

30 September 2013

The Hon Brian Wightman, MP,
Attorney General
Minister for Justice

In accordance with the requirements of Section 84 of the *Guardianship and Administration Act 1995*, I am pleased to submit this report on the administration of the Act and the financial statements for the Guardianship and Administration Board for the year 1 July 2012 to 30 June 2013.

Anita Smith
PRESIDENT
Guardianship and Administration Board

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Report of the President

I am pleased to present this Annual Report on behalf of the Board members and staff and grateful to have been appointed for a third term on 16 April 2013.

The highlight of my reporting year was the success of the World Congress on Adult Guardianship in Melbourne presented by the Australian Guardianship and Administration Council in October 2012. I was pleased to be the Convenor of the Congress. There were 405 delegates from 14 countries. The Congress examined the impact of the *United Nations Convention on the Rights of Persons with Disabilities* upon modern guardianship practices. Feedback from the Congress was excellent. Members and staff who attended enjoyed a wide range of highly relevant and inspirational presentations and workshops.

During the reporting year, the Board received its first applications under the *Disability Services Act*. The first two decisions under this legislation are noted at page 29 of this report. This promises to be an interesting new jurisdiction. The Board is grateful for the co-operation of Disability Services and the Senior Practitioner in establishing application and hearing processes.

On 1 March 2013 the Board commenced charging fees for particular statutory functions. This marked a significant change in our business model and required extension to our administrative practices because the Board has not previously charged any fees to users. Thanks to the co-operation of staff members from the Board, the Department of Justice, Service Tasmania and the Department of Premier and Cabinet, the tabling of the Regulations and the commencement of fee charging processes has been highly successful and has already generated significant revenue for the Board. In the period between 1 March 2013 and the 30 June 2013, the Board received over \$40,000 in fees. If income remains steady, the Board may receive \$120,000 annually from the collection of fees which will significantly improve the Board's financial position.

The Board revised all applications and Health Care Professional Report pro formas during the reporting year. The outcome is a suite of forms that are more responsive to the users and forms which follow a logical process in terms of the legislation. The forms are now set out on the Board's website in an easily accessible table which includes all of the relevant forms, reports, guidelines and practice directions for any particular type of application. Feedback from the Board's Regular Users Group indicates a very high level of approval for the new forms and the new presentation of forms on the website.

The Board is fortunate to be assisted by a small but dedicated team in the Hobart office who ensure the prompt investigation and listing of applications. The Board members continue to ensure that parties to hearings participate in a fair and efficient process. It is my pleasure to work with excellent staff and Board members and I thank them for their continued support and assistance.

Anita Smith
PRESIDENT

Role of the Board

Major Statutory Functions

The functions of the Guardianship and Administration Board (the Board) are established by the *Guardianship and Administration Act 1995*. Additional functions are established in Part 3 of the *Wills Act 2008*, Part 4 of the *Powers of Attorney Act 2000*, section 32 of the *Mental Health Act 1996* and Part 6 of the *Disability Services Act 2011*.

The Board can appoint guardians for adults with disabilities who do not have capacity to make important personal decisions. The Board can appoint administrators to manage the financial estates of adults with disabilities who cannot manage their estates because of their disabilities. Importantly, appointments of guardians and administrators are periodically reviewable and persons appointed as guardians and administrators are required to report to the Board annually, which means the Board has a compliance function with respect to appointees.

The Board can make substitute decisions to consent to medical treatment on behalf of people with disabilities who lack the capacity to authorise such treatment themselves.

Other statutory functions of the Board include giving advice and directions to guardians, administrators, enduring guardians and enduring attorneys, registration of enduring guardianships, reviewing and, if necessary, revoking or altering an existing enduring power of attorney or enduring guardianship, creation of statutory wills and, in the case of unlawful detention of persons with a disability, ordering their removal to a safe place.

Under the *Disability Services Act 2011* the Board assesses and approves of restrictive interventions (personal restraints) for people with disabilities.

Because an adult's right to make financial and lifestyle decisions is a fundamental human right, the Board's powers are only invoked where they represent the least restrictive alternative and where they will protect the best interests of the person. Consultation with the person with a disability to ascertain his or her wishes, if possible in the hearing, is fundamentally important to the decisions of the Board.

The Board operates as an independent statutory tribunal. Hearings are conducted as much as possible in an informal, inquisitorial style primarily to facilitate the meaningful inclusion of people with disabilities into the process of taking evidence. The informal style encourages participation wherever possible. The inquisitorial functions ensure that all of the necessary factual materials relevant to an application are compiled and presented to the Board to be tested in the hearing.

A video demonstration of the Board's procedures, called *Are You Attending a Hearing?*, can be found on the Board's website.

Composition of the Board

Names and brief biographies of the Board members current at the close of the reporting year are listed in Appendix 1.

Board members are selected for their understanding of the underlying principles of the Act, excellent communication and analytical skills. They are drawn from a wide range of disciplines including nursing, psychology, social work, accounting, pharmacy and law and are particularly selected for their understanding of the issues facing people with disabilities.

There were two significant Board training events in the reporting year. Some staff and members of the Board attended the 3rd World Congress on Adult Guardianship in Melbourne in October 2012. Board members attended a professional development seminar on 30 November 2012, together with members of the Mental Health Tribunal. Members were addressed on that occasion on various aspects of tribunal functions by The Hon. Justice David Porter QC, Simon Overland, Secretary of Justice, and Debra Rigby, President of the Mental Health Tribunal.

Prior to the appointment of new members, the *Manual for Members of the Guardianship and Administration Board Tasmania* was significantly updated by the President.

Board Member Appointments

The following members were reappointed during the reporting year:

Kim Barker
Abigail Bindoff
Elizabeth Dalglish
Catherine Gavan
Rowena Holder
Elizabeth Love
Leon Peck
Leanne Topfer
Philippa Whyte

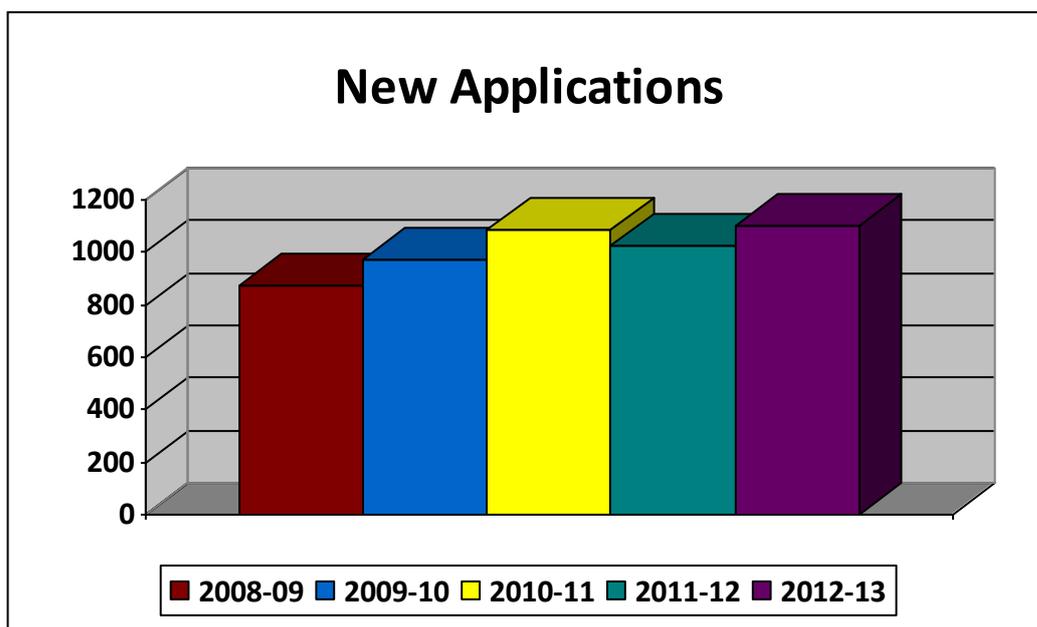
The following new members were appointed during the reporting year:

Susan Aylett
Simon Cooper
Ken Stanton
Sandra Taglieri
Carolyn Wallace
Juanita Westbury

Congratulations to all appointees. The Board thanks departing members, Eric Smith and Andrea Schiwj for their work for the Board in the previous term.

Processing of Applications

Applications Received



The total number of applications (including the review of orders) received for the period 1 July 2012 to 30 June 2013 was 1104. Of these 791 were new applications with the remainder being reviews of existing orders.

A new electronic case management system is being developed for the Board, with a view to making the processing of applications more efficient.

Investigations – Parts 2 and 3 Guardianship and Administration Act

The investigation process is an important part of the Board’s decision-making method. Where a proposed represented person has a disability which affects his or her ability to participate in the pre-hearing and hearing process, the investigators’ role is to ensure that all relevant evidence is available to the Board members at the hearing and that the interests of the proposed represented person are fairly and accurately set out for the Board.

The investigators assist the Board to operate in an ‘inquisitorial’ model rather than an adversarial model. Information can be requested and supplied to the Board (via the investigators) without the usual privacy restrictions because of the operation of sections 11 and 85 of the Act. External agencies are generally highly compliant with requests for financial statements, copies of Wills, medical records, rehabilitation notes and personal histories which supplement the information provided by the applicant. Investigators assess the accuracy and the adequacy of the information presented in the application and provide succinct and professional reports to the Board.

Investigators also provide assistance to members of the public who are considering an application to the Board, giving direction about whether such an application is necessary and what information may be useful to the Board if an application is submitted.

Hearings - Parts 2 and 10 *Guardianship and Administration Act*

Under the general control and direction of the President, the registrar and staff members of the Board register applications, investigate them and list applications for hearing. Registry staff members ensure that timelines are efficiently adhered to. Their high level of organisation is largely responsible for the timely delivery of outcomes to applications.

Section 72 of the *Guardianship and Administration Act 1995* requires that the Board *commence to hear* an application within 45 days after the application under that Act is received by the Board. Applications under other enactments (*Powers of Attorney Act 2000, Disability Services Act 2012, Mental Health Act 1996, Wills Act 2008*) are not subject to this requirement. Each year the Board reports the percentage of applications that have been *determined*, as opposed to *commenced*, within 45 days.

Where a hearing commences but is adjourned, there will be a significant difference between the time for commencing to hear the application and the time for determination. Our present case-management system (under review) is not capable of providing statistics about the rate of compliance with section 72, but can report upon the numbers of applications *determined* within 45 days.

The Board determined 78% of applications within 45 days. This is the lowest determination rate that the Board has reported, as historically between 95% and 98% of applications have been determined within 45 days. There are a number of reasons for the extended times for determination. Firstly, there have been staff changes in the investigation role which means that, for significant periods during the reporting year, the Board has had only one Investigator rather than two. Secondly, the Legal Aid Commission of Tasmania has a program for assisting people who are subject to applications before the Board. With increased legal representation comes an increased need for adjournments while counsel take instructions, give advice and investigate aspects of the applications. Thirdly, applications under the new *Disability Services Act 2011* require the collation of significant numbers of documents, hence applications under that Act take longer to determine.

One application for consent to a sterilisation has remained undetermined since receipt in February 2010 because the young woman named in the application is being trialled on alternative and less restrictive contraceptive/menstrual management techniques.

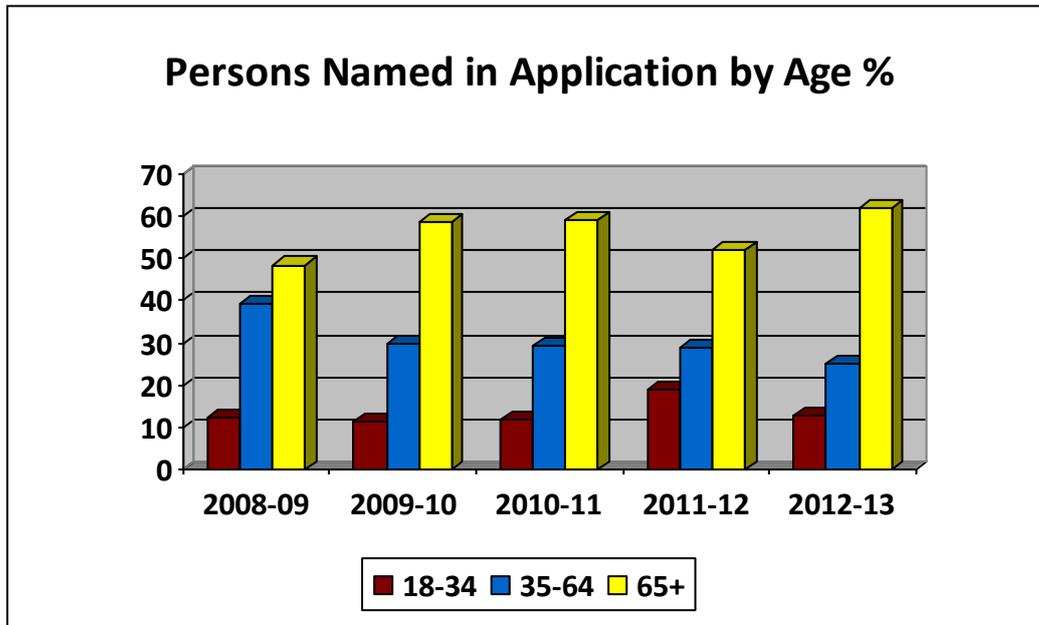
Board members heard an average of 4.5 applications per sitting this reporting year, which is steady.

The Board expresses its thanks to the Magistrates Court (Launceston), the Burnie City Council, the Roy Fagan Centre, the Launceston General, Royal Hobart and North West Regional Hospitals for the provision of hearing rooms at no cost.

Of the 657 hearings held in 2012-13, 55% were held in the South, 26% in the North and 19% in the North West.

Age Profile

The majority of applications received in this reporting year, as with all previous Annual Reports, related to persons over 65 years of age. As the general population is ageing, it is anticipated that the numbers of applications will continue to increase in coming years.

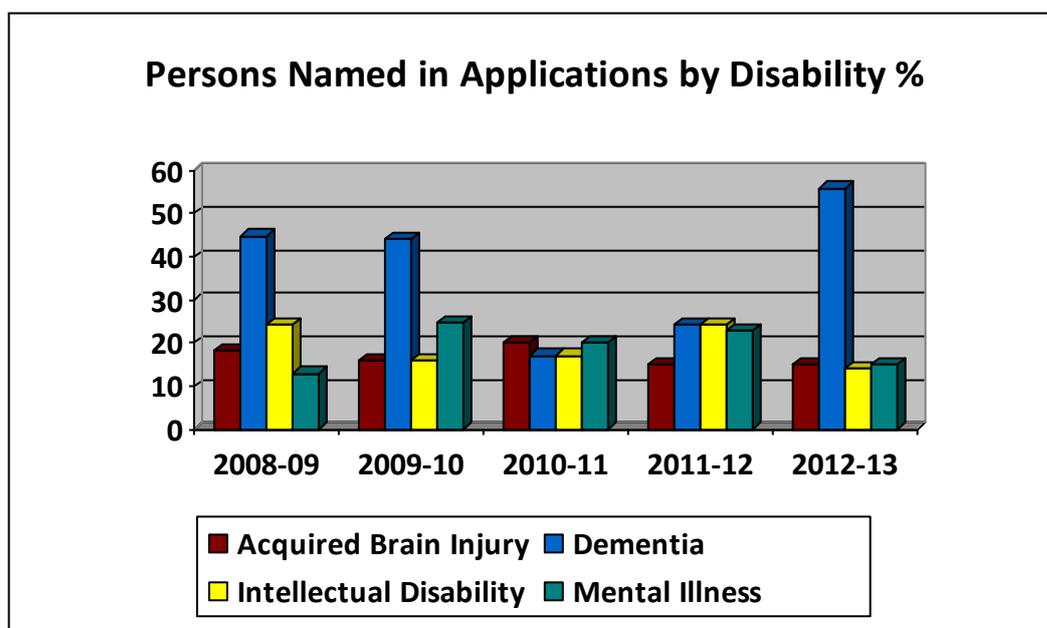


Persons over 65 years of age continue to comprise a significant proportion of the persons about whom applications are made representing 62% of the total group.

Disability Profile

The categories of disability for the purpose of the following graph are deliberately broad to enable data to be used in national comparisons. Where a person has multiple diagnoses, only the primary diagnosis is counted.

Consistent with the Age Profile of persons named in applications to the Board, a significant proportion of applications relate to persons with dementia as their primary diagnosis.



This reporting year, a very significant increase in the percentage of applications relating to persons with dementia is noted. Noting that the overall numbers of applications has remained steady, the Board is yet to analyse the reasons for such a significant variation, but it may just be a seasonal variation, compensating for the drop in the percentage of dementia related applications in the past two reporting years. Other factors which may account for this variation are:

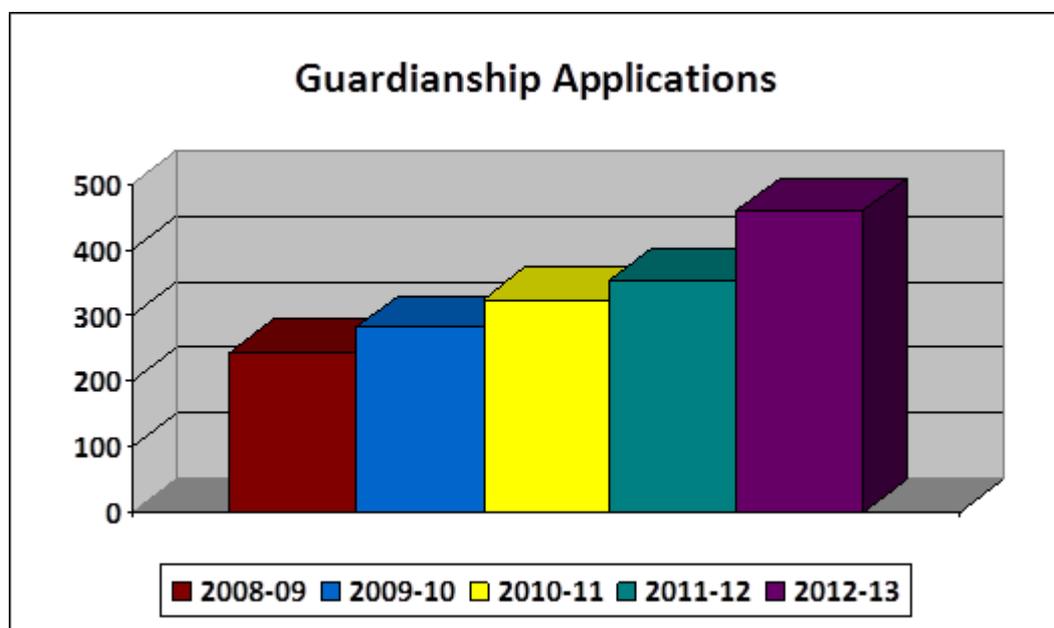
- The education Elder Abuse Prevention campaign run by the Department of Health and Human Services and the commencement of the Elder Abuse Hotline by Advocacy Tasmania.
- The adoption by Aged Care facilities of the principles outlined in the Board's policy: *Management of a Resident's Funds in a Supported Accommodation Facility – A Legal Perspective*.
- The use of the Jasmine Unit at the Roy Fagan Centre for people with dementia, the policy of the Roy Fagan Centre being that there must be lawful authority from a guardian to detain a person without capacity in secure facilities.

Performance of Functions by Category

Applications for Guardianship Orders – Part 4 *Guardianship and Administration Act*

The Board may appoint a guardian to make personal decisions for an adult with a disability who, because of that disability, is incapable of making those decisions. This power arises from Part 4 of the *Guardianship and Administration Act 1995*.

A rise in the numbers of applications for the appointment of a guardian in recent years most likely relates to the changing practice of aged care providers where a person with a disability is detained in secure premises. To understand the role of a guardian in these situations, see the Board's policy, *Detention of people with dementia in secure facilities in State care in Tasmania*, available on the Board's website. Many applications and orders made in these circumstances are emergency short term orders limited to uncontested decisions about where a person lives permanently or temporarily.



The Board anticipates a reduction in the numbers of applications for guardianship with the commencement of the *Mental Health Act 2013* on 1 January 2014. Currently, Mental Health Services teams are frequent applicants seeking the appointment of the Public Guardian to give consent to antipsychotic treatments for people with mental illness and to make decisions about where a person with a mental illness will live temporarily or permanently. After 1 January 2014, the *Mental Health Act 2013* will apply to such circumstances and guardians appointed by the Board will have no authority to authorise treatment or detention for a mental illness after a transitional period ending 30 June 2013.

Application forms and a Facts Sheet about the role of a guardian are available for download from the Board's website: www.guardianship.tas.gov.au.

Following are some decisions made during the reporting year that demonstrate the range of issues that might lead to the appointment of a guardian¹:

BE (Review Guardianship) [2012] TASGAB 22

BE has a severe intellectual disability and has a longstanding diagnosis of autism. He has been institutionalised since the age of three and has minimal expressive language. A guardian's consent has been relied upon to administer behaviour-controlling medication and for BE to have dental examinations and anaesthetics. The Board considered that the benefits of the ongoing and flexible relationship with a limited guardian is more likely to serve BE's best interests than a determination for consent to specific treatments by the Board. Additionally, having a relationship with a person external to the accommodation provider and the medical professionals enhances the range of rights protections available to BE who has no family involvement. This means that there are responsibilities and prompts for external review to ensure that he remains in need of treatment for his benefit and not for the benefit or convenience of others.

QLB (Guardianship) [2012] TASGAB 31

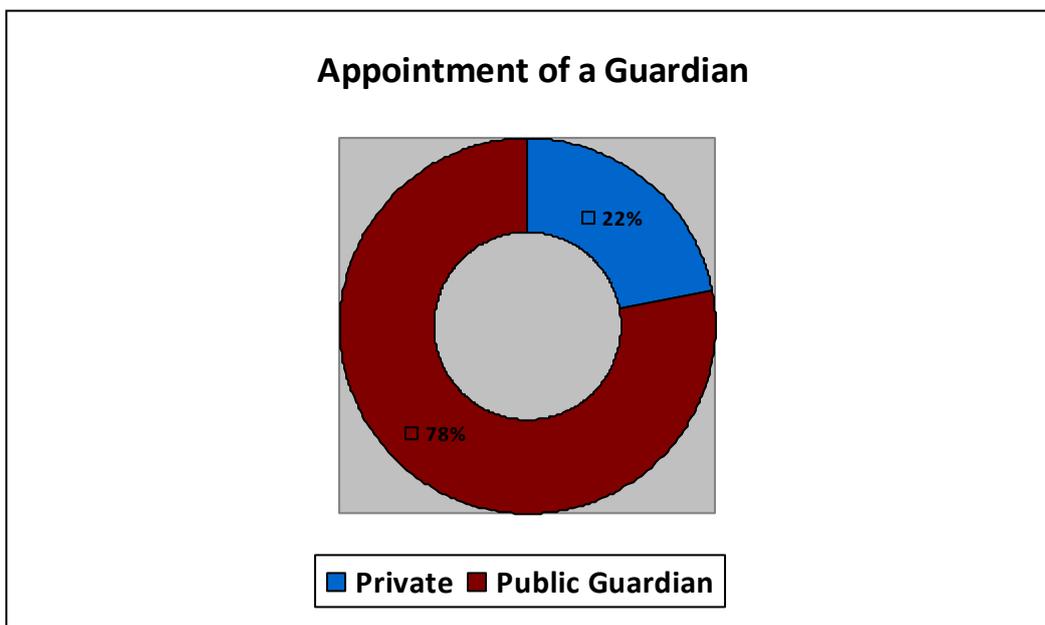
QLB is a life prisoner and is terminally ill from a degenerative disease. He is at increased risk of falls and will continue to decline physically until he is completely bedridden and incompetent. The prison service is unable to provide the requisite level of care for QLB. Processes had commenced to have QLB removed from prison to an Aged Care facility pursuant to section 36 of the *Corrections Act 1997*. A guardian was required to advocate on QLB's behalf regarding the choice of institution or hospital in which he shall live and to make decisions about legal processes on QLB's behalf.

BSC (Guardianship and Administration) [2013] TASGAB 7

BSC, a person with a severe intellectual disability, was in transition from being cared for by foster parents to living in a supported accommodation facility. BSC's advocate submitted that without a significant other or a guardian BSC could be at risk of receiving minimal service suited to what is available and not what he needs. BSC may be eligible for assistance from the National Disability Insurance Scheme (*Disability Care*). Also BSC has complex health needs and no 'person responsible' to give consent on his behalf. All of these decisions have a major impact on BSC's future quality of life and the Board was satisfied that he is in need of a guardian.

¹ All decisions are available at <http://www.austlii.edu.au/au/cases/tas/TASGAB/>

The majority of guardianship appointments have traditionally been appointments of the Public Guardian. This has continued in the reporting year.



The following cases demonstrate some of the considerations that the Board takes into account when selecting a guardian²:

II (Guardianship) [2012] TASGAB 18

II has vascular dementia with behavioural and psychotic symptoms. II was admitted to a secure mental health facility after his care arrangements at home broke down, making that environment unsafe for II and his wife. There was conflict between the treating team, who believed he was not safe to return home, and II's wife, who wanted him to return home. II's brother also sought appointment as a guardian, but was open to considering accommodation options. The Board did not consider II's wife suitable as she would only contemplate his return home. If the Board appointed II's brother as his guardian, his brother would be placed in a position where he may have to make a decision that was directly contrary to the wishes of his brother and sister-in-law. The Board appointed the Public Guardian to ensure an independent assessment of his accommodation needs, to preserve family relationships and avoid personal recriminations for the appointed guardian.

² All decisions are available at <http://www.austlii.edu.au/au/cases/tas/TASGAB/>

SBL (Guardianship) [2012] TASGAB 19

SBL's brother had arrived from New South Wales on the morning of the hearing with a view to being appointed as SBL's guardian and taking SBL back to live with him. SBL and his brother had previously been estranged for 20 years and only recently re-established telephone contact. His brother was not acquainted with SBL's significant care needs. The Board concluded it was in SBL's best interests for an independent guardian to make decisions regarding accommodation. The Board considered it was important that decisions about where he lives are not made hastily and based on emotion, but with proper attention to the extent of his care needs.

NLM (Guardianship and Administration) [2012] TASGAB 20

NLM's brother sought appointment as guardian. There was conflicting evidence on whether NLM did or did not want her brother to make decisions on her behalf. The Board was concerned about the impact on the relationship between relatives, if that relative was making decisions on behalf of a represented person. The Board appointed the Public Guardian.

The Board publishes a Handbook for Private Guardians on its website to ensure that guardians appointed under an order understand their duties and powers as a guardian.

The Public Guardian – Parts 3 and 4 *Guardianship and Administration Act*

The purpose of an annual report is to ‘report on the administration of the Act’ – section 84. Under the Act, the Public Guardian has the following significant statutory functions:

- (i) to foster the provision of services and facilities for persons with a disability;
- (ii) to support the establishment of organizations which support any such persons;
- (iii) to encourage the development of programmes that support any such persons (including advocacy programmes, educational programmes and programmes to encourage persons to act as guardians and administrators);
- (iv) to promote, speak for and protect the rights and interests of any such persons;
- (v) to deal, on behalf of any such persons, with persons or bodies providing services;
- (vi) to represent any such persons before the Board;
- (vii) to investigate, report and make recommendations to the Minister on any matter relating to the operation of this Act;
- (viii) to act as a guardian or administrator when so appointed by the Board;
- (ix) to disseminate information concerning –
 - a) the functions of the Public Guardian; and
 - b) the functions of the Board; and
 - c) the operation of this Act;
- (x) to give advice on the powers that may be exercised under this Act relating to persons with a disability as to the operation of this Act generally and on appropriate alternatives to taking action under this Act;
- (xi) investigate complaints and allegations concerning the actions of a guardian or administrator or a person acting or purporting to act under an enduring power of attorney.
- (xii) investigate and report to the Board in relation to a matter the subject of an inquiry before the Board.
- (xiii) any other function assigned to the Public Guardian by any other Act or law.

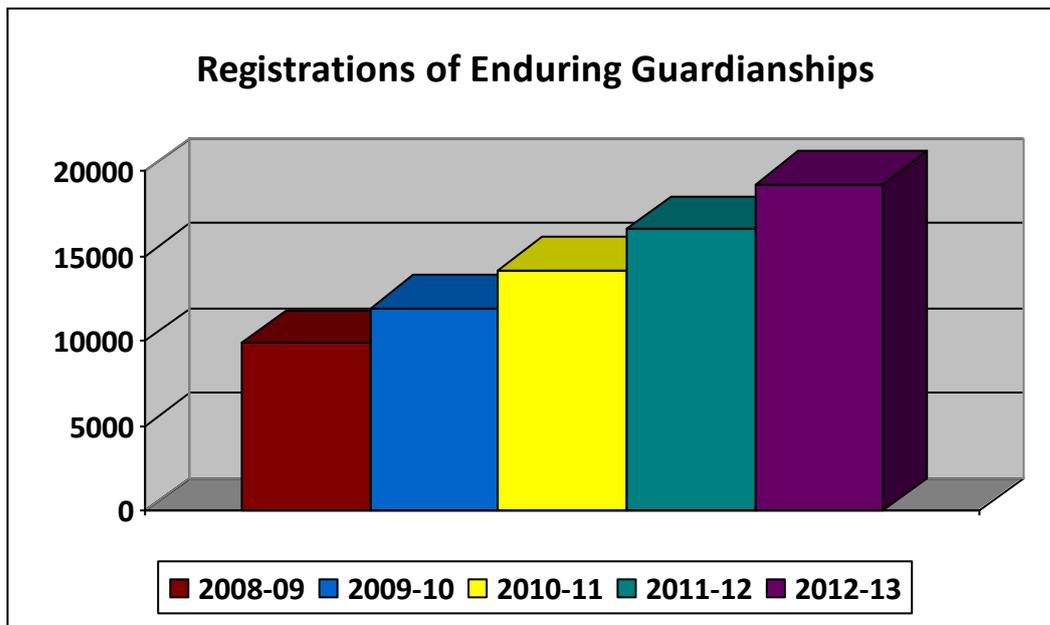
The Office of the Public Guardian concentrates most of its resources and activities on the function “(viii) to act as a guardian or administrator when so appointed by the Board”. An independent review in August 2011 concluded that the Public Guardian, in performing this particular function, was not meeting agreed *National Standards of Public Guardianship* and made recommendations for

significant changes to the Public Guardian’s practice model. The Board has not received feedback about the outcomes of that review in this reporting year.

Because previous annual reports by the Public Guardian have not provided comprehensive data regarding the remaining 11 statutory functions assigned to that Office, it is not possible for the Board to report upon the extent to which that part of the Act is being administered.

Registrations of Instruments Appointing Enduring Guardians – Part 5 *Guardianship and Administration Act*

Part 5 of the *Guardianship and Administration Act 1995* enables a person to appoint an enduring guardian to make personal decisions for him or her in the event that the person is no longer capable of making those decisions. An instrument appointing an enduring guardian must be registered with the Board. On 30 June 2012 the register included 19,265 Instruments Appointing an Enduring Guardian.



An information sheet and pro forma enduring guardianship instrument is available for download from the Board's website: www.guardianship.tas.gov.au. The Board publishes a Handbook for Enduring Guardians on its website to ensure that guardians taking up appointment under an instrument understand their duties and powers as an enduring guardian.

In the reporting year, the Board published a new practice direction which applies when an instrument is received for registration and the Board has either (i) received an application for the appointment of a guardian which has not been determined, or (ii) made an order appointing a guardian and such order was in effect or remains in effect at the time of execution or proposed registration. The practice direction is on the Board's website.

The Board commenced receipt of fees for registration of enduring guardianships after the introduction of the *Guardianship and Administration Amendment (Fees) Regulations 2012*. The Registrar announced an amnesty on fees for registration from Gazettal on 28 November 2012 to 1 March 2013 to enable people to complete and register instruments which may be in development prior to the imposition of fees. Since 1 March 2013, the Board has registered 644 instruments. Fees have been waived on 102 occasions. The Board charges \$65 for registration of enduring guardianships and \$46 for revocation. The Board collected \$\$35,081.20 in the reporting year from registrations of enduring guardianships or revocations.

Reviews of Enduring Guardianships – Part 5 *Guardianship and Administration Act*

The function of reviewing an enduring guardianship under Part 5 of the Act has proven to be a particularly complex area of work for the Board. The Board received 7 applications to review enduring guardianships during the reporting period during this reporting period. Following is an example of one of the decisions made during the reporting period³:

LU (Review Enduring Powers) [2013] TASGAB 10

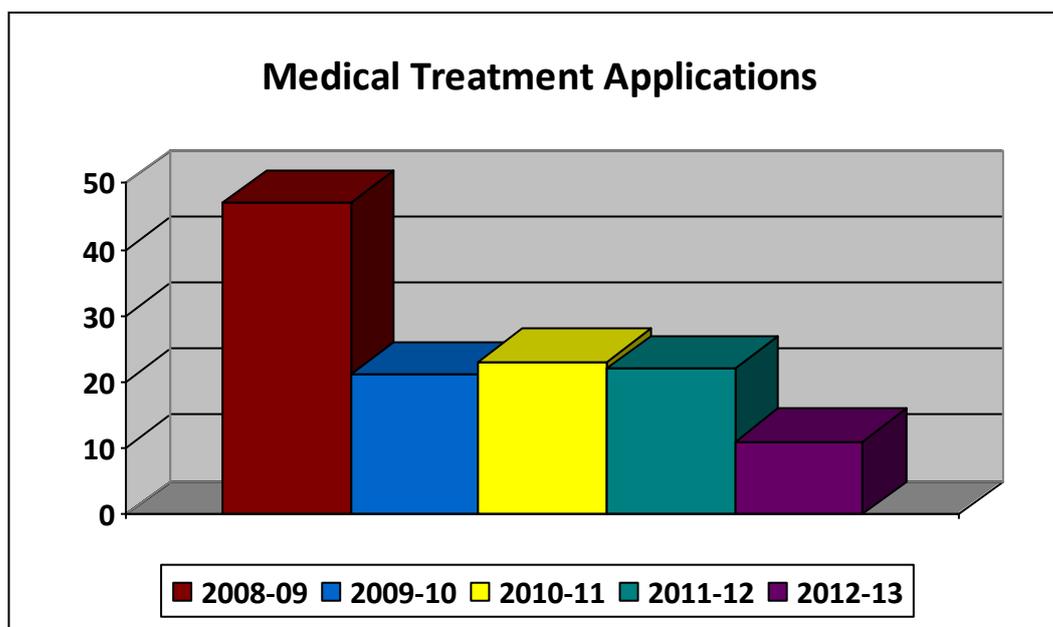
LU has dementia. LU had made an enduring guardianship appointing his wife, KU. LU's son sought review of an enduring guardianship because of entrenched and escalating conflict between the enduring guardian and other members of the family. Primarily this conflict related to allegations that the guardian was preventing access and disturbing the relationship between LU and his children. Medical evidence noted that the conflict had a negative impact on LU's wellbeing. KU indicated that she was not willing to continue in the capacity of guardian. The instrument was amended by substituting The Public Guardian as the enduring guardian.

Application forms and a Facts Sheet about review of enduring appointments are available for download from the Board's website: www.guardianship.tas.gov.au.

³ All decisions are available at <http://www.austlii.edu.au/au/cases/tas/TASGAB/>

Consent to Medical and Dental Treatment – Part 6 Guardianship and Administration Act

The Board has jurisdiction to determine applications for consent to medical and dental treatment pursuant to Part 6 of the *Guardianship and Administration Act 1995* and section 32 of the *Mental Health Act 1996*. The Board received 11 such applications in the reporting year.



The numbers of such applications has been dwindling in recent years and the Board anticipates very few of these applications in the future. Historically, the majority of such applications have related to treatment for persons with mental illnesses. After 1 January 2014, the *Mental Health Act 2013* will apply to such circumstances and consent previously given by the the Board will have effect after a transitional period ending 30 June 2014.

Following is an example of a matter decided under this power⁴:

KLD (Consent to Medical Treatment) [2012] TASGAB 34

KLD doesn't believe he has a mental illness and objects to treatment based on delusional grounds that medication will impact on his alertness and ability to protect himself from those following him. Consequently, he is unable to weigh up the risk and benefits of taking/not taking medication. KLD had been transferred from the Prison to the Wilfred Lopes Centre. His custodial sentence would end shortly after the hearing and he would be on a probation order for 9 months. The goal of the treating team was to improve his quality of life and

⁴ All decisions are available at <http://www.austlii.edu.au/au/cases/tas/TASGAB/>

reduce his risk of reoffending. There was a concern that release without an effective treatment option would enhance the possibility of him self-medicating his illness with alcohol, which increases his risk of re-offending. The Board consented to treatment with injectable anti-psychotic medication on KLD's behalf.

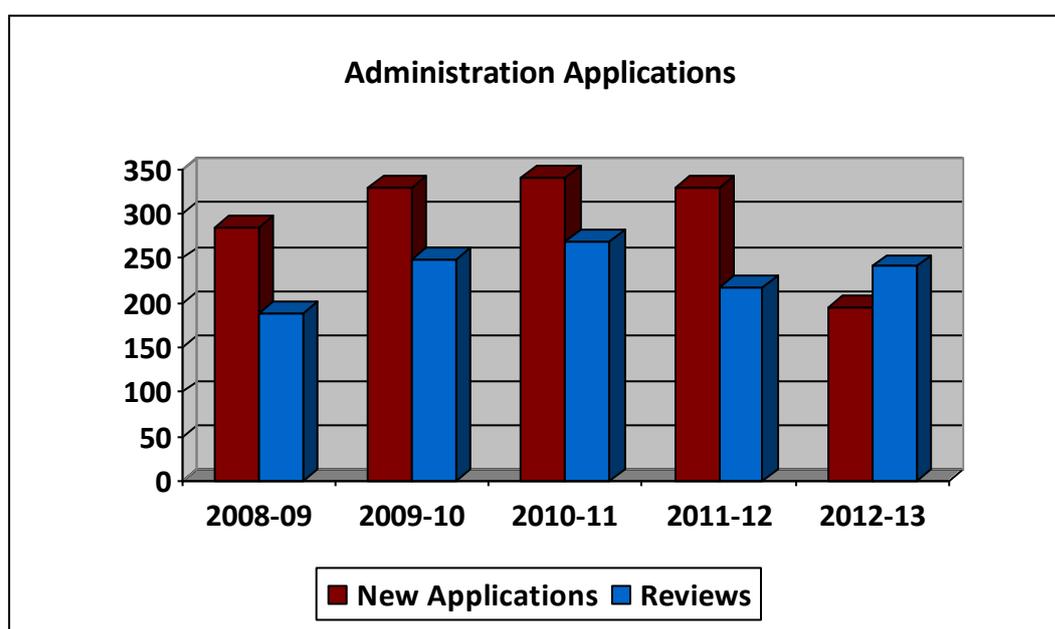
Application forms and Facts Sheets about Consent to Medical Treatment are available for download from the Board's website: www.guardianship.tas.gov.au.

Applications for Administration Orders – Part 7 Guardianship and Administration Act

Part 7 of the *Guardianship and Administration Act 1995* provides the framework for the appointment of administrators who undertake financial management on behalf of people who, by reason of disability, are incapable of making reasonable financial judgments.

An administrator is a person appointed by the Board to make legal and financial decisions for an adult with a disability who is unable to make reasonable judgments in respect of matters relating to his or her estate.

Application forms and a Facts Sheet about the role of an administrator are available for download from the Board's website: www.guardianship.tas.gov.au.



There was a significant decrease in the numbers of administration applications this reporting year. Following are examples of matters decided under this power⁵:

NLM (Guardianship and Administration) [2012] TASGAB 20

NLM was vulnerable and subject to the influence of others due to her schizophrenia and living in an Aged Care facility. The estate of NLM's deceased mother was still to be settled and NLM would be a significant beneficiary of the estate. She had more than \$127,000 deposited to her bank accounts. NLM was known to have carried large amounts of cash for no apparent reason. The Board concluded that these (and other) factors were sufficient to

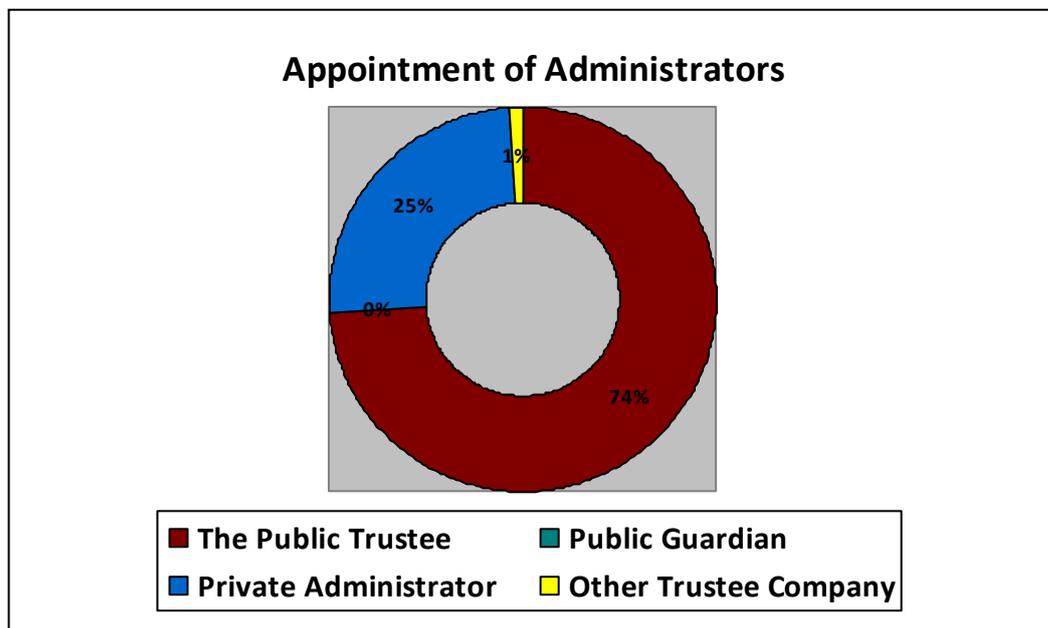
⁵ All decisions are available at <http://www.austlii.edu.au/au/cases/tas/TASGAB/>

justify a need for an administrator and that it would be in NLM's best interests to establish a full administration order.

QNQ (Administration) [2012] TASGAB 28

Money had been borrowed from QNQ who has an intellectual disability. A significant amount of money appeared to have been spent by his carer on the likes of motor bikes and motor mowers. There was an apparent lack of structure in the management, budgeting and expenditure of his pension and minimal savings had been accrued. QNQ with his brother and sister-in-law were tenants in common in a property. His brother and sister-in-law were engaged in Federal Magistrates Court proceedings and property settlement after the breakdown of their relationship. Court proceedings were at a standstill until an administrator was appointed and there was the need for an objective assessment of the appropriateness of QNQ's current investment. The Board concluded that there was the need for an administrator.

The Public Trustee has a statutory advantage over private individuals seeking appointment as administrator. This is discussed in past decisions of the Board: *BND (Review of Administration)* [2012] TASGAB 3 and *HFO (Review of Administration)* [2012] TASGAB 6.



The Public Trustee was appointed in 74% of orders for administration. Of the balance 25% were private administrators (family or friends) and 1% Tasmanian Perpetual Trustees. This maintains the trend commenced last reporting year where the percentage of appointments to the Public Trustee rose from an annual average between 55% - 60% to 72%. It appears that this trend may be

sustained in future years, but note the overall drop in administration application numbers this reporting year.

Following case is an example of what the Board considers when selecting an administrator⁶:

SWM (Administrator) [2012] TASGAB 30

The Board heard evidence from MM that he and his wife wanted to be involved in his uncle's (SWM's) life by appointment as his administrator. When questioned as to what he would do as administrator, it became apparent to the Board that MM had not given satisfactory consideration to the different financial issues of SWM's estate that were raised at the hearing, or how these issues should be dealt with. No doubt both MM and his wife TM are genuine in their interest in SWM but the neglect of many years together with the sudden contact about six weeks ago did not fill the Board with confidence that a solid and trusting relationship yet exists.

The Board publishes a Handbook for Private Administrators on its website to ensure that administrators appointed under an order understand their duties and powers as an administrator.

⁶ All decisions are available at <http://www.austlii.edu.au/au/cases/tas/TASGAB/>

Emergency Applications - Part 8 Guardianship and Administration Act

Pursuant to section 65 of the Act, the Board may, in circumstances of urgency, make an emergency guardianship or administration order without the need for a hearing. Most emergency applications are received from the State's three major hospitals. An emergency order can be made for 28 days and can be extended only once for a further 28 days.

The following table demonstrates that a significant proportion of initial applications are rejected by the Board (18% of emergency guardianship applications and 58% of emergency administration applications). This is generally because the Board determines that the matter is not sufficiently urgent as to require that an order be made without the opportunity for a hearing. The table also demonstrates that a significant proportion (100/386 or 26%) of all applications for emergency orders emanate from the Public Guardian and the Public Trustee seeking extensions of initial 28 days orders.

Application type received	# Applications	# Orders made
Emergency guardianship (initial) 28 days	234	192 (82%)
Emergency guardianship (extension on application of the Public Guardian) additional 28 days	77 (32% renewed)	77 (100%)
Total emergency guardianship	311	269 (86%)
Emergency administration (initial) 28 days	52	30 (42%)
Emergency administration (extension on application of the Public Trustee) additional 28 days	23 (44% renewed)	23 (100%)
Total emergency administration	75	53 (69%)

A rise in the numbers of emergency applications for the appointment of a guardian in recent years most likely relates to the changing practice of aged care providers where a person with a disability is detained in secure premises. To understand the role of a guardian in these situations, see the Board's policy, *Detention of people with dementia in secure facilities in State care in Tasmania*, available on the Board's website. Many applications and orders made in these circumstances are limited to the 28 or 56 day period and ongoing guardianship orders (up to 3 years) are not sought.

The Board anticipates a reduction in the numbers of applications for emergency guardianship with the commencement of the *Mental Health Act 2013*. Currently, hospital psychiatrists are frequent applicants seeking the appointment of the Public Guardian to give consent to antipsychotic treatments for people with mental illness. After 1 January 2014, the *Mental Health Act 2013* will apply to such circumstances and the Public Guardian will have no authority to consent to treatment for a mental illness after a transitional period ending 30 June 2014.

Following are examples of matters decided under this emergency power⁷:

NSO (Emergency Guardianship) [2012] TASGAB 26

Mental Health Services staff members alerted the Board that NSO had an appointment with a General Practitioner the following day to receive specific treatment for an arthritic condition. It was suggested that NSO may come to harm from having this treatment due to serious side effects. The applicants indicated that NSO lacked capacity to decide what constitutes appropriate treatment due to his susceptibility to influence and in particular his inability to resist his mother's inappropriate intervention in health care matters. The applicant sought the emergency order so that a guardian might prevent NSO from having an unnecessary and possibly harmful treatment. The Board was satisfied that there was a need for an independent decision maker to assess whether any possible benefits arising from the proposed treatments outweighed the risks of having such treatment. Accordingly, the Public Guardian was appointed as NSO's guardian limited to health care matters for 28 days.

The Board publishes guidelines: *Applying for an Emergency Guardianship or Administration Order*, and a practice direction: *Processing of Emergency Applications*, on its website to assist applicants for emergency orders.

⁷ All decisions are available at <http://www.austlii.edu.au/au/cases/tas/TASGAB/>

Post-hearing procedures and support – Part 9 *Guardianship and Administration Act*

Post-hearing procedures represent a significant area of activity for the Board and its officers. The Board received and scrutinized approximately 1300 annual reports submitted by appointed guardians and administrators in the reporting year. It is likely that this figure will continue to increase with increasing numbers of applications.

To ensure the accountability of guardians and administrators, the Board implements the following procedures:

- A person applying for appointment as administrator must sign a declaration in the application acknowledging their duties under the Act
- The publication *Information for Private Administrators – A Handbook for Private Administrators* instructs administrator with regard to their duties, with an emphasis on probity. A similar publication exists for Private Guardians.
- Upon appointment administrators are required to sign an acknowledgement of their duties and the receipt of the Handbook.
- Administrators are required to submit receipts of expenses and statements from financial institutions to reconcile/verify balances claimed in the annual statements. Guardians are required to submit annual reports of the health and wellbeing of the represented person.
- A failure to provide an annual statement or receipts and statements within 3 months of the first request will trigger an automatic review hearing.
- The Board actively considers an administrator's competence in reporting at review hearings. Administrators whose reports are inadequate have been replaced by the Public Trustee, or another suitable administrator, even where no fraud has been alleged.
- The Board has a dedicated full-time Compliance Office whose duties centre upon the receipt, reconciliation and verification of reports submitted by administrators and guardians.
- All reports by guardians and administrators are firstly reconciled and verified by the Compliance Officer and then submitted to a Board member for approval. It is usually the President who reviews these reports. Where an annual report is not approved, the Board member will either seek more information or require a review of the order 'of Board's own motion'.

The Board pays close attention to the behaviour of administrators and the management of estates.

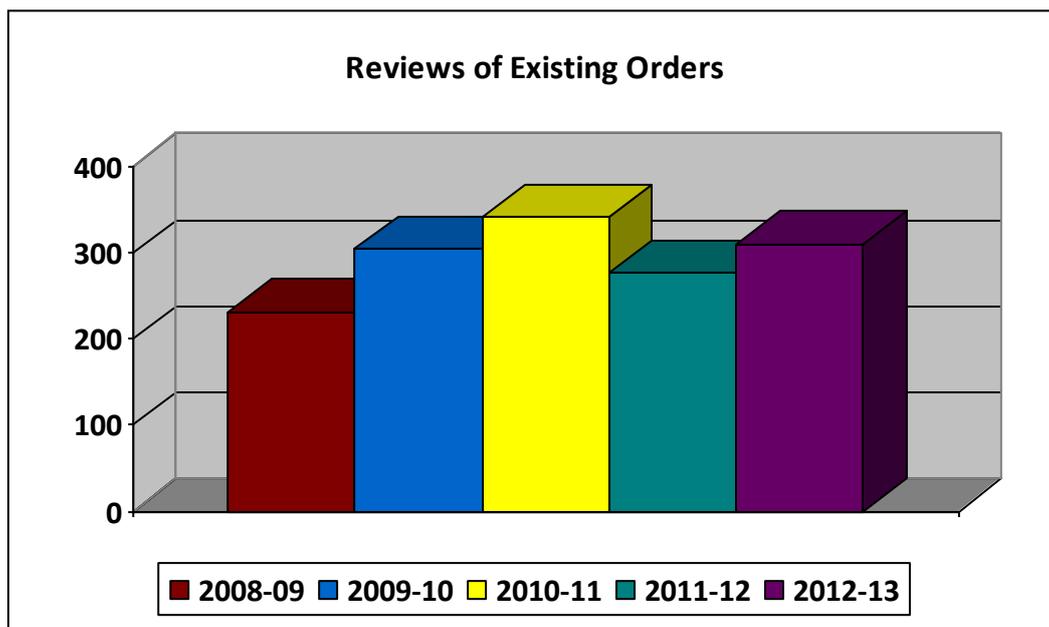
The Board commenced receipt of fees for examination of administrator's annual reports after the introduction of the *Guardianship and Administration Amendment (Fees) Regulations 2012*. The Board charges \$170 for review of a private administrator's report and \$120 for review of a report by the Public Trustee. Since the Board commenced charging fees on 1 March 2013, no fees have been charged to private administrators. A total of \$5160.00 has been collected from Trustee companies (43 occasions). On two occasions the fees for examination of annual reports have been waived on the grounds of hardship although the value of the estate exceeded the regulatory means test.

Reviews of Existing Orders – Part 9 Guardianship and Administration Act

Applications for reviews of guardianship or administration orders are made pursuant to section 67 of the Act, either as a consequence of the expiry of the order or because a person believes an order or a term of the order is no longer appropriate to the circumstances.

In this reporting year, to enhance access to justice, the Board has produced a Review Form especially tailored to people with disabilities who are the subject of an order. The form has fewer questions and is in very plain English. A copy of the form is available upon request from the Board’s office. We have also made copies available to advocacy organisations and to the Legal Aid Commission of Tasmania.

The following graph provides a comparison of the number of review hearings conducted this reporting year against the previous 4 reporting years:



Application forms for review of existing orders are available for download from the Board’s website: www.guardianship.tas.gov.au.

Applications to Review Enduring Powers of Attorney – Parts 4 and 5 Power of Attorney Act 2000

During the year to 30 June 2013, the Board received 29 applications for review of enduring powers of attorney under the provisions of the *Powers of Attorney Act 2000*.

The applications were as follows:

Review of a power (incl. 1 applications of Board's own motion)	17
Emergency suspension	3
Advice and direction	1

The outcomes of those applications were as follows:

Continuing at end of financial year	2
Revocation and appointment of an administrator	5
Declaration that an instrument was invalid	2
Application withdrawn	4
Donor died before hearing	3
Dismissed	1
Emergency application dismissed	1
Emergency application granted	2
Direction following a hearing	1

Applications relating to enduring powers of attorney are among the most complex applications that the Board receives, particularly where the Board is required to judge, in retrospect, whether the donor had capacity to execute the document or whether the transactions by an attorney were appropriate and in the best interests of the donor.

Application forms and a Facts Sheet about review of enduring appointments are available for download from the Board's website: www.guardianship.tas.gov.au.

Following are examples of matters decided under this power⁸:

QNH (Review Enduring Powers) [2013] TASGAB 8

QNH made two instruments appointing an enduring power of attorney in 2012. A geriatrician who was treating her at the time confirmed that she would not have had capacity to understand the nature and effect of the documents. Accordingly the Board declared the power invalid. Due to family conflict, the Public Trustee was appointed as her administrator.

⁸ All decisions are available at <http://www.austlii.edu.au/au/cases/tas/TASGAB/>

TKH (Review of Enduring Power of Attorney, Guardianship and Administration) [2013]
TASGAB 13

A medical report presented to the Board stated that "I am of the opinion that TKH does not have, nor did ever have, sufficient mental capacity to execute an enduring power of attorney." There was no evidence introduced at the hearing that challenged this opinion. The Board received evidence that TKH is a beneficiary of the estate of the late WDH worth between \$300,000 and \$400,000. TKH is entitled to half of the estate. TKH's share of the estate would need to be applied to the purchase or lease of suitable accommodation for him. The Board received evidence that a carer had made unauthorised withdrawals from TKH's bank accounts. The Board was satisfied that TKH was in need of an administrator to ensure proper management of his finances, including payment of his accounts and the management of invested funds and to ensure all money taken from TKH's accounts is recovered.

GKT (Review of Enduring Powers) [2012] TASGAB 27

The donor, GKT, purportedly appointed her sister, WNS, as her attorney and the instrument was witnessed by another sister and her husband. Therefore, the instrument was witnessed by a person who was a relation of all of the parties to the instrument. This breached the requirements for witnessing an enduring power at the time that it was created. The Board was satisfied that did not comply with the requirements of the Act at the time that the instrument was executed. The former attorney, WNS, demonstrated, in these proceedings, that she has difficulty in meeting the accountability requirements of the Board and the Board was not satisfied that she would adequately comply with the reporting and accountability requirements required in section 63 of the GAA. From her own written evidence, WNS indicated relevant conflicts of interest, such as the assertion that GKT is indebted to WNS for significant sums of money. Added to that, the apparent inability to resolve a longstanding dispute over debts for aged care fees and the apparent inability to complete a hardship application since 2010 indicated to the Board that WNS is significantly lacking in the kinds of skills required of an administrator. The Board appointed the Public Trustee as administrator.

Applications for Approval of a Restrictive Intervention

The Board has jurisdiction to determine applications for approval of restrictive interventions of persons with disabilities in Disability Services funded facilities pursuant to Part 6 of the *Disability Services Act 2011*.

Six applications for approval of restricted intervention and 2 applications for ninety day approvals under the *Disability Services Act 2011* have been received in this reporting year. Following are examples of the Board's process under this power⁹:

SID (Procedural) [2012] TASGAB 32

The Board received an application for approval of a restrictive intervention with respect to SID. SID is a 19 year old man with autism spectrum disorder. The Board is required by legislation to consult with him or a person nominated by him. SID experiences deficits in expressive and receptive communication. He can communicate by gesture for 'yes' and 'no' and has some other signs for particular expressions. A solicitor established that SID wishes to have assistance with respect to the application and would be unable to represent himself in this application. The Board appointed the solicitor to assist the Board in these proceedings pursuant to section 10 of the *Guardianship and Administration Act 1995*.

SID (Approval Restrictive Intervention) [2012] TASGAB 38

Due to some compulsive behaviours that SID occasionally displays it is sometimes necessary for care staff, as a last resort, to physically remove him from physical risks, such as exposed electrical wires or broken glass, or to manage or avoid interpersonal conflict between SID and third parties. An Intervention Plan provided that if verbal instruction or offering distractions have no effect, staff may need to physically remove SID from the risk. Physical containment would only be invoked when required to protect SID, or another person, from serious harm and the interventions are the least restrictive available in the circumstances. Interventions last only a matter of minutes and no intervention would ever proceed beyond 72 hours. The Board considered that, subject to the care organisation giving the Senior Practitioner the requisite notice and the practice being ceased well within 72 hours of commencement, any responses to SID's behaviour that are implemented in accordance with the Intervention Plan would be excused pursuant to section 36(2) of the Act. The Board did not give approval because it considered that the possible interventions were lawful without approval if the proper processes were followed.

⁹ All decisions are available at <http://www.austlii.edu.au/au/cases/tas/TASGAB/>

Applications under other legislation

The Board did not receive any new applications for statutory wills pursuant to the *Wills Act 2008*.

No applications were received pursuant to section 32 of the *Mental Health Act 1996*.

Requests for Statements of Reasons and Appeals – Part 10 *Guardianship and Administration Act*

Statements of reasons are produced upon request by a party pursuant to section 74 of the Act or where the Board members determine that reasons ought to be produced.

All statement of reasons are de-identified and published on the Australian Legal Information Institute website: www.austlii.edu.au . As at the time of publishing this report there are 200 decisions spanning from 2002 to 2013. Publishing de-identified statements of reasons is important because it enhances the Board's accountability for decision making and because it gives persons appearing before the Board an opportunity to understand the decision making processes of the Board.

Thirty-eight statements of reasons were written during the reporting year, which indicates that the sudden jump (60% in 2011-2012) in demand for statements of reasons noted in the last annual report will be sustained and that level of demand will be ongoing. A significant proportion of the requests for statements of reasons emanated from the Office of the Public Guardian.

There were no appeals from Board decisions in the reporting year.

Community Outreach

Meetings with Regular Users

The Board continued meeting with a Regular Users Group with two meetings annually to provide feedback on procedural matters regarding how the Board engages with relevant parts of our community. Regular Users include:

- The Public Trustee
- The Public Guardian
- Advocacy Tasmania Inc.
- Disability Services
- Mental Health Services
- The Legal Aid Commission of Tasmania
- The Royal Hobart Hospital
- The Law Society
- Royal College of General Practitioners
- National Disability Services
- Aged and Community Services Tasmania

Such meetings are not an opportunity to comment on the Board's decisions in particular applications or its interpretation of the legislation. Status as a 'regular user' does not imply any special status as applicants before the Board, nor any entitlement to 'special treatment' in their relationship as an applicant or witness in any application before the Board.

The meetings focus on the service-delivery aspect of the Board's work and relate to a structured agenda. The meeting is also an opportunity for the Board to inform regular users of any changes to forms, new policies or facilities. Meetings on 18 March 2013 and 16 September 2013 were enthusiastically attended and very productive.

User Satisfaction Surveys

The Board publishes a User's Satisfaction Survey on its website. Parties are informed of the survey when a copy of the Board's order is sent to them. The response rate to the survey is too low to produce any statistical analysis. However, the Board does receive some qualitative feedback that is useful in continually improving our processes.

Law and Policy Reform

The Board participates in law reform consultations where it is appropriate and consistent with its role. Discussion with the Department of Justice about a significant review of Parts 4 and 5 of the *Powers of Attorney Act 2000* culminated with the passing of the *Guardianship and Administration Amendment Act 2013* and the *Power of Attorney Amendment Act 2013*. Commencement of these

enactments will provide greater certainty for persons appointed under enduring instruments and also provide some protections against elder abuse.

Additionally, the Board contributed to the following law reform processes during the reporting year:

DHHS – Review of the *Mental Health Act 1996*

DHHS – Review of the *Alcohol and Drug Dependency Act 1968*

The Board has been an active participant in the following policy developments:

Department of Justice – Disability Framework for Action

DHHS – Elder Abuse Prevention Advisory Committee

DHHS – Elder Abuse Prevention Referral Pathways Working Group

DHHS – Elder Abuse Prevention Law Reform Working Group

Council of the Ageing – Elder Financial Abuse Reduction Project

Community and Professional Education Program

The Board promotes understanding of relevant legislation by providing training to professional development organisations such as the University, medical and nursing associations and the Law Society of Tasmania. In recent years, in response to budgetary restrictions, the Board has withdrawn from community education events in favour of targeted professional development programs in disciplines related to the work of the Board.

The President has been an active member of the Elder and Succession Law Committee of the Law Society.

The President has continued in the role of Chair of the Australian Guardianship and Administration Council in the reporting year and was the Convenor of the World Congress on Adult Guardianship held in Melbourne in October 2012. Papers and videos of presentations from the highly successful Congress are available at <http://www.agac.org.au/conference-papers/72-2012-oct-2nd-world-congress-melbourne>. At the conclusion of the Congress, the President participated in a panel which discussed the future of guardianship under the *United Nations Convention on the Rights of Persons with Disabilities* and is available here:

<http://www.abc.net.au/radionational/programs/bigideas/2012-10-22/4320824>

A list of the Board's education activities is attached at Appendix 4.

Website and Publications

The Board's website includes application forms, health care professional report pro formas, facts sheets, policies, process information and annual reports. All the Board's publications can also be downloaded from the website. The website address is www.guardianship.tas.gov.au

The Board has prepared the following fact sheet publications as educational tools:

- 1 What is the Guardianship and Administration Board?
- 2 Guardianship
- 3 Administration
- 4 Consent to Medical or Dental Treatment
- 5 Consent to Medical or Dental Treatment (Guide for Medical Practitioners)
- 6 Are you a Person Responsible?
- 7 The Public Guardian
- 8 Reviews of Enduring Powers
- 9 What if I Don't Agree with the Board's Decision?
- 10 Statutory Wills
- Enduring Guardian Form
- Enduring Guardianship Info Sheet

The Board publishes a range of information booklets and policies:

- Private Administrator's Handbook
- Private Guardian's Handbook
- Enduring Guardian's Handbook
- Person Responsible Guidelines Issued October 2008 pursuant to section 4(5) *Guardianship and Administration Act 1995*
- Litigation by Administrators and Guardians, Background Information

- National Guardianship Standards (By the Australian Guardianship and Administration Council)
- National Standards for Financial Managers (By the Australian Guardianship and Administration Council)
- Management of Resident's Funds in a Supported Accommodation Facility – A Legal Perspective
- What is an Emergency? Applying for an emergency guardianship or administration order.
- Detention of People with Dementia in Secure Facilities

The Board has the following Practice Directions available on the website:

- Who is a party for GAB Proceedings?
- Requests for Transcripts
- Gifts and Settlements
- De-identification of Decisions for Publication
- Registration of enduring guardianships (where there is a current application or order for appointment of a guardian)

Office Administration

Human Resources

The Board had available to it a Registrar and five other staff members; two staff members undertake investigative work and the balance undertake registry responsibilities in conjunction with the Mental Health Tribunal and the Tasmanian Forensic Tribunal. Some staff members are employed part-time.

Finances

A full financial summary is at Appendix 3.

After many years of being critically underfunded, the Board is unable to continue to deliver services at its current level without a significant injection of funds. Although the bottom-line of our funding has not been significantly cut, increases in public sector wages anticipated in the next term will mean that fixed cost are greater. It is anticipated that the collection of fees charged for certain statutory functions will ease the restrictions on funding.

On 28 Nov 2012 the *Guardianship and Administration Amendment (Fees) Regulations 2012* commenced which allow the Guardianship and Administration Board to recover costs on some limited functions of the Board. The Registrar waived all fees during an amnesty period concluding 5 p.m. on 28 February 2013.

The fees are as follows:

Function	Fee Units	Fee @ \$1.46 per fee unit
Registration of an enduring guardianship	45	\$65.00
Registration of revocation of an enduring guardianship	32	\$46.00
Search for an enduring guardianship	19	\$28.00
Examination of an administrator's annual statements of account	118	\$172.00
Examination of the Public Trustee's annual statements of account	83	\$120.00
Photocopies of documents	2	\$2.92

There will not be a fee for making any application to the Board. Examinations of statements of accounts are subject to a generous means test. Additionally, the regulations enable the Board to waive fees in circumstances of hardship.

Fees are collected by Service Tasmania who process lodgments and searches of enduring instruments. Further information about the fees is available at:

http://www.guardianship.tas.gov.au/new_fee_structure

Or view the regulations at:

<http://www.thelaw.tas.gov.au>

Fees generated by the Board will be applied directly back to fund the functions of the Board

How to Contact the Board

The Board's offices are located at: First Floor, Department of Justice Building
54 Victoria Street, Hobart

Postal address: GPO Box 1307, Hobart, TAS, 7001.

Telephone Number: (03) 6233 3085 or 1300 799 625

Facsimile Number: (03) 6233 4509

Email Address: guardianship@justice.tas.gov.au

Website: www.guardianship.tas.gov.au

Appendix 1 - Board Members at 30 June 2013

Anita Smith – President Appointed: 1 January 2003, 1 January 2008 and 16 April 2013 (5 year term)

Anita Smith was admitted as a legal practitioner in 1992. Anita graduated from Arts and Law at the University of Tasmania and has a Masters in Law from Monash University. She has practised law in private practice and community legal centres in Tasmania and New South Wales. She was a policy advisor to the Human Rights and Equal Opportunity Commission and a Chief of Staff to the Tasmanian Attorney General.

Anita is an *ex-officio* member of the Forensic Tribunal (*Mental Health Act 1996*). She was previously the Chair of the Professional Review Tribunal under the *Nursing Act 1995*, and a member of the Anti-Discrimination Tribunal. Anita is the Chair of the Australian Guardianship and Administration Council and was the Convenor of the 2012 World Congress on Adult Guardianship.

Colin McKenzie – Deputy President: Appointed 21 September 2009 (5 year term)

Colin McKenzie was admitted as a legal practitioner in 1983. Colin graduated from Law at the University of Tasmania in 1982 and qualified as a LEADR accredited mediator in 2004. He has practised law in private practice since his admission in a wide range of litigation areas in Hobart, served on the committee that established the Hobart Community Legal Service and from 1986 practised on the North and Northwest Coast of Tasmania. He is a partner of the firm of McLean McKenzie & Topfer based in Burnie. He was member of the board of Lifeline North West Tasmania from 2002-2008 and served as its president and national delegate. He has been a member of Ability Tasmania Group Inc Board since 2002, and a member of Marist Regional College Board of management from 2002 to 2008.

Board Members (In alphabetical order) (3 year terms)

Susan Aylett Appointed: 18 February 2013

Sue Aylett is currently employed as a Mental Health Nurse Practitioner in general practice in collaboration with general practice GP's. She is also a Credentialed Mental Health Nurse and a current member of the Mental Health Tribunal. She has previously worked in acute, rehabilitation, forensic and community mental health. She has a Graduate Diploma in Mental Health, a Graduate Certificate in Initiatic Art Therapy, a Graduate Certificate in Forensic Nursing, a Masters degree in Forensic Mental Health and a Masters degree in Nurse Practitioner specialising in Mental Health. She has been recently been appointed as Adjunct Lecturer at the University of Tasmania in the Faculty of Nursing and Midwifery. Sue is the first Mental Health Nurse Practitioner to work in a clinical setting in Tasmania

Kim Barker Appointed: 27 June 2003, reappointed August 2006, February 2010 and 8 April 2013

Kim Barker worked for many years with people with disabilities, as a rehabilitation consultant and counsellor. She is Deputy President of the Mental Health Tribunal and a member of the Social Security Appeals Tribunal and the Parole Board. She undertakes dispute resolution as Chair of the Tasmanian Training Agreements Committee, and is a Director of the Motor Accident Insurance Board. Kim's qualifications include a Bachelor of Arts Degree (Psychology), Diploma of Education and a Graduate Certificate in Counselling and Development.

Abigail Bindoff Appointed: 21 September 2009 and 18 February 2013

Abigail spent 12 years working in disability services including in staff training and service management roles before qualifying as a legal practitioner in 2006. She has been an employed solicitor at Walsh Day James Mihal Pty in Ulverstone practising in wills and estates, family law and criminal law.

Kate Brown Appointed: 21 February 2005, reappointed 30 June 2008 and 19 December 2011

Kate Brown graduated with a degree in Arts Law at the University of Tasmania in 1995 and was admitted as a Barrister and Solicitor of the Supreme Court of Tasmania in 1996. Since that time she has worked in private practice, with Clarke & Gee and Dobson Mitchell & Allport. She has practised mostly in litigation, including criminal law, family law and personal injuries litigation. Kate is also a member of the Forensic Tribunal and the Mental Health Tribunal, a Director of the Motor Accidents Insurance Board and is the Chair of the Integrity Assurance Board under the *Racing Regulations Act*.

Simon Cooper Appointed: 18 February 2013

Simon Cooper was admitted as a legal practitioner in 1987. He was a partner at Ogilvie, McKenna, Barristers & Solicitors, Hobart from 1995 to 2001. He was appointed as Deputy Chair of the Parole Board in 1998 and as its Chair from 2000 to 2003. Between 2003 and 2006 he was a Senior Lecturer and Deputy Director, College of Law of England and Wales. In 2006 he was appointed as Chairperson of the Resource Management and Planning Appeal Tribunal. In 2013 he was appointed as a Tasmanian Magistrate.

Elizabeth Dagleish Appointed: 27 June 2003, reappointed August 2006, September 2009 and 18 February 2013

Elizabeth Dagleish graduated from the University of Tasmania with a Bachelor of Arts and Law in 1991. She was admitted as a Barrister and Solicitor of the Supreme Court of Victoria in 1992 and then worked at the Consumer Credit Legal Service (Vic) the following year. Upon returning to Tasmania she worked as a Legal Officer for the Australian Securities Commission and then worked as the Child Support Solicitor at the Hobart Community Legal Service. In 1994, she commenced work at the Legal Aid Commission of Tasmania providing legal advice on a range of topics through

the telephone legal advice and community education service. , Elizabeth is currently employed as an Investigator with the Board on a part- time basis.

Mary Davies Appointed: 21 February 2005, reappointed 30 June 2008 and 19 December 2011

Mary Davies graduated in 1971 with degrees in Arts and Social Work from the University of Queensland. She has been employed as a social worker in both government and community based organisations since that time. She is Team Leader of the Dementia Carer Support Service in the North West area of Tasmania. Mary was a founding member of the Alzheimer's Association, North West Tasmania.

Gerard Dibley Appointed: 21 February 2005, reappointed 30 June 2008 and 19 December 2011

Gerard Dibley has extensive experience in public sector programs that support people with disabilities. He is currently a Company Director of PDF Management Services. He has formerly held positions as Coordinator Disability Services Unit, Manager of Children's Services, Acting State Program Co-ordinator for Aged and Disability Services and as the Deputy Director of Housing Tasmania. He is a current Board member of Nexus Inc Residential Services.

Catherine Gavan Appointed: 27 June 2003, reappointed August 2006, February 2010 and 8 April 2013

Catherine is employed by the Department of Education as the Legal Services Advisor within Legal Services. She is also an Honorary Aide-de-Camp to His Excellency the Governor of Tasmania in her role as a reservist in the Royal Australian Air Force. Catherine has a background in nursing in the acute and aged care sectors having qualified as a registered nurse in 1986. Catherine worked in a private legal practice since 1994 (admitted as a Barrister and Solicitor in 1995) and for the Nursing Board of Tasmania gaining extensive experience in many areas of the law. Catherine is a founding member of the Tasmanian Branch of the Australian and New Zealand Association of Psychiatry, Psychology and Law.

Susan Hill Appointed: 11 August 1997, reappointed October 2000, April 2004, June 2007 and July 2010

Sue Hill holds a Bachelor of Laws degree and was admitted as a barrister and solicitor of the Supreme Court of Tasmania in 1978. Sue worked in private practice from 1981 until 1993. Sue has lectured and tutored in Business Law at the Hobart TAFE and the University of Tasmania in Launceston. Sue was instrumental in establishing the Northern Community Legal Service in Launceston. She is a member of the Mental Health Tribunal and the Standards Panel of the Local Government Association. She is a volunteer legal advisor for Citizens Advocacy. Sue was a member of the Social Security Appeals Tribunal for 15 Years.

Rowena Holder Appointed: 21 September 2009 and 18 February 2013

Rowena Holder graduated from the University of Tasmania with a Bachelor of Arts and Law in 1995. She was admitted as a Barrister and Solicitor of the Supreme Court of Tasmania in 1996. Since that time she has worked in private practice practicing in litigation, including criminal law, personal injuries law and family law. Rowena is currently employed as a legal practitioner at the Legal Aid Commission of Tasmania. Rowena is also a member of the Board of Directors of Presbyterian Care Tasmania.

Wendy Hudson Appointed: 21 February 2005 reappointed 30 June 2008 and 19 December 2011

Wendy Hudson (Beveridge) graduated with a degree in Law at the University of Tasmania in 1990. She practised as a solicitor with Jennings Elliot until 1996, when she took up practice at Dobson Mitchell and Allport until 2001. Since that time she has been the Commissioner's delegate with the State Service Commission, Commissioner for Criminal Injuries Compensation, sessional mediator with the Supreme Court, the Anti-Discrimination Tribunal and Relationships Australia. Wendy is currently employed with the Commonwealth Department of Social Services.

Grant Kingston Appointed: 17 December 2007 and 21 February 2011

Grant Kingston has an extensive background in the welfare and trust industry. Prior to joining the Board he was employed for 20 years at Centrelink in Tasmania and Western Australia, being Branch Manager at Broome, Port Hedland and Kununurra. In 1990 Grant became the NW Regional Manager for the Public Trustee. He retired from this position in 2006.

Rodney Lester Appointed: 16 October 2000, reappointed May 2004, June 2007 and July 2010

Rodney Lester holds a Bachelor of Business (Accounting) from the University of Tasmania, a Master of Taxation from the University of New South Wales and a Company Director Diploma from the University of New England. Rodney has worked in private accounting practice for several years specialising in small business taxation and project development. He has held a number of directorships in both public and private companies and is a member of the Integrity Assurance Board.

Elizabeth Love Appointed: 4 February 2002, reappointed August 2005, April 2009 and 18 February 2013

Elizabeth Love, who holds a Bachelor of Arts (Social Work) UTAS, has worked as a social worker for over 30 years in a variety of State and Federal government agencies and in the non-government sector. She has worked as a private rehabilitation consultant and currently works in private practice as an accredited mental health counsellor.

Leon Peck Appointed: 22 March 1999, reappointed October 2002, February 2006, September 2010 and 18 February 2013

Leon Peck has a background in health services, having served some 20 years with the now Department of Health and Human Service, predominantly in health care administration. Since leaving the Department Leon has been involved with non-government not for profit organizations, currently provides a consultancy service and has successfully owned and operated a hospitality business on Tasmania's east coast. Leon holds a Bachelor of Arts Degree from the University of Tasmania and is a Justice of the Peace.

Ken Stanton – Member: Appointed 18 February 2013 (3 year term)

Ken Stanton was admitted as a legal practitioner in 1990. He has a Bachelor of Science, Bachelor of Laws and Master of Laws from Monash University. He practised as a barrister in Melbourne for approximately 5 years before moving to Launceston where he practised law in a wide range of litigation areas at the firm Shields Heritage where he was a partner for approximately 7 years. Since 2004 he has practised as a barrister in Launceston. He has served in many community organisations and is currently a board member of the Launceston Community Legal Centre.

Sandra Taglieri Appointed: 18 February 2013

Sandra is a Barrister specialising in injury compensation law, personal injuries damages, administrative law, anti-discrimination, coronial, insurance, industrial and civil law generally. Prior to commencing practice at the Independent Bar in 2009, Sandra was a partner at Phillips Taglieri, Barristers and Solicitors. She has worked as a lawyer in many areas of civil law and also criminal, family and commercial law. Sandra has been a member of the Supreme Court Rules Committee since 2011, a member of the Legislative Review Anomaly Committee of the WorkCover Board of Tasmania since 2007, a lecturer in industrial law at the Legal Practice Course of the University of Tasmania since 2009, Commissioner on the Legal Aid Commission of Tasmania 2009 to 2012 and was a Trustee of a charitable fund established to assist miners affected by the Beaconsfield Mine disaster in 2006. She has recently been appointed as a Part-time member of the Administrative Appeals Tribunal.

Leanne Topfer Appointed: 21 September 2009 and 18 February 2013

Leanne is a legal practitioner with 29 years' experience in civil and estate litigation and family law. She is a partner of McLean McKenzie and Topfer in Burnie. She has been a member of the Council of the Law Society since 1999 and was President of the Society in 2005-6. Leanne is on the Executive of the Law Council of Australia. She is also a member of the Cancer Council Board and the Advance Burnie Board.

Lindi Wall Appointed: 21 February 2005, reappointed 30 June 2008 and 19 December 2011

Lindi Wall graduated with a degree in Politics in 1974 at the University of Nottingham and a degree in Law at the University of Tasmania in 1989. She was admitted as a Barrister and Solicitor of the

Supreme Court of Tasmania in 1990. She has 18 years' experience in civil litigation with the firm of Wallace Wilkinson and Webster. In 2008 she was appointed to the position of temporary magistrate and currently works as a conciliator within the Department of Justice. She is a founding Board member of the Environmental Defenders Office (Tas) and was appointed to the Anti-Discrimination Tribunal in 2011.

Carolyn Wallace Appointed 18 February 2013

Carolyn Wallace graduated as a Registered Nurse in 1980 and has a wide range of experience in acute care, both in the public and private sector, and in aged care. She has been employed by Southern Cross Care (Tas) Inc for the last 18 years and is currently the Director of Clinical Services for SCC (Tas). She has a Bachelor of Applied Science (Nursing) from UTAS and Master of Health Management from UNE.

Juanita Westbury Appointed: 18 February 2013

Juanita Westbury has practiced as a community pharmacist since 1992 in New South Wales, South Australia, England, Scotland; registering in Tasmania in 2006. Juanita has a particular interest in older people's mental health and medication use in aged care. She completed a Master's degree in England on medication use in older people and was awarded her doctorate at UTAS in 2011 on the use of sedatives in aged care homes. Juanita is currently appointed as a Lecturer in Pharmacy Practice at UTAS and continues to research and promote optimal medication use in aged care facilities.

Philippa Whyte Appointed: 22 March 1999, reappointed October 2002, February 2006, September 2009 and 18 February 2013

Philippa Whyte graduated with a degree in Law from the University of Tasmania in 1978 and was admitted as a Barrister and Solicitor of the Supreme Court of Tasmania in 1980. Since that time she has worked as a lawyer in private practice for over 22 years, in both litigation and commercial law. In 2002 she started work as the inaugural conciliation officer within the Office of the Health Complaints Commissioner and in 2009 was appointed to the position of Principal Officer within that office. Philippa is a trained and accredited mediator. She was also a member of the Mental Health Tribunal for 10 years and a member of the Social Security Appeals Tribunal for 6 years.

Appendix 2 - Statistical Summary

	2008-09	2009-10	2010-11	2011-12	2012-13
Applications received					
Total applications rec'd	873	974	1085	1029	1104
Guardianship normal	142	141	136	148	152
Guardianship emergency	101	140	188	205	311
Administration normal	215	251	242	235	195
Administration emergency	54	79	98	81	75
Medical consent	47	21	23	23	11
Statutory Will	6	1	0	0	0
Other (EPA's, gifts, advice etc.)	77	37	57	60	50
Review of existing orders	231	304	341	277	310
Hearings conducted					
Total hearings	611	643	719	669	657
Guardianship	117	111	105	120	116
Administration	167	212	205	220	168
Medical consent	44	15	16	16	12
Statutory Will	3	0	1	0	0
Other	36	21	52	34	25
Reviews	244	284	340	277	336
Hearings by region					
South	369	332	410	370	363
North	150	186	198	188	170
North West	92	125	111	106	124
Outcomes					

Guardianship orders	118	101	91	81	107
Administration orders	330	386	436	389	371
Medical consent orders	30	13	14	15	6
Other orders (EPA's gifts, etc.)	17	13	12	14	22
Statutory Will orders	0	0	0	0	0
Applications dismissed	37	48	45	77	87
Matters adjourned	30	40	47	48	41
Applications lapsed/ withdrawn/ advice only	87	78	73	77	111
Community and Professional Education Sessions	37	48	24	28	15

Appendix 3 – Financial Summary 2012 - 2013

Guardianship and Administration Board			
	Budget	Actual Expend	Variation
EMPLOYEE RELATED			
	609,299	635,551	-26,252
TRAVEL AND TRANSPORT			
	22,000	20,092	1908
MATERIALS, SUPPLIES & EQUIPMENT			
	13,000	18,199	-5199
PROPERTY EXPENSES			
	46,200	48,431	-2231
FINANCE EXPENSES			
	0	0	0
INFORMATION TECHNOLOGY			
	17,000	17,234	-234
CONSULTANTS			
	0	0	0
OTHER EXPENSES			
	-7,624	27,057	-34,680
TOTAL	699,875	766,564	-66,688

Full Financial Reports for the Board are encompassed in the Department of Justice Annual Report in Output 1.6.

Appendix 4 – Professional Development and Community Education provided by the Board

The following professional development events were presented by Board and staff members in 2012- 2013:

Anita Smith:

Professional Development Presentations:

University of Tasmania, Law School – Introduction to Law students

Council of the Ageing Elder Abuse Seminary

University of Tasmania, Law School – Mooting competitions

2nd World Congress on Adult Guardianship:

- Closing plenary session, Panel presentation - *Autonomy versus Protection: The Guardianship Dilemma* (Broadcast by ABC Radio National Big Ideas program)
- Commentator – Guardianship in Asia
- Workshop *Frameworks for the future of supported and substituted decision making*

Public Trustee - Personal Services Team

RANZCP Tasmanian Training Program – Psychiatry Registrar’s Training

Young Lawyers Association

RHH Neurosurgical Unit

Publication:

Journal of Law and Medicine Vol. 20/1 September 2012 – *A New Ball Game” The United Nations Convention on the Rights of Persons with Disabilities and Assumptions in Care for People with Dementia* (with Dr. Danny Sullivan)

Mary Davies:

Smithon Polytechnic Aged Care Students

Elizabeth Dagleish:

Veterans and Veterans Families Counselling Service

Coastal Psychology

Rowena Holder:

Launceston Polytechnic Disability Support and Community Services Students