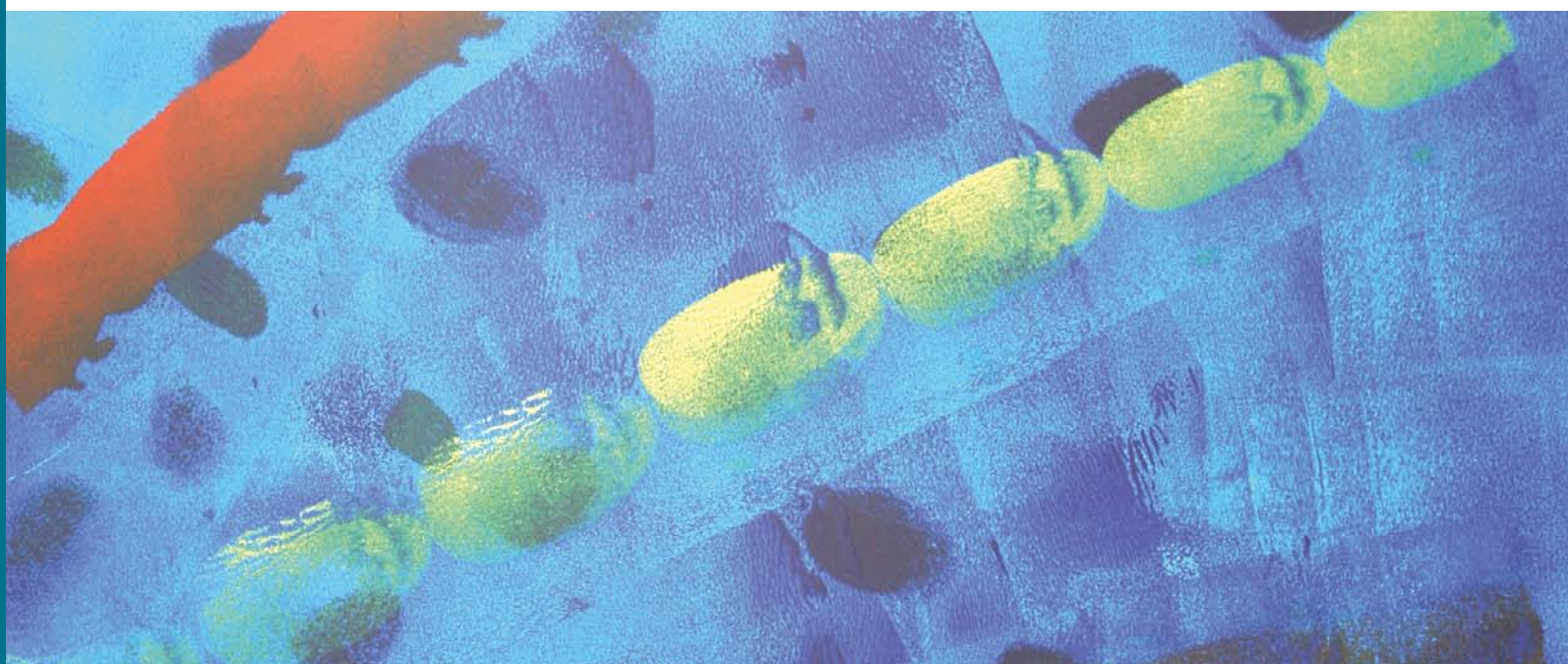




New South Wales Government
Attorney General's Department

Office of the Protective Commissioner and Public Guardian



ANNUAL REPORT 2008

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As at November 2007 the Offices of the Protective Commissioner and Public Guardian's main offices are now in the Parramatta Justice Precinct. For more information please go to www.lawlink.nsw.gov.au/opc or www.lawlink.nsw.gov.au/opg

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The works reproduced were purchased by the Office of the Protective Commissioner and Public Guardian from the exhibition 32 Life Pieces held in June 2007.

Details of the works featured can be found on page 69 of this report.

Letter to the Minister

The Hon. John Hatzistergos, MP
Attorney General and Minister for Justice
Parliament House
SYDNEY NSW 2000

Dear Attorney,

I am pleased to present to you the Annual Report of the Protective Commissioner and Public Guardian, together with associated financial statements, for the year 2007-2008.

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



Imelda Dodds
Protective Commissioner and Public Guardian

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Office of the Protective Commissioner

> Who we are and what we do

Vision

To have 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.

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,
- > authorise and direct the performance of the obligations and duties of private managers appointed by the Supreme Court or the Guardianship Tribunal.

The Protective Commissioner in New South Wales

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 there is no one else able to assist.

The Protective Commissioner also provides authority and direction to private persons who are appointed the role of financial manager.

The financial affairs of 8,880 persons are directly managed and 2,556 private managers are overseen by OPC.

Our clients are people whose financial affairs are managed by OPC and 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.

OPC is a business centre within the NSW Attorney General's Department. The Protective Commissioner reports to the Attorney General via the Director General.

> Case study

“OPC Client Lifestyle Saved After Legal Bungle”

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 there is no one else able to assist.

An important part of OPC’s role is to protect and promote the legal rights of its clients and pursue their entitlements. Julie’s story demonstrates the benefits of OPC’s legal advocacy on her behalf.

Julie is a young indigenous woman living in a regional community with support from case management services. Julie was involved in a car accident when she was a child resulting in a permanent disability. Julie’s accident caused a brain injury that has affected her decision making ability. Compensation was later paid to Julie for the injuries she sustained in the accident, after she had started court action.

Advocates concerned about Julie’s welfare later sought the appointment of the Protective Commissioner to act as financial manager for Julie.

A local solicitor involved with Julie expressed a number of concerns to the OPC that:

- > the compensation which had been paid to Julie was inadequate based on the level of injuries sustained,

- > the settlement had not been approved by the Court as required due to the level of her permanent disability,
- > And that the settlement funds paid had been released directly to Julie at the age of 18 with no supervision, which had resulted in all the funds being dissipated within a 2 year period.

The OPC Legal Services Branch investigated the allegations raised, and with the assistance of external legal professionals, the OPC pursued on behalf of Julie a court action for damages for professional negligence, against the solicitors and counsel who had acted for Julie at the time of settlement.

The professional negligence claim was considered to have merits on the basis that the settlement had not been approved by the Court, as required for someone considered a disabled person. Furthermore, Julie received the settlement monies upon turning 18. Julie’s lawyer at the time should have arranged for a manager to be appointed to manage the settlement monies on her behalf because of her level of disability.

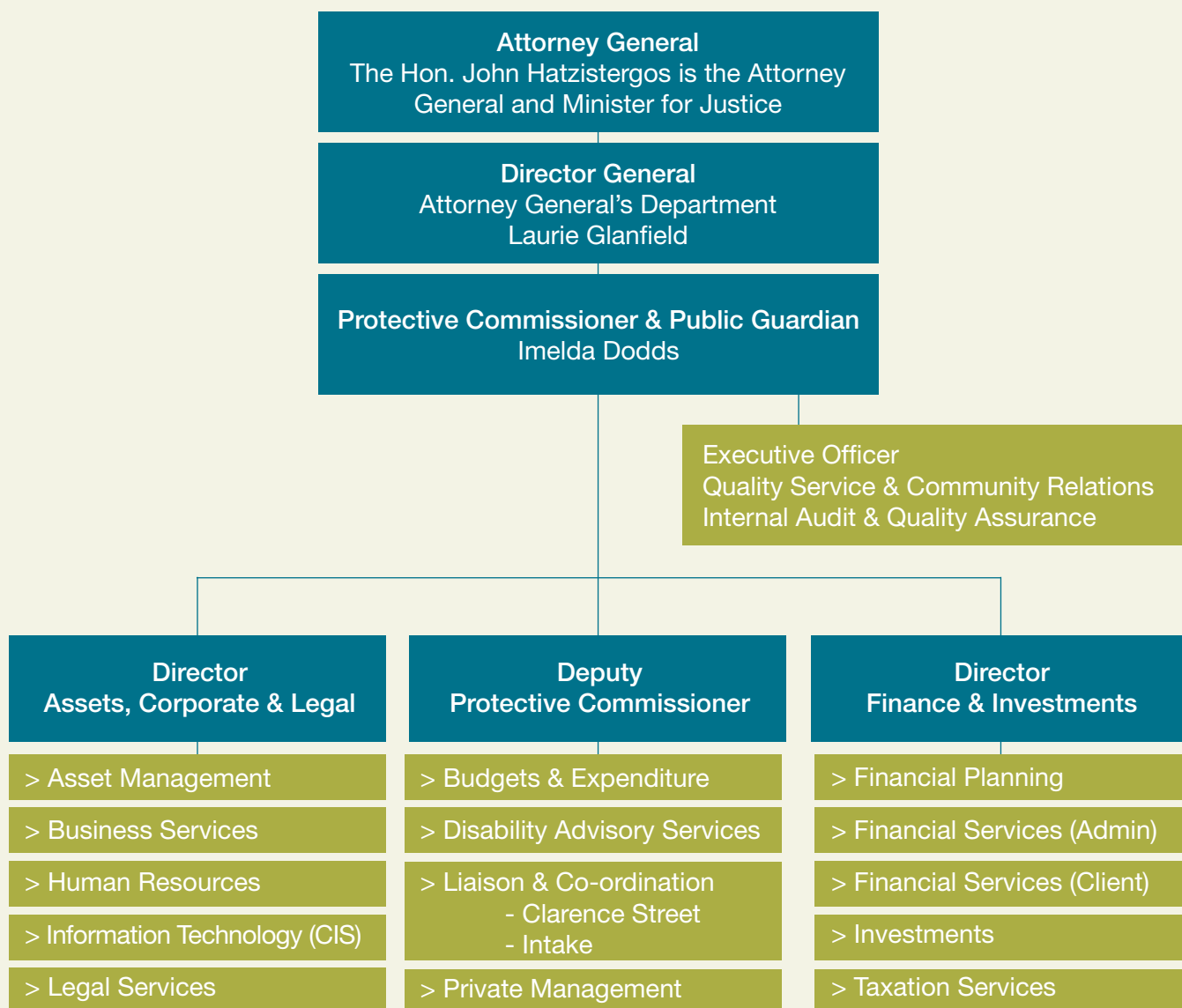
OPC entered into mediation in respect of the professional negligence claim with the parties involved. The OPC is delighted to report a substantial settlement was reached in favour of Julie.

The OPC will continue to work actively with Julie to ensure any settlement funds received are managed effectively to ensure her future personal and any care needs are met.

Please note the name of the client has been changed to ensure privacy and confidentiality is maintained.

> Structure

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



> Who we are and what we do

Vision

The Public Guardian's vision is to operate in a society in which people with impaired decision-making abilities are included and accepted as valued members and their human rights recognised. The Office of the Public Guardian (OPG) works from the *Guardianship Act 1987* to:

- > make decisions in the best interests of people under guardianship,
- > protect the rights of people with impaired decision making through decision-making and advocacy,
- > provide information and support to private and enduring guardians,
- > promote the principles of the Act, in particular through the provision of information to the general community.

OPG is committed to ensuring that equitable access to our services is provided through our regional offices, and that our staff can work in a safe and respectful environment with the opportunity for development.

Our Mission

The mission of the Office of the Public Guardian is to act as a substitute decision-maker for people with impaired decision-making abilities when so appointed, and to take all actions necessary to make those decisions, within the principles of the *Guardianship Act 1987*.

The Public Guardian in New South Wales

The Public Guardian is the appointed guardian for a number of people with impaired decision-making abilities who are unable to make specific decisions about lifestyle or medical issues.

The Public Guardian is a statutory position established by the *Guardianship Act 1987*. The Guardianship Tribunal or the Supreme Court appoints the Public Guardian to make decisions on behalf of a person with impaired decision-making abilities, when there is no other person able to suitably take on this role. The Public Guardian is appointed when there is a need for specific lifestyle or medical decisions to be made.

The Public Guardian makes decisions in accordance with the principles of the *Guardianship Act 1987*. The overriding principle of the *Act* is that the welfare and interests of the person should be kept paramount.

The Office of the Public Guardian (OPG) is part of the Attorney General's Department and the Public Guardian is administratively responsible to the Director General. The Public Guardian holds a dual role and is also the Protective Commissioner. The day to day operations of OPG are managed by the Director and Management Committee. The Public Guardian delegates authority to the staff of OPG to carry out the decision making functions of the office.

The Private Guardian Support Unit (PGSU) is located within OPG, and shares experiences and knowledge of guardianship with private guardians and enduring guardians. The OPG's information service provides information about guardianship over the phone, through paper and electronic publications as well as conducting information sessions for community groups.

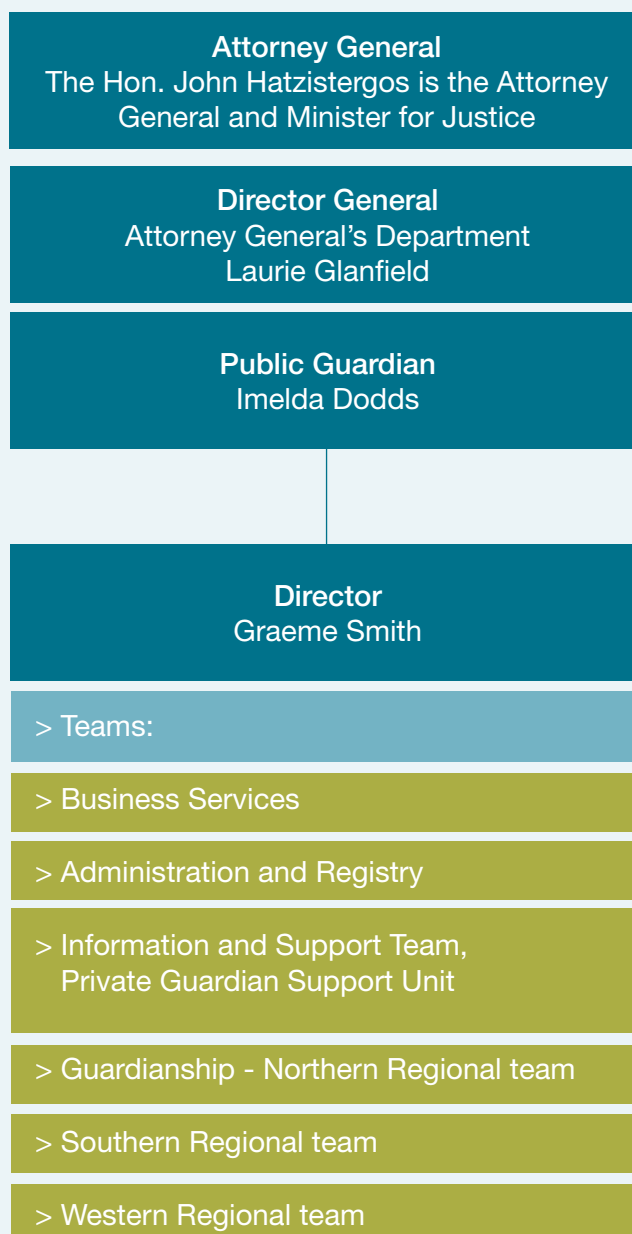
> OPG Case Studies

Mr B, a 72 year old man came under guardianship when he was hospitalised for poor health. He was found to have untreated schizophrenia as well as cognitive impairment from years of alcohol abuse and rough living. He had been homeless for the majority of his adult life and for the previous eight years had lived in a city park. The Public Guardian was required to make a decision regarding his accommodation as well as consenting to medical treatment. It was decided that Mr B would benefit from being in a supported environment that would assist him to manage his mental health and personal care. The hospital social worker recommended a residential aged care facility which could provide him with the necessary support whilst allowing him to spend time outside in the extensive grounds. The Public Guardian decided to accept this placement for Mr B, who flourished in the supported environment. Since moving to the facility, Mr B has reconnected with family members with whom he had lost contact. Extended family members he had not seen for thirty years recently travelled interstate to meet him again. He has started writing letters to maintain the ongoing contact. Mr B recently reported feeling he had “hit the jackpot” and hoped he could remain where he is until he dies. In July this year the Guardianship Tribunal reviewed Mr B’s guardianship order and decided to allow the order to lapse. In the future his family will work together with Mr B and the care facility to informally make any necessary decisions about Mr B’s care.

Ms T is a 20 year old woman with intellectual disability. She was formerly a ward of the state and came under guardianship when she was 19 years old. The Department of Community Services made an application for guardianship when Ms T was turning 18 as her wardship was coming to an end, and there were concerns for her future welfare. When the Public Guardian was appointed, Ms T was living in a “squat” in a country town. She did not have a case manager and was not in regular contact with services. Ms T had developed a drug habit, had some psychiatric issues and was being financially exploited by other people living in the house. The Public Guardian’s first step was to advocate strongly for the appointment of a case manager for Ms T. Within a short period of time, a case manager was appointed and Ms T was placed on a priority list for NSW Housing accommodation. Ms T was reconnected with a psychiatric outpatient service and started taking regular medication.

Ms T still has troubles but has been attending regular appointments with her case manager and doctor. She has started work at a veterinary clinic, has moved into her own flat and is starting a course at TAFE. The Public Guardian remains involved in making ongoing decisions regarding Ms T’s services and medical treatment.

> Organisational Chart



OPC and OPG Summary of Performance

Challenges	Achievements	Future Directions
OPC Identification of issues and service delivery failures stemming from the 2006 restructure	Proposal for new client service delivery teams approved by Director General in May 2008	New service delivery teams to be implemented from 18 August 2008. Review of effectiveness of new service delivery teams to be carried out by August 2009
OPC Limited electronic budgeting systems available for effective individual budget development and review	Budget Today module developed and launched June 2008	As required updating of client budgets and annual review of all client budgets using new budget module.
OPC Policies and procedures do not reflect current best practice	Through the restructure process a review of all policies and procedures has commenced.	All policies will be reviewed on an annual basis.
Relocation of OPC and OPG to Parramatta	Office relocated in November 2007	Consolidation of OPC services and staffing profile
OPC - Revise fee structure to better reflect the cost of management services	An IPART review of OPC's fees commenced in April, 2007, and will review existing fees for both direct and private management and recommend a new fee structure.	Implementation of IPART report in the 2008-2009 year
Ensuring a comprehensive internal audit process for OPC.	Re establishment of the OPC & OPG internal Audit committee with an independent chair and expanded membership	Further development of the committee and activities based on best practice standards for Audit Committees

OPC and OPG Summary of Performance

Challenges	Achievements	Future Directions
OPG Managing increased demand for guardianship services within existing resources	<p>The proposed restructure and addition of new positions was commenced in June 2008.</p> <p>Feasibility study regarding community guardianship commenced.</p>	<p>Development of a new strategic plan for 2008 – 2010.</p> <p>Implement supervision training for all supervisors, and develop a range of new tools and strategies to assist guardians in their work.</p> <p>Development of advocacy strategies to address gaps in service provision</p> <p>Engage key stakeholders in consultation regarding a community guardianship model.</p>
OPG Using information technology to manage increasingly complex communication and record keeping requirements.	<p>Consultation with OPG staff leading to recommendations by OPG Information Technology Working Party to further improve the efficiency of the Client Information System (CIS).</p>	<p>Implement changes to the Client Information System.</p> <p>Progress electronic exchange of information with key stakeholders such as the Office of the Protective Commissioner, the Guardianship Tribunal and medical practitioners</p>
OPG Continued demand for information on enduring guardianship and the role of the Public Guardian in NSW	<p>OPG continued its enduring guardianship CALD education campaign targeting the Chinese community and providing free information sessions and producing bilingual translated fact sheets.</p> <p>OPG promoted Enduring Guardianship and information on rights of “person responsible” to the gay, lesbian, bisexual and transgender community as a way of planning ahead and clarifying the legal status of relationships.</p> <p>An electronic pictorial publication was launched by the OPG to communicate to people with a disability what a guardian does.</p>	<p>Publish and disseminate a brochure on guardianship aimed at Aboriginal and Torres Strait Islander communities.</p> <p>Provide guardianship information to universities and health professional groups.</p> <p>Publish and disseminate revised information book for newly appointed private guardians.</p>



01 Office of the Protective Commissioner

Contents

- i. Review of Operations
- ii. Our Clients
- iii. Performance of Program Areas
 - Financial and Asset Management
 - Private Management
 - Funds Management
 - Community Relations
 - Disability Advisory Services
- iv. Outlook

Restructure & Reform

Following significant levels of consumer complaints, an independent review of the 2006 restructure by Deloitte and a review by the incoming Protective Commissioner a new structure has been developed for implementation in August 2008.

- > The proposed new structure establishes eight client service teams to facilitate the provision of quality client focused services to individuals under the direct management of the OPC. The successful specialist elements of the former structure will be retained to address the complexity of clients' estates.
- > The most noticeable change for clients and stakeholders will be that contact with the office will be conducted through one of the eight teams. Each team will be constructed to best meet the needs of the clients under their auspice. The teams will fall into three broad categories:
 - Primary Service Teams. In these teams client matters will be allocated to an individual staff member for the duration of a particularly important decision. Three teams will be organised on a regional basis;
 - Supported Accommodation Team will look after clients living in supported accommodation who do not have complex estates or significant conflict that has to be managed;
 - Intensive: Three other teams provide more intensive management for clients. This includes in the initial period after a financial management order is made; where there is significant family conflict, challenging behavioural problems or ongoing complex estates which cannot be managed by one of the other teams. One team finalises estates where the order has been revoked or upon the death of a client.

A proposal to re-structure the operations of the Private Management Branch will be considered in October 2008. This restructure will be informed, in part, by the outcomes of the IPART review.

IPART Review

- > IPART first conducted a review of OPC fees in 2003. The results of that review informed the current fee structure. One outcome of that report was the Treasury grant of \$9 million which by 2007-2008 had reduced to \$2.8million.
- > In 2003 IPART recommended that the fees be reviewed within a five year timeframe. In April 2008 the Premier appointed IPART to conduct a further review.
- > The 2008 IPART Inquiry has been a public process incorporating discussion papers, calls for submissions and a public roundtable.
- > OPC made a submission to the inquiry and provided extensive resources to support IPART in their review of both OPC's directly managed and privately managed clients.
- > IPART is due to deliver its recommendations to the Premier and the Attorney General by 30 September 2008.

Relocation to Parramatta

The OPC successfully moved to the Parramatta Justice Precinct in November 2007. The move was largely successful however technical difficulties were experienced with the VOIP based phone system in the Parramatta premises. While the severity of the problems abated over time periodic failures still occur. OPC continues to work with the Attorney General's Department Information and Services Branch to address these issues.

OPC also experienced a significant loss of experienced staff with the relocation to the Parramatta Justice Precinct. Extensive recruitment and an increased focus on staff training and development will be required over the 2008-2009 financial year to address these losses.

At the end of June 2008 the Protective Commissioner was the financial manager for 8,880 people and provided direction and authorisation to 2,556 private managers. This represented an increase of 1.06% for directly managed clients and an increase of 13.23% for privately managed clients for the 2007-2008 financial year. The growth in the appointment of the Protective Commissioner as financial manager has slowed over the last year however the growth for the appointment of the private financial managers has increased 36.5% since 30 June 2005.

Number of Clients

> PROTECTED PERSONS

Persons who have OPC as their manager

30 June 2005	30 June 2006	30 June 2007	30 June 2008
8,235	8,575	8,786	8,880

Persons who have private managers

30 June 2005	30 June 2006	30 June 2007	30 June 2008
1,873	2,024	2,252	2,556

Total

30 June 2005	30 June 2006	30 June 2007	30 June 2008
10,108	10,599	11,038	11,436

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 June 2005	30 June 2006	30 June 2007	30 June 2008
368	347	364	455

Persons who had a private manager

30 June 2005	30 June 2006	30 June 2007	30 June 2008
351	343	343	360

Persons for whom OPC fulfils the role of banker *

30 June 2005	30 June 2006	30 June 2007	30 June 2008
898 #	825	753	759

* These people 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.

includes 6 institutional resident amenities fund accounts and 9 OPC working accounts.

> NEW ORDERS MADE BETWEEN 1 JULY AND 30 JUNE

Persons who have OPC as manager of their affairs

2004-2005	2005-2006	2006-2007	2007-2008
964 67.0%	1101 66.6%	1024 62.2%	953 56.93%

Persons who have private managers of their affairs

2004-2005	2005-2006	2006-2007	2007-2008
474 33.0%	552 33.4%	623 37.8%	721 43.07%

Total Orders Made

2004-2005	2005-2006	2006-2007	2007-2008
1448	1653	1647	1674

> ORDER SOURCE

Supreme Court

2004-2005	2005-2006	2006-2007	2007-2008
52 3.6%	58 3.4%	61 3.7%	71 4.24%

Guardianship Tribunal

2004-2005	2005-2006	2006-2007	2007-2008
1128 77.9%	1299 78.6%	1344 81.6%	1444 86.26%

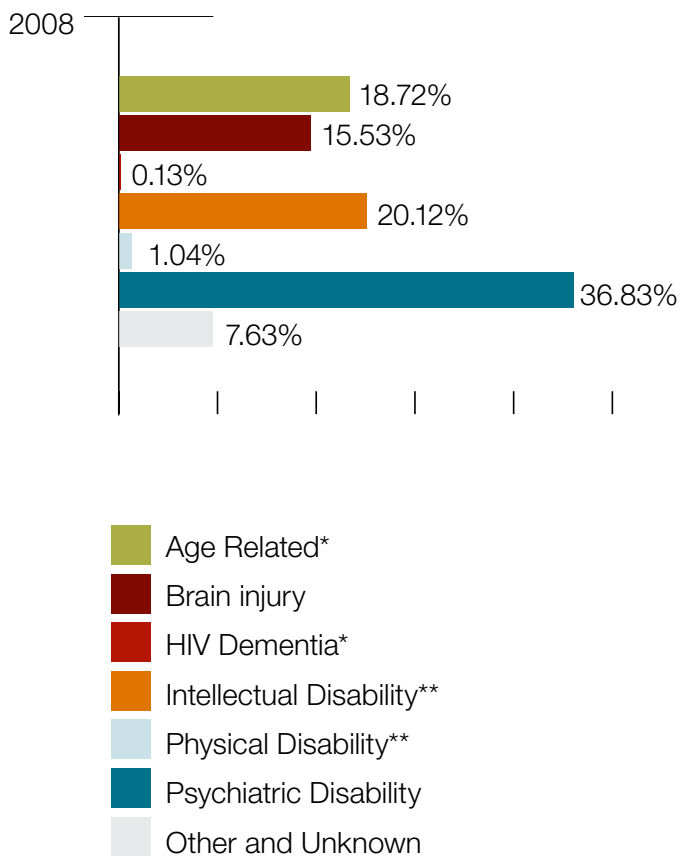
Magistrate Orders

2004-2005	2005-2006	2006-2007	2007-2008
50 3.5%	52 3.1%	67 4.1%	38 2.27%

Mental Health Review Tribunal

2004-2005	2005-2006	2006-2007	2007-2008
218 15.1%	241 14.6%	175 10.6%	121 7.23%

Types of disability



- > **Age Related** includes frail aged persons who may or may not have been diagnosed with dementia.
- > **Brain Injury** includes people with an acquired or traumatic brain injury.
- > **HIV Dementia** AIDS Dementia Complex and early, or younger, onset Dementia
- > **Intellectual Disabilities** includes people with a developmental disability and autistic disorders.
- > **Physical Disability** people who are unable to communicate their wishes due to their physical disability.
- > **Psychiatric Disability** relates to all psychiatric disorders/conditions including mental illness, bipolar disorder, schizophrenia, other psychoses and alcohol related brain damage.
- > **Other** includes people who may not fit in any other category.

* In previous years Age Related and HIV Dementia was included under Dementia and Other. This year HIV dementia is listed separately and dementia is now included in the age related category.

** Physical Disability was previously included in Other.

Services in OPC are grouped into the following programs:

- > Financial and Asset Management
- > Private Management
- > Funds Management
- > Community Relations
- > Disability Advisory Service

Financial and Asset Management

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

Financial Planning

OPC's Financial Planning Branch develops and regularly reviews financial plans for clients. As at 30 June 2008, more than \$1 billion is currently invested on behalf of our clients from recommendations in these plans.

During the period 90 new financial plans and 671 annual reviews were undertaken/conducted by the Financial Planning Unit.

In addition over \$50m was contributed to superannuation on behalf of nearly 300 clients (see below). A further \$163m in non-OPC investments in such areas as direct shares, managed funds, term deposits etc were managed by the External Assets Unit under advice from the Financial Planning Unit.

Over the course of the year the Financial Planning Unit also provided Client Services Division with ad hoc advice regarding the affordability of proposed client expenditure on 1,976 occasions.

> Maximising benefits of changes to Superannuation for OPC clients

Last year the OPC reported on major changes to superannuation which significantly advantaged a large number of OPC clients. As a result of the changes, clients who fit the Australian Prudential Regulatory Authority (APRA) definition of total and permanent disablement are eligible to contribute substantial sums to superannuation and then commence a tax-effective allocated pension. Clients as young as 8 years of age have been able to take advantage of this strategy. The long term income tax benefit to our clients over the course of their lifetime is incalculable but very substantial.

In the 2007-2008 financial year we continued to contribute to superannuation on behalf of those clients able to benefit from the changes and as at 30 June 427 clients held \$41.8m in superannuation and 110 clients had commenced allocated pensions with a total value of \$54.3m.

Client Property

The role of the Office of the Protective Commissioner is to ensure that all client assets are, where possible, secured and protected. In the past year the OPC managed 1,805 properties, which were inspected and/or secured, with a total value of more than \$635 million. Included in this group were 319 new properties where the owner came under our management. In addition, 271 properties were sold or purchased, and construction or repairs were undertaken on 1,036 properties. 332 Sales/Leasing Reports were obtained and assessed where the future of the client's property was being considered.

Property is much more than real estate and the OPC managed the repair, insurance, and registration (where appropriate) of 908 motor vehicles, 54 trailers/caravans, 41 motor bikes, 25 boats, three tractors, and two steam trains.

Asset Management Branch also sold or purchased 193 motor vehicles, processed 232 insurance claims, renewed 2,360 insurance renewals, effected 224 new insurance policies on motor vehicles, and adjusted 382 existing insurance policies.

The commercial arm of the Assets Branch managed a diverse range of client issues during the 2007-2008 financial year. The Branch oversaw the management of 86 commercial operations, which operated under complex company structures, trusts, partnerships and sole trader entities, many of which are actively trading. In managing these commercial operations, the Branch arranged commercial leases, agistments, mining rights, water leases and arranged repairs property owned by these commercial enterprises.

Legal Services

As at June 2008 OPC Legal Services provided advice and representation in 582 legal matters which included personal injury, family law and deceased estate matters and recovery of assets on behalf of clients.

During the last financial year our Legal Services Branch have been involved in preparing submissions to Senate Community Affairs Committee into Specialist Disability Trusts and to Australian Law Reform Commission review of Australian Privacy Law. They also provided input into an application to AUSTRAC for an exemption for OPC from the reporting requirements under the Anti-Money Laundering and Counter Terrorism Financing Act 2006.

Our legal staff have also provided mentoring to graduates as part of the Law Graduate Program.

Taxation Services

During 2007-2008 the number of income tax returns and activity statements lodged by OPC on behalf of clients increased. This trend is expected to continue with the increasing complexity of client estates. The number of land tax returns has decreased due to the sale of investment properties and others previously managed by OPC.

No. of income tax returns & activity statements lodged

2004-2005	2005-2006	2006-2007	2007-2008
3,300	3,268	3338	3549

No. of land tax matters managed

2004-2005	2005-2006	2006-2007	2007-2008
524	253	54	35

Transactions for clients

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

Activity

2004-2005	2005-2006	2006-2007	2007-2008
No. of transactions completed			
1,075,800	1,150,300	1,189,240	1,227,099
Unit Registry: Applications (\$million)			
93	100	150	82
Redemptions (\$million)			
116	146	214	168
Number of applications			
679	1124	1220	936
Number of redemptions			
1574	2129	2838	2520

Private Management

Key Activities: Direct and authorise the activities of persons appointed to manage the financial affairs of people with disabilities.

The structure of the Private Management Branch has not been comprehensively reviewed since the 1980's. Private Management fees have not changed since their inception in 1985.

Private Management Branch Restructure

It is anticipated that the restructure proposal will be dealt with by late 2008/ early 2009.

The objectives of the Proposal are to provide a structure:

- > which provides for the efficient delivery of services in its role of directing and authorising private managers;
- > that enables better measurement of work performed in the delivery of services to private managers;
- > which increases OPC's ability to recover costs for the services it provides in a more transparent manner;
- > which is compatible with OPC's new fee structure.

Private Management Fee Review

In April 2008 IPART commenced its review of OPC fees which incorporates the review of Private Management fees. IPART's previous review of OPC fees in 2003 did not include Private Management fees.

The objective of the Private Management Fees Review is to:

- > provide OPC with the resources to enable it to fairly and efficiently undertake its role in the direction and authorisation of private managers, and
- > provide a fee structure that is clear, fair and transparent.

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 of a number of protected persons whose affairs are managed by a private manager. The Common Fund consists of the Access Fund, which is best described as an interest bearing working account for client transactions, and seven diversified investment funds.

All the investment funds comprising the Common Fund have been outsourced to State Street Global Advisors as Funds Manager and are managed on an indexed basis to the relevant benchmarks specified below. BNP Paribas Securities has been appointed as the Master Custodian for the custody, compliance and accounting functions of the Common Fund.

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.

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.

The funds are: -

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

The structure of the investment funds is similar to that offered by other funds 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			
Fund Performance *	(%)	Benchmark *	(%)
Access Fund	6.70	UBS Australian 90 day Bank Bill Index	6.73
Australian Cash	6.70	UBS Australian 90 day Bank Bill Index	6.73
Australian Cash Plus	5.40	UBS Australian 0-3 year Composite Bond Index	5.24
Australian Fixed Interest	3.86	UBS Australian All Maturities Composite Bond Index	3.92
Australian Listed Property Securities Fund	-34.96	S&P ASX 200 Listed Property Trust Accumulation Index	-36.85
Australian Shares	-13.56	S&P/ASX 200 Accumulation Index	-13.72
International Bonds	8.14	Citigroup World Government Bond (ex Australia)	8.20
International Shares	-21.09	MSCI World (ex Australia) Index	-21.76

*Both Benchmark and Client return shown are net of fees (0.50%)

In addition, there may be variances in individual client returns depending upon the client's entry date into the fund and any new applications or redemptions during the financial year.

The above schedule of performance has been confirmed by an external actuary at OPC's request.

The various funds results reflect difficult market conditions over the period which have continued into the new financial year.

Client's funds are invested in the knowledge that market returns can be volatile and wherever possible four to five years of planned client expenses are held in defensive assets such as Cash and Fixed Interest. Despite negative returns in some funds over the past 12 months, the longer term returns for clients with a diversified portfolio continue to exceed the cash rate.

Community Relations

Key Activities: Providing written information and education sessions to the community and stakeholders on the role of financial managers and OPC.

Community Education

The 2007- 2008 financial year has seen a focus of two areas for OPC community education activities, the move to Parramatta from the Sydney CBD, and the ongoing challenges associated with the organisational restructure introduced in August 2006. During the past 12 months 25 community education sessions were presented to clients, stakeholders and service providers all over NSW. Participants included groups representing people with an acquired brain injury, mental health advocacy groups and case management support organisations. Audiences ranged from clients, carers, service providers, allied health professionals, medical and legal practitioners and service providers many working with CALD (culturally and linguistically diverse) communities. Approximately 360 people attended the sessions across the state.

A special focus has been CALD groups, with the use of interpreters to assist in the communication of information and meeting the participant's needs. The sessions encompassed multiple issues surrounding the current client management structure implemented in August 2006, and general information and education sessions about the role of the office.

Move to Parramatta Justice Precinct

The physical move from the Sydney CBD to the Parramatta Justice Precinct was achieved in November 2007. Throughout the year the community relations staff used every opportunity and vehicle to provide information about the relocation and how it might impact on clients. Information was provided via community education sessions, the OPC website, special mail outs and our July and February newsletters. General feedback through the community education sessions was positive about the office relocation, aside from the regrettable technical issues experienced which proved challenging for clients and staff during the initial period.

Restructure

It has been acknowledged that the restructure implemented in August 2006, has produced many challenges in the way clients, stakeholders and service providers have been able to interact with this office, and ensure financial issues of client's are managed effectively.

Feedback from all areas of the community, including comments at community education sessions, coupled with staff and an independent evaluation has informed the review of the August 2006 restructure.

The OPC is committed to improving the level of service to the clients. It is envisaged that the changes to be adopted to the OPC structure in August 2008, will again form a key part of the community education program for the next financial year. The program for the next 12 months will enable us to explain why the service was changed and how it works now, as well as providing a conduit for the community to provide feedback to us on the new structure.

OPC Website.

With over 100 000 hits in the last financial year, with an average of 10 000 hits per month, the OPC Lawlink website has again been an integral part of the office's communication with clients, stakeholders, private managers, service providers and members of the public. The web site has assisted in providing news about changes to OPC services to clients and their families, IPART updates and restructure information relating to the office in a fast and effective media format. The website has allowed the community to have the most current information available for their reference as soon as it was available. The most popular downloads from our site were the Private Management Handbook and the My Budget tool developed to help client's understand the need for a financial budget. The website has allowed information to be disseminated to the community as soon as it was available.

The website address is:
www.lawlink.nsw.gov.au/opc.

Disability Advisory Services

Key Activities: Provides advice about the client's disability and lifestyle needs

The Disability Advisory Service (DAS) comprises an internal team of Disability Advisers and co-ordinates an external statewide panel of Authorised Visitors who provide an independent reporting function directly to the Protective Commissioner.

DAS provides the Protective Commissioner with advice about the client's disability and lifestyle needs within the context of the individual client's financial resources. Effective substitute financial decision making requires a sound knowledge of the person, their wishes, their circumstances, and the nature of their disability. This allows client's needs to be considered both in the short and long term and allows for adjustments in response to changing needs.

In the year 2007/08 there were 3,642 occasions of service to OPC clients by DAS staff which included client planning, disability advice, assessment, referral for services and implementation of Authorised Visitor recommendations.

Memorandum Of Understanding - OPG, Department Of Housing And OPC

This year OPC continued negotiating a Memorandum of Understanding (MOU) with NSW Housing, in conjunction with the Office of the Public Guardian. The aim of the MOU is to clarify the responsibilities of each agency in relation to shared clients, and to improve communication and service provision to clients with disabilities and complex needs involved with all three organisations. There have been several positive outcomes from the ongoing communication between the organisations and stakeholders, including better response to client's housing needs.

OPC will continue to work with OPG and NSW Housing in the new financial year to further develop an MOU in the 2008-2009 financial year.

Program Priorities

Financial and Asset Management

- > Improve Service delivery to directly managed clients through the implementation of new client service delivery teams.
- > Improving communication with clients and stakeholders.
- > Improve decision making timeframes and the communication of those decisions to clients and stakeholders.
- > Implement the recommendations of IPART's review of fees for directly managed clients.
- > Implement Controlled Self Assessment program as a core internal audit activity.

Private Management

- > Improve Service delivery to privately managed clients through the implementation of the Private Management Branch restructure.
- > Implement the recommendations of IPART's review of fees for private management.
- > Continue to develop resources and technology to better educate, inform and interact with private managers.

Community Relations

- > Provide education and resources to the community across NSW to inform about the role and services of the OPC and pre planning mechanisms including the specific targeting of CALD Communities.
- > Consultation with clients, stakeholders and the community about changes to OPC services to inform ongoing quality assurance.

Further priorities for OPC in the coming year include:

- > Review effectiveness of new client service delivery teams to identify and address any ongoing issues.
- > Implementation of Achievement Planning across OPC to enhance professional development.
- > Commence consultation process to develop proposal for changes to the Protected Estates Act.



02 Office of the Public Guardian

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Restructure

In March 2008 the Director General of the Attorney General's Department approved the proposed restructure of OPG. This restructure was then implemented during the period April – June 2008. This restructure led to the establishment of three guardianship teams; Western Regional Team based in Parramatta, Northern Regional Team in Gosford and Southern Regional Team in Sydney. The restructure has allowed for greater staff stability while continuing to provide access to the OPG in three key locations.

Three new positions have been created within the restructure. The Assistant Director Operations will work to ensure that staff have access to a range of support including supervision, policy and practice guidelines and data about the needs of people under guardianship. The Assistant Director Policy and Advocacy will be responsible for reporting internally and externally on issues for people under guardianship, as well as developing strategies to address systemic advocacy and policy across a range of agencies supporting people with disabilities. The Information Technology/ Administration Co-ordinator has been appointed to liaise with our IT service provider and to oversee the use of IT in OPG.

Parramatta Justice Precinct (PJP)

In November 2007, almost 1000 staff from the Attorney General's Department relocated from Sydney's CBD to Parramatta, including staff from the Office of the Public Guardian.

Staff have settled in to the Parramatta Justice Precinct (PJP) over the past few months and have found that the central location has improved accessibility for our clients and stakeholders.

The Central Coast/Hunter Regional Office of the Public Guardian also relocated during March 2008, establishing new premises in central Gosford. This office is the base for our new Northern Regional Team. The move to PJP and the restructure of OPG also led to the creation of a new Regional Office in York St, Sydney, accommodating the Southern Regional Team.



Services to People Under Guardianship

The work of the OPG involves a wide range of tasks. This includes meeting with clients and stakeholders, requesting and analysing reports and other information, preparing for and attending guardianship hearings, creating and implementing guardianship plans.

At the end of June 2008 the Public Guardian was the guardian for 1886 people, which was a 5.8 per cent increase on last year's figures. Last year there was a reduction in the number of orders being renewed, and this was continued this year with an average of 49 Orders per month renewed. The rate of people being discharged from guardianship has dropped this year, from an average of 31.4 discharged or lapsed orders per month last year to 27 orders per month for the 2007/2008 financial year, resulting in the overall gain in client numbers (see Table 1.1).

The OPG continues to uphold the spirit of the *Guardianship Act 1987*, aiming to ensure that the Public Guardian is only appointed when there is no other person suitable or able to take on the role of guardian. This means that OPG staff are focused on reviewing and updating the situation for people under guardianship, and seeking to have orders lapsed, or private guardians appointed whenever appropriate.

Table 1.1

	05/06	06/07	07/08
Total client numbers	1735	1782	1886
Renewed orders -average per month	59.1	53.2	49
Discharged client - average per month	32.6	31.4	27

In 2007/08 the OPG provided evidence at 938 Guardianship Tribunal hearings, an average of approximately 78 hearings per month. This represents a 4.7 percent reduction from last year's average. The most common decision-making areas (functions) given to the Public Guardian were Accommodation, Health Care, Medical and Dental consent function.

There has been an increase of 5.8 per cent in the number of people under guardianship this year. Patterns of disability have remained reasonably constant, with the exception of increases in the number of people with brain injury and stroke under guardianship. The number of people under guardianship with dementia is increasing, while at the same time numbers of people with developmental disability is decreasing. There is an increasing group of people with "other disabilities" including people with unspecified cognitive impairments, people who are vulnerable or affected by other issues of ageing. Table 1.2 provides more detail about people under guardianship.

Table 1.2

Type of Disability	05/06	06/07	07/08
Advanced Age	13	17	18
Autism	18	19	23
Brain Injury	78	182	207
Deaf and Blind	4	6	4
Dementia	290	317	349
Developmental	503	656	514
Eating Disorder	7	8	8
HIV AIDS related	2	4	5
Mental illness	226	260	282
Neurological related	109	99	103
Physical	11	17	21
Psychiatric related	179	46	57
Stroke related	nil	23	33
Reason unknown	176	10	63
No reason established	nil	1	1
Other Disabilities	119	127	198
TOTAL	1735	1782	1886

Services to the Community

OPG provides an information service through its Information and Support Branch. This service is available to the general community, service providers and to legally appointed guardians. The Information and Support Branch responded to 2084 requests for information this year which is a reduction of one third from the last financial year. The most commonly requested information was about the processes of guardianship and roles of the Guardianship Tribunal and the Public Guardian, Enduring Guardianship (information and the publication *Enduring Guardianship in NSW: Your way to plan ahead*), and information about person responsible and providing consent to medical treatment.

The Information and Support Branch also provides information via community education sessions. These sessions are free and this year 72 sessions were held which represents an increase of 14 from the previous year. Sessions were provided across NSW metropolitan and regional areas such as Newcastle, Queanbeyan and Murwillumbah. Content of the sessions included enduring guardianship and planning ahead, the role and function of the OPG, Part 5 of the *Guardianship Act* and substitute consent to medical and dental treatment.

Audiences ranged from carers, service providers, allied health professionals, medical and legal practitioners and service providers working with CALD (culturally and linguistically diverse) communities. A total of 1359 people attended training sessions across the state.

OPG's website also provides information to the community about all aspects of OPG. With an average of 200 hits per day, the website is an important way to educate the community about enduring guardianship and planning ahead. The OPG enduring guardianship publication, *Enduring Guardianship in NSW: Your way to plan ahead* and the enduring guardianship forms of appointment have been the most downloaded items from the OPG website this year. The website was also a useful way of advising people of OPG's move to Parramatta, with large numbers of downloads of our new contact details in the weeks after we moved.

Promoting Enduring Guardianship To Culturally And Linguistically Diverse (CALD) Communities

Six sessions were held during the year specifically targeting CALD communities. Bilingual translated fact sheets have also been provided to service providers as a resource for their communities. Copies of these fact sheets can be accessed by any member of the public on the OPG website.

Promoting Enduring Guardianship To Gay, Lesbian, Bisexual And Transgender (GLBT) Groups

This year a campaign was conducted aimed at providing information on enduring guardianship to the gay, lesbian, bisexual and transgender population. *The NSW Guardianship Act* recognises the importance of same sex spouses and close personal friendships, and the diverse nature of relationships within the GLBT community are recognised in the "person responsible" hierarchy for consent to medical treatment. However at times there can be misunderstandings about the law, or disputes about who has the right to decide about medical treatment on behalf of a person who becomes unable to make their own decisions.

The OPG decided to promote Enduring Guardianship and information on rights of "person responsible" to the gay, lesbian, bisexual and transgender community as a way of planning ahead and clarifying the legal status of relationships. Six information sessions were conducted during the year, including a session for legal practitioners held during Law Week.



“What Is A Guardian” Electronic Publication

After extensive consultation and development, a new publication aimed at people with disabilities and explaining the role of a guardian was launched during Law Week in April 2008. The publication tells the story of Jodie, a young woman who has an intellectual disability. Jodie’s group home is being sold and she needs to locate to a new home. Jodie does not have capacity to make this decision herself and her family are in conflict about the proposed decision. The publication explains how the Public Guardian assists to make a decision regarding Jodie’s accommodation.

Services To Private Guardians And Enduring Guardians – The Private Guardian Support Unit (PGSU)

Private guardians are family members or friends appointed by the Guardianship Tribunal for a person who has lost capacity to make her or his own decisions and needs a guardian. An enduring guardian is a trusted person appointed by someone before they lose capacity. An enduring guardian only starts making decisions when the person who appointed them can no longer make her or his own decisions.

The Private Guardian Support Unit (PGSU) assists private and enduring guardians in their role by providing support and information, both over the phone and through a regular newsletter. This year 517 new private guardians were registered by the PGSU, and 285 of these guardians contacted OPG for support during the year.

Private and enduring guardians receive a bimonthly newsletter (*Onguard*) and, on request, a substantial guide to the role and function of a guardian as well as notice of community education activities. This year the PGSU produced and disseminated four newsletters for private guardians and enduring guardians, mailing out over 1000 copies of each edition.

Report on Achievements

32 LIFE PIECES - THE OPG/OPC art exhibition

Last year's art exhibition *32 Life Pieces* was a resounding success and led to the Offices of the Public Guardian and Protective Commissioner receiving the Attorney General's prestigious Annual Achievement Award for Innovation. The team facilitated a showcase of over 200 works from 90 artists under guardianship or financial management. *32 Life Pieces* helped to break down negative stereotypes regarding people with disabilities and allowed some great talent to gain a wider audience.

The OPG and OPC are currently working on plans to host the event again in 2009.

The Integrated Services Project Reference Group

The Integrated Services Pilot Project for Clients with Challenging Behaviour was a three year pilot project operated by the Department of Ageing Disability and Home Care in partnership with NSW Health and the NSW Housing. The program supports adults with complex issues and challenging behaviours who have experienced breakdowns in support, or who have needs that cannot be met by existing services.

The project aims to improve housing stability, and enhance coordination and the capacity of local service networks to support the participants in the long term.

The Public Guardian is the guardian for over 95 per cent of current clients accepted into the Integrated Services Project. The program is now in the final year of the pilot, and a review and evaluation process is underway. As a key stakeholder, OPG is involved in the evaluation process as well as continuing to have a significant role in the Integrated Services Project Reference group.

Memorandum of Understanding - OPG, NSW Housing and OPC

This year OPG continued negotiating a Memorandum of Understanding (MOU) with NSW Housing, in conjunction with the Office of the Protective Commissioner. The aim of the MOU was to clarify the responsibilities of each agency in relation to shared clients, and to improve service provision to clients with disability and complex needs. There have been several positive outcomes arising from the ongoing communication between the stakeholders, including better response to client's housing needs.

OPG will be continuing to work with OPC and NSW Housing in the new financial year to further develop an agreement.

Memorandum of Understanding - OPG, NSW Police And The Ambulance Service of NSW

When appointed with a coercive accommodation function the Public Guardian is able to authorise police and ambulance workers to move a person against their wishes. This year OPG continued negotiations regarding a Memorandum of Understanding (MOU) with NSW Police and the Ambulance Service of NSW. This process also took into account recent changes to the Mental Health Act 2007, which also provides authority for ambulance and police officers to transport people against their wishes. The MOU is expected to be finalised later in 2008. The aim of the MOU is to clarify the responsibilities of each agency and to ensure the enforcement of Guardianship Orders where such orders include a coercive accommodation function.



The Criminal Justice Program External reference group

The Criminal Justice Program (CJP) is a project run by the Department of Ageing, Disability and Home Care. The program aims to support people with disabilities who have been involved in the criminal justice system, by providing intensive case management, accommodation and support. This year the OPG was represented on the CJP External Reference Group, which aims to provide feedback to the program about policy and procedure and the implementation of the service.

Hunter Residences Lifestyle and Participation Workshops

Hunter Residences is a large residential service operated by the Department of Ageing, Disability and Home Care for people with intellectual disabilities. During the year, staff members from the Gosford office have attended meetings at the service to promote the best interests of residents by discussing policy and strengthening communication and understanding.

Central Coast Primary Dementia Care Network – Legal Issues Working Party

The Central Coast Primary Dementia care network's aims are to improve service provision by identifying gaps in service provision for people with dementia, their families and their carers and initiating action to address those gaps. The Network also aims to increase opportunities for collaboration and the sharing of resources and information among service providers and to support the implementation of future directions, particularly by strengthening links between service providers. The Public Guardian was represented on the Legal Issues Working Party during 2007 -2008. This working party aimed to clarify legal issues, including consent and guardianship, and provide carers with information and support in this area.

NSW JOINT GUARANTEE OF SERVICE (JGOS) for people with Mental Health Problems and disorders living in Aboriginal, Community and Public Housing.

The Public Guardian has been represented on this partnership of government agencies. The guiding principle of the group is to coordinate the delivery of services to assist people who have mental illness and disorders and who are social housing tenants whose tenancy may otherwise be at risk and to assist housing applicants who may be homeless or at risk of homelessness to successfully establish a tenancy.

Boarding House Expert Advisory Group

The Public Guardian has been represented on this external reference group which aims to provide advice on the Department of Ageing, Disability and Home Care on policies and programs to oversee licensed boarding houses and support the residents of licensed boarding houses.

Feedback to DADHC re accommodation and Decision Making Processes

During the year, staff from OPG have been involved in providing feedback to DADHC regarding their policies and procedures. Many of these policies are due to be finalised in the new financial year.

Statewide Advisory Committee for ADAHPS (Aids Dementia & HIV Psychiatry Service, NSW Health)

The Public Guardian was represented on this committee which aims to provide information and advice to the ADAHPS, a NSW Health initiative. The service provides a range of services to people in NSW living with AIDS Dementia and HIV.

Outlook

Strategic Planning Process

Over the past 2 years, the OPG has implemented the strategic plan 2006-2008. This plan was based on an evaluation of the capacity of OPG resources (current and future) to meet foreseeable challenges. It also involved a review of existing work practices. The key outcomes from this were the restructure of OPG and developmental work on policy, practice and information technology systems.

In the new financial year, OPG will commence consultation and development of the 2009-2011 strategic plan. The aim of this plan will be to build on the work completed in the last financial year on internal and external information technology systems, and improved decision making. Service delivery will be improved by further development of policy and practice guidelines and advocacy strategies.

Implementation of restructure

Over the next 12 months, OPG will be consolidating the changes brought about by the restructure, including the development of three guardianship teams covering the Northern, Southern and Western regions. The Assistant Director, Policy and Advocacy will lead the development of systems for data collection for internal and external reporting, as well as the development of systemic advocacy strategies aimed at promoting the rights of people under guardianship. The Assistant Director, Operations will focus on developing policy and practice guidelines and implementing training to ensure that the best quality decision making and guardianship services are provided to the community.

Community guardianship

This year, the OPG has further developed a proposal for a pilot community guardianship project. The aim of this project is to enhance and extend the capacity of the OPG to provide guardianship services in light of increasing demand. The proposed project would delegate the decision making functions of the Public Guardian to an authorised community guardian. The community guardians would be recruited on

the basis of their skills and knowledge in the area, and would be supervised by an experienced OPG officer. The aim is to provide a personalised and efficient guardianship service to appropriately matched individuals under the guardianship of the Public Guardian.

The OPG will continue to develop this proposal in the next financial year.

Marketing enduring guardianship information campaign

OPG will continue to review its current strategies for providing information to the community about enduring guardianship and look at new ways of providing community education. This will include the development and roll out of marketing strategies within the OPG's current resource limitations. A submission for cost recovery of OPG campaign information sessions and key OPG publications will be investigated in the next financial year.

OPG will continue to work on increasing awareness of the Private Guardian Support Unit (PGSU). In the next financial year PGSU will hold a networking day for private guardians and will aim to develop other resources to support private guardians in their roles.

Technology

OPG will continue to review and update its information technology systems in an effort to support the work of guardianship staff. Building on work done this year, OPG will be making changes to improve the client information system. This will allow for the collection and analysis of data to assist in planning for client services and developing practice guidelines and advocacy strategies. OPG will also complete the planned "IT hub" with the Office of the Protective Commissioner and the Guardianship Tribunal allowing for the transfer and collection of essential information.

Training initiatives

As part of OPG's commitment to promoting staff access to training and development OPG is currently investigating training opportunities for staff including negotiation techniques and professional supervision.