



Guardianship Tribunal

Annual Report
2005/2006

Principles guiding the Tribunal

The Guardianship Tribunal must observe the principles in the Guardianship Act 1987. These principles state that everyone dealing with people with a disability has a duty to:

- give the person's welfare and interests paramount consideration;
- restrict the person's freedom of decision making and freedom of action as little as possible;
- encourage the person, as far as possible, to live a normal life in the community;
- take the person's views into consideration;
- recognise the importance of preserving family relationships and cultural and linguistic environments;
- encourage the person, as far as possible, to be self-reliant in matters relating to their personal, domestic and financial affairs;
- protect the person from neglect, abuse and exploitation;
- and encourage the community to apply and promote these principles.

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Balmain NSW 2041

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Acknowledgments

We wish to thank all staff and
members of the Guardianship
Tribunal for their contributions to
this report.

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Letter to the Minister

Guardianship *Tribunal*

10 October 2006

The Hon. John Della Bosca, BA MLC
Minister for Commerce,
Minister for Finance,
Minister for Industrial Relations,
Minister for Ageing,
Minister for Disability Services,
Leader of the Government in the Legislative Council

Parliament House
Macquarie Street
Sydney NSW 2000

Dear Minister,

I have pleasure in presenting the Annual Report for the Guardianship Tribunal for the year ended 30 June 2006.

This report has been prepared in accordance with the Annual Reports (Statutory Bodies) Act 1984, for presentation to Parliament.

Yours sincerely,



Diane Robinson
President,
Guardianship Tribunal

President's Report



It is my privilege to present, on behalf of the staff and members of the NSW Guardianship Tribunal, the Tribunal's annual report for the 2005/2006 financial year. It has been a significant and very productive year for the Tribunal.

The Tribunal operates as a specialist disability tribunal. Its role is to protect and promote the rights and interests of people with disabilities in New South Wales by facilitating substitute decision making on their behalf. In the 2005/2006 financial year the Tribunal managed its biggest workload to date. 5,428 new applications were received, representing an increase of 9.3% in new applications compared to last financial year. A total of 8,422 matters were managed by the Tribunal in 2005/2006. This is an increase of 14.8% compared to last year.

The Tribunal conducted 4,614 hearings in 2005/2006. Matters which did not proceed to hearing were finalised in a number of other ways, with many matters able to be withdrawn following appropriate referral or informal resolution. Our strategies to manage the increasing demand for the services of the Tribunal were well utilised. The Tribunal responded to 12,851 enquiries, distributed over 91,000 publications and our website was visited on 143,399 occasions. The Tribunal spoke to approximately 2,431 people across NSW, at community education sessions and the President and Deputy President were

involved in a range of committees, forums and public presentations.

At the same time as managing more applications, the Tribunal endeavoured to hear or finalise matters in as timely a fashion as possible. A considerable amount of work was done in the 2005/2006 year to streamline work processes to facilitate the speedier preparation and hearing of applications. The Tribunal's hearing rate did increase over the year, by 9.5 %, an improvement which reflects the Tribunal's commitment to continuous improvement in the delivery of its services.

It is important to remain vigilant and reflective about the work and operation of the Tribunal. Reviewing our performance, to assess whether the Tribunal is functioning in the most appropriate, efficient, effective and prudent manner is important and the Tribunal was engaged in such a review for much of 2005. The Tribunal's processes and procedures were assessed in the light of demographic trends and our increasing workload. Consideration was given to the ways in which the guardianship legislation could be improved to better protect and promote the rights of people with decision making disabilities. Tribunal staff, members and stakeholders were consulted. The Tribunal maintains a policy of continuous improvement and endorses change which reflects and supports our commitment to providing quality services for people with disabilities and those who support and work with them.

In 2005/2006 the Tribunal completed a new corporate plan for the years 2006 to 2009. The new corporate plan reflects our focus on quality service provision for people with disabilities, their families and carers.

Community education and awareness, legislative review, continuous improvement in relation to work processes, data management and the use of technology, and the ongoing support of staff and members and their working environment have been identified as the five major strategies to facilitate this goal. Our new corporate plan includes a new Information and Communication Technology plan (ICT plan) which will be instrumental in further improving the efficiency and effectiveness of the Tribunal. The Tribunal had support from the Government Chief Information Office and would like to thank the Chief Information Officer and his staff for their assistance in the development of the Tribunal's strategic ICT plan.

The Tribunal is funded to perform its work through the Department of Ageing Disability and Home Care (DADHC). While the Guardianship Tribunal operates as an independent statutory body, our links with DADHC highlight the Tribunal's role as a specialist disability tribunal and assist in maintaining sound links and networks in the disability sector. In 2005/2006 the Tribunal spent \$7.7 million.

The 2005/2006 financial year was the third year in which appeals could be made to the Administrative Decisions Tribunal (ADT)

from the decisions of the Guardianship Tribunal. Thirteen appeals to the ADT were lodged in relation to decisions of the Tribunal and three of those appeals were upheld.

I would like to conclude with two important acknowledgements. First the support and assistance provided by our Minister, the Hon. John Della Bosca MLC must be mentioned. Minister Della Bosca has made a great contribution to disability services in NSW and his strong commitment to the work of the Guardianship Tribunal is very much appreciated.

The other people to be acknowledged are the members and staff of the Guardianship Tribunal. Their skill, dedication and expertise ensure the effective operation of the Tribunal. Their commitment to the work of the Tribunal and the professional and collegiate way in which they have managed the demands of a significantly increased workload is impressive. It remains a privilege to work with them.



Diane Robinson
President

About Us

Tribunal staff and members

The Guardianship Tribunal consists of two separate groups of people. The first group, the Tribunal staff are full-time and part-time New South Wales public service employees who manage the day-to-day administration of the Tribunal. As at 30 June 2006, the Tribunal had 64 full time and part time staff positions, filled by 63 people. The second group, the Tribunal members are appointed by the Governor on recommendation of the Minister for Disability Services. During 2005/2006, there were 77 part-time Tribunal members, most of whom were available on a part-time basis to conduct hearings. The Tribunal staff and members are all experienced people who are committed to promoting the rights of people with disabilities, including their right to make their own decisions wherever possible.



Of the 63 staff, the senior staff person is the Executive Officer/Registrar. The staff and their work are organised into the Executive Unit and four other units: Business Services Unit, Coordination and Investigation Unit, Client Information Services Unit, and Hearing Services Unit. Each unit plays an essential role in producing positive outcomes for people with disabilities.

Tribunal Members

The Tribunal members conduct hearings and make the Tribunal's 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 time a panel of the Tribunal is convened to deal 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 focuses on the physical, psychological, social and emotional needs of the person the hearing is about. This enables the Tribunal to take a holistic approach to its decision making.

Tribunal members consider written evidence and take oral evidence from the person the hearing is about and other parties and witnesses at the hearing, either in person or by telephone or video conference. They keep the hearing focused on relevant issues, 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 usually announce their decision at the end of the hearing

and provide written orders and reasons for their decision within 12 working days. The backgrounds of individual Tribunal members are detailed on page 50-58.

Tribunal staff

The structure of the Tribunal is based on 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, assisting with their informal resolution; 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. The four functional units, in addition to the Executive Unit, form the 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

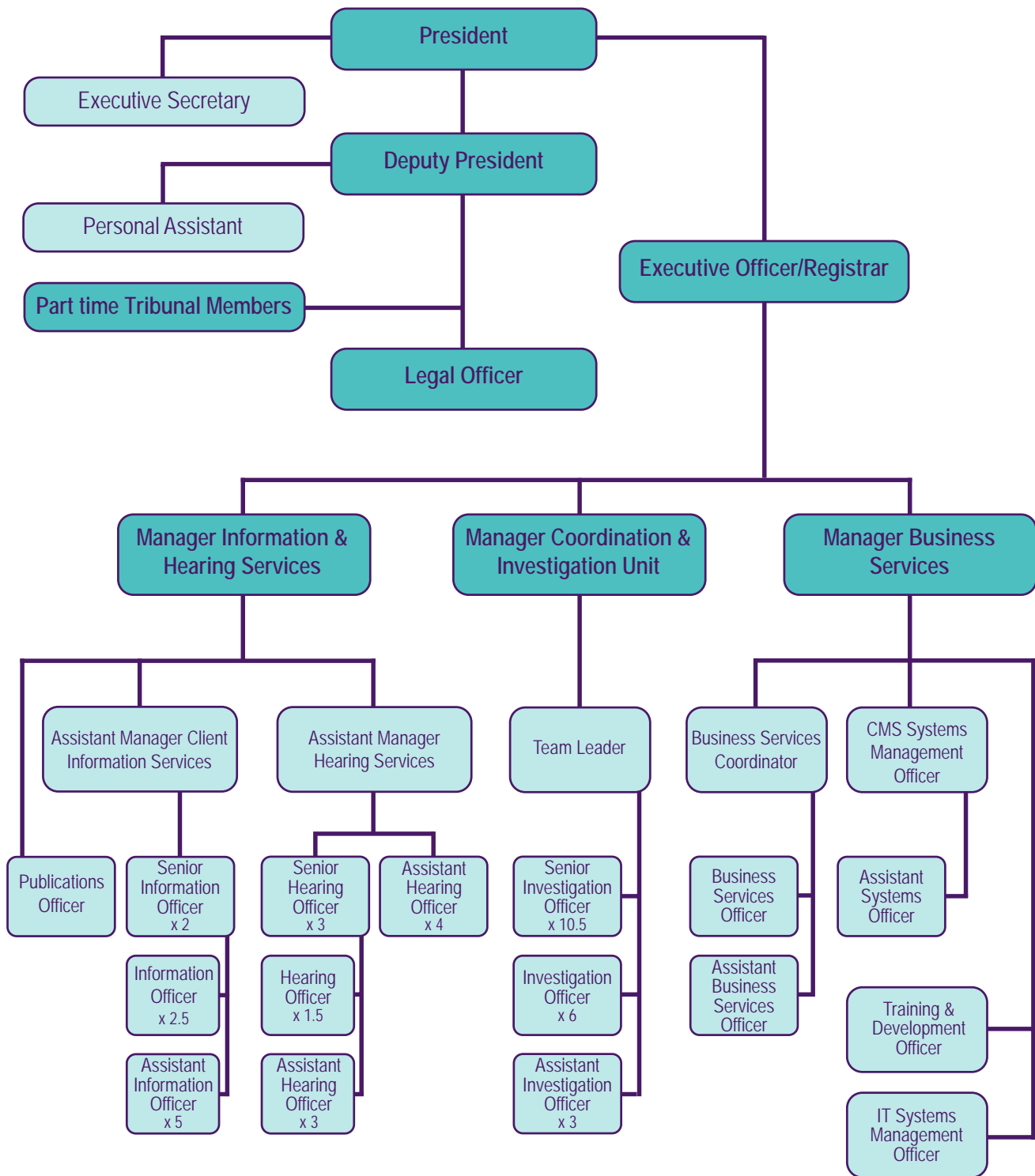
deals with assessment, investigation and preparation of all new and review cases for hearing.

Hearing Services Unit provides support for hearings, including scheduling and member liaison, coordination of notices, travel, venue and interpreter arrangements, post-hearing enquiries, and distribution of Orders and Reasons for Decision.

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. For further details, refer to the organisational chart on page 7.



Organisational Chart



Legislation relating to the Guardianship Tribunal

Legislative changes

The *Guardianship Act 1987* sets out the legislative framework under which guardianship orders can be made, how they operate and how they are reviewed in New South Wales. The Act establishes the Guardianship Tribunal and the Public Guardian and details the role of both organisations. It also provides for the making of appointments of enduring guardians and for the review of those appointments where necessary.

The Act creates the regime for substitute decision making in relation to medical and dental consent for those persons 16 years and above who are unable to give informed consent to their own treatment. Usually this consent can be provided by the person's 'person responsible'.

The *Guardianship Regulation 2005* should be read in tandem with the *Guardianship Act 1987* as it contains further provisions about enduring guardians and medical treatment as well as setting out the prescribed forms required by the *Guardianship Act 1987*.

The Guardianship Tribunal also has jurisdiction under the *Children and Young Persons (Care and Protection) Act 1998* to consent to special medical treatment for people under 16 years of age.



Photo courtesy of Alex Craig

The definition of 'special medical treatment' is set out in section 175 of the *Children and Young Persons (Care and Protection) Act 1998* and includes sterilisation.

Both the *Guardianship Act 1987* and the *Protected Estates Act 1983* deal with the making of financial management orders. The *Guardianship Act 1987* deals with the process of making applications for financial management to the Guardianship Tribunal and the Tribunal's authority to make and review financial management orders.

The *Protected Estates Act 1983* sets out how financial management orders can be made by the Supreme Court, Magistrates and the Mental Health Review Tribunal. The *Protected Estates Act 1983* sets out the powers of the Protective Commissioner and how estates placed under management by one of these courts or Tribunals are to be administered.

The *Powers of Attorney Act 2003* empowers the Guardianship Tribunal, in addition to the Supreme Court, to be able to review and vary an enduring power of attorney.

The Tribunal can make a variety of orders regarding the making or operation and effect of an enduring power of attorney. Following the conduct of a review of an enduring power of attorney, the Tribunal can make orders which:

- Revoke an enduring power of attorney.
- Vary an enduring power of attorney.
- Remove an attorney from office and substitute a new attorney.
- Reinstate a power of attorney which has lapsed because one of the attorneys has died, resigned or become incapacitated.

- Declare whether or not a person had the mental capacity to make an enduring power of attorney.
- Declare an enduring power of attorney invalid, either wholly or partially.

The Tribunal also has the power to decide that a review of an enduring power of attorney should be treated as an application for a financial management order. The Tribunal can then proceed on that basis and make a financial management order for the person who made the enduring power of attorney, if appropriate.

As has long been provided for under the *Protected Estates Act 1983*, the making of a financial management order suspends any powers of attorney that have been made by the protected person (the person whose estate has been placed under management).

Legislative changes since 1 July 2005 *Guardianship Regulation*

The *Guardianship Regulation 2000* was automatically repealed on 1 September 2005 due to the operation of section 10 of the *Subordinate Legislation Act 1989*.

On 19 August 2005, the Regulation was remade without any substantial changes as the *Guardianship Regulation 2005* (the *Regulation*).

Prior to remaking the Regulation, the Tribunal engaged in a consultation process and received and considered submissions about the Regulation.

The Children and Young Persons (Care and Protection) Act 1998.

In 2005/2006, amendments were made to the definition of “special medical treatment” in section 175 (5)(b) of the *Children and Young Persons (Care and Protection) Act 1998*. Prior to the amendments, the definition of “special medical treatment” included the provision of “any long-acting injectable hormonal substance (such as medroxyprogesterone acetate in aqueous suspension) for the purpose of contraception or menstrual regulation”.

However, the amendment removed this part of the definition and replaced it with a broader definition which is “any medical treatment for the purpose of contraception or menstrual regulation declared by the regulations to be a special medical treatment”. There have been no such treatments prescribed by the regulations during 2005/2006.



What we do

Role of the Guardianship Tribunal

Our statutory role

The Guardianship Tribunal is a New South Wales Government legal 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 for 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. The Tribunal also has jurisdiction to review enduring guardianship arrangements and enduring powers of attorney and has a range of powers in relation to such reviews.

In accordance with the Act, the Guardianship Tribunal conducts its proceedings with as little formality and legal technicality as the circumstances of the matter permit. For example, the Guardianship Tribunal may obtain information on any matter as it thinks fit and is not bound by formal rules of evidence. However, the Guardianship Tribunal is bound by the principles of natural justice.



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

How the Tribunal functions

In most matters, the Tribunal's decision affects the person the hearing is about. In some cases, the interests and emotions of other people involved in the hearing are affected as well. In many circumstances, there may be a disagreement between family members or others involved, as to the decisions that may need to be made for a person with a decision making disability. In other cases, the person with a decision making disability may not fully appreciate the need for another person to make decisions on their behalf.

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. Proceedings before the Tribunal are about an individual person and their right to continue to make their own decisions.

The Guardianship Tribunal does not automatically follow an adversarial approach to its decision making and may instead use more inquisitorial methods. These methods may include outlining the relevant issues and obtaining evidence

through a series of open ended questions. In the process of assessing the oral and written evidence presented, the Guardianship Tribunal is bound by section 4 of the Act. The welfare and interests of the person with the disability should be given paramount consideration and a guardian and/or financial manager should only be appointed if this is in the best interests of that person.

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. Guardianship Tribunal members bring a wealth of specialist knowledge, expertise and experience to an often complex decision making process.

The Tribunal can appoint private individuals or public officials to act as guardians and financial managers. Private guardians are often family members or friends of the person with a disability. Before the Tribunal can appoint a private guardian, it has to be satisfied that the guardian is compatible with the person who has a disability, there is no conflict of interest that would impact on

decision making, and the person is willing and able to accept the role of guardian. The Tribunal can appoint the Public Guardian to make decisions for a person with a disability if there are no family or friends who can assume that role, or if the circumstances of the case make it inappropriate to appoint a private guardian.

The Tribunal can appoint a family member or friend to act as a private financial manager. A private manager is appointed subject to the supervision and direction of the Protective Commissioner and a private manager is required to keep appropriate accounts and submit them to the Protective Commissioner for audit annually. Before the Tribunal can appoint a private manager, it must be satisfied that the person is suitable to undertake the role. Alternatively, the Tribunal can commit the property and affairs of a person to be managed directly by the Protective Commissioner. In either case, whether a private manager is appointed or the Protective Commissioner manages, the person whose affairs are under management will be charged fees by the Protective Commissioner for their management or supervision.



How the Guardianship 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.

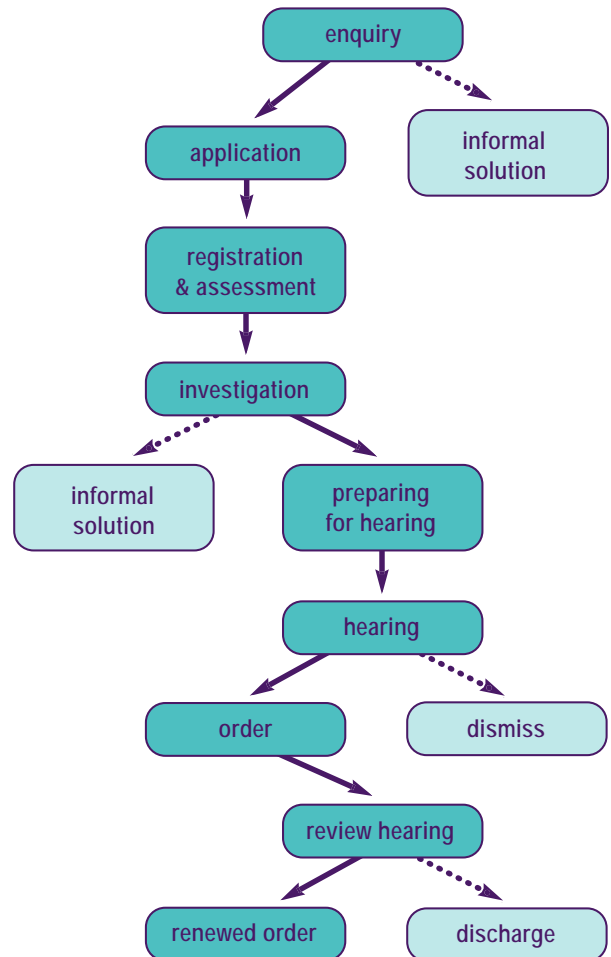
Lodging an application for the appointment of a guardian or financial manager for a person with a disability is a serious matter. The person submitting the application is, in effect, asking the Tribunal to take away a person's rights to make their own lifestyle or financial decisions and to give those rights to someone else.

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.



Photo courtesy of Alex Craig

Dealing with an application: the steps



Enquiry

Does the Tribunal need to be involved?

Before making an application, service providers, professionals, family members or friends of the person are encouraged to telephone the Tribunal's enquiry service. The service offers advice about whether there is a need to make an application. There may be other informal arrangements to assist the person rather than having a hearing. The enquiry service offers advice about these options.

Application or informal solution

Applications will often be needed where a person is at risk or there is no informal solution available to help the person. Where informal solutions are available, there may be no need for an application. There may also be other agencies who can provide more appropriate assistance for the person.

Registration and assessment

When an application is received, it is registered by Tribunal staff. 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. Following registration, all applications are assessed for urgency.

Investigation

A staff member of the Tribunal's Coordination and Investigation Unit will contact the applicant, family members and service providers and, wherever possible, the person who is the subject of the application.



During the investigation process, the submission of medical and other professional reports relating to the person's disability/incapacity and the need for an order will be requested.

After developing an understanding of the situation, the staff member will write a report, outlining the background to the application, any major issues and the views of all the people involved. This report provides a summary for the Tribunal members at the hearing.

Informal solution

During the investigation process, staff explore options on a regular basis with the people involved. This process can help to clarify issues and find satisfactory alternatives to formal guardianship or financial management for the problems they are facing. The application can be discontinued in these circumstances.

Preparing for hearing

The Tribunal will organise the hearing arrangements, such as interpreters, disabled access and notifies people of the time, date and place of the hearing.

Hearing

Each time a Tribunal is convened, it is comprised of 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

At the hearing the Tribunal can make a guardianship order, financial management order or consent to medical treatment. Various decisions can be made about enduring guardianship and enduring powers of attorney. In most cases the decision will be made on the day of the hearing.

The Tribunal issues written Reasons for Decisions which explain the Tribunal's decision and summarise the evidence. The Order and Reasons for Decision are sent to the parties as soon as possible after the hearing, usually within 12 working days after the hearing.

Dismiss

The Tribunal can decide not to make an order and can dismiss the application.

Review hearing

The Tribunal can review guardianship and financial management orders. Orders can also be reviewed on request. At the review hearing the Tribunal will consider whether the order needs to continue.

Renewed order

The Tribunal can renew its order if there is still a need for decisions to be made for the person. Orders can be reviewed and renewed a number of times depending on the needs of the person with the disability.

Discharge

In certain circumstances, the Tribunal can decide the order should not continue, for example if a guardian is no longer needed.



Our work

Year in review – 2005/2006

Highlights

- 5,428 new applications received.
- The most common primary disability was dementia in 40% of cases.
- 4,614 hearings conducted
- 12,851 enquiries received
- 4 appeals made against Tribunal's decisions to the Supreme Court – 2 withdrawn and 2 pending
- 13 appeals made against Tribunal's decisions to the Administrative Decisions Tribunal – three appeals upheld
- 9 applications for approval of clinical trials – 7 were approved.

Enquiries service

The Tribunal's enquiries service, which operates from 9.00 am to 5.15 pm Monday to Friday, dealt with 12,851 enquiries over the past year, an average of 51 enquiries daily. 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, sometimes callers leave



their contact details and their calls are returned within a few hours.

An important function of the enquiries service is to discuss the need for a guardianship or financial management application. In many cases, Tribunal staff will be able to suggest alternatives. For example, a son contacted the Tribunal about a family dispute over the level of care his father required. His father, who had dementia, had been assessed by the local Aged Care Assessment Team as requiring high level nursing home care. While most of the family were in agreement with this assessment the son disagreed. He wanted his father to remain living at home with the support of increased community services. Enquiries staff discussed the situation with the son and suggested mediation through a Community Justice Centre to resolve the family dispute so that a decision could be made in his father's best interests. The mediation was successful. This meant the family were able to make the decision about their father's care themselves without needing to apply to the Tribunal for the appointment of a guardian.

In some cases, an informal alternative may not be possible, such as when a property needs to be sold to cover special accommodation needs or medical costs. 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, fax or refer callers to the Tribunal's website, which contains the majority of Tribunal publications and all application forms online.

Case Study

Annie

Annie has a moderate intellectual disability. She had lived all her life at home with her parents. When Annie was 50 years old both her parents died.

Annie's cousin and her two children moved in to help care for her. Annie agreed that her parents' house, (which she inherited), should be demolished and a larger house built for her cousin and her family, with a self contained flat out the back for Annie. Annie signed papers for this to happen. However, family friends were concerned that Annie's interests were not her cousin's primary concern. There were also concerns that Annie was not receiving her full entitlements under her parents' wills. Annie was left to live in the garage for sometime. She was isolated and frightened and lost many of her living skills and her confidence.

An application was made to the Tribunal and the Public Guardian was appointed to make decisions about where Annie should live and what services she should receive. The Tribunal also appointed the Protective Commissioner to manage Annie's finances.

A year later, the guardianship order was reviewed and the Public Guardian was granted an access function so that Annie could not be contacted by people she did not want to see. The Protective Commissioner instructed solicitors who were able to ensure Annie received her full entitlements under her parents' wills. Annie decided to sell the house and to move into supported accommodation in a group home. The Protective Commissioner continues to manage Annie's affairs, but Annie is able to manage her pension with the support of staff at her group home.

Since she moved to the group home, Annie has been developing her living skills and her confidence. She has funds available to pay for outings and holidays and other activities. Annie now has a very busy life. The Public Guardian no longer needs to make decisions about Annie's services, as she is able to decide herself what she wants to do and how she spends her time. However, Annie is still vulnerable to intimidation and she remains scared of the people who took over her family home, so the Public Guardian is continuing to make decisions about who can have access to Annie.

New applications

In 2005/2006, the Tribunal received 5,428 new applications. Of these new applications received, 2,318 (43%) were for the appointment of a financial manager; 2,140 (39%) were for the appointment of a guardian; 480 (9%) were applications for consent to medical treatment; 19 (0.3%) were for the review of an enduring guardianship appointment and 58 (1%) were for the review of an enduring power

of attorney. The Tribunal also received 413 (7.6%) applications for clinical trial approvals, recognition of interstate appointments, approval under section 12(2) of the *Mental Health Act 1990* and procedural determinations which have been grouped under "Other" in Table 1. Table 1 shows a breakdown of the new applications received this year and a comparison with the two previous years.

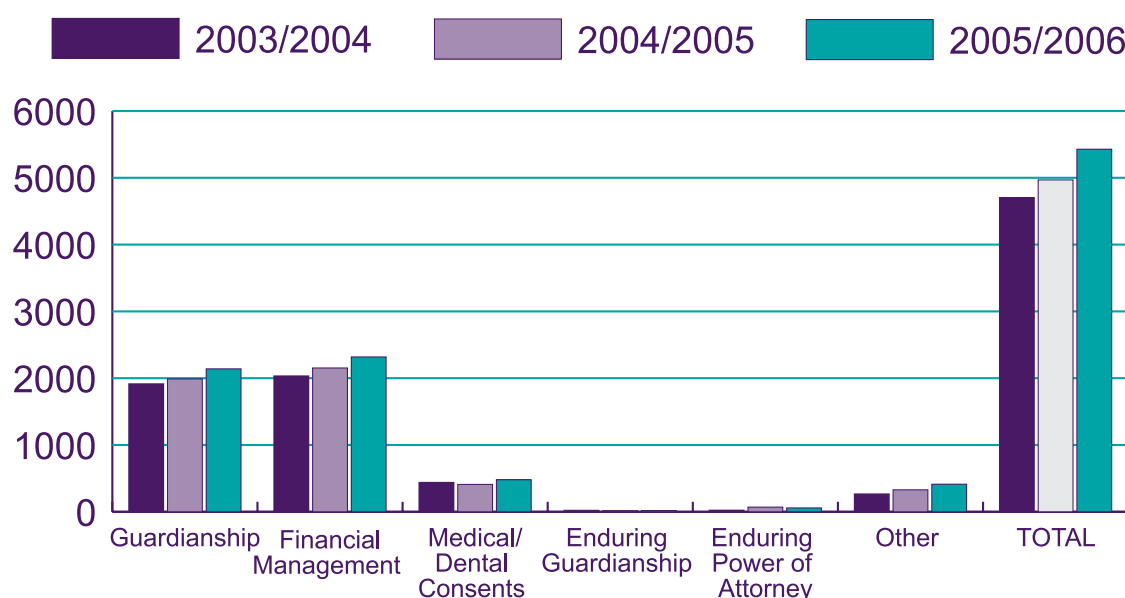
Table 1: Categories of new applications: three year comparison

NB: Other category includes procedurals/recognitions/ s.12 (2) approvals/clinical trials

Application Types	2003/2004	2004/2005	2005/2006
Guardianship	1,916*	1,989	2,140
Financial Management	2,034*	2,153	2,318
Medical/Dental Consents	440	410	480
Enduring Guardianship	22	17	19
Enduring Power of Attorney	24	70	58
Other	267*	329	413
TOTAL	4,703*	4,968	5,428

* updated figures

Chart 1: Categories of new applications



Who made the applications?

Anyone with a genuine concern for the welfare of a person with a disability can make an application to the Tribunal. This 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 (eg. their doctor, caseworker, professional carer or other service provider). In 2005/2006, 42% of the applications received were made by family members, friends, carers or the person themselves. 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 for new clients registered was dementia (40%). The next most common types of disabilities identified were mental illness (13.3%), dual disabilities (12.7%) and intellectual disability (10.8%). Table 2 shows a breakdown of the disability types of new clients.

Case Study

Sarah

An application for a financial management order was made for Sarah when she took up a place in supported accommodation for people with a mental illness. Sarah had been treated for schizophrenia for many years and when she was unwell, her life became chaotic, she ran up a lot of debts she was unable to repay and put many of her possessions into "hock". The application was made by Sarah's case manager.

The Tribunal appointed the Protective Commissioner to manage Sarah's money. The Protective Commissioner made sure that Sarah's rent was paid regularly, and that she had funds to pay for her medication. Sarah was able to stay in supported accommodation for some time and was also assisted with her shopping and budgeting.

The Protective Commissioner, as financial manager, approached the businesses to which Sarah owed large sums of money. Sarah's estate manager asked that her substantial debts be waived, as she had no reasonable prospect of being able to repay them in a timely fashion. This was agreed.

Arrangements were made by the Protective Commissioner to pay off the smaller debts in appropriate instalments over time.

With ongoing support Sarah's mental health and her compliance with her medication improved. Sarah took on more responsibility for managing her own budget and her shopping and moved to independent accommodation. After some years, Sarah asked the Protective Commissioner if she could have a trial of managing more of her pension.

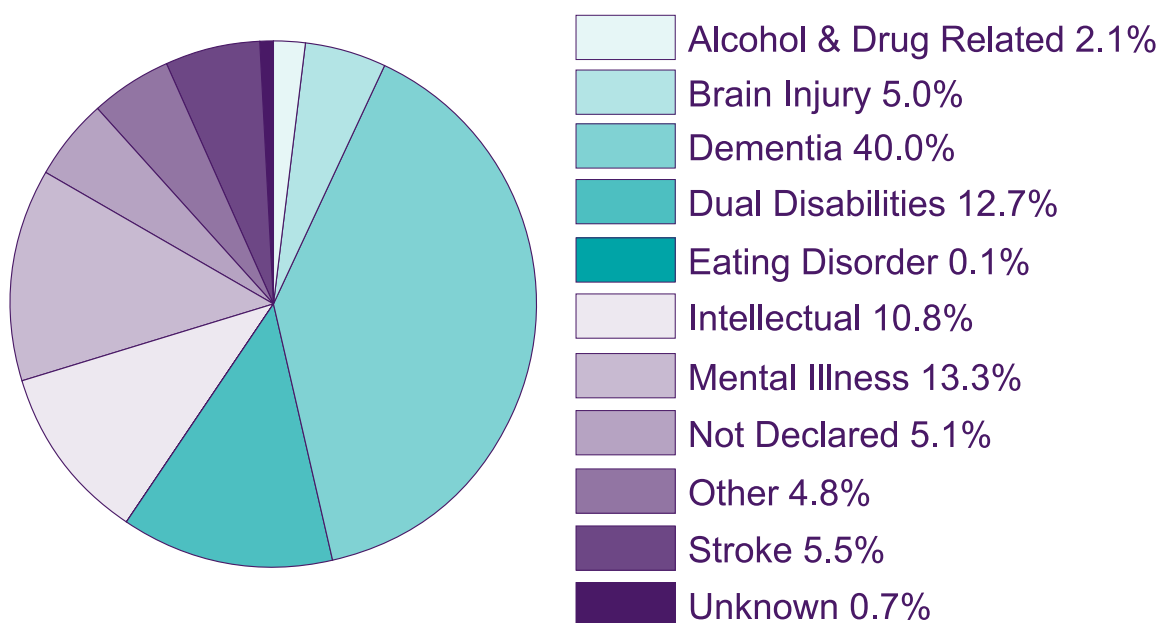
Sarah was able to show that she could manage her bills without running up large debts. Eventually, Sarah applied to have her financial management order revoked. Her application was supported by her treating psychiatrist.

The Tribunal was satisfied that Sarah was able to manage her affairs and decided to revoke the financial management order that had previously been made for her.

Table 2: New clients by disability type in 2005/2006

Primary disability of clients	Number	Percentage %
Alcohol & Drug Related	55	2.1%
Brain Injury	128	5.0%
Dementia	1,033	40.0%
Dual Disabilities	327	12.7%
Eating Disorder	3	0.1%
Intellectual	279	10.8%
Mental Illness	343	13.3%
Not Declared	131	5.1%
Other	125	4.8%
Stroke	142	5.5%
Unknown	18	0.7%
TOTAL	2,584	100%

Chart 2: New clients by disability type in 2005/2006



Age and sex

Of the new clients registered during the year, 47% were men and 50% were women (3% unknown). Similarly to last year when the majority of new clients over the age of 65 were women, this year the female subjects in this age group have again exceeded the men (57% women and 41% men). For people under 65 years, 59% were men.

Cultural background

Orders 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 Italian, Greek, Aboriginal/Torres Strait Islander, Polish, Hungarian, German, Croatia, Lebanese, Maltese, Chinese, Dutch, Ukrainian and Arabic.

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

54 languages other than English were identified. Italian, Greek, Polish, Hungarian, German, Croatia, Arabic, Spanish, Cantonese and other Chinese dialects were the most frequently nominated languages other than English. Aboriginal languages and Auslan (Australian sign language) were also featured.

Interpreters used

Where appropriate, the Tribunal provides interpreters to assist people attending hearings. Interpreters were provided on 268 occasions during the year across 40 different languages. Interpreters for Arabic, Cantonese, Croatian, Czech, German, Greek, Hungarian, Indonesian, Italian, Lebanese, Macedonian, Maltese, Mandarin, Polish, Russian, Spanish, Turkish and Vietnamese were provided on five or more occasions. Auslan (Australian sign language) interpreters were provided on 10 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 2005/2006, the Tribunal received 2,140 new guardianship applications. In total, 2,365 new guardianship matters were determined by the Tribunal. Of the matters dealt with at hearings, 1,636 resulted in orders being made, including 156 adjourned matters and 729 matters were finalised without requiring a hearing.

The outcomes for guardianship matters determined at hearings are summarised in Chart 3.

Of the 59% of applications that resulted in a guardianship order being made, private guardians were appointed in 40% of the cases and the Public Guardian in 59%. In the remaining 1%, a private guardian was appointed for some functions and the Public Guardian for other functions.

Chart 3: Hearing outcomes of new guardianship matters

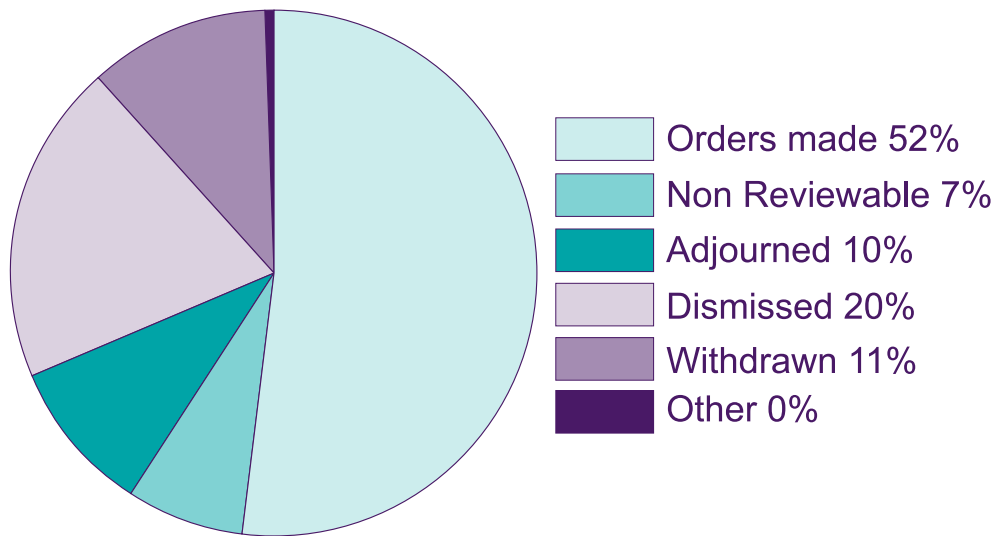
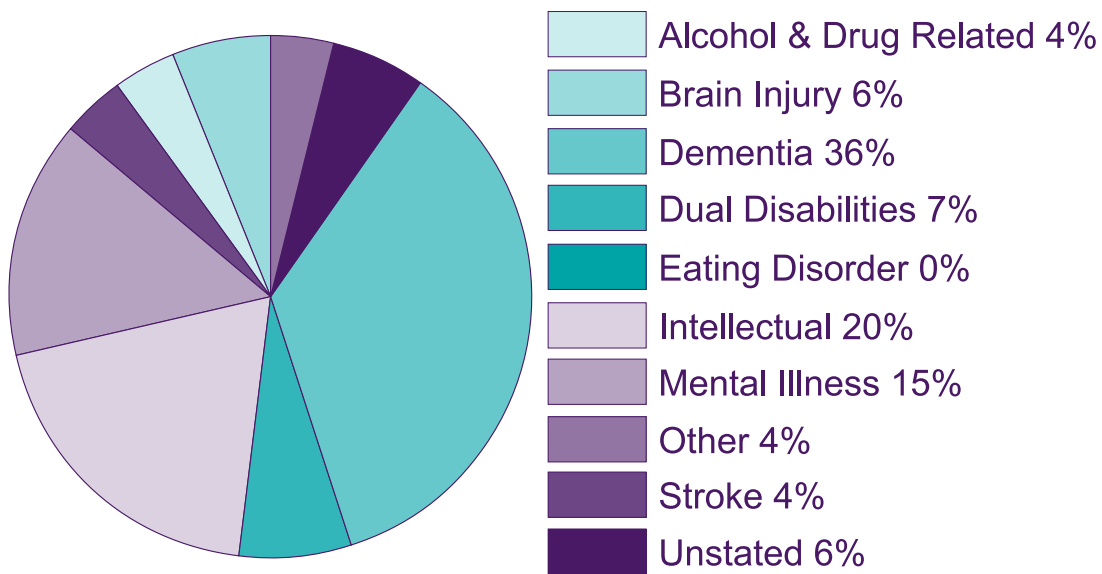


Chart 4: Disability in orders made on guardianship matters



Financial management

In 2005/2006, the Tribunal received 2,318 new financial management applications. In total 2,604 new financial management matters were determined by the Tribunal. Of the matters dealt with at hearings 1,927 resulted in orders being made, including 236 adjourned matters, and 677 matters were finalised without requiring a hearing. Of the matters finalised at hearings, 72% resulted in a financial management order and 28% were withdrawn, dismissed or adjourned.

The outcomes for financial management matters finalised at hearings are summarised in Chart 5.

Of the 72% of matters where financial management appointments were made, 87% resulted in final financial management orders; 7.5% had a review period stipulated in the order and 5.5% were interim financial orders.

Chart 5: Hearing outcomes of new financial management matters

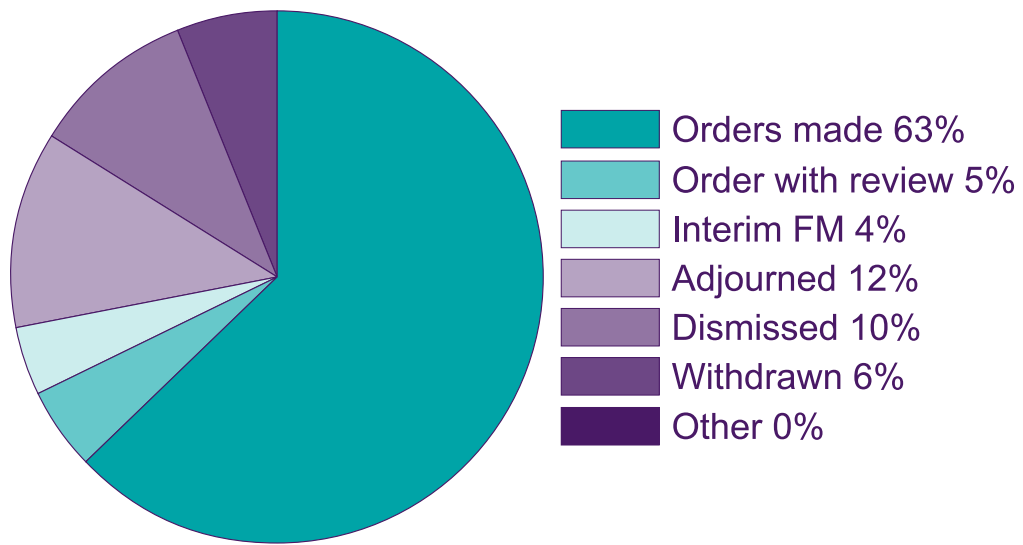
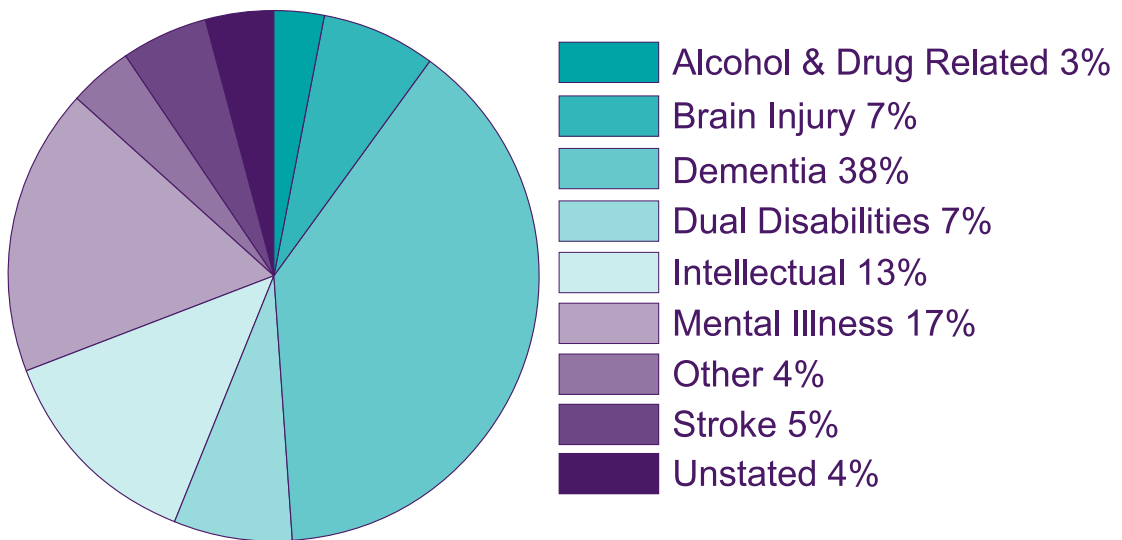


Chart 6: Disability in orders made on financial management matters



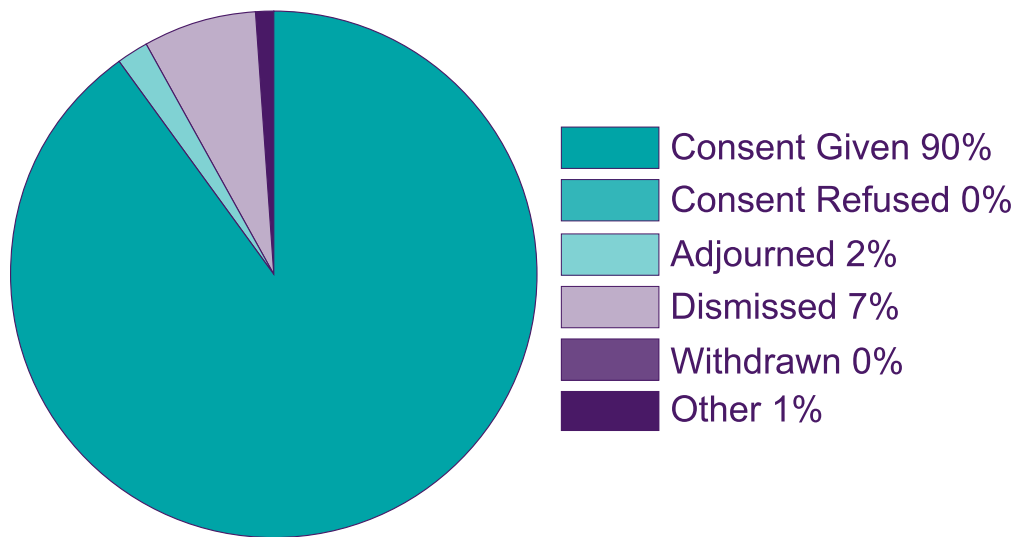
Consent to medical or dental treatment

A total of 480 applications for consent to medical or dental treatment were received by the Tribunal during the year and 439 matters were determined at hearings and

46 matters were finalised without requiring a hearing.

Hearing outcomes for medical and dental consent matters are summarised in Chart 7.

Chart 7: Hearing outcomes for medical and dental consent matters



Reviews of enduring guardianship

The Tribunal received 19 new applications to review the appointment of enduring guardians during the year. Twenty three (24) reviews of the appointment of enduring guardians were heard during the year with three enduring guardianship appointments confirmed, nine matters adjourned, five matters withdrawn, three matters dismissed and three appointments suspended.

Reviews of enduring power of attorneys

The Tribunal received 58 applications to review an enduring power of attorney or to obtain advice or directions about the operation of the power of attorney. Seventy eight (78) applications to review an enduring power of attorney were heard by the Tribunal. Twenty (20) reviews were dismissed, 18 matters were adjourned, 24 matters where single orders were issued, four matters where multiple orders were issued, one matter where directions were given and 11 matters were withdrawn.

Reviews of guardianship orders

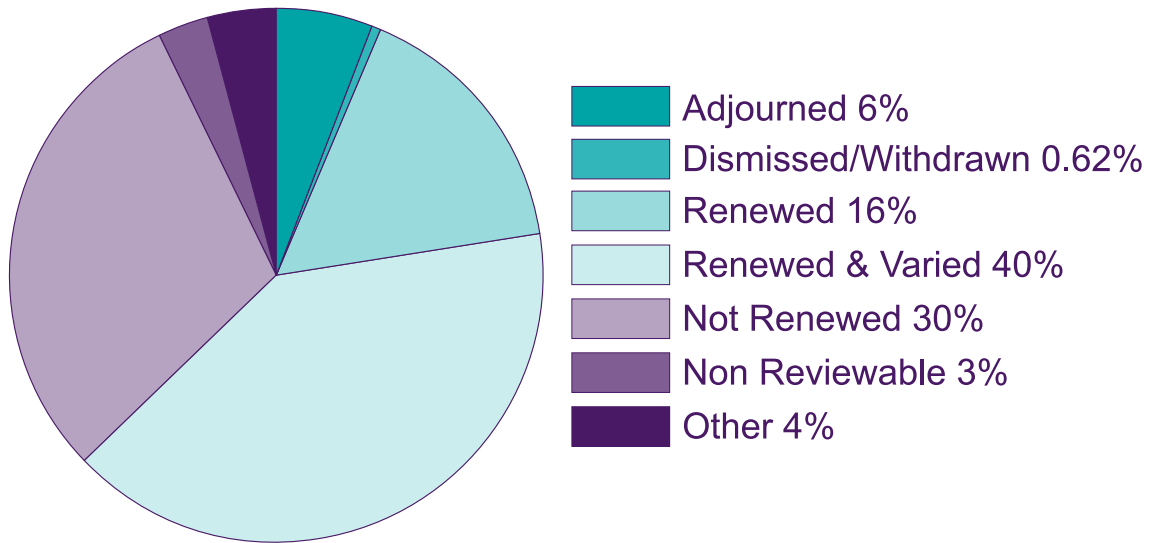
Many guardianship orders are reviewed at the end of their terms. They may also be reviewed on request at any time. Requested reviews are usually made by guardians to increase or vary the guardianship functions. Others may also request a review because the circumstances relating to the person under guardianship have changed significantly or because new issues have arisen.

The Tribunal determined 1,873 review of guardianship matters during the year. Of these, 1,626 orders were made following a hearing and 247 matters were finalised without requiring a hearing.

The outcomes for reviews of guardianship orders finalised at hearings are summarised in Chart 8.

In 16% of review matters determined at hearing, the guardianship order was renewed; in 40% of matters the order was renewed and varied; while in 30% of matters the order was not renewed as it was determined that there was no longer a need for an order.

Chart 8: Outcomes for reviews of guardianship orders determined at hearings



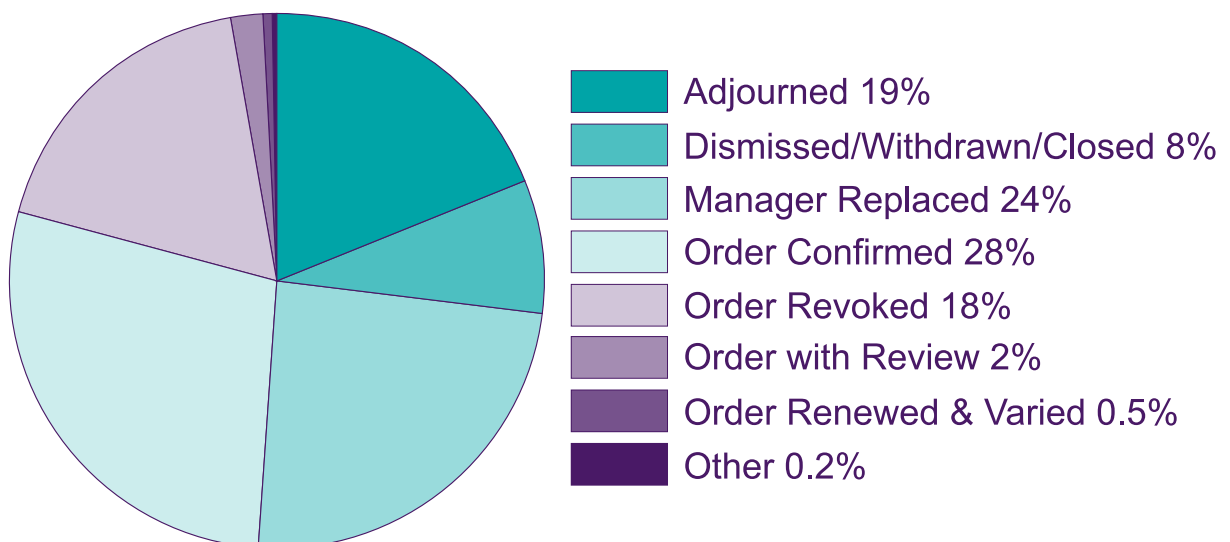
Reviews of financial management orders

The Tribunal determined 530 reviews of financial management orders during 2005/2006. Of these, 184 matters were applications to revoke financial management orders on the grounds of regained capacity or best interests. Seventy five (75) of these orders were revoked.

The Tribunal also received 132 applications

to replace the current financial manager. Such applications are made for a variety of reasons. The manager may no longer be able to carry on with the role, or there may be concerns about the manager's suitability. One hundred and two (102) appointed managers were replaced during the year. In 54% of these cases, the Protective Commissioner was appointed in place of a private manager.

Chart 9: Outcomes for reviews of financial management orders determined at hearings



Case Study

Mr Gray

Mr Gray is an elderly bachelor who is living at home with the help of a number of support services. He has dementia which is progressing, but he previously told his family and friends that he wanted to stay in his own home for as long as possible. Mr Gray is an independently funded retiree. He has superannuation and other savings that are available to meet the costs of his care.

About ten years ago Mr Gray consulted his solicitor and decided to make an Enduring Power of Attorney. Mr Gray had never married, but he enjoyed a close relationship with siblings. He decided to appoint his elder brother and his younger sister to be his joint attorneys. About five years ago Mr Gray began to experience some memory difficulties and his attorneys took over paying his regular household bills. His sister and brother were able to arrange and pay for services to assist Mr Gray, so he now has people come to his house to help with cleaning, to prepare meals for him and to take him to appointments to see his doctor. They also make sure he takes his medication at the right time.

Things had been going very well for Mr Gray. He was happy to stay in his home and he was happy to receive the services that had been organised to assist him. He saw his sister every week or so and his elder brother less frequently.

Unfortunately, two months ago, Mr Gray's elder brother had a stroke which has left him with a significant level of disability. Mr Gray's brother cannot sign documents or speak and he is no longer competent to act as Mr Gray's attorney. However, because Mr Gray appointed his sister and brother as joint attorneys, his sister is not able to act alone to continue to manage Mr Gray's finances and Mr Gray is no longer competent to make a new enduring power of attorney.

Mr Gray's sister applied to the Tribunal to review the Enduring Power of Attorney that had been made by Mr Gray. The Tribunal agreed that Mr Gray's brother could no longer act as his joint attorney. The Tribunal was satisfied that it was in the best interests of Mr Gray to appoint a substitute attorney who could then act as a joint attorney with Mr Gray's sister. Mr Gray's nephew, the son of his elder brother, volunteered to take on the role. He advised the Tribunal he had some experience with financial management. He had been appointed attorney for his own father and he was happy to take on the role of joint attorney with his aunt to assist his uncle. The Tribunal appointed Mr Gray's nephew as his substitute, joint attorney so that Mr Gray's affairs could continue to be managed under his Enduring Power of Attorney, in accordance with arrangements similar to those Mr Gray had put in place.

Hearings

How many hearings were held?

During the year, the Tribunal conducted 4,296 scheduled hearings over 1,009 scheduled sittings. Of the scheduled sittings 68 were half-day sittings. This was an average of 4.4 hearings per sitting. In addition to this, the Tribunal conducted 46 after hours and 272 procedural hearings. Together, a total of 4,614 scheduled, after-hours and procedural hearings were held during the year.

Where were the hearings held?

The Tribunal conducted approximately 76% of its hearings either at its Balmain premises or in the Sydney metropolitan area. The remaining 24% of hearings were conducted elsewhere in NSW (see table 3). Of these, 33% were held in either Newcastle or the Central Coast. Table 4 shows a breakdown of the major hearing locations.



Table 3: Hearings conducted outside Sydney metropolitan area

Albury	Armidale	Bathurst	Bega
Blue Mountains	Bowral	Central Coast	Cessnock
Coffs Harbour	Dubbo	Goulburn	Griffith
Lismore	Maitland	Moruya	Moss Vale
Mudgee	Newcastle	Nowra	Orange
Parkes	Port Macquarie	Queanbeyan	Stockton
Tamworth	Taree	Tweed Heads	Wagga Wagga
Wollongong	Yass		

Table 4: Hearings and sittings by location

Location	Hearings	Sittings
Balmain	2,961	631
Sydney Metropolitan	326	90
Central Coast	136	36
Newcastle	200	56
Wollongong	128	32
Other Country	545	164
Sub Total	4,296	1009
After Hours	46	42
Procedurals	272	150
TOTAL	4,614	1,201

Procedural hearings

The Tribunal is able to determine some procedural matters with less than three members. In 2005/2006, the Tribunal conducted 272 procedural hearings. These matters were determined by either the President, Deputy President or a presiding member to whom the President delegated authority under section 51A of the Guardianship Act. They included applications for legal representation, applications to be joined as a party, and requests for withdrawal of some matters. Of the 127 applications for legal representation considered, representation was granted on 94 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 2005/2006, the Tribunal received and determined 28 applications to recognise such appointments.



Improving services and operations

Corporate Plan

The Tribunal's Corporate Plan documents the strategic directions of the Tribunal and the actions that will be undertaken to achieve these.

During 2005/2006 a new three year Corporate Plan was developed. The 2006 – 2009 Corporate Plan details the Tribunal's focus: "to develop and implement strategies that will ensure the provision of quality services in an environment of increasing demands". This reflects our primary aim of maintaining and improving the services we provide while acknowledging that we are working in an environment of increasing demands, both in terms of the demand for our services & the limits of resource availability to meet these demands.

Five strategies have been developed to maintain the focus of the Corporate Plan. These strategies cover initiatives aimed at increasing the community's awareness and understanding of the role of the Guardianship Tribunal, reviewing the legislation, reviewing the Tribunal's work processes to ensure they remain as efficient and effective as possible, looking at how the Tribunal can best support its staff & members and reassessing the Tribunal's working environment.

Progress on the achievement of the Corporate Plan's strategies will be monitored and any necessary adjustments to time-lines incorporated.

Budget monitoring & forecasting

During the year new procedures were implemented with the Tribunal's host department, DADHC, for the Tribunal to review and report on its actual and forecast position in relation to its allocated budget. This has allowed both the Tribunal and DADHC to be better able to monitor

the Tribunal's performance to budget throughout the year and to be prepared for, understand and manage any variances that may occur.

Case Management System (CMS)

A great deal of work has been undertaken on further developments and enhancements of the CMS. The CMS is a sophisticated & complex data base whose role is to be the repository of all information and data that the Tribunal collects and holds in relation to its clients, applications and matters. Therefore, it is essential that the CMS works in the most efficient way to provide quick and secure access to this information, as well as have features that can be utilised to help the Tribunal complete its work.

As the key users of the CMS, staff members are important stakeholders who can identify potential enhancements to its features. There is now a system in place to ensure that suggestions for improvements to the CMS can be registered, assessed by a management panel, and where appropriate, implemented.

Work has also been done on developing and implementing a number of automated processes using the CMS that allows tasks that have normally been done manually to be done much more quickly. Further work will continue on this with an expectation that a number of efficiencies will be achieved in the processing of applications.

Information and Communication Technologies (ICT)

In addition to the CMS, the Tribunal has been continually looking at other ICT solutions that will assist it to better do its work.

Replacement & upgrading of key IT equipment has occurred. This has included scanning technology, printers, desktops and servers.

Further work has been undertaken on an IT solution that will allow the Tribunal, the Office of the Protective Commissioner and the Office of the Public Guardian, to exchange information and data electronically.

With the assistance of the Government Chief Information Office, the Tribunal has commenced the development of an Information and Communication Technology Strategic Plan. This will identify a range of ICT projects, aligned with the NSW Government's IT directions, that aim to assist the Tribunal achieve its business outcomes.

Policy Meetings

During the year, a group of senior managers met regularly to review current case related policies, and where needed, develop new ones. Policies that were reviewed and ratified during the year



included policies covering freedom of information, documentation on client files, transcripts of Tribunal hearings, behaviour intervention & support, scheduling medical matters for hearing and scheduling of review & adjourned matters.

Management Meetings

The management group of the Tribunal also met monthly during the year to discuss and decide on issues related to the management of the Tribunal. Standing items for the meetings include budget performance, activity statistics, OH&S matters, CMS and IT developments and staffing issues. As well, major projects, such as the development of the new Corporate Plan are reviewed and monitored through the Management Meeting.

Disability Action Plan

NSW Government agencies are required to formulate three yearly disability action plans. A new Disability Action Plan (DAP) for the Tribunal has been under development following completion of the previous DAP in December 2005. The DAP provides a strategic framework with clear goals for improving the accessibility of the Guardianship Tribunal's services and facilities and for measuring progress towards those goals.

Ongoing implementation of CMS developments and IT solutions during 2005/2006, assisted in the continued improvement to accessibility for people utilising the Tribunal's services.

The Tribunal's website, in particular, provides comprehensive information and offers a number of accessibility features for people with a range of disabilities.

The Tribunal also uses feedback in relation to access for its regional hearings and about its community education sessions, to inform planning for future sessions.

Ethnic Affairs Priority Statement

All government agencies are required to observe the Principles of Multiculturalism in conducting their affairs and to report on key achievements and proposed future strategies in this area. The Guardianship Tribunal is committed to these principles. Activities that have occurred over the past year that work towards this commitment include:

- Ongoing identification of the need for, and coordination of, qualified interpreters and translators to ensure people's understanding in relation to the Tribunal's services and documents.
- Reporting on interpreter usage in the Annual Report.
- Review and refinement of the procedures for collecting and recording data on language and cultural background of clients to improve accuracy and completeness of data collection.
- Reviewing the statistical information on the use of interpreter and translator services to help inform the Tribunal about current and projected requirements.
- Providing publications about the Tribunal in a number of languages.
- Providing information about the Tribunal in a range of languages on its website.

Proposed activities in the coming year that will continue to support the Tribunal's commitment to these principles include:

- Review and amendment of the cultural and language data collected and recorded in the Tribunal's data base to improve accuracy and completeness of this information on the Tribunal's clients.
- Continuing focus on identifying the need for interpreter and translator services where needed to assist clients.
- Reviewing the languages in which Tribunal publications are provided to ensure they reflect the major language groups using Tribunal services.
- Utilising NSW demographic data and projections to assist the Tribunal to target information about its services to groups that are likely to need Tribunal services.
- Targeting of community education sessions to cultural and language groups identified as using Tribunal services.



Appeals from decisions of the Tribunal

Decisions of the Tribunal may be appealed to either the Supreme Court or the Administrative Decisions Tribunal of New South Wales (the ADT).

Only parties to the proceedings before the Guardianship Tribunal can appeal to the Supreme Court or the ADT.

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

Appeals to the Administrative Decisions Tribunal

There were 13 appeals made to the ADT from decisions of the Tribunal during 2005/2006 (see Table 5) from the 4,342 (including scheduled and after hours) hearings held in 2005/2006. There were three appeals received during the previous financial year but not finalised until the current year. Of those three appeals, one was dismissed and two appeals were upheld and remitted to the Tribunal to be heard again.

The three appeals which were upheld by the ADT were remitted to the Tribunal for re-hearing. The ADT did not substitute its decision for that of the Guardianship Tribunal in any of the appeals.

Table 5: Total Appeals received during 2005/2006

TOTAL Appeals received during 2005/2006	13
Appeal withdrawn by appellant	2
Appeal dismissed by ADT	3
Leave to appeal out of time not granted	1
Appeal upheld by ADT	3
Pending ADT hearing as at 30 June 2006	4

Appeals to the Supreme Court

There were four appeals from decisions of the Tribunal lodged with the Supreme Court during 2005/2006.

Two of these appeals were discontinued by the appellants and did not proceed to hearing.

Two of the appeals are pending at the end of 2005/2006.

As at 30 June 2005, there was one appeal from a decision of the Supreme Court to the Court of Appeal still outstanding. The decision of the Supreme Court which was the subject of the appeal was a decision to dismiss an appeal against a decision of the Guardianship Tribunal. In 2005/2006, the appeal to the Court of Appeal was subsequently withdrawn by the appellant.

Freedom of information

The Tribunal received two applications for access to information under the *Freedom of Information Act 1989* which were accompanied by the relevant fee.

Both applications requested information about client files which related to Tribunal hearings. The requests were refused on the

basis that the Tribunal is not an “agency” for the purposes of the *Freedom of Information Act 1989* as section 10 of that Act specifies that a tribunal is not included within that definition in relation to its judicial functions. The applicants were informed of this provision and the matters were finalised.

Complaints

Over the past year, the Tribunal received 102 written complaints. The complaints were predominately about decisions made by the Tribunal, or how an investigation or hearing was conducted. Complaints

about a decision or conduct of a hearing are handled by the Deputy President while complaints about the investigation are handled by the Manager, Coordination and Investigation Unit.

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.



Photo courtesy of Alex Craig

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 for the patient.

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 2005/2006, the Tribunal received nine applications for the approval of clinical trials. The Tribunal heard eight of those applications with one application pending. The Tribunal also heard an application registered in the 2004/2005 financial year, making the total number of hearings for the 2005/2006 year nine. Seven trials were approved, one was withdrawn and one was adjourned.

As required by section 76A(2A) of the *Guardianship Act 1987*, the Tribunal sets out the details of those trials pages 34 and 35.



Clinical Trials 2005/2006

Name of Clinical Trials submitted for approval by the Tribunal	Trial Sites	Outcome of Tribunal	Individual Consents to be given by the 'person responsible'.
1. The Immunogenicity of 7-valent pneumococcal conjugate vaccine (PCV-7) in vulnerable elderly populations at high risk for invasive pneumococcal disease	<ul style="list-style-type: none"> • Westmead Hospital 	Approved	Yes
2. F7ICH-1641: Randomised, Double-Blind, Placebo Controlled, Multi-Centre, Parallel Groups Confirmatory Efficacy and Safety Trial of Activated Recombinant Factor VII (NovoSeven /Niastase) in Acute Intracerebral Haemorrhage	<ul style="list-style-type: none"> • Royal Prince Alfred Hospital • Gosford Hospital 	Approved	Yes
3. A Phase 3, Randomized, Double Blind, Multi-Center, Comparator Study Evaluating the Safety and Efficacy of Dexmedetomidine Compared to IV Midazolam in ICU Subjects Requiring Greater than twenty four hours of continuous sedation	<ul style="list-style-type: none"> • Prince of Wales Hospital • Blacktown Hospital • Royal Prince Alfred Hospital 	Approved	Yes
4. A Multi-centre, randomised, double-blind, parallel group, placebo controlled trial to evaluate the efficacy and safety of activated recombinant factor VII (rFVIIa/ NovoSeven/Niastase) in severely injured trauma patients with bleeding refractory to standard treatment	<ul style="list-style-type: none"> • John Hunter Hospital • Liverpool Hospital • Royal North Shore Hospital 	Approved	Yes

Name of Clinical Trials submitted for approval by the Tribunal	Trial Sites	Outcome of Tribunal	Individual Consents to be given by the 'person responsible'.
5. An open, prospective, randomised controlled, multicentre trial to establish the effects of early intensive blood pressure lowering on death and disability in patients with stroke due to acute intracerebral haemorrhage	<ul style="list-style-type: none"> • Concord Repatriation Hospital • John Hunter Hospital • St Vincent's Hospital • Gosford Hospital • St George Hospital • Westmead Hospital • Royal Prince Alfred Hospital 	Approved	Yes
6. A prospective, randomised, double blind, placebo controlled, single bolus, multinational, multi-centre, parallel group, dose ranging study of desmoteplase (INN) in the indication of acute stroke.	<ul style="list-style-type: none"> • John Hunter 	Approved	Yes
7. Study of Acute Viprinex for Emergency Stroke: A Randomised, double blind, placebo-controlled study of Ancrod (Viprinex) in subjects beginning treatment within 6 hours of the Onset of acute, ischemic stroke (Protocol Number: NTI-ASP-0502)	<ul style="list-style-type: none"> • Gosford Hospital 	Approved	Yes
8. Research Study into the pathophysiology of delirium	<ul style="list-style-type: none"> • Hospital Generated 	Withdrawn	No
9. Early parenteral nutrition vs. standard care in the critically ill patient: An Australian and New Zealand Intensive Care Society Clinical Trials Group endorsed Level 1 randomised controlled trial.	Awaiting Hearing	Awaiting Hearing	N/a

Communicating with our clients

Community awareness and education

Highlights

- Sixty community education sessions were delivered throughout the year, attracting a total of 2,431 participants
- Four planned seminars for professionals and carers were held in Sydney, Lismore, Dubbo and Newcastle
- Total visits to the Tribunal's website exceeded 143,000 an increase of 35% (17,000 visits) on the previous year

Community awareness and education

Throughout the year, the Client Information Services Unit organises community education seminars across NSW for professionals and carers, and coordinates guest speakers in response to requests from a variety of agencies, groups and services.

Community education sessions

A community education seminar arranged by the Tribunal consists of two sessions. The morning session is open to professionals and community workers involved in the disability, aged care, legal and health sectors. It provides an overview of the role and function of the Tribunal with an explanation of financial management, guardianship, enduring guardianship, enduring power of attorney and medical and dental consent orders. The afternoon session covers the same topics as the morning session but on a more informal basis for carers, family and friends.

Four all-day seminars were held throughout NSW in 2005/2006. These seminars were held in the Sydney central business district, Lismore, Newcastle and Dubbo attracting a total of 439 participants, 322 professionals and community workers for the morning sessions and 117 carers for the afternoon sessions.

Requested sessions

The Tribunal also provides speakers on request. These requests come from a wide range of organisations, including the health and community service sectors, nursing homes, age care accommodation providers, small non-government agencies (eg. neighbourhood centres), specialist dementia and disability services, supported accommodation services for people with a disability, community justice centres,



legal services, cultural specific services, professional educational facilities, retirement associations and parent associations for people with disabilities. The largest volume of requests this year came from the health sector, non-government community service organisations and aged care services. Fifty six (56) requested sessions were delivered throughout the year, attracting a total of 1,992 participants

from retirees wanting to plan for their future to General Practitioners wanting to learn more about the Tribunal's role.

In summary, the Tribunal spoke to approximately 2,431 people across NSW, including health, welfare and legal professionals, people with disabilities and their carers, friends and family members.

Publications

Clients and the general public are able to obtain essential information about the Tribunal through its many publications. The Tribunal produces publications that inform people with disabilities, carers and the public about the Tribunal, its work and alternatives to accessing the Tribunal's services. Publications are distributed through the Tribunal's enquiries service and the website, at community education seminars and when requests are made to the Client Information Services Unit.

During 2005/2006, the continued focus for publications was to promote, through our enquiries service and at our community education seminars, the Tribunal's new website as a resource for accessing Tribunal publications, and the new facility to complete online Guardianship and Financial Management applications.

Over the year, the Tribunal distributed over 91,000 printed brochures and information sheets, which was an increase of 12% compared to 2004/2005.

The most widely distributed hard copy publication continues to be our brochure, *What Does the Guardianship Tribunal Do?* (12,229 printed copies were distributed in 2005/2006). Of interest is the increased distribution rate of our planning ahead brochures, *How to appoint an Enduring Power of Attorney* (9,200) and *How to appoint an Enduring Guardian* (8,822). These two brochures also ranked highest in the top five most popular publications visited and downloaded from our website (Table 9, page 41).



Most popular printed publications distributed in 2005/2006

Title	Distribution quantity
What Does the Guardianship Tribunal Do	12,229
Planning Ahead ...Enduring Power of Attorney	9,200
Planning Ahead ...Enduring Guardianship	8,822
Website Features	8,262
3 Separate Organisations	6,385
Medical & Professional Assessment Reports	4,790
Person Responsible	4,385

Guardianship Tribunal Current Publications

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*
- *Planning Ahead... Enduring Guardianship* (includes form)
- *Getting Ready for Your Hearing*
- *Planning Ahead... Enduring Power of Attorney* (includes form)
- *Substitute Consent*
- *Website Features*

Booklets

- *Behaviour Management and Guardianship*

Information sheets

- *What does the Guardianship Tribunal do?* (available in Arabic, Chinese, Croatian, English, German, 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?*
- *Review of Enduring Power of Attorney Website Access Features Online Applications*
- *Financial Management Orders – Review & Appeals*
- *Financial Management & Guardianship Orders – Review & Appeals*
- *Guardianship Orders – Review & Appeals*

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 Under Corresponding Law*
- *Application to Review a Financial Management Order*
- *Application to Revoke a Financial Management Order*
- *Application to Revoke Enduring Guardianship*
- *Application to Review Enduring Guardianship*
- *Application to Review Enduring Power of Attorney*
- *Resignation of Appointment of Enduring Guardian / Alternative Enduring Guardian*

Videos

- *For Ankie's Sake* • *Substitute Consent* • *In their Best Interests*

Other publications

- *Annual Report 2004/2005*

Website

The Tribunal's enthusiastic promotion of its website through the work of Tribunal staff and members, particularly through the enquiries service and at community education seminars, has resulted in a significant increase in use of our website.

Compared to 2004/2005:

- > website visits have increased by 35%
- > online applications have increased by 73%
- > downloading of our five most popular publications has increased by 25%

> visits to our five most popular web pages has increased by 46%

The Tribunal's website:

- is designed for easy accessibility for all people including people with a wide range of disabilities. Features include – long and short versions of content, text size can be increased/decreased, layout can be normal or 'easy click'
- has pages and information in languages other than English;

- has Tribunal publications and all application forms available for download from the website;
- contains a separate section on applications;
- enables online applications to be made;
- has a separate section on hearings and orders made;
- contains video clips demonstrating what happens during a hearing;
- has a separate section on enduring powers of attorney and enduring guardianship;
- provides up to date information on Tribunal seminars and expanded information on all Tribunal activities.

Table 6: Total website visits 2005/2006

Month	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	TOTAL
Visits	10,795	11,813	10,295	10,856	10,916	9,439	10,764	11,296	17,126	12,316	14,424	13,359	143,399
Avg Day	348	381	343	350	364	304	347	403	552	411	465	445	392.9

Table 7: Five most popular web pages visited (excluding home page) 2005/2006

Publication	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	TOTAL
Planning Ahead Enduring Power of Attorney	1225	1419	1352	1,317	1,452	1,124	1,563	1,536	1,859	1,353	1,524	1,586	17310
Applications	961	923	799	836	863	623	853	892	1,171	745	895	870	10431
Planning Ahead Enduring Guardianship	646	687	667	670	702	543	691	721	922	658	743	734	8384
Information & Publications	632	692	657	659	691	515	620	767	890	639	725	710	8197
Common Questions	672	698	654	694	717	480	606	716	868	566	704	661	8036
Information Sheet Enduring Power of Attorney	568	658	668	602	631	445	670	623	788	655	817	800	7925

Table 8: Total online applications received 2005/2006

Month	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	Jun	TOTAL
Applications	41	41	38	42	54	41	38	32	50	41	48	33	499

Table 9: Five most popular publications downloaded 2005/2006

Title	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	Jun	TOTAL
Appointment of Enduring Power of Attorney ... Planning Ahead	573	678	663	618	685	504	738	682	927	791	873	927	8659
Appointment of Enduring Guardian ... Planning Ahead	355	366	372	348	370	286	380	370	455	394	396	402	4494
Application for Guardian and/or Financial Management	297	340	315	337	321	241	307	339	438	303	364	341	3943
Application to Review Enduring Power of Attorney	105	133	104	100	100	75	107	109	127	117	102	135	1314
Application to Revoke Enduring Guardianship	51	57	63	50	52	41	57	52	75	63	62	66	689
TOTAL	1381	1574	1517	1453	1528	1147	1589	1552	2022	1668	1797	1871	19099

Videos

The Tribunal continues to distribute its three videos, *'For Ankie's Sake,' 'Substitute Consent'* and *'In their Best Interests'* which are available through the Tribunal's Client Information Services Unit.

The videos are an important tool in educating and informing the community about the role of the Tribunal and various informal arrangements that may prevent the need to make an application or for the Tribunal to make orders.

For Ankie's Sake

This video is an introduction to the role and procedures of the Guardianship Tribunal. Ankie's story depicts members of a family in conflict about the care of an elderly family member. It highlights the fact that

the Tribunal should be a 'last resort' when a person is incapable of making his or her own decisions and all other suitable alternatives to resolve the situation have been tried.

This video illustrates that most people with disabilities do not need a legally appointed guardian or financial manager.

Substitute Consent

The *Guardianship Act* 1987 divides medical and dental treatments into four categories. It further defines when consent is required and who can provide substitute consent when a patient cannot consent for themselves.

In the majority of cases, patients are capable of understanding the information provided by medical practitioners and of communicating consent or their refusal to consent to treatment. However, when a practitioner assesses a patient is not capable of giving a valid consent to treatment, they have a legal responsibility in most circumstances to seek and obtain consent from a suitable substitute decision maker.

This video provides a snapshot of the urgent, major and minor categories of treatment and other aspects of the consent provisions.

In Their Best Interests

This video tells the stories of three people who come to the Guardianship Tribunal. Each scenario shows how a case comes to the Tribunal and how it proceeds to a resolution. The investigation process and hearing process is shown from beginning to end, as well as how the Tribunal works. The role of Tribunal members, the applicant and other parties to a hearing is illustrated within the scenarios.

Coming to the Guardianship Tribunal for a hearing may be a daunting prospect for many people. However, it does not need to be. The video emphasises that the Tribunal works with the best interests of the person with the disability as its paramount consideration.

Papers presented

Diane Robinson, President

'The Guardianship Tribunal'

Presentation to the Ministerial Advisory Committee on Ageing, 25 August 2005.

'The Guardianship Tribunal'

Presentation to the Prince of Wales Hospital, 21 February 2006.

'Advance Care Directives and the Guardianship Tribunal'

Presentation to the Law Society, 31 March 2006.

'Procedural Fairness – Natural Justice'

Presentation to Tribunal staff, 15 May 2006.

'Fact Finding by Tribunal members'

Presentation to the Council of Australasian Tribunals, 26 May 2006.

Marion Brown, Deputy President

'The New Powers of Attorney Act'

Paper for Lexus Nexus, 1 July 2005

'Reviews of Enduring Power of Attorney by the Guardianship Tribunal'

Paper for the College of Law, 27 February 2006.

'Role of the Guardianship Tribunal and Abuse of Older People'

Presentation to the AAG Elder Abuse Seminar, 15 June 2006.

Our people

Tribunal staff as at 30 June 2006

Executive

President

Diane Robinson

Deputy President

Marion Brown

Executive Officer/Registrar

Trevor Fairbairn

Executive Secretary

Jenny Reynolds (part time)
Justin Standley * (part time)

Personal Assistant

Lisa Whittaker

Legal Officer

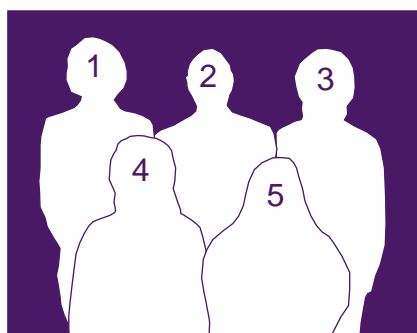
Esther Cho



Executive

1. Marion Brown
2. Trevor Fairbairn
3. Diane Robinson
4. Lisa Whittaker
5. Esther Cho

Absent: Jenny Reynolds
Justin Standley





Coordination and Investigation

1. Zebun Haji
2. Frank Maguire
3. Liesje Tromp
4. David Evans
5. Trudi Cusack
6. Paula Norris
7. Mary Chapman
8. Sue Young
9. Jane Samek
10. Lois Warnock
11. Maxine Spencer
12. Louise Smith
13. Kathryn Tidd
14. Katrina Morris
15. Theresia Khoudair



Absent: Ryan Williams, Frances Massy-Westropp, Lee Dargan, Amanda Legge, Margaret Watson, Peter Heffernan, Rebecca Ripperger, Elizabeth Kensell, Christopher Moore, Loretta Rosicky

Coordination and Investigation Unit

Manager

Ryan Williams

Team Leaders

Theresia Khoudair
Margaret Watson
Sue Young

Senior Investigation Officers

Mary Chapman * (part time)
David Evans *
Peter Heffernan
Elizabeth Kensell *
Lee Dargan
Amanda Legge
Frances Massy-Westropp
Katrina Morris
Paula Norris *
Louise Smith

Loretta Rosicky

Jane Samek

Melissa Simcoe

Kathryn Tidd * (part-time)

Investigation Officers

Mary Chapman (part time)

Trudi Cusack (part time)

Frank Maguire *

Christopher Moore

Rebecca Ripperger *

Edwina Pickering * (part time)

Kathryn Tidd (part time)

Liesje Tromp

Assistant Investigation Officers

Maxine Spencer

Lois Warnock

Zebun Haji



Hearing Services

1. Lisa Spence
2. Christopher Mitchell
3. Justin Standley
4. Rada Stevanovic
5. Michelle Savage
6. Janet Stringer
7. Lesley McGowan
8. Janette Ogilvie
9. Cynthia Nejal
10. Evelyn Guibani
11. Sita Singh
12. Doreen Gray

Absent: Kerrie Menken,
Eleanor Torry,
Gary MacDonald



Hearing Services Unit

Manager Client Information and Hearing Services

Janette Ogilvie

Assistant Manager

Lesley McGowan

Senior Hearing Officers

Gary MacDonald (part time)
Kerrie Menken
Cynthia Nejal *
Rada Stevanovic * (part time)

Hearing Services Officers

Lisa Spence * (part time)
Janet Stringer *

Assistant Hearing Officers

Evelyn Guibani *
Doreen Gray
Christopher Mitchell
Michelle Savage
Lisa Spence * (part time)
Sita Singh
Eleanor Torry
Justin Standley * (part time)



Client Information Services

1. Mark Harrison
2. Sian Moore
3. Diane Cracknell
4. Janette Ogilvie
5. Jihan Noun
6. Angela Ogden
7. Vi Huynh

Absent: Geraldine Northcott,
Donna Crotty,
Yvette Wallis,
Robyn Barlow,
Diane Brehaut,
George Damalas,
Christine Lopez,
Tina Pasa



Client Information Services Unit

Manager Client Information and Hearing Services

Janette Ogilvie

Assistant Manager

Geraldine Northcott *

Publications Officer

Donna Crotty * (part time)
Yvette Wallis (part time)

Senior Information Officers

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

Information Officers

George Damalas * (part time)
Mark Harrison
Jihan Noun

Assistant Information Officers

Diane Cracknell (part time)
George Damalas * (part time)
Vi Huynh (part time)
Christine Lopez * (part time)
Sian Moore *
Angela Ogden (part time)
Tina Pasa * (part time)



Business Services

1. Christine Small
2. Maria Sardisco
3. Kathy Tribe
4. Sin-Lee Yeoh
5. Patrick Gooley
6. Gail Yueh
7. Linda Sengstock

Absent: Dennis Maby,
Christine Triantafillopoulos



Business Services Unit

Manager

Linda Sengstock

Training and Development Officer

Gail Yueh (part time)

Business Services Coordinator

Maria Sardisco (part time)
Kathy Tribe * (part time)

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 2005/2006

Magda Cawthorne *
Michelle Carvalho-Mora *
Catherine Colefax *
Lynette Cucinotto *
Elizabeth Evans *
Pam Giurissevich *
Suin Jung *

Padraig Keane *
Peter King *
Veronica Loh
Elaine Menzies *
Margaret Yorkston *

* Temporary or acting

Training for Tribunal staff

To ensure a high standard of service delivery to our clients, the Guardianship Tribunal provides a comprehensive training program for its administrative staff. Over the past year staff have attended a variety of training courses conducted either at the Tribunal or at external training organisations. These courses have provided staff with skills, knowledge and information on using computers, occupational health and safety issues, human resource matters, technological change and legal concerns.

The Tribunal's Corporate Plan identifies the importance of improvements in data management and the use of technology in meeting the needs of our clients. Along with innovations such as the online lodgement of applications, the Tribunal has upgraded and improved its computerised Case Management System. Many of the internal training programs conducted this year have focused on various aspects of the Case Management System to ensure staff are proficient in its use.

In addition to fire drills, training in practical fire fighting techniques is provided on a regular basis to ensure the safety of both staff and clients. Comsafe, the training arm of the NSW Fire Brigade, conducts the training at the Tribunal's Balmain premises. Staff members also regularly attend external training programs in first aid, office safety and occupational health and safety.



The broad range of training courses attended by staff over the year included:

Computing

- Microsoft Excel
- Microsoft Outlook
- The Tribunal's Case Management System

Occupational Health and Safety

- Occupational Health and Safety Consultation
- Occupational Health and Safety Responsibilities for Managers
- Fire Safety

Human Resources and Communication

- Merit Selection
- Solution Focused Supervision
- Effective Communication Skills
- Writing Instructions

- Memory: a user's guide
- Time Management

Other Training

- Judgement Writing
- Council of Australasian Tribunals Annual Conference
- A.I.T.A. Tribunals Conference
- Records Management
- Elder Law Issues
- Public Trustees and Public Guardians - 5th International Conference

Training for Tribunal members

Tribunal members have a separate training program of half day seminars designed to develop and maintain the skills they bring to the Tribunal. There are four seminars per year for presiding members and a further four for all Tribunal members.

Seminars for the presiding members generally involve discussion or presentations relating to legal issues. Those for all members include a mix of presentations, workshops and discussions which provide up to date information on clinical and legal issues as well as other matters relevant to the disability sector. Presentations are given by Tribunal members regarding their area of expertise or by guest speakers from a variety of fields.

Topics covered in the last year have included:

- End of life decision making
- Clinical issues in palliative care
- Alzheimer's Australia - current issues in dementia

- Behaviour intervention and support for people with dementia
- The Administrative Decisions Tribunal
- Centrelink entitlements and the Financial Information Service
- The DADHC integrated services project for clients with challenging behaviour
- Application of the Powers of Attorney Act 2003
- Guardianship functions



Tribunal members



Diane Robinson, President

Diane was appointed as President of the Guardianship Tribunal in February 2005. She was previously the Deputy President of the Mental Health Review Tribunal where she led a review of the Mental Health Review Tribunal's civil jurisdiction, as well as being involved in the forensic work of the Tribunal. Diane has considerable Tribunal experience having been a presiding member of the Guardianship Tribunal for eleven years, a lawyer member of the Mental Health Review Tribunal, a part-time lawyer member of the Social Security Appeals Tribunal and a lay member of the Medical Tribunal.

Prior to her Tribunal work, Diane was a Senior Lecturer in Law at the University of Technology. She has also been a Visiting Lecturer at the University of New South Wales. Her main teaching areas were The Law of Evidence, Jurisprudence and Criminology. Diane has also been involved in legal practice as a solicitor with Allen, Allen & Hemsley.

Diane has a strong interest in mental health issues and was an Official Visitor under the *Mental Health Act* 1990 at the Caritas Centre at St. Vincent's Hospital. She also has an interest in medico-legal issues and was previously appointed as the legal member (Ministerial appointee) of the New South Wales Medical Board.

Diane has given a number of presentations on aspects of the Tribunal's work including papers on advance care directives and enduring powers of attorney and has represented the Tribunal in a range of public forums.



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.

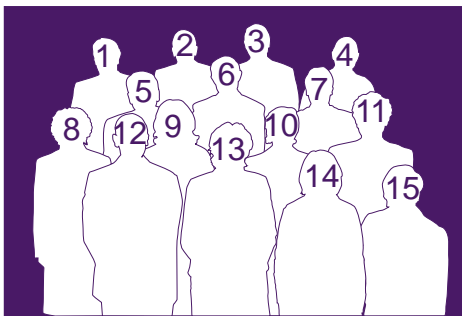
Currently, she is a member of a number of committees including the Specialist Advisory Committee for the Centre for Gender Related Violence Studies at University of NSW. She was a representative on the Department of Ageing, Disability and Home Care Steering Committee for Planning Ahead Project and Dementia 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

1. Anthony Giurissevich
2. John Hislop
3. Geoffrey Hopkins
4. Peter Molony
5. Bernie Shipp
6. James Simpson
7. Monica MacRae
8. Loretta Re
9. Carolyn Huntsman
10. Jennifer Conley
11. Tony Krouk
12. John Cipolla
13. Diane Robinson
14. Carol McCaskie
15. Angela Beckett



Absent: Marion Brown, John Boersig, Sally Ann Chopping, Robin Gurr, Josephine Maxwell, Linda Pearson, Anita Sekar, Bill Tearle, Shaun McCarthy

Presiding (legal) members

Angela Beckett

Solicitor and clinical psychologist. Experience in private legal practice and in a community legal centre. Member, Social Security Appeals Tribunal, Mental Health Review Tribunal and Consumer Trader and Tenancy Tribunal. Experience in alternative dispute resolution. Extensive background in service provision to persons with a disability.

John Boersig **

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

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.

Jennifer Conley

Lawyer with experience in administrative law. Currently a member of the Consumer Trader and Tenancy Tribunal and the Administrative Decisions Tribunal.

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.

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 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. Former chairperson with Government and Related Employees Appeal Tribunal.

Carolyn Huntsman

Lawyer. Currently member, Mental Health Review Tribunal. Formerly member, Social Security Appeals Tribunal, Refugee Review Tribunal, Fair Trading Tribunal and Residential Tribunal. Worked as a solicitor with Legal Aid Commission, Aboriginal legal organisations and in private legal practice.

Tony Krouk

Accredited family law specialist. Extensive experience representing people with brain injury, mental illness, intellectual disability and dementia.

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.

Hon. Josephine Maxwell

Former judge of the Family Court. Family experience of dementia.

Shaun McCarthy

Lawyer, experience in private practice and legal aid in civil litigation and administrative law. Director, University of Newcastle Legal Centre.

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.

Linda Pearson

Teaches administrative law at University of NSW. Member of the Migration Review Tribunal and the Social Security Appeals Tribunal.

Loretta Re

Lawyer and Mediator. Legal member, 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. Director and Board Member, Macarthur Disability Services Ltd.

James Simpson

Solicitor, mediator and policy consultant. Former deputy president, Community Services Appeals Tribunal. Former coordinator, Intellectual Disability Rights Service. Presiding member, Mental Health Review Tribunal. Justice Medal 2001- Law and Justice Foundation NSW.

Bill Tearle

Lawyer with extensive experience of financial counselling issues. Current member of the Consumer Trader and Tenancy Tribunal and a Deputy President of the Mental Health Review Tribunal. Has published several articles in law periodicals, and has contributed chapters to various law books. A guest lecturer at Oxford University, and at several universities in Australia and New Zealand.



Professional members

1. Velupillay Vignaendra
2. Imelda Dodds
3. Michelle Chapman
4. Meredith Martin
5. Sue Stone
6. Tony Ovadia
7. Sharon Flanagan
8. Robert Yeoh
9. Sandra Dingle
10. Ilsa Bowen
11. Carolyn West
12. Sarah Carlill
13. Helen Molony
14. Janice Wortley



Absent: Ivan Beale, Hayley Bennett, Mary Ellen Burke, Rhonda Buskell, June Donsworth, Michael Frost, Julie Garrard, Jean Hollis, Susan Kurrle, Brenda McPhee, Carmelle Peisah, Sue Taylor, Wai-Kwan (Tim) Wong

Professional members

Ivan Beale

Psychologist, specialising in assessment and intervention for developmental and behavioural problems, as well as treatment adherence in people with chronic illness. Formerly Associate Professor and Director at the Learning Assessment Centre (University of Auckland).

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.

Rhonda Buskell

Qualifications in psychiatry and in rehabilitation medicine. Consultation-liaison psychiatrist at Westmead Hospital. Formerly Director, Lidcombe Brain Injury Rehabilitation Unit.

Sarah Carlill

Registered nurse, 20 years working in mental health with experience in acute care, inpatient and community care. Currently clinical nurse specialist for Northern Beaches Mental Health Service.

Michelle Chapman

Senior Consultant Psychologist with NGO (Disabilities Services Australia) with family and professional experience of people with disabilities with expertise in behavioural intervention. Works with individuals who display challenging behaviours and at risk behaviours in accommodation and workplace setting and supports families through counselling and advocacy.

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

Civil and forensic psychiatrist. Member of Mental Health Review Tribunal, member of Social Security Appeals Tribunal, psychiatrist at healthQuest, member of Impaired Registrants Panel of NSW Medical Board. Former psychiatrist on South Australian Parole Board and past member of South Australian Guardianship Board.

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 Centre. Former chief executive officer, Western Sydney Developmental Disability Service.

Julie Garrard

Manager of social work at Calvary Health Care Sydney, which provides palliative care and aged care services. Also, experience working with people with intellectual disabilities, brain injuries and HIV/AIDS, and in health complaints.

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.

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 Molony

Psychiatrist with extensive experience with people with intellectual disabilities and challenging behaviours.

Tony Ovadia

Clinical psychologist with extensive experience with people with psychiatric and other disabilities. Now in private practice, she has worked in institutions and was a pioneer of community health services. Established and managed the Boarding House Team in Central Sydney and also worked at the Community Services Commission on issues relating to disability services. Member of the Mental Health Review Tribunal and was an expert witness for the Chelmsford Royal Commission.

Carmelle Peisah

Consultant old age psychiatrist and research fellow at the Academic Department for Old Age Psychiatry, Prince of Wales Hospital and joint 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 the provision of mental health accommodation, case management and crisis services in the community. Former manager of service providing support for people with multiple sclerosis. Member, Mental Health Review Tribunal and Social Security Appeals Tribunal.

Velupillay Vignaendra

Neurologist with extensive experience of people who have strokes, acquired brain injury and other neurological impairments.

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

Special Educator and Psychologist. Expertise in developing and implementing behavior management and positive programming for people with challenging behaviors. Extensive experience working with people with intellectual disabilities, psychiatric disabilities and acquired brain injuries. Qualified workplace trainer and Lecturer in Disability Studies.

Robert (TH) Yeoh, AM

General practitioner since 1975. Past 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. Former member of Ministerial Advisory Committee on Ageing NSW.

Community members

Stanley Alchin, OAM

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

Rhonda Ansiewicz

Part time lecturer in Aboriginal Community Work, University Western Sydney. Advocate for people with intellectual disabilities and in private practice working with people with a mental illness. Has experience within the family of mental illness. Board member NSW Council Intellectual Disabilities, chairperson of the Northern Rivers Aunty programme.

Andrew Barczynski

Social worker. President of a non-government agency providing information and welfare services for ageing people from culturally and linguistically diverse backgrounds. Extensive experience with disability employment and advocacy services. Currently, working for Department of Families, Community Services and Indigenous Affairs in a program to assist people in financial crisis.

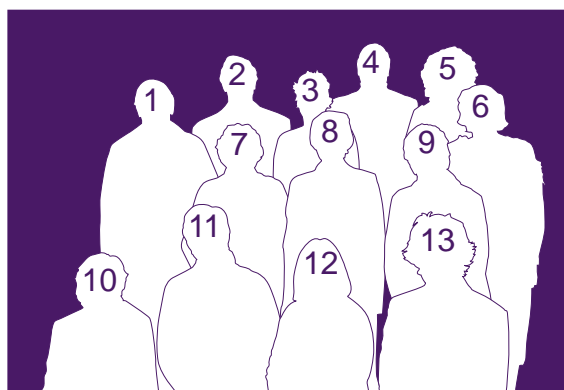
Elaine Becker

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



Community members

1. Stanley Alchin
2. Andrew Barczynski
3. Jennifer Klause
4. Hatton Kwok
5. Marika Kontellis
6. Alexandra Rivers
7. Leanne Stewart
8. Susan Warth
9. Jeanette Moss
10. Maree Gill
11. Jane Fraser
12. Elaine Becker
13. Kerrie Laurence



Absent: Rhonda Ansiewicz, Mary Butcher, Maria Circuit, Janene Cootes, Faye Druett, Annette Evans, Steve Kilkeary, Janet Koussa, Carol Logan, Michael McDaniel, Leonie Manns, Jennifer Newman, Alan Owen, Robert Ramjan, Robyn Rayner

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 Circuit

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. Former 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 governments, and the non government sector in service provision, 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.

Maree Gill

Consultant, social researcher. Former university tutor to medical students. Extensive background in social justice and equity especially human rights: homelessness, supported accommodation, disability, mental health and women's health. Family experience of mental illness. Lived experience of disability. Qualifications in Sociology (Masters), Social Work, Adult Education, Management. Member, Administrative Decisions Tribunal.

Steve Kilkeary

Social worker. Trauma counsellor with suicidal and self-harming men. Work experience in mental health, intellectual disability and HIV/AIDS. Former primary carer to family members with disabilities.

Jennifer Klause

Extensive experience as advocate, service manager, consultant, educator and providing support to people with intellectual disabilities on consultative committees. Previous work with Community Services Commission and Intellectual Disability Rights Service.

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.

Janet Koussa

Counselling psychologist. Ten years' work with the Department of Community Services providing assessments, case-management and support to people with intellectual disabilities and their family. Extensive involvement in advocacy services for people with intellectual disabilities. Has experience writing, implementing and monitoring behaviour intervention and support plans for people with challenging behaviours. Conducted self-help groups for several years for women with eating disorders.

Hatton Kwok, OAM

Psychiatric nurse and rehabilitation counsellor. Currently chairman of the Australian Nursing Home Foundation. Established residential care facilities for aged people from Chinese backgrounds.

Kerrie Laurence

Specialist educator and community welfare worker with adults with a developmental disability. Currently working as a quality assessor in the accreditation of aged care supported accommodation. Family experience of dementia and mental illness and relevant tribunal experience.

Carol Logan

Trained as General and Psychiatric Nurse. Worked as a Community Nurse in South West Sydney for 11 years then set up and managed Community Options for Centacare in South West Sydney. Previously Director of Centacare Catholic Community Services/Ageing and Disability Services 1996 to 2004.

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.

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

Family experience with dementia and severe mental illness. A retired academic, school teacher and special educator, she is a registered psychologist in NSW. Acts as a Guardian ad Litem for the Children's Court of New South Wales and for the Administrative Decisions Tribunal of New South Wales. Vice President of the Schizophrenia Fellowship of NSW, and of the Aboriginal Education Council of NSW. Board member of the Mental Health Co-ordinating Council of NSW, and of the Neurological Institute for Schizophrenia and Allied Disorders (NSW). Member of the Governing Committee of the Consumers' Health Forum of Australia.

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.

** currently on leave from the Tribunal

Definitions

clinical trial is a trial of a drug or technique that involves medical or dental treatment. Before an adult unable to give a valid consent to their own treatment may take part in a clinical trial, the Guardianship Tribunal must approve the trial. Usually, the person's 'person responsible' will be able to decide whether or not they take part in the clinical trial. Before an application can be made to the Tribunal, the approval of the relevant ethics committee must be obtained. Also, the trial must comply with the relevant guidelines of the National Health and Medical Research Council.

consent to medical or dental treatment if a person cannot understand the general nature or effect of treatment or cannot communicate whether or not they consent to treatment, they cannot give a valid consent to that treatment. Part 5 of the Guardianship Act 1987 sets out who can consent on their behalf. Usually, this will be a 'person responsible'. If there is no 'person responsible' or the person is objecting to the treatment, the Guardianship Tribunal can act as a substitute decision maker. Only the Tribunal may act as substitute decision maker in relation to special medical treatments.

enduring guardian is someone you appoint to make personal or lifestyle decisions on your behalf when you are not capable of doing this for yourself. You choose which decisions you want your enduring guardian to make. These are called functions. You can direct your enduring guardian on how to carry out the functions. The appointment of an enduring guardian comes into effect when you lose capacity to make personal or lifestyle decisions.

enduring power of attorney is the document by which you appoint someone to act as your attorney on your behalf in relation to your property and financial affairs (eg. bank accounts or property or shares). The appointment may start when the power of attorney is made, at a particular time, or when you have lost the capacity to make financial decisions.

financial management order is an order which the Guardianship Tribunal makes when the Tribunal is satisfied that an adult is incapable of managing their financial affairs and needs someone else to manage those affairs on their behalf and that it is in their best interests that a financial order be made. It authorises the financial manager to make financial decisions for the person the order is about. Most financial management orders are permanent.

financial manager is a legally appointed substitute decision maker with authority to make decisions about and manage a person's financial affairs (eg. their money, property and other financial assets, such as share portfolios). A private financial manager may be appointed – a family member or friend – provided they are a 'suitable person' as required by the legislation. Otherwise, the Tribunal will appoint the Protective Commissioner.

guardian is a substitute decision maker with authority to make personal or lifestyle decisions about the person under guardianship. A guardian is appointed for a specified period of time and is given specific functions (eg. the power to decide where the person should live, what services they should receive and what medical treatment they should be given). A private guardian may be appointed – a family member or friend – provided the circumstances of the matter allow for this and they meet the criteria set out in the legislation. Otherwise, the Tribunal will appoint the Public Guardian.

guardianship order made by the Guardianship Tribunal names the guardian who has been appointed by the Tribunal, the length of their appointment and their functions. It authorises the guardian to make certain decisions for and instead of the person under guardianship.

order see **guardianship order** or **financial management order**

parties to a hearing always includes the applicant, the person the application is about, their spouse or carer. The Public Guardian and Protective Commissioner are automatic parties to applications for guardianship or financial management. Those who are automatically parties to a hearing are set out in section 3F of the *Guardianship Act 1987*. The Guardianship Tribunal may join others as parties to a proceeding.

person responsible someone who has the authority to consent to treatment for an adult who is unable to give a valid consent to their own medical or dental treatment. Sometimes, a patient is unable to make the decision or does not understand what the treatment is about or its effects. In these cases, the person responsible can give substitute consent on behalf of the patient.

requested review of financial management order sometimes the Tribunal is asked to review an order because the private financial manager no longer wants to or is unable to carry on with this role, or concerns are raised about the manager's suitability as financial manager, or because the person has regained capacity, or it is in the best interests of the person to review the order.

requested review of guardianship order a guardian can request a review to increase or vary the guardianship functions. Others can request a review if the circumstances relating to the person under guardianship have changed or because of some other issue relating to the guardian.

review of financial management order the Tribunal can order that a financial management order be reviewed within a specified time. However, the order can be revoked only if the person regains the capability to manage their own affairs or if the Tribunal is satisfied that it is in the person's best interests to revoke the order.

review of guardianship order most guardianship orders are reviewed before expiry. Initial orders are made for a specific period of time. The Tribunal undertakes a review hearing where the order will either be allowed to lapse or it will be renewed.

Corporate Strategic Plan 2006 – 2009

We are a Legal Tribunal

Our purpose is to keep paramount the interests and welfare of people with disabilities through facilitating decision making on their behalf.

We value and commit to:

- ◆ Respecting individuals
We promote the rights of people with disabilities and recognise their personal, family and cultural history and needs, while exploring options that maximise their rights.
- ◆ Taking pride in our work
We strive to ensure all our work is timely and of the highest quality.
- ◆ Providing quality decision making
We obtain the facts and make considered and balanced decisions.
- ◆ Creating a helpful and professional environment
We provide an environment that is accessible and responsive to the needs of people with disabilities.
- ◆ Promoting fairness
We operate as an independent, impartial and accountable Tribunal service.
- ◆ Communicating and consulting
We work as a team with each other and our stakeholders.

Our focus for the next three years:

To develop and implement strategies that will ensure the provision of quality services in an environment of increasing demands.

Our five strategies to achieve this:

1. Develop and implement strategies to improve the community's awareness and understanding of the role of the Tribunal and the services it provides.
2. Review Guardianship and related legislation to ensure it continues to promote the rights, best interests and protection of people with disabilities.
3. Review & improve the Tribunal's work processes, data management and use of technology to ensure that all cases are dealt with in a fair, efficient and flexible manner that is responsive to the needs of clients.
4. Review & improve the ways in which the Tribunal supports its staff and members to provide quality services to the community.
5. Review the Tribunal's working environment to ensure it is accessible and appropriate for clients, staff and members.



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