

**PUBLIC ADVOCATE'S
ANNUAL REPORT
1998-99**

**FIFTH REPORT ON THE ACTIVITIES OF THE
OFFICE OF THE PUBLIC ADVOCATE (OPA)**

The Public Advocate is an independent statutory official.

The Public Advocate may raise with the Minister and the Attorney-General any concerns that he may have in relation to the performance of his functions under the *Guardianship and Administration Act 1993* or any other Act.

The Public Advocate is required to submit an Annual Report on the year's activities to the Minister for Human Services by 30 September of each year.

The Public Advocate declares that for the period of this report, no issue of warrant under Section 24(2) of the *Guardianship and Administration Act 1993* has been sought by the Public Advocate.

30 September 1999

The Honourable Dean Brown MP
Minister for Human Services
45 Pirie Street
ADELAIDE SA 5000

Dear Minister

I have the honour to present to you the fifth Annual Report of the Public Advocate, as required by the provisions of section 24 of the *Guardianship and Administration Act 1993*.

This report covers the period from 1 July 1998 until 30 June 1999.

Yours faithfully

John Harley
PUBLIC ADVOCATE

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Public Advocate's report

This is my first report as Public Advocate and comes nearly six months after my appointment.

One of the principal reasons why I accepted the position of Public Advocate was that by reason of my training as a lawyer, my long interest in and involvement with people with disabilities and my concern for the protection of human rights and liberties, I could help make a difference for those with reduced mental capacity.

I am not satisfied that so far I have been able to do so. Much is expected of the Public Advocate but the effectiveness of his or her role is substantially dependent upon the physical resources available to undertake this task.

During my time I have had to come to the difficult decision that individual advocacy, pre-hearing investigations, our education programme and a pro-active approach to my guardianships must all be curtailed – hardly a record to be proud of.

Due to lack of resources and an unprecedented number of guardianships (up to 220 current guardianships during the year), it was my decision that all efforts now need to be directed to first reducing the number of guardianships and, secondly, providing the best quality of guardianship that we are able.

One of the functions of the Public Advocate is to act as the guardian of last resort, ie where there is no family member, friend or carer who could do so, or could do so but have a conflict of interest. It is apparent that many people, whilst fulfilling the criteria to be appointed, are unwilling to accept the responsibility and prefer a detached person like the Public Advocate to make the hard decisions. Some see the Public Advocate as a front door to services. In other cases, I am appointed for reasons that I find hard to discern.

The result is that my office can now do no more than handle guardianships on a reactive basis only. We act as purely surrogate decision makers, reliant upon case managers to provide us with the necessary information upon which to base our decisions. This usually results in decisions being made in a vacuum without us personally knowing the people involved or indeed without us even having met the protected person.

There are many matters of a systemic nature which require my attention. They include:

- the lack of appropriate facilities for adolescents and young adults with a mental disorder but in particular young females;
- the lack of facilities and programmes for brain injured people with violent behaviour;
- the lack of assistance and advocacy for mental health consumers at hearings before the Guardianship Board where applications are made for Community Treatment orders and Continuing Detention Orders;

- the quality and nature of care and management programmes for people subject to detention orders;
- the need for appropriate programmes and the lack of residential and respite care for the intellectually disabled;
- the number of people with a mental disorder who do not receive a case management service;
- the cost of administration of a protected person's estate by the Public Trustee;
- the number of people with a dual diagnosis who do not receive the range of treatment options they require;
- the inadequacy of the consent to medical treatment legislation which results in the inability of substitute decision makers to consent to palliative care; and
- the failure of the mental health system to satisfactorily monitor compliance with Community Treatment Orders.

The number of enquiries we receive is enormous. Many enquirers are seeking explanations regarding Enduring Powers of Attorney, Enduring Powers of Guardianship, Medical Powers of Attorney and Advance Directives. Our efforts to educate the public concerning the use of these various forms of advance directives are made all the more difficult by the multiplicity of forms and rules regarding execution, registration and manner of use. If these 'living wills' are going to attain general community acceptance then some rationalisation of them is a necessity.

My thanks are given to both the Honourable Dean Brown MP and the Honourable Robert Lawson QC MLC, for the ready way in which they make themselves and their officers available to me when I need their assistance. I have no power except the power to report to the Parliament through the Attorney-General. Notwithstanding this, the cooperation of the ministers and their departments to my many requests have always been constructively and helpfully dealt with.

I am indebted to my predecessor Dr John Dawes for the substantial foundations upon which this office was built. All South Australians should feel indebted to him for his pioneering work in establishing it and its reputation.

I also thank Ms Patricia Muncey, the Acting Public Advocate prior to my appointment, and all of my staff. They were a treasure left for me to discover and I continue to appreciate their contribution and commitment.

John Harley
PUBLIC ADVOCATE

OPA as an organisation

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OPA's mission

OPA has as its primary goal the promotion and protection of the rights and interests of people with reduced mental capacity and, where appropriate, their carers.

OPA's authority

OPA takes its legislative authority from the *Guardianship and Administration Act 1993* (GAA) and the *Mental Health Act 1993* (MHA).

What does OPA do?

OPA has a number of key legislative functions:

- we act as guardian of last resort when appointed by the Guardianship Board;
- we may investigate matters where a person who has a mental incapacity is at risk of abuse, exploitation or neglect (including self neglect);

- we provide advice and information about the GAA and MHA in a variety of formats;
- we take an interest in the programmes being offered to meet the needs of people with mental incapacity;
- we undertake systemic advocacy to identify and act on areas of unmet or inappropriately met needs of people with mental incapacity;
- we provide some individual advocacy services through our education, investigation and guardianship work, to speak for and negotiate on behalf of mentally incapacitated persons;
- we support and promote the interests of carers of people who have a mental incapacity;
- the Public Advocate can make recommendations to the Minister for legislative and operational change.

Our efforts in all of these areas are only limited by the resource base that we have been allocated.

What guides OPA in its role?

In carrying out its work, OPA follows the principles in s.5 of the *Guardianship and Administration Act 1993*. In essence, these principles state that when conducting substitute decision making on behalf of a person with mental incapacity, the following should act as the benchmarks or guidelines for best practice in both formal and informal processes:

- (a) *wherever possible, give paramount consideration to what would be the decision of the person in the matter if he or she could make the decision for himself or herself* (this principle is often referred to as the 'substituted judgement principle');
- (b) *ensure the present wishes of the person have been sought and carefully considered;*
- (c) *remember that before the Guardianship Board can make or continue any orders, it has to consider the adequacy of existing informal arrangements for the care of the person or the management of his or her financial affairs and to the desirability of not disturbing these arrangements;*
- (d) *any decision or order made must be the one that is the least restrictive of the person's rights and personal autonomy, whilst balancing this with his or her proper care and protection.*

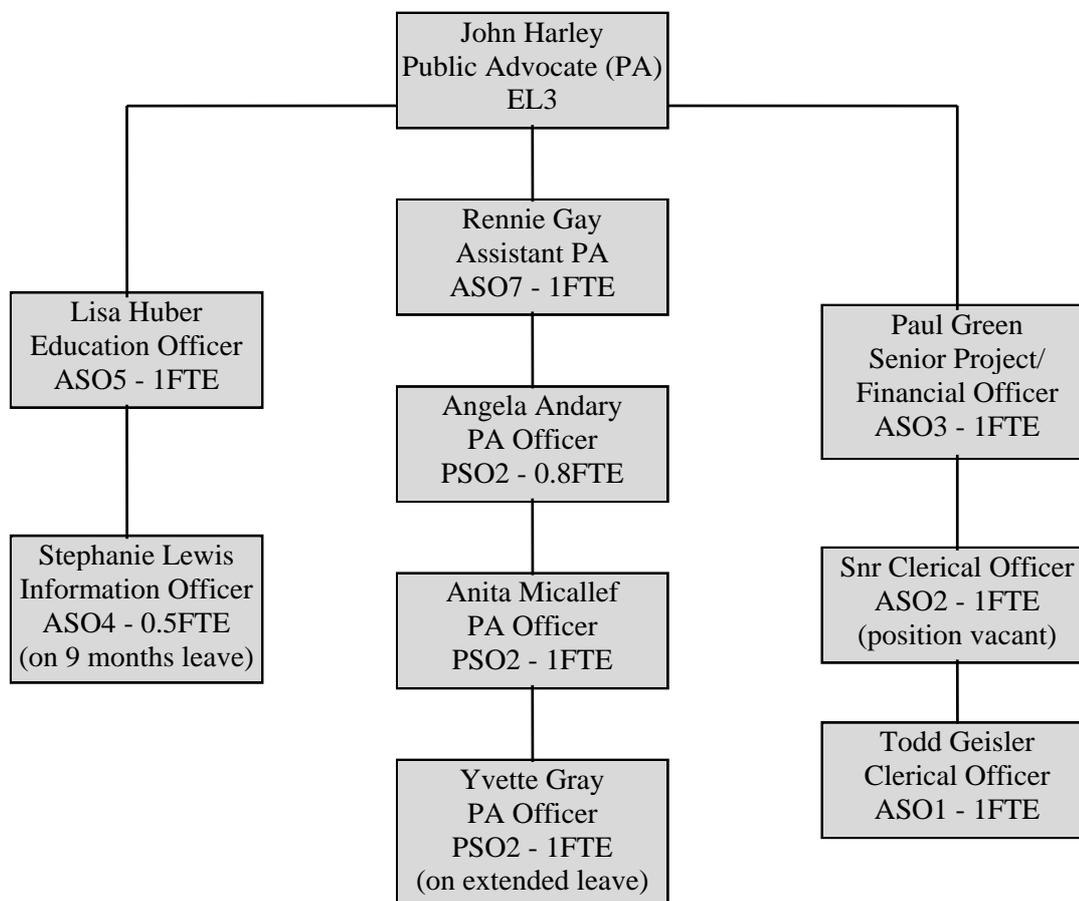
A dentist attending an OPA education session this year gave a good example of the concept of substituted judgement...

I had been providing dental care to a woman for 15 years. She was always very anxious about her treatment and consistently requested that I only ever carry out the minimum amount of dental work required for her care. I complied with her requests, even when I could see longer term advantages for her dental care through more active and preventative treatment.

Unfortunately, my patient developed mental incapacity from Alzheimers Disease and was placed in nursing home care. I continued to provide her dental treatment. When it came time for her checkup, the nurse who accompanied the patient suggested that a range of dental work would be required. Following my examination, I determined the least amount of work necessary to ensure the woman's health and comfort needs were met, thereby providing treatment in a way that was consistent with her expressed wishes when she was fully competent.

OPA organisational structure

As at 30 June 1999



Staffing changes in the 1998-99 period

Public Advocate

Dr John Dawes completed five year term 7 October 1998.

Mr John Harley commenced five year term 18 January 1999.

Assistant Public Advocate

Ms Patricia Muncey Assistant Public Advocate (temporary) 6 April 1998 - 19 March 1999. Acting Public Advocate for three months commencing 15 October.

Ms Rennie Gay returned to substantive position 3 March 1999.

Officers for the Public Advocate

Ms Yvette Gray commenced extended leave 28 May 1999 - ongoing.

Information Officer

Ms Stephanie Lewis commenced nine months maternity leave 28 October 1998.

Senior Clerical Officer

Ms Tamela Scotcher left OPA 17 June 1999 to take up a new position.

Temporary staff

OPA has used agency services to fill positions mainly at ASO1 level to cover annual leave and sick leave - 232 hours in total.

1998-99 highlights

‘At 30 June 1999 the total number of people under the guardianship of the Public Advocate was 191. Over the year, the number ranged from 190 to 220’ (see page 12)

‘Given the number of staff working as guardians, it is clear that the number of allocated cases exceeded the target set’
(see page 13)

‘Of the 241 investigations undertaken by OPA, 69 were conducted pursuant to s.28 of the GAA. This means that a comprehensive report was prepared at the direction of the Guardianship Board to assist them in their decision making.’

‘Of the 69 s.28 reports, 6 were prepared as a result of a sterilisation application to the Board’ (see page 15)

‘...OPA trialed a pilot project aimed at reducing the number of guardianships appointing the Public Advocate as guardian of last resort’ (see page 12)

‘The total number of general enquiries dealt with by OPA in 1998-99 was 3744...an increase of 205 from last year’.

‘A research project was undertaken to evaluate the level of satisfaction amongst agencies and the general public who access the OPA enquiry service’
(see page 19).

‘Total number of OPA education sessions - 52
Total audience - 1552’
(see page 22)

‘OPA completed 81 additional education activities’
(see page 23)

‘OPA consistently achieved a 90% or higher satisfaction rating from participants attending education sessions’ (see page 24)

‘During 1998-99, OPA distributed approximately 10 000 copies of the *Guidelines to assist in determining a person’s competence to make advance directives*’
(see page 27).

Adult guardianship in South Australia

A statutory guardian is a guardian appointed by the Guardianship Board under s.29 of the *Guardianship and Administration Act 1993* (GAA). A guardian makes decisions on behalf of some other person who, because of mental incapacity, has been shown to lack decision making ability in relation to their own health, welfare or lifestyle.

Statutory guardianship describes the control that may be exercised and the protection which may be afforded by a guardian in relation to personal life decisions of a protected person.

Where it is determined by the Board that a guardian is needed and where there is no other suitable person available, the Board may appoint the Public Advocate as guardian of last resort.

Figures

Guardianship numbers are never static. New guardianships are made as others are revoked at review. The number of guardianships being managed by OPA therefore fluctuates.

At 30 June 1999, the total number of people under the guardianship of the Public Advocate was 191. Over the year, the number ranged from 190 to 220.

Staffing

Staffing in the guardianship program was difficult to sustain over what was a year of considerable change. For most of the year, OPA had only one member of staff specifically dedicated to guardianship. The Assistant Public Advocate worked as guardian for around two thirds of her time, and until his retirement in October, the Public Advocate contributed a similar proportion of his time to the program.

In October 1998, OPA contracted an additional member of staff to work as a guardian. Funds were transferred from the

education program for this purpose and a grant from the Disability Services Office allowed the contract to be extended from April to the end of the financial year.

The departure of John Dawes, the Public Advocate, made a significant difference to the capacity of the OPA in this program area and it is not intended that the gap be met by the new Public Advocate, John Harley, whose emphasis will be on advocacy.

In June 1999, the member of staff dedicated to guardianship took extended leave. At June 30, therefore, the program was staffed by the Assistant Public Advocate and a temporary social worker on contract until the end of the month.

Model of guardianship

For several years the Public Advocate has reported that the demand for statutory guardianship has been beyond the capacity of this small office to meet. OPA remains concerned that the service received by people under guardianship is unsatisfactory, and it has attempted during the year to introduce a model of guardianship that would ensure that the most urgent needs of people were met.

Cases were assessed and only allocated if deemed to be high priority. Those not allocated received a lower level of service, that is, staff responded to requests for a decision or advice but did not initiate a service.

For each full time member of staff, 10 priority cases would be allocated. It was intended that this number would absorb half of the officer's time. The residual time was to be spent on unallocated cases, enquiries, and other duties as directed.

During the year, the number of allocated cases fluctuated as cases moved up and down the priority scale. As at 30 June 1999, the number of allocated cases was 43, and that figure was fairly consistent throughout the period.

Given the number of staff working as guardians, it is clear that the number of allocated cases exceeded the target set.

This occurred because of the nature of the cases in which OPA was appointed. Many demanded urgent attention.

Nature of guardianship decisions

Statutory guardians may make a number of decisions on behalf of a protected person. The scope of decisions to be made is determined by the Guardianship Board Order. Most decisions will be made by the delegated guardian, however, there are some decisions which require consultation with peers and which should be ratified by the Public Advocate or Assistant Public Advocate.

These include:

- placement, where there is ongoing conflict or opposition from the protected person or other persons;
- all cases where s.32 is used by the guardian to detain a protected person;
- where s.32 is used by the guardian to direct residence, the officer has discretion whether to consult with peers. However, where there is a need for active enforcement of the decision, the decision should be ratified;
- where a possible outcome of the guardian's decision is that the protected person or other people could be placed at a high level of risk, or where the implementation of the guardian's decision requires that the person's liberty be seriously restricted;
- where the guardian's decision would mean disclosing confidential information or breaching the protected person's privacy;
- where a guardian's decision is to deny or restrict access to person(s) who have been significant in the life of the protected person;
- any decisions regarding health, welfare, accommodation or treatment that have the potential to disrupt the person's cultural or religious affiliations or to contradict their held beliefs;

- treatment and care decisions where there is ongoing conflict or opposition from the protected person or others;
- all end-of-life decisions, including decisions to withdraw, withhold or cease treatment and any other decisions about palliative care;
- treatments for menstrual regulation or suppression and treatment for the regulation of fertility or libido;
- treatments requiring the removal of organs or body parts;
- significant dental procedures (eg full clearance);
- clinical trials or procedures carried out for the purpose of research.

The need for ratification should not be an obstacle to the making of a decision in an emergency.

All emergency decisions made by a delegated guardian are taken to the next guardianship meeting by the delegate for discussion and ratification.

Achievements

Despite difficulties in maintaining the service, there were some significant achievements in guardianship.

Guardianship policy

The policy was developed and finalised in April 1999. The process required the clarification of principles and procedures and the identification of those decisions that warrant ratification by the Public Advocate.

Database

The rudimentary database in use by the OPA was improved to provide more accurate information on cases.

Guardianship model

The development and implementation of a systematic way of dealing with high demand has assisted staff to maintain a sense of control in an area which can easily overwhelm.

OPA thanks Patricia Muncey, Assistant Public Advocate, (6 April 1998 - 19 March 1999) for her work in all of these areas.

Issues for the coming year

Quality of service

For the 1999-2000 year, OPA will have three staff available to work in guardianship and investigations. We have expressed concern in other years that the service we are able to provide as public guardian is deficient. Now, with even fewer staff, the situation has become even more serious.

In guardianship, the system whereby some cases receive a fuller service will be abandoned in favour of a form of guardianship which is responsive rather than active, and bureaucratic rather than personal. OPA does not consider this to be an adequate service - it is the best that can be provided without additional funding.

Reviews of guardianship

A priority for this year will be to review all cases where the Public Advocate has been appointed guardian and to seek revocation in those cases for whom guardianship has ceased to be useful. As the number of cases decline, we hope to be able to provide a more active service to those under public guardianship.

Improving the quality of applications

OPA remains concerned at the number of applications made for guardianship which are poorly considered and where alternatives to guardianship appear to have been given little consideration. OPA hopes to work with the Guardianship Board to further improve the application form and the application process.

Alternatives to public guardianship

OPA is keen to explore and develop alternatives to the appointment of the Public Advocate as guardian and will work to encourage others in the community to take on the guardianship role and promote the use of less formal decision-making processes for those with a mental incapacity.

Guardianship at work

Terry has an intellectual disability and was vulnerable because of the exploitive actions of others. OPA was appointed as his full guardian. Decisions made by the guardian:

- to move Terry from an exploitive environment into a hostel with other young people;
- the authority of guardianship was used to give Terry access to important relationships, previously denied to him;
- the guardian directed that a recreational plan developed by community services be made accessible to Terry.

Outcomes of the guardian's decisions:

- Terry has developed new relationships with peers his own age;
- he has engaged in community activities previously denied to him;
- he now participates in work skills training;
- Terry now has access to his mother.

Investigation of alleged abuse, exploitation and/or neglect of people who have mental incapacities

In the 1998-99 period, OPA conducted 241 investigations pursuant to the *Guardianship and Administration Act 1993* (GAA), down 26 from 1997-98.

Of the 241 OPA investigations, 69 were conducted pursuant to s.28 of the GAA. This means that a comprehensive report was prepared at the direction of the Guardianship Board to assist them in their decision making.

The matters that were investigated usually involved:

- allegations of abuse including financial and emotional;
- allegations of undue influence or duress;
- matters where it is alleged that an advance directive, such as an Enduring Power of Attorney or Enduring Power of Guardianship, was not being managed appropriately.

Of the 69 s.28 investigation reports, 6 were prepared as a result of sterilisation applications to the Board.

The GAA requires the Public Advocate to provide a report on all applications for sterilisation. These reports are very complex and require investigation and research into alternatives to such a major surgical procedure. All sterilisation reports completed in 1998-99 were for young women. These reports can take up to 20 hours to complete.

The task of preparing a report for the Board involves speaking to all interested parties. The process usually begins with talking to the person who is the subject of the application. This allows us to determine the person's level of decision making capacity and to determine their expressed wishes in accordance with the principles of the GAA (see page 9).

An OPA officer then speaks with the applicant and any other relevant family members or service providers. The investigation process can be likened to piecing together a jigsaw puzzle as officers attempt to make sense of a person's life, and what has led to the application before the Board.

In the course of the investigation, in much the same way as the pre-hearing advocacy work (see page 17), OPA may recommend that the application be withdrawn where the grounds are dubious or not clearly established.

In undertaking investigations, OPA believes its reports provide the Board with information that it may not be able to glean at a hearing. This can happen for several reasons. For example, some families report feeling quite inhibited at a hearing. If they have information that may be negative, then families tell us that it is hard to express this in front of the person who is the subject of the hearing. This is particularly so for some people with dementia.

In the early stages of a dementing illness, denial of anything wrong can be a strong feature as the person struggles to maintain a hold on their life. An OPA report, prepared in a sensitive manner while not withholding facts, is an important consideration for families who want the best for their relative.

An OPA report to the Guardianship Board will also explore least restrictive alternatives and proffer alternatives to public guardianship by way of informing family members of the possibility of them becoming guardians. Often applications are made by service providers who consider only the Public Advocate as guardian. In OPA's role as investigator, officers can provide advice and education

to family members regarding this role. Our presence at hearings to advocate on behalf of the person concerned is also part of the investigation process.

OPA also undertakes investigations and provides reports where there are important cultural considerations.

In many cases we have had to provide the Board with extra information on the complexities of some families where mutual obligation is a feature. For example, OPA has provided reports to the Board for people from culturally diverse backgrounds, where a feature has been the intermingling of financial matters with the cultural expectations of the provision of care in old age. These arrangements are acceptable in some cultures - in others they may appear to be exploitative. OPA works collaboratively with multicultural agencies in exploring such issues.

OPA has also advocated for an Aboriginal man to become guardian of his clan brother for health care decisions. This situation arose out of the regime for substitute consent to medical and dental treatment contained in s.59 of the GAA. This section states that where a person cannot consent to his or her own health treatment due to a mental incapacity, *specified relatives* can do so on his or her behalf. Specified relatives include mother, father, daughter, son, spouse, legal defacto, sister, brother, or a person acting *in loco parentis* (this means someone providing day-to-day care and supervision of the person).

However, the substitute consent regime in s.59 did not include the clan brother of the Aboriginal man and, therefore, he could not provide a lawful consent to treatment on behalf of the Aboriginal man without applying for legal guardianship over him.

The way in which the GAA is drafted appears to be skewed towards European lifestyles in such matters. It is well known that Aboriginal culture recognises other relationships as significant, irrespective of blood ties. The Public Advocate is considering this issue, along with other aspects of substitute decision relating to

health care, for proposed legislative amendment.

Investigation at work

Jeff made an application to the Guardianship Board. Jeff believed that his brother Harry, who held an Enduring Power of Attorney for their father, was not acting appropriately in managing their father's finances.

OPA's investigating officer was unable to establish sufficient evidence on which to substantiate Jeff's claim.

In speaking to Jeff, the investigator found that the basis for his allegation was the fact that he felt excluded from decision making regarding his father.

In OPA's experience, such situations can rekindle previous sibling rivalry.

The OPA officer believed that if the situation proceeded to the Guardianship Board, it may cement the emerging conflict between the two brothers.

The officer determined that the father's intention had not been to exclude one of his sons. He had made the decision to appoint Harry as he lived closer to him. In addition, it would not have been the intention of the father for the matter to go to the Board as he had taken the step of executing an Enduring Power of Attorney prior to losing his mental capacity. In advocating for the father, the OPA officer suggested to Harry that, as a sign of goodwill, he provide yearly financial statements to Jeff.

Harry was willing to comply with this arrangement. Jeff felt he was included, and could satisfy himself regarding the way in which Harry was managing their father's affairs. Jeff then withdrew the application and an unnecessary Board hearing was averted.

Report on the trial pre-hearing program

For the year 1998-99, OPA trialed a pilot project aimed at reducing the number of guardianships appointing the Public Advocate as guardian of last resort.

The objectives of the project were:

- to decide which applications were inappropriate and to have those withdrawn prior to hearing;
- to ensure that family members or friends were made guardian where appropriate;
- to support the dismissal of inappropriate applications at hearings; and
- to appeal matters to the District Court where the appointment of the Public Advocate was not “*of last resort*”.

The project consisted of three stages. First the investigation team vetted all applications where no nomination for a guardian was made, or where the Public Advocate was nominated as guardian. In the second stage, various strategies for diversion were discussed, and the third stage consisted of employing diversionary tactics to minimise guardianship appointments.

One full time investigation position was dedicated to undertake the pre-hearing work and to attend Board hearings where guardianship matters proceeded to full hearings.

In total, there were 107 guardianship matters dealt with under the pilot project.

In 36 of these cases (34%), applications were withdrawn prior to hearing. In 28 matters (26%), family or friends were appointed as guardian(s). There were 16 cases (15%) which were dismissed at Board hearings. There were 3 matters (3%) appealed to the Administrative Appeals Court - each of these matters resulted in quashing the appointment of the Public Advocate as guardian. In the 24

remaining cases (22%), the Public Advocate was appointed guardian of last resort.

Of the latter 24 cases, 14 guardianships were considered by OPA as appropriate. The other 10 were considered to be inappropriate. This means that only the last category of 10 cases (ie 9% of the total number of applications) was considered not to have met the aim of this project.

The four principal objectives of the trial pre-hearing project were met with a higher than expected success rate.

Secondary benefits were achieved by applicants gaining a better understanding of the relevant legislation and its practical implications for their client/family members.

A further outcome arising from the project was that by appointing family or friends as guardian, the principles of the GAA (see page 9) were upheld. In addition, the appointment of family or friends as guardian ensures that a protected person receives the individual attention that the current public guardianship system cannot provide.

In summary, the pilot project aimed at reducing the number of inappropriate guardianships appointing the Public Advocate as guardian of last resort, achieved a 91% success rate.

These results are a clear indication that there are various alternatives to a government agency becoming guardian for adults with a reduced mental capacity.

A better understanding and exploration of these alternatives by service providers and family members is likely to result in:

- a reduction in inappropriate applications to the Board; and
- the appointment of more suitable person/s than a statutory official as guardian.

OPA views guardianship as substitute decision making for persons with reduced mental capacity.

When considering guardianship appointments, those deemed as inappropriate are those where no decision needs to be made by the substitute decision maker, or where the appointment of a guardian is intended to keep the subject of the order from abusing alcohol or other drugs.

A guardian can not enforce abstinence from any substance, nor, for instance, can a guardian stop a person from over eating, or make her or him adhere to safe sex practices.

Another example of where guardianship would not be appropriate is to make an order to ensure that an itinerant person stays living in one place to facilitate access to her or him by service providers.

Guardianship should not be considered a vehicle for civil detention except in circumstances where danger to the person has been clearly identified and substantiated.

A person's lifestyle prior to the onset of a mental incapacity has to be the guide for substitute decision making. The loss of mental capacity does not entitle the decision maker to impose her or his values on the person she or he is guardian for.

The loss of mental capacity should not deprive a person of their human rights. Decisions made by others on behalf of and for persons with a mental incapacity have to be in accord with what that person would have wanted for himself or herself and properly recognise his or her right to liberty and freedom.

OPA enquiry service

OPA's expectation that demands on our enquiry system would continue to increase has been realised. Even though the enquiry service was reduced with access to the service restricted to the hours of 10am-1pm, the number of general enquiry calls to OPA has continued to rise. In contrast, the number of staff to deal with this important advisory and filtering function has not changed.

The total number of general enquiries dealt with by OPA in the 1998-99 period was 3744.

In comparison, the total number of enquiries for 1997-98 was 3539. Therefore, despite OPA's efforts to decrease the demands on this service, an increase of 205 enquiries occurred. Restricting enquiry hours probably limited the potential of this increase.

The enquiry service is provided at the expense of work in guardianship, investigation, education and clerical areas. The 1998-99 figure does not represent all calls to OPA, only general calls requiring advice, information or direction from trained staff are included.

A research project evaluating the level of satisfaction amongst agencies and the general public who access OPA's enquiry service was undertaken five months after changes restricting access were made to the service. A random customer satisfaction survey was conducted and the results reported in OPA's newsletter (no 9 - July 1999). The following information provides a summary of the results.

Enquiry service satisfaction survey

In the eighth OPA newsletter (February 1999), OPA announced changes to its enquiry service which were necessary to meet the increasing demands upon staff time. After the restructuring process, OPA

conducted a customer satisfaction survey on calls received over the last twelve months, to determine if the level of satisfaction with the service had diminished, and if this was the case, in what way.

The study was undertaken by Sheila Davies, a social science student on placement with OPA from the University of SA. Sheila randomly selected and surveyed 50 consumers, service providers and carers from across the state.

The survey showed that:

- 76% of respondents rated their satisfaction with the enquiry service between 8-10 out of ten, while 10% of respondents gave OPA 7 out of ten;
- 90% of respondents stated the information provided by the OPA enquiry officer was useful/of assistance;
- 88% of respondents said they understood the issues better after speaking with the enquiry officer;
- 33% of matters dealt with by the service required a Guardianship Board hearing, 53% did not, 4% were likely to require Board hearings, and 10% of respondents were unsure due to varying circumstances;
- 34% of the above respondents felt better prepared for the hearing after speaking to the enquiry officer.

Whilst pleased that our service was rated so favourably, there were also useful criticisms and recommendations made. These included:

- improved access for major hospital and rural workers, many of whom find it difficult to contact the service within the allocated time of 10am-1pm, mainly due to shift work;
- offering rural and remote area callers the opportunity to include their details on OPA's mailing list;

- increased funding for an additional enquiry staff member to allow OPA to expand its service to meet expressed need;
- some respondents expressed frustration at not having their call answered straight away, and at having to wait for the enquiry officer to ring them back;
- two respondents said their calls were not returned.

OPA will continue to assess the way that it can make improvements to its services within the current resource allocation.

Enquiry statistics for 1998-99

Approximately 93% of enquiries to OPA were dealt with via the phone. About 4% (150) were dealt with by appointment where the enquiry officer arranged a meeting.

Currently, about 3% of OPA enquiries are received through correspondence, particularly via the electronic mail system. This form of communication with OPA is expected to increase as email use increases.

Most enquiries are received from the general public and service providers. Only a small proportion of calls are received from clients.

Callers to the OPA enquiry service are generally concerned about a person who has a disability. The types of disabilities (where known) are as follows:

- Dementia - 33% of calls
- Intellectual impairment - 14% of calls
- Mental illness - 29% of calls
- Brain injury - 12% of calls
- Indeterminate - 12% of calls.

Nature of enquiries

The nature of enquiries received by OPA can be divided into eight main groups:

1. Guardianship issues - 991 calls
2. Administration issues - 1191 calls
3. Advance directives - 499 calls
4. Guardianship Board / appeals process - 150 calls
5. Education / information request - 544 calls
6. Mental health issues - 213 calls
7. Medical consent / prescribed treatment - 189 calls
8. Other - 530 calls.

Guardianship issues are those enquiries that concern consent to accommodation, health care, and relationships with others where OPA is not guardian (calls relating to OPA guardianship cases are not included in enquiry statistics).

Administration issues are enquiries concerning property, money and associated legal matters.

Advance directives are enquiries about Enduring Power of Guardianship (EPG), Enduring Power of Attorney (EPA), Medical Power of Attorney (MPA) and Anticipatory Directions (AD).

Outcomes of enquiries made to OPA

Of the 3744 enquiries to the OPA:

- 3621 enquiries were resolved;
- 22 were referred for further investigation;
- 43 were referred to the education officer;
- 10 enquiries were referred to guardianship staff;
- 46 matters were not stated, however many of these make up the additional matters referred to the education officer as education activities.

Examples of enquiries made to OPA

- The husband of a woman detained in Glenside Hospital under the *Mental Health Act 1993* (MHA) wants information about detention orders and the appeals process.
- A social worker from a large metropolitan hospital rings to enquire about the need for Guardianship Board orders in relation to an elderly female patient who will soon be discharged to a nursing home. The patient has a son and a daughter who strongly disagree about the proposed nursing home placement.
- The mother of an intellectually disabled woman rings up and enquires about organising someone else to manage her daughter's financial affairs, as she is ill and unable to continue managing them informally by herself.
- A lawyer rings asking about the process for obtaining Guardianship Board consent for the sale of a house belonging to his client and her husband who has dementia.
- A gentleman who has recently signed an Enduring Power of Attorney rings to enquire whether he needs to execute an Enduring Power of Guardianship or Medical Power of Attorney as well.
- The Director of Nursing of an aged care facility in a large regional South Australian town requests information about who can provide substitute medical consent for a resident with no close family who has recently suffered a stroke.

OPA's community education role

The education function of OPA is managed by the Education Officer (1 FTE), as directed by the Public Advocate. The Information Officer (0.5 FTE) assists the Education Officer and also contributes to the maintenance of the web site and written resources. During 1998-99, the Information Officer took nine months leave (October 1998 - July 1999) and her salary allocation was transferred to the guardianship program during her absence.

The overall objective of OPA's education strategy in 1998-99 was to:

Contribute to ensuring that there will be greater awareness and understanding of the issues and legal implications of adult guardianship, administration and enforced mental health treatment amongst key professionals, service providers and, in a broader context, amongst the general community.

OPA's education objective for 1998-99 was met through its education activities.

These can be divided into:

- education sessions
- planned education activities
- other education activities
- educational resources

(NB The enquiry service also makes a significant contribution in meeting the OPA's education objective.)

Education session (breakdown)

Total number of OPA education sessions in 1998-99 - 52
Total audience - 1552

Professional/service providers (metropolitan)

- total number of sessions - 33
- total audience - 764

Breakdown of total sessions by audience type:

- mental health - 4
- tertiary sector - 8
- aged care - 6

- disability/brain injury - 3
- general service provider (eg major hospital, SAHT) - 10
- indigenous sector - 1
- multicultural - 1

Professional/service provider sessions require OPA to provide guidance on increasingly complex issues relating to mental incapacity, mental illness, adult guardianship and in preparing and making presentations to the Guardianship Board. Workers are keen to develop a greater awareness and understanding of how they can best use the provisions of relevant legislation in an effective and appropriate way, on behalf of the people for whom they have a duty of care.

Carer/consumer (metropolitan)

- total number of sessions - 14
- total audience - 615

Breakdown of total sessions by audience type:

- client/volunteer/carer groups - 8
- general (advance directive focus) - 6

A requirement (beginning in January) for carer/consumer sessions to meet a minimum audience requirement of 40 meant that OPA did not meet every request for presentations as it has done in previous years. However, as a result of implementing the larger group criteria, more effective use of OPA resources resulted as more people were catered for in less sessions.

SA country and rural areas

- total number of sessions - 5
- total audience - 173

Breakdown by location

- Port Pirie and regional centres
- Murray Bridge
- Port Broughton and Yorke Peninsula
- Balaklava
- Riverton

Limited resources in education for OPA meant we could not fulfil our goal of providing better access to information for

service providers, carers and consumers in country and rural areas this year. During 2000, OPA will explore the use of teleconferencing in country areas to go some way towards addressing this issue.

Planned education activities

A series of public forums was presented by OPA to:

- compensate for those wishing to hold an OPA session but did not meet the minimum audience criteria for a separate session, and
- to deal with issues and feedback received by OPA in previous session evaluation.

Three public forums were held, a total of 380 people attended.

Mental competence and adult guardianship
18 Nov 1998
(130 attended)

Human rights and mental health legislation
24 Feb 1999
(125 attended)

Review of the Guardianship and Administration Act 1993 (issues)
12 May 1999
(125 attended)

Other education activities

OPA completed 81 additional education activities in 1998-99. This area of work is constituted by external requests, consultation and advocacy work relating to education. Examples include:

- contribution to interagency policy in relation to mental incapacity;
- preparation of written material for other agency's newsletters and publications;
- media relations (eg radio and newspaper interviews);
- responses prepared for numerous written requests relating to legislative issues;
- information to multicultural agencies regarding OPA resources available in other languages;
- active promotion of EPA and EPG in 12 community publications.

Education resources

OPA maintains stock of 16 different coloured trifold pamphlets which provide information on the GAA and MHA. Five of the most frequently requested pamphlets are available in Italian, Greek and Vietnamese. OPA also produces a number of other written handouts and documents in response to current issues. A list of OPA resources can be found at the end of this report. The OPA web site - www.opa.sa.gov.au - contains many of OPA's resources and was 'visited' 2521 times during the 1998-99 period.

Did OPA meet its education goals in 1998-99?

OPA undertook planning regarding its education role and projected performance for the 1998-99 period, in June 1998. The following table is a summary of OPA's performance in meeting agreed performance targets. (Note: OPA does not have a separate education budget.)

Education sessions	Objectives 1998-99	Performance indicators 1998-99	Outcomes 1998-99
Quantity	<ul style="list-style-type: none"> to reduce the number of talks to counteract the loss of the Information Officer position, whilst remaining responsive to community demand for this service 	<ul style="list-style-type: none"> OPA will restrict talks to approx. 40 education sessions education sessions will be provided to a minimum of 1300 people 	<p>met - 52 sessions provided, this is down from 97 last year</p> <p>met - 1552 people attended OPA education sessions</p>
Quality	<ul style="list-style-type: none"> content of education sessions will be current and relevant to participants, thereby increasing awareness of the provisions of the GAA and MHA 	<ul style="list-style-type: none"> a content satisfaction rating recorded on evaluation by participants of 70% or higher will be achieved a three month follow up of randomly selected participants to assess satisfaction rate and use of information 	<p>met - the OPA has consistently achieved a 90% or higher satisfaction rating in evaluations from participants attending education sessions</p> <p>not met - this task will need to be carried over into the 1999-2000 period</p>
Timeliness	<ul style="list-style-type: none"> to react in a responsive and timely fashion to requests for OPA education services 	<ul style="list-style-type: none"> 100% of requests for OPA to provide a speaker will be responded to within 24 hours in 100% of cases where OPA cannot meet the request, alternatives will be offered (pamphlets, public forum information etc) 	<p>met</p> <p>met</p>
Planned education activities			
Quantity and quality	<ul style="list-style-type: none"> to achieve quality in the following activities: <ol style="list-style-type: none"> the 'Biannual OPA Public Forum Series' completion, printing and distribution of the 1997-98 Annual Report production and distribution of the September, January and June editions of the OPA newsletter completion of the 'Train the Trainer' kit and video for the Alzheimers Association (AlzAss) completion and distribution of the 'Guidelines to assist in determining a person's competence to make advance directives' 	<ul style="list-style-type: none"> completion of the five nominated activities in the 1998-99 period OPA will compare its performance in annual reporting with other public sector reports the AlzAss will have a 48% or higher usage of the 'Train the Trainer' kit amongst regional leaders the OPA will distribute a minimum of 2000 copies of the 'Guideline' to service providers and authorised witnesses 	<p>all met</p> <p>met - submitted 1997-98 report to the SA Annual Report Awards for State Public Sector Agencies. Feedback included '...a very well written report which complies with all criteria'</p> <p>met - the AlzAss reports that all leaders use the kit in their dementia care programs</p> <p>met - OPA distributed approximately 10 000 copies, demand for this resource far exceeded expectation</p>
Timeliness	<ul style="list-style-type: none"> to complete activities within the expected timeframe 	<ul style="list-style-type: none"> planned education activities will be completed by June 1999 	<p>met</p>

Other education activities			
Quantity	<ul style="list-style-type: none"> to reduce the number of responses provided to external requests for consultation, in light of diminished resources 	<ul style="list-style-type: none"> education staff will provide a response (written or other) to 45 requests, maximum 	not met - 81 responses were provided, 3 more than last year! The importance of this work in the area of systems advocacy made reduction very difficult
Quality	<ul style="list-style-type: none"> to provide OPA input which will inform the work of others in regards to issues of mental incapacity 	<ul style="list-style-type: none"> all requests will have relevance to the area of mental incapacity a 60% satisfaction rating from a random survey of external agencies who have used the service 	met - all requests were screened to assess relevance not met - due to the 36 responses provided over the agreed limit, will need to be carried over into 1999-2000
Timeliness	<ul style="list-style-type: none"> to respond within an appropriate timeframe 	<ul style="list-style-type: none"> appropriate external requests will be acknowledged within one week of receipt a written response, where required, will be provided within four to six weeks of initial contact 	approximately 94% met approximately 94% met
Education resources			
Quality	<ul style="list-style-type: none"> to provide accessible and accurate written information which can be easily distributed upon request 	<ul style="list-style-type: none"> all OPA pamphlets will be reviewed and revised if necessary prior to every reprint for content accuracy 	met - and on two occasions, OPA pamphlets were referred to the Crown Solicitor for endorsement
Timeliness	<ul style="list-style-type: none"> to meet requests for pamphlets and other OPA material in a timely fashion 	<ul style="list-style-type: none"> all requests for OPA resources will be dispatched within four working days 	approximately 90% met , the OPA is aware of occasions when depleted stocks and delays in printing has resulted in lateness of delivery

Education planning for 1999-2000

Consistent pressure on OPA due to the guardianship workload far exceeding original expectations means that OPA's educative role is being eroded over time in order to meet demands in other areas, including the enquiry service, and the review of guardianship cases. The challenge for OPA in the 1999-2000 period with regards to education will be to strike a balance between allocated resources, demands from internal and external sources, and quality productivity.

During 1999-2000, planned education goals for OPA include:

- the management, completion, printing and distribution of the 1998-99 Annual Report;
- presentation of a paper to the National Palliative Care Conference in Brisbane

(October 1999) on the SA experience of health care advance directives;

- continuing to provide education sessions to service providers and the wider community in metropolitan and country areas;
- continuing to promote the use of advance directives to people who have mental capacity, to plan ahead and be less reliant upon government intervention (ie the Guardianship Board) later on in their lives;
- further development of mechanisms by which the Public Advocate can report back to service providers and key stakeholders regarding OPA's performance;
- continuing to develop, produce and distribute the biannual OPA newsletter;
- continuing to provide a range of ways in which OPA information can be accessed (eg written material in English and other languages, web site,

electronic mail etc), and maintaining the standard of quality of this information.

A number of planned activities including:

- a scheme to have relevant agencies appoint liaison officers who OPA would train and support to provide information to members of the various agencies on guardianship matters; and
- the development of a 'Medical Consent Manual' which OPA had intended to write and distribute to all hostels, nursing homes, hospitals, doctors and dentists to assist in navigating the law on the subject;

will be abandoned until OPA can gain some control over the number of guardianship appointments made to OPA by the Guardianship Board. It is expected that the Education Officer will need to contribute to this objective, thereby reducing education activities overall.

How does OPA contribute to systemic advocacy?

Promotion of advance directives

All education sessions provided by OPA actively promote the use of advance directives, that is, Enduring Power of Attorney (EPA), Enduring Power of Guardianship (EPG), Medical Power of Attorney (MPA) and Anticipatory Directions (AD). These directives are executed under different pieces of legislation, and require the completion of different documents. This issue is widely criticised amongst the general community who find the experience of negotiating their way through the legalese and options regarding advance directives, confusing. OPA staff spend significant time both in education sessions and through the enquiry service explaining the options as clearly as possible.

OPA has provided editorial material and arranged advertising in 12 different community publications to promote the wider use of EPA and EPG.

Funding for this work is taken from the small profits made from the sale of EPG and EPA 'Do It Yourself' kits. The kits are produced as a joint venture involving OPA, Legal Services Commission SA, Lands Services Group and Information SA. Information SA manages the generated revenue.

Raising awareness of the issue of competence

Last year, OPA commenced a project on the issue of mental competence in regards to the execution of legal documents. This was in response to increasing concern about legally binding advance directives being made by people unable to fully

understand the nature and effect of the document they were signing.

The result of this project was the development and distribution of a new OPA resource, *'Guidelines to assist in*

determining a person's competence to make advance directives'. Demand for this new document far exceeded OPA's expectation.

During 1998-99, OPA distributed approximately 10 000 copies of the *'Guidelines to assist in determining a person's competence to make advance directives'*.

Destinations for this resource included:

- 1200 copies were distributed with 'The Last Testament' to legal practitioners;
- 2000 copies were distributed to medical practitioners through the Divisions of General Practice;
- newly appointed Justices of the Peace who receive a copy of the guidelines with their orientation package; and
- other key service providers and community members.

Forum Towards Prevention of Abuse of Older South Australians

The *Forum Towards Preventing Abuse of Older South Australians* (FTPAOSA) was formed in February 1999 by:

- OPA
- Public Trustee
- SA Police
- Aged Rights Advocacy Service (ARAS)
- Legal Services Commission of SA (LSC)

These key agencies believe the incidence of abuse, neglect (including self neglect),

and exploitation of vulnerable people in our society is an issue for public awareness and discussion.

Whilst this group recognises that not all older people are 'vulnerable', we know that a significant proportion of financial abuse allegations relate to older persons. The organisations making up FTPAOSA deal with such matters on a daily basis. The issues are often of a complex nature

and may involve entrenched family conflict.

In addition to seeking funding from a variety of sources, the FTPAOSA also held a public seminar on the issue of financial abuse against older persons during *National Law Week* and as part of the *International Year of Older Persons*.

The seminar was greatly assisted by the *Institute of Justice Studies* which provided both the venue and morning tea.

The seminar: 'Issues of financial abuse against older persons in our community' held on 19 May 1999, was opened by the Minister for Aging and Disability Services, the Hon Robert Lawson QC.

The Public Advocate chaired the seminar and contributed to the program content. 150 people attended, and evaluations from participants indicated that 92% of respondents rated the seminar as 'most useful'. Other feedback clearly demonstrated an ongoing demand for such events.

Further work for the FTPAOSA arising from the seminar will include the development of clear, readable information about the role and responsibilities of an attorney acting under a Power of Attorney.

Law Week 1999

OPA was once again a key contributor to the success of National Law Week this year.

OPA administrative and human resource functions

For the last two years, the Education Officer has chaired the SA Law Week - country sub-group. This role involves working with other agencies to encourage and promote events to be held in non-metropolitan areas during Law Week. Such collaborative work assists OPA by raising the profile of the office and by further disseminating an understanding of OPA's role and responsibilities to other service providers.

Advocacy Training Program

As reported in last year's Annual Report, this nationally accredited training program was developed by representatives from a range of advocacy services and employee organisations in response to a deficit of training for advocates. The program provides a consistent standard of competencies that trained advocates are expected to meet in the industry.

The advocacy training modules which the OPA contributed to in 1998-99 are:

- **Advocacy and people with a disability; and**
- **Advocacy and Indigenous people in Australia.**

All modules in the series are being used throughout the TAFE and University sectors, and have a section which deals specifically with the GAA and MHA along with general issues relevant to people who have mental incapacity. The program is auspiced by Disability Action Inc.

FOI statement

OPA received one new application under the *Freedom of Information Act 1991* during 1998-99. A previous application was brought forward from 1997-98. Both applicants were responded to within 15-30 days. Fees were waived on both counts due to financial disadvantage.

The two applications relate to the same case. OPA withheld the requested information due to concerns about the way it may be used. In addition, the nature of the requests were felt to require an unreasonable diversion of OPA resources.

However, an external review of the OPA's determination was undertaken by the Ombudsman. As a result, all files will be made available in this case to both applicants. This will require the employment of additional temporary staff to enable adequate supervision.

OPA staff development and training

A total amount of \$5194 was spent on staff development during the 1998-99 financial year. In carrying out their legislative responsibilities, OPA staff identify key areas to pursue in their professional development. All OPA staff are encouraged to attend a staff development program or course annually. A budget is reserved for this purpose each financial year.

The range of activities funded by OPA for staff in 1998-99 were:

- LAAMS Group, 'Elder Law' Seminar
- Women's Forum Seminar
- Forensic Psychiatry and Psychology Seminar
- University of SA management symposium

- HIDC 'Self Management Course'
- Helen Mayo House Research Fund Conference
- Community Information Networking Conference

- Adelaide Institute 'Editing Techniques'
- Legal Services Commission Training
- 'Masculinity and Grief' workshop
- Seminar 'The Ageing Brain'
- Australian Institute of Management, 'Edward de Bono'
- National Palliative Care Conference
- National Guardianship and Administration Conference.

Leave management

OPA averaged 5 sick leave days per FTE for the 1998-99 financial year.

Occupational health and safety

OPA is committed to the policies and best practice principles of the SA Department of Human Services in relation to the occupational health and safety of the working environment.

Even so, the impact of a relentless number of guardianship appointments to the PA has resulted in varying levels of worker dissatisfaction.

Primarily, this is due to the way in which OPA has had to deal with its guardianship appointments at a distance - sometimes without being able to gather all relevant information, and often without having had the opportunity to meet the person concerned. This is because of the high number of cases and too few staff.

There were three incident reports made in the 1998-99 period. One of these incidents resulted in a Workcover claim.

Consultancies

There were no consultancy services purchased by OPA in the financial year ending 30 June 1999.

Year 2000 compliance report

OPA has been through the process of checking each computer within the organisation to ensure that they are Y2K

compliant. Software from the Department of Human Services (DHS) was installed in each computer. This program gave a report as to whether OPA computers would operate normally from 1 January 2000.

All computers passed the test. Current software in use by OPA for our document

client database is *Office Professional 1997* and *Foxpro*. This software is also Y2K compliant. OPA has not identified any anticipated problem that could arise for which it is not prepared come 1 January 2000. All testing was done in the suggested format provided to OPA by the DHS. OPA was refused additional funding to assist it in this Y2K activity.

OPA Financial performance

The table below is a summary of the OPA expenditure for the 1998-99 financial year.

OPA is funded by the DHS, Disability Services Office (DSO) Central Office. OPA is required to report its budget figures to the DSO every month.

The DSO reports on the financial activities of OPA as part of its annual financial statements.

For this reason, OPA is not required to give a full detailed financial audit report in our Annual Report.

Description	Actual	Estimate	FTEs	FTEs
	1998/99	1999/2000	1998/99	Estimate 1999-2000
<p>OPA's policy is for all accounts to be paid within one week of receiving them.</p> <p>Salaries, Wages and Allowances</p> <p>generated, IDSC send the cheque to the vendor who has created the invoice. The OPA believes this system meets its policy</p>	552,238	560,000	9.5	9.5
<p>Telephone</p> <p>The account is paid when the next processing run is done each Wednesday.</p>	15,204	16,300		
<p>Purchase of Computer Equipment</p> <p>Accounts are processed by Intellectual Disability Services Council (IDSC)</p>	9,396	7,000		
<p>Purchase of Office Equipment</p> <p>Occasional delays due to a backlog at IDSC have resulted in OPA's performance in this area to be affected on some</p>	4,260	4,900		
<p>General Expenses</p>	133,689	133,000		
Total	710,787	720,300	9.5	9.5

Glossary

Administration is a way of legally appointing a responsible person to make financial, property and related legal decisions on behalf of a person who cannot make these decisions in a considered way because of reduced mental capacity. An Administration Order is made by the Guardianship Board and gives a person, such as a family member, friend, or an organisation, the authority to make decisions regarding financial matters.

Appeal rights exist against all Guardianship Board orders. Some orders require leave (permission) to appeal, others have an appeal process as of right. Appeals against Guardianship Board orders are made to the Administrative Appeals Court, a division of the District Court.

Board order refers to the official legal determination of the Guardianship Board.

Enduring Power of Attorney is a legal document that a person makes when he or she has mental capacity, to appoint someone trusted to make all, or some, financial decisions should capacity diminish in the future. This arrangement is made by private citizens and does not involve the Guardianship Board.

Enduring Power of Guardianship is different from a Enduring Power of Attorney. Enduring Power of Guardianship is a legal document that a person makes when he or she has mental capacity, to appoint someone trusted to make health and lifestyle decisions should capacity be lost in the future. Like Enduring Power of Attorney, this arrangement is made by private citizens and does not involve the Guardianship Board. Enduring Guardianship provides the means to alert others to your personal wishes when you can no longer speak for yourself.

Guardianship is a way of legally appointing a substitute decision maker for someone who cannot make all, or some, personal decisions due to reduced mental capacity. A Guardianship Order is made by the Guardianship Board and gives a person (the guardian) the authority to make decisions in health and/or lifestyle matters. Where it is necessary to appoint a guardian, and there is no family member or friend suitable or willing to be appointed, the Board will appoint the Public Advocate as guardian of last resort.

Interested parties refers to any person who has a personal or professional interest in the outcome of an application to the Guardianship Board.

Mental incapacity is defined in the *Guardianship and Administration Act 1993* as meaning:

‘the inability of a person to look after his or her own health, safety or welfare or to manage his or her own affairs, as a result of-

(a) any damage to, or any illness, disorder, imperfect or delayed development, impairment or deterioration, of the brain or mind; or

(b) any physical illness or condition that renders the person unable to communicate his or her intentions or wishes in any manner whatsoever’.

Protected person is the person for whom a Board order has been made.

Review refers to the Guardianship Board’s capacity to reassess a prior decision in the event that new information or a change in circumstances becomes evident.