate whether a person held in custody under the *Criminal Law (Mentally Impaired Defendants' Act) 1996* is in need of an administrator; and
- ▶ inform and advise 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 2003/2004 the investigation section conducted a total of 875 investigations involving clients with decision-making disabilities. This represents an increase of 16 per cent on the workload of the section last year. A total of 753 investigations were closed in 2003/2004.

The vast majority of these investigations were referred to the Public Advocate by the Guardianship and Administration Board (the Board), after applications for the appointment of a guardian or administrator were lodged. Others involved reviews of guardianship and administration orders, either at the request of the Public Advocate or initiated by the Board or a third party.

Eighty-five investigations were referred to the Public Advocate by members of the community. These were mostly family members or carers of the person with the decision-making disability, or service providers. Sixty-one community-referred investigations were closed throughout the year.

This year the office investigated 37 per cent of the total number of new applications lodged with the Board. This included 71 per cent of all guardianship applications, 32 per cent of original applications for administration, 35 per cent of Enduring Power of Attorney applications and 31 per cent of all applications for review of guardianship and administration orders.

A framework for referrals of new applications to the Public Advocate was developed in close consultation with the Guardianship and Administration Board. This has been further enhanced by the creation of the new position of liaison officer (formerly duty officer) in April 2004, located at the Board. The position,

created in anticipation of the yet to be established State Administrative Tribunal, is already proving of benefit both to the Public Advocate and the Board.

The liaison officer's primary functions are to:

- ▶ assist in the screening of original applications lodged with the Guardianship and Administration Board for early identification of matters requiring investigation by the Public Advocate;
- ▶ liaise regularly with senior Registry staff of the Board on matters of complexity and Public Advocate practices and policy;
- ▶ when requested, offer immediate on-site advice to members of the Board;
- ▶ offer advice to parties to the proceedings of the Board before and after hearings; and
- ▶ assess the urgency of particular applications in response to requests from the Board.

Meeting the need for investigation and advocacy

In previous years, the Public Advocate received and screened all applications to the Guardianship and Administration Board as well as community referrals for investigation.

This year, in consultation with the Board, a new method was adopted for determining which applications for guardianship or administration required the Public Advocate's assistance. The Public Advocate now relies solely on external sources for referrals – either from the Guardianship and Administration Board or community-referred investigations.

Under the new system introduced in 2003/2004, the Public Advocate continues to directly receive community-referred matters. New applications to the Guardianship and Administration Board are referred to the Public Advocate by the Board in accordance with the new referral policy.

The Manager Advocacy and Investigation receives the referred applications, assesses their priority and allocates high priority cases to investigators.

There were 726 new referrals in 2003/2004 - these included referrals from the Board (545), referrals for reviews by the Board for people for whom the Public Advocate is guardian (115) and community referrals (66).

Ninety-seven per cent of the matters identified as needing support in 2003/2004 were investigated.

New referral framework

New criteria were developed to determine where it is necessary or desirable for the Public Advocate to become involved at hearings before the Guardianship and Administration Board.

The criteria, developed in consultation with the Board, recognise both the expertise of the Public Advocate and the limitations of the office's resources.

The Public Advocate will generally investigate applications in situations where there is:

- ▶ a risk to health or life;
- ▶ maltreatment or abuse;
- ▶ conflict;
- ▶ a question of capacity; or
- ▶ other matters including sterilisation, a proposal for the disposal of a substantial part of a person's estate or where the Public Advocate is proposed as guardian.

Cultural background of investigation cases

Six per cent of new matters investigated by the Public Advocate involved people from a culturally and linguistically diverse background (compared with three per cent last year). Three per cent of matters referred for investigation involved Aboriginal people.

Geographic location of investigation cases

The spread of new investigation cases undertaken was greater this year with 16 per cent of matters originating from rural or remote areas, three per cent from other States or countries and 84 per cent from the metropolitan area.

Issues for new cases of investigation

Of the 726 new matters referred to the Public Advocate for investigation in 2003/2004, allegations of abuse of the person with the disability were reported on 200 occasions.

In more than six out of 10 cases, the alleged abuse was perpetrated on people over the age of 65 years. This is commonly referred to as 'elder abuse' and is a worrying trend in the community. Financial abuse or the risk of financial abuse was the most often reported (62%), followed by neglect (26%), physical (6%), psychological (3%) and sexual (3%).

Fifty per cent of matters investigated were in relation to people with dementia, fitting the profile of an ageing population and the increasing prevalence of this disease. By contrast, 16 per cent of investigations were for people with an intellectual disability, 14 per cent for people with a mental illness and 13 per cent for people with an acquired brain injury.

The major lifestyle issues for guardianship investigations were accommodation and access to services (70%), medical decisions (12%), decisions about whom the person with a disability could have contact (5%), self-neglect (3%) and legal matters (3%).

The major presenting issues for financial matters were management of the person's assets (46%), assisting the person with their income and expenditure (40%) and Enduring Powers of Attorney (10%).

The majority of the new matters investigated in 2003/2004, were initiated by family members and carers (49%), followed by service providers (46%).

Legal issues for investigation

The Public Advocate detailed in its 2002/2003 Annual Report, a number of matters considered by the Full Board of the Guardianship and Administration Board in that year, for which determinations were not available as at 30 June 2003.

In March 2003, the Public Advocate acted as an advocate before the Full Board for "LGW", a person in custody under the *Criminal Law (Mentally Impaired Defendants) Act 1996*. The hearing explored the role of an appointed guardian in cases where the personal decision-making rights of a represented person were held by another authority (in this case the Mentally Impaired Defendants' Review Board).

In May 2004, the Full Board decided that a guardian could be appointed to investigate options and make representations on behalf of the person, without in all instances having the ultimate authority to make decisions for that person.

The Full Board found that the Guardianship and Administration Board would have to be satisfied on the facts of a particular case, that the person was still in need of a guardian. For example, the person might have access to alternative forms of advocacy and this informal support could be both appropriate and sufficient, obviating the need for a guardianship appointment.

The Public Advocate also appeared before a Full Guardianship and Administration Board directions hearing to consider a WA Supreme Court ruling (April 2002) that a person under administration required the approval of the Board to execute a Will. The Full Board referred the matter to the Full Court of the Supreme Court. It determined that the original court ruling was incorrect and that the making of a Will does not constitute a “disposition of property” within the meaning of Section 77(1) of the *Guardianship and Administration Act (1990)*.

In another matter the Full Guardianship and Administration Board decided that a guardian could be appointed for a person even though that person was not present in Western Australia at the time that the order was made. The Public Advocate is awaiting the reasons for the Full Board’s determination.

CASE STUDY

Jane is a young woman who suffers from a mental illness. An application for guardianship was made for Jane by mental health services staff. She was often rendered homeless when her partner asked her to leave his house and as a result her mental health care was put in jeopardy. In addition there was the concern that Jane might be a victim of domestic violence. It was proposed that a guardian be appointed to make decisions about where Jane should live, generally advocate for her and if necessary remove her from her partner’s home so she could receive her mental health care.

Jane was receiving some case management services from a non-government agency. She had a history of transient living but would gravitate to her partner irrespective of the advice that was given to her. She would otherwise not readily engage with services that might assist her.

At a hearing of the Guardianship and Administration Board, the Public Advocate argued that a guardian as a decision-maker would not add to the range of services currently available to Jane. In particular the non-government case manager was able to advocate for her in the mental health setting.

The fact that Jane would willingly return to her partner’s house meant that a guardian could not effectively make an accommodation decision. In any case as Jane was under administration, the administrator was available to consult with the mental health team to ensure independent accommodation could be offered to Jane and paid for.

The Public Advocate further argued that the appointment of a guardian should only occur when the benefits likely to be derived from having a guardian justified the appointment. Jane had, over an extended period, received direct assistance and advocacy from the mental health team and her case manager. This had occurred without the authority of formal guardianship. Before appointing a guardian the Board needed to be satisfied that a role existed for a legally appointed guardian. It also needed to be satisfied that role could not be assumed by another more appropriate legal authority nor met by means less restrictive of an appointment. The Board dismissed the application.

CASE STUDY

Bill is a 75-year-old man who has dementia and is living in a nursing home. He suffers from diabetes but is otherwise in relative good physical health. The Public Advocate had been appointed his limited guardian a year ago because at that time he was refusing to be placed in an aged care facility and wanted to return to his home. At that time he had not been formally diagnosed with diabetes but medical assessment and investigation was required.

The Public Advocate was appointed with the functions of deciding where Bill should live and also to make medical and health care decisions for him. Bill had no immediate family to make those decisions for him.

During the year of the appointment, Bill settled into the nursing home particularly as his dementia advanced. Medical tests confirmed a diagnosis of diabetes type II and a dietary and medication regime was initiated through Bill's General Practitioner.

Bill remained medically stable and although his dementia was progressing his physical health was appropriate for a man of his age with a dementing condition. No further accommodation or new medical decisions were expected to be required in the foreseeable future.

The Public Advocate discussed the matter with the Director of Nursing at the nursing home and Bill's General Practitioner. They all agreed that Bill was receiving the optimal medical care for his diabetes and a high standard of nursing care. The General Practitioner and Director of Nursing were satisfied they could continue with Bill's health care without the ongoing intervention of a formally appointed guardian.

The Public Advocate applied to the Guardianship and Administration Board to have the guardianship order revoked on the basis that Bill's needs were currently being met in a less restrictive way than having a formal decision-maker. The Board revoked the order.

Customer satisfaction

The Public Advocate's investigators work to protect the interests of vulnerable clients in circumstances that are often complex, highly sensitive and personal.

A survey conducted of customers of the investigation section this year revealed very high levels of customer satisfaction. Those surveyed were predominantly family members, carers or service providers. They were asked to rate staff for among other things, their professionalism, accessibility, sensitivity to individual needs and confidentiality.

Overall, 89 per cent of customers of the investigation section were either satisfied or very satisfied with the way their matters were handled and with the staff of the section. Nine out of 10 clients said they were treated with dignity and 95 per cent said their privacy was respected.

Performance Indicators 2003/2004

The Public Advocate is administratively responsible to the Department of Justice and submits annual measures of performance under Output 9.

9.1 Proportion of customers provided with advocacy relative to the number of referrals from the Guardianship and Administration Board, reviews for people for whom the Public Advocate is Guardian and community referrals.

This indicator is a measure of the ability to provide support to clients identified as requiring support and the extent to which the Office is able to protect the rights of adults with decision-making disabilities, thereby reducing the risk of neglect, exploitation and abuse.

It measures the number of matters allocated for advocacy as a percentage of the total referrals, including community referrals.

Comparisons cannot be made with previous years because:

- (a) from 1999/2000 to 2001/2002 output was measured in terms of services to individuals rather than in terms of applications; and
- (b) in 2002/2003, the Public Advocate received and screened all applications to the Guardianship and Administration Board.

However, the following table is provided to illustrate the effect of the change:

Effectiveness	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	Target
The proportion of cases provided with advocacy relative to the number in need of service	77%	70%	64%	72%	97%	65%

9.2 Extent to which recommendations were accepted by the Guardianship and Administration Board.

This indicator measures the extent to which the investigation service meets the needs of people with decision-making disabilities in determining their best interests.

Guardians and investigators advocate for the best interests of the people they represent by providing comprehensive information and proposals to the Guardianship and Administration Board. This enables the Board to make an informed decision in the person's best interests.

Effectiveness	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	Target
The extent to which advocacy service recommendations are accepted by the Guardianship & Administration Board	94%	97%	97%	93%	96%	92%

9.4 Advocacy cases completed within 8 weeks

This indicator measures the extent to which the Public Advocate can complete investigations and community referrals in a timely manner. This measure is based on the Guardianship and Administration Board's best practice of finalising a matter within eight weeks from receipt of the referral of the application to the hearing. It is to a large extent determined by the Board as the Board alone sets hearing dates for applications.

The indicator is measured by dividing the number of Board-referred applications and community referrals completed within eight weeks by the total number of applications and community referrals received by the Public Advocate.

Timeliness	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	Target
Advocacy and community-referred cases completed within eight weeks of receipt	78%	79%	61%	63%	74%	75%

Guardian of Last Resort

The Public Advocate can be appointed as guardian for a person with a decision-making disability, when the Guardianship and Administration Board considers a guardian should be appointed and there is no one else suitable or willing to act.

As Guardian of Last Resort, the Public Advocate undertakes to:

- ▮ ensure that timely decisions are made in the best interests of the represented person;
- ▮ protect the represented person from neglect, exploitation and abuse; and
- ▮ ensure 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; and
 - ▮ maintain familiar cultural, language and religious practices and contacts.

The year in review

The growing demand for guardianship services continues to challenge the guardianship section, although strategies introduced in 2002/2003 and continued this year, have been successful in better managing the demand. A restructure implemented in 2002/2003 created two distinct sections within the office – one for guardianship and another for investigation. This restructure continues to provide a more efficient delivery of guardianship services. Guardians now have a single focus in their work as legal decision-makers on behalf of represented persons, with each of the five guardians acting under the Public Advocate's delegation, responsible for some 40 represented persons throughout the State.

A forecasting study commissioned by the Public Advocate predicts that guardianship orders will grow by just under six per cent annually over the next five years. An ageing population and the increasing prevalence of dementia are key contributors to the increasing demand for guardianship services.

The study also concluded that the number of guardianship orders by the Guardianship and Administration Board appointing the Public Advocate as guardian is dominated by existing guardianship orders carried forward from previous years. This is particularly the case for people with an intellectual disability.

A review of existing guardianship orders was implemented in 2003/2004 to determine whether the appointment of the Public Advocate as guardian was still required. The Public Advocate applied successfully to the Guardianship and Administration Board to have a number of guardianship orders revoked where it was deemed there was no longer a need for the Public Advocate to be appointed. In many cases this was because there was a less restrictive alternative to the continued appointment of the Public Advocate as guardian. The Board revoked 52 orders in 2003/2004. This will continue to be a priority in the forthcoming year.

Recognition of the increasing demand and the growing complexity of guardianship services resulted in the approval in the 2004/2005 State Budget of funding for two additional full-time guardianship positions. One of those positions will be responsible for the implementation of a Community Guardianship Program.

For the first time in 2003/2004, the guardianship section undertook a survey to assess how its secondary customers (e.g. families of represented people, service providers) rate its performance against service standards. The results of this first survey of guardianship services were pleasing.

Demand for service

The Public Advocate was guardian for a total of 295 people in 2003–2004. Of those, 218 were continuing cases and 77 were new appointments. During the same period 74 cases were closed.

This compares with figures for the previous year of 171 cases carried forward and 71 new cases. The number of new appointments has not changed significantly over the past three years – 74 in 2001/2002, 71 in 2002/2003, and 77 in 2003/2004.

However, the number of cases carried forward from the previous year again increased significantly (26%). The rise is less than in 2002/2003 (when the increase was 30%), indicating the review of existing guardianship cases throughout the year and the subsequent revocation of 52 cases by the Board has had a positive impact.

There continues to be a significant increase (195% over the past five years) in the number of people for whom the Public Advocate makes decisions on an ongoing basis.

An independent report by Data Analysis Australia⁴ commissioned by the Public Advocate also forecasts an annual increase of just under six per cent in guardianship cases each year for the next five years. The reasons for the expected growth include:

- ▶ increased awareness about the need for guardianship;
- ▶ the increasing prevalence of dementia in an ageing population; and
- ▶ the increased life expectancy for people with an intellectual disability, combined with the ageing of their parents or carers.

In the light of these forecasts, a State Budget allocation of \$177 000 was provided for the appointment of two additional guardians in 2004/2005 which will take the number of full-time guardian positions to seven.

For the first time, the Public Advocate responded under Section 99 of the *Guardianship and Administration Act (1990)* and was appointed in two instances as Guardian of Last Resort upon the death of previous guardians. Under this section of the Act, the Public Advocate retains the same powers and functions in

⁴ Data Analysis Australia Forecasting *the Demand for the Services of the Public Advocate* April, 2004

respect of the person as the original guardian. This has proved to be a challenging role for the Public Advocate where the needs of the represented person must be quickly established and a seamless transition of responsibility is desirable.

There were 74 matters closed in 2003/2004: 22 following the death of the represented person and 52 as a result of guardianship orders being revoked by the Guardianship and Administration Board.

Services provided as Guardian of Last Resort

	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	Change	
						1 year	4 years
Carried forward	74	102	132	171	218	27%	195%
New appointments	59	60	74	71	77	8%	31%
Total for year	133	162	206	242	295	22%	122%

New appointments of the Public Advocate as Guardian 2003/2004

Reason for Appointment	Number	Percentage
S99 Deceased Guardian	2	3%
No family, no one else to act	16	21%
No one suitable to act	32	41%
No one willing to act	22	29%
Other	5	6%

Revocation project

Faced with an escalating demand for guardianship services, the Public Advocate instituted a review of existing guardianship orders in 2003/2004. The revocation project examined ongoing cases to determine whether a guardianship order was still needed; whether a less restrictive alternative to an order may exist; or whether circumstances had changed and members of the person's family could resume or take on the decision-making responsibility.

In 52 cases identified by the Public Advocate, the Guardianship and Administration Board considered it appropriate to revoke the order. A number of those cases involved previously contentious matters where families were divided and the Public Advocate was appointed to make decisions on behalf of the person with the disability. In other instances, more informal support for the person was considered appropriate and more consistent with the "least restrictive alternative" principle of the Act. The Guardianship and Administration Board was also willing to appoint a range of interested parties, including volunteers (e.g. Citizen's Advocacy) as guardians.

Limited and Plenary Guardianship Orders

There is a difference in the decision-making authority of guardianship orders made by the Guardianship and Administration Board. They may be limited to specific areas such as medical treatment or accommodation (Limited Order); or they can apply to all areas (personal, medical and lifestyle) of the person's life (Plenary Order).

There were 77 new appointments in 2003/2004. Two were appointments under Section 99, as the result of the death of a previous guardian. Some 69 (90%) were limited guardianship orders and only six (8%) were plenary orders, requiring the Public Advocate to make all personal, medical and lifestyle decisions on behalf of a person.

The majority of orders were limited and this is consistent with the legislative principle requiring a preference for appointments to the specific area in which decision-making support is required.

The remaining six orders (8%) were for plenary guardianship, requiring the Public Advocate to make all personal, medical and lifestyle decisions on behalf of a person.

Length of Guardianship Order

In 45 of the 77 cases (58%) where the Public Advocate was newly appointed as guardian in 2003/2004, the Guardianship and Administration Board set the length of the appointment for five years, the maximum time period before a mandatory review.

This number is higher than in 2002/2003 despite the view of the Public Advocate that orders should be limited to the period of time for which a person requires a substitute decision-maker.

Authority of Limited Guardianship Orders

Increasingly, the Public Advocate is appointed to determine where and with whom an adult with a decision-making disability can live. The most common reason for the appointment of the Public Advocate as a guardian in 2003/2004 was to make decisions about accommodation (44 per cent). In 21 per cent of cases, the Public Advocate was appointed guardian to make decisions about medical or dental treatment.

In 20 per cent of cases, the Public Advocate was the only available substitute because the person with the decision-making disability had no family or no one else to act. Wherever possible, the Public Advocate works with relatives, friends, carers or other service providers to arrange suitable accommodation or treatment for the person.

Authority Contained in Limited Guardianship Orders

Limited Functions	Number	Percentage
Medical/Dental	58	21%
Accommodation	123	44%
Education/Training	8	3%
With whom represented person is to associate	18	7%
Work	9	3%
Next friend	9	3%
Guardian ad litem	9	3%
Other	44	16%

Cultural background of Represented Person

The Public Advocate is appointed as guardian for a range of people with different ethnic and cultural backgrounds and for some for whom English is not a first language.

Some 49 people (64%) for whom the Public Advocate was appointed guardian for the first time this year were born in Australia, while 25 (or 32%) were born in 13 different countries, with the result that many had culturally and linguistically diverse backgrounds. The place of birth of four per cent of new appointments was unknown. Three new appointments were made on behalf of people with an Aboriginal or Torres Strait Islander background.

Protocols developed with the Departments of Indigenous Affairs and Community Development and with the Disability Services Commission, all of which have a strong regional presence, are part of the Public Advocate's commitment to a more integrated approach to people with complex needs. They will facilitate better consultation for guardians and a wider knowledge of the needs of Aboriginal communities throughout Western Australia.

Condition affecting Represented Person

A report prepared for Alzheimer's Australia by the research group Access Economics concluded that dementia was the second largest cause of disability in Australia and would become the largest by 2016, continuing to outpace other chronic illnesses.⁵

This is reflected in figures which show that people with dementia represented more than half of the new cases referred to the Public Advocate acting as Guardian of Last Resort in 2003/2004. The figure has been steadily rising to the point where this year, for the first time, people with dementia outnumbered the combined total of people with other decision-making disabilities for whom the Public Advocate was newly-appointed guardian.

Condition of Represented Person

	2001/2002		2002/2003		2003/2004	
Dementia	23	(31%)	31	(44%)	39	(51%)
Intellectual disability	28	(38%)	23	(32%)	14	(18%)
Psychiatric disability	12	(16%)	10	(14%)	11	(14%)
Acquired brain injury – trauma/stroke	11	(15%)	7	(10%)	12	(16%)
Other					1	(1%)
Total	74		71		77	

⁵ The Dementia Epidemic: Economic Impact and Positive Solutions for Australia
Access Economics Pty Ltd, Canberra 2003

CASE STUDY

Paul is a 35-year-old man with an intellectual disability and complex health and behavioural problems. He is well known to the justice system and has been charged many times with disorderly conduct and resisting arrest.

Paul was assessed as “unfit to plead” in the District Court and was given a Custody Order under the *Criminal Law (Mentally Impaired Defendants) Act 1996*. The Court determined he should be placed in prison until a suitable release plan could be devised for him. The plan would be considered by the Mentally Impaired Defendants’ Review Board and recommended to the Governor for his approval.

Paul had been assessed as eligible for Disability Services Commission (DSC) accommodation services. The Commission sought the appointment of a guardian to help planning get underway for Paul’s release.

At a hearing of the Guardianship and Administration Board the Public Advocate was appointed as Paul’s Guardian. Paul’s parents felt unable to act on his behalf, due to the break down in their relationship with their son. The Commission also insisted that a legal decision-maker was needed to determine Paul’s future release plans.

The Board appointed the Public Advocate as limited Guardian to make representations to the Mentally Impaired Defendants’ Review Board on behalf of Paul and to seek assistance from organisations and service providers with accommodation options.

After the Public Advocate’s appointment, a conditional release order was granted to Paul and he resided with other people with disabilities in a DSC group home. This placement lasted 4 months as Paul re-offended and was returned to prison.

The Public Advocate is continuing to advocate on Paul’s behalf for the provision of a suitably funded accommodation option, which has appropriately trained staff to support Paul and to minimise future re-offending.

Service delivery to regions

The demand for guardianship services extends across Western Australia and several strategies have been introduced this year to improve the delivery of those services to people living in regional and remote parts of the State.

In 2003/2004 the Public Advocate was appointed guardian for an additional eight people with a decision-making disability who live in regional areas (compared with 69 new appointments in the metropolitan area).

An arrangement which gives individual guardians responsibility for a designated region in the State allows them to make effective use of resources by coordinating visits to a number of clients.

Complex issues in guardianship matters and the changing role of guardians

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. These include supporting people with challenging behaviours, people who have frequent contact with the criminal justice system, or people with chronic conditions brought on by alcohol, drug or substance misuse.

Guardians are increasingly being asked to coordinate the provision of services to such people across a number of areas. Where people have a dual diagnosis of disability, for example an intellectual disability and mental health condition, the task of encouraging appropriate agencies to accept responsibility is becoming more difficult.

Guardians have been called on to make representations to the Mentally Impaired Defendants' Review Board (see case study, above) and to support people with decision-making disabilities who are frequent offenders.

In many cases, the Public Advocate has been required to determine the need for chemical and/or physical restraint for represented persons with complex needs (see case study below).

The appointment of the Public Advocate as guardian can result in major disagreements within the family of the person with a decision-making disability. In such cases, the guardian must respond to the needs of the vulnerable person in a situation of heightened family conflict. In cases where the represented person has been abused, neglected or exploited, contact between the person and family may often need to be formally supervised. Guardians also often experience open hostility from family members who object to their appointment and the role they undertake.

The changing role of guardians was also underlined by a decision of the Guardianship and Administration Board in May 2004. The effect of the Full Board's decision in "LGW" is to limit, in some cases, the functions of a guardian to investigation and representation on behalf of a person with a decision-making disability. This effectively means that in some cases, a guardian would not have the ultimate decision-making responsibility for the person.

CASE STUDY

The Public Advocate was appointed Guardian with accommodation and medical treatment authority for Reg, an Aboriginal man diagnosed with alcohol-induced brain damage, a stroke, epilepsy and diabetes.

His disabilities included poor vision, poor mobility, incontinence, as well as recurrent severe epileptic seizures. He often forgot that he was unable to bear his own weight and had frequent falls. He was assessed as requiring assistance with most activities of daily living.

Reg's family indicated they were no longer able to care for him in the community. The guardian consented on Reg's behalf, to admission to a nursing home.

Reg's doctor sought the guardian's consent to prescribe a range of medications, one of which was to be administered specifically in response to aggressive behaviour. Reg frequently demonstrated noisy behaviour and his aggression constituted a danger to others. Also, devices such as bedrails, a deep chair, and modified shower chair were recommended to prevent Reg from falling and injuring himself.

Reg was already taking medication for his epilepsy to control seizures, anti-psychotic medication to control his psychosis and medication for night sedation. His doctor stated the medications were not for behavioural restraint and the safety devices were to prevent self-harm and falls.

The Public Advocate sought a review hearing before the Guardianship and Administration Board to determine whether Reg's treatment constituted physical and chemical restraint and if so whether the Public Advocate required additional authority to consent to its use.

The Board accepted that all of the physical devices used with Reg were used to restrict his movements, in an effort to prevent him from falling, and hence were for his safety. However, the Board determined that they constituted a form of physical restraint.

The Board determined that the use of medication administered to manage Reg's extreme behaviours was restraint rather than medical treatment.

The Public Advocate's authority was extended to include the authority to consent to physical and chemical restraint.

Policy development and risk management

The Public Advocate developed revised policies in key areas of decision-making responsibility. Two new staff instructions have been issued dealing with accommodation and medical treatment for represented persons. The new policies, together with revised guidelines for the use of restraint, form the basis of four position statements developed for public release.

The Public Advocate's out of hours service has been enhanced with the provision of a mobile computing solution (IPAC) and the creation of new information forms, with relevant details and contacts for individual represented people.

Guardian of Last Resort customer survey

The restructure of the office to create separate guardianship and investigation services meant that for the first time, customer satisfaction surveys were also conducted separately. Of 260 survey forms distributed, 100 were returned, a response rate of 38 per cent.

Secondary customers of the guardianship section e.g. family of the represented person, service providers, were asked to rate staff for among other things, their professionalism, accessibility, confidentiality and sensitivity to individual needs. The result was an overall 86 per cent approval rate, with 93 per cent of customers saying they were satisfied or very satisfied with the way guardians respected their privacy and did not release information unless it was required to protect a person's safety.

Community Guardianship Program

The Public Advocate was granted funding for an innovative program to recruit and train community members to act as guardians for individuals with a decision-making disability. The program will start in 2004/2005.

The scheme will provide an opportunity for community involvement in supporting and protecting people who are vulnerable; will use local knowledge to benefit the individual (especially in rural and remote areas); and will offer a more personal level of involvement than can be provided by professional guardians. The program will also raise community awareness of the rights of people with decision-making disabilities and will help promote increased community responsibility for guardianship.

Performance Indicators 2003/2004

The Public Advocate is administratively responsible to the Department of Justice and submits annual measures of performance under the Department's Output 9.

9.3 Extent to which the problem precipitating the need for the Public Advocate to be appointed as Guardian of Last resort has been resolved

This indicator measures the extent to which the Public Advocate provides appropriate guardianship services when appointed to do so. Resolution of the problem which led to the appointment may involve the Public Advocate acting to prevent neglect, exploitation or abuse, providing legal consent, or resolving conflict over major lifestyle decisions.

This measure is derived by dividing the number of resolved Guardian of Last Resort (GLR) cases by the total number of GLR cases, excluding those cases where the represented person died in the respective year.

Effectiveness	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	Target 03/04
Extent to which the problem precipitating the need for the Public Advocate to be appointed as Guardian of Last Resort has been resolved	95%	100%	100%	100%	100%	95%

9.5 Guardian of Last Resort appointments allocated within one working day

This indicator is based on the Public Advocate's best practice to ensure the needs of a represented person are met either immediately or as soon as practicable after the need has been identified.

It is measured by the number of appointments of Guardians of Last Resort made by the Guardianship and Administration Board at hearings and accepted by the Public Advocate's delegate within one working day of receipt of the guardianship order.

Timeliness	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	Target 03/04
Guardian of Last Resort appointments allocated within one working day	98%	100%	100%	99%	94%	95%

Community Education

The Public Advocate promotes awareness and understanding of the Guardianship and Administration system and of the rights of people with a decision-making disability

The Public Advocate's Community Education section undertakes to:

- ▶ develop a framework for the delivery of effective community and professional education and training promoting the rights of people with a decision-making disability;
- ▶ publish written and other material accessible to the community;
- ▶ develop partnerships with other government agencies, non-government organisations and community groups to disseminate information about the guardianship and administration system; and
- ▶ promote family and community responsibility for guardianship.

The year in review

The increasing demand for guardianship and investigation services in 2003/2004 was reflected in the many requests received throughout the year for information, advice, education and training about the role of the Public Advocate and about the Guardianship and Administration system in Western Australia.

The community education strategies seek to reach the following target groups:

- ▶ people with decision-making disabilities;
- ▶ people who care for or provide paid or unpaid support for those with the disability, including appointed guardians and administrators;
- ▶ health professionals, legal/financial/superannuation professionals and other service providers; and
- ▶ potential customers i.e. those who may in future develop a decision-making disability.

Significant changes were made in 2003/2004 to the training for service providers and a revised and updated manual was published. Feedback regarding a new half-day format for training of service providers has been positive.

Staff undertook professional development to improve presentation skills and presentations were standardised to improve efficiency and familiarity with content.

Public presentations and training seminars

The Community Education section continues to provide an annual training program. A total of 40 public presentations and training seminars were held throughout 2003/2004, including six in country areas. The Public Advocate has continued to develop and provide training programs for service providers to regional communities, especially Aboriginal communities.

A video-conference format was used successfully for the first time in May 2004 linking aged care service providers in the Kimberley.

The presentations in their various forms continue to be well-received by participants with 96 per cent saying that the session they attended was relevant and 94 per cent indicating they understood more about the topic than previously. The overall satisfaction rate was 95 per cent, compared with 92 per cent in 2002/2003.

Training for service providers working with vulnerable Aboriginal adults

More than 60 service providers attended an information sharing session in March, organised by the Public Advocate and Advocare. The half-day session, held at the Derbarl Yerrigan Health Service in Perth, gave attendees the opportunity to share and exchange ideas on working with vulnerable Aboriginal adults. The session also provided an overview of the Guardianship and Administration system, outlined the role of the Public Advocate and Advocare's Abuse Prevention Program and Aboriginal Access project.

Both government and non-government agencies were represented at the session. The Public Advocate conducted a similar information session in Geraldton in February. It is envisaged these sessions will continue to be offered in both metropolitan and regional areas next year.

Activity

	1999/2000	2000/2001	2001/2002	2002/2003	2003/04
Public Presentations	64	56	24	24	25
Country Presentations	10	6	4	2	6
Training Seminars for Service Providers	4	2	3	3	4
Administrators' Training Seminars	5	5	5	4	3
Professionals' EPA Forum	1	2	3	3	2
Community Seminars			4	-	-
TOTAL	84	71	43	36	40

Publications

Eight easy to read information sheets dealing with key guardianship and administration topics were published to incorporate information from previous publications. Further material from a review of existing community publications will be incorporated into four new Public Advocate Position Statements.

The publications can be made available in other languages upon request.

A brochure designed to better inform Aboriginal people and communities about the role of the Public Advocate and the Guardianship and Administration system was published and distributed widely throughout regional Western Australia.

The popular Enduring Power of Attorney kits, reflecting legislative changes in this area, were updated, as was the Guide for Service Providers and The Private Administrators' Guide, supplied to each person appointed by the Guardianship and Administration Board in this capacity.

Advice and information

The Public Advocate established an improved telephone information service in February 2004 for people inquiring specifically about Enduring Power of Attorney matters. The pattern of calls to the Telephone Advisory Service (TAS) changed as a result of the introduction of the 24-hour EPA Information Line which directs callers from the main switchboard to a pre-recorded message which answers commonly asked questions about EPAs. The strategy was designed to free up staff for more complex enquiries. The EPA line received 269 calls in its first five months of operation. There were 4 363 calls answered directly by a guardian or investigator in 2003/2004, covering 5 295 individual topics. If the TAS and EPA line calls are combined, the increase in activity over the year measures 5.6 per cent. However, it must be acknowledged that some callers to the EPA line were directed at the conclusion of the pre-recorded message to a staff member.

Telephone Advisory Service

	1999/2000	2000/2001	2001/2002	2002/2003	2003/04
Number of Enquiries	3 405	3 584	3 556	4 385	4 363*
Topics of Enquiry	3 879	4 208	4 469	5 021	5 295*

*Excludes 269 calls to the new EPA information line

Topics of Enquiry

	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	Change	
						1 year	4 years
Guardianship	13%	12%	12%	15%	912 (17%)	20%	79%
Administration	20%	18%	18%	21%	1 112 (21%)	6%	46%
EPA	54%	56%	48%	47%	2 469 (47%)	4%	18%
General	13%	14%	14%	17%	802 (15%)	-3%	54%
TOTAL	3 879	4 208	4 469	5 021	5 295	5%	37%

*Excludes 269 calls to the new EPA information line

Corporate Services

The Public Advocate is supported through effective administration, management and information systems and ensures that Government accountability requirements are fulfilled.

The Public Advocate's Corporate Services section undertakes to:

- ▶ 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 Statements.

The following services are supported under the Service Level Agreement:

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

During this financial year the Corporate Services area has been concentrating its efforts on enhancing and fine-tuning the office's statistical information database - Office of the Public Advocate Statistical Collection Access System (OSCAS).

The OSCAS database was comprehensively reviewed and reconfigured to produce reports and information relating directly to the office's Performance Indicators. It is expected that in 2004/05 OSCAS will be enhanced to provide additional information to assist in identifying trends.

The Public Advocate's financial and budgetary information are included in the Department of Justice's appropriation as one output headed "Advocacy and Guardianship Services". As such, the budgetary allocation is included in the Department's Financial Statements and audited by the Office of the Auditor General.

The budget allocation and subsequent expenditure for 2003/04 is as follows:

	\$'000 Actuals 2003/2004	\$'000 Budget 2003/2004	\$'000 Variations from Budget
Total cost of output	2 021	2 032	(11)

Performance Indicator 2003/2004

9.6 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 service by the combined total of advocacy and guardianship services provided. In view of the result, two factors should be taken into account:

- (a) the lack of historical information and trend evidence reflecting the new method of calculation, created difficulty in forecasting the number of applications that could be expected in 2003/04 when a target was set. Consequently the estimation of the target was set at 1,545 advocacy and guardianship case applications. The actual advocacy and guardianship case applications processed was 1,172 – an over-estimation by 373; and
- (b) the business area's performance was under budget in actual expenditure (\$2 021 162) as against budget expenditure (\$2 032 119), an amount of \$10 957 (1%).

Efficiency	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	Target 03/04
The average cost of providing advocacy and guardianship services	\$2 783	\$2 448	\$2 484	\$1 878	\$1 725	\$ 1 314

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 about the Public Advocate can be located at the Department of Justice website at www.justice.wa.gov.au. More detailed information about the Guardianship and Administration system can be found under the heading *Guardianship, Administration and Advocacy*. The Enduring Power of Attorney form can also be downloaded from this website.

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 Guardianship and Administration Board. 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.

In 2003/2004 the Public Advocate received one valid application for information under the *Freedom of Information Act 1992*.

Customers who wish to access information held by the Public Advocate are asked to submit a formal request in writing to

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

If the person lodging the formal request is not satisfied with the decision of the Public Advocate regarding the release of information, a complaint may be lodged with the Information Commissioner.

Ombudsman complaints

The Public Advocate treats all complaints seriously and deals with them promptly to ensure a satisfactory resolution.

If the person making the complaint is not satisfied with the decision of the Public Advocate in relation to the complaint, he or she may lodge a complaint with the State Ombudsman.

In 2003/2004, the Public Advocate received two formal complaints concerning the handling of a single guardianship matter by the Public Advocate. A complaint was subsequently lodged with the State Ombudsman and is currently under investigation by that office.

Disability services

The Public Advocate implemented all the recommendations of a comprehensive Disability Access Audit undertaken in 1998 and continues to monitor barriers that may inhibit equal access to services.

Copies of any Public Advocate brochure or information sheet can be made available in alternative formats upon request.

Languages services

Copies of Public Advocate brochures and information sheets are made available in alternative formats and other languages on request.

To ensure that language is not a barrier to services for customers with limited fluency in English, the Public Advocate subscribes to interpreter services. During 2003/2004 seven on-site interpreters and seven telephone interpreters were used. The translation service was provided in Cantonese, Finnish, German, Italian, Khmer, Macedonian, Polish and Spanish.

The Public Advocate provides access to cross-cultural training for staff.

Customer service

The Public Advocate has undertaken the following measures in 2003/2004 to increase or promote customer service:

- ▶ Developed and published easy to read Information Sheets;
- ▶ Reviewed and revised Customer Complaint and Service Standards Policy;
- ▶ Introduced a new Customer Survey on guardianship services; and
- ▶ Established a specialist information line on Enduring Powers of Attorney, distinct from its Telephone Advisory Service.

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*:

Advertising	Amount (\$)
Marketforce Productions: Recruitment Advertising	2 386
Department of Premier and Cabinet: Intersector – Recruitment Advertising	448
Direct Mail Organisation	0
Market Research Organisation	0
TOTAL EXPENDITURE	2 834

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 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 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 Health and Safety Act 1984
- ▶ The State Supply Commission Act 1991
- ▶ The Financial Administration and Audit Act 1995
- ▶ The Public Interest Disclosure Act 2003

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 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

- ▶ Helping to Protect the Rights of People with Disabilities (general introductory brochure)
- ▶ Information Sheet series:
 - ▶ Introduction to the Guardianship and Administration System
 - ▶ Role of the Public Advocate
 - ▶ Role of the Guardianship and Administration System
 - ▶ Guardianship
 - ▶ Administration
 - ▶ Sterilisation
 - ▶ Public Advocate – Customer Complaints and Service Standards
 - ▶ Enduring Power of Attorney

Enduring Power of Attorney

- ▶ Enduring Power of Attorney 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 2004 Edition (Practice Manual) (\$38.50)
- ▶ Private Administrators' Guide (\$10.00 or free in the first instance to appointed Administrators)
- ▶ The Practical Guide to Enduring Powers of Attorney in Western Australia (Professional Guide) (\$30.25)

Research Reports

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

Video

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

Newsletter

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

Annual Report

- ▶ Annual Report of the Public Advocate