



Attorney General's
department of nsw

Office of the

PROTECTIVE COMMISSIONER

ANNUAL REPORT

2004

Office of the Protective Commissioner

VISION:

A just and inclusive community in which the rights and interests of people with decision-making disabilities are promoted and protected.

MISSION:

To ensure that people with decision-making disabilities receive the best possible financial management services and their rights and interests are protected.

VALUES:

Honesty and **integrity** in all that we say and do.

Accountability to our clients and the community for our actions and the way we manage resources.

Respect for the rights and diversity of individuals. We value the work and input of our staff and the participation of our clients and stakeholders.

Equity in the way we deliver our services and manage and develop our staff.

Innovation and **creativity** in the way we work.

Achieving our goals through effective **leadership** and **teamwork**.

CHARTER:

The Protective Commissioner is a statutory officer empowered under the provisions of the Protected Estates Act 1983 to:

* manage the affairs of those persons who are not able to manage their own affairs and whose affairs have been formally committed to management by

order under the Protected Estates Act or Guardianship Act 1987

* authorise and direct the performance of the obligations and duties of private managers appointed by the Supreme Court or the Guardianship Tribunal

WHO WE ARE:

The Office of the Protective Commissioner (OPC) makes substitute financial management decisions for people with disabilities. Some people are not able to manage their own financial affairs and need someone with legal authority to make important decisions on their behalf. The Protective Commissioner is often appointed as a person's financial manager because

HOW TO CONTACT US

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there is no one else able to assist. The Protective Commissioner also provides authority and direction to private persons who take on the role of financial manager. The financial affairs of 8,026 persons are directly managed and OPC directs and authorises 1,767 private financial managers.

OUR CLIENTS

People whose financial affairs are managed by OPC have a disability that affects their capacity to make decisions. This decision-making disability may be due to a mental illness, brain injury, intellectual disability, psychiatric disability, developmental disability, dementia or other disability.

ACCOUNTABILITY

OPC is part of the NSW Attorney General's Department. The Protective Commissioner reports to the Attorney General via the Director General.

Letter to the Minister

The Hon. Robert John Debus, MP
Attorney General
Minister for the Environment
Parliament House
SYDNEY NSW 2000

Dear Attorney,

I am pleased to present to you the Annual Report of the Protective Commissioner, together with associated financial statements, for the year 2003-2004.

It is submitted for presentation to Parliament and is prepared as required by the *Protected Estates Act 1983*, the *Annual Reports (Statutory Bodies) Act 1984* and the *Public Finance and Audit Act 1983*.

Yours sincerely



Ken Gabb
Protective Commissioner

Contents

1. REVIEW OF OPERATIONS	4
2. SUMMARY OF PERFORMANCE	6
3. OUR ORGANISATION	7
4. OUR PEOPLE	14
5. OUR CLIENTS	17
6. PERFORMANCE OF PROGRAM AREAS:	
I. Financial and Asset Management	19
II. Private Management Support	22
III. Funds Management	23
IV. Community Education and Advocacy	25
7. OUTLOOK	27
8. APPENDICES	28
9. FINANCIAL STATEMENTS	43
INDEX	66

1. *Protective Commissioner's Review of Operations*

INTEGRATED PLANNING

OPC continued in 2003-2004 towards a planned, integrated approach to the management of our clients' financial affairs. In recent years OPC has established a Transition team to manage the initial contact with clients and the development of a basic management plan. This was enhanced, where appropriate, by the inclusion of a financial plan developed by OPC's Financial Planning Branch.

This year OPC took further steps forward in two key areas. Our Client Asset Management Branch was expanded to improve the management of significant client assets such as real estate. As a result of this expansion OPC has commenced the development of client asset management plans. Although the program is still in its infancy, I envisage that asset management plans will form a valuable tool in better managing the identification, recording, valuation and insurance of major client assets. Where appropriate, asset management plans will also include provision for the repair, maintenance and replacement of those assets.

Towards the latter part of 2003-2004 OPC also commenced work on the development of disability plans for our clients. OPC's Disability Advisory Service has for many years provided advice to our estate managers on the needs of our clients and how those needs may be best met, having regard to the client's assets and liabilities. This advice will now be formalised in a disability plan. I envisage

the plan will encompass advice on the type and extent of the disability; whether the disability is likely to be of a temporary or permanent nature; if temporary, the likelihood of the client regaining capacity; the level of consultation that is appropriate; the scope OPC has to assist a client regain management of their affairs and other issues relating to our clients' needs.

Much work has and will continue to be done in the year ahead to enable OPC plans to be electronically recorded and integrated into OPC's Client Information System.

MANAGEMENT OF CLIENT INVESTMENTS OUTSOURCED

After an exhaustive tender process the management of \$1.2 billion in client investments has been outsourced to the private sector. BNP Paribas will act as master custodian, whilst State Street Global Advisers will manage the investments. Client investments will be managed on what is called an Index basis. In short, OPC has instructed its manager to be an investment market follower rather than attempt to anticipate movements in share, property and bond markets. This approach is more conservative than that adopted by some other funds managers but OPC believes it best meets the needs of our clients.

NEW FEE STRUCTURE

OPC introduced a new fee structure from 1 October 2003 in accordance with the Protected Estates Regulation 2003. Although it may not be immediately apparent, the new fees are fairer and more transparent than the ones they replaced.

This is primarily because in times past OPC used a provision in the Protected Estates Act (s.55) to transfer money from the common fund to help pay for its services. It is not anticipated this will be the case in the future and clients will now receive full value for their investments. OPC will instead rely on public funding provided by the NSW Government (\$9 million in 2003-2004) and management and investment fees directly levied on the value of client estates and investments.

REVIEW OF THE PROTECTED ESTATES ACT 1983

During 2003-2004 OPC reviewed the Protected Estates Act in consultation with a wide cross section of stakeholders.

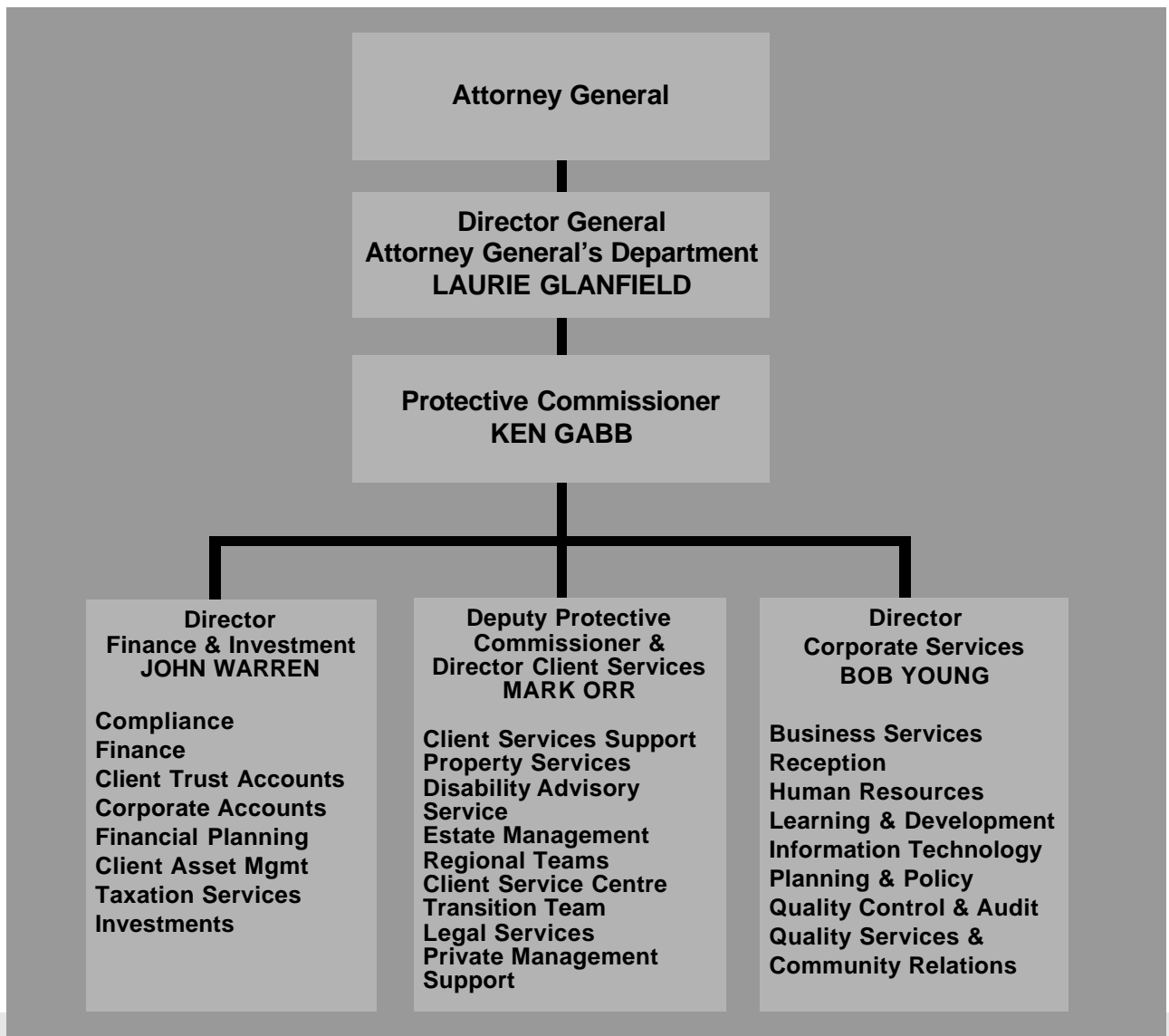
Recommendations for reform were forwarded to the Attorney General's Department in June 2004 for its consideration. I am hopeful our efforts and the efforts of those who helped us will bear fruit in 2004-2005 with an improved legislative framework within which to provide our services.

2. Summary of Performance

Challenges	Achievements	Future directions
Review of the Protected Estates Act 1983	Discussion paper forwarded to stakeholders and posted on website. Proposals for change forwarded to Attorney General's Department.	Amendment of Protected Estates Act.
Improve management of assets and increase risk management program for those assets	Review of all property data completed. Review of share assets completed. Review of general assets commenced. Work commenced on developing specifications to enhance IT asset management capacity Specifications are under review.	Development of integrated electronic asset management plans.
Development of Administrative Decisions Tribunal (ADT) decision review framework	Policies and procedures developed and introduced.	Amendment, as required, by review of ADT judgments.
Implementation of Independent Pricing and Remuneration Tribunal (IPART) review	New fee structure introduced. Clients, staff and other stakeholders informed of the new fees.	Adjustment of fee structure, as appropriate.
Identify and develop expertise in key areas	Six specialist positions created for purchases, sales, leases, insurance, construction contracts and investments external to the common fund.	Continuation of program in targeted areas.
Investment service for privately managed funds	Brochure developed and released. Limited marketing undertaken.	Marketing to newly appointed Private Managers.

3. Our Organisation

Established under the *Protected Estates Act 1983* the Office of the Protective Commissioner is part of the Attorney General's Department of the NSW Government. The Protective Commissioner reports to the Attorney General via the Director General.



3. Our Organisation Cont'd

CORPORATE GOVERNANCE

RISK MANAGEMENT AND INTERNAL CONTROL

OPC's Audit Committee monitors progress in the implementation of both Internal and External Audit recommendations. Internal audits are conducted on behalf of the Attorney General's Department by Deloitte Touche Tohmatsu. External audits relate to the work of the NSW Audit Office including its statutory annual audit of OPC. The Manager, Quality Control & Audit provides the Audit Committee with a monthly report

on the implementation of audit recommendations.

The Audit Committee also monitors progress of related initiatives as part of OPC's Fraud and Corruption Prevention Strategy.

INTERNAL AUDIT

During 2003 - 2004, five Internal Audits were addressed by management.

As at 30 June 2004 the status of implementation of the audit recommendations was as follows:

Audit	No. of Recommendations	No. Implemented	No. Overdue	No. Not yet due
Client Financial Statements	1	1	0	0
Fraud Prevention Procedures	17	17	0	0
Network Security	3	3	0	0
Non-Investment Assets	3	3	0	0
Post-implementation review of Client Information System (CIS)	13	11	2	0
Travel Expenses	14	7	7	0
Totals	51	42	9	0

This represents an implementation rate of 82% of due recommendations, with 18% of recommendations overdue at 30 June 2004. Audit advice has been incorporated into the development of OPC policies including File Reviews, Cash Handling, Mail Processing, Suspense Accounts, and Fees. OPC also keeps abreast of new policies, guidelines, standards and legislation which affect a diverse range of related issues such as Conduct and Disciplinary standards, Protected Disclosures, Records Management, Auditing and Investigation standards, and Fraud Detection techniques.

The Manager, Quality Control & Audit has implemented a program of monthly analysis of several aspects of Estate Management, including File Reviews, Duplicate Payments, Depletion Rates, Overdrawn Accounts, New Vendors, and Client Aliases. The Quality Control & Audit branch has responsibility for the management of the Security and Access to CIS, OPC's principal client information system, and the management of access privileges to the Internet for all OPC users. Analysis of Internet use by staff is conducted monthly.

In this financial year the internal audit reports showed that there is room for improvement in several areas, but all major issues were addressed promptly. The Internal Auditors have recommended significantly reduced internal audit focus on OPC in 2004-2005, resulting in a saving of approximately \$40,000 in fees.

OPC has applied the Audit Office Fraud Prevention model against its Fraud Prevention Plan. OPC's self assessment suggests an effective control regime (37/50). This is a

significant improvement from July 2001, when OPC's Fraud Control capability was rated as ineffective (16/50). OPC continues to aim to achieve a "Highly Effective" rating (41/50) under the Audit Office scheme.

With the recruitment of a Senior Quality Control & Audit Officer in February 2004, OPC extended coverage of fraud detection strategies across the Client Services Division and Finance & Investment Division.

OPC has addressed all outstanding issues identified through external audits and continues to receive unqualified reports from the Audit Office. A qualified report means that auditors have identified issues which impair their ability to state that the accounts represent a true and fair commentary on our business. None of these issues has been raised by the Audit Office.

COMPLAINT MANAGEMENT

OPC welcomes feedback from clients and other interested parties. Clients and stakeholders are encouraged, and have a right, to express their views about the organisation and the service it provides. On an individual basis this provides an opportunity for people to have issues related to their particular circumstances reviewed. At an organisational level the information received helps OPC to develop ways to improve the service it provides to clients. We aim:

- * to provide easy accessibility for clients and other stakeholders who want to give feedback;
- * to have complaints and reviews of decisions resolved in an appropriate and timely manner; and

3. Our Organisation (Corporate Governance Cont'd)

* to provide statistics on the nature of the feedback received for evaluation and future planning purposes.

Clients and stakeholders can provide feedback in a variety of ways that best suit them. They may telephone or write to:

- * their Estate Manager or Private Management Support Officer;
- * OPC Regional Managers; or
- * OPC's Manager, Quality Service & Community Relations.

Alternatively, they may complete a "Have your Say" brochure or seek referral to an appropriate advocacy organisation.

Listed below is a comparative summary of the feedback received through the centralised complaint handling mechanism for the past three years:

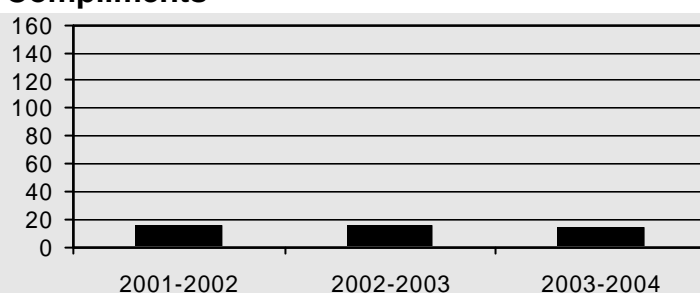
TYPE OF FEEDBACK	2001-2002	2002-2003	2003-2004
Compliments	16	16	15
Complaints	90	106	151
Reviews of Decision	41	25	27**
Ministerial Representations	82	53	64*

*Of the 64 ministerial representations received in this financial year 44 were complaints, 16 related to requests for information or clarification of the role of the Office and the remaining 4 were requests for reviews of decision.

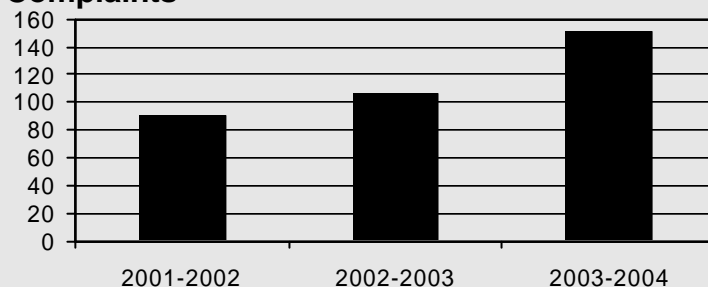
**Of the 27 internal reviews carried out by OPC, 15 were upheld, 9 were varied and 3 were overturned.

Internal reviews of decision conducted by OPC met the requirements of the Administrative Decisions Tribunal Act, 1997. Of the 27 internal reviews conducted by OPC as at 30 June, 6 have

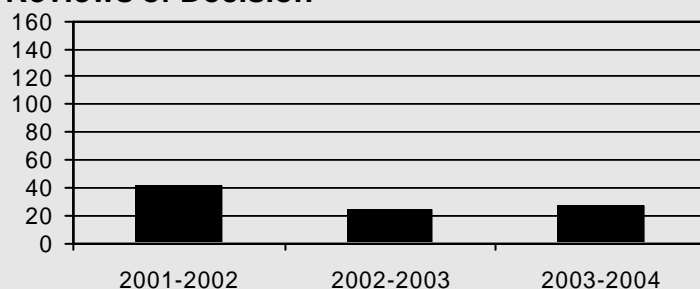
Compliments



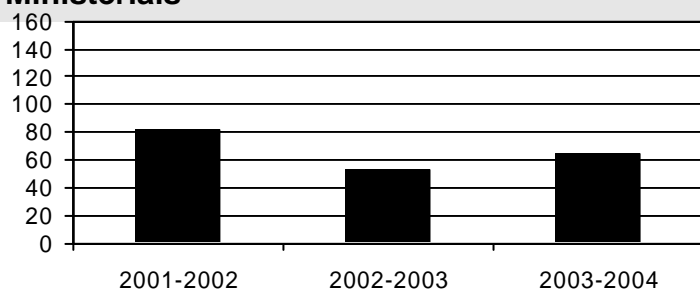
Complaints



Reviews of Decision



Ministerials



proceeded to the Administrative Decisions Tribunal (ADT).

While there is a significant increase in the number of complaints registered this year, the nature of the complaints has not changed significantly. The most common complaint related to the role of OPC, with 24% of complaints having this issue as an element. When complaints about the role and appointment of OPC are combined, they account for 35% of the complaints received, compared with 34% in 2002-2003. Unhappiness with a decision made by OPC accounted for 14% of complaints and 13% of complaints related to timeliness.

OPC believes the increase in complaints registered is a reflection of the efforts made by the Office to capture more information from clients and stakeholders about OPC. These efforts have included providing clients with more information about their right to make a complaint or have a decision reviewed in light of the recent changes enabling the ADT to carry out reviews of OPC's decisions. The more feedback that OPC can get from clients the better placed it will be to address issues about service delivery.

The complexity associated with making substitute decisions in the overall best interests of clients cannot be overstated. OPC is only appointed in situations where a person is at risk of exploitation, abuse or neglect and there is no suitable alternative available. The expectations that some people may have about the role of OPC can sometimes lead to dissatisfaction. For

example it is not uncommon that OPC is appointed in situations where there is extreme family conflict and one or more sides of a family are looking to OPC to take legal action against another family member.

While OPC takes action on behalf of clients in circumstances where there is sufficient evidence of past exploitation or misappropriation of a person's funds, this is not possible or desirable in many cases because the evidence is often an unsubstantiated allegation by one family member against another. Once OPC is appointed however it is possible to ensure that a client's estate is protected and their funds are used for their benefit.

Underlying the majority of complaints received by OPC are issues such as a lack of funds in a client's estate which prevents the approval of requests for extra money; and extreme family conflict with opposing ideas about what is in the overall best interests of the client. In these situations, no matter what decision is made, at least one of the parties is likely to feel aggrieved. However, OPC recognises that improvements can always be made and initiatives, such as clearly communicating reasons for decisions and community education can have a positive impact.

COMMITTEES AND BOARDS

ADVISORY COUNCIL

OPC's Advisory Council was established to provide high level independent advice and comment on policies, service delivery and strategic direction. Meetings of the Advisory

3. Our Organisation (Corporate Governance Cont'd)

Council are held quarterly. Members of the Advisory Council are:

Andrew Buchanan

Chairperson of the Disability Council of NSW, the official advisory body to the Government on all disability issues.

The Hon. Brian Cohen

A Barrister for 24 years, appointed Master of Supreme Court of NSW in 1976 and Justice of that Court in 1983. Formerly Judge of the Protective Division of the Supreme Court.

Lloyd Draney

Retired Head of AMP Foundation. Previous AMP appointments include Group Financial Controller and Investment Manager. Also a Board member and Chairman of the Finance Committee of the Sunnyfield Association.

Phillip French

A lawyer with extensive background in advocacy for people with disabilities. Currently Executive Officer of People with Disabilities Australia Inc. and Private Guardian to two men with intellectual and other disabilities.

Jenny Green

Former head of TAFE Disability Services and now Lecturer in Management at School of Management, University of Technology, Sydney.

Beverley Mackie

Mother of a client of the Protective Commissioner.

Janet Meagher, AM

Research & Rehabilitation Services Manager, Psychiatric Rehabilitation Association. Board member of the World Federation for Mental Health.

Linda Monaghan-Nagle

Lecturer and Field Educator at University of Western Sydney researching Aboriginal peoples' access to disability services.

Chris Sidoti (until August 2003)

A lawyer who has undertaken long-standing work on human rights and social justice issues. Human Rights Commissioner from 1995 to 2000.

Barbara Squires

Member of the NSW Committee on Ageing; Director, Centre on Ageing, Benevolent Society and President of the Australian Association of Gerontology.

Roger Stancliffe, Ph.D.

Senior research fellow at the Centre for Developmental Disability Studies. Over 23 years experience in the developmental disability field.

INVESTMENT ADVISORY COMMITTEE

This Committee advises the Protective Commissioner on issues associated with the investment of clients' funds. During the year the Committee provided advice on the outsourcing of client investment funds. OPC is represented on the Committee by the Protective Commissioner and the Director, Finance and Investment. External members are:

Alan Bertram

31 years experience in investment activities for AMP until retirement in 1999. Has undertaken advisory and consultative roles for AMP and Medibank Private.

Susan Doyle (representing the Attorney General)

34 years experience in the funds management industry, including in Commonwealth Funds management, Suncorp Investments and NRMA Investments.

Ted Gifford

41 years experience in a wide range of investment activities culminating in a senior management position in AMP until retirement in 2002.

Tim North (representing the NSW Treasurer) Principal Advisor, Financial Liabilities, NSW Treasury

INTERAGENCY FORUM

OPC has an interagency forum to foster better relationships and communication with the disability sector. The forum discusses developments within OPC and provides an ongoing mechanism for feedback.

The forum comprises representatives from disability groups that share a client base with OPC. The forum provides opportunities for members to raise difficulties their constituents may be experiencing in dealing with OPC and solutions can be discussed. The membership consists of representatives from the following organisations:

- [redacted] Original Medical Service
- [redacted] Original Mental Health Service
- [redacted] Aged Care Rights Service Inc
- [redacted] Alzheimer's Association of NSW
- [redacted] Association of Relatives and Friends of the Mentally Ill Inc (ARAFMI)
- [redacted] Brain Injury Association of NSW
- [redacted] Carers NSW
- [redacted] Council for Intellectual Disability (NSW)
- [redacted] Disability Council of NSW
- [redacted] Intellectual Disability Rights Service
- [redacted] Mental Health Advocacy Service
- [redacted] Mental Health Coordinating Council Inc
- [redacted] Multicultural Disability Advocacy Association of NSW
- [redacted] People with Disabilities (NSW) Inc
- [redacted] Schizophrenia Fellowship of NSW

OTHER COMMITTEES

Significant external committees with representation from OPC during the year were:

- [redacted] Australian Association of Social Workers:
Brain Injury Interest Group, Mental Health Workers Interest Group and Aged Care Workers Interest Group
- [redacted] Australian Guardianship and Administration Committee
- [redacted] Department of Community Services
(Metropolitan South East Area) Disability Practice Review Group
- [redacted] NSW Law Society Ethics Committee - Disability Issues Sub-Committee
- [redacted] Regional Implementation Committees (for boarding house reform)

4. Our People

NUMBER OF STAFF BY CATEGORY

		30 June 2004			30 June 2003			30 June 2002		
		Men	Women	Total Staff	Men	Women	Total Staff	Men	Women	Total Staff
Permanent	full-time	92	122	214	94	118	212	94	109	203
	part-time	3	14	17	3	7	10	4	8	12
Temporary	full-time	10	16	26	4	21	25	5	12	17
	part-time	1	1	2	nil	2	2	nil	3	3
Contract	SES	2	nil	2	2	nil	2	2	nil	2
	non-SES	nil	nil	nil	nil	nil	nil	nil	nil	nil
Training		nil	nil	nil	nil	nil	nil	nil	nil	nil
Casual		nil	nil	nil	nil	nil	nil	1	nil	1
Total Employees		108	153	261	103	148	251	105	132	237
Employment Agency Assistance				12			21			29
Total		108	153	273	103	148	272	105	132	266

There is a total of five Aboriginal staff members employed in OPC. Of these, 2 are employed in identified positions.

EXCEPTIONAL MOVEMENTS IN SALARIES AND WAGES DURING 2003-2004

No Public Sector Award Salary increase took place during the year.

PERSONNEL POLICIES AND PRACTICES

OPC staff members are employed under the Public Sector Employment and Management Act, 2002 and the Crown Employees (Public Service Conditions of Employment) Award 2002.

OPC is an administrative unit of the Attorney General's Department. All staff have online access via an Intranet to a comprehensive range of Personnel Policies. OPC staff can access a range of flexible working arrangements to accommodate disabilities or work/life balance. In 2004-2005 OPC's payroll services will be integrated with those of the Department as part of a Shared Corporate Services initiative. All staff will then have access to Electronic Self Service to enable online application and approval for leave, overtime and payment of allowances.

The Employee Assistance Programme offers a confidential counselling and trauma

debriefing service to staff.

INDUSTRIAL RELATIONS POLICIES AND PRACTICES

No industrial dispute resulting in work stoppage occurred during the year. However, the Public Service Association imposed bans on work allocation issues in Estate Management and notified the Industrial Relations Commission of a dispute. Both the bans and the dispute were subsequently withdrawn by the PSA. The work allocation issues are to be examined as part of a Treasury sponsored review of the operations of the OPC to be conducted by RSM Bird Cameron.

OPC continues to meet regularly with staff to discuss industrial matters via a Joint Consultative Committee comprising representatives of the Public Service Association, OPC Workplace Committee representatives and OPC management.

WOMEN

OPC had 153 female staff on 30 June 2004 and continues to support the Spokeswomen's Program.

OPC had one Spokeswoman in the reporting period, who continues to participate in the Attorney General's Department (AGD) Spokeswomen's Program. She joined in all the activities and lunchtime forums organised for women across AGD during the year. OPC women had the opportunity to participate in activities to increase exposure to opportunities for their career and development.

Many OPC women also attended sessions for International Women's Day. The speakers focused on women and their place in the world through having speakers from the Asylum Seekers Centre, (organised by the Office of the Public Guardian Spokeswoman) and a speaker on the use of humour as a mechanism in health, well being, change and creative problem solving.

In addition, OPC's Spokeswoman was available to female staff to answer queries that range from their career development to balancing home and work life.

TRAINING

The ongoing professional development of OPC staff is particularly important to enable OPC to meet and manage the expectations of clients and other stakeholders. The Learning and Development (L&D) Unit has continued to implement OPC's Learning & Development Plan 2002-2004. The Plan links the Challenges and Outcomes of the Attorney General's Department's Corporate Plan and OPC's Business Plan.

Training provided by the L&D Unit in house:

Decision Making & the Protective Commissioner

Total of 111 staff trained in a range of topics in this area.

Real Estate

Total of 14 staff trained in specific aspects of this topic and how it relates to our clients.

Legal issues

Total of 37 staff trained

4. Our People Cont'd

CIS (Client Information System)

Total of 113 staff trained in a range of aspects of the system and 212 staff trained in File Note enhancements

Other

Government Payments	12
Workplace Bullying - who Wins?	9
Security Features tour	29
Office Tour	18
Residential Aged Care	27
Conduct Becoming (Code of Conduct)	29
Vision (Financial Package)	23

The Unit also co-ordinated training in:

Disability Awareness	30
Client Service Skills	245
Budgeting in the NSW Government Context	35
Financial planning at the OPC	27
Microsoft Applications training	40

OPC staff attended courses conducted by the NSW Attorney General's Department. These courses covered client service, the Department, and some professional development areas.

Lunchtime seminar series

The lunchtime seminar/professional development series has continued to be well attended this financial year. Staff attended presentations on:

Royal Ryde Rehabilitation	22
Administrative Decisions Tribunal	41
Anti Discrimination Board	21
NSW Ombudsman	27
Independent Commission Against Corruption	21
Department of Ageing and Disability	22

Department of Housing	17
Social Security Appeals Tribunal	21
Care Decision-Making & Management after Traumatic Brain Injury	14
Powers of Attorney Reform	24

HEALTH AND SAFETY

The Occupational Health and Safety Committee, which consists of elected employee representatives and management representatives, continued to meet on a regular basis. The Committee was established in 1992 and undertakes a range of activities to promote staff awareness in OHS and risk management. A number of workplace inspections were undertaken and improvements to work practices recommended.

5. Our Clients

NUMBER OF CLIENTS

Persons who have OPC as their manager		
30/06/2002	30/06/2003	30/06/2004
7,546	7,793	8,026
Person who have private managers		
30/06/2002	30/06/2003	30/06/2004
1,583	1,720	1,767
Total No. of Clients		
30/06/2002	30/06/2003	30/06/2004
9,129	9,513	9,793

Persons whose estates are no longer under management (including deceased persons) but whose estates have not yet been finalised.

Persons who had OPC as their manager		
30/06/2002	30/06/2003	30/06/2004
1,089	1,517	572
Person who had a private manager		
30/06/2002	30/06/2003	30/06/2004
260	385	417

Persons for whom OPC fulfils the role of banker*

30/06/2002	30/06/2003	30/06/2004
1,005	930	908

* These persons have developmental disabilities and reside in centres operated by the Department of Ageing, Disability and Home Care. OPC does not formally manage their financial affairs.

NEW ORDERS MADE BETWEEN 1 JULY AND 30 JUNE

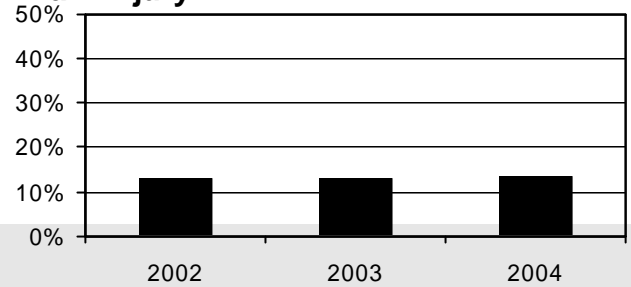
Persons who have OPC as their manager			
2002-2003		2003-2004	
No.	%	No.	%
946	69	981	69.2%
Persons who have private managers			
2002-2003		2003-2004	
No.	%	No.	%
420	31	437	30.8%
Total Orders Made			
2002-2003		2003-2004	
1366		1418	

5. Our Clients Cont'd

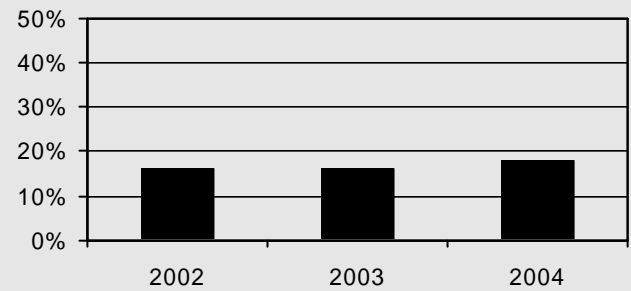
ORDER SOURCE

2002-2003		2003-2004	
Number	% of new orders made	Number	% of new orders made
Supreme Court			
50	3.5%	64	4.5%
Guardianship Tribunal			
1,063	78.2%	1,097	77.4%
Magistrate Orders			
53	3.8%	116	8.2%
Mental Health Review Tribunal			
200	14.5%	141	9.9%

Brain Injury

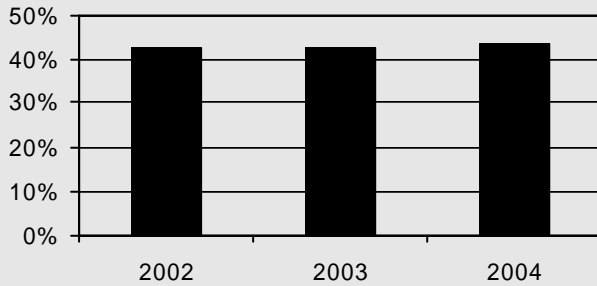


Developmental disabilities

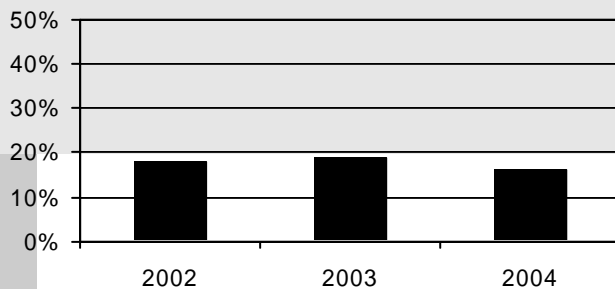


TYPES OF DISABILITY

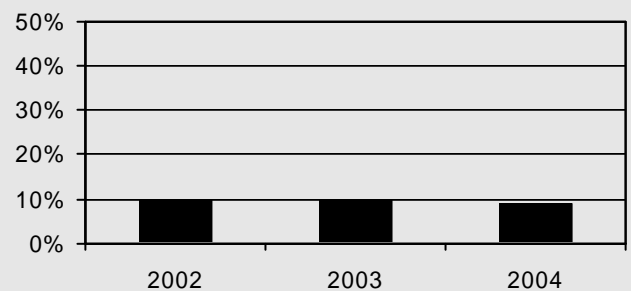
Psychiatric



Dementia and age-related disabilities



Other*



*Other includes clients with severe physical disabilities

6. Performance of Program Areas

The objectives of OPC are delivered through a number of services grouped into the following programs:

- * Financial and Asset Management
- * Private Management Support
- * Funds Management
- * Community Education and Advocacy

(I) FINANCIAL AND ASSET MANAGEMENT

Key Activities: Managing the property, personal finances and legal matters of clients.

ASSET AND LIABILITY STATEMENT

OPC has developed an Assets & Liabilities report. The report provides a summary of assets and liabilities, including insurance details for each client's estate. The report was developed for two reasons. Firstly to assist in implementing the Memorandum of Understanding we established with the Public Trustee's Office (PT). Estate Managers (Finalisation) are able now to print the document and use it to report an estate to the PT. Secondly the report will also be the basis of a comprehensive summary of estates to be provided to each client and/or their families next year.

AUTHORISED VISITOR RECRUITMENT

Authorised Visitors provide an independent reporting function to the Protective Commissioner on client needs and circumstances. Interview processes to select Authorised Visitors were completed this financial year. These processes were also used to 'accredit' disability professionals to

prepare reports for OPC's Legal Services Branch. Each selection panel consisted of managers from Estate Management Branch and Disability Advisory Service (DAS) as well as an independent external disability professional.

DAS subsequently hosted a very successful induction day for all Authorised Visitors on 6 February 2004. Just over 30 Authorised Visitors attended and were provided an overview of the operations of the office and changes that have occurred since the last induction day.

BUDGET BOOKLET

OPC has developed a booklet to explain budgeting and saving to clients. This booklet has been developed with the assistance of a Speech Pathologist from the Spastic Centre. It was endorsed by the Director General of the Department of Ageing, Disability and Homecare, People with Disabilities Australia and The Spastic Centre.

CLIENT ASSET MANAGEMENT BRANCH

During 2003 - 2004 OPC re-organised some responsibilities in relation to the management of client assets. Last financial year, two new branches were created: Client Asset Management Branch and Client Investment Management Branch. With the resignation of the Manager, Client Asset Management, OPC brought these branches together and transferred the Property Services Unit into the branch. In that way OPC has centralised related activities - e.g. building works and maintenance of clients' real property, investments outside the Common Fund and insurance. OPC believes this will lead to

6. Performance of Program Areas

(Financial and Asset Management Cont'd)

some significant synergies within that area.

As part of OPC's strategy of asset planning for all OPC clients, an Asset Management Plan for clients, who hold assets, was introduced. This will enable more effective management of each client's assets.

There are approximately 2,000 real estate properties managed by OPC and they were all revalued in 2003-2004. The valuing of client properties by OPC occurs every three years, with the last valuation of client properties occurring in 2001. The cost of this valuation has been met by OPC.

CONTINGENT CARER LIABILITIES

OPC calculates the contingent liabilities in relation to carers employed by clients every six months. To date we have simply added that information as a note to the client's liabilities listed in OPC's Client Information System. In order to ensure these liabilities can always be met, OPC intends to establish a separate carer liability account. Each account will be linked to the relevant client's account.

CONVEYANCING PANEL

The performance of conveyancing panel firms was reviewed during the year and OPC extended the contracts of all four firms for a further twelve months.

ESTATE MANAGEMENT BRANCH SERVICE STANDARDS

The recommendations of the review of the service standards in Estate Management Branch were considered and as a result a

number of changes to the standards were made. We consulted once more with peak disability groups, advocacy organisations and government agencies. The new (updated) Service Standards in Estate Management were approved in December 2003. These standards replace those published in 2001.

FILE CLOSURE IN LEGAL SERVICES BRANCH

Legal Services Branch streamlined its processes during the year. OPC decided that a special fee (currently \$140 per hour) will only be charged for the work of Legal Services Branch in extraordinary circumstances, i.e. the management fee OPC now charges will cover the costs of the vast majority of the work of the branch. Improvements have also been made in keeping estate managers up to date about what is happening in legal matters.

FINANCIAL PLANNING

OPC's Financial Planning Branch develops and regularly reviews financial plans for clients. More than \$919 million has been invested on behalf of OPC clients in line with these plans.

GRIFFITHS V. KIRKEMEYER PAYMENTS

The first request for the review of an OPC decision by the Administrative Decisions Tribunal involved the issue of a voluntary payment for past care of a client, usually referred to as a Griffiths v. Kirkemeyer payment. This review raised a question about the authority of the Protective Commissioner to approve such payments. The matter was referred to the Supreme

Court Protective List Judge, Windeyer J who, on his own motion, referred the matter to the Court of Appeal for decision. The Court of Appeal has subsequently affirmed OPC's power to make these payments.

NEW FEE STRUCTURE

In accordance with the Protected Estates Regulation 2003 OPC introduced a new fee structure from 1 October 2003. Fee revenue collected since the introduction of the new fee structure has been in line with the projected revenue.

NEW LOCATION OF OUR SHOP FRONT OFFICE - 144 CLARENCE STREET

OPC's street level office will move to 144 Clarence Street Sydney in early 2004-2005 following the expiry of our lease at 51 Druiitt Street Sydney.

PROPERTY PROTECTION PLAN PILOT

In June 2004 OPC commenced a 6 month trial of a Property Protection Plan with a major real estate agent franchise. The trial will ascertain whether real estate agents can be an effective (in costs and outcomes) and efficient way of managing client properties. Three districts in New South Wales were selected for the trial. A local real estate agent will inspect each participating property to ensure that it is being maintained in a satisfactory manner and bring any required repairs to the attention of OPC.

If the trial proves successful for OPC and clients, tenders will be called to expand the scheme to all real property assets under OPC's management. The cost of the trial is being met by OPC.

TAXATION SERVICES

During 2003-2004 the number of income tax returns and activity statements lodged by OPC on behalf of clients increased by over 18%. After a fall in 2002-2003 in the number of land tax matters managed, 2003-2004 saw increased activity levels.

NO. OF INCOME TAX RETURNS & ACTIVITY STATEMENTS LODGED		
2001-2002	2002-2003	2003-2004
2,500	3,024	3,576

NO. OF LAND TAX MATTERS MANAGED		
2001-2002	2002-2003	2003-2004
138	82	153

TELSTRA

During 2003-2004 OPC streamlined the payment of Telstra accounts. OPC now receives one aggregated account which lists each client's service details. (In the past OPC received thousands of bills each three months.) Unless an account has been excepted from the process, payment is automatic. As part of the new approach Telstra has agreed to review the service of each client and advise OPC if a more effective service is available.

6. Performance of Program Areas

(Financial and Asset Management Cont'd)

TRANSACTIONS FOR CLIENTS

A summary of the key operational activities appears in the table below, with comparative volume over the last 3 years:

Activity

Payments (\$million)		
2001-2002	2002-2003	2003-2004
614	637	433
Receipts (\$million)		
2001-2002	2002-2003	2003-2004
360	522	578
No. of transactions completed		
2001-2002	2002-2003	2003-2004
980,000	1,159,000	1,370,250

This is the first full reporting period during which the unit registry and Austraclear have been operating.

The volume of unit registry transactions is shown below:

Applications (\$million)	246
Redemptions (\$million)	122
No. of applications	1,530
No. of redemptions	1,216

OPC's Austraclear system (a financial markets electronic settlement and safe custody facility) processed 390 transactions.

Austraclear:	
Inflows (\$billion)	4.293
Outflows (\$billion)	4.206

Total value of transactions this reporting period: \$9.878 billion.

(II) PRIVATE MANAGEMENT SUPPORT

Key Activities: Authorise and direct persons appointed to manage the financial affairs of people with disabilities.

PRIVATE MANAGEMENT INVESTMENTS

Following the changes to the Protected Estates Regulation OPC is now able to invest funds on behalf of protected persons who have private managers. Private managers can now also access our financial planning service. In 2003-04 OPC's Financial Planning Branch developed financial plans for privately managed protected persons involving funds in excess of \$12 million.

REGIONAL VISITS

Regional visits remained an important feature of the Branch this year. Areas visited this year included Yass, Wollongong, Wagga Wagga, Mid North Coast, Central Coast, Newcastle/Hunter, Wollongong, as well as metropolitan areas outside the CBD. In total we had face to face meetings with 95 private managers.

RESPONSE TO ISSUES RAISED IN THE PERFORMANCE AUDIT OF PRIVATE MANAGEMENT SUPPORT

This year Private Management Support Branch underwent a Performance Audit by our internal auditors, Deloitte Touche Tohmatsu. One of the recommendations of the audit was that the branch more clearly define its role. The branch had previously

developed a role statement which had not been published. The role statement has now been completed and made available to private managers, the Guardianship Tribunal and staff. The statement outlines the parameters of the service offered by OPC to private managers.

OPC has also established a more strategic approach to the assessment of annual accounts submitted by private managers. This will generally be based on the size and complexity of the account and assist OPC focus its resources on those matters which require closer scrutiny or assistance.

CHANGES TO THE ACCOUNTS REQUIRED FROM PRIVATE TRUSTEE COMPANY OR PUBLIC TRUSTEE

Given their role is governed by legislation, OPC has changed the accounting requirements where the Public Trustee or a private trustee company is the manager of a protected person. The annual reporting requirements now require these entities to submit :

- * a list of the protected person's assets and liabilities; and
- * the organisation's internal ledgers setting out the income and expenditure in the estate.

SIMPLIFIED ACCOUNTS FOR PROTECTED PERSONS ON PENSIONS

In an effort to decrease paperwork OPC also introduced a simplified version of the accounts to be submitted by private managers for protected persons receiving Australian Government pensions or the equivalent.

(III) FUNDS MANAGEMENT

Key Activities: Investment of clients' funds held within OPC's Common Fund.

The Common Fund represents funds owned by clients whose financial affairs are directly managed by OPC, as well as funds held as security and owned by protected persons whose affairs are managed by a private manager. Transactions and balances in the Common Fund are detailed in the Financial Statements section of this report. The Common Fund consists of the Access Fund, which is best described as an interest bearing working account for client transactions, and diversified investment funds.

All the Investment Funds comprising the Common Fund have been outsourced to State Street Global Advisors and are managed on an indexed basis to the relevant benchmarks specified below.

ACCESS FUND

The Access Fund invests money on behalf of clients in cash and short term money market securities. Interest is calculated on the closing daily balance of the account and paid at the end of December and June.

The accounts of clients that comprise this fund are similar to standard retail bank accounts, through which regular transactions occur - including receipt of monies, payment of accounts, issuance of cheques and direct crediting.

6. Performance of Program Areas

(Funds Management Cont'd)

DIVERSIFIED INVESTMENT FUNDS

OPC's funds management program allows clients' investments to be diversified to reflect the amount of money available for investment and

their individual needs. OPC offers clients seven investment funds plus interest bearing working accounts.

The funds are: -

Investment Fund	Fund Profile	Fund Objective
Australian Cash Fund	To provide clients with a low risk investment of capital and ready access to their funds. Classed as a low risk investment.	To achieve returns comparable to bank deposit and cash management trusts in the short-term money market.
Australian Cash Plus Fund	To provide clients with a relatively low risk investment with potentially higher returns obtained by investing in bonds. Classed as a low to medium risk investment.	To achieve a more attractive income stream over the medium term than could be expected from investing solely in cash related products.
Australian Fixed Interest Fund	To provide clients with a diversified portfolio of Australian bonds. Classed as a medium risk investment.	To achieve a more attractive income stream than could be expected from investing in predominantly cash related products, with the possibility of capital gain over the medium to longer term.
Australian Share Fund	To provide clients with exposure to a diversified portfolio of companies listed on the Australian Stock Exchange. Classed as a medium to high-risk investment.	To achieve medium to long term capital growth with a modest level of income.
Australian Listed Property Securities Fund	To provide clients with exposure to a diversified portfolio of property trusts or property related companies listed on the Australian Stock Exchange. Classed as a medium to high-risk investment.	To achieve capital growth and some income over the medium to longer term.
International Bond Fund	To provide clients with exposure to a diversified portfolio of international bonds across a range of countries. Classed as a medium risk investment.	To achieve medium to long term capital growth and income returns.
International Share Fund	To provide clients with exposure to a diversified portfolio of international shares across a range of countries. Classed as a high risk investment.	To achieve medium to long term capital growth.

The structure of the new investment funds is similar to that offered by other fund managers and provides clients with access to a full range of asset classes, allowing for appropriate diversification and risk

management to be undertaken.

The performance of the OPC funds against benchmarks is shown below:

OPC Investment Fund	(%)	Benchmark	(%)
Fund Performance			
Access Fund	4.86	UBS Australian 90 day Bank Bill Index	5.30
Australian Cash	4.98	UBS Australian 90 day Bank Bill Index	5.30
Australian Cash Plus	3.71	UBS Australian 0-3year Composite Bond Index	4.26
Australian Fixed Interest	1.92	UBS Australian All Maturities Composite Bond Index	2.33
Australian Share	21.10	S&P/ASX 200 Accumulation Index	21.61
Australian Listed Property Securities Fund	16.66	S&P/ASX 200 Listed Property Trust Accumulation Index	17.24
International Bond	2.92	JP Morgan Global Bond (ex-Australia) Index	3.40
International Share	19.06	MSCI World (ex-Australia) Index	19.38

Fund performances (client returns) are net against benchmarks. OPC charges an investment fee of 0.5% of the value of the investment. The above schedule of performance has been confirmed by an external actuary at OPC's request.

(IV) COMMUNITY EDUCATION AND ADVOCACY

Key Activities: Community education, advocacy for services to meet the needs of our clients and protection and promotion of the rights and interests of people with decision making disabilities.

This year the OPC continued to provide information to its stakeholders and the community through education sessions and participation in a number of community and government events. Presentations were given to many different organisations including the Department of Housing, Centrelink, the

Salvation Army, Mid North Coast Welfare and Pension Officers Network and a variety of aged care and mental health services.

OPC participated in variety of events including the Ability Incorporated Advocacy Conference in Nambucca Heads, the NSW Neighbour Aid Association Conference, and the Broken Hill Ag Fair. Attendance at the Ag Fair in May was a pre Law Week activity held in co-operation with the local court at Broken Hill, Law Access, the Office of the Public Guardian and Community Justice Centres.

6. Performance of Program Areas

(Community Education and Advocacy Cont'd)

Thirty four (34) community education sessions were presented with 464 people participating, with an additional 600 people provided with printed materials at the Broken Hill Ag Fair in May. These community education sessions were conducted across the Sydney Metropolitan area and in a variety of regional areas including Maitland, Laurieton, Wauchope, Port Macquarie, Broken Hill Wollongong, Nambucca Heads, Bowral, and Terrigal

COMMUNICATION

New Fees

As part of the introduction of a new fee structure all OPC's newsletters to clients, service providers and private financial managers provided details and examples of the new fee structure. Additionally OPC conducted fees information sessions for specific organisations including the Guardianship Tribunal of NSW. Following the release of the new fee structure in October 2003 twenty six OPC community information sessions provided details and examples of the new fees structure.

Newsletters

OPC continued to produce its newsletters to keep our clients and stakeholders informed of changes. The newsletters are for clients of the OPC (OPC News), for service providers (Connect) and, for private financial managers (Managing).

OPC Web Site

The OPC web site is part of the Attorney Generals Department's Lawlink. The site at www.lawlink.nsw.gov.au/opc was

regularly updated during the year to provide more current and relevant information, including the highlights of last year's Annual Report. A new OPC web site within Lawlink has been created to improve accessibility and usability for OPC's stakeholders. The new site has been tested by stakeholders and will be launched in the 2004-2005 financial year.

Administrative Decisions Tribunal

OPC conducted 27 internal reviews of decisions in the reporting period. These internal reviews met the requirements of the Administrative Decisions Tribunal Act, 1997. Six proceeded to the Administrative Decisions Tribunal (ADT) for external review.

The ADT upheld OPC's decision in 5 cases and a stay has been granted in relation to part of the other decision.

Although only 6 matters were decided by the ADT in the reporting period, the fact that OPC's decisions have been affirmed in all but one case, which is awaiting decision, is an indication that OPC's decision making processes are sound.

Advocacy

OPC commenced consultations to clarify the advocacy role it could and would undertake on behalf of clients during the reporting period. OPC will continue to use opportunities presented by reviews of legislation and public inquiries to influence systemic changes for the benefit of our clients. To reinforce this within OPC and to stakeholders, this Program Area will be

7. Outlook

renamed as "Community Relations" in ensuing years.

Mental Health Act

OPC made a submission in response to the first discussion paper for the review of the Mental Health Act 1990. This follows OPC's submission to the Inquiry into Mental Health Services two years ago. The discussion paper dealt with information privacy and carers.

Youth and Community Services Act

OPC made a submission to the Department of Ageing, Disability and Homecare regarding the review of the Youth and Community Services Act 1973.

PROGRAM PRIORITIES

Financial and Asset Management

- * Electronic availability of client budgets to estate managers to enhance consistency in decision making.
- * Implementation of any recommendations made as a result of the Efficiency Review to be conducted by NSW Treasury.
- * Investigation of further specialisation to enhance service delivery

Private Management Support

- * Electronic lodgment of accounts by Private Managers.

Community Relations

- * Collaboration with the Office of the Public Guardian to provide information sessions to Culturally and Linguistically Diverse (CALD) groups within the community about Enduring Guardianship and financial management.
- * Continuation of education sessions in regional centres. The focus will be on the west and south western areas of NSW in the 2004-2005 financial year.

Internal priorities for OPC in the coming year are:

- * Consolidation of policies and procedures throughout OPC.
- * Conduct of staff survey and identify key issues for staff.