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# President's report



2002/2003 was a big year for the Guardianship Tribunal in many ways. Our workload increased significantly. We undertook a major restructure of our staff and had a substantial turnover in Tribunal members. We had new legislation to deal with. We produced an important video and we undertook an ambitious program of community education. At the same time, we maintained our quality service to people with decision-making disabilities, their carers, families and service providers.

In 2002/2003, the Tribunal received 4,191 new applications, an increase of 2.8 percent from the previous year. In fact, the number of guardianship and financial management applications increased by 4.2 percent but the number of medical consent applications declined. The Tribunal also dealt with 1,616 reviews of guardianship and financial management orders, an increase of 11.8 percent. While the total number of applications and reviews increased by 5.2 percent, the actual workload increased by more. This was because the number of guardianship and financial management applications increased by 4.2 percent, or more than three extra new applications each week.

In addition, the enquiries work of the Tribunal increased by 15 percent to 12,687 enquiries logged for the year. This occurred despite an increasing amount of information being available to the public on a continuous basis through the Tribunal's website ([www.gt.nsw.gov.au](http://www.gt.nsw.gov.au)).

While coping with their increased workload, Tribunal staff had a substantial reorganisation of work functions into new units. This restructure is dealt with in more detail on page 5. One of the key changes was the revamping of the Tribunal's enquiries service and a team to develop how information is provided to the community through the website, publications and information seminars about the alternatives to guardianship and financial management and about the Tribunal's role and how it operates.

The restructure has introduced a new dynamism into the operations of the Tribunal. It has given the Tribunal's excellent and experienced staff a new focus and a new set of challenges to meet as part of the Tribunal's strategy of continuously improving the services it offers and how it operates.

A key challenge for the 2003/2004 financial year will be the review of the operations of the Coordination and Investigation Unit to ensure improved timeliness to hearings. In addition, the review will clarify the content and quality of the service that staff provide to the parties and others involved in applications or reviews.

Change inevitably causes anxieties but the Tribunal's staff dealt with the change processes with great forbearance and goodwill. They were more concerned about ensuring that the changes were effective than how

the changes affected their personal interests. Although some staff had concerns, they continued to work effectively so that the change process did not cause any substantial delays in matters being prepared for hearing or in the way the key aspects of the Tribunal's work were carried out. This confirmed the commitment and professionalism of the Tribunal's staff. Staff were guaranteed positions within the new framework and it was possible to achieve this with staff members volunteering for the revamped positions.

Thirty members named in last year's annual report have left the Tribunal. Sixteen new members have joined the Tribunal (listed on pages 42 to 48).

Even with the pressures of increased workload, a substantial reorganisation and a large changeover in membership, the Tribunal achieved a number of other goals.

We produced a video, *In Their Best Interests* (see page 32), which shows how hearings are conducted so that people attending a hearing will be prepared and know what to expect.

The Tribunal played an important role in ensuring that legislation with improvements relating to appointments of enduring guardians was prepared for Parliament and, when enacted, brought into force. These amendments are dealt with in more detail on page 8. In addition, the Tribunal has been contributing its experience to the development of policies and guidelines being developed by government departments and relevant to people with decision-making disabilities.

At the end of 2002, the Parliament enacted the *Guardianship and Protected Estates Legislation Amendment Act 2002*, which was brought into force on 28 February

2003. The Act provides for appeals from decisions of the Guardianship Tribunal to be made to an external appeals panel of the Administrative Decisions Tribunal. No appeals were lodged against decisions of the Guardianship Tribunal under that legislation as at 30 June 2003.

In 2002/2003, we organised eight community education sessions and gave 43 presentations to seminars and training sessions organised by a range of non-government organisations and professional bodies. In addition, the Deputy President, Marion Brown, and I gave eight papers between us at conferences or continuing legal education sessions. The conference papers and community education generally focussed on promoting alternatives to guardianship and financial management. These alternatives include making an enduring power of attorney, appointing an enduring guardian and making an advance directive.

In the 2002/2003 financial year, the Tribunal spent \$6,640,734.

I thank Minister Carmel Tebbutt and her staff and the Director General, Margaret Allison, and the staff of the Department of Ageing, Disability and Home Care for their support, given in appropriate ways, throughout 2002/2003.

The effectiveness of the Tribunal in carrying out its difficult and sensitive responsibilities in 2002/2003 was due entirely to the dedication, professionalism, efficiency and commitment of the members and staff of the Tribunal. It is an honour to be their leader.



President

# About us

The Guardianship Tribunal consists of two separate groups of people. The first group—the Tribunal staff—are full-time NSW public service employees who manage the day-to-day administration of the Tribunal. As at 30 June 2003, the Tribunal employed 69 staff. The second group—the Tribunal members—are appointed by the Governor on recommendation of the Minister for Disability Services to make decisions at hearings. During 2002/2003, there were 70 Tribunal members, most of whom were available on a part-time basis to attend hearings. The Tribunal staff and members are all experienced people who are committed to promoting the rights of people with disabilities, including making their own decisions wherever possible.

Of the 69 staff, the senior staff person is the Executive Officer. The staff and their work are organised into the Executive and four units: Business Services, Coordination and Investigation, Client Information Services, and Hearing Services. Each unit plays an essential role in producing positive outcomes for people with disabilities. Greater detail on the restructure is provided on page 5.

## Tribunal members

The Tribunal members conduct the hearings and make the determinations. They are appointed on the basis of their significant professional and personal experience with people who have disabilities or their legal skills and experience. Each

## 2002/2003 highlights

- A restructure of the Guardianship Tribunal was implemented on 03.03.03.
- *Guardianship Amendment (Enduring Guardians) Act 2002* came into effect.
- *Guardianship and Protected Estates Legislation Amendment Act 2002* came into effect.

with an application about a person with a disability, it comprises a legal member who presides and two expert members. One expert, the professional member, has experience in the assessment or treatment of adults with disabilities. The other expert, the community member, has experience, usually familial, with people with disabilities. The combination of the three members ensures the Tribunal not only conducts its proceedings fairly, relies on credible evidence and remains within its jurisdiction but also that it focusses on the physical, psychological, social and emotional aspects of the person the hearing is about. This enables the Tribunal to take a holistic approach to its decision-making.

The panel considers the written evidence and takes evidence from the person the hearing is about and other parties and witnesses at the hearing or by telephone or video conference. They keep the hearing relevant, by asking questions and directing the parties and witnesses to the issues being considered. At the end of the hearing they assess the evidence and decide if there is a need to appoint or reappoint a guardian or a financial manager for the person the hearing is about. The Tribunal members then announce their decision at the end of the hearing and provide written orders and written reasons for their decision within 12 working days. The

backgrounds of individual Tribunal members are detailed on pages 42 to 48.

## Restructure

In September 2002, the report 'Review of Case Management Processing and Structures – Recommended Improvement Plan', was presented to the Guardianship Tribunal. The report was the end result of a review of the case processing system at the Tribunal by the consultants, In Corporate Pty Ltd. The consultants interviewed staff and gathered information through focus groups as well as by conferring with a reference group to work through the data before reaching their final recommendations.

The original aim was to review how cases were processed at the Tribunal (from applications being received to post-hearing outcomes) to determine how the system can be improved to provide a better service to clients. During the review, the consultants proposed that realigning the Tribunal's structure would improve the case processing system and have a positive impact on other processes and systems at the Tribunal, leading to a better service for clients and work environment for staff. The consultants made eight recommendations in their report and proposed a new internal structure for the Tribunal. The Tribunal's management agreed to proceed with implementing all the recommendations.

The new structure of the Tribunal is based on the concept of improving the flow of cases through the

organisation. This has reshaped the old branch structure into new functional groups. The functional groups are:

- the 'front door' of the organisation, with an external focus on communicating with potential clients and the general community;
- management and preparation of cases, with a focus on processing cases for hearing or, where appropriate, preparing cases for withdrawal; and
- completion end, with a focus on setting up and supporting the hearing and post-hearing processes.

In addition, there is a fourth functional group, with a focus on providing the necessary internal supports to allow the other three functional groups to work well.

There are now four new units that, in addition to the Executive Unit (which has remained unchanged from the old structure), form the new organisational structure.

**Client Information Services Unit** deals with switch, enquiries, receipt of applications and other incoming mail, coordination of feedback and other correspondence, administration of reviews preparation and withdrawals processing, website, publications and community education.

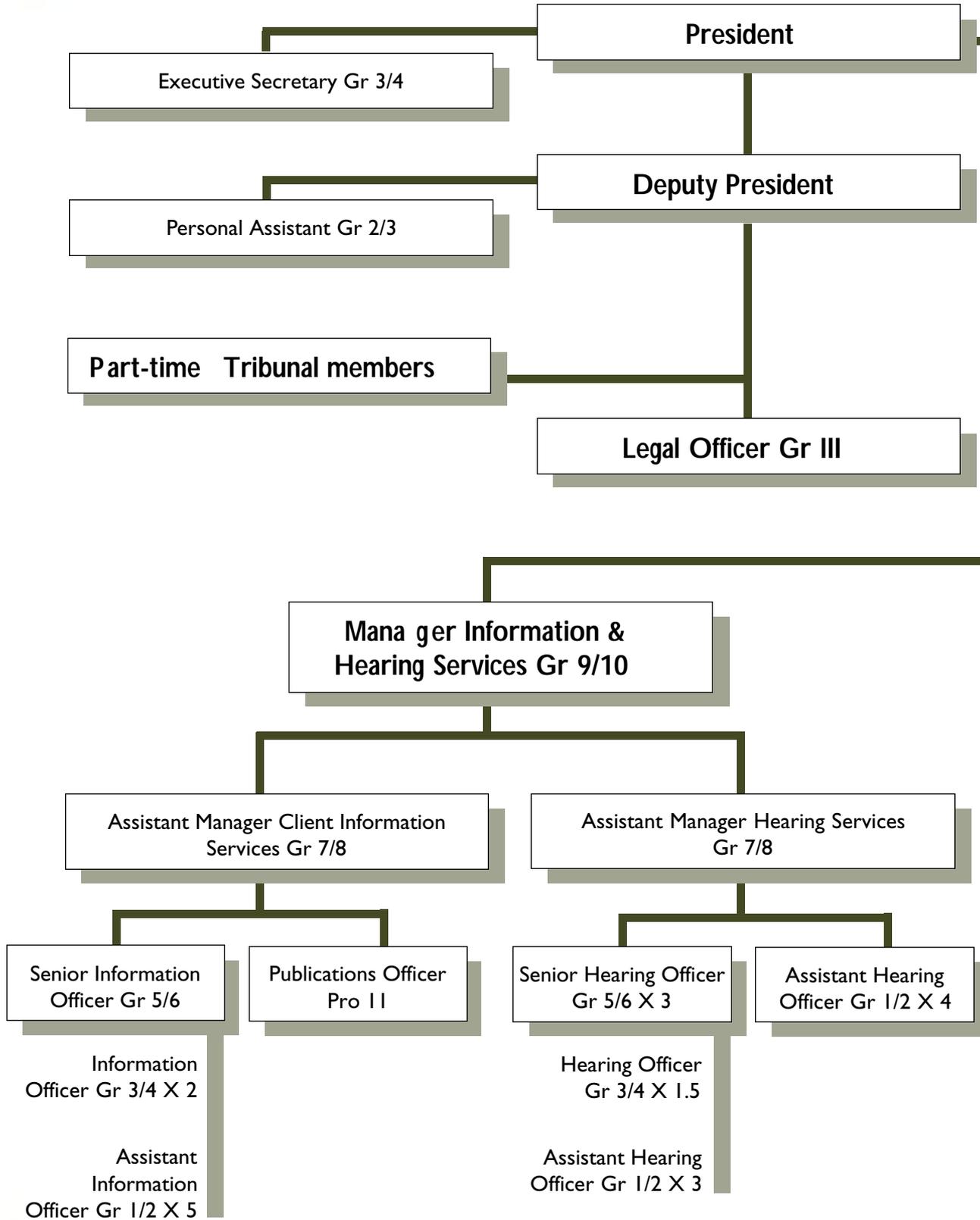
**Coordination and Investigation Unit** deals with assessment, investigation and preparation of all new and review cases for hearing.

**Hearing Services Unit** sets up and supports all hearings, including scheduling, member liaison,

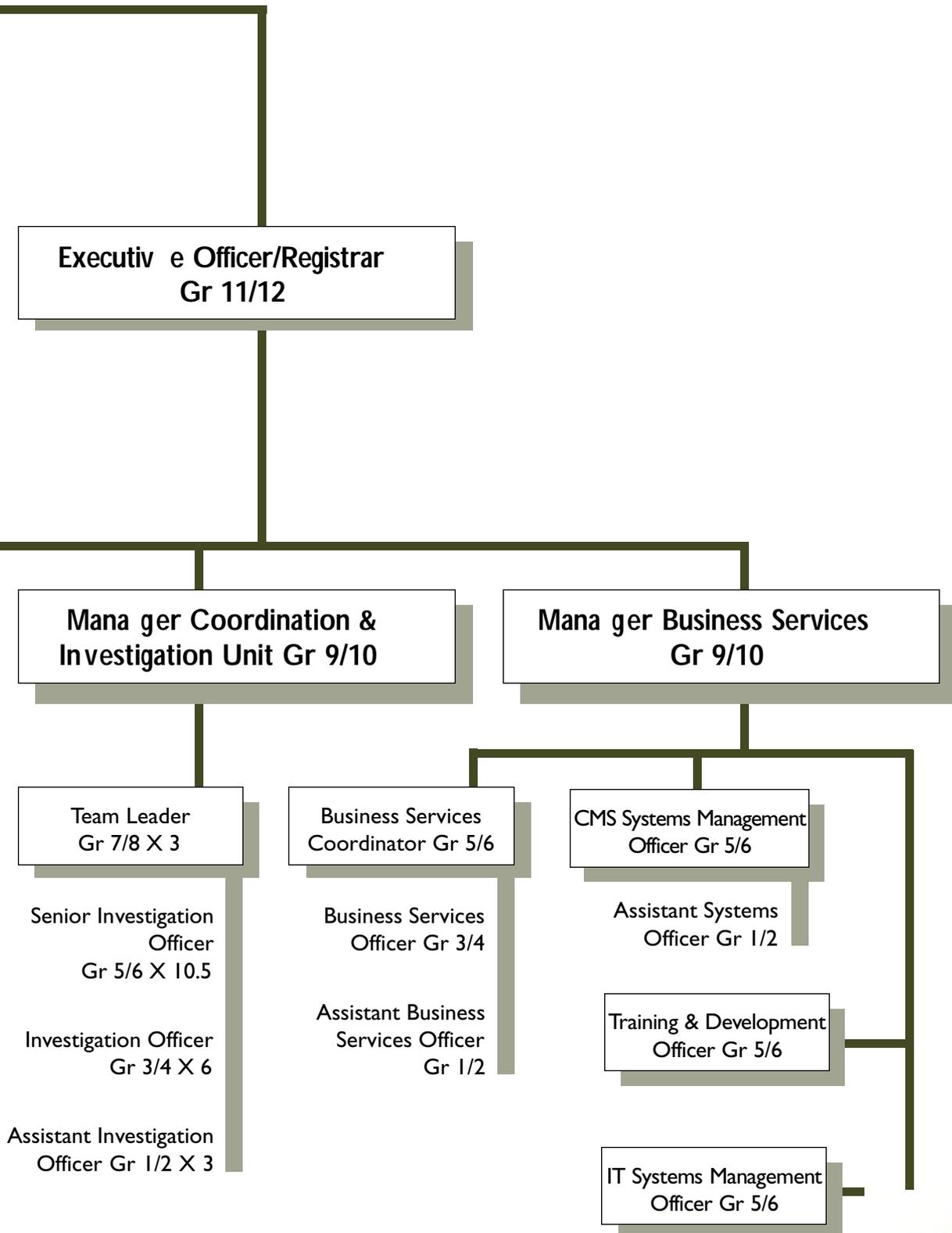
*(continued on page 8)*



Organisational



Chart



coordination of notices, travel, venue and interpreter arrangements, post-hearing enquiries, and orders and reasons.

**Business Services Unit** handles human resources, finance and other administrative services, management and support services for information technology, communication and client data base systems, and training and development for staff and members. Refer to our organisational chart on page 6 for further details.

A project team planned the implementation and a reference group of staff representatives liaised and consulted with staff about the implementation planning. Following the planning phase, a staged implementation of the new structure was launched on 3 March 2003.

A key benefit has been the opportunity for some staff to take on new or expanded roles under the new structural arrangements. Staff were able to indicate their interest in undertaking new roles or acting in higher graded positions and, where feasible, management tried to accommodate these interests as part of the new structure.

By 30 June 2003, all staff had moved to and, where necessary, received training in their new roles. The reallocation of functions across the four new units has also been completed. Further consolidation of systems and processes under the new structure will continue in the second half of 2003.

## Legislation relating to the Guardianship Tribunal

The *Guardianship Act 1987* sets out the legislative framework for guardianship in NSW. The Act establishes the Guardianship Tribunal and the Public Guardian and details the role of both

institutions. The *Guardianship Regulation 2000* should be read in tandem with the *Guardianship Act* as it contains further provisions about enduring guardians and medical treatment as well as setting out the prescribed forms required by the *Guardianship Act*.

Both the *Guardianship Act* and the *Protected Estates Act 1983* deal with financial management and the Protective Commissioner. The *Protected Estates Act* makes provision for financial management for people who are incapable of managing their own affairs and sets out the powers of the Protective Commissioner. The *Guardianship Act* deals with the process of making applications for financial management to the Guardianship Tribunal.

## Legislative changes since 1 July 2002

In 2002/2003, there were two major legislative changes to the *Guardianship Act*. The first was the *Guardianship Amendment (Enduring Guardians) Act 2002*, which came into operation on 1 January 2003. This legislation amended the provisions of the *Guardianship Act* that relate to the appointment of enduring guardians and the role of the Guardianship Tribunal in reviewing such appointments. The major changes are that:

- signatories and witnesses can sign at different times and at different places;
- enduring guardians can be appointed jointly and severally, severally or jointly;
- an alternative enduring guardian can be appointed;
- a clear procedure for resignation of enduring guardians is set out;
- the Guardianship Tribunal can make an order to confirm an enduring guardian appointment or

to replace the appointed enduring guardian.

The second was the *Guardianship and Protected Estates Legislation Amendment Act 2002*, which came into operation on 28 February 2003. These amendments provide that parties to certain proceedings before the Guardianship Tribunal have a new right of appeal from the Tribunal decision to the Administrative Decisions Tribunal of

both the Administrative Decisions Tribunal and the Supreme Court.

An external appeal panel of the Administrative Decisions Tribunal will determine appeals from the Guardianship Tribunal's decisions. Appeals can only be made on questions of law unless leave is granted for appeals on any other grounds.

### Case Study: A Sobering Story

Mr Z is a long-term alcoholic, living as a homeless person.

Generally, he looked for squats in abandoned houses but often he lived on the streets where he was in danger of being assaulted and robbed of his pension money and his few personal belongings. Mr Z has had no contact with his family. For some 10 years, Mr Z continued to live as a homeless person, spending his pension money on alcohol. A local policeman, concerned with the number of times Mr Z had been assaulted while living on the streets, made an application for a guardianship and financial management order to the Guardianship Tribunal in December 2002.

At the hearing, the medical evidence indicated that Mr Z had a number of physical problems, such as vision impairment, head injuries and memory problems, arising from his life on the streets and alcohol abuse but there was no clear evidence of cognitive disability. Two policemen, one of whom was the applicant, stated that they were concerned for the client's welfare as he was being assaulted and robbed. Mr Z said that he only drank one or two beers a day and did not fear for his safety. Mr Z also said that he had applied for Department of Housing accommodation and therefore did not

require guardianship and financial management. The guardianship application was adjourned for three months for additional medical evidence to be obtained. However, the Protective Commissioner was appointed the financial manager under an interim financial management order as the Tribunal deemed it appropriate as Mr Z's money was being stolen.

Three months later at the March 2003 hearing, no new medical evidence was presented. Mr Z did not attend the hearing although the police officer said he had spoken to him about the date and place of the hearing. The police officer reported that Mr Z was now living at a local boarding house. In addition, Meals on Wheels was providing three meals a day to Mr Z at the boarding house. The report from the Protective Commissioner indicated that the rent and an account to the local chemist for Mr Z's medicines were being paid by direct debit. In addition, a \$20 daily payment was being made into Mr Z's account so that he only had limited access to his finances.

The Tribunal was satisfied Mr Z was not capable of managing his finances. The Tribunal decided to appoint the Protective Commissioner as Mr Z's financial manager. As there was insufficient medical evidence to establish that Mr Z was suffering from a decision-making disability, the application for guardianship was dismissed.

The perseverance of a couple of local policemen finally resulted in a desirable outcome for Mr Z.

# What we do

## The role of the Guardianship Tribunal

### Our statutory role

The Guardianship Tribunal is a New South Wales government tribunal established under the *Guardianship Act 1987*. The principal role of the Guardianship Tribunal is to hear and determine applications made to it for the appointment of guardians and financial managers of adults with decision-making

disabilities. The Tribunal also reviews the guardianship orders it makes and may review its financial management orders. It has jurisdiction to give substitute consent to medical and dental treatment and a number of other smaller jurisdictions.

Under the *Guardianship Act 1987*, the Guardianship Tribunal may conduct proceedings with as little formality and legal technicality and form as the circumstances of the case permit. Nevertheless, the legislation also assumes that the Tribunal will

### Case Study: No orders thanks

Miss A, a young woman, has no permanent address and suffers from psychological symptoms related to post-traumatic disorder and depression. Her father, Mr H, made an application to the Tribunal for a financial management order and a guardianship order soon after his daughter had been assaulted and suffered from post-traumatic stress. At the initial hearing, the guardianship application was dismissed and the financial management application was adjourned for three months to see whether informal arrangements put in place would work.

At the second hearing, Mr H advised the Tribunal that the \$40,000 which Miss A had received as victim's compensation payment, has been invested on Miss A's behalf. Miss A told the Tribunal that, since she was living again with her parents, she no longer had to pay rent but had outgoings on her health insurance premiums and mobile phone.

In the meantime, Miss A said that she had made considerable progress since the first hearing and had applied to resume studying at

university.

After receiving counselling, her self-esteem had improved.

She stated that she was happy with the informal arrangements and she and her father had been able to address any money issues that had arisen. Miss A and her father agreed that they were both happy to continue with the arrangements until she is well enough to manage her own finances.

After hearing the evidence, the Tribunal dismissed the application for financial management order as there was no need for an order. The informal arrangements in place were working well for Miss A and everyone concerned was happy with the arrangements. With the progress made since the first hearing, it is expected that she will be in a position to manage her own finances in the near future.

the *Guardianship Act* deal with the Tribunal and proceedings before it.

Through the Tribunal's community education programs, its videos and publications, and its enquiry service, the Tribunal educates and informs the community about the work of the Tribunal and various informal arrangements that may overcome the need to make an application or for the Tribunal to make orders.

### **How the Tribunal functions**

The Tribunal differs from other courts and tribunals in the kinds of proceedings it hears. The proceedings in nearly all other courts or tribunals involve a dispute between two parties which is then concluded by the decision of the court or tribunal. In most matters coming to the Guardianship Tribunal there is no dispute. Sometimes, the person with a decision-making disability may not appreciate the need for decisions to be made or actions to be taken in relation to them. Occasionally, there is conflict between those involved about what should be done for the person with disabilities. Only rarely will the conflict be about whether or not the person has lost their decision-making capacity.

Proceedings before the Guardianship Tribunal are about whether a person with a decision-making disability needs a substitute decision-maker and, if so, what powers or functions that substitute decision-maker should have. Put another way, proceedings before the Guardianship Tribunal are essentially about a single person and their right to continue to make their own decisions.

In most matters before the Tribunal, the Tribunal's decision affects the person the hearing is about. In some cases, the emotions and interests of other people involved in the hearing are affected as well. For these reasons, the Guardianship

Tribunal conducts its hearings differently to other tribunals. The Tribunal operates in an inquisitorial manner. It controls the proceedings by setting out the issues and obtaining the evidence through a series of open questions at the hearing. The Tribunal then considers this evidence along with the report evidence it has received. It determines whether or not the person the hearing is about has lost their decision-making capacity and needs a guardian or financial manager and, if so, who that guardian or financial manager should be. If a guardian is appointed, the Tribunal will decide what decision-making functions they should have.

This different approach explains why there are professional and community Tribunal members as well as legal Tribunal members. Because of their knowledge of disabilities and the available services, the professional and community members play an essential role in determining whether an order should be made and, if so, what its content should be.

### **How the Tribunal deals with an application**

Most people with a disability do not need a guardian or a financial manager. There is no need to contact the Guardianship Tribunal unless there is a breakdown in informal arrangements in caring for a person with a disability or there are no informal arrangements available. Lodging an application for the appointment of a guardian or financial manager for a person with a disability is a serious matter. The person submitting the application is, in effect, asking the Tribunal to take away a person's rights to make their own lifestyle or financial decisions and to give those rights to someone else.

*(continued on page 14)*

## Dealing with an application: the steps

### Registration and assessment

When an application is received, it is registered. This starts a legal process in which the Tribunal has to be satisfied that the welfare and interests of the person with the disability are given paramount consideration. The applicant must demonstrate that it is in the best interests of the person with the disability before the withdrawal is approved.

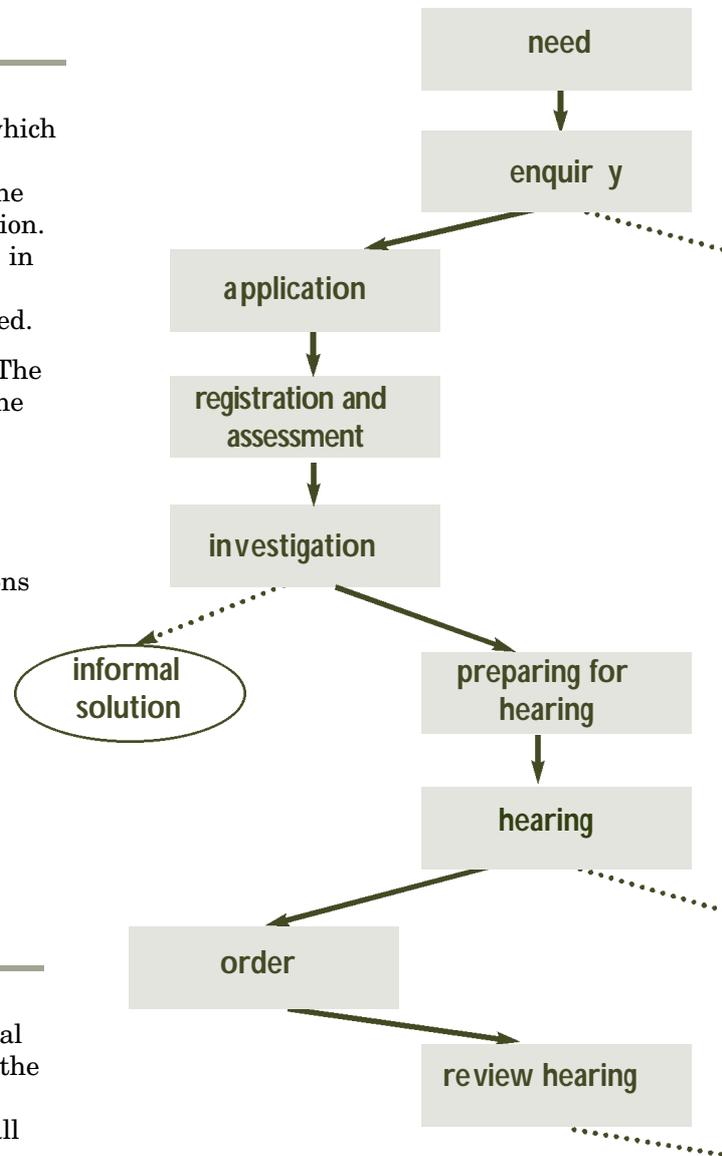
All applications are assessed for urgency. The welfare and interests of the person with the disability are considered, for example:

- the risk of harm or exploitation;
- the disadvantage that would occur by delaying the hearing;
- whether the person objects if restrictions on them are proposed;
- the availability of evidence and witnesses; and
- issues of procedural fairness in providing information about the hearing, including sufficient notice.

### Hearings

Each time a Tribunal is convened, it comprises a legal member, a professional member and a community member. At the hearing, the three Tribunal members consider the evidence and opinions of all parties and determine if a guardian or financial manager or medical consent is needed.

**Urgent applications** — If necessary, a hearing with a three-member Tribunal can be set up within hours or days of receiving the application. Sometimes these matters need to be dealt with by telephone. This is rare and occurs only in extremely urgent situations.



### Order

The Tribunal also issues written Reasons for Decisions relating to each hearing, which set out the Tribunal's decision, the evidence relied upon and the Tribunal's reasoning. The order and reasons for decision are sent to the parties as soon as possible after the hearing. Generally, these documents are finalised and sent to people within 12 working days after the hearing.

### **Enquiries — Does the Tribunal need to be involved?**

Before an application is made, service providers, other professionals, family members or friends of a person with a disability are encouraged to telephone the Tribunal's enquiry service. This initial contact may establish that there are other possible informal arrangements to assist the person with the disability than going to hearing. The enquiry service offers advice to family members and friends of people with disabilities.

informal  
solution

### **Preparing for a hearing**

A staff member of the Coordination and Investigation Unit will contact the applicant, relevant family members and service providers and, wherever possible, the person who is the subject of the application. The investigation officer will develop an understanding of the situation and will write a report, outlining the background to the application, any major issues and the views of all parties. This report provides a summary of the case for the Tribunal members hearing the application. During the investigation process, the investigation officer will explore options and developments on a regular basis with the people involved. This process can often assist to clarify issues and to help people to find satisfactory alternatives to formal guardianship or financial management for the problems they are facing.

dismiss

discharge

### **Interpreters and translations**

— Where appropriate, the Tribunal provides interpreters to help people attending hearings and Auslan (Australian sign language) interpreters for people with hearing impairments. When appropriate, the Tribunal also arranges for documents, such as notices and written order and Reasons for Decision, to be translated into other languages to ensure that people are provided with information that they can understand.



Applications can be made to the Tribunal by anyone with a genuine concern for the welfare of the person with a disability. Someone with a genuine concern for the person with a disability may be a family member or a friend or their doctor, caseworker, professional carer or other service provider. (See the diagram 'Dealing with an application: the steps' on page 12 for the steps leading to the making of an order.)

### Plan for your future: enduring guardianship, enduring power of attorney

Most people are generally comfortable with the idea of planning ahead for retirement through superannuation or other retirement schemes but few people actually prepare themselves for the possibility of losing the capacity to make decisions for themselves. If you are 18 and over you can put into place provisions for

someone else to take charge of financial and lifestyle matters.

Everyone likes to make their own decisions about where to live, which doctor to see, where to invest their money, and so on. We all expect that we will be able to do this well into retirement or even until our death.

But...what happens if you are involved in a car accident and suffer a brain injury? What happens if you slowly develop dementia or Alzheimer's disease without being aware of its progress?

If you plan for your future, you can decide who will look after you or who will manage your finances before you lose the capacity to make decisions for yourself.

Under NSW legislation, there are two ways for adults to plan for their own future, through appointing:

- an enduring power of attorney
- an enduring guardian.



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longer able to do so themselves. It is possible to define what functions the

enduring guardian will be able to perform, such as making decisions on what services will be received or consenting to medical and dental treatment.

The legislation relating to enduring powers of attorney is being reviewed currently. New legislation is expected late 2003 or early 2004. Under the existing legislation, a person can appoint an attorney under an enduring power of attorney to manage their financial affairs. An enduring power of attorney continues to have effect even after the person who made it has lost capacity to manage their affairs.

Why would you appoint an enduring guardian or an enduring power of attorney?

By appointing someone to make decisions on your behalf if you become

want them to exercise and how you want them to exercise their functions.

**Enduring guardianship and enduring power of attorney appointments allow you to choose who will make decisions for you if you are unable to.**

The Tribunal actively promotes enduring guardianship and enduring powers of attorney through its various community education seminars, website and publications (see pages 31 to 34). A major focus of the Tribunal's community education program is to encourage people to plan ahead so they may never need to seek the intervention of the Tribunal.

#### Case Study:

#### Planning ahead with an enduring power of attorney

Mr L wants his mother to give him an enduring power of attorney to manage her finances. Mrs L is Chinese and cannot read, write or understand English and cannot read or write in Chinese, other than to sign her name. She does not have a cognitive disability. Mr L has been advised that he should arrange for his Chinese-speaking accountant to explain the implications of an enduring power of attorney to Mrs L. The accountant can also witness her signature. Mr L was also advised that even if he did this he would not be able to use the power of attorney to deal with land.

In order to give a valid power of attorney, a person must have mental

capacity to do so when making it. This means that Mrs L must fully understand the implications of giving her son a power of attorney.

Mrs L has consulted a solicitor who speaks her language and has explained the power of attorney to her. Mrs L is then able to sign the power of attorney in Chinese. She is also able to have the enduring power of attorney witnessed by the solicitor.

By having the implications of an enduring power of attorney explained to her in her own language, Mrs L was able to plan for her own future by appointing attorney under an enduring power of attorney. If anything should happen to her where she is unable to make decisions for herself, at least she knows that her son will be able to look after her financial affairs as her attorney.

# Our work

## The year in review: 2002/2003

### Telephone Enquiries Service

The Tribunal's enquiries service, which operates from 9.00 am to 5.15 pm Monday to Friday, dealt with 12,687 telephone enquiries over the past year. The enquiries service is staffed by experienced officers to ensure that the advice provided is always of the highest quality. Because the enquiries service is often busy dealing with several callers at the same time, often callers are asked to leave their contact details on an answering service and their calls are returned within a few hours.

An important

### 2002/2003 highlights

- 4,191 new applications received.
- The most common primary disability was dementia in 45.5 percent of cases.
- 3,791 scheduled hearings held.
- Funding of \$164,000 for GT Connect project.
- Conciliation reached in 5 out of 6 cases.
- 2 appeals against Tribunal's decisions to the Supreme Court.
- 6 applications for approval of clinical trials — 5 were approved.

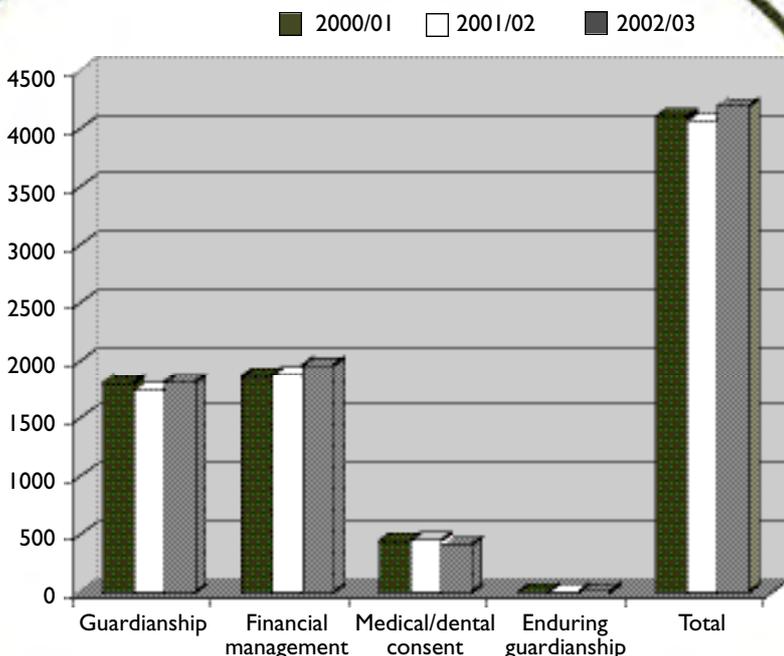
a guardianship or financial management application. In many cases, Tribunal staff will be able to suggest alternatives. For instance, an elderly person who is no longer able to cope alone may be helped with a Centrelink 'nominee' arrangement for pension payments and a family member making medical or dental decisions and arranging services that the person to receive services at the need for formal Tribunal

some cases, an informal alternative may not be possible, such as where a property needs to be sold or special accommodation costs or medical costs. To be able to make such decisions on behalf of the person with the disability, someone else may need the formal authority of Tribunal orders. Enquiries staff will discuss the particular circumstances with the caller and send the appropriate application forms and information by mail or fax.

### New applications

In 2002/2003, the Tribunal received 4,191 new applications.

Chart 1: Categories of new applications



**Table 1: Categories of new applications: three-year comparison**

|                        | 00/01       | 01/02       | 02/03       |
|------------------------|-------------|-------------|-------------|
| Guardianship           | 1799        | 1745        | 1809        |
| Financial management   | 1860        | 1873        | 1962        |
| Medical/dental consent | 441         | 449         | 411         |
| Enduring guardianship  | 2           | 8           | 9           |
| <b>TOTAL</b>           | <b>4102</b> | <b>4075</b> | <b>4191</b> |

Of these new applications received, 1,962 (46.8 %) were for the appointment of a financial manager; 1,809 (43.1%) were for the appointment of a guardian; and 411(9.8 %) were applications for consent to medical treatment. The Tribunal also received nine applications for the review of an enduring guardianship appointment.

Table 1 and Chart 1 show a breakdown of the new applications received this year and a comparison with the two previous years.

### Who made the applications?

Anyone with a genuine concern for the welfare of the person with a disability can make an application to the Tribunal. This genuine concern can arise from being a family member or a friend of the person with the disability or because of a professional relationship with them, for example their doctor, caseworker, professional carer or other service provider.

In 2002/2003, 48.9 percent of the applications received were made by family members, friends or advocates. The rest were made by professionals such as social workers, case managers, doctors or residential care staff.

### Primary disability of new clients

As in previous years, the most common primary disability identified on new client

**Table 2: New clients by disability type in 2002/2003**

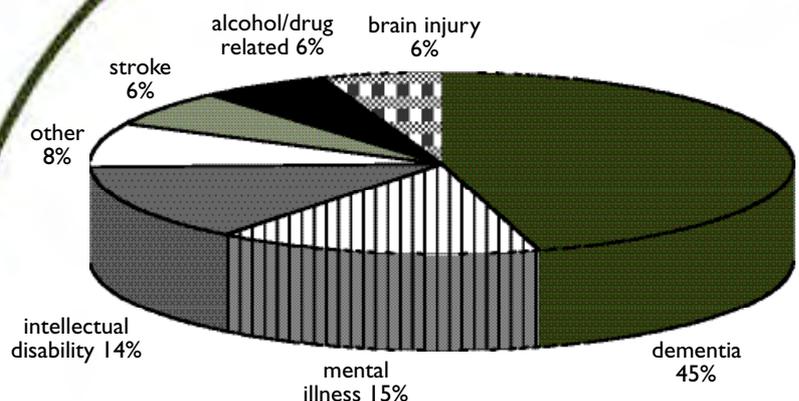
| Primary disability of clients | No.         | percent %    |
|-------------------------------|-------------|--------------|
| Dementia                      | 936         | 45.5         |
| Mental illness                | 308         | 15.0         |
| Intellectual disability       | 288         | 14.0         |
| Other                         | 159         | 7.7          |
| Stroke                        | 132         | 6.4          |
| Alcohol/drug related          | 118         | 5.7          |
| Brain injury                  | 116         | 5.6          |
| Eating disorder               | 1           | 0.0          |
| Unknown                       | 1           | 0.0          |
| <b>TOTAL</b>                  | <b>2059</b> | <b>100.0</b> |

applications was dementia (45.5 %). The next most common types of disabilities identified were mental illness (15%) and intellectual disability (14 %). Table 2 and Chart 2 show a breakdown of the disability types of new clients.

### Age and sex

Of the new applications received, 47.1 percent related to men and 52.9 percent to women. Unlike previous years when the majority of applications relating to people over the age of 65 were for women, this year male subjects of applications in this age group exceeded the women (52.7 % for men and 47.3 % for women). The people

**Chart 2: New clients by disability type**



years, 60 percent of applications related to men.

**Cultural background**

Applications were made about people with a wide range of cultural backgrounds. Applicants are asked to identify the cultural background of the person the application is about. The most frequent of these were Aboriginal/Torres Strait Islander, Polish, Italian, Greek and German.

**Language spoken at home**

Information was also provided by applicants about the language spoken at home by the person with the disability. A total of 38 languages other than English were identified, including Aboriginal languages and Auslan (Australian sign language). German, Greek, Italian, Polish, Maltese and Russian were the most frequently nominated languages other than English.

**Interpreters used**

Where appropriate, the Tribunal provides interpreters to assist people attending hearings. Interpreters were provided on 226 occasions during the year across 38 different languages. Interpreters

for Arabic, Cantonese, Croatian, Filipino (Tagalog), German, Greek, Hungarian, Italian, Macedonian, Maltese, Mandarin, Polish, Serbian, Spanish, Russian and Vietnamese were provided on five or more occasions. Auslan (Australian sign language) interpreters were provided on eight separate occasions during the year. Also, where appropriate, the Tribunal will arrange for documents to be translated into other languages and Braille.

**Applications**

**Guardianship**

In 2002/2003, the Tribunal dealt with 1,802 guardianship applications. Most were lodged during 2002/2003; some in the previous year. The outcomes are summarised in Chart 3.

Of the 42 percent of applications that resulted in a guardianship order, a private guardian was appointed in 36.2 percent of the cases and the Public Guardian in 62.4 percent. In the remaining 1.4 percent, a private guardian was appointed for some functions and the Public Guardian for other functions.

**Financial management**

Chart 3: Outcomes for guardianship applications

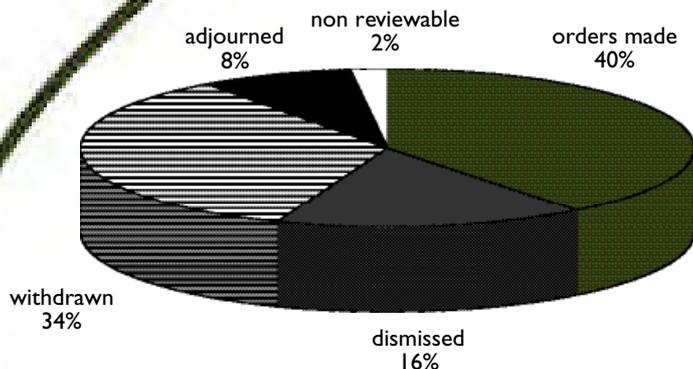
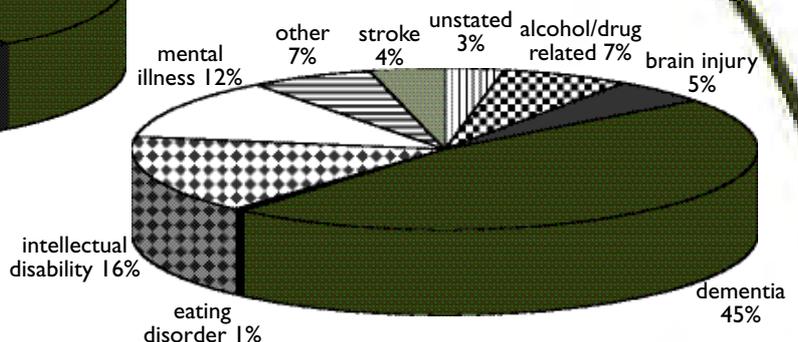


Chart 4: Disability in guardianship orders made



year. Of these, 54.7 percent of applications resulted in a financial management order (total of 1,153 orders) and 45.3 percent were withdrawn, dismissed or adjourned. The outcomes are summarised in Chart 5.

Of the 54.7 percent of applications in which financial management appointments were made, 81 percent resulted in final financial management orders; 13 percent had a review period stipulated in the order and 6 percent were interim financial orders.

**Consent to medical or dental treatment**

A total of 421 applications for consent to medical or dental treatment were dealt with by the Tribunal during the year. The outcomes of these applications are summarised in Chart 7 on page 20.

**Reviews of enduring guardianship**

The Tribunal dealt with nine applications to review the appointment of enduring guardians during the year. Three enduring guardianship appointments were confirmed and one appointment was

**Reviews of guardianship orders**

Most guardianship orders are reviewed at the end of their terms. They may be reviewed on request during their term. Requested reviews are usually made by guardians to increase or vary the guardianship functions. Others may also request a review because the circumstances relating to the person under guardianship have changed significantly or because of some other new issue relating to the guardian.

The Tribunal dealt with 1,581 reviews of guardianship matters during the year. The results are summarised in Chart 8 on page 20. In 59.7 percent of matters, the guardianship order was renewed, while in 31.75 percent of matters the order was not renewed as it was determined that there was no longer a need for an order.

**Reviews of financial management orders**

The Tribunal receives applications to revoke financial management orders on the grounds of regained capacity or best interests. During the

Chart 5: Outcomes for financial management applications

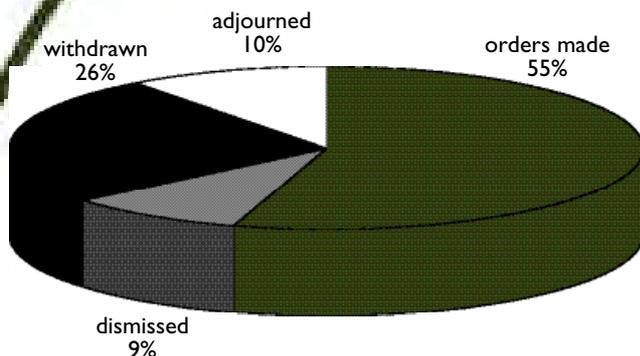
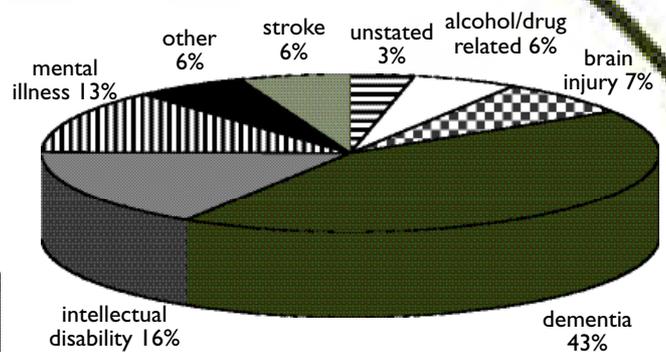


Chart 6: Disability in financial management orders made



received the review of the Tribunal in 2002/2003, 64 orders were revoked.

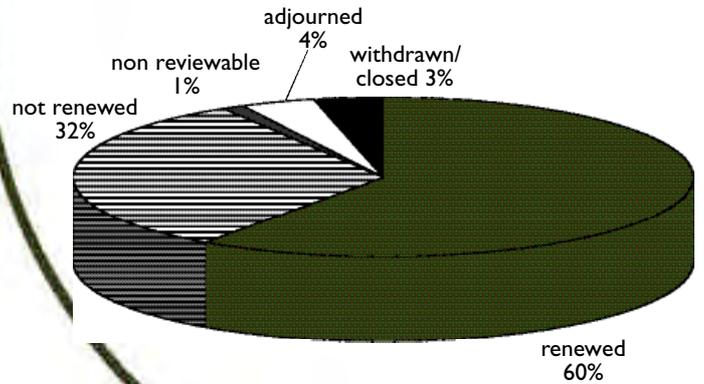
The Tribunal also received 61 applications to replace the current financial manager. These applications were made for a variety of reasons, including that the manager no longer wanted to or was unable to carry on with this role, or where there were concerns raised about the manager's suitability. Fifty-nine managers were replaced during the year. In 61 percent of these cases, the Protective Commissioner was appointed in place of a private manager.

**Hearings**

**How many hearings were held?**

During the year, the Tribunal conducted 3,791 scheduled hearings over 959 scheduled sittings. This was an average of 3.95 hearings per sitting. In addition to this, the Tribunal conducted 49 hearings after hours. Together, a total of 3,840 scheduled and after-hours hearings were held during the year.

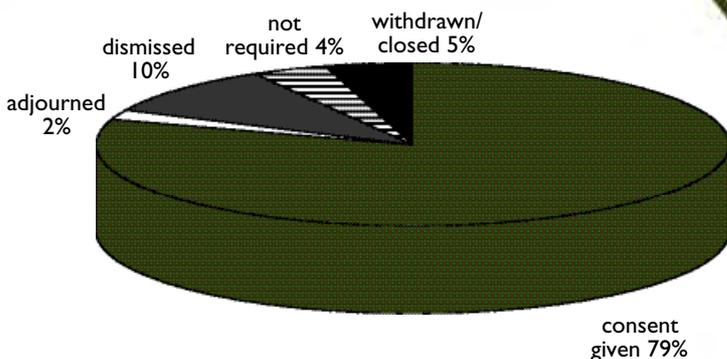
**Chart 8: Outcomes for reviews of guardianship orders**



**Where were the hearings held?**

The Tribunal conducted approximately 74 percent of its hearings either at its Balmain premises or in the Sydney metropolitan area. The remaining 26 percent of hearings were conducted elsewhere in NSW. Of these, 32.2 percent were held in either Newcastle or the Central Coast. Table 3 shows a breakdown of the major hearing locations.

**Chart 7: Outcomes for medical applications**



**Table 3: Hearings conducted outside Sydney metropolitan area**

|                |             |                |
|----------------|-------------|----------------|
| Albury         | Armidale    | Bathurst       |
| Blue Mountains | Bowral      | Broken Hill    |
| Campbelltown   | Cessnock    | Coffs Harbour  |
| Dubbo          | Goulburn    | Grafton        |
| Lismore        | Lithgow     | Maitland       |
| Merimbula      | Moree       | Morisset       |
| Moruya         | Mudgee      | Nowra          |
| Orange         | Penrith     | Port Macquarie |
| Queanbeyan     | Singleton   | Stockton       |
| Tamworth       | Taree       | Tweed Heads    |
| Ulladulla      | Wagga Wagga | Wollongong     |

Table 4: Hearings and sittings by location

| Location            | Hearings    | Sittings    |
|---------------------|-------------|-------------|
| Balmain             | 2483        | 583         |
| Sydney Metropolitan | 306         | 81          |
| Newcastle           | 164         | 48          |
| Central Coast       | 159         | 41          |
| Wollongong          | 80          | 22          |
| Other country       | 599         | 184         |
| SUB Total           | 3791        | 959         |
| After hours         | 49          | 49          |
| <b>TOTAL</b>        | <b>3840</b> | <b>1008</b> |

### Procedural hearing

The Tribunal is able to determine some procedural matters with less than three members. In 2002/2003, the Tribunal conducted 134 of these procedural hearings. These matters were determined by either the President or Deputy President and included applications for legal representation, applications to be joined as a party and requests for withdrawal of some matters. Of the 81 applications for legal representation considered, representation was granted on 65 occasions.



### Recognition of appointments

The Tribunal has the jurisdiction to recognise the appointment of guardians and managers appointed under corresponding law in other states and territories. The Tribunal is able to recognise appointments made by relevant guardianship bodies in all Australian states and territories and in New Zealand. During 2002/2003, the Tribunal recognised 11 such appointments.

## Improving services

The Guardianship Tribunal believes its work systems and processes contribute to the achievement of good outcomes for people with disabilities who are the subject of applications to the Tribunal. Fundamental to this is the need to continually review work systems and processes so that quality improvements can be identified and made where necessary. During 2002/2003, a number of projects have been undertaken as part of reviewing how we can continually improve delivery of our services.

### Corporate Plan

The 2002 Corporate Plan states that the Guardianship Tribunal's focus for the next three years will be 'improve our services and our service quality'. To achieve this, six strategies were identified, with a number of actions and initiatives to accomplish them. Over the past year, the achievement of these strategies has incorporated some major projects for the Tribunal, such as the case processing and structure review (reported in more detail on page 5) and the information technology plan. For each of the six Corporate Plan strategies, as outlined below, a working group was established to work on the actions and initiatives.

*Strategy 1: Gain a better understanding of the impact of orders and use this knowledge to improve our effectiveness.*

An 'Improving Effectiveness Project Committee' was established to

research the impact of Guardianship Tribunal orders and to make recommendations for improvements. Its major task was to gather and collate information and data from previous research projects and the case processing review as a basis for determining refinements needed to the Tribunal's processes. This initiative is still underway and will continue into the 2003/2004 year.

*Strategy 2: Expand and improve the ways people access our information and services.*

An 'Information Access Steering Group' was established to research and develop improved means of providing information about our services. One of the initiatives was the production of the new Guardianship Tribunal video early in 2003 (reported on page 32). The video's intention is to prepare parties to hearings about what to expect when they come to the Tribunal for a hearing.

*Strategy 3: Examine and review the major work flows of our organisation and identify improvement opportunities and implement them where agreed.*

A major review of the case processing system was completed, with a number of system improvements implemented or in the process of being implemented (reported on page 5). Also, a 'Systems and Processes Project Team' was established to identify and establish a process for reviewing other major work flows.

*Strategy 4: Actively identify new ways to use information technology in our business to apply this and keep ourselves current.*

In the past year, we have completed the development of an information technology plan that documents activities, timelines and required

resources to establish the necessary infrastructure and systems to meet the Guardianship Tribunal's current and future information technology needs. A 'road map' is being finalised that details how to implement the information technology plan and the plan will then be implemented in the second half of 2003. As well, an 'Information Technology Working Group' has been established to assist in implementing the information technology plan and to identify alternative ways of using information technology to improve the delivery of Guardianship Tribunal services.

*Strategy 5: Redesign our office environment to meet current and future needs for clients and ourselves.*

An 'Office Environment Project Group' was established to develop and implement an office environment plan. The implementation of the restructure needed to be completed before a full assessment and plan development could be undertaken. This will occur in the second half of 2003.

*Strategy 6: Improve the effectiveness of our internal communication.*

A 'Communications Working Group' was established to review and develop communications within the Guardianship Tribunal. Initiatives have included the development of a quarterly newsletter for staff and members, a monthly Tribunal members' newsletter and greater attention by management to the need to keep staff and members informed. Following implementation and consolidation of the new structure, development of further initiatives under this strategy will occur.

## GT Connect

In August 2002, the Tribunal submitted a proposal to the Office of Information Technology for funding under the 2002/2003 Connect.NSW Funding Program. The proposal was

accepted and the Tribunal provided a detailed business case on the proposed project to the Office of Information Technology in November 2002. In February 2003, the Tribunal was advised that it had been successful in its request for funding and the Tribunal has since received \$164,000 to complete the project by December 2003.

The project is called 'GT Connect' and has three components. The major component involves a redevelopment of the Guardianship Tribunal's website to make it as accessible as possible to all users, encompassing people with disabilities, including those with a cognitive disability. This required an innovative design for the website and provides challenges for the Tribunal and the consultant. GT Connect will be used as a model for other government agencies as an

applications online via the website. It will give the Tribunal the ability to make appropriate use of available technology and assist clients to make applications to the Tribunal.

The third component of the project involves the establishment of a separate website, an extranet, which will not be available to the public but will be used by the Guardianship Tribunal to post relevant information and data from the Tribunal's client database. The Office of the Protective Commissioner and the Office of the Public Guardian will have password access to the site to view and/or retrieve the information and data. It will also be possible for reverse posting and retrieval to occur. The site will eliminate the need for paper based documents to be exchanged between the Tribunal and the other

#### Case Study: A safe place to live

Mrs B, an elderly woman in her late 70s, lived in her own home until recently.

After a severe fall and hospitalisation for three weeks, she resided at an aged care facility on a respite basis.

While in hospital, Mrs B was assessed and an occupational therapist visited her home. The medical team found that she suffered from frontal lobe disease and lacked skills in planning and had concrete thinking. The occupational therapist concluded that Mrs B's home was unsafe to live in because of a leaking roof, termites, mouldy carpets and no hot water. A builder, estimated that the cost of repairing the roof was more than the value of the cottage.

Mrs B's only son made an application for guardianship and financial management when Mrs B insisted on returning to her

own home rather than being placed in a hostel. He asked for the Public Guardian and for the Protective Commissioner to be appointed as her guardian and financial manager.

At the hearing, her son pointed out that he had been looking after Mrs B for the past 20 years but he was unable to continue looking after his mother as he had recent surgery. His mother was profoundly deaf and written notes were the only way of communicating. She refused to let tradesmen in to make repairs on her house. Alternative accommodation was available for her now and, when sold, her house could provide the bond for her hostel placement.

The Tribunal appointed the Public Guardian as Mrs B's guardian for 12 months to make decisions about accommodation, health care, and medical and dental treatment. The Protective Commissioner was appointed as her financial manager.

agencies and will make regular information exchange quicker, more efficient and more reliable.

Work on the GT Connect project commenced in March 2003 and will conclude in December 2003. At the conclusion of the project, the redeveloped website will be operational, the ability to receive applications online will be established and the extranet site will be established.

#### **Upgrade of the Tribunal's Case Management System**

The client database used by the Tribunal is called the Case Management System and is a system that was custom-made to meet the requirements of the Guardianship Tribunal. It has been in use since 1997. A major upgrade of the Case Management System has been planned to coincide with the implementation of the information technology plan and the completion of GT Connect. This will be implemented over the first half of 2003/2004.

#### **Disability Action Plan**

The formulation of three-yearly disability action plans by NSW Government agencies is a requirement of section 9 of the *NSW Disability Services Act 1993*. The Tribunal's Disability Action Plan provides a strategic framework with clear goals for improving the accessibility of the Guardianship Tribunal's services and facilities and for measuring the progress towards those goals.

The Tribunal's current Disability Action Plan identifies actions and initiatives in the areas of physical accessibility, positive community attitudes, training of staff, information about services, employment in the public sector and complaints procedures. During the year, there have been a number of activities that work towards addressing these actions and

initiatives, such as:

- refurbishing office facilities to ensure accessibility standards are met for new or altered work areas;
- negotiating with the new building owners to ensure access issues relating to the building lift are addressed without delay;
- assessing venues for planned and requested community education sessions conducted by the Tribunal to ensure accessibility requirements are met;
- assessing venues for Tribunal hearings outside the Balmain premises to ensure appropriate accessibility; and
- focussing on making information on the Tribunal's website accessible for people with all types of disability through the GT Connect project.

#### **Ethnic Affairs Priority Statement**

The Guardianship Tribunal is committed to ensuring that its services meet the needs of people from diverse cultural and linguistic backgrounds. A key part of doing this is having an annual Ethnic Affairs Priority Statement, which identifies objectives, strategies and performance indicators that work towards meeting these needs. Over the past year, the Tribunal has undertaken a number of activities that address these, including:

- using qualified interpreters and translators in all instances where required to assist people in dealing with the Tribunal, in understanding Tribunal documents and in receiving other Tribunal services;
- reporting on interpreter usage is included in the Annual Report;
- using statistical information on current and projected use of Tribunal services by people from culturally and linguistically diverse backgrounds, and demographic

- data, to assist in planning services;
- having publications available in a number of languages; and
- redeveloping the website to be viewed in other languages through the GT Connect project.

## Conciliation

Before it makes an order, the Tribunal is obliged to use its best endeavours to bring the parties to a settlement, unless it considers that it is not possible or appropriate to attempt to do so. The Tribunal uses a range of different methods to do this.

if a formal order is likely to result in the person with a disability becoming isolated. Conciliation must operate within the principles of the *Guardianship Act 1987* (see inside front cover). The principles require the welfare and interests of the person with a disability to be given paramount consideration. Conciliation is not appropriate if the interests of the person with a disability are compromised by the process (eg. if the person is at risk of abuse or neglect). The Tribunal has been conducting a trial conciliation scheme for a couple of years.

### A Case Study: Conciliation

P is a young man with an intellectual disability. In recent years, he has mainly lived with his Aunt M about 50 kilometres from a regional centre. A couple of years ago, he went for a holiday with his mother and another Aunt U. All three women are sisters and Aunt U also has an intellectual disability. P did not come back and made allegations of financial exploitation against Aunt M. Later, he went back to work with his Aunt M and had very little contact with his mother or Aunt U.

Aunt M applied for guardianship and financial management orders. The Tribunal decided to refer the matter to conciliation. The conciliator contacted an advocate from an advocacy group in the regional centre. The advocate's role was to help P participate in the process and to highlight services and other options available in the area.

With the help of the advocate, P took an active part in the conciliation. Agreement was reached that:

- all parties want P to be happy and have a

good quality of life;

- the sisters will try to improve their relationship and communication and will talk on the phone at least fortnightly;
- all parties will try to facilitate regular contact between P and his mother and aunts by phone, letter and in person;
- P will be encouraged to use services and other options in the area to increase his skills and opportunities;
- the Protective Commissioner will be appointed to work out a fair arrangement for P's board and work;
- the advocate will assist in the implementation of the agreement and a case manager will be arranged;
- the agreement will be reviewed in six months' time; case manager will be arranged;
- the agreement will be reviewed in six months' time.

As a result of the conciliation, there was agreement between P and his mother and aunts on how best to maintain good relations, reward P's work, and increase his skills. It was a good arrangement for everyone concerned.

### How is a case identified for conciliation

The Tribunal's enquiries service filters enquiries so as to encourage people who do not need to consider making an application to the Tribunal to take other appropriate courses of action. When an application is lodged at the Tribunal, it is checked for the possibility of it being resolved prior to the hearing. Also, Tribunal staff assess the possibility of settlement of any disputes prior to the matter going for hearing. Sometimes, their efforts bring about a resolution of a matter.

The Tribunal has a statutory obligation under section 66 of the *Guardianship Act 1987* to use its best endeavours to bring the parties to a matter to a settlement without the need for making orders. This results in a number of matters being resolved at hearing through conciliation processes. Staff have permission to refer matters and, occasionally, Tribunals will adjourn a hearing to refer the matter to be dealt with through the trial conciliation scheme.

### How conciliation operates

Several members of the Guardianship Tribunal are experienced mediators and some of them have been used in conciliation cases. There is no compulsion for parties to participate in this form of conciliation. Conciliation is offered only in cases where there is a likelihood that a settlement may avoid the need for orders or when an agreement can be reached as to the orders needed.

The Tribunal will review and determine whether to approve an agreement reached in conciliation. The Tribunal can only approve an agreement if it is satisfied that it is acting within its jurisdiction and the agreement supports the best interests

of the person with a disability.

### Results from conciliation

Six matters have been referred to the conciliation trial. An agreement that seems to have been effective was reached in five of the six cases. No substantive agreement was reached in the sixth matter.

It must be remembered that most applications made to the Tribunal will not be suitable for the Tribunal's conciliation project — either because there is no dispute, there is a need for an order, or there are aspects of the matter that do not make it suitable for conciliation.

### Appeals from decisions of the Tribunal

There are two avenues of appeal from decisions of the Tribunal: the Supreme Court or the Administrative Decisions Tribunal of NSW. Only parties to the proceedings can appeal a decision of the Tribunal.

The Supreme Court can hear appeals from any decision of the Guardianship Tribunal. The Administrative Decisions Tribunal can only hear appeals from decisions made after 28 February 2003. There are some decisions, such as decisions about medical treatment, which cannot be appealed to the Administrative Decisions Tribunal.

There have been no appeals to the Administrative Decisions Tribunal from decisions of the Tribunal during 2002/2003.

There were two appeals from decisions of the Tribunal lodged with the Supreme Court during 2002/2003. Only one matter proceeded to be dealt with by the Court. The appeal was dismissed. The other matter is still pending.

### **MD v Guardianship Tribunal and Ors, Supreme Court, 30 June 2003, (11/03) Windeyer J**

Mrs KD was said to have a significant cognitive impairment due to advanced dementia which affected her ability to make decisions. Mrs KD resided at home with her daughter, Ms MD, who provided her with care. However, Mrs KD required 24-hour care and was admitted to a nursing home after consultation with Mrs ND who was Mrs KD's eldest daughter.

Ms MD requested the nursing home to discharge her mother into her care as she was confident she was capable of caring for her at home. Mrs ND and two of her other sisters applied to the Tribunal for a

committed the management of Mrs KD's financial affairs to the Protective Commissioner. The Tribunal reviewed the guardianship order after 12 months and renewed it for a further three years.

Ms MD appealed these decisions to the Supreme Court. Both appeals were lodged with the Supreme Court well after the appeal period had expired. The financial management order was made one year before the appeal was lodged and the renewed guardianship order was made nine months before it was appealed by Ms MD. Ms MD sought leave to appeal outside the time limits allowed.

The Court heard submissions from

#### **Case Study: A winning case**

Mr S, an elderly man in his late 80s, suffers from dementia and cognitive disability, resulting from alcohol related complications.

The Tribunal received an application for a financial manager from the head of nursing in his aged care facility. The applicant stated that Mr S had won almost a quarter of a million dollars in the NSW Lottery. After news of his win, his daughter and one son visited him at the aged care facility. The head of nursing was concerned that, prior to this, Mr S seldom received visits from his children. His daughter had asked for the winnings to be deposited into the bank account to which she was a signatory.

Because of the regulations governing NSW Lotteries about releasing monies, the hearing was listed as a matter of urgency.

The Tribunal spoke to Mr S alone. Mr S said he did not know what to do with the money but he did not want either his family or the aged care facility managing his money. He also said that his relationships

with his daughter and son were not close and they did not visit him regularly.

The head of nursing related that the home had been looking after Mr S's money for him as he had difficulty in budgeting his monthly allowance. She had made the application for a financial management order as she was concerned about the family stepping in and taking control of the money. Mr S's daughter stated that she did not want the Office of the Protective Commissioner managing the money and proposed that she along with her brother should manage her father's money.

The Tribunal were concerned at the lack of evidence of Mr S's capacity although his doctor did not believe Mr S was capable of managing large sums of money. The aged care facility did not want to be the financial manager and appointing his children would be against Mr S's stated wishes. However, as there was a clear need for the winnings to be secured and protected, the Tribunal determined that the Protective Commissioner be appointed as the interim financial manager of Mr S for six months. The application was adjourned for six months to enable a thorough investigation to be made of Mr S's capacity.

Ms MD on the question of extending the statutory time limit for lodging an appeal and about whether a question of law was involved in the appeal. The Court rejected Ms MD's submissions on these points and dismissed her application for leave to appeal.

### Freedom of information

The Tribunal received no applications for access to information under the *Freedom of Information Act*. Section 10 of the *Freedom of Information Act* states that the Act does not apply to the judicial functions of courts and tribunals.

### Complaints

The Tribunal has a complaint procedure which is set out in the brochure, *We Welcome*

*Your Feedback*. Anyone who wants to complain about the actions of a staff or Tribunal member must write to the Registrar of the Tribunal. The Tribunal will ensure that the complaint is properly investigated. The person lodging the complaint will be advised of the outcome of the investigation. During 2002/2003, the Tribunal received 48 complaints relating to 43 clients.

### Access to new treatments through clinical trials

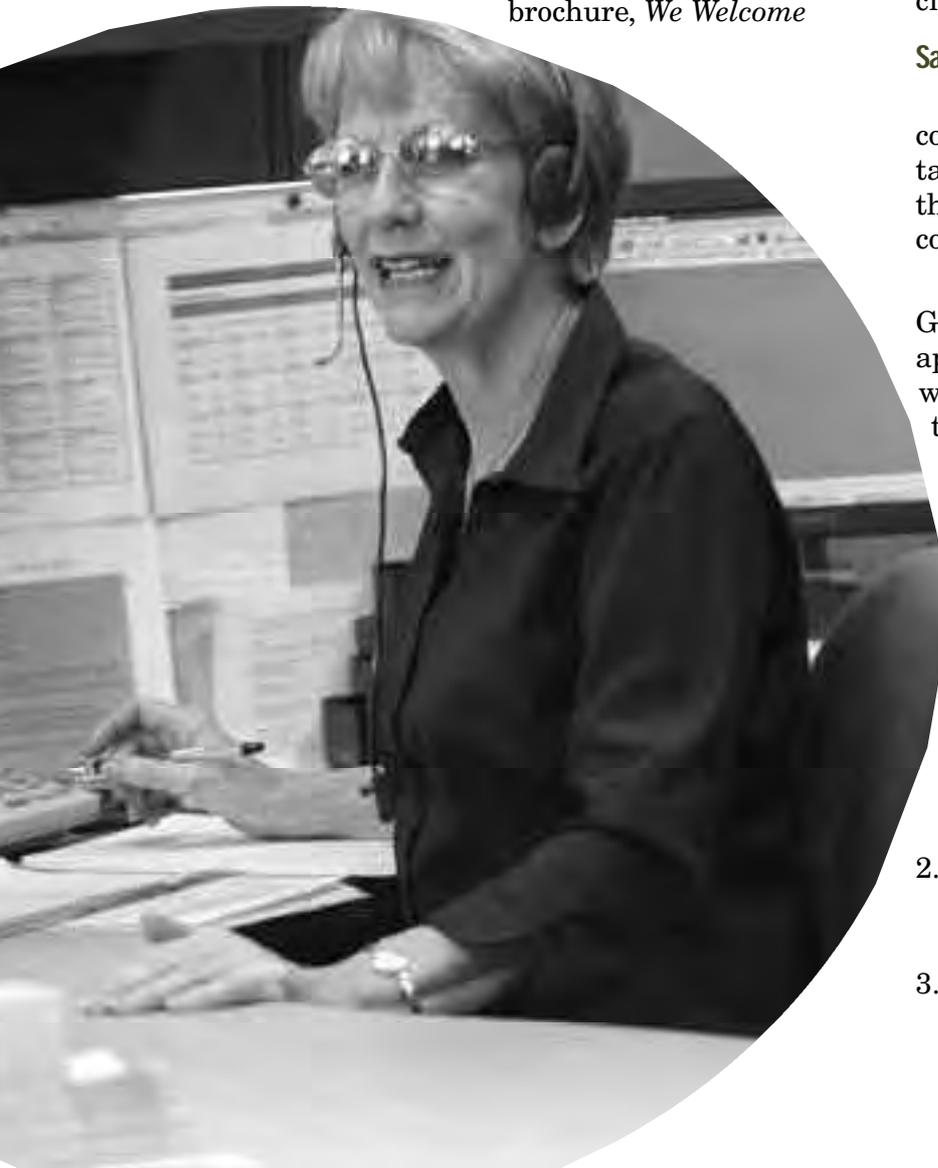
The purpose of the clinical trials provisions of the *Guardianship Act 1987* (Part 5, Division 4A) is to ensure that people who cannot consent to their own treatment can gain access to treatment only available through a clinical trial.

### Safeguards

To ensure that people who cannot consent to their own treatment may take part only in those clinical trials that may benefit them, the legislation contains a number of safeguards.

The first safeguard is that the Guardianship Tribunal must give its approval to the clinical trial as one in which those who cannot consent to their own treatment may take part. This requires those proposing the clinical trial to make their case to the Tribunal before they can treat adults unable to consent to their own treatment in the clinical trial. The Tribunal will not give its approval unless each of the following criteria is satisfied.

1. Only people who have the condition to be treated may be included in the clinical trial.
2. There are no substantial risks to the patient or no greater risks than those posed by existing treatments.
3. The development of the treatment



has reached a stage at which safety and ethical considerations make it appropriate for the treatment to be available to people who cannot consent to their own treatment.

4. The treatment has been approved by the relevant ethics committee.
5. Any relevant National Health and Medical Research Council guidelines have been complied with.
6. When the potential benefits are balanced against potential risks, it is clear that it is in the best interests of people who have the condition that they take part in the trial.

Another safeguard comes into play if the Tribunal gives its approval to the clinical trial. Individual substitute consent must be given for each person taking part in the clinical trial. The legislation is structured so that this consent will usually be given by the 'person responsible' for the person unable to consent to their own treatment. The 'person responsible' is usually the spouse, family carer or adult child of the person unable to give consent. In all cases in which the Guardianship Tribunal has given its approval to a clinical trial, the 'person responsible' has been empowered to give the individual substitute consent.

A further safeguard in the legislation is that anyone who provides treatment to a person in a clinical trial not in accordance with the legislation commits a serious offence and is liable to imprisonment for up to seven years.

A final safeguard is that the Tribunal must include, in its annual report, details of any clinical trial it approves.

### Approval of clinical trials

During 2002/2003, the Tribunal received six applications for the

approval of clinical trials. The Tribunal approved five of those applications and dismissed the other one.

Of the approved clinical trials, two were for new treatments for people with sepsis or pneumonia, one for patients with severe traumatic brain injury, one for treatment for patients with Parkinson's disease and dementia and another was for patients with septic shock. The Tribunal did not approve a clinical trial that involved a comparison of markers of sepsis in the diagnosis and outcomes of sepsis.

As required by Section 76A (2A) of the *Guardianship Act 1987*, the Tribunal sets out details of those trials on page 30.

**Clinical Trials 2002/2003**

| Name of clinical trials submitted for approval by the Tribunal  | Trial sites  | Outcome of Tribunal hearing | Individual consents to be given by the 'person responsible' |
|---|--|-----------------------------|---|
| <b>Trials for patients suffering from severe traumatic brain injury</b>   |  |                             |   |
| 1. An efficacy and safety evaluation of a single intravenous dose of Dexanabinol in patients suffering from severe traumatic brain injury   | St George Hospital   | Trial approved              | Yes   |
| <b>Trials in the treatment of patients with Parkinson's disease and dementia</b>  |  |                             |   |
| 2. A 24-month, multicentre, randomised, double-blind, placebo-controlled study of the efficacy, tolerability and safety of Donepezil (Aricept) in Parkinson's disease patients with dementia                                      | Hornsby Ku-ring-gai Hospital<br>Central Coast Neuroscience Research<br>Westmead Hospital | Trial approved              | Yes   |
| <b>Trials for treatment of patients with sepsis/pneumonia</b>   |  |                             |   |
| 3. A phase 2, randomised, double-blind, placebo-controlled safety and efficacy study of recombinant chimeric monoclonal antibody against human CD14 (IC14) in hospitalised patients with community-acquired pneumonia and sepsis. | Nepean Hospital<br>St. George Hospital   | Trial approved              | Yes   |
| 4. A randomised, double-blind, placebo-controlled, multicentre, phase 3b study of Drotrecogin Alfa (activated) administered as a continuous 96-hour infusion to adult patients with early-stage severe sepsis                     | Prince of Wales Hospital<br>Royal Prince Alfred Hospital                                 | Trial approved              | Yes   |
| 5. A comparison of measurements of Indocyanine Green (ICG) Clearance with standard markers of sepsis (SIRS Criteria, Serum Procalcitonin and C-reactive Protein levels) in the diagnosis and outcomes of sepsis                   | Prince of Wales Hospital   | Trial not approved          | not applicable  |
| <b>Trials for treatment of patients with septic shock</b>   |  |                             |   |
| 6. A phase I study into the effect of Vasopressin on vital organ function in patients with septic shock   | Prince of Wales Hospital<br>Nepean Hospital  | Trial approved              | Yes   |

# Working with the community

## Community awareness and education

The major focus of the work of the Guardianship Tribunal is to protect the rights of individuals in the community with a decision-making disability. Providing information to the general community through community education sessions, videos, website and publications are a way of doing this.

All our publications and presentations are designed to explain the role of the Tribunal. Each year the Tribunal presents community education seminars in various locations. These seminars explain planning ahead for one's own future, making an application to the Tribunal and the role of the Tribunal and other organisations. The Tribunal responds to requests for speakers at various community and other groups.

In all our community education sessions and planned community education sessions, we receive feedback forms from the participants. These assist us to be responsive to our customers' needs and to plan future community education and other information tools.

In addition, the Tribunal has an important role in educating the community about enduring powers of attorney and enduring guardianship. We distribute brochures on power of attorney and enduring guardianship that explain how people can plan for their own future and who will make decisions for them if they are unable

## 2002/2003 highlights

- Launch of the Guardianship Tribunal's newest video *In Their Best Interests* by the Minister for Ageing and Disability.
- Distribution of over 115,000 publications throughout NSW.
- New public information display.
- 8 community education seminars across NSW.
- 250 people attended community education seminars.
  - 43 requested sessions presented to community and professional organisations.

to make decisions for themselves.

## Planned community education

A total of 250 people (203 professionals and 47 carers) attended the Tribunal's planned community education sessions for 2002/2003. The Tribunal conducted seminars for private carers, family members and friends of people with a disability, as well as seminars for service providers and other professionals in Wagga Wagga, Newcastle, Liverpool, and Dubbo.

## Requested community education seminars

Various organisations contacted the Tribunal and requested a speaker to explain the work of the Tribunal and all aspects of guardianship, including informal arrangements in the community. Other seminars looked at particular aspects of our work, including workshops on particular case studies. Many of the seminars focussed on the importance of planning ahead with enduring guardianship and enduring power of attorney.

The Tribunal conducted sessions for a variety of organisations,

service providers, and nursing organisations, legal organisations, universities, community groups and culturally and linguistically diverse community groups. Seminars were conducted for the Central Sydney Division of General Practitioners, College of Law, NSW Refugee Service and the Alzheimer's Association among others. The Tribunal also participated in induction programs for the Office of the Public Guardian and the Office of the Protective Commissioner.

## Research

During 2002/2003, the Client Information Services Unit undertook research into website accessibility particularly for people with disabilities and for people who speak languages other than English. This research will be the basis for the new website through the GT Connect project, which is currently under development.

In addition, there was research on further Tribunal publications to be made available in languages other than English. We are looking to expand translations of our general information brochures into more community languages. We explored other media for our publications, including having brochures translated into talking pamphlets by the Royal Blind Society.



## Production of new video

During 2002/2003, the Guardianship Tribunal produced a new video, entitled *In Their Best Interests*, to illustrate how an application comes to hearing and the whole hearing process. As many of the Tribunal's clients may be unable to understand what is happening, it is up to their carers and families to explain why they are coming to the Tribunal and to prepare them for the occasion. This video makes the

hearing process even more accessible by enabling parties to a hearing to prepare themselves adequately. It shows how a hearing progresses from beginning to end, including the formal aspects of greeting, and how everyone has a chance to voice their views.

*In Their Best Interests* is being distributed in a number of ways, including through libraries. Parties to a hearing are being encouraged to view the video in the days preceding the hearing.

*In Their Best Interests* was entered in the AIME film and video awards in the United States during the year and received a certificate of merit as a finalist in the external communication section. In addition, it won a silver plaque at the 2003 Intercom awards (Chicago Film Festival) in the legal category. This follows a fine tradition of award-

winning videos produced by the Tribunal that have been recognised in international competitions for their high-quality production and communicative medium.

The Tribunal continues to show and sell its two award-winning videos, *For Ankie's Sake* and *Substitute Consent when the Patient Can't Give a Valid Consent*. These videos are an important information tool and the feedback from the community continues to be very positive.

## Publications

The Guardianship Tribunal produces a number of publications that are used to inform people with disabilities, carers and the public about the Tribunal, its work and alternatives to accessing the Tribunal's services. The Tribunal publications are an excellent tool for promoting the concept of substitute decision-making and are part of the overall strategy for community education. Publications are distributed through the Tribunal's enquiries service and the website, at community education seminars and requested education sessions, and when requests are made to the Client Information Services Unit.

The Tribunal produced four publications: *What Does the Guardianship Tribunal Do?* brochure; *We Welcome Your Feedback* brochure; *Planning Ahead... Enduring Guardianship* brochure and application form; and *Separate Representation* information sheet. Over the past year, the Tribunal sent out 59,569 brochures and booklets. In total, the Tribunal distributed over 115,000 brochures, application forms and information sheets, representing a 30 percent increase since 2001/2002.

By far the most widely distributed publication is the brochure *What Does*

*the Guardianship Tribunal Do?* (more than 17,319 copies distributed in 2002/2003). Other publications that were widely distributed in 2002/2003 included the brochure *Enduring Guardianship* (13,934 copies), the general information sheet *Person Responsible* (9,094 copies), the brochure *3 Separate Organisations* (8,466 copies), the brochure *Power of Attorney (NSW)* (8,229 copies), and the information sheet *Medical and Other Professional Assessment Reports* (9,240 copies). The new enduring guardianship legislation meant large numbers of the *Enduring Guardianship* brochure were sent to solicitors' offices and to the Office of the Public Guardian.

### Brochures

*3 Separate Organisations* (the roles of the Guardianship Tribunal, the Office of the Public Guardian and the Office of the Protective Commissioner)

*What Does the Guardianship Tribunal Do?*

*We Welcome Your Feedback*

*Enduring Guardianship* (includes form)

*Getting Ready for Your Hearing*

*Power of Attorney (NSW)* (includes form)

### Booklets

#### New display for conferences and community education sessions

A new display was produced for the Guardianship Tribunal's community education sessions. The display graphically outlines how the Tribunal relates to the Office of the Public Guardian and the Office of the Protective Commissioner; the Tribunal's functions and responsibilities; and the hearing process. The display provides a clear and simple illustration of how we work.

*Substitute Consent — What the Law Says*

### **Information sheets**

*What does the Guardianship Tribunal do?* (available in Arabic, Chinese, Croatian, English, Greek, Italian, Macedonian, Polish, Serbian, Spanish, Tagalog, Turkish, Vietnamese)

*Person Responsible*

*Special Medical Treatment: Guidelines* (plus information sheets about specific kinds of special medical treatments)

*Access to New Treatments through Clinical Trials*

*Application for Approval of a Clinical Trial*

*Medical and Other Professional Assessment Reports*

*Guardianship Orders — What Happens after the Hearing?*

*Financial Management Orders — What Happens after the Hearing?*

*How to Revoke Your Guardianship Order*

### **Information sheets for people who are parties to hearings**

*Guardianship Hearings*

*Financial Management Hearings*

*Guardianship and Financial Management Hearings*

*Representation at Hearings*

*Preliminary Hearings*

*Separate Representation*

*Hearings to Review / Revoke Financial Management Orders*

*Hearings for Review of Guardianship Orders*

### **Application forms**

Application for guardianship and/or financial management

Application for consent to medical or dental treatment

Application to be joined as a party to a matter

Application for recognition of appointment

Application to review a financial management order

Application to revoke a financial management order

Application to revoke enduring guardianship

Application to review enduring guardianship

### **Other publications**

*Annual Report 2001/2002*

### **Website**

In December 2002, the Guardianship Tribunal took over the task of managing the content of the Tribunal's website. This enabled regular updates to be made on new publications and information on community education sessions.

In connection with the development of a new website through the GT Connect project, users were requested to provide feedback on the usefulness and accessibility of the Tribunal's current website. By the end of June 2003, feedback had been received from a number of users and the information will be used to plan the content and structure of the new website.

### **Papers presented**

#### **Nick O'Neill, President**

'Clinical trials and adults unable to give a valid consent to their own treatment—the truth revealed', paper given to Experimenting on the Aged Conference, Centre for

Elder Law, University of Western Sydney, 12 July 2002.

'Enduring guardianship', a presentation to the Benedictine community, St Benedict's Monastery, Arcadia, 29 August 2002.

'Let's get physical—the hearing process at the Guardianship Tribunal', a presentation to the Representing Justice Conference 2002, University of Canberra, 14 December 2002.

'Process and procedure of the Guardianship Tribunal', a presentation to the NSW College of Law, 25 March 2003.

'Protecting older people with decision-making disabilities from abuse and neglect—the role of the Guardianship Tribunal', paper given to the Aged and Community Services Association of NSW and ACT Community Care Conference, Sydney, 27 March 2003.

'The developing law and policy relating to enduring guardianship, enduring powers of attorney and advance directives in NSW', a presentation for Continuing Professional Education Department of The College of Law, Blue Mountains, 29 March 2003.

'Opening welcome', Forum on Health and Settlement Needs of Older Refugees, 2 June 2003.

'Substitute consent to medical treatment', a presentation to a Continuing Professional Development session, Parkes, 18 June 2003.

'Substitute decision-making—the developing law', a presentation at Legalwise Seminars, Macquarie

School of Management, Sydney, 19 June 2003.

### **Marion Brown, Deputy President**

'Making end-of-life decisions—a legal perspective', a presentation at the Aged and Community Services Association of NSW and ACT Residential Aged Care Conference, 2 August 2002.

Workshop on working with the Vietnamese community, 11 November 2002.

'Risks for financial attorneys—powers of attorney, the good, the bad and the ugly', a presentation to the NSW College of Law, 6 March 2003.

Submission to the Independent Pricing and Regulatory Tribunal inquiry into fees charged by the Office of the Protective Commissioner, 1 April 2003.



# Our people

## Tribunal staff as at 30 June 2003



*L to r:  
Jennifer  
Reynolds, Esther  
Cho, Nick O'Neill,  
Marion Brown,  
Trevor Fairbairn,  
Lisa Whittaker.*

### Executive

President

Nick O'Neill

Deputy President

Marion Brown

Executive Officer

Trevor Fairbairn

Executive Secretary

Jennifer Reynolds

Personal Assistant

Lisa Whittaker

Legal Officer

Esther Cho

### Coordination and Investigation

Manager

Ryan Williams

Team Leaders

Theresa Khoudair (part-time)

Margaret Watson (part-time)

Sue Young

Amanda Legge (part-time)

Senior Investigation Officers

David Evans

Loretta Rosicky

Peter Heffernan

*Back l to r: Theresa Khoudair,  
Andrew Gabriel, Amanda Legge,  
Margaret Watson. Middle l to r:  
Geraldine Northcott, Frances  
Massy-Westropp, Katrina  
Morris, Jane Samek, Lee  
Dargan, Paula Norris,  
Christopher Moore,  
David Evans,  
Loretta Rosicky,  
Ryan Williams,  
Lois Warnock.  
Front l to r:  
Melissa Simcoe,  
Maxine Spencer,  
Sue Young,  
Kathryn Tidd.*



Geraldine Northcott  
 Lee Dargan  
 Frances Massy-Westropp  
 Louise Smith  
 Susan Wright (part-time)  
 Amanda Legge  
 Jane Samek  
 Melissa Simcoe\*  
 Natalie Clough

Investigation Officers

Trudi Cusack (part-time)  
 Andrew Gabriel\*  
 Christopher Moore  
 Katrina Morris\*  
 Paula Norris\*  
 Kathryn Tidd\*

Assistant Investigation Officers

Maxine Spencer  
 Lois Warnock  
 Zebun Haji\*

Hearing Services

Manager Client Information  
 and Hearing Services

Janette Ogilvie

Assistant Manager

Lesley McGowan

Senior Hearing Officers

Kerrie Menken  
 Leanne Robinson  
 Rada Stevanovic\*  
 Gary MacDonald

Hearing Officers

Ruth Pearson (part-time)  
 Cynthia Nejal

*Back l to r: Eleanor Torry, Kerrie Menken, Lesley McGowan, Doreen Gray. Front l to r: Michelle Savage, Rada Stevanovic, Ruth Pearson, Chris Mitchell, Liz Evans, Cynthia Nejal, Gary MacDonald, Janette Ogilvie.*



**Assistant Hearing Officers**

Ruth Pearson (part-time)  
 Christopher Mitchell  
 Michelle Savage  
 Doreen Gray  
 Sita Singh  
 Mariella Eberl (part-time)  
 Eleanor Torry  
 Elizabeth Evans\*

**Client Information Services**  
**Manager Client Information and Hearing Services**

Janette Ogilvie

**Assistant Manager**

Sonia Bernardi\* (part-time)  
 Robyn Barlow\* (part-time)

**Publications Officers**

Anita Ray (part-time)  
 Donna Crotty\* (part-time)

**Senior Information Officers**

Robyn Barlow (part-time)  
 Diane Brehaut (part-time)

**Information Officers**

Tania Hibbert  
 Patrika Sheehan\*

**Assistant Information Officers**

Sonia Tomasetig (part-time)  
 Cristyn Davies\* (part-time)  
 Robyne O'Connor\*  
 Tina Pasa\* (part-time)  
 Angela Ogden\*  
 Sally Shaw\* (part-time)  
 Janet Stringer  
 Diane Cracknell\* (part-time)

*Back l to r: Angela Ogden, Janet Stringer, Diane Brehaut, Sally Shaw, Robyn O'Connor, Robyn Barlow.  
 Front l to r: Sonia Bernardi, Janette Ogilvie, Patrika Sheehan, Sonia Tomasetig, Anita Ray.*





*Back l to r: Christine Small, Linda Sengstock, Dennis Maby.*

*Front l to r: Patrick Gooley, Christine Triantafillopoulos, Gail Yueh, Maria Sardisco.*

### **Business Services**

Manager

Linda Sengstock

Training and Development Officer

Gail Yueh (part-time)

Business Services Coordinator

Maria Sardisco

IT Systems Management Officer

Dennis Maby

CMS Systems Management Officer

Patrick Gooley

Business Services Officer

Christine Small

Assistant Business Services Officer

Sin-Lee Yeoh

Assistant Systems Officer

Christine Triantafillopoulos\*

### **Other staff employed in 2002/2003**

Catherine Asquith\*

Stephan Cassar\*

Tia Covi (on extended leave)

Rosa De Sio\*

Luke Duncan\*

Yvonne Jackson\*

David Joy\*

Jacqueline Klarkowski

Tim Lim\*

Veronica Loh

Frank Maguire

Anastasia Murnane\*

Amanda Smith\*

\* Temporary or acting

## Training for staff

To ensure that staff of the Guardianship Tribunal are able to provide an efficient service to our clients, the Tribunal provides regular training opportunities. Over the past year, staff have attended a variety of training courses both internally and externally. Some programs, such as staff selection techniques and fire safety training, were conducted at the Tribunal by external training providers. Staff also attended courses at external training organisations in areas such as computing and occupational health and safety.

As the Tribunal has undergone a recent restructure, many Tribunal staff required internal training. This involved mainly on-the-job training to provide staff with the skills and knowledge to efficiently and effectively perform new duties required under the restructure.

It is important that staff are able to work safely in the office environment. Training to ensure staff are aware of safe work practices is regularly conducted at the Tribunal by the Commonwealth Rehabilitation Service.

The use of technology in business is increasing daily. Tribunal staff members attended a forum on e-government, convened by the NSW Government. The Tribunal will be expanding its website to make information about the Tribunal more easily accessible to people, including those with a disability. Two staff members attended a program on web accessibility while another attended training in website development. Courses conducted by external organisations that staff have attended include:

### Computer Training

Microsoft Outlook

Microsoft Access  
Microsoft Excel  
Microsoft Powerpoint  
Dreamweaver  
Web accessibility  
Legal sites on the internet

### Occupational Health and Safety

Occupational health and safety consultation  
Office safety  
Fire safety training

### Other Training

Staff selection techniques  
NSW e-government forum  
Managing people  
Leadership  
New managers and coordinators

## Training for Tribunal members

A separate training program is conducted for the Tribunal members. Each year four half-day seminars are conducted for presiding members and another four for all Tribunal members. The seminars provide Tribunal members with the opportunity to come together to discuss and listen to presentations on relevant issues. Topics covered in the last year have included:

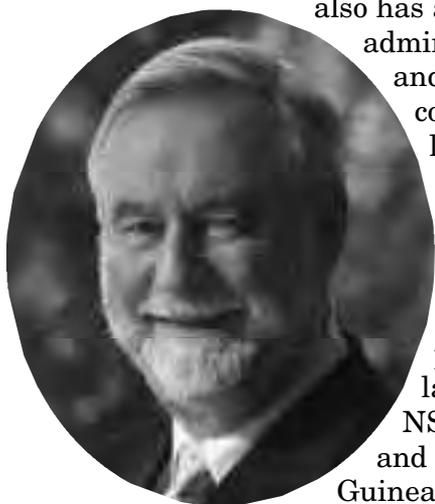
- an overview of psychiatric medications;
- mental health care for people in the community;
- senile squalor;
- the impact of legislative changes on the Office of the Protective Commissioner;
- behaviour management and intervention; and
- appeals to the Administrative Appeals Tribunal.

## Tribunal members

### Nick O'Neill, President

Nick O'Neill is a human rights lawyer in Australia and the Pacific and has taught, consulted and written on human rights in that region. He is co-author of *Retreat from Injustice: Human Rights in Australian Law*. He

also has a strong administrative and constitutional law background. He is a former academic and practising lawyer in NSW, Victoria and Papua New Guinea, and official visitor to Rozelle Hospital.



In Papua New Guinea, he was a trial and appeals lawyer before being appointed Counsel Assisting the Commission of Inquiry into Land Matters. He established the Papua New Guinea Law Reform Commission and was its first secretary. He later played a significant role in the development of the Faculty of Law, University of Technology, Sydney.

Since joining the Tribunal, Nick has contributed chapters on the jurisdiction, practice and procedures of the Tribunal to various publications, including *The Law Handbook*, *Lawyers Practice Manual*, and *Older Residents' Rights*. He has also given numerous presentations on all aspects of the Tribunal's work and associated issues, including medico-legal issues to a wide range of audiences.

He has acted as an advisor, consultant and trainer to guardianship organisations both in

Australia and overseas.

### Marion Brown, Deputy President

Marion joined the Tribunal as Deputy President in May 1995. She was formerly the principal solicitor at the Women's Legal Resources Centre—a community legal centre—and practised mainly in the fields of family law and violence against women and children. She served as a community representative on the NSW Child Protection Council and the NSW Sexual Assault Committee. She was also a commissioner on the NSW Legal Aid Commission and a part-time hearing commissioner with the Human Rights and Equal Opportunity Commission.



Marion has conducted many community legal education presentations, including the Women Out West project in which a multi-disciplinary team worked with Aboriginal women in western NSW to help women in various communities explore options to protect themselves and their children.

Currently, she is a member of a number of committees including the Specialist Advisory Committee for the Centre for Gender Related Violence Studies at University of NSW, Client Capacity sub-committee of Law Society Ethics Committee at the NSW Law Society. She was a representative on the Department of Ageing, Disability and Home Care Steering Committee for Planning Ahead Project and Dementia Awareness for Lawyers Forum.

Marion has contributed to several publications, including *The Law Handbook* and *Law and Relationships: A Woman's A-Z Guide*.

**Presiding (legal) members****John Boersig**

Solicitor. Director, University of Newcastle Legal Centre. Also coordinates a coalition of Aboriginal legal services to produce policy and research. Experience in criminal and personal injury law, victims' compensation and public interest advocacy.

**Anthony Giurissevich**

Solicitor in private practice. Former legal member, Veterans' Review Board and Social Security Appeals Tribunal. Experience in general litigation and advocacy for people with brain injury and mental illness.

**Robin Gurr**

Former barrister and Registrar in the Family Court of Australia.

Former President of the NSW Community Services Appeals Tribunal and Senior

member of the Fair Trading Tribunal. Currently workers' compensation arbitrator and presiding member on

GREAT. Experience in alternative dispute resolution.

**Christine Hayward**

Lawyer and former member of the Refugee Review Tribunal and Senior Deputy District Registrar in the Commonwealth Administrative Appeals Tribunal.

**John Hislop**

Solicitor, now retired after more than 40 years in private legal practice. Former partner with firm with emphasis on business law, property, estates and litigation. Ten years (part-time) teacher with Faculty of Law, University of Sydney.

**Geoffrey Hopkins**

Solicitor since 1979. Private practice and legal aid work. Experience in advocacy across range of courts and tribunals. Emphasis on criminal and civil law, especially



*Back l to r:*  
Robin Gurr, Monica MacRae, Tony Krouk, Julie Lulham, Bernie Shipp, John Cipolla, Kim Ross.  
*Front l to r:* Carol McCaskie, Tony Giurissevich, Marion Brown, John Hislop, Anita Sekar.

**Sally Ann Chopping**

Lawyer and former Chairperson of the Residential, Fair Trading, and the Consumer, Trader and Tenancy Tribunals. Experience in alternative dispute resolution.

**John Cipolla**

Solicitor. Experience representing clients with psychiatric and other disabilities both through Legal Aid and Mental Health Advocacy Service. Previously Principal Solicitor, Inner City Community Legal Centre. Experience in refugee law and as senior conciliator, Disability Discrimination Unit of the Human Rights and Equal Opportunity Commission. Part-time member of Consumer Trader Tenancy Tribunal and Migration Review Tribunal.

housing law and consumer remedies and legal issues relating to people with disabilities and the aged. Involvement with community groups. Mediator with community justice centres, Supreme Court and Law Society panels. Chairperson with Government and Related Employees Appeal Tribunal.

### **Tony Krouk**

Accredited family law specialist. Experience representing people with brain injury, mental illness and dementia, as both a private and community lawyer.

### **Julie Lulham**

Solicitor and social worker. Experience in private practice and community legal centres. Experience in head injury rehabilitation and geriatric medicine.

### **Carol McCaskie, AM**

Barrister. Member, Consumer, Trader and Tenancy Tribunal and Mental Health Review Tribunal. Arbitrator, Workers Compensation Commission. Former general manager, Langton Centre. Qualifications in management, dispute resolution, geriatric nursing, nurse education and nursing administration.

### **Monica MacRae**

Solicitor. Experience in private practice, particularly family law and general litigation. Member, Social Security Appeals Tribunal. Member, Mental Health Review Tribunal.

### **Peter Molony**

Barrister with extensive experience as a tribunal member, including the Social Security Appeals Tribunal, Small Claims and Residential Tenancies Tribunal and Refugee Review Tribunal. Judicial member of Administrative Decisions Tribunal.

### **Loretta Re**

Barrister. Member, Mental Health Review Tribunal. Revised the law of evidence and formulated proposals for a Guardianship Tribunal (ACT) at the Australian Law Reform Commission.

### **Kim Ross**

Solicitor and consultant in human rights and mental health law. Extensive tribunal experience and current member of Consumer, Trader and Tenancy Tribunal, and Mental Health Review Tribunal.

### **Anita Sekar**

Solicitor. Worked with the Equity Division of the NSW Supreme Court, Commonwealth Director of Public Prosecutions, Human Rights and Equal Opportunity Commission, and Australian Broadcasting Authority. Worked in community legal centres, Disability Discrimination Legal Centre and Intellectual Disability Rights Service. Experience as a conciliator with NSW Anti Discrimination Board.

### **Bernie Shipp**

Solicitor. Experience with Legal Aid and Community Legal Centres. Now a member of the Social Security Appeals Tribunal and Consumer Trader and Tenancy Tribunal.

### **James Simpson**

Solicitor, mediator and policy consultant. Former deputy president, Community Services Appeals Tribunal. Former coordinator, Intellectual Disability Rights Service.

### **Professional members**

#### **Ivan Beale**

Recommended October 2003.

#### **Angela Beckett**

Clinical psychologist; admitted as solicitor. Experience assessing and

providing services to people with a disability, including intellectual and psychiatric disabilities and dementia. Established Home Respite Service for people with dementia. Experience in behaviour management and positive programming. Qualifications and experience in dispute resolution. Family experience with dementia and physical disabilities.

#### **Hayley Bennett**

Clinical neuropsychologist in private and public practice, specialising in the assessment of mental capacity.

#### **Isla Bowen**

Psychologist with extensive experience in development and implementation of behaviour intervention and support programs for people with intellectual disabilities. Lectures in developmental disability at Wollongong University.

#### **Mary Ellen Burke**

Clinical psychologist and consultant. Experience providing services to people with an intellectual disability who have challenging behaviour and their families/carers. Experience monitoring, developing services and service systems.

#### **Barbara Burkitt**

Psychiatrist. Experience in psychogeriatrics, formerly

psychogeriatrician, Central Sydney Area Health Service.

#### **Rhonda Buskell**

Qualifications in psychiatry and in rehabilitation medicine. Formerly Director, Lidcombe Brain Injury Rehabilitation Unit. Currently, consultant psychiatrist in private practice as consultation-liaison psychiatrist in public hospital system. Member, Mental Health Review Tribunal.

#### **Sandra Dingle**

Psychologist. Experience assessing and assisting people with dementia, stroke and brain injury. Founding coordinator of Home Respite Service, Wollongong.

#### **Imelda Dodds**

Social worker. Consultant with extensive experience in practice and administration in the fields of disability and guardianship. Former Public Guardian of Western Australia. President International Federation of Social Workers.

#### **June Donsworth**

Psychiatrist and civil forensic psychiatrist. Member of Mental Health Review Tribunal, part-time member of the Social Security Appeals Tribunal. Former psychiatrist on South Australian Parole Board and former member of South Australian

*Back l to r: Rhonda Buskell, Susan Taylor, Carolyn West, Robert Yeoh, Barbara Burkitt, Michael Frost, Brenda McPhee, Ivan Beale. Front l to r: Meredith Martin, Imelda Dodds, Jan Wortley, Isla Bowen, Tim Wong.*



Guardianship Board. Medical assessor with Health Quest.

### **Sharon Flanagan**

Clinical neuropsychologist with extensive experience of people who have suffered traumatic brain injury. Experience in adult rehabilitation in hospital and community settings and assessment of people with dementia and other acquired brain impairments.

### **Michael Frost**

Former medical superintendent and chief executive officer, Marsden. Former chief executive officer, Western Sydney Developmental Disability Service.

### **Julie Garrard**

Social work manager at Calvary Health Care Sydney with experience in palliative care. Experience in working with people with intellectual disabilities, brain injury and HIV. Worked at the Health Care Complaints Commission.

### **Julie Hendy**

Clinical neuropsychologist now working in private practice, mostly seeing people with head injury. A Churchill Fellow, she recently co-authored a textbook on paediatric neuropsychology.

### **Jean Hollis**

Old age psychiatrist. Previously staff specialist (part-time) with Aged and Community Care Services Team at Concord Repatriation General Hospital.

### **Susan Kurrle**

Geriatrician. Member of Aged Care Assessment Team. Experience assessing and managing abuse of older people, and dementia.

### **Pamela Lockhart**

Registered nurse. Experience

assessing and providing services for people with dementia.

### **Brenda McPhee**

Medical practitioner. Experience in women's health, aged care, and counselling. Member, Social Security Appeals Tribunal. Medical officer, Bankstown Women's Health Centre.

### **Meredith Martin**

Special educator. Expertise in behaviour management and positive programming for people with a disability, particularly intellectual disabilities.

### **Helen Newman**

Clinical neuropsychologist in private practice. Experience assessing people who have suffered brain impairment.

### **Michael Pasfield**

Psychiatrist. Member NSW and NT Mental Health Review Tribunals. Former member Social Security Appeals Tribunal, Repatriation Review Tribunal and Veterans' Review Board. Consultant practice, psychiatric hospitals and government departments.

### **Carmelle Peisah**

Consultant old age psychiatrist and research fellow at the Academic Department for Old Age Psychiatry, Prince of Wales Hospital and conjoint senior lecturer University of NSW. Expertise in family therapy. Experience in medicolegal cases of competency and testamentary capacity in older persons.

### **Suzanne Stone**

General practitioner. Currently in private practice; including assessment and management of elderly patients with dementia, both in institutional settings and in their own homes. Published in the field of pre-senile dementia. Experience in the field of

women's reproductive health and with patients with eating disorders in community settings.

### **Susan Taylor**

Social worker. Experience in community mental health services and providing support services for people with multiple sclerosis. Member, Social Security Appeals Tribunal.

### **Carolyn West**

Specialist in rehabilitation medicine. Head of Spina Bifida Unit, New Children's Hospital, Westmead. Visiting medical officer, Royal Prince Alfred Hospital and Westmead Hospital for adult services for people with spina bifida.

### **Wai-Kwan (Tim) Wong**

Psychologist with experience in positive programming for people with intellectual disabilities. Has also worked with people with intellectual disabilities in areas of sexuality and sexual behaviours. Currently working with people affected by HIV/AIDS and hepatitis C.

### **Janice Wortley**

Psychologist with experience assessing

people with psychiatric disabilities, acquired brain injury and intellectual disabilities. Experience in behaviour intervention and support. Family experience of disability.

### **Robert (TH) Yeoh**

General practitioner since 1975. Currently president Alzheimer's Association of Australia. Member of the medication advisory committees of several aged care homes. Official visitor under the *Mental Health Act 1990*. Member of Ministerial Advisory Committee on Ageing NSW. Representing ADGP on National Aged Care Alliance.

### **Community members**

#### **Stanley Alchin, OAM**

Retired director of nursing, Rozelle Hospital. Registered psychiatric nurse. President, After Care Association of NSW. Member, Mental Health Review Tribunal. Vice President, Sydney Male Choir.

#### **Rhonda Ansiewicz**

Lecturer in social work and community work, advocacy and human rights. Coordinator Aboriginal Rural Education Program in Community Welfare, University of Western Sydney. In private practice,

*Back l to r: Leanne Stewart, Janene Cootes, Jennifer Newman, Mary Butcher, Kerrie Laurence, Jane Fraser, Elaine Becker, Sue Warth, Steven Kilkeary. Front l to r: Robert Ramjan, Annette Evans, Andrew Barczynski, Faye Druett, Stan Alchin, Jeanette Moss, Jennifer Klaus.*



works with people with a mental illness. Family experience with schizophrenia. Activist for social change.

### **Andrew Barczynski**

Social worker. Currently Manager of Quality Assurance Team on NSW far north coast for Commonwealth Department of Family and Community Services. Experience working with people with a range of disabilities. President of community agency providing services for older people from a non-English speaking background.

### **Elaine Becker**

Social worker. Experience working with people with dementia and their carers. Worked with the Office of the Public Guardian. Family experience as private guardian.

### **Mary Butcher**

Nurse with extensive aged care experience in residential and community settings. Previously coordinated community care packages to support elderly people at home. Family experience of providing care to a person with dementia.

### **Maria Circuitt**

Advocate for services and support for people with a disability. Parent of a son with an intellectual disability and mental illness.

### **Janene Cootes**

Social worker. Community visitor to residential services for adults and children with disabilities and educator at the Intellectual Disability Rights Service. Past experience with people with an intellectual disability and as the first Manager of Investigation and Liaison at the Guardianship Tribunal.

### **Faye Druett**

Long-standing involvement in the

disability field. Has significant physical disabilities herself. Currently private guardian for a woman with intellectual disability. Worked in federal and state (NSW and Queensland) governments, including as a service provider, policy development, management and administration of legislation.

### **Annette Evans**

Social worker. Experience in managing community aged care program for Jewish community. Involved in living skills, family and housing support for people with psychiatric disability; support for people with dementia and their carers. Past experience in tenants advice and advocacy and refuges for young people and women.

### **Jane Fraser**

Parent of a young woman with a developmental disability. Welfare worker and former executive officer for People with Disabilities. Past Chairperson for the Disability Council of NSW for four years. Family experience caring and supporting a person with mental illness and dementia.

### **Steve Kilkeary**

Social worker with experience in fields of mental illness and HIV/AIDS. Former primary carer for family members who had disabilities.

### **Jennifer Klause**

Extensive experience as a social educator for people with intellectual disabilities. Consultant working on communication with people with intellectual disabilities.

### **Marika Kontellis**

Previously social worker, now community sector adviser for aged care and disability service providers. Managed community options programs, assisting older people and

people with disabilities to remain in their own homes. Member, Disability Council of NSW. Family experience of mental illness.

#### **Kerrie Laurence**

Teaches in the Intellectual Disability Unit of TAFE and works with students with intellectual disabilities and acquired brain injuries. Relevant family and tribunal experience.

#### **Michael McDaniel**

Member of the Wiradjuri Nation, Associate Professor and Director Warawara Department of Indigenous Studies at Macquarie University. Part-time member, NSW Administrative Decisions Tribunal. Part-time Commissioner, NSW Land and Environment Court.

#### **Leonie Manns**

Has a psychiatric disability and has been a longstanding consumer advocate in the field of disabilities. Former chair of the Disability Council of NSW. Family experience of dementia.

#### **Jeanette Moss AM**

Family experience of, and advocate for, people with a disability.

#### **John Mountford**

Former Chairperson of the NSW Committee on Ageing. Accountant with extensive experience in private business, public service and charitable organisations.

#### **Jennifer Newman**

Lecturer, Aboriginal and Torres Strait Islander Programs, Faculty of Education, University of Technology Sydney. Previously taught Aboriginal Studies for the Associate Diploma of Aboriginal Health and students of Rehabilitation Counselling and Occupational Therapy. Family and

social experience of people with disabilities, including dementia, alcohol-related brain damage, intellectual disability and HIV/AIDS.

#### **Alan Owen**

Psychologist and senior research fellow, University of Wollongong. Former coordinator of a community mental health service, policy analyst, manager, coordinated care projects. Member, Mental Health Review Tribunal.

#### **Robert Ramjan**

Social worker. Experience in mental health including chronic mental illness and psychogeriatrics. Executive officer, Schizophrenia Fellowship of NSW.

#### **Robyn Rayner**

Social worker with experience in aged care, palliative care, dementia, neurological rehabilitation and crisis intervention.

#### **Alexandra Rivers**

Psychologist/specialist educator. Experience working with people with intellectual disabilities, behaviour difficulties or mental health problems and their families. Lecturer (Hon), Faculty of Education, University of Sydney. Vice-President, Schizophrenia Fellowship of NSW. Board member, Aboriginal Education Council, NSW.

#### **Leanne Stewart**

Social worker. Consultant in aged and community services sector, specialising in retirement living and dementia care. Previous experience managing retirement villages, nursing homes and community aged care services.

#### **Susan Warth**

Psychologist and consultant with extensive experience with people with intellectual disabilities.