

VICTORIA

**REPORT OF INVESTIGATION  
OF COMPLAINTS AGAINST  
STATE TRUSTEES LTD**

**REPORT  
of  
THE OMBUDSMAN**

April 2003

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## EXECUTIVE SUMMARY

1.1 In March 2002 there was considerable media interest in a report that an elderly woman had been removed from her home against her wishes and prevented from returning. The decisions and actions were largely attributed by the media involved to State Trustees Ltd (STL) although subsequently it became clear that these decisions and actions were the responsibility of the Office of the Public Advocate (OPA). This incident was followed by a number of other allegations made publicly against STL. I was aware that sections of the public had become fearful of what they saw as unnecessary intervention in the lives of elderly people. A number of matters were referred to me and investigated under section 17 of the Ombudsman Act 1973. I decided to provide a report to Parliament of my investigation into the allegations against STL in the wider context of STL's response to the issues raised in the Auditor-General's report of May 2000.

1.2 My report focuses on 18 individual investigations over a ten month period. I also conducted a review of an earlier complaint and undertook 41 enquiries during this period. I acknowledge that these numbers are not large when STL is the Administrator for more than 7,500 Represented Persons. Some of the complaints are long-term grievances. Some STL staff have left and new management is in place with revised policy and procedures. However, a thorough investigation of even one complaint is a rich source of data for a manager who wishes to improve services. My investigations have highlighted gaps between policy and practice and gained remedies for a small number of individuals.

1.3 My report considers how decisions have been made to protect the interests of some of the most vulnerable people in society and addresses a number of the most common complaints against STL. Findings and recommendations are grouped under the following heading: Property, Legal Matters, Financial Issues, Legal Matters, Communication, Complaints Handling and Liaison between STL and OPA.

1.4 I have completed investigations into a total of 127 allegations arising from the complaints against STL – with 54 allegations substantiated or partially substantiated. The majority related to administrative deficiencies such as delay and poor communication. Only one allegation of improper conduct, which could be seen as abuse of authority, was substantiated. Nevertheless in a situation where the Administrator has considerable power over the lives of vulnerable individuals, poor administration can lead to injustice. The outcomes of the investigation include particular remedies for individuals and significant changes to the system.

1.5 As part of the investigation I also investigated three complaints against the Office of the Public Advocate, each of which raised a number of allegations. No allegations against OPA have been substantiated.

1.6 In the case of the elderly woman removed from her home, I am satisfied that the allegations against OPA that she had been unreasonably removed and unreasonably retained were not established. I substantiated four allegations against STL relating to care and security of property, and payment of a personal allowance but my investigation did not support a number of the other allegations made publicly. In particular, I found no substantiation to support allegations that STL and OPA unreasonably failed to find and inform family members or failed to care for pets.

1.7 In May 2000 the Auditor-General completed a performance audit of STL covering four years of its operations (1996-2000) and reached general findings on its performance in relation to Community Service Obligations, Quality of Services, Client Communication and Accountability and Management Framework. I have taken into account the Auditor-General's findings and recommendations in my evaluation of complaints. It is clear that the key issues identified by the Auditor-General continue to be the subject of complaints, despite improvements in processes.

1.8 My report is not a performance audit and does not cover the scope of administrative arrangements covered in the Auditor-General's report. A response by STL to the Auditor-General's key recommendations, which was prepared at my request in June 2002 and updated in March 2003, is attached.

1.9 During this investigation I have kept STL informed of my findings and possible recommendations and have met with the Board of Directors of STL and senior management to enable them to provide responses and remedies along the way. As a result remedies have been implemented for individuals and administrative and policy changes introduced during the course of the investigation. This has resulted in real system improvement. STL has kept me advised of updates and improvements to policy and guidelines and has demonstrated, particularly in its allocation of extra resources for personal contact with Represented Persons, family and carers and for dealing with property issues, that they are addressing the human face of administration.

## ROLE OF THE OMBUDSMAN

2.1 For present purposes it is sufficient to say that the role of the Ombudsman is, among other things, to investigate administrative actions taken in any Government Department or Public Statutory Body. The words ‘administrative action’ include decisions, recommendations, proposals to act and refusal or failure to act.

2.2 Section 13A of the *Ombudsman Act 1973* provides that the Ombudsman may conduct an enquiry for the purpose of determining whether an investigation under the Act should be conducted or whether the matter may be resolved informally. This may be done either on the Ombudsman’s own motion or as a result of a complaint made under section 14 of the Act. In the course of preparing this report, 41 enquiries under this section have been conducted.

2.3 The procedure for conducting investigations pursuant to section 17 of the Act, requires the Ombudsman to firstly inform the principal officer of the relevant authority and the responsible Minister. I have undertaken 18 such investigations which form the basis for this report. The Ombudsman’s powers of investigation, derived from Section 18(1) of the Act, are the same as a Commissioner appointed by the Governor-in-Council.

2.4 Under section 23 of the Act, if the Ombudsman has made an adverse finding at the completion of an investigation, he reports his opinion and his reasons to the authority and to the responsible Minister, and makes such recommendations as he thinks fit. He can also request notification of the steps taken, or proposed to be taken by the authority, to give effect to the recommendations. If appropriate steps have not been taken within a reasonable time, he may send a copy of the report and any response to the Governor-in-Council and may then table the documents in Parliament. The Ombudsman also has power under section 25 of the Act to present a report directly to Parliament.

2.5 Given the publicity about and public interest in the complaints made against STL, I considered from the outset that it was appropriate to prepare a report of my investigation into these complaints for presentation directly to Parliament.

## ROLE OF VCAT

2.6 The Victorian Civil and Administrative Tribunal (Guardianship List) (VCAT) replaced the Guardianship and Administration Board in 1998. The Tribunal performs the primary function of protecting adults, who are unable to make reasonable decisions in respect of their personal circumstances or estate because of a disability. These people are referred to as ‘Represented Persons’.

The Tribunal has the power under Part 4 of the *Guardianship and Administration Act* 1986 to appoint a Guardian, who makes personal and lifestyle decisions on behalf of the Represented Person, often relating to accommodation and health care. Under Part 5 of the Act the Tribunal may also appoint an Administrator for the Represented Person's estate.

2.7 Anyone can make an application for the appointment of an Administrator and nominate any party considered appropriate: a family member, friend, solicitor, accountant, STL or another trustee company. An application for the appointment of an Administrator or for review of an appointment can also be made by OPA. VCAT is likely to appoint STL as Administrator if there has been no nomination or the party nominated is deemed inappropriate. The Tribunal is required by Part 6 of the Act to review the Guardianship and Administration Orders within 12 months or, if the Tribunal orders, within three years, at which time it may decide to revoke, amend or continue the order.

## ROLE OF STL AS ADMINISTRATOR

2.8 STL is one of a number of trustee companies that are authorised to act as executors and administrators of deceased estates as if the company was an individual. The trustee companies can also be appointed to other roles including acting as a trustee. VCAT can appoint a trustee company, to be the Administrator for a Represented Person. In its capacity as the Administrator for Represented Persons, the powers and duties of STL are derived from the *Guardianship and Administration Act* which provides in paragraph (b) of sub-section 58B(1):

- (b) "It is the duty of the Administrator to take possession and care of, recover, collect, preserve and administer the property and estate of the Represented Person and generally to manage the affairs of the Represented Person and to exercise all rights statutory or otherwise which the Represented Person might exercise if the Represented Person had legal capacity;"

2.9 As Administrator, STL is required to act in the best interests of the Represented Person, which under sub-section 49(2) of the Act requires it to act:

- (a) "In such a way as to encourage and assist the Represented Person to become capable of administering the estate; and
- (b) in consultation with the Represented Person, taking into account as far as possible the wishes of the Represented Person."

2.10 The typical functions an Administrator<sup>1</sup> will perform on behalf of the Represented Person include:

- collecting income
- managing liabilities and income
- preparing and reviewing financial plans and budgets
- managing assets such as real estate and personal possessions
- investing available funds
- managing legal and associated issues

2.11 Administrators work according to internal guidelines established by STL that cover all aspects of administration including client contact visits, property inspections and the management and sale of property. These guidelines are available electronically and staff members are expected to follow them in the course of their management of the affairs of Represented Persons.

2.12 As at June 2002, STL had 7605 Represented Persons and in excess of 15,000 active clients. For every two administration applications there is one guardianship application. STL believe that they are appointed in approximately half of the administration applications from VCAT.

## COMPLAINTS HANDLING

2.13 In 1987 the Public Trustee, a statutory body, became a corporation under the *Companies Code*, entitled State Trustees Ltd, and as such, my office no longer had jurisdiction to investigate complaints arising from its activities.

2.14 Pursuant to amendments contained in the *State Trustees (Amendment) Act* 1998, which came into operation on 1 July 1998, I was given jurisdiction to investigate complaints concerning STL. From 1998 until the present time, certain themes have emerged from these complaints which I have outlined in the Ombudsman's annual reports, 1998-2002. One common theme is lack of communication between STL and the Represented Person, their family and other service providers. Problems have arisen as a result of insufficient attention by STL to dealings with personal property, evaluation of personal allowances for living expenses and documentation regarding client contact.

2.15 The Auditor-General identified the major concerns of clients as ineffective and/or absence of communication, delays in responding and resolving issues and delays in effecting payments. His report found STL's performance in timeliness of response to complaints was satisfactory. The report indicated that during the period 1996-1999, STL received an average of 269 complaints per year. Of these, an average of 39 per cent were classified as being justified.

<sup>1</sup> The term 'Administrator' was replaced by STL in 2002 by 'Personal Financial Consultant'. For the purpose of this report I use 'Administrator'.

2.16 The following table presents the number of complaints received about STL and their outcomes from 1996.

Period	Total number of complaints received	Percentage of complaints assessed as justified
July 1996 - June 1997	264	55
July 1997 - June 1998	319	42
July 1998 - June 1999	360	26
July 1999 - June 2000	286	23.42
July 2000 - June 2001	291	29.55
July 2001 - June 2002	251	25.89
July 2002 - December 2002	99	34.34

2.17 For the period covered by the Auditor-General's report, 1996-1999, the total number of complaints increased and the outcomes of the investigation fluctuated. For the period 2000 to 2002 the total number of complaints decreased and the percentage of complaints found to be justified was more consistent. In section 5 of this report I question whether the figures reflect the total number of complaints to STL. The policy that complainants first attempt to resolve the complaint directly with the Administrator may mean that some complaints are not centrally registered.

2.18 STL confirmed that the process of complaint handling described in the Auditor-General's report remains current. All complaints referred to the Client Relation's Officer are logged into a complaints database. Action is required within 24 hours of receiving the complaint. If the complaint is made by telephone or in person at a Customer Contact Centre, a response is required within three working days. If the complaint is made in writing, a response will be sent within ten working days. The complaint is referred to the relevant division to be dealt with by a team leader or manager. In the event that they are unavailable, it will be looked into by the Client Relations Officer.

2.19 Since November 2002 the Client Relations Officer has been trialling software designed to record the frequency and details of correspondence relating to complaints. Reports created by the Client Relation's Officer are presented to the Board of Directors of STL once a month, to the General

Manager every two months and every three months to the Department of Human Services (DHS), in line with STL's Community Service Obligations.

2.20 A Client Concerns Panel, comprising five members from different divisions within STL was established at the instigation of the Managing Director in March 2002 to overview complaint handling.

2.21 It is my general practice to refer complainants, in the first instance to STL because I see my office as a place of last resort. Complainants are invited to again contact my office if they are not satisfied with the response. All complaints are recorded. Where the matter is of particular interest, for example where I have seen a number of related complaints or the complaint appears to be an issue directly relevant to system improvement, I request copies of the response. In the case of the present investigations not all complaints were initially dealt with by STL.

## FEES AND CHARGES

2.22 Some complaints investigated by this office make reference to the fees and charges imposed by STL, in particular the capital commission, though this may not constitute the main aspect of the complaint. The rates of commission chargeable by STL for acting as Administrator of a Represented Person, are specified in the Order made by VCAT. The rates of capital commission allowed by VCAT are equal to the rates allowed to Trustee Companies under the *Trustees Companies Act 1984*, however there is a reduced rate of commission on some income. Capital commission is set at 5.5 per cent (including GST). STL is entitled to charge capital commission on the gross value of the assets administered, however on 1 January 2002 STL reduced the rate of capital commission rate to 4.4 per cent (including GST) chargeable only on realised assets. I understand that this includes money received from bank accounts and other cash deposits.

2.23 The Auditor-General's report compared the basis of trustees charging commission in all states except Tasmania. The capital commission charged by STL differed from the other states, except Western Australia, in one significant respect. Rather than charging a flat rate, three states operated under a scale reducing from 4 per cent, or 3.5 per cent in one state, to 1 per cent. Under this scale the Represented Person was charged the highest rate on amounts up to \$100,000, lesser rates on succeeding amounts and 1 per cent over an amount which was different in each State. The Auditor-General stated that the capital commission fee charged by Victoria was clearly higher than other states and that this differential increased commensurate with increases in the value of the capital transaction. The Auditor-General recommended that STL should regularly review its service charges to ensure that they compare favourably with equivalent trustee agencies in other states. I note that the fees set out in the Auditor-General's report would have increased by the imposition of GST.

2.24 While the rate of commission charged by STL is equal to the highest rate charged in the three states with a sliding scale, those three states charge commission on all assets transferred to or coming under the control of the trustee. The arrangement in Victoria and Western Australia, where commission is only charged on realised assets, could result in a higher or lower amount of capital commission being charged, depending on the nature and extent of the assets owned by the client. Clients' assets would usually only be liquidated to provide funds for nursing home bonds and for the ongoing upkeep of the Represented Person. If the client has a large portfolio of share investments or real estate, it should not be necessary to liquidate a high proportion of them and capital commission would not be charged on the investments retained in their original form. However, large bank deposits would be subject to commission. STL stated that many clients' assets are less than \$100,000, in which case capital commission charged by STL would be equal to or less than the charges in the three states with a sliding scale.

2.25 A Represented Person can apply to STL for a reduction of fees, charges and commission on the basis that the scheduled rates would cause hardship. STL has the ability to waive or vary fees, charges and commission on capital or income under its Reduction and Waivers of Commission Policy. Some complainants considered that the capital commission charged was excessive, particularly when the administration was of a short duration because of the death of the Represented Person or the revocation of the order. STL has reduced the commission in two complaints investigated.

2.26 The Minister for Community Services is responsible for ensuring that those clients who are unable to meet the full cost of STL's services are provided for. This is achieved by performance standards set out in a Community Services Obligations Agreement between STL and DHS, in place since July 1994, which provides for STL to be compensated for the provision of these unprofitable services.

2.27 Apart from the commissions allowed under the orders made by VCAT, clients are charged fees for some services provided by STL, including financial planning and legal advice, as well as for outside services such as legal representation. Some complainants considered that a Represented Person had been charged for some services that should have been provided within the level of commission allowed under the order of VCAT. STL stated that charges are made in respect to services that do not come within the scope of administration of the person's affairs.

## **ROLE OF THE OFFICE OF THE PUBLIC ADVOCATE**

2.28 Part 3 of the *Guardianship and Administration Act* defines the role of OPA as guardian. The Guardian of a Represented Person, usually an OPA staff

## ROLE OF THE OFFICE OF THE PUBLIC ADVOCATE

2.28 Part 3 of the *Guardianship and Administration Act* defines the role of OPA as guardian. The Guardian of a Represented Person, usually an OPA staff member to whom the Public Advocate delegates the role, makes lifestyle decisions on behalf of the Represented Person, including accommodation and health care.

2.29 Under section 15 of the Act, the responsibilities of OPA include promoting public awareness of the rights of Represented Persons and of the role of Administrators and Guardians. OPA also acts as an advocate for persons with a disability by providing training and raising public awareness of disability issues.

2.30 It should be noted that there is scope for overlap and consequent confusion by the public about the separate roles of the Administrator and the Guardian. Some decisions cannot necessarily be classified as relating solely to lifestyle or solely to financial matters. This overlap requires the relationship between the two agencies to be flexible and open. The Auditor-General's report identified potential for overlaps and gaps in the provision of services because of the number of agencies involved, including OPA, and stressed the need for STL to take a lead in bringing parties together to reach agreement on protocols for client service co-ordination.

2.31 By virtue of section 30 of the Act, OPA may apply as guardian for advice from VCAT upon any matter relating to the scope of the guardianship order or the exercise of any power by the guardian under the guardianship order. Subsection (3) of the section provides that the tribunal may:

- (a) approve or disapprove of any act proposed to be done by the guardian; and
- (b) give such advice as it considers appropriate; and
- (c) make any order it considers necessary.

2.32 Where issues may be contentious, particularly regarding sale of property where there is family conflict, STL can apply under section 55 of the Act to VCAT to provide advice upon any matter relating to the scope of the administration order or the exercise of any power by the administrator under the administration order. I support this course of action to clarify STL's legislative responsibilities.

### KPMG REPORT 1998

3.1 A report compiled by KPMG, consultants, in 1998 indicated that the roles and responsibilities of STL were well defined, but that contractual arrangements for the provision of administration services needed further improvement. In response, STL simplified the contract and introduced standards, such as initialisation of administration being required to take place within 65 days of receipt of the authority to administer an estate.<sup>2</sup>

3.2 KPMG also recommended that there was a need for increased face-to-face meetings and that more information should be given to clients and stakeholders. It highlighted deficiencies perceived by stakeholders about communication and responsiveness to client needs.

3.3 The report stated, 'This suggests that if State Trustees Ltd focused on its efforts on improving the timeliness and turnaround of its services by being seen to be closer to the client and by better matching the skills of Administrators to client needs, then its rating of effectiveness would dramatically improve'.<sup>3</sup>

### REPORT OF THE AUDITOR-GENERAL, MAY 2000

3.4 The Auditor-General's report was a performance audit conducted by the Auditor-General directed at assessing whether STL had discharged its responsibilities in the best interests of Represented Persons, in compliance with relevant legislation, in a cost-effective manner and with proper accountability. A summary of the overall audit conclusions and a summary of major findings are included in my report.<sup>4</sup>

3.5 The Auditor-General found that significant improvement had been made by STL in the four years from 1996 to 2000 but identified areas for further improvement. The report summarised the areas requiring improvement in the overall performance assessment in relation to Quality of Services as follows.

‘Ensuring financial and management planning on behalf of Represented Persons is an ongoing process;

Addressing weaknesses in accountability which result from poor documentation of the decisions made or actions taken, particularly in the area of finalising clients affairs;

Improving the timeliness of decision-making and actions; and

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<sup>2</sup> Initialisation of administration refers to the steps taken to gather all information necessary to the administration and begin the plan of management.

<sup>3</sup> KPMG Management Consulting, 'Review of DHS funded CSOs delivered by State Trustees' Report, 14 November 1996, p 22.

<sup>4</sup> See Appendix 3.

Ensuring the wishes of clients are taken into account and encouraging them to be more independent in those limited cases where this may be possible.’<sup>5</sup>

3.6 A number of recommendations came out of the report, the most significant relating to the expansion of performance standards in relation to financial and management planning, the need for improved recording of information relating to client contact, making and acting upon decisions in a timely manner, and improvement of frequency of direct contact with Represented Persons.

3.7 In regard to quality of services, the Auditor-General found that improvements were required in the communication process between Represented Persons, family and carers. Initial visits were not always made to clients and regular ongoing contact was not always evident.

3.8 The Auditor-General found that a suitable framework was not in place to measure the caseload of Administrators so it was not possible to determine whether current workloads had contributed to the limited direct contact with Represented Persons and delay in completing tasks.

3.9 In regard to fulfilment by STL of its legislative requirements the Auditor-General emphasised the need to encourage Represented Persons to administer their own affairs within their capacity. The report emphasised STL’s legislative responsibility to act in the best interests of Represented Persons by ensuring that their wishes were considered and expressed some doubt as to whether this was a priority at the time of the audit.

3.10 The report stated that there was a need to clarify the Administrator’s legislative responsibility in acting for the Represented Person. There is necessarily an overlap between budget decisions and lifestyle issues and there may be a need to clarify legislative responsibilities with VCAT. The STL Administrator’s primary responsibility relates to financial decisions.

3.11 In regard to fees and charges the Auditor-General found that, after taking into account the differing operation arrangements and legislated responsibilities within each State, “the comparison suggested that in the area of income collection commission State Trustees’ service charges compared favourably with the other four states. However, in the area of capital commissions charged on the value of realised assets, such as property or investments owned by the Represented Person, the comparison suggested that State Trustees did not compare favourably with other States.”<sup>6</sup>

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<sup>5</sup> *Report of the Auditor-General, Performance Audit Report No. 63, ‘Represented Persons under State Trustees’ Administration’, May 2002, p 46.*

<sup>6</sup> *Report of the Auditor-General, Performance Audit Report No. 63, p 87.*

3.12 In response to the report STL implemented a number of initiatives, including the introduction of a Plan of Management for each client, reassessment of Administrator caseloads, and further development of the system for recording client contact information.<sup>7</sup>

3.13 In June 2002 STL informed this office that an independent Property Services Team was to be established that would deal with all aspects of the management, care and sale of clients' real estate and personal property. By December 2002, two of the three staff had been confirmed. The operations of the Team commenced in early 2003. Further detail of the initiatives undertaken by STL in response to the Auditor-General's report are contained within the official report to the Victorian Ombudsman, first compiled in June 2002 and updated in March 2003.<sup>8</sup>

### FURTHER REVIEWS

3.14 In August 2001, DHS retained the services of the Allen Consulting Group to conduct a benchmarking review of the activities of STL in relation to service quality. The report recommended the strengthening of performance standards (which were adopted in the 2002 Community Service Obligations negotiations with DHS), the application of incremental levels of compliance to those standards, and that internal measurement and management information systems be enhanced to set internal standards for service delivery.

3.15 At the time my report was compiled, an operational study of Personal Financial Solutions was being conducted by Cap Gemini Ernst & Young consultancy that made specific recommendations for the implementation of areas identified in the Auditor-General's report.

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<sup>7</sup> See Appendix 4.

<sup>8</sup> See Appendix 4.

## BACKGROUND TO THE INVESTIGATIONS

4.1 On 12 March 2002 The Independent, a Frankston-based newspaper, published a report headed, ‘Woman, 93, ‘disappears’. Relatives not told that State took over her life.’

4.2 On 15 March the Neil Mitchell program on 3AW took up the item describing the event as an ‘official kidnapping.’ In the following weeks the case continued to attract attention and various listeners made complaints against STL.

4.3 On 19 March the Premier explained on the Neil Mitchell program that there was a right of appeal to my Office. Mr David Galbally QC, solicitor for the program, invited listeners to submit correspondence for referral to me for investigation. In April I informed the public that I would investigate the issues raised by complainants and consider them together with the broader issues of quality of service raised in the Auditor-General’s report of May 2000.

4.4 In May I informed the Managing Director of STL that I had received a total of 60 items of correspondence from Mr Galbally. Some correspondents expressed opinions or views on the subject but did not have an identifiable complaint. Some correspondence was anonymous. Other matters were complaints that had previously been investigated by me and resolved. I contacted all correspondents who appeared to have a complaint that I could investigate and for whom I had contact details, and my Investigation Officers interviewed the complainants.

4.5 As stated earlier, the *Ombudsman Act 1973* requires that, before conducting a formal investigation, I inform the Principal Officer and the responsible Minister. The Chairman of STL, the Managing Director of STL and the Public Advocate were informed that I was investigating a number of complaints. The Treasurer and the Attorney-General, who are the Ministers responsible for STL and OPA, were separately informed.

4.6 In addition, I was invited by STL to address the Board of Directors. I informed them that my report would consider both the individual complaints and the issues raised in the Auditor-General’s report of May 2000 regarding the quality of services provided by STL. I also met with STL’s Managing Director and senior management to discuss a comprehensive response to the issues identified in the Auditor-General’s report.

4.7 By the time of completion of my report 18 investigations had been undertaken under section 17(1) of the *Ombudsman Act 1973*. My Investigation Officers conducted more than 80 personal interviews and numerous telephone enquiries and examined the files of STL and associated agencies. One review of a complaint file was completed at the request of a Member of Parliament. Detailed reports were provided to STL and, where appropriate, to OPA. Some

allegations are still being investigated. A total of 41 enquiries under section 13A of the Act were also dealt with.

## SUMMARY OF COMPLAINTS

4.8 I completed a review of an earlier complaint and 41 enquiries, and undertook investigations under section 17(1) of the Ombudsman Act into the following complaints.

- Allegations of unreasonable removal of the Represented Person from home and retention in a nursing home, failure to search for relatives, contact neighbours or care for pets, inadequate security, care and cleaning of property and failure to provide a personal allowance.
- Allegations of failure to follow the wishes of the Represented Person regarding the distribution of jointly owned property during the administration of the Represented Person's affairs in the period 2001-2002.
- Allegations regarding involvement of STL in the completion of a Will by the complainant's aunt, an elderly woman whose legal competency was in question, in 2001.
- Allegations regarding the sale of the Represented Person's house against the complainant's wishes, loss of personal property, excessive legal fees during the administration of the complainant's mother's affairs in the period 1999-2001. Two separate complaints were lodged by individual siblings.
- Allegations regarding the sale of the Represented Person's house and contents, care of personal possessions, conduct of STL-contracted staff in purchasing items and details of the financial statement and payments in the period 2000-2001.
- Allegations regarding the disposal of the contents of the Represented Person's house, including lack of care and security of personal possessions, and alleged conflict of interest in relation to the purchase of a car by a family member of an STL employee in the period 1999-2000.
- Allegations regarding delay in concluding legal affairs, failure to fully advise of the consequences of signing legal documents, delay in payments, and cost of fees and charges in the administration of the Represented Persons' estate in the period 1999-2001.
- Allegations regarding the sale of the Represented Person's property against the complainant's wishes during administration of her affairs in 1996.
- Allegations regarding distribution of the Represented Persons' personal possessions amongst family members, care and security of possessions, access to financial statements and delay in financial planning, in the administration of the Represented Persons' affairs in the period 2001-2002.
- Allegations regarding sale of personal property of the Represented Person against the wishes of the family and poor communication with the family, in the period 2001-2002.

- Allegations of failure to care for and secure personal possessions of the Represented Person, and poor communication in the administration of the Represented Person's affairs in the period 2000-2002.
- Allegations of failure to provide personal funds to the Represented Person for a period of more than two years, lack of contact with the Represented Person, and inadequate financial administration in regard to her accommodation costs, in the period 2000-2002.
- Allegations of poor communication with the Represented Person's Case Manager and insensitivity in dealing with the disposal of her client's personal property in 2001.
- Allegations of failure to consult with the complainant who held an Enduring Power of Attorney regarding an application to VCAT and the care of the Represented Person, and poor communication in 2002.
- Allegations of incompetent handling of financial affairs, failure to provide allowance and poor communication in the period 2000-2002.
- Allegations of excessive fees, inappropriate action regarding property purchase, inappropriate conduct by staff, and failure to provide financial reports in the period 1999-2000.
- Allegations of failure to consider the wishes of the Represented Person and family regarding admission and retention in a residential facility and failure to inform about a property inspection in the period 2001-2002.
- Allegations of poor financial administration, poor communication and delay in response to requests for information in the period 2001-2002.

#### ALLEGATIONS AGAINST OPA

4.9 Of the complaints investigated against OPA the major allegations related to:

- Decisions about the admission of Represented Persons to residential accommodation.
- Decisions about Represented Persons staying in residential accommodation.

#### ALLEGATIONS ARISING FROM STL COMPLAINTS

4.10 From the complaints investigated against STL, the major allegations can be categorised under the following headings:

##### 4.11 Communication

- Alleged failure to visit or consult with the Represented Person, family or carer to establish the wishes of the Represented Person.
- Alleged delay in responding to correspondence from the Represented Person and/or their family members/carers.

- Alleged failure to keep adequate records of phone conversations, dealings with family/carers.
- Alleged lack of consistent communication due to changes in Administrators.
- Liaison between OPA and STL.

#### 4.12 Property

- Alleged failure to consult the Represented Person and/or their family members regarding decisions made about real estate or personal property.
- Alleged improper purchasing by STL staff/contractors of Represented Person's property.
- Problems with care and security of possessions.
- Alleged failure to compile complete and accurate inventories of personal property.
- General problems with the handling of personal property.
- Problems associated with outsourcing responsibility for dealing with personal possessions.
- Problems with distribution of possessions to family.
- Problems with care of pets.

#### 4.13 Financial issues

- Alleged excessive fees for service and amount of commission charged on property sales.
- Alleged failure to provide a reasonable personal allowance to the Represented Person and to respond promptly to requests for an allowance.
- Alleged delay in providing financial plans and statements to Represented Persons' family/carers.

#### 4.14 Legal matters

- Alleged unreasonable action in relation to Wills, failure to respect the Represented Person's wishes, and failure to respect confidentiality.
- Alleged inadequate process for the preparation and execution of a Will.
- Alleged failure to properly inform clients of the consequences of signing legal documents.
- Alleged unnecessary and excessive legal fees.

#### 4.15 Complaints handling

- Alleged failure to respond promptly and adequately to complaints.

## THE MAJOR INVESTIGATION

5.1 A more detailed report of the investigation of the removal of Mrs James<sup>9</sup> from her home, which initiated this report, is included.<sup>10</sup>

5.2 The major allegations of unreasonable removal of the elderly woman from her home and unreasonable decision not to allow her to return home, while initially attributed to STL were actually against OPA. I did not substantiate these allegations.

5.3 In regard to STL, it was alleged that they failed to attempt to find family members, failed to inform neighbours of her removal and failed to care for the pets which were left in the home. It was also alleged that the house, once vacant, was not maintained, that removalists left personal possessions including photographs, letters and clothes on the floor, and that valuable items were taken to the tip.

5.4 I found that STL had reasonable grounds to believe that the Represented Person did not have family to contact or did not wish them to be contacted at that stage. The volunteer, who had assisted Mrs James with her daily tasks since June 2000, was informed of the Represented Person's admission to hospital and he informed neighbours. STL was obliged to preserve the confidentiality of their client so that it was not appropriate to discuss decisions about the property with the volunteer or the neighbours.

5.5 STL and OPA arranged for the volunteer to care for the pets on the night of the admission to hospital. The arrangements, although not ideal, were not unreasonable given that it was hoped that the Represented Person would return home. Once this was no longer likely more permanent care arrangements were made.

5.6 I substantiated the allegation of delay in securing the Represented Person's property. The evidence did not support the allegation that valuable items were taken to the tip but I did not believe that the personal possessions were dealt with appropriately. I accepted that the house was left in a disordered state and that the property was not adequately maintained for some months. The Represented Person did not receive a personal allowance until she had been in hospital for three months. I also commented that the file notes of the actions taken by STL were not always adequate.

5.7 The STL response to this report<sup>11</sup> advised me that STL had developed and implemented a number of initiatives covering the various allegations arising from this case. In particular, a new, centralised approach was

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<sup>9</sup> Not her real name.

<sup>10</sup> See Appendix 1.

<sup>11</sup> See Appendix 1A.

implemented with the establishment of a Property Services Team and new categories on the Individual Management Plan (Client Action Plan) for Personal Allowance and Care of Pets.

5.8 I have made recommendations under each of the major headings in this section. A summary of recommendations is provided at the conclusion of the section.

## PROPERTY

5.9 Property matters are covered in some detail in my report on the allegations relating to the care and security of Mrs James' property and possessions.<sup>12</sup>

5.10 Other complaints raised similar issues related to the security of the house, packing possessions in boxes rather than piling them on the floor, and ongoing maintenance of the property.

### 5.11 Sale of the Represented Person's residence

5.11.1 In many cases STL need to sell the Represented Person's property, often to meet payment of an ingoing fee to a hostel or nursing home or other forms of care. The financial reasons can be compelling but there may be conflict within the family on whether the sale is essential. In many cases the property is the family home. Some or all family members may be beneficiaries under the Will of the Represented Person or living in the property and so wish to retain it.

5.11.2 Some complainants alleged that STL sell the property for the capital commission they will gain and fail to consider other options or consult with the family. One complainant wrote: 'State Trustees' policy seems to be sell, sell, sell.' In regard to capital commission he wrote, 'this is an insidious piece of legislation that enables all trustee companies to make a profit from their clients. It encourages trustee companies to sell properties without considering other alternatives'.

5.11.3 STL is entitled under its Schedule of Fees and Commissions to a fee for service upon the realisation of an asset in an estate, a once only capital commission not exceeding 5 per cent on the gross value of the realised assets. In the first case cited below the fee was 5 per cent of a sale price of around \$600, 000, about \$30,000. (The fee was reduced to 4 per cent in January 2002.) The normal advertising and agent's fees also had to be paid. STL stated that the remuneration represented approximately one hour per week for

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<sup>12</sup> See Appendix 1

administration over a period of five years, based on STL's standard hourly rate. As the standard fee was applied and this had been a complex and long-term administration, I did not find the complaint substantiated. However, I question whether this level of commission would be equally fair if the administration was of a short duration due to revocation or death and whether there should be provision for an appeal on these grounds. This could be made under the Reduction and Waiver of Commissions policy if the scope of that policy was broadened.

5.11.4 The evidence did not substantiate the allegation that the sale of the house was motivated by STL's financial gain. However, complaints indicate that the level of consideration of other options, consultation with family, and documentation of consultation varied. In the case cited, consultation commenced with a letter to the family members and the process was lengthy and well documented. In another case cited there is a record of one meeting only with the complainant. STL's guidelines state that a client's family should be consulted regarding property sale but no directions are given on how the consultation should be conducted or requirements for confirming discussions with family members. This may be an area where further training is required for Administrators.

### *Case 1*

STL was appointed Administrator for a Represented Person who received a small annuity from a family trust. It was part of the responsibility of STL to seek to have the annuity increased. The Represented Person did not have a Guardian and was eventually admitted to a nursing home by some family members who believed that she was incapable of being cared for at home. This view was not shared by all family members. Her income did not cover the nursing home fees.

STL wrote to the Represented Person's six children providing a detailed summary of their mother's financial position and seeking their opinions on the future of her house, contents (an inventory was provided) and car. Four siblings agreed to the sale of the house and car. Two siblings did not agree and believed that the mother should be cared for at home. After extensive consultation over three months, STL advised all family members that the house was to be sold. This was discussed at a subsequent VCAT hearing at which STL was reappointed, effectively approving the sale of the property.

As part of this process, STL obtained medical opinions on whether the Represented Person could return home with support and whether she would be able to make a rational comment on the future of her home and property. It was agreed that she could not. One report indicated that she would be able to

reside in her own home with 24-hour nursing care. STL advised that funds were not available for that level of care. The complainants were not able to provide a plan for how that level of care would be funded.

I was satisfied from an examination of files and from interviews with the Administrator that STL did not see the sale of the house as the preferred option. STL made considerable effort to secure funds from the independent trustees appointed to manage the family trust. The trustees advanced funds to the mother to assist with living expenses, including payment for accommodation, but on the proviso that the funds were repaid when her house was sold. The trustees clarified that, over time, the estate would not be capable of generating sufficient income to meet the cost of care if the Represented Person remained at home or the cost of nursing home fees. Rental of the house would not have covered the costs.

The complainants applied to VCAT on two occasions seeking to reverse the decision to sell the house. On each occasion STL was reappointed with a mandate to sell the house.

The VCAT Statement of Reasons noted that STL had determined that the Represented Person's needs could only be met if the home were sold and that four out of six siblings had agreed to sale of the home. An examination of files indicates that ample time was given to consideration of the options and consultation with family members and that the majority of siblings fully supported the sale of the house and, in fact, were critical of the time taken by STL to reach a decision. In light of these factors, it was my view that this complaint was not substantiated.

### ***Case 2***

One complainant alleged that the family home was sold in 1996 against her wishes and the wishes of the Represented Person. The sale resulted in the family, who had shared the home with the elderly mother before she entered a nursing home, being without accommodation and caused a financial loss to the estate because of the legal costs incurred.

STL's file notes indicated that, in a meeting with STL, the daughter verbally agreed to the sale, a fact she strongly disputes. There is no written agreement. My investigation established that the complainant had the opportunity to purchase the house but did not pursue that option. The complainant believed that STL withdrew their agreement to sell the property to her. However, the correspondence on file between lawyers indicates that the complainant's lawyer withdrew the offer to purchase. The complainant was not clear on the sequence

of events and did not appear to be aware of her lawyer's action. Agreement could not be reached on an alternative proposal that the complainant pay the Represented Person's debts and contribute to her upkeep. Legal costs were incurred to the estate that could have been avoided had the complainant and STL been prepared to negotiate to ensure that her mother's financial needs were met.

### Recommendations

- That the Administrator consult with family members about the sale of the Represented Person's residence and confirm discussions by correspondence with them.
- That the family be advised that if agreement cannot be reached the matter will be referred to VCAT under Section 55 of the Guardianship and Administration Act 1986.
- That service charges be regularly reviewed to ensure that they compare favourably with equivalent trustee agencies.
- That consideration be given to partial refund of Capital Commission when the administration concludes after a short duration.
- That the Reduction and Waivers of Fees policy include additional circumstances in which a waiver or reduction will be considered.
- That the Represented Person and their family be made aware that an application can be made for the waiver or reduction of fees and charges.
- That training for Administrators addresses the issue of consultation with the Represented Person and their family.

## 5.12 Sale of Personal Property

**5.12.1** This is another issue that raises a strong emotional response in families. I believe that the financial case for selling furniture and personal effects against the family's wishes would have to be very compelling to be a preferable option to placing personal effects in trust with family members. STL frequently does distribute items on that basis. Administrators are also advised that where items are specifically bequeathed they should be placed with the beneficiary to be held in trust.

**5.12.2** The funds gained from the sale of furniture and personal items are generally not significant to the financial welfare of the Represented Person and the decision to sell would have to be weighed by the Administrator against the costs of storage and the sentimental attachment of the family. In more than

one case I was very aware of the enormous sense of loss caused to the family when STL decided to sell personal items at auction because members could not agree on how to share items and the Administrator decided the estate could not bear the cost of storage.

#### 5.12.3 STL summarised their procedures:

- Where possible State Trustees will take instructions regarding the disposal of a Represented Person's belongings from the Represented Person.
- Where instructed by our client, or where our client is not capable of providing instructions, State Trustees will firstly look at obtaining feedback from family and carers as to what items our client may use or wish to have with them at their accommodation facility.
- State Trustees will then consult with close family members (or other appropriate parties depending upon our client's circumstances) regarding disposal of other items.
- If there is a chance that our client may return to independent living or to a facility with room for furniture and other belongings State Trustees will consider keeping items in storage.
- In cases where clients are leaving their homes State Trustees will often ask family members if they would like to hold any particular items for our client on the understanding that they cannot dispose of such items without State Trustees' consent. Often family members will be sent an inventory of a client's possessions and asked to nominate which items they would like to hold on their behalf.
- Where State Trustees has access to what is believed to be a client's last Will it may be appropriate to offer that the beneficiaries of any specific bequests of chattels hold those chattels on the same arrangement.
- Specific items of value such as antiques or collections may be referred to a specialised dealer or auction house for sale.
- Other items will generally be taken to a general auction house for sale by public auction, the proceeds being paid to our client's accounts.
- In some cases arrangements can be made for family members to view items at the auction house where agreement as to the fate of certain items has been agreed. Further, where there is agreement family members may be able to purchase items prior to auction.

- Items of no commercial value are either donated to charity or sent to the tip. Contractors engaged by State Trustees have become experienced in determining what items charitable bodies will be able to use.

5.12.4 In two separate cases involving the same former STL Administrator and the same contractor working for STL there were complaints of conflict of interest in relation to purchase of property from the estate.

### ***Case 1***

In the lesser matter, the contractor, who was sent by STL to search the property for valuables that were reported to be in the house, informed the complainant that he would come to the auction to purchase items of furniture. He did so and bought some chairs from the STL Administrator who was conducting the sale of some of the items at the time. The STL guidelines did not prohibit purchase of items by contractors but an allegation of inappropriate conduct was established. I also believed that it was inappropriate and insensitive for the Administrator to take an active part in the auction particularly in view of family conflict over the sale of personal property.

In the more serious matter the contractor purchased a car from the estate and resold the car to a family member of the STL Administrator, although the client suffered no financial loss. During the period of the sale of the car the family were misled, or at best stalled in their enquiries, by the Administrator.

STL took disciplinary proceedings against the Administrator who was found to have breached the STL Code of Conduct and was transferred to another section of the office. The Administrator is no longer employed by STL.

### ***Case 2***

A Case Manager at a Migrant Resource Centre contacted me with complaints relating to STL's administration for her client, an 83-year-old woman, now deceased. Her client suffered from dementia and spoke little English. The major complaint arose because of the action taken to remove her client's possessions from a flat which she had vacated, allegedly with out informing her Case Manager or others working with her client, of the date of the removal. The Case Manager stated that she was informed by neighbours that the removal was taking place. This enabled her to arrange to have some items taken to her client in the nursing home and some foreign language books kept for the Migrant Resource Centre.

STL guidelines advise that property should be removed from vacant rented premises as soon as it is confirmed that the client is not returning, to save paying rent on the premises. If the client is unable to retrieve their furniture the Administrator should contact the client's family/Case Worker to remove the furniture. 'Only as a last resort should the Administrator directly engage a removal firm to take the furniture to the client's new premises or arrange for furniture to be held in storage.'

Had the current STL guidelines been observed and removal by the auction house seen as the last resort, the Administrator would have first contacted the Case Manager and the carer before making those arrangements. I accepted the Administrator's view that the Case Manager was aware that the possessions were to be removed from the flat. However, she was not given the time and date of removal.

The Case Manager stated that when she attended the property almost all her client's possessions had been taken to the auction house. 'The rest of her belongings, including old documents in Hungarian, photographs and books were waiting in a big pile in the middle of her flat just to be thrown out in the rubbish bin.' The files confirm that the cleaners agreed to leave a box of books for the Case Manager to collect. I found allegations of failure to notify the Case Manager of the date and time of removal of the client's possessions and insensitivity in dealing with her client's possessions to be established. STL informed me that their new procedures direct Administrators to inform family and carers prior to arranging removal of property.

### Recommendations

- That the Administrator consult with family members advising them of all options for sale and disposal of personal property and confirm discussion by correspondence to them.
- That the family be advised that if agreement cannot be reached the matter will be referred to VCAT under Section 55 of the Guardianship and Administration Act.
- That the STL Code of Conduct regarding purchase of property associated with STL administration be extended to staff contracted for services by STL.
- That training of Administrators include dealing with conflict in handling distribution and disposal of personal property.

## 5.13 Distribution of Personal Effects amongst Family Members

**5.13.1** Major disputes amongst families appear to occur when the Represented Person is still alive but unable to make his or her wishes known and where there is no Will or the Will is not sufficiently specific.

### *Case 1*

Two family members, each representing a faction (the complainant's word) of the family, both held an Enduring Power of Attorney (EPA) prior to the involvement of STL. The appointment of STL as Administrator was largely because of the family conflict. Each party claimed to represent the interests of the Represented Person and other beneficiaries of her Will, although one was the next of kin. The Represented Person was admitted to a hostel and it was agreed to sell her house but the dispute over the division of furniture and personal effects, and accusations of removal of property continued for months. The Administrator arranged for storage of the goods in question until agreement on a method of dividing the remaining property could be reached with the assistance of my Office. The parties were advised in writing of the proposed method of division and timeline. In that case I believe that the option of storage, although expensive, was preferable to a hasty decision and the consequent sense of grievance and complaints that would follow.

### *Case 2*

STL was appointed Administrator for both parents, in part because of conflict between the three siblings. Administration was made more complex by a series of accusations and counter accusations about the removal of personal effects from the parents' property, to which all three siblings, with STL's agreement, retained access. The Administrator's advice to the siblings encapsulates the problems associated with disputes over personal effect:

"This [division of personal effects] seems to be the single most contentious issue and I can to some degree understand why this is so, because of the sentimental associations which such items often have. I note that I have received advice at different times from all sisters that either items have been removed by other sisters or they themselves have removed items from the holiday house and your parents' accommodation facilities. I have been asked to either approve the relocation or remedy it, depending on the nature of the advice.

It may help all concerned to provide a few words of explanation about State Trustees' general policy in such situations. Firstly the sensitive nature of this issue is recognised and, where a client's Will makes specific provision for the bequeathing of a particular item we would simply ask the beneficiary to hold it 'against the estate.'

Where such items are not specifically so devised, we have a number of options. Firstly, we would ask the potential beneficiaries to decide among themselves whether they would be prepared to hold these items against the estate or whether they would prefer them to be sold and the proceeds remitted to the client's account at State Trustees. In the event of lack of agreement, we would consider storing the disputed items or selling them, depending on the client's financial situation and the sentimental or commercial value of the items concerned.

In a later communication the Administrator stated:

'As previously stated, State Trustees' main concern is to identify the items that make up your parents' estate and to record their location. Generally, State Trustees would facilitate an agreement between family members on storing particular items of financial and sentimental value. We feel that we have attempted to facilitate such an arrangement between yourself and your siblings, however we feel that an amicable resolution cannot be reached in this situation.'

This e-mail further advised the family that STL would not attempt to further negotiate agreement between them on their parents' effects but would require that each person account to STL for the items they held. All three were advised that no legal or other action would be taken by STL in relation to claims that one member had 'stolen' a particular item and that no action would be taken regarding an insurance claim for any 'missing' item.

The advice was in writing and given equally to all members. I accepted that STL's advice to the family, after a number of efforts to resolve the conflict, was reasonable.

### Recommendations

- That the Administrator consult with family members advising them of all options for distribution of property and confirm discussion by correspondence to them.
- That in all cases of dispute, the parties be provided with a clear statement in writing of the method proposed to deal with property, the timeline and the consequences of failing to reach agreement and/or meet the timeline.
- That all parties be provided with an inventory indicating the distribution of property amongst interested parties.

## 5.14 Security and Preservation of Property

5.14.1 In my report on the James' case which initially began these investigations<sup>13</sup>, I stated that it was my view generally that once STL become aware that they have been appointed Administrator, it is important that vacated residential property be secured immediately. The present Service Standards require that it be secured, except in urgent cases, within ten working days; three working days for urgent cases. I believe that Standard should be reviewed. STL cannot properly preserve the Represented Person's property if the house is unlocked or numbers of people have a key.

5.14.2 STL procedures advise the Administrator to ascertain the whereabouts of keys to the property, recover the keys if appropriate or consider having the locks changed. This leaves a large degree of discretion to the Administrator. In one case where there was family conflict I advised STL that it would have been preferable to have changed the locks on the client's home during the property inspection to maintain control over the personal possessions and to prevent unsupervised access by relatives to the premises.

5.14.3 There have also been complaints about the adequacy of inventories prepared for the represented persons' property. The Property Inspectors advised that they value the furniture and other items they observe but do not conduct a search of the furniture and cupboards unless instructed to search for specific items such as jewellery, Wills or title deeds. Inventories do not separately list smaller items such as crockery, glassware and ornaments unless they are commercially valuable. The Property Inspectors stated that this would incur extra costs to the Represented Person. However in situations where there were ongoing complaints about allegedly missing property the initial extra cost may have been justified.

### *Case 1*

The clients were still living in their house when STL was appointed as Administrator. They moved to assisted accommodation two months later. Although an inventory of the contents of the house had been prepared initially, no further inventory was prepared after they moved as required under STL procedures. Some of their possessions were taken to their new residence by the health workers assisting them, but no record of the items removed from the house was retained by STL. No action was taken to pursue three alleged burglaries that had been mentioned to the Property Inspector by one of the

<sup>13</sup> See Appendix 1.

Represented Persons. The locks on the house were not changed for nearly 14 months when an inspection of the house disclosed that 46 of the 147 items on the inventory were also missing. The complainant alleged that many smaller items of value that were not included on the inventory were also missing. According to the Administrator, the house had the appearance of having been ransacked but not burgled.

#### Recommendations

- That STL review Service Standards regarding securing vacant properties.
- That STL establish clearer criteria for Administrators in relation to securing client's premises. Criteria should take into account family conflict.
- That STL establish clearer criteria for Administrators in relation to the level of detail required in the inventory. Criteria should take into account family conflict.
- That where premises contain valuable items all access be supervised
- That clients and family members be provided with the inventory at an early stage to assist the identification and security of valuable and sentimental possessions. At this stage the inventory may need to be expanded if items are found not to be on the list.

## LEGAL MATTERS

### 5.15 Procedures for Gaining Consent to Legal Matters/Wills

5.15.1 In two investigations I identified significant issues relating to STL procedures for gaining consent/agreement in regard for the administration of deceased estates and in one case relating to giving instructions for and executing a Will.

#### *Case 1*

In May 2001, an 89-year-old woman, who suffered from dementia and lived alone with the support of family and carers, was visited by an STL officer regarding the estate of her nephew, who died intestate. No appointment had been made and she had received no correspondence about the estate. She signed an authority for STL to administer the estate. Following that visit the

STL Officer informed the Wills Department that she wished to make a Will. Arrangements were made for an officer to visit. It appears that no appointment was made for that visit.

Because of a breakdown in the administrative support system, two STL Officers separately visited the woman on two different days in June 2001 to make a Will. This occurred because the first visit had not been recorded in the system. One officer completed instructions for a Will believing that the woman had testamentary capacity. The other officer, who received advice during the visit some days later from the woman's Case Manager that she may not be competent, did not complete a Will. However, he did not pass that advice on to the Wills Department. Consequently the Wills Officer visited on the same day to have her sign the Will made on the last visit. All visits appear to have been quite brief and I was not able to establish that direct questions were asked about a previous Will, an Enduring Power of Attorney or whether carers were involved.

STL responded that the Officer who took instructions for and executed the Will, did not have any doubts as to the woman's testamentary capacity and did not have any information that would have led him to question her capacity. The substance of the Will did not differ from her previous Will except in the appointment of executors, with STL as the substitute executor.

The woman's communications with family and carers over the weeks during which these visits took place indicated a high level of confusion. Her niece, who held an Enduring Power of Attorney for her, became aware that her aunt had made a new Will when the woman received a letter of thanks from STL. When the niece complained to STL she received no explanation of the circumstances of the visit or the fact that errors had occurred. As her aunt is now not competent to make another Will STL state that if at the time of proving the Will there are additional legal costs incurred in obtaining a Grant of Probate as a result of matters surrounding the signing of the Will, STL would be prepared to meet these costs.

## ***Case 2***

STL had represented the complainant's father and held an Enduring Power of Attorney for her mother. She alleged that she and her uncle, who was her mother's executor, reluctantly agreed to have an STL Officer visit her home five days after the death of her mother. Her father had died some weeks previously. She stated that she was not made aware of the purpose of the visit and that neither she nor her uncle understood that if STL administered the estate he would relinquish his role as executor, nor was she informed of the

costs that would be incurred. If she had been aware of the consequences of signing the document she would have sought legal advice and it is most likely that her uncle would not have agreed. She did not receive a copy of the document prior to the visit and was not sent a copy of the signed document. She stated that she was not aware until some months later that her uncle was no longer executor. She also alleged that there was undue delay in finalising the estate which would not have occurred had her uncle remained executor.

STL responded that it would not have pursued its normal procedure to transfer the executorship if the complainant had indicated that she did not wish to continue. Both STL staff who visited were interviewed. They believed that the complainant was aware of the intention of the document and that the visit concluded positively. They also believed that a letter sent to the complainant some time previously advising her of the fees was sufficient to ensure that she was aware that fees would be charged. It was my view that the letter was unclear and did not explain STL charges.

### Recommendations

- That unless circumstances clearly indicate that it is inappropriate, an appointment be made for all visits to a client's home where legal issues are involved and that the appointment be confirmed in writing.
- In regard to a legal document, other than a Will, that the client is notified in writing of the purpose of the visit and of the implications of signing the document including the associated costs, that a copy of the document is provided prior to the appointment, and that the client retains a copy of the signed document.
- That when dealing with elderly persons, unless there is an urgent reason for the Will to be completed in one visit, two visits should be conducted to allow time, if necessary, for STL to consult with the client's solicitor or doctor.
- That Officers responsible for assessing legal competence are provided with the guidelines and training needed in order to ask a client direct questions to establish whether a previous Will had been made, with which solicitor, reasons for making a new Will, whether anyone holds an Enduring Power of Attorney and whether a Case Manager or carer is involved.

## 5.16 Alleged Excessive Legal Fees

5.16.1 I examined three complaints that alleged that legal fees were incurred unnecessarily or that they were excessive in relation to the extent of action

taken. No allegations were substantiated. However I noted that some Represented Persons incurred large legal fees which may possibly have been avoided with more persistent negotiation or by use of alternative dispute resolution processes. I noted the need to balance the responsibility of the Administrator to take legal action to protect the rights of the Represented Person, against the costs of legal action to the estate and the effects on the relationship of the Represented Person with family members. The guidelines prepared by Personal Financial Services for their clients refer to identifying and pursuing any actual or potential legal action as far as it is in the best interests of the Represented Person. There is no reference in the guidelines to alternative methods of dispute resolution or to costs of legal action. Clients reading the brochure would assume, perhaps incorrectly, that costs are covered by STL fees and commission and not charged separately to the Represented Person.

5.16.2 It is my view that where STL believes that legal action may be required the Represented Person and the family, where appropriate, should be made fully aware of the expected costs and possible outcomes, preferably at a personal meeting and that these be confirmed in writing. Further, family members may need to be reminded of the costs associated with direct contact with the solicitor rather than with the Administrator, and of the need to look for other options to settle disputes.

### *Case 1*

The complainant has continued to maintain that STL's action in proceeding with a claim under Part IV of the Administration and Probate Act to increase provision for the Represented Person from her father's Will was unnecessary because the complainant had offered to relinquish part of her share to give the Represented Person an equal share. She maintained that STL could have resolved the matter by informal negotiation and avoided excessive legal costs. STL had a six-month period during which proceedings could be initiated. An examination of STL files confirmed that the complainant's responses to STL were not consistent but that just before the cut-off date she wrote stating that she would be contesting the Testator Family Maintenance (TFM) application. I was satisfied that, under the circumstances of delayed and inconsistent responses from the complainant, STL was not able to resolve the issue of a more equal share of the estate for the Represented Person without an application to the Court. The legal costs for the Represented Person were high.

### **Case 2**

STL sought advice from Counsel on the rights of the Represented Person to gain an increased annuity from a family trust. The trustees at the time were her children. An external legal firm with expertise in the law of trusts was appointed to act for the Represented Person because of the complexity of the case, including the level of conflict between the siblings.

The solicitors advised STL that it would not be in the Represented Person's interests to incur the substantial legal costs that would be entailed in taking Court action if agreement could be reached amongst the trustees. Mediation was attempted. No formal agreement came from the first meeting but there was interest in an agreement to have the Represented Person, on payment of an appropriate amount, relinquish her annuity and entitlement to discretionary benefits and any interest in the trust. Negotiations continued and STL agreed to a sum. Had the agreement been accepted further legal fees may have been avoided. Both complainants were opposed to the proposed settlement and requested a hearing at VCAT. STL was reappointed as Administrator.

One of the siblings, a trustee, took Supreme Court action with the two complainants as defendants to seek sale of real estate by the trust. Immediately following that, one of the complainants also a trustee, initiated an action in the Supreme Court to have the trustees removed. Both actions were settled by mediation. An independent trustees corporation was appointed. The Represented Person's solicitors had monitored her interests during the Supreme Court applications and continued to negotiate with the new trustees over the interpretation of the Will, payment of funds to the Represented Person, and payment of her legal fees by the trust. The costs also reflected frequent contact by family members.

In addition to the Supreme Court actions there were nine VCAT hearings. The solicitor attended some hearings and provided reports for some hearings. I was satisfied that STL as Administrator had a responsibility to pursue the Represented Person's legal rights and attempt to protect her interests. I did not find the costs for the period from September 1998 to October 2001 to be excessive given the number of legal actions and the voluminous correspondence. I found that the allegation of excessive and unnecessary legal fees was not substantiated.

Unfortunately, although the problems with the trust may have been diminished by the appointment of independent trustees the complainants are correct in their claim that the money spent by the Represented Person on legal fees does not appear to have gained her any benefit from her late husband's estate. The refusal by the new trustees to pay any expenses for the Represented Person other than as a loan, meant that she received no benefit from that change.

However, I do not believe that this outcome could have been foreseen as the most likely outcome when proceedings to investigate her entitlements commenced.

### Recommendations

- That the process in place for monitoring legal costs for the Represented Person and reporting issues to the Board of Directors of STL and senior management be reviewed.
- That STL adopt a policy of mediation or other alternative dispute resolution procedures before initiating legal action, and that they promote that policy in their literature.
- That, where appropriate, family members receive written advice regarding any legal action proposed for the Represented Person.
- That the advice covers the expected costs, and anticipated outcome, and advises family members that contact with the Represented Person's solicitor will incur costs to the Represented Person.
- That a process be in place to ensure that Administrators are informed of any costs being incurred by the Represented Person as a result of contact by family members with his or her solicitors which could be more appropriately handled by the Administrator.

## FINANCIAL ISSUES

### 5.17 Personal Allowance

5.17.1 It is fundamental to most people's sense of personal autonomy to have some control over his or her personal funds. The budget of many Represented Persons allows as little as \$5 or \$10 per week for personal spending. Even that small amount of independence is important and I receive a number of enquiries related to personal allowance.

5.17.2 When I commenced my investigations the STL Client Action Plan which guided Administrators in the actions and priorities required to establish administration did not include personal allowance as a category. The Represented Person relied on the Guardian, family or carers to pursue the issue and it could take some time to get results. In the meantime he or she had to rely on friends or family for funds. The Client Action Plan now makes specific reference to the allocation of a personal allowance to the client.

5.17.3 In some cases the complaint relates to delay in initiating a personal allowance. It is my view that the payment of a personal allowance to a

Represented Person should be one of the first actions of the Administrator even if an interim allowance is paid until an appropriate level can be set once the budget is fully established.

5.17.4 The amount allocated to a personal allowance is also linked to the issue of maintaining a balance between savings for the Represented Person and their quality of life. In the case of elderly Represented Persons the need for regular savings, which may only benefit the estate, should be balanced against providing present quality of life.

### *Case 1*

The Represented Person is a 92 year-old woman, born overseas, who has no family in contact and speaks little English. She lives in an aged care hostel and her friend, of the same ethnic background, is her main support. When the initial Administration Order was forwarded to STL in May 2000 the VCAT member requested that STL contact her friend. This was not followed up.

In September 2000 the Hostel Manager contacted STL to seek an increase in fees. After negotiation the Hostel Manager agreed that the fees would be capped at an agreed amount and, in the same letter, requested a small allowance for the client. There is no response to that letter on STL file. STL commenced fee payments to take effect from October 2000.

In November 2000, the Represented Person's friend, at the request of the Hostel Manager, commenced payments to top up the accommodation fees. The Hostel Manager did not inform STL of this arrangement. The friend contacted STL. She was reimbursed for the first two payments for accommodation. However, there is nothing on file to indicate that the STL Client Liaison Officer, who dealt with the friend when she visited STL's office, advised the Administrator of the additional payments for accommodation.

The Administrator prepared a Section 61 report for the VCAT review of the Administration Order in March 2001, which provides the Tribunal with information about the administration. The document stated that no allowance was paid as it was not deemed necessary. No contact was made with the hostel or the Represented Person at the time the report was prepared. The Represented Person's friend raised the matter of personal funds at a further VCAT review in July 2001. She stated that her friend was 'penniless' and that there was no attention to her clothing needs or 'pocket-money'. The Tribunal member requested that STL promptly visit the Represented Person in the presence of her friend and assess her needs and report back to the Tribunal. The Administrator requested the Client Assessment Officer to visit on two occasions, in March and in August 2001, but this was not followed up.

When STL contacted the hostel in June 2002, in response to my contact, they were advised that the company had been put into receivership and an Administrator had been appointed by DHS in July 2001. The Administrator appointed by DHS informed STL that he was not aware of any correspondence with STL over fees and the correspondence was not on the Represented Person's file.

I substantiated allegations of delay in response to the VCAT Tribunal requests, failure to provide personal funds to the Represented Person and failure to properly administer the affairs of the Represented Person regarding payment of hostel fees. STL acknowledged that they failed to maintain necessary contact with the residential facility or with the Represented Person's representative. The Managing Director visited the Represented Person and her friend. She arranged reimbursement and an allowance and for contact to continue.

STL accepted my recommendation to waive its fees for income commission for the period June 2000 to June 2002. In addition STL proposed to waive the income commission for the duration of its administration.

### Recommendations

- That a personal allowance be a high priority on the Client Action Plan with a Service Standard for implementation of an interim allowance of ten working days from the commencement of administration.
- That all requests for action by STL on VCAT Orders be treated as high priority and responded to within three working days.
- That during the preparation of a Section 61 report or other report to VCAT the Administrator contact the Represented Person or carer to check the accuracy of the report.
- That consideration be given to requesting that VCAT provide the VCAT Liaison Officer with a copy of any Order that requests urgent action by an STL Officer so that there is no delay in response.

## 5.18 Financial Statements

5.18.1 Secrecy breeds suspicion. Complainants have interpreted STL's reluctance to provide Financial Statements where these have not been mandated by VCAT as a means of avoiding scrutiny. STL responded, 'Where VCAT determines that it is appropriate to send financial statements or other information to family members or other third parties, it specifically directs STL to do so under the terms of the relevant Administration Order.'

5.18.2 The Auditor-General's sample of files from 1996-2000 showed that STL was only required by VCAT to provide annual financial statements to one out of every five Represented Persons.

5.18.3 I note that where the Orders are silent on this matter STL can exercise discretion. However STL stated that it is bound by a number of obligations in relation to the confidentiality of client information, in particular, the *Privacy Act 1988 (Information Privacy Act 2000)*. It is only permitted to provide information to a third party, irrespective of their relationship to the Represented Person, where such disclosure is explicitly authorised or where it will assist in the performance of the functions of the Administrator or where it is in the client's best interests.

5.18.4 STL stated, 'State Trustees will be liaising with VCAT on the question of disclosure of personal information to third parties, including family members. One possible outcome is that VCAT will make provision in its Orders that the Administrator be permitted to disclose personal information relating to the client (including financial details) to named persons (for example, immediate family members')

5.18.5 In a number of investigations the complainants have stated that they were ignorant of the VCAT process and were not aware that they should have requested that the Order include Directions on the provision of Financial Statements. This may need to be made part of the advice given to Represented Persons and family.

5.18.6 In some cases external scrutiny of Financial Statements has revealed errors that would not otherwise have been corrected.

5.18.7 Complainants have also raised the issue that Financial Plans are not provided within STL's fees and commission but are developed by the Financial Planning Services and charged for separately. The Personal Financial Services brochure lists the services available to STL clients but does not indicate that these are at a cost to the Represented Person. Clients and interested parties should be informed of all costs associated with financial planning.

### ***Case 1***

Administration of the Represented Person's funds commenced in 1977 under the Public Trustees Act 1958. The legislation did not oblige the former Public Trustee to lodge reports with any authority in respect of persons whose financial affairs were under administration. When the legislation changed, STL's first report to VCAT was lodged in October 1996. The Represented

Person was provided with a Financial Statement in September 1999 care of her accommodation facility. Her family did not receive a Financial Statement until a VCAT Order was made dated May 2001.

The complainant alleged that the Represented Person had inherited a large sum of money, but the funds had diminished over the years due to financial mismanagement and there was no external scrutiny of the Represented Person's accounts.

My examination of the file indicated that the sum inherited was considerably less than the complainant thought. For the first 11 years of the administration her capital had grown, due to high interest rates and low accommodation costs. Her funds began to decline in 1989 with a period of three years of steep decline from 1992 to 1995. This was largely as a consequence of a decline in interest rates for the Cash Common Fund and the need to pay for more expensive private accommodation because of the client's special needs.

From 1995 the Administrator actively intervened to control the budget, including renegotiating accommodation fees and consulting with the family on accommodation issues. STL stated that it was the Represented Person's wish to stay in the accommodation which suited her circumstances although it was depleting her funds. By 2001-2002 her budget was almost balanced and will continue to be reviewed and monitored. The provision of Financial Statements will enable family members to assist in this process.

### ***Case 2***

A trust was established for the complainant's daughter, a minor and beneficiary of a Will, in March 1997. The complainant stated that she did not receive any Financial Statements and she feared that the account had not been reviewed in that period. She first requested a statement in August 1999 but did not receive one. In April 2002, after she contacted STL, the Trust Administrator faxed statements to her for 1 July 2000 to 30 June 2001 and 1 July 2002 to 22 April 2002.

STL confirmed that a review conducted in August 1998 showed that a letter supposed to be sent when the file was established in 1997, had not been sent. The file was again reviewed in March 2000, February 2001 and May 2002. The latter review should have been conducted in February that year.

The file examination occasioned by the complaint to me revealed to STL that investments proposed in August 1997 were not made and the funds remained in the Cash Common Fund. Had the parent received the Financial Statement which she requested in August 1999, the error may have been identified at an

earlier stage. At my request, STL considered the possible loss to the estate because of failure to make the proposed investments and arranged for an actuary to calculate the loss of investment earnings occasioned by that error and reimburse the estate.

STL will also reimburse the estate for funds redeemed in error in July 2000. The parent was informed of this error in November 2000. Following my enquiries, STL proposed a meeting with the complainant to discuss the investment of the trust funds and the future conduct of the administration.

STL stated that until July 2000 Financial Statements were only provided upon request to the guardians of minors who were the subject of a testamentary trust. Currently, an annual assessment for each minor's trust is sent to the minor, care of their Guardian. This should assist the Guardian in monitoring the performance of the trust.

### Recommendations

- That STL advise the Ombudsman of the outcome of their liaison with VCAT regarding provision of Financial Statements to nominated parties.
- That literature/brochures advising the Represented Persons and family members of VCAT processes include advice on access to Financial Statements.
- That information on access to Financial Statements be provided to the Represented Persons, family and carers where statements are not presently provided.
- That where access to a Financial Statement is denied the applicant be advised of the rights of appeal.
- That the Represented Person and family be advised of the costs of developing a Financial Plan.

## COMMUNICATION

### 5.19 Consultation with the Represented Person, Family Members/ Carers

5.19.1 Section 49(2) of the Act requires STL to act in the best interests of the Represented Person, in consultation with the Represented Person taking into account, as far as possible his or her wishes. In some cases it is possible to visit the Represented Person and ascertain his or her wishes. When the Represented Person is unable to express a view STL relies on consultation with family members and carers to assist in ascertaining the wishes of the client.

5.19.2 In regard to quality of services the Auditor-General found in 2000 that improvements were required in the communication process between STL and Represented Persons and their families and carers. Initial visits were not always made to clients and regular ongoing contact was not always evident. I note that higher priority has been given to personal visits and more staff appointed for liaison since the Auditor-General's report. Nevertheless allegations of lack of personal contact with the Administrator, difficulty in contacting Administrators and communication difficulties associated with frequent changes of the Administrator continue.

5.19.3 STL responded that additional Client Liaison Officers have been appointed to ensure telephone calls are dealt with more promptly and that a number of additional consultants (the present term for Administrators) were to be recruited to reduce caseloads and improve response times.

### *Case 1*

The complainant alleged that STL failed to take into consideration his mother's wishes regarding the terms of distribution of funds following sale of a family property. She had instructed her solicitor to provide a larger share to her children than the title indicated. The instructions were given prior to STL's appointment as Administrator. When the property was settled STL distributed the funds according to the title. Their commission was based on the larger sum received by their client.

STL acknowledged that their response to the complainant was not consistent, there was delay and poor communication, and the Administrator focused on the legal question and was diverted from the issue of the Represented Person's wishes.

As the Represented Person died during the course of the investigation, the division of the property was no longer an issue. In recognition that the matter could have been better handled, STL made an ex-gratia payment to the complainant of the difference in commission that would have been received had the distribution proceeded according to his mother's instructions. I am satisfied that the complaint was appropriately resolved.

## 5.20 Contact with Administrators including change of Administrators

5.20.1 A number of complainants perceived communication with Administrators as inadequate and believed Administrators lacked skills to deal

with situations of family conflict. They alleged difficulty in contacting Administrators, lack of personal contact, delay in response to telephone calls, frequent changes of Administrator and poor handover of information when Administrators changed, including failure to advise interested parties of the change. In addition, I noted that file notes frequently did not provide sufficient information to establish the grounds for decision or action or to clarify the key issues for an incoming Administrator.

**5.20.2** My investigation has also revealed examples of patience and perseverance in consultation, even when family conflict makes the situation very difficult. There appears to be considerable variation in the communication skills of Administrators, one of the key factors for success in handling situations of conflict. This may be an issue to be addressed by training. I also note that STL have advised that higher priority has been given to personal visits and more staff have been appointed to carry out the Client Contact programs.

**5.20.3** Complaints indicated that a change of Administrator could lead to key issues being overlooked or an increase in frustration for family members because of the need for further explanation of problems. The STL process ensures a change of Administrator after the first 3 months of administration. The Initialisation Officer begins administration of a client's affairs, obtains all primary information relevant to the administration and records it on a Plan of Management (Client Action Plan) and an Initialisation Service Standard Workflow Plan form within the first 3 months. The file is then transferred depending on the address or type of residence of the client. The next Administrator reviews the Plan of Management and the Workflow form and reads the file to gain greater detail of the issues listed on both forms. Complaints indicate that issues may be overlooked at this point. If the client moves to another type of residence the file is transferred to the relevant team and Administrator and a File Transfer Checklist form must be completed. Subsequent changes may occur due to staffing changes. A file may also be transferred to a more senior Administrator if it is identified as highly complex.

### ***Case 1***

The Represented Person was admitted to an aged care hostel and her belongings were to be packed up and removed from her unit. The family, divided into two conflicting groups, could not reach agreement on dividing the personal effects. After a dispute at the mother's unit, the Administrator immediately instructed the contractor to deliver nominated items to the hostel, items of commercial value to the auction house and other items to a charity or the tip. The family were advised by letter of the auction date one week later. This left little time for negotiation. They were not advised of the charity to which items had been

taken and so had no chance to purchase them. I stated that family members should have been given the opportunity to view items and purchase them prior to auction and should have been advised where the other items had been taken. I was critical of the communication with the family and of the level of documentation on file.

The file was managed by an Administrator who was relatively new to the role. In interview she emphasised her role as financial Administrator. A broader set of skills is required when dealing with the level of conflict that this family demonstrated.

Significant information was not communicated at the time of handover of the file from the Initialisation Team to the Hostels Team Administrator. As a result, items belonging to a family member were sold with the property. The complainant alleged that the Administrator did not meet with the family. The Administrator stated it would be unfair to meet with individuals and that she would meet with all three siblings or not at all. I accepted that this was not unreasonable.

The complainant informed the Administrator that she feared her brother would disrupt her mother's visit to her unit. Given her experience by that stage of the level of conflict between family members, the Administrator should have considered attending the property herself or ensuring an STL Officer attended rather than relying on the cleaning contractor who does not appear to have been fully advised. He stated that he was not aware of the threat of disruption until the complainant informed him. There is no record on file of the Administrator's instructions to the cleaner.

An STL Officer met with the Represented Person to attempt to establish her views on the distribution of property but family members were not informed of the outcomes of that meeting. The family received a letter dated 4 January 2002 enclosing the inventory of the property's contents and a letter dated 18 January 2002 advising the family that the unit has been cleared and the date and venue of the auction. The Administrator stated in interview that, had the family requested any items after receiving this letter, the requests would have been considered. There is no suggestion in the letter of any options for the family. It is not a letter that would assist in defusing hostility to STL.

I acknowledged the difficulty of the Administrator's role but stated that there were aspects of communication with the family that could have been handled with more clarity and greater sensitivity. In mid-April, in recognition of the complexity of the case and at the family's request, the file was transferred to a senior and more experienced Administrator. The transfer of files did not occur until the property had been disposed of.

I substantiated the allegation that there had been a lack of opportunity to purchase items prior to the auction and the allegation of poor communication with family members. I also noted that there were deficiencies in the file notes in recording the many contacts by the family.

### ***Case 2***

In another case there was significant family conflict over the division of personal possessions. Because each parent had a separate Administrator, the complainant had to deal with five different Administrators in a ten-month period although STL stated that one senior Administrator retained an overview of both files. Finally both parents' files were managed by that Administrator.

### ***Case 3***

The Represented Person was admitted to a nursing home and did not have sufficient funds to pay the ingoing bond. There was a strong financial case for sale of the real estate and one section of the family agreed to that sale. The complainant who was the major beneficiary of the Will opposed the sale.

The complainant was also the beneficiary under the Will of all the personal effects of the estate but his view about the sale of personal possessions or holding items in trust appeared to have been given no greater consideration than the other siblings who were not beneficiaries. There did not appear to be any consideration given to allowing him to hold the personal effects in trust until his mother died. There were not sufficient file notes to establish the grounds for the decision to sell the majority of personal possessions and there appeared to be little gained financially from the sale of the personal property. There was also evidence of poor communication with the family member most affected.

### **Recommendations**

- That increased priority continue to be given to personal contact with the Represented Persons, family and support persons.
- That where STL is Administrator for two clients with joint assets consideration be given to ensuring that one Administrator is responsible for both files.
- That files be monitored to ensure minimum number of changes of Administrator.

- That the Represented Person, family and carers are advised in writing when the file is taken over by a new Administrator.
- That handover between Administrators specifically highlights the key issues and records issues such as family conflict.
- That Administrators receive training and support for dealing with family conflict.
- That the level of complexity of files continues to be monitored after allocation to ensure that allocation to a more senior Administrator is made at the appropriate time.

## COMPLAINT HANDLING

5.21 Only two allegations were directed at complaint handling. These allegations were not against the Complaints Unit but related to the effectiveness of the Administrator in identifying and responding to complaints.

5.22 I see my office as a place of last resort and it is my general practice to refer complainants in the first instance to STL to give them the opportunity to resolve the complaint. Complainants are invited to again contact my office if they are not satisfied with the response. Where I have seen a number of related complaints or the complaint appears to be an issue directly relevant to system improvement, I may request copies of the response.

5.23 I see this approach as fair because it gives a public body the opportunity to resolve the complaint and to take any action required to prevent further complaints. It is also effective because it encourages the development of efficient complaint handling within the public sector. Analysis of data from complaints and effective complaint handling are two key means of system improvement. However, to make that analysis possible complaints need to be centrally registered.

5.24 I note that when the Auditor-General reported on the system, complainants were encouraged to contact and resolve any complaints directly with the Administrator. This is still the case. I am concerned that this may lead to complaints that have implications for system improvement not coming to the attention of management. It is also not an appropriate policy when the complaint is against the Administrator as was the case in two cases cited.

5.25 The Auditor-General commented in relation to registration of complaints by STL,

‘The full extent of complaints is not reported to management in that complaints raised directly with, and handled by, Administrators are not registered. This inhibits proper assessments of State Trustees’ performance in terms of

minimising the level of justified client complaints and indeed potentially overstates its performance. To provide a more comprehensive picture, consideration needs to be given to registering all client complaints, where possible. This would incorporate developing appropriate criteria, for example non-compliance with services standards, to assist in defining a registrable complaint.<sup>14</sup>

5.26 In one case cited below, which is very recent, the complainant spoke and wrote to the Administrator and to the Team Leader. However the complaint does not appear to have come to the attention of the Complaints Unit until I referred it.

5.27 It is my experience that a complaint is more likely to be quickly resolved if a face-to-face meeting can be held. In one matter, which had involved extensive communications between the complainant and STL officers over a long period of time, I supported STL's proposal to invite the complainant to participate in a mediation on the issues. The mediation was to be chaired by an independent party with a legal background. The complainant would be invited to attend with a professional support person and a personal support person and the costs would be borne by STL. The expense would be justified by comparison with the expense of long-term unresolved complaints.

5.28 In two cases the complainant stated that although he indicated to the Administrator that he wished to make a complaint he was not informed of or referred to the Complaints Unit of STL.

### **Case 1**

I received two complaints where bank accounts had been closed in error. In one complaint, in 2002, an individual with no previous contact with STL had her account closed because of having her name confused with an STL client. I referred the complaint to the Client Relations Officer. The complainant was satisfied with an apology and reimbursement for the bank fee incurred and the matter was quickly resolved. At my request, STL advised me of the change to administrative procedures which resulted.

In the second case, in August 2002, the Administrator stopped a travel allowance to the daughter of an STL client without consultation with her. Consequent to this action, her bank account was closed in error and funds removed. This all happened at a highly emotional time for the family. The client was in hospital and she died soon after.

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<sup>14</sup> *Report of the Auditor-General, Performance Audit Report No 63, p 75.*

The daughter wrote to the Administrator who responded with a letter apologising and reinstating the allowance. However, the response made no reference to closing the bank account and removing funds and provided no explanation. The client's son-in-law became involved and sought explanations from the Consultant and the Team Leader by telephone before the complainant wrote to me. The family were very dissatisfied with the initial handling of the complaint.

I referred the complaint to the Client Relations Officer in September 2002. The Client Relations Officer responded very comprehensively. The response acknowledged the error, apologised and provided all copies of correspondence between STL and the bank as the complainants requested. The Client Relations Officer and a senior manager met with the complainants and provided a detailed explanation of the cause of the error. By this stage the complainants questioned STL's motives and refused to accept any explanation or apology.

The complaint was resolved after more than four months when STL agreed to reimburse legal fees incurred by the complainant for advice sought in relation to the closure of the bank account and another issue associated with STL's administration. The complainants may have become less entrenched in their views had the matter been referred initially to the Complaints Unit.

## *Case 2*

I have previously referred to this case. Although the client suffered no financial loss, an allegation of improper purchase of a car from a Represented Person's estate was substantiated. However, a further aspect of the case was the difficulty the complainant faced in ascertaining the facts of the sale of the car. I believe it provides an example of the problem of attempting to resolve the complaint with the Administrator who caused the complaint.

The complainant believed that the family should have been given the opportunity to purchase the car. In December 2000 the complainant and her sister separately wrote to the Administrator and were informed only that the car had been sold for a nominal amount. The complainant contacted the Client Relations Officer in December 2000 about a number of issues including the manner of disposal of the car. The files record that the Client Relations Officer discussed the complaint with the Administrator and provided a verbal response to the client. That response is not recorded.

Following a report in January 2001 that the car was at the Administrator's home, STL commenced disciplinary proceedings. The Administrator was

found guilty of breaching the STL Code of Conduct.

In a telephone conversation with the Client Relations Officer on 13 March 2001, the complainant sought advice as to who had bought the car. This enquiry was referred to the General Manager, Client Management Services, for response. He advised the complainant verbally on 20 March 2001 that the car had been sold to the cleaner for \$150 on 28 November 2000. This was confirmed by a letter dated 26 April 2001. He did not disclose that the car had shortly after been resold to a family member of the Administrator. This information did not become available to the complainant until after my enquiries commenced.

### *Case 3*

I have previously referred to this complaint about the execution and completion of a Will in 2001 by an elderly woman who suffered from dementia and who was visited on three occasions by STL officers. I found the response from the STL Client Relations Officer to the niece's complaint to be inadequate.

The complainant held an Enduring Power of Attorney for her aunt and was therefore entitled to a full explanation of the circumstances of the three STL visits. There was no acknowledgement that the visits were the result of an administrative error. There was no explanation of the date on which the Will was signed. The response suggested that the STL officer only became aware that there may be problems with her aunt's testamentary capacity after the Will was signed. This was not correct. The STL letter did not reflect the seriousness of the complaint and did not attempt to offer any remedy to the complainant. I note that the complainant stated in interview that a personal meeting may have helped to resolve matters.

### **Recommendations**

- That the Team Leader be advised of any complaint against an Administrator which comes to the attention of the Client Relations Officer.
- That the Team Leader ensure that the Client Relations Officer is informed of any complaints against an Administrator which are not readily resolved or appear to be serious.
- That STL review their processes to ensure that management are aware of systemic problems and issues of system improvement indicated by complaints.

- That all significant client complaints be centrally registered and that criteria be developed for that purpose.
- That Administrators receive further training in complaint resolution and recording of complaints on file.
- That the correspondence from the STL Complaints Unit advise complainants of their right to contact the Ombudsman if not satisfied with the response.

### LIAISON BETWEEN STL AND OPA

5.29 A number of complaints publicly made against STL regarding admission to residential accommodation and retention in accommodation are wrongly attributed to STL. These relate to OPA. The public does not always understand the division of responsibilities between OPA and STL.

5.30 In three investigations I also investigated the actions and decisions of OPA. I made no adverse findings in these cases.

5.31 The Auditor-General commented on overlaps between lifestyle and budget decisions where gaps exist in the overall care of the Represented Person and a Guardian has not been appointed. The report advises that STL seek clarification from VCAT of its legal responsibilities to clients and take a lead role in bringing service providers together and developing agreed protocols for client service co-ordination.<sup>15</sup> Some of the complaints I have investigated highlight the need for improved liaison between OPA and STL to achieve the best outcomes for the Represented Person. STL has advised me that meetings have been held with OPA to improve liaison between the two bodies.

5.32 The Auditor-General commented that the Plan of Management did not generally include an assessment of the adequacy of the living conditions of the client, relative to the accommodation fee paid.<sup>16</sup> Although complainants may allege that the chosen accommodation does not provide value for money, the aged care system does not necessarily allow for this level of flexibility or choice. Value for money, that is standard of services relative to the fee paid, is only one of many factors which must be considered by the family or Guardian within a very narrow parameter of choice. The pressures within the health-care system often mean that there is very little real choice.

5.33 STL has indicated in its response to the Auditor-General's report that it has taken certain steps to address the issue of recording and documenting the standards of accommodation being offered to its clients.<sup>17</sup>

<sup>15</sup> *Report of the Auditor-General, Performance Audit Report No. 63*, p 61.

<sup>16</sup> *Ibid*, section 13.14, p 48.

<sup>17</sup> See Appendix 2.

5.34 The Act allows for any party to apply to VCAT to have a Guardian appointed. It may be appropriate for STL to make such an application if lifestyle decisions, such as accommodation, cannot be resolved. However, I would see a direct application to VCAT by STL as an action which would only be taken after consultation with OPA. In such cases, OPA may advise STL to refer the client to another agency such as the Aged Care Assessment Service and an application to VCAT from such an agency may be an outcome of this referral.

### ***Case 1***

A property inspection was conducted by STL and cash and valuables removed from the unit without informing the Represented Person or family. When the Represented Person visited her home she became very distressed as she believed that she had been robbed and she called the police. Her OPA Guardian had not been informed of the inspection although she had been in touch with the Administrator. The Guardian only became aware of STL's actions when she telephoned the social worker on another matter. STL agreed that the Administrator should have informed the Guardian of the action to be taken.

In the course of the investigation I was informed that liaison between Administrators and Guardians varies, depending on the experience of the Administrator, and that some staff were not fully aware of the Guardian's responsibilities. This was demonstrated when the Administrator forwarded correspondence and cheques to the Guardian for forwarding to the new Administrator when STL's administration ceased. This showed a lack of understanding of the Guardian's role as well as a failure to follow STL's revocation processes.

### ***Case 2***

In two cases, in 1996 and 1999 to which I have previously referred regarding the sale of real estate, the same Administrator lodged an application to VCAT for the appointment of a Guardian for the Represented Person. In 1996 the application was lodged when the Administrator believed the family member might remove the Represented Person from her assisted accommodation. The application was made without consultation with OPA, although OPA was at that time conducting an investigation of STL's administration. The report from OPA to VCAT was critical of the administration of STL. The opinion in that report appeared to be based largely on advice from the complainant, without a full understanding of the negotiations that had taken place between STL and

the complainants. This suggests that liaison between the two bodies was poor at that stage.

In the second case, the family was in conflict and the complainant believed that the Administrator was biased against her. The Administrator lodged an application in 1999 for a Guardian to be appointed for the Represented Person with the support of one section of the family. OPA suggested that the matter could have been handled more sensitively had STL sought their advice about the guardianship issues rather than submitting an application to VCAT. The application by the Administrator confirmed the complainant's view of the Administrator's bias and that she was in collusion with the rest of the family. It may also have increased costs to the Represented Person.

The improved liaison between STL and OPA, which I have been informed is now in place, should make an application by STL for guardianship a very unusual course of action.

#### Recommendations

- That improved liaison continues to be encouraged between OPA and STL to improve outcomes for the Represented Person.
- That training for Administrators include emphasis on working with OPA for the best interests of the Represented Person.
- That any proposed application to VCAT for guardianship be first referred to OPA for consultation.

## SUMMARY OF RECOMMENDATIONS

### 6.1 Sale of the Represented Person's Residence

- That the Administrator consult with family members about the sale of the Represented Person's residence and confirm discussions by correspondence with them.
- That the family be advised that if agreement cannot be reached the matter will be referred to VCAT under Section 55 of the Guardianship and Administration Act 1986.
- That service charges be regularly reviewed to ensure that they compare favourably with equivalent trustee agencies.
- That consideration be given to partial refund of Capital Commission when the administration concludes after a short duration.
- That the Reduction and Waivers of Fees policy include additional circumstances in which a waiver or reduction will be considered.
- That the Represented Person and their family be made aware that an application can be made for the waiver or reduction of fees and charges.
- That training for Administrators addresses the issue of consultation with the Represented Person and their family.

### 6.2 Sale of Personal Property

- That the Administrator consult with family members advising them of all options for sale and disposal of personal property and confirm discussion by correspondence to them.
- That the family be advised that if agreement cannot be reached the matter will be referred to VCAT under Section 55 of the Guardianship and Administration Act.
- That the STL Code of Conduct regarding purchase of property associated with STL administration be extended to staff contracted for services by STL.
- That training of Administrators include dealing with conflict in handling distribution and disposal of personal property.

### 6.3 Distribution of Personal Effects amongst Family Members

- That the Administrator consult with family members advising them of all options for distribution of property and confirm discussion by correspondence to them.
- That in all cases of dispute, the parties be provided with a clear statement in writing of the method proposed to deal with property, the timeline and the consequences of failing to reach agreement and/or meet the timeline.
- That all parties be provided with an inventory indicating the distribution of property amongst interested parties.

#### 6.4 Security and Preservation of Property

- That STL review Service Standards regarding securing vacant properties.
- That STL establish clearer criteria for Administrators in relation to securing client's premises. Criteria should take into account family conflict.
- That STL establish clearer criteria for Administrators in relation to the level of detail required in the inventory. Criteria should take into account family conflict.
- That where premises contain valuable items all access be supervised
- That clients and family members be provided with the inventory at an early stage to assist the identification and security of valuable and sentimental possessions. At this stage the inventory may need to be expanded if items are found not to be on the list.

#### 6.5 Legal Matters

- That unless circumstances clearly indicate that it is inappropriate, an appointment be made for all visits to a client's home where legal issues are involved and that the appointment be confirmed in writing.
- In regard to a legal document, other than a Will, that the client is notified in writing of the purpose of the visit and of the implications of signing the document including the associated costs, that a copy of the document is provided prior to the appointment, and that the client retains a copy of the signed document.
- That when dealing with elderly persons, unless there is an urgent reason for the Will to be completed in one visit, two visits should be conducted to allow time, if necessary, for STL to consult with the client's solicitor or doctor.
- That Officers responsible for assessing legal competence are provided with the guidelines and training needed in order to ask a client direct questions to establish whether a previous Will had been made, with which solicitor, reasons for making a new Will, whether anyone holds an Enduring Power of Attorney and whether a Case Manager or carer is involved.
- That the process in place for monitoring legal costs for the Represented Person and reporting issues to the Board of Directors of STL and senior management be reviewed.
- That STL adopt a policy of mediation or other alternative dispute resolution procedures before initiating legal action, and that they promote that policy in their literature.

- That, where appropriate, family members receive written advice regarding any legal action proposed for the Represented Person.
- That the advice covers the expected costs, and anticipated outcome, and advises family members that contact with the Represented Person's solicitor will incur costs to the Represented Person.
- That a process be in place to ensure that Administrators are informed of any costs being incurred by the Represented Person as a result of contact by family members with his or her solicitors which could be more appropriately handled by the Administrator.

#### 6.6 Financial Issues

- That a personal allowance be a high priority on the Client Action Plan with a Service Standard for implementation of an interim allowance of ten working days from the commencement of administration.
- That all requests for action by STL on VCAT Orders be treated as high priority and responded to within three working days.
- That during the preparation of a Section 61 report or other report to VCAT the Administrator contact the Represented Person or carer to check the accuracy of the report.
- That consideration be given to requesting that VCAT provide the VCAT Liaison Officer with a copy of any Order that requests urgent action by an STL Officer so that there is no delay in response.
- That STL advise the Ombudsman of the outcome of their liaison with VCAT regarding provision of Financial Statements to nominated parties.
- That literature/brochures advising the Represented Persons and family members of VCAT processes include advice on access to Financial Statements.
- That information on access to Financial Statements be provided to the Represented Persons, family and carers where statements are not presently provided.
- That where access to a Financial Statement is denied the applicant be advised of the rights of appeal.
- That the Represented Person and family be advised of the costs of developing a Financial Plan.

#### 6.7 Communication

- That increased priority continue to be given to personal contact with the Represented Persons, family and support persons.

- That where STL is Administrator for two clients with joint assets consideration be given to ensuring that one Administrator is responsible for both files.
- That files be monitored to ensure minimum number of changes of Administrator.
- That the Represented Person, family and carers are advised in writing when the file is taken over by a new Administrator.
- That handover between Administrators specifically highlights the key issues and records issues such as family conflict.
- That Administrators receive training and support for dealing with family conflict.
- That the level of complexity of files continues to be monitored after allocation to ensure that allocation to a more senior Administrator is made at the appropriate time.

#### 6.8 Complaint Handling

- That the Team Leader be advised of any complaint against an Administrator which comes to the attention of the Client Relations Officer.
- That the Team Leader ensure that the Client Relations Officer is informed of any complaints against an Administrator which are not readily resolved or appear to be serious.
- That STL review their processes to ensure that management are aware of systemic problems and issues of system improvement indicated by complaints.
- That all significant client complaints be centrally registered and that criteria be developed for that purpose.
- That Administrators receive further training in complaint resolution and recording of complaints on file.
- That the correspondence from the STL Complaints Unit advise complainants of their right to contact the Ombudsman if not satisfied with the response.

#### 6.9 Liaison between OPA and STL

- That improved liaison continues to be encouraged between OPA and STL to improve outcomes for the Represented Person.
- That training for Administrators include emphasis on working with OPA for the best interests of the Represented Person.
- That any proposed application to VCAT for guardianship be first referred to OPA for consultation.

## CONCLUSION

7.1 The purpose of my investigations is to determine the merits of the individual complaint, identify administrative deficiencies and provide remedies where possible, and promote system improvement. I am satisfied that the present investigations have achieved those objectives.

7.2 The Chairman's advice regarding the unique nature of STL's client base and the challenges of managing the legal and financial affairs of Represented Persons is accepted. I acknowledge the difficulties of the context, particularly where STL has been appointed against the express wishes of the person and in situations of family conflict. Caseloads have been high and the Administrator has a complex role. However, I also acknowledge the genuine frustration and sense of grievance of the complainants.

7.3 The key focus of STL must be on the best interests of the Represented Person. When that conflicts with the interests of family members complaints become inevitable. My report recommends transparency of process and improved communication with all stakeholders but I recognise that must be balanced against STL's responsibility to preserve the privacy and confidentiality of the Represented Person. A significant step in improved communication has already been taken with STL's implementation of a regular client visit program to all Represented Persons.

7.4 I also accept that given that my window into the system is through individual complaints I am not likely to see many cases which run smoothly. On the other hand there may be complaints which never surface unless the Represented Person has an advocate to raise issues. In the investigations completed, only one complainant was himself a Represented Person, with Administration revoked after twelve months. His complaints, that during that period no arrangements were made for a personal allowance, that he was not enabled to manage part of his funds as VCAT ordered and his concerns regarding care of his property were substantiated.

7.5 The number of investigations conducted was not large compared to STL's figures of more than 7,500 Represented Persons and a client base of 15,000, but the rate of substantiation of allegations indicates that many complainants had genuine grievances. There were only two cases where no allegations were substantiated. In the course of the individual investigations STL has demonstrated a willingness to acknowledge administrative deficiencies and provide remedies to complainants. In seven cases STL has made reimbursements or ex-gratia payments and in one case, promised to do so in the event that costs are incurred as a result of their action.

7.6 As my report indicates, STL is subject to a high level of review and regulation. Their response in recent years indicates a very positive approach to system improvement. Nevertheless the complaints I received in 2002 continued

to raise some of the key issues identified in the previous reports. I am satisfied that my investigations have accelerated the rate of change which was already underway in response to the Auditor-General's report and produced a number of administrative improvements which may assist in reducing cause for complaint.

7.7 I note that STL have implemented changes to management, increased staffing levels, developed a specialist Property Services Team which commenced operations in 2003 and significantly broadened the skills base in recruitment and training of staff. These improvements, particularly to recruitment and training, recognise that no matter how efficient the systems in place may be, effective communication and administration will depend on the skills of staff. The need for a broader skills base for Administrators who have a complex and demanding role is being addressed.

7.8 As a result of my investigation the Code of Conduct has been broadened to cover issues raised in my report. I have been advised that staff are encouraged to seek guidance from VCAT where significant decisions are subject to dispute and I strongly encourage that approach. Enhanced procedures are in place to monitor the issues relating to legal action on behalf of clients and to assess alternatives. Litigation, although sometimes necessary, can greatly deplete the Represented Person's resources and I am strongly of the view that other forms of resolution should first be fully explored.

7.9 I note that action has been taken since my initial investigation identified a gap in procedures, to identify provision of a personal allowance as a high priority. This change alone will be very significant to the welfare and dignity of Represented Persons. Further, emphasis on liaison with VCAT to increase access to financial statements, where confidentiality and privacy allow, will enable increased external scrutiny of financial administration and increase community perception of accountability. The STL response also indicates the possibility of greater flexibility regarding aspects of fees and charges.

7.10 In summary, the level of public dissatisfaction expressed in response to the case of Mrs James, although somewhat misdirected, indicated that STL had significant issues of perception and communication to address. My investigations identified gaps between policy and practice in individual cases, some of which could be attributed to the skills and experience of STL staff.

7.11 I am satisfied that STL's co-operation with my investigation and acceptance of recommendations demonstrates their ongoing commitment to improved processes, including recruitment and training for a broader range of skills for dealing with Represented Persons. I will continue to monitor the implementation of my recommendations both through future complaints received and by discussion with the Chair and the Board.

## **SUMMARY OF EVENTS**

On 3 August 2001 an Application for Guardianship and Administration was submitted by a Community Advisor from the Department of Veterans Affairs (DVA) and a social worker from an Aged Care Assessment Service (ACAS) to the VCAT Guardianship List in regard to Mrs James. A hearing date of 24 August 2001 was set. On 21 August a request was made to bring the hearing forward because of concerns that there had been a substantial decline in Mrs James' health.

An emergency hearing of VCAT was held on that date. Mrs James' removal from her home and admission to hospital was authorised by VCAT under a Temporary Guardianship Order to be reviewed on 24 August 2001. An Order under section 26 of the Guardianship and Administration Act enabled Mrs James to be taken by ambulance to hospital on 21 August 2001.

The Guardianship List hearing was held on 24 August 2001 as scheduled and the Public Advocate was appointed as Guardian and STL as Administrator. STL was advised of the appointment on 29 August 2001. At that stage no family had been located.

Mrs James remained in hospital until 20 November 2001 when she was admitted to a high-level care facility, against her expressed wishes. She protested vigorously against the decision that she could not return home and wrote letters to the authorities including the police and to a nephew whom she located. Her case became public when one of her neighbours contacted the local newspaper. The story was then taken up by the Neil Mitchell program and other media.

Mrs James died in the nursing home on 8 May 2002. The death certificate listed the cause of death as cancer.

## **THE COMPLAINTS**

This is an investigation conducted on my own motion. There are no formal complainants, however a number of the persons interviewed have publicly made allegations against the two agencies involved, OPA and STL. Those persons making allegations against STL and OPA include two neighbours, a volunteer assisting Mrs James, and family members. Because of concern for the confidentiality of the Represented Person, I will provide a brief summary only of my reports to STL and OPA on this matter.

### **Media Allegations**

On 12 March 2002 The Independent, a Frankston-based newspaper published a report that stated that an elderly woman was removed from home without relatives or neighbours being informed.

On 15 March, 3AW radio news stated that friends and neighbours of a 93-year-old woman were battling to have her returned home after the local council had her removed to a nursing facility. Kingston Council was accused of using its powers in conjunction with the Guardianship Board and STL to have her forcibly removed and transferred to a nursing home. One of Mrs James' neighbours alleged that because Mrs James did not respond to a letter about the VCAT hearing and did not attend she was removed; that her family mementos were strewn over the floor, that she was not aware that her possessions had been sold and there was nothing to return home to.

On the Neil Mitchell program on 15 March 2002, the removal was referred to as 'an act played out in suburban Melbourne which you would expect to find from the Gestapo in Germany.' On the program, the neighbour stated that Mrs James said that she did not even have time to get her slippers. The neighbour stated that she had evidence that Mrs James was being treated for gout only; no arrangements were made for care of Mrs James' pets and the animals remained in the house until the dog was placed with a family in December. STL had been informed of the existence of family but family were not contacted.

The neighbour asserted that until early March 2002, the house remained in the state in which it had been left. Personal letters were left all over the floor; the lawns had not been mowed and war medals may have been taken by STL. She believed that Mrs James could have remained at home if outside assistance had been offered.

On the same program, Mrs James' nephew stated that he was not informed of his aunt's situation until she wrote to him from a nursing home in mid-January. When he visited she was terribly upset and insisting that he take her home. He was also concerned that his aunt's property was in an auction room waiting to be sold, that he did not have an inventory and that his aunt's house had been left in a terrible mess with items strewn all over the floor.

### **Allegations from Interviews**

The neighbours confirmed the allegations made in the press and added that:

- VCAT did not hear Mrs James' side of the story because she did not attend the Hearing on 24 August. She was advised of the hearing by letter only. This was not sufficient advice.
- Mrs James did not receive access to funds for personal expenses until one to two weeks before she left hospital. This was distressing for her.

- The Guardian insisted that Mrs James attend the VCAT Review on 16 October
- STL failed to care for Mrs James' personal property.

The volunteer confirmed the neighbours' concerns about the state of Mrs James' property after the removalist had been in the house. He stated in interview that he believed that Mrs James would still be alive if she had been left at home. He believed that, rather than removing Mrs James from her own home, more effort should have been made to have doctors call to see her.

One nephew alleged that there was not sufficient effort made to search for relatives and that the house was left in a great mess after the removalists had been in. Another nephew stated that he believed that Mrs James had been taken by force out of the house; that family were not contacted and that STL failed to care for the property.

### **Administrative Action Investigated**

The initial media coverage wrongly identified Kingston Council and STL as the agencies responsible for the decision to remove Mrs James from home. Kingston Council was not involved with Mrs James at the time of her admission to hospital. STL was not involved until after 29 August when it was informed that it had been appointed Administrator. STL received a 'Notification of Administrator' Order on 31 August 2001.

The key decisions relating to Mrs James' placement and subsequent treatment following the VCAT hearing were made by OPA. STL was responsible for decisions and actions about the Represented Person's property and estate, including her home and a holiday house. There was some overlap between OPA and STL regarding issues such as contact with family members and the care of the pets.

In regard to OPA I investigated the following allegations:

1. Unreasonable removal of Mrs James from her home and placement in hospital.
2. Unreasonable failure to find and inform family members.
3. Unreasonable decision not to allow Mrs James to return to her home.

In regard to STL I investigated the following allegations:

1. Unreasonable failure to search for relatives and inform them of Mrs James' situation.
2. Unreasonable failure to inform neighbours of Mrs James' placement and of action relating to Mrs James' property.

3. Unreasonable failure to make appropriate arrangements for Mrs James' pets.
4. Unreasonable delay in securing Mrs James' property and possessions.
5. Failure to take proper care of Mrs James' property and possessions including items of personal value.
6. Unreasonable delay in cleaning the property.
7. Delay in providing a personal allowance to Mrs James.

## SCOPE OF INVESTIGATION

In the course of the investigation my Investigation Officers conducted personal interviews with:

- Two neighbours
- The volunteer who assisted Mrs James from June 2000
- Two nephews and one nephew's wife
- Mrs James' friend
- The former Community Advisor, DVA
- The social worker at an Aged Care Assessment Service (ACAS)
- The geriatrician from the ACAS
- Two Guardians from OPA including the Guardian appointed for Mrs James
- The Director of the nursing home
- The hospital social worker
- The personal carer, from a carers agency
- Two general practitioners who had attended Mrs James in the community
- The general practitioner who attended the nursing home
- Mrs James' solicitor
- Two Administrators, STL
- Two Property Inspectors from the Property Inspection company contracted by STL
- The manager of the cleaning company contracted by STL
- The supervisor of the removalist firm contracted by STL

Telephone interviews were conducted with:

- The Area Captain, Legacy
- The legatee assigned to assist Mrs James
- The Community Services Manager, Kingston City Council

Telephone enquiries were made to Moorabbin Sexual Offences and Child Abuse Unit (SOCA) formerly Community Policing Squad.

The following key documents were examined:

- Report to VCAT Guardianship List, 24 August 2001
- Report to VCAT Guardianship List, 15 October 2001

Reports were received from: OPA, STL, Kingston City Council, a Community Health Service, Department of Veterans Affairs (DVA) and Chelsea Police.

Files were examined from: OPA, STL, the Royal District Nursing Service, the Nursing Home, the Home Care Service, two Aged Care Services and the Hospital.

## **BACKGROUND**

The application to the VCAT Guardianship List on 3 August 2001 was made by two workers who had significant involvement with Mrs James over a number of years. Two assessments had been completed by the geriatrician from the Aged Care Assessment Service.

Concerns about Mrs James' situation were publicly disputed by two of Mrs James' neighbours and a volunteer, who had started to assist Mrs James in about June 2000. They stated that she was frail but in reasonable health, mentally alert, able to cope with the tasks of daily living and supported by a network of helpful neighbours. They disputed that there were significant health problems or major concerns for hygiene and safety in her living conditions. They presented a picture of an independent, competent elderly woman whose health deteriorated as a result of her admission to hospital and later to a nursing home.

### **State of Home and Acceptance of Services**

My investigation showed almost unanimous agreement amongst the service providers, volunteers and professionals that Mrs James' living conditions had been unhygienic and unsafe over a number of years.

In regard to whether Mrs James would accept services to support her staying at home a DVA report indicates that Mrs James refused a Community Home Care Package and Linkages services in 1999 and 2000. Her involvement with general practitioners was sporadic. I was informed of numerous examples of attempts by DVA to arrange services over the years. DVA funded a personal carer once a week commencing March 2001. She could do little cleaning because of the state of the house and the lack of facilities, but she could monitor Mrs James' welfare. A legatee provided practical help and personal support and Legacy provided financial assistance to Mrs James over 17 years.

The Aged Care Assessment Service is not a case management agency. It usually assesses people in the community or in hospital following a referral. However, it had far greater involvement with Mrs James because of the number of referrals.

Kingston Council provided a report outlining its involvement with Mrs James from 1996 to February 2001. This report demonstrates that Mrs James regularly declined services offered, or used them only for very brief periods.

Mrs James was in contact with a social worker from a Community Health Service commencing in 1995. His report indicates that Mrs James declined offers of support services and was unwilling to pay for any services although she was requesting assistance. He saw little evidence of support by anyone other than the volunteer.

The Royal District Nursing Service was referred to Mrs James in May 1999 and again in June 2001. She was willing to accept visits from the service but not care.

Chelsea Police reported that Mrs James would call the police station and ask for assistance with small tasks. She informed the Senior Constable that the Council came to clean her house.

### **Medical History and Acceptance of Medical Services**

It has been stated in the media that Mrs James did not have serious health problems. One paper stated that she only had gout. There can be no doubt from interviews and examination of documents including the medical file from the hospital and a report from a specialist, that this information is not correct.

### **Admission to Hospital**

An application for Guardianship and Administration was due to be heard by VCAT on 24 August 2001. On 21 August, the Community Advisor from DVA spoke to Mrs James' personal carer, who had visited her that day. The personal carer was very concerned that Mrs James had deteriorated badly. She informed the Community Advisor that she believed that Mrs James was in need of urgent medical attention.

I have considered the evidence of the volunteer assisting Mrs James who disputed this opinion. I accept the evidence provided by the personal carer including contemporaneous case notes. The Community Advisor accepted this advice and faxed a letter to VCAT requesting that the hearing be brought forward because of a substantial decline in Mrs James' health and concerns about her safety due to her weakened state.

The Order gave the Guardian authority to take emergency action; in this case to remove Mrs James from her home and have her admitted to hospital against her expressed wishes. An OPA Duty Worker, with the authority of VCAT, and after

being briefed by the Senior Guardian, decided that Mrs James should be admitted to hospital that evening. The decision was based on the written communication and verbal advice of one of the applicants and upon information on file. The Duty Worker accepted that Mrs James was in urgent need of treatment.

### **Circumstances of Removal from Home**

The OPA Duty Worker arranged for the Community Advisor, who knew Mrs James well, to meet the ambulance at the house at about 7 pm. The Community Advisor stated that she knocked on Mrs James' bedroom window and said that she was coming in. She entered by the unlocked back door and by that time Mrs James was leaning against her bedroom door. She explained to Mrs James that she wanted to take her to hospital because she was concerned about her health.

Mrs James did not want to leave the house because of her pets. Two ambulance officers, one male and one female, escorted her to the verandah, took her gently down the steps and put her on the trolley. The trolley was not brought onto the verandah because the flooring was unsafe.

The Metropolitan Ambulance Service notes record that the ambulance officers met the Community Advisor and entry was obtained through the unlocked back door. The patient was dehydrated. The Community Advisor stated Mrs James' slippers were left behind as they were not in an hygienic state.

OPA stated that the Emergency Department at the hospital agreed to take Mrs James on medical grounds. There is no evidence that she was refused admission because she was not in need of acute care as has been alleged. An examination of hospital files fully confirms the advice from OPA.

### **ROLE OF OPA**

The VCAT hearing of 24 August 2001 appointed a Guardian for health care, accommodation and access to services. The Guardian was guided in her decisions by OPA policy, 'Accommodation Decision Making.' This policy requires that the Guardian listen to and take account of the Represented Person's expressed wishes but states, 'The Guardian may make a decision contrary to these expressed wishes if the guardian believes this would be in the best interest of the Represented Person and would optimise their welfare.' The policy requires that the Guardian ensure that appropriate assessments are undertaken, accommodation options investigated and that the accommodation is appropriate and able to be afforded by the client.

The Guardian had responsibility to decide whether Mrs James could return home, clearly her expressed wish. The evidence on file and from interviews indicates that while Mrs James was in hospital the Guardian continued to actively consider

this possibility despite the fact that a decision was reached by the treatment team within ten days of her being in hospital that high-level care was required. Advice was sought from appropriate professionals. A number of options were explored and no final decision was made until February 2002. Even after that date, the possibility of Mrs James leaving the nursing home and family members or others providing appropriate care was considered.

On 16 October 2001 the VCAT review considered an application by Mrs James and supported by a neighbour and the volunteer to have Guardianship and Administration revoked. The Tribunal considered the Guardian's report, a number of medical and nursing reports, the Home Assessment report, the Property Inspector's report and a letter from the social worker. No alternative medical reports were offered to the Tribunal by the applicants. The Guardianship and Administration were confirmed.

The clinical notes show that the Guardian and the social worker informed Mrs James on 23 October that a recommendation had been made for high-level care and suggested that she visit nursing homes with the social worker. She refused. There are a number of entries on file which indicate that Mrs James was told that she would be going to a nursing home including a note on 20 November confirming she was told that she was going to the nursing home that day.

Mrs James was admitted to a nursing home on 20 November 2001. From her arrival she strongly resisted being there. The files indicate that nursing home staff dealt compassionately with an extremely difficult situation and that there was some support amongst staff for her wish to return home. The neighbour stated to the media that a staff member provided her with a letter prepared in December 2001 by the doctor attending Mrs James in the nursing home which indicated that she was fit to return home.

The doctor was interviewed. He stated that he received a telephone request from STL on 11 December for advice on whether Mrs James could return home. This request appears to have stemmed from STL's Procedures for Management of Assets that state, 'If it is known that the client's absence from the property is not temporary a letter should be sent to the client's treating doctor seeking confirmation that the client is not to return to the property and also asking if the client can offer a rational comment on the future management of the property and the furniture/contents.'

In this case, where a Guardian had been appointed it would have been appropriate for the contact to be made with the Guardian. However the doctor was not aware of this at the time and he thought that he was obliged to provide a report. The letter dated 17 December 2001 was written in the very early stages of his contact with Mrs James before he had a medical history from the hospital and before he had contact with the Guardian. He stated that Mrs James came across

very well initially and some staff believed she should not be kept against her wishes. She was also very difficult for staff to deal with.

He wrote: ‘ The Nursing Sisters feel that she would be able to cope at home with adequate services in place...My assessment is that before she can return permanently to her home she must be able to demonstrate that she can cope in a safe and hygienic manner when alone at home.’

He proposed that she return home on a trial basis with support services from Royal District Nursing Service, Meals on Wheels and home help and in contact with services once per day, an emergency alarm, an involved general practitioner and if ‘the house is deemed to be a safe and hygienic environment. All of the above was discussed in detail with her and she is in agreement with it.’

He stated that by early January he realised that she could not go home. Other options were considered by the Guardian including Mrs James living with family, once the family was located. Family members confirmed that they initially considered applying for guardianship and administration but did not proceed out of consideration for their relationship with her. They accepted that she was well looked after in the nursing home.

The daughter of a friend of Mrs James visited after 15 March 2002, and offered to care for her at her home. The Guardian asked for a care plan to be provided and the offer did not proceed.

The neighbour stated that there was a network of support amongst neighbours who would support Mrs James if she returned home. The volunteer had been assisting her since June 2000. Some improvement in the physical surroundings were noted by workers over that period.

The Guardian also had to take into account concerns that had been expressed to her about the vulnerability of Mrs James to financial exploitation. My investigation covered this matter

## **INVESTIGATION OF ALLEGATIONS AGAINST STL**

### **Failure to Inform the Neighbours**

The volunteer was informed of Mrs James’ admission to hospital at about 7 pm on 21 August 2001, just after she left for hospital. He states that he informed the neighbour, who had been away at the time of the admission, two to three days later. There was no requirement for OPA or STL to inform neighbours of Mrs James’ admission to hospital. Both agencies are required to observe the confidentiality of the Represented Person. This can conflict with the wishes of friends and neighbours to have more information and involvement.

### **Failure to Search for relatives**

STL advised, 'There are no procedures directing Administrators to contact a Represented Person's family for the sake of making contact. To some extent such contact could be in breach of the Privacy Act.' However they noted that most procedures in their procedure manual required that family be contacted before making a final decision. They include, 'Whether the family is contacted or not will depend upon whether the Represented Person's family is known, the nature of the relationship between the Represented Person and family members and the nature of the decision to be made on behalf of the Represented Person.'

Mrs James would not provide any information about family members to the agencies involved. This has been confirmed in interview by the Community Advisor, the hospital social worker, the Guardian, the Administrator and other professionals involved. Mrs James told the Community Advisor that she did not wish to have anything to do with family members. The STL response stated, 'On 12 October 2001 State Trustees Client Assessment Officer, together with the social worker visited Mrs James in hospital and she denied having any family.'

The general practitioners who visited her did not have any details of family members. The legatee who visited for 17 years had not heard any mention of family. In a letter to her lawyer Mrs James mentioned a sister who died but did not inform him of any other family.

No family member had visited her recently. Both nephews stated that they had telephoned Mrs James, one in January 2001 and one in July 2001. One nephew had not seen Mrs James for six years and one for four years.

The volunteer was aware that there was at least one nephew. At one stage he had his telephone number. The nephew rang in January 2001 and told his aunt he was coming for a visit. The following day the volunteer rang him and said that their aunt did not want them to visit as she was too sick for visitors. The nephew rang back. The volunteer said that he was Mrs James' carer and that there was no need to worry about her. A note on the STL file confirms that the volunteer told the Administrator in April 2002 about that telephone call.

The Guardian stated that the volunteer did not provide any information about family members, and the application to VCAT on 16 October 2001, which was supported by the volunteer and the neighbour, stated that there was no known family. The volunteer stated to my Investigation Officers that at that stage he had forgotten about the nephew's call. In interview he recalled that Mrs James had given him the name and the suburb and he found the number in the telephone book.

The Guardian was advised on 12 September by another neighbour, that Mrs James had two nephews, but she stated that she did not know names or contact details. STL stated that a neighbour informed them on 10 December that there were two nephews but she did not know names or contact details.

The volunteer stated that he managed to trace the other nephew through the electoral roll after Mrs James provided his full name. She asked him to find her nephew because she had been told it might assist in having her returned home from the Nursing Home. Mrs James wrote to her nephew in early December. Not long after that the volunteer contacted the nephew and he visited his aunt at the Nursing Home. The Guardian was informed that a nephew had visited Mrs James on 20 December and the nephew contacted the Guardian on 31 January 2002.

From that point the Guardian consulted closely with the family including a meeting with family, neighbours and Mrs James' friend at OPA on 26 April 2002. Family members appeared to be satisfied with the outcome of that meeting. This was in contrast to the neighbours and the friend who continued to strongly dispute the actions taken.

The nephew contacted STL on 28 February 2002. STL consulted closely with the family once they were located, including a meeting with family members on 22 April 2002. A report of that meeting indicates that they discussed the involvement of STL, why relatives had not been informed and the state of the property. They also agreed that both properties would need to be sold and agreed that it would not be in Mrs James' best interests to tell her at that point. The nephew informed my Investigation Officer that the meeting ended amicably.

## **ALLEGATIONS RELATING TO SECURITY AND CARE OF PROPERTY**

### **Property Inspection**

STL guidelines, 'Management of Assets - Real Estate' requires the Administrator 'to arrange for a property inspection to determine the physical state of the property and to prepare an inventory of contents and to remove legal documents, where appropriate'.

The request for property inspection was made on 6 September 2001. The form stated "Urgent request". The property inspection was conducted, condition report and inventory of contents completed and locks changed on 10 September 2001 by the firm usually engaged by STL. Two Property Inspectors attended the property.

One Property Inspector described the premises as filthy but not disordered although he stated that there were many items with no commercial value and a lot

of debris, paperwork and papers on the floor, table and on top of cupboards. The surroundings were not well kept. The other Inspector described the house as in an appalling condition, cluttered and dirty.

One of the Property Inspectors stated that he rang the STL Administrator to inform her that a dog was on the premises. He described the process followed. An inventory report and property report is completed and a search is conducted for documents such as a Will, original title, share certificates and items of value. Drawers and cupboards are opened. The Property Inspector stated that if they know that the person is likely to return home they take more care about the state in which they leave the property.

He recalled finding a title in the front bedroom where the dog was. He stated that they do not collect letters and photographs unless requested by STL or a family member, but note them on the inventory. One of the reasons they work in pairs is in case money is found. In this case an amount of cash was recorded.

I questioned the completeness of the search and the state of security of the property. When the Guardian visited the house on 1 October 2001 with Mrs James, the Guardian found a passbook with a current balance and a ring in a carry bag on the bed which she delivered to STL that day. The STL Administrator stopped the account in early September and it was not used while Mrs James was in hospital. Further, when a staff member from the nursing home went to Mrs James' house on 6 February 2002 with an STL representative to collect clothes for Mrs James, she reported that the front door was open and they found a Veterans Affairs gold card and a taxi card plainly in view.

The Property Inspector explained that they are not able to find everything of value in the house because they do not empty the house. The removalists come in next and send relevant items into STL, if they find them. The locks had been changed and they left the front and back door locked but it was not possible to secure the pet door, which was big enough for a child to fit through. I note that a neighbour stated that a child gained access to the vacant house on one occasion through the pet door to open the front door. The Property Inspectors' report also shows that there were no locks on the windows.

The property inspection took one to one and a half hours. The property report stated, 'the dwelling is fit only for demolition and is unrentable in its present condition'.

Mrs James went to her house for an occupational therapy assessment on 1 October 2001. The nursing notes on her return to hospital state, 'Patient very annoyed saying that people had messed up her house'.

A Chelsea police member, who responded to Mrs James' letter to the police when she was in the nursing home, visited the house on 22 January 2002. The police member wrote, 'On arriving at the residence I observed that the grass in the front yard was very overgrown. I looked through the windows and the home appeared to me to be very untidy. There were papers scattered around the house. The carport area had boxes and papers scattered around it. The house in general looked like it required attention to the inside and outside'.

### **Removal of Property**

STL procedures 'House Contents to be Sold', state, 'The Property Inspector under the Administrator's written instructions shall supervise the removal of items from the client's house to the auction house'. The Property Inspector identified the items of commercial value six months prior to the removal of the contents and provided an inventory, but was not present when the house was cleared.

The house was cleared on 26 February 2002 between 12.30 and 4.30 pm by a team from the auction house that does most of this work for STL. STL and the Guardian received telephone calls from neighbours and a nephew about the clearing of the house on 28 February.

The supervisor of the team stated that STL now requires photographs to be taken before and after removals. If the house is in a particularly poor state the supervisor reports that to the STL contact person by telephone. In some cases the cleaners now work alongside the removalists rather than coming in after the removalists. These requirements were not in place when Mrs James' property was cleared.

When arranging the removalists, STL instructs the supervisor whether goods are to be stored or sold. Removalists take the saleable goods only. Goods of no commercial or other value may be piled in a corner of the room to be taken to the tip when the cleaners come. The supervisor stated that there were signs that the Property Inspectors had searched Mrs James' house, for example some papers were out of the drawers. In his opinion Mrs James' house was unliveable. No cleaning took place when the removalists were there.

The supervisor responded to the statements made on the Neil Mitchell program by 'Gary', one of the cleaners employed by STL, who stated that all the furniture was taken to the tip, including musical instruments and music books. He agreed that a number of the items referred to by 'Gary' were left to be thrown out. The refrigerator was cracked inside and the seal damaged; the TV was an old black and white model and wardrobes and second hand clothes are not commercially valuable. However, musical instruments and sheet music were not taken to the tip as 'Gary' stated. The supervisor showed my Investigation Officer the

inventory of sold items which included a violin, banjo, mandolin, organ, guitar, French piano, piano accordion and sheet music, and the price the items achieved at auction.

He confirmed that it is the job of the Property Inspectors to find paper work, but stated that not everything will be found during the inspection. Any wills, titles or bank books left behind after the first search, are held by the removalist for STL and sent in by courier once they hold a number of items. The supervisor notifies STL if they find anything such as share certificates, citizenship papers, passports or jewellery.

The removalists must pull things out of cupboards to see what may be hidden there. Valuables that the Property Inspectors did not initially see may be found in this way. Where chests of drawers are to be sent to the auction rooms, they need to empty the contents out of the drawers. In this case the contents were put in a pile on the floor. He stated that there was nowhere to put them other than on the floor. If the place is tidy when they come in they will leave it that way, but they do not clean. He agreed that papers could be put in a box or bag and they would do that if requested, but stated that would increase the time spent and the cost to the estate.

War medals were found and put in one of the two boxes of photographs which were kept at the auction room to send to STL. STL was notified that they were there and would be sent in. He stressed that war medals are not sold at auction when they are found in houses in this way. They would only be sold at auction if brought in specifically for sale, for example by a private collector. They belong in the category of items held until delivered to STL. On 28 February there was a phone message from the Administrator to hold any trophies found in boxes. (These were later found to be in the holiday house.)

The inventory shows that a box of photographs was delivered to STL. Further, a number of items not on the Property Inspectors' Inventory, including two boxes of sheet music, were recorded for sale.

The STL Administrator confirmed that STL does not check the property after removalists have been in. STL rely on employing professional and experienced people who receive instructions and report back to them. The Administrator stated that the fact that there are three stages, property inspection, removal of furniture and cleaning provides some safeguards.

The complaints about the state of the interior of the house were made by neighbours after the removalists had been in.

### **Cleaning**

The manager of the cleaning company was employed by STL in late January 2002. He was informed that the owner of the property was in a nursing home. He mowed lawns and took out rubbish over a period of four days commencing on 29 January 2002.

The STL Administrator stated that she arranged regular maintenance of the gardens and lawn in January 2002. The manager stated that he believed that the arrangement was that he would be requested to clean as required. Over the whole period he only arranged for the lawns to be cut twice, the second time about three weeks after the first.

The STL Administrator stated that it is STL policy to respond to neighbours' complaints about a property. In this case there were no complaints about the state of the property until March 2002. The Property Inspection report prepared in September 2001 stated, 'the surrounding land is badly overgrown at both front and rear with debris strewn around'. A Fire Hazard notice from the Council was complied with in December.

The evidence indicates that the property had been in a very poor state for many years and the Property Inspector's report stated that the house was fit for demolition only. The Administrator could be reasonably confident that it was not deteriorating because of lack of maintenance.

STL stated that the Administrator gave the manager verbal instructions to clean the interior of the house on 4 March. The manager stated that he was instructed to put aside any photographs or documents, but everything else was to go to the tip. STL procedures stated: 'Any items remaining after all items of value have been taken by family/friends or presented at public auction may be disposed of by being taken to the tip or donated to charity'.

The manager inspected the property on 7 March 2002 and stated that he was shocked by the place. It looked different from when he had previously looked inside the house. In January 2001 he did not have a key to the house, but he saw the interior which he described as 'filthy but pretty orderly'.

It was his view that the house had been 'trashed' and this appeared to have happened in the last couple of days. He stated that he rang the Administrator that day and told her that the place was in a shocking state with papers all over the place. She told him to clean it out. STL notes state that he advised that, 'the house was filthy and the carpet will need to be removed as well'.

He commenced cleaning the property on 12 March 2002. He stated that there were signs of a search and documents and rubbish were strewn about. In the sunroom where the piano had been, all the drawers of a chest had been pulled out

and emptied on the floor. There was a pile of unframed photos on the floor which he put into a box in the corner of the room for the real estate agent to collect. He stated that there were bags of knitting, sewing and wool thrown around.

He put items such old chairs, a fridge, a metal table and wardrobes on the nature strip with a sign indicating that they were free. Some items including clothes were taken to a charity. In regard to the claim that musical instruments were taken to the tip, he found recorders which he sent to the tip because of concerns about hygiene and a violin with the neck broken, which he also told his workers to take to the tip.

Three neighbours called during the time he was at the house. One lady took some chairs from the nature strip and asked him where he was from and what he was doing. He told her to telephone STL. She stated that she did not approve of what STL had done to Mrs James and said that there had been people taking things out of the place. He stated that she showed him photographs with the piano in the house and asked where it had gone.

He told the STL Administrator that he had been shown photographs of the interior and she asked if he could change the lock on the front door as the photographs indicated that access to the house was possible. When he went back to change the lock two weeks later the agent had sent someone in to do it. Once all the rubbish was gone he mowed the lawns again, cleaned up around the place, fixed the fence and posted the mail to STL.

In interview, the cleaner stated that he was convinced that the disorder in the interior of the house had occurred after he had spent time at the property in January and February.

### **Care of Pets**

Mrs James did not have to ring the volunteer from the hospital to arrange for the pets to be fed. He confirmed that a woman rang him about 7 pm on 21 August and told him that Mrs James had been taken to hospital. He could not recall her name. The Community Advisor stated that she rang the volunteer and he had agreed to take care of the animals.

OPA response indicates that technically pets are part of the estate and therefore the responsibility of the Administrator. 'Having said that, consistent with promoting the rights and best interests of people with a disability, and mindful of how important the bond and relationship between a Represented Person and their pets can be, a Guardian's decision does take into account the issue of pet care'.

The Guardian confirmed that she discussed the issue with the Community Advisor on 23 August and it was agreed that the volunteer would be asked to care for the pets. When she later contacted STL she was told the pets were not their responsibility and she took on making arrangements by default.

STL informed me that, 'There is no procedure regarding the care of clients' pets. There are Standard Forms that may bring to light the existence of pets. The manner in which pets are to be cared for will vary in each different case'.

The volunteer stated that he rang STL to say that he would feed the animals and send receipts with the social worker. STL stated that they contacted the volunteer on 5 September 2001 and arranged to reimburse him for caring for the animals. This arrangement continued for three months. The social worker at the hospital confirmed that she forwarded the receipts. The volunteer confirmed that he received reimbursement. He had no complaint about the arrangements for the animals.

It was the Guardian's view that since the pets were being looked after and the plan was for Mrs James to return home if possible, there was initially no reason to move the pets. She stated that the volunteer was very definite that he was looking after the animals. There were also issues about where the animals should go if they were moved because they wanted Mrs James to have access to the dog.

On 11 September the Guardian received a phone call from the social worker at the hospital to say that the volunteer was still feeding the pets. The Guardian asked a neighbour to check with the local veterinarian for someone to take the animals, but allow them to maintain contact with Mrs James. She stated that the easiest thing would have been to immediately put them in a kennel or cattery, but because the neighbours were keen to be involved she was trying to explore the possibility of maintaining the animals without taking them away. There is a note on file that the neighbour who was most involved in the complaint told the social worker not to move the animals because there would be an appeal to the Guardianship List. This referred to the annual review in 2002.

The Guardian became aware on 19 November that the pets were still not placed and gave authority for the neighbour's mother to take the dog on 23 November 2001. The neighbour brought the dog to visit Mrs James at the hospital and took it weekly to the nursing home for a period of time. The Director of Nursing confirmed that the dog would remain there for the day.

STL stated the arrangements with the volunteer were formally confirmed in a letter dated 8 October. 'During this time it was not clear whether Mrs James would be able to return home and so temporary arrangements were appropriate'. The volunteer confirmed that once a neighbour's mother took the dog on 23

November, he informed STL that he would not keep travelling to the house to feed the cats. Neighbours fed the cats.

The STL Administrator spoke to a neighbour on 10 December 2001 about permanent arrangements for the cats. She stated that she contacted a number of organisations without success. File notes and the neighbour confirm these actions. On 21 February 2002 boarding arrangements were made with a cattery.

STL was criticised for the delay in making payment to the neighbour's mother who was not reimbursed for her expenses for the dog until 20 March 2002. STL stated that they contacted the minder about the need to forward receipts for expenditure for the upkeep of the dog on 10 December 2001. Reminders were given on 11 February and 15 and 17 March 2002. On 20 March 2002 STL sent a cheque for \$551.50 for her estimated expenditure on the dog.

There was public criticism of the fact that the pets were left alone in the house with a neighbour calling to feed them for a period of about three months. I note that the volunteer who looked after the animals had been doing so for some time previously and the evidence indicates that the animals lived inside, with access to a dog door, while Mrs James was at home. While this was not an ideal situation, it was explained by the fact that there was the possibility that Mrs James would return home. For that reason the animals were not immediately placed outside the home.

I informed STL that there was a need to clarify the responsibilities of both agencies regarding to pets since pets are frequently central to the lives of elderly people. I note that STL's Individual Management Plan, which is to be completed by Administrators, now has a category for 'pets'.

### **Delay in providing personal funds to Mrs James**

The Guardian and the hospital social worker stated that delay in providing personal funds to Mrs James while she was in hospital upset her and reinforced her belief that her money had been taken away from her.

The STL response stated, 'The first documented call on the file requesting money for Mrs James was on 5 October 2001 from the social worker from the hospital. On this day, a withdrawal slip and fax were sent by State Trustees to the Operations Centre, Commonwealth Bank...State Trustees requested that the cheque be forwarded directly to the Finance Department of the Hospital. Unfortunately this cheque was not drawn by the bank until 22 October 2001'. I note that this response fails to take into account an earlier documented request for funds and a response by the Administrator.

The Administrator stated that she received notification of Mrs James' current bank account on 16 September 2001. The STL file includes an e-mail dated 19 September to the Administrator from a Client Liaison Officer that records a call from the hospital asking for an allowance to be set up for Mrs James. A handwritten note on the e-mail states, 'Arranged payment of \$100'. The Administrator confirmed that she set up a payment of \$100 for Mrs James on 20 September. She was advised on that day that it could not go through as there were insufficient funds in the account. The documents on file indicate that these actions were taken.

The Administrator explained that it is usual practice to establish an overdraft account for Represented Persons prior to pensions or other funds coming through. The Administrator put \$550 in Mrs James' account but this had been used to pay bills by 20 September when she had attempted to have a cheque sent to the hospital. She could not recall why she did not increase the overdraft or access the funds in Mrs James' pass book account, rather than waiting for the DVA pension to come through, but she went on sick leave for three to four weeks in September-October so she may have gone on leave before doing so. The file was left for the team of six members to deal with. DVA transferred the pension to STL on 17 October.

On 18 September the Guardian's running sheet records a call to the Administrator, about organising an allowance. On 19 September the running sheet records a phone call from the social worker at the hospital saying that she has organised an allowance for Mrs James.

On 9 October the Guardian recorded a phone call from the social worker to say that the money had not come through. On the same day the nurse manager of Mrs James' ward rang the Guardian and said that Mrs James was '*Accusatory re money and being prevented from accessing her funds*'. On that day the Guardian recorded a phone call with an STL staff member who stated that when the Administrator returned to work a visit would be arranged with Mrs James to 'sort out' the financial situation. The Guardian asked the staff member to liaise with the hospital social worker.

The Guardian recorded a visit to the hospital, 22 October 2001, '*Issue re obtaining money persists*'. The notes state that she telephoned the Administrator on 22 October and requested urgent attention to Mrs James' access to funds. She was advised it would be fixed that day.

On 26 October a call from a neighbour is recorded, 'She [Mrs James] feels she has been cut off from her friends and doesn't have any cash. I advised her to contact State Trustees re having a small amount of cash on her'. On 30 October she was advised by the social worker that the money had come through.

The Administrator referred to a note on file by a team member made while the Administrator was on leave, recording a request from the social worker on 5 October for \$50 per fortnight for Mrs James. The social worker sent a fax to STL on 22 October stating that funds had not yet been received. STL sent a fax to the bank requesting that they send a cheque for \$100 to the hospital. The bank responded to the fax of 5 October on 22 October and stated that the funds would be sent.

There were a number of factors that resulted in Mrs James being in hospital for three months before she received an allowance. The Administrator attempted to send an allowance on 20 September, but did not follow up with further action when it was returned, despite the fact that there were funds available. She then went on sick leave. The bank did not respond to the 5 October fax until 22 October. Although there was contact by the Guardian on 9 October, the Administrator to whom she spoke did not seem to be aware of the contact with the bank. There was no reminder to the bank. The next request from the social worker was on the date of the bank's response.

I noted that the Client Action Plan at the time of the complaint had no section for arranging a personal allowance for the client. This gave the impression that it was not a priority.

## **CONCLUSION**

After a thorough investigation of the background to this case, in particular the medical history, the history of refusal of services and the circumstances in which Mrs James was living, including the support available from neighbours and friends, I am satisfied that OPA had reasonable grounds for seeking to have Mrs James admitted to hospital on 21 August 2001 and for subsequently deciding that she was unable to return home.

Although the decisions by OPA were made against the Represented Person's expressed wishes, I am satisfied that they were consistent with the legislation and made in accordance with OPA policy after careful consideration of the facts, with the advice of professionals at every step and with the best interests of the Represented Person in mind. My investigation indicates that from a relatively early stage the medical advice was that Mrs James required high-level care. However, the Guardian investigated a number of options over several months to explore whether Mrs James could have received this care in her own home, as she so clearly wished to do, and found that this was not possible.

I also note that the VCAT Tribunal reviewed the decision and confirmed the appointment of OPA as Guardian and STL as Administrator on 16 October 2001.

In regard to the alleged failure to find and inform family members, my investigation indicates clearly that Mrs James did not provide any information about family members to either of the agencies involved when this was requested. Nor had she provided this information to any of the services or medical providers with whom she had been involved over the years. She had told the Community Advisor that she did not want contact with family. There was no recent history of family involvement. It would therefore be reasonable to assume that she did not want family members involved.

Further, neither STL nor OPA was given the name of family members by the persons who have raised this allegation and no information was given to the VCAT review on 16 October 2001.

In regard to the alleged unreasonable failure by STL to inform neighbours of Mrs James' placement and of action regarding Mrs James' property, I am satisfied that the volunteer was informed on the evening that she was removed and he advised the neighbours soon after. STL is obliged to preserve the confidentiality of its clients. Once family was located they consulted with family members, but there was no requirement that they consult with or advise neighbours on the decisions taken about Mrs James' property.

In regard to the alleged unreasonable failure by STL to make appropriate arrangements for Mrs James' pets, the initial arrangements for the pets were made by the Community Advisor, DVA, after discussion with OPA and were formalised by STL once they took over administration. Leaving the pets in the house with a neighbour caring for them for three months was not ideal, but was motivated by not wanting to disturb the animals until it was decided whether Mrs James would return home. I do not believe this allegation has been substantiated. STL has now acknowledged the importance of arrangements for pets for clients by including it as a category on the Individual Management Plan.

In regard to the alleged unreasonable delay in securing Mrs James' property and possessions, STL commenced administration on 31 August 2001 and the STL Administrator made an urgent application for a property inspection on 6 September. This was carried out on 10 September and the property was searched and secured on that date. Although subsequent events might question the thoroughness of the search for significant items, some of which turned up in the property later, the issue is complicated by the fact that the volunteer had legal access to the house when he was feeding the animals until 10 September. It is also likely that others had access to the property after the locks were changed. My Investigation Officers were informed that access was gained to the property through the dog door on at least one occasion. As I cannot say with any certainty that the house was not entered between 10 September and 26 February when the property was cleared, I am not able to conclude that items found later in the house were there when the Property Inspectors attended and were overlooked.

However, I am concerned at the period of time between notification of appointment and action to secure the property by changing locks. Once STL is informed of their appointment, vacated residential property should be secured immediately. In this case a handwritten note from the VCAT member was attached to the advice of the appointment of STL as Administrator on 29 August to inform the STL Administrator that the house was unsecured and that two pets were being fed by a volunteer. This should have served as an instruction for an immediate check on the property by an STL Officer, even if the formal property inspection and valuation could not be arranged until later. STL Service Standards require that an urgent property inspection be conducted within three business days. The property inspection and securing of the property did not occur until 10 September 2001, some eight business days after notice of the Order. I believe that this complaint has been substantiated.

In regard to the alleged failure to take proper care of Mrs James' property and possessions, including items of personal value, the major allegation was that the removalists 'trashed the house' when they cleared it of saleable furniture. Witnesses refer to drawers being tipped out and items including correspondence and other papers, covering the floor. Neighbours showed my Investigation Officers items of personal correspondence dating from World War 1 and 2 which they claim were on the floor.

The evidence indicates that the house was in a very bad state before the removalists attended on 26 February 2002. A police member refers to papers scattered around inside the house in January 2002. However, one Property Inspector described it as filthy but ordered. A similar description was given by the cleaner who saw it in February prior to the work of the removalists. After the removalists had been the cleaner described papers, documents and photographs all over the place and stated that it could have been treated with more respect.

I note that the neighbours who were able to look into the house did not complain about the house after the Property Inspectors attended. Mrs James, who went there on 1 October, complained that people had 'messed up' her house. The photographs taken by the Property Inspectors in September show surfaces of cupboards covered with objects but do not show papers scattered all over the floor.

The removalist stated that drawers were tipped out and items piled on the floor because there was nowhere else to leave them. Because the removalists do not clean properties, the house was left in that state until the cleaner came in on 12 March 2002. It seems most likely that the mess reported by the neighbours, the volunteer and a nephew, and confirmed by the cleaner, was caused by the removalists as they took out items for sale.

I do not think it is satisfactory to leave papers, photographs, clothes and other items in piles on the floor. Although I realise it may add to the cost to put these items in boxes or bags, I think it would be fulfilling the responsibility of STL to, 'take possession and care of, recover, collect, preserve and administer the property and estate of the Represented Person'. I further note that this complaint may have been avoided if STL had followed its stated policy of having the Property Inspectors, under the Administrator's written instructions, supervising the removal of items to the auction house. It was my view that this allegation was in part established.

Another aspect of this complaint was that valuable items, including musical instruments and music books, were taken to the tip. The inventory of goods sold at auction shows that a number of musical instruments and books were sold and the cleaner confirmed that nothing of value was taken to the tip.

A further complaint was that war medals were taken to the auction rooms and would have been sold if the nephew had not contacted STL on 28 February. I am satisfied that war medals and photographs were collected, taken back to the auction rooms to be forwarded to STL as is the usual practice, and that there was no intention to sell these items.

In regard to alleged unreasonable delay in cleaning the property, neighbours alleged that no lawns were mowed and that nothing was done at all from the time of Mrs James' removal until February - March.

I accept that the property was in a very poor condition when it came under administration and that no complaints were made about the property, other than by the Council, until March 2002. However, the Property Inspectors' report on 10 September 2001 stated that the surrounding land was badly overgrown with debris strewn around. STL has a duty to take care of the property of the Represented Person and would be expected to do so more effectively than the Represented Person. It appears that no action was taken to maintain the property until STL was informed that Mrs James would not be returning home. There was then an expectation that the property would be sold. It is my view that the Administrator should have responded promptly to the Property Inspectors' report, by making arrangements for the exterior of the property to be kept in order. This allegation was substantiated.

I also note that the files were not always adequate. The STL response stated that the removalists attended on 28 February. The supervisor clarified that the removal took place on 26 February. Similarly the cleaning of the property did not commence on 7 March as stated by STL but on 12 March.

In regard to delay in providing a personal allowance to the Represented Person, Mrs James was in hospital for three months before she received a personal

allowance. The Hospital Social Worker and the Guardian stated that this caused her great distress and there is evidence on file to support this view.

It is also significant that arranging a personal allowance was not specifically identified on the Client Action Plan, despite the fact that access to personal funds is an issue of most importance to most Represented Persons. It should not depend on reminders from the Guardian, social workers or family members, but should be a normal part of the process of administration. This allegation was substantiated.

## STL RESPONSE TO REPORT

“I wish to address your comments in relation to the administrative actions listed as items 4,5,6 and 7 in your letter and will outline these below in the order they are raised in the report and in the Conclusion, which appears on pages 22-26 of your report.

Most of the recommendations to which you refer have been addressed as part of an internal review of practices and procedures undertaken by State Trustees before the commencement of your investigation and are now formally incorporated into State Trustees’ mode of operation.

As outlined to you in June a new centralised approach has been adopted with the establishment of an independent property services team to monitor service provider and related issues, including complaints and contractual obligations. This is part of a new management process to ensure the specific requirements of customers are being more fully met as part of the overall service provision.

State Trustees is currently appointing the first of two full-time Property Facilitators to ensure the provision of a professional consulting and client relation service in respect to clients’ real and personal property. This involves making sure the needs of all stakeholders are satisfied and may involve helping to resolve family disputes in relation to the disposal of property.

I have also attached for your reference a copy of the Initialisation Form –SPFD (Statement of Personal and Financial Details), which is completed for clients at the commencement of the administration process. You will note that two key areas of concern are now specifically addressed – pets and a personal allowance for clients.

The Plan of Management (Client Action Plan) form completed following the initial three-month period of administration, now also makes specific reference to the allocation of a personal allowance for the client, should this be a requirement determined for the client. A copy is also provided for your reference.

Overall, State Trustees has developed and implemented a number of initiatives covering various allegations raised by your office regarding the James’ case. We are committed to further enhancing these initiatives to ensure all our clients receive a high level of quality service.

In Mrs James’ case, following receipt of the Order, State Trustees, in accordance with procedure, requested a title search be made on the property. This task was completed within three working days.

To familiarise you with the property inspection process, when State Trustees is formally notified by VCAT of its appointment, a title search is conducted to

confirm the asset belongs to the Represented Person. This search normally takes up to three days. Once this information is obtained, the personal financial consultant notifies the property inspector who will then locate any keys to the property, attend the property and prepare an inventory of contents. Once the initial inspection is conducted it is the property inspectors' role to ensure the property is properly secured.

This procedure is carried out in the metropolitan area within ten working days of notification, and is generally performed within 8.5 days according to data maintained by the Property section. Indeed, almost 40 per cent of property inspections are conducted within five days in the metropolitan areas. This figure does not include those 'urgent' cases attended to in less than three days.

For your reference, to ensure the actions taken are carried out more expediently and efficiently, the process is now being co-ordinated centrally through the Property Services team and will be further enhanced by the soon-to-be appointed Property Facilitators who will co-ordinate all aspects of this service provision.

It is acknowledged that Mrs James' personal items such as papers, clothes and photographs could have been left in a tidier state. Procedures have now been put in place to remedy this. In the future, items removed from drawers, shelves and so on will be packed appropriately.

As part of a review of service provision in this area, an expanded property team now centrally co-ordinates condition reports from auction rooms and condition reports from property inspectors and valuers, and is responsible for the asset registry covering real estate, personal effects and motor vehicles.

The process for managing the property of individual clients involves a number of key steps:

- A request is made for a property inspection and the inspection is conducted within a specified period. The property inspector is responsible for preparing a report on the condition of the property and an inventory of contents, and for immediately ensuring the property is made secure.
- Following this, property client relations staff arrange to visit the property with the client, family and/or friends to go through items listed on the inventory and mark those to be sold, transferred or held in trust. If there is no client involvement or there are no family or friends to call upon, this task will be carried out on behalf of the client with the assistance of a social worker, nursing home representative and/or the court appointed guardian.
- Property client relations staff will determine which items will be held by State Trustees in Safe Custody and what items will be taken to a charitable

organisation or disposed of appropriately. Personal items such as war medals, photos and letters will be always set aside and kept for the client.

- Recommendations are then made regarding the sale, storage or cleaning requirements. Suppliers contracted for cleaning and maintenance are now advised electronically in an approved format, to ensure more effective record keeping and management of property related services.

The overall process will be even more carefully monitored with the appointment of the first of two Property Facilitators within the next few weeks.

In addition, State Trustees has commenced a tender for property cleaning services for clients throughout Victoria. The tender is being conducted in accordance with the Victorian Government Guidelines for Tendering. A key requirement is for specified service standards to be met and a specification checklist to be completed.

#### **Administrative Action No. 6: Cleaning of the Represented Person's property**

In this instance, State Trustees acknowledges there was a breakdown in our service standards caused in part by communication issues and the prolonged illness of the Administrator involved during the initial phase of Mrs James' administration. As a result of this initial oversight appropriate action was not instigated in a timely manner in relation to the mowing of the lawns.

State Trustees co-ordinates the cleaning of property and specifies the urgency and priority of the cleaning job following advice received by the property inspector or the auction house that has cleared the property.

This task is now being centrally co-ordinated to ensure it is carried out in the most efficient manner and in accordance with specified performance standards. The future appointment of the first of two property facilitators will further streamline delivery of this task and enhance the quality of service provision.

#### **Administrative Action No. 7: Personal allowance to the Represented Person**

In terms of the provision of a personal allowance for Mrs James, State Trustees was outside its service standard in organising a personal allowance for Mrs James, largely due to circumstances at the time involving the prolonged illness of the individual Administrator. As a result, the necessary follow-through needed to ensure the allowance was accessible by Mrs James was not carried out.

Procedures have now been put in place to ensure the provision of a personal allowance for Represented Persons continues to be given a high priority in the management of a client's financial affairs.

A section has been added to the Initialisation Form – SPFD (Statement of Personal and Financial Details) which is completed for each client at the start of the administration process. The form ensures all appropriate administrative actions are identified and recorded at the commencement of an Administration Order. A section is also included in the client's Plan of Management (Client Action Plan) which is completed following the three-month initialisation period.

As part of a case management review, the Personal Financial Solutions (PFS) division at State Trustees has been restructured this year so that staff caseloads are better managed when individual Personal Financial Consultants are on sick or recreational leave. As part of this process two additional managers have been appointed to oversee the PFS division on an ongoing basis.

State Trustees has also invested in information systems enhancements that record more detailed information for monitoring and managing the financial and legal affairs of a client. Issues clearly recorded include 'hot notes' alerting personal financial consultants and managers to significant issues such as financial plan status, client budgets and the status of any legal issues.

### **Care of pets**

As an additional matter, we note your concerns regarding the care of pets. Arrangements for the care of pets as part of managing the financial affairs of the elderly care are a priority. In dealing with this, State Trustees has incorporated a specific section on "Pets" in its Initialisation Form – SPFD (Statement of Personal and Financial Details) for clients prepared at the commencement of the Administration Order.

In addition, the Property File form completed for all properties managed by State Trustees includes a section on "Animals" to ensure clients' pets are being taken care of until a decision is made regarding their future. A copy is attached for your reference. Together, these standard procedures will further enhance the quality of service provided by State Trustees to its clients.

The Property Facilitators will ensure clients' pets are cared for properly, as part of their role in overseeing a range of property-related services for the client.

In addition, State Trustees and the Office of the Public Advocate will be meeting to establish more formal guidelines for advising State Trustees about the existence of pets early in the administration process. As highlighted in the case of Mrs James the appointment of a guardian usually precedes the appointment of an Administrator and arrangements for pets can require early intervention.

Dr Perry  
The Ombudsman Victoria  
Level 22  
459 Collins Street  
Melbourne Vic 3000

Mr Clive Hall  
Chairman  
State Trustees Ltd  
  
28 March 2003

Dear Dr Perry

**Re: Draft Report of Investigations of Complaints against State Trustees Limited (STL)**

Thank you for the opportunity to comment on your draft report dated 11 March 2003 into the Investigation of complaints against STL. We note your advice that the final report will be tabled in Parliament on 29 April 2003.

Before addressing a number of your specific recommendations, we would like to make a few general observations that we believe are very important to the overall outcome of the investigations and provide some clarity to the context of the matters being investigated.

### Background

#### Complexity and Diversity of Client Base

It is important to understand the unique nature of our client base and the challenges associated with managing the legal and financial affairs of Represented Persons. In a large number of cases, STL is appointed by the Victorian Civil and Administrative Tribunal (VCAT) as administrator against the client's express wishes, and in some cases, also against the wishes of the client's immediate family. To compound these issues, there sometimes is a range of family conflicts which further complicates our relationship with the client. Very often they are in a poor financial position receiving only a disability pension and are unable to live independently.

This vulnerable group in the community has a number of competing financial and lifestyle demands which must be balanced with our legislative duty to work in the best interests of the client and in a means which is the least restrictive of a person's freedom of decision.

#### Investigations Context

In summary you have undertaken an investigation into 18 clients' cases which have occurred over a number of years. This is out of approximately 7,500 Represented Person clients and from an overall active client base in excess of 15,000.

The majority of allegations in these investigations were not substantiated. More importantly, with respect to the initial case (referred to as the "James" case in your report), the most damning allegations were proved unsubstantiated and in fact, should not have been attributed to STL in the first instance at all, as highlighted in your report.

We should also not forget that this case should never have been discussed in the public domain to protect this person's privacy, their right to confidentiality and their personal dignity. Some of the comments made in the media at the time were ill founded, inflammatory and distressing for those closely involved in the care of this client.

### Level of Regulation

As you have noted throughout your report, STL has already been the subject of a number of studies, namely the Auditor-General (May 2000), Allens Benchmarking (August 2001), KPMG (1998), Auditor General, Managing Risk Across the Public Sector (March 2003) internal Cap Gemini Ernst & Young reviews, as well as standard internal and external audit overviews. This would make us one of the more overviewed/regulated Government Business Enterprises. We have always regarded these reviews in a positive light and used them in a co-ordinated continuous improvement program to achieve sustained systemic improvements.

### Ongoing Program of Improvement

As a result of the number of reviews as outlined above, we have undertaken a number of initiatives throughout the past few years. This has been acknowledged in the Auditor-General's review in May 2000 and confirmed in our response in June 2002.

### Changes to Management

Over the last 18 months there has been a new Managing Director appointed, Ms Elizabeth Kucera (Lomas), as well as significant change to the Senior Management team. These changes have continued to help re-direct the organisation to a more service-orientated ethos where "Every Customer is Number 1".

This management team has initiated a series of service and operational improvements, a number of which you have noted in your report. We are

already well advanced in implementing these changes to STL'S systems and processes.

### Detailed Response to Recommendations

We would like to now comment on your specific recommendations regarding improvements/changes to STL's procedures and policies.

#### Property (Residences and Personal Property)

We acknowledge that the thrust of your recommendations is for greater transparency of process through improved communications with the client and other entitled stakeholders.

In respect of this direction, we have already implemented a number of initiatives. These include:

- **Property Services Team**

The creation of this specialist team recognised the skills required by STL in this complex area to respond rapidly and sensitively to property related issues.

We investigated thoroughly the type of experience required by members of the team, the processes and procedures that should be established, and undertook a comprehensive recruitment program to ensure we employed the right people. Specifically, one of the property facilitators has extensive experience in the police force where he was heavily involved in dealing with family conflicts, attending properties of deceased estates and general security and community issues. The other property facilitator is tertiary qualified in Social Work with significant experience in the areas of child protection and disadvantaged children. He has also worked extensively with voluntary and statutory clients, the homeless, mental health, grief and disability issues. Particular skills include mediation, family counselling, conflict resolution and risk assessment. This team is now in place and operating effectively.

The types of services this team provides are:

- Attending to urgent securing of client residences;
- Removal and safe storage of personal property and valuables;
- Retrieval and safe accommodation for family pets;
- On site representation of STL in property matters;

- Advice on and mediation in family conflict situations involving personal property and client residences;
- Spot checks on service providers;

Given the potential impact of property-related issues on service and satisfaction levels, STL believes that the establishment of this team is one of the key enhancements. The sensitivity of property issues (both residence and personal property) can be seen by the number of allegations raised by complainants on this topic.

- **VCAT Process**

We have also encouraged our consultants to avail themselves more frequently of the various remedies available through VCAT Section 55 applications. This is helping STL achieve a better level of fairness surrounding decisions regarding client residences and personal property. It also allows stakeholders the opportunity to formally register their wishes independently of STL.

- **Code of Conduct**

Our Code of Conduct for staff and suppliers with respect to property-related issues and all other areas has been strengthened to more clearly articulate what is acceptable behaviour, and the more severe consequences of not acting in line with the revised code.

As you have also noted in your report, a significant number of the cases that you have investigated have involved some level of family conflict. Family conflict, how so ever caused, always places STL in a difficult situation. Increasing the level of consultation will sometimes create situations, where the level of intensity of the family conflict leads to STL suffering accusations of bias and favouritism and of unnecessarily delaying actions and responses. We shall continue to improve the level of consultation and manage through the conflict issues as they arise.

Within the context of improving our level of consultation and information provision with respect to property-related issues, and whilst we are supportive of improving the transparency of process, we at all times must abide by our Privacy Act responsibilities and more importantly, the confidentiality provisions of our own State Trustees legislation (section 17). A desire for increased consultation may in certain cases put us completely in conflict with our privacy and confidentiality responsibilities. It is important that when these

conflicts arise we apprise stakeholders of the remedies available to them through the VCAT process. STL will not under any circumstances compromise our clients' privacy and confidentiality and will always act in our clients' best interests. This will inevitably put us in conflict with stakeholders from time to time.

### Legal Matters

Your recommendations regarding improving the awareness of clients in understanding documentation they are asked to sign, and also the legal options of litigation/mediation and their subsequent cost is noted.

To strengthen the process surrounding initiating legal cases on behalf of our clients, we have now implemented a policy whereby all potential cases must firstly be referred to our "in house" legal team to assist in a comprehensive assessment as to the suitability of proceeding. This will ensure that appropriately qualified legal people overview the case and thoroughly assess all practical alternatives covering litigation, mediation etc.

The "in-house" legal team is also providing training to consultants to help them better and more quickly identify and refer/evaluate potential legal issues arising from their relationship with their clients.

With respect to giving advance notice in writing of appointments, whilst desirable, it is in most cases impractical because of client demands. Most clients expect and should rightly receive immediate response to requests for appointments (24-hour turnaround in most cases). We will however, always ensure that the client, when contacted by telephone, always understands the nature of the appointment.

We have already implemented a policy of giving clients a copy of the estate authority document for their own records. A checklist of activities for each client visit will also be implemented which the client will be asked to sign to verify that they have received a copy of their authority document, had the implications of signing it explained to them and also received a breakdown of costs associated with signing it.

The privacy and family conflict issues as outlined in our comments under the Property section are again relevant. We need to exercise a higher level of care in this instance because legal action involving our client is in some cases instigated by family members or STL may be required to instigate legal action on behalf of a client against a family member. It is important again that the clients' family members are apprised of the options available to them through the VCAT process where relevant.

## Financial Issues

We note the recommendations around the provision of personal allowances to clients and the provision of financial information to stakeholders.

In relation to allowances, we have already strengthened our internal processes to acknowledge the importance of continuing a client's access to funds. Personal allowances are now activated within ten working days of notification to STL of its involvement. Meeting this service standard can sometimes mean that STL funds the allowance by way of an advance because we have been unable to properly identify all the client's assets and income streams. STL is continuing to work with VCAT to improve the timeliness of VCAT's notification procedures.

STL will bring to the attention of VCAT via the Section 61 reviews the need to consider the provision of financial statements to stakeholders who currently do not receive financial statements. This will ensure VCAT gets the opportunity to properly consider information requests. However, it is important to remember that the reason for STL'S involvement in the clients' affairs may be because of abuse by a family member.

STL provides financial statements to all stakeholders authorised by the VCAT Order, however it is important that where stakeholders have requested access to copies of financial statements and are not nominated on the VCAT Order, they are encouraged to apply directly to VCAT.

The overriding issues of client privacy and family conflict are again relevant when considering greater levels of consultation around financial and legal decisions for our clients and information provision.

## Communication

We acknowledge your recommendations and advise that all communications recommendations have been implemented. To further strengthen our improved communication focus, we have also implemented a regular and structured client visit program for all Represented Person clients throughout all of Victoria.

The number of consultants in the Represented Persons division is in the process of being increased by 15 consultants (37%). This will facilitate a lower average consultant caseload, allow each consultant more time per client, and lead to increased levels of client communication. We have thoroughly reviewed the desired skill sets and competencies required of a person to be a Represented Persons consultant and have incorporated these into our recruitment process. There have also been additional support staff appointed

and we have put in place an experienced management team. A new General Manager now also heads the division.

Establishment of a specific Represented Persons group within the Call Centre has allowed STL to more expeditiously and sensitively handle the more routine queries from clients, their carers and other stakeholders. As well as improving the level of service to our Represented Person clients, it has also allowed our consultants to better focus on the more complex and value-added activities of the client relationship with STL.

STL has designed a comprehensive induction program for all new Represented Person consultants so that they are trained well in advance of being asked to manage any relationship with clients.

### Complaint Handling

STL regards the proper operation of a complaint handling process as one of the key elements to improving our levels of customer service. In the past 12 months, we have developed a number of initiatives in this area and they are as follows:

- As you note, we are trialing an integrated complaints handling system which will enable the centralised monitoring of complaints and help STL identify any systemic improvements. We envisage all staff will use this system and for the Client Relations Officer to be responsible for monitoring and reporting on this to management. This will enable Management to respond and address any systemic issues.
- The creation in March 2002 of a Client Concerns Panel comprising members of the senior management group which can now review complaints, act as an advisory body and identify and approve remedial courses of action as appropriate.

The Client Concerns Panel can also provide input and analysis on systemic issues.

- A referral process within the Represented Persons division. This enables the consultant to raise customer issues directly with team leaders and managers to improve the quality and timeliness of resolution for the customer.

We support the recommendation that we need to increase the level of customer awareness regarding their options for complaint resolution.

## Office of the Public Advocate (OPA)

STL has already met with representatives of OPA to discuss its relationship, in particular frequency of meetings and the provision of training by both parties. STL and OPA are both aware of the favourable impact that a strong working relationship will have in providing “best practice services” to Represented Persons.

Discussions with OPA will include a more structured system in seeking their advice on STL’s involvement in any proposed guardianship application to VCAT. Details of the outcome of these discussions will be provided to the Ombudsman in due course.

## Fees and Charges

Your report makes a number of comments with regards to STL fees and charges. Please note, that as a matter of course, we will review our fees on a regular basis. As you have noted in your report, a recent review resulted in a 20% reduction in the rate of capital commission charged to Represented Persons. We will continue to review this issue, with particular regard to clients for whom STL has acted for a period of less than three years, to ensure that we have the most equitable charging process possible.

It should also be noted that most charges are below what we are entitled to charge under the relevant legislation. Areas in which reduced charges are received include the capital commissions, fees on pension incomes and a significant number of fee waivers that are in place for clients with minimal assets. Also, as you highlight in your report, the Auditor General found in his review that in the area of income collection commission, STL’s service charges did compare favourably with the other four states included in his comparison.

## General/Other Issues

STL has made a significant number of changes in the past 18 months to continue to improve overall customer service. Apart from those already noted within this report, some other overall enhancements are as follows:

- A new senior management team with a broad range of skills;
- A cultural change program that includes a vision “to be known for outstanding service to our customers”;
- Service level agreements being implemented across the organisation to improve support services;

- A review by Cap Gemini Ernst & Young of the processes and procedures of the Division. This review raised a number of process improvements that have since been, or are in the process of being implemented;
- Improved risk management procedures to better deal with issues as they arise. These improvements were positively viewed in a report which was recently completed by the Auditor General (Managing Risk Across the Public Sector - March 2003) and tabled in Parliament.

All of these initiatives are a clear indication of STL's commitment to service improvement.

### Conclusion

In summary, we support your recommendations, most of which have already been implemented. This, along with many other improvements which we have previously undertaken, will significantly enhance the overall service STL can provide to its diverse and complex range of clients.

Yours sincerely



Clive Hall  
Chairman  
State Trustees Limited

Ombudsman's Recommendation	Agree & Implemented	Agree & to be Implemented	Agree (Different Action Recommended)	Action
<b>6.1 Sale of the Represented Person's Residence</b>				
<ul style="list-style-type: none"> <li>Consult with family members</li> <li>Confirm discussions with correspondence</li> <li>Family be advised that if agreement cannot be reached the application will be made to VCAT under S.55</li> <li>Service charges be regularly reviewed</li> <li>Partial refund of Capital Commission in cases of short duration</li> <li>Include additional circumstances in which a fee waiver or reduction will be considered</li> <li>Represented Persons and their families be made aware of existence of fee waivers</li> <li>Training for Administrators to address consultation with the Represented Person and family</li> </ul>	<ul style="list-style-type: none"> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> </ul>	<ul style="list-style-type: none"> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> </ul>	<ul style="list-style-type: none"> <li>Recommendation implemented (Subject to Privacy)</li> <li>Recommendation implemented</li> <li>STL charges are reviewed on a 12 monthly basis</li> <li>STLs capital commission is currently the subject of a separate review</li> <li>STL managers have wide discretion as to circumstances in which they can waive fees and commissions</li> <li>A clients ability to negotiate STL fees will be provided at the commencement of STLs administration</li> <li>Appropriate training has been scheduled</li> </ul>	
<b>6.2 Sale of Personal Property</b>				
<ul style="list-style-type: none"> <li>STL to consult with family members re all options for personal property and confirm by correspondence</li> <li>Matter to be referred to VCAT under Section 55 if agreement cannot be reached.</li> </ul>	<ul style="list-style-type: none"> <li>✓</li> <li>✓</li> </ul>	<ul style="list-style-type: none"> <li>✓</li> <li>✓</li> </ul>	<ul style="list-style-type: none"> <li>Recommendation implemented (Subject to Privacy)</li> <li>Recommendation implemented</li> </ul>	

Ombudsman's Recommendation	Agree & Implemented	Agree & to be Implemented	Agree (Different Action Recommended)	Action
<ul style="list-style-type: none"> <li>Code of Conduct re purchase of property be extended to external service providers</li> </ul>	✓			Recommendation implemented
<ul style="list-style-type: none"> <li>Training of Administrators on conflict re handling disposal of personal property</li> </ul>	✓			Appropriate training has been scheduled
<b>6.3 Distribution of Personal Effects Among Family Members</b>				
<ul style="list-style-type: none"> <li>Consult with family members</li> <li>Confirm discussion by telephone</li> </ul>	✓			Recommendation implemented (Subject to Privacy)
<ul style="list-style-type: none"> <li>In cases of dispute parties be provided with a statement in writing of method proposed and timelines</li> </ul>	✓			Recommendation implemented (Subject to Privacy)
<ul style="list-style-type: none"> <li>All parties be provided with an inventory indicating the distribution of property</li> </ul>	✓			STL procedures have been updated to specify provision of inventory (Subject to Privacy)
<b>6.4 Security and Preservation of Property</b>				
<ul style="list-style-type: none"> <li>STL reviews Service Standards of securing vacant properties</li> </ul>	✓			Recommendation implemented
<ul style="list-style-type: none"> <li>STL establishes clearer criteria to secure client's premises including family conflict</li> </ul>	✓			STL will use Property Facilitators wherever possible and seek advice from VCAT
<ul style="list-style-type: none"> <li>STL establishes clearer criteria as to detail required in the inventory including family conflict</li> </ul>	✓			Meetings scheduled with Property Inspectors to highlight importance of detail required on inventories

Ombudsman's Recommendation	Agree & Implemented	Agree & to be Implemented	Agree (Different Action Recommended)	Action
<ul style="list-style-type: none"> <li>Where premises contain valuable items all access be supervised</li> </ul>	✓			STLs procedures have been strengthened to incorporate supervised access
<ul style="list-style-type: none"> <li>Clients and family members receive inventory at an early stage to identify and secure possessions</li> </ul>	✓			Recommendation implemented (Subject to Privacy)
<b>6.5 Legal Matters</b>				
<ul style="list-style-type: none"> <li>Appointment be made for home visits where legal issues are involved and confirm in writing</li> </ul>			✓	STL will endeavour to confirm appointments in writing however in most cases it is impractical because of client demands. We will ensure that all clients are spoken to by telephone and full explanation given.
<ul style="list-style-type: none"> <li>Client to be notified in writing of the purpose of the visit, implications of signing, associated costs, copy of the document prior to visit and to retain a copy of the signed document</li> </ul>		✓		A checklist is also being implemented to have a client sign as to 1) having received a copy of signed documents 2) implications of signing documents explained to them and 3) having received a breakdown of associated costs
<ul style="list-style-type: none"> <li>When dealing with elderly persons for the purpose of a Will two visits should be conducted</li> </ul>			✓	STL has reviewed its operational procedures manual. Procedures are clear that if there is any doubt as to a persons testamentary capacity the appointment should be deferred until a medical certificate is obtained. Confirmation of home visit requests will be provided wherever possible
<ul style="list-style-type: none"> <li>Guidelines and training for STL officers ask direct questions re a previous will, which solicitor, reasons for making a new will, existence of an EPA, and whether a Case Manager or Carer is involved.</li> </ul>	✓			We have developed a revised format for will instructions/interview notes which with existing STL procedures address the Ombudsman's recommendation
<ul style="list-style-type: none"> <li>Review process for monitoring legal costs and reporting to Board and senior management</li> </ul>		✓		Review underway

Ombudsman's Recommendation	Agree & Implemented	Agree & to be Implemented	Agree (Different Action Recommended)	Action
<ul style="list-style-type: none"> <li>Mediation be considered before initiating legal action and promote that policy in literature</li> </ul>		✓		STL will reinforce policy in the form of a procedure, training and literature
<ul style="list-style-type: none"> <li>Family members receive written advice in regard to any legal action proposed</li> </ul>	✓			Recommendation implemented (Subject to Privacy)
<ul style="list-style-type: none"> <li>Advice to cover expected costs, anticipated outcome and advice re costs of contact with the Represented Persons solicitor</li> </ul>	✓			Recommendation implemented
<ul style="list-style-type: none"> <li>Process be in place to ensure that Administrators are informed of any costs being incurred to the Represented Person by third parties contact with solicitors</li> </ul>	✓			Recommendation implemented
<b>6.6 Financial Issues</b>				
<ul style="list-style-type: none"> <li>Personal Allowance be implemented within 10 working days of commencement</li> </ul>	✓			Recommendation implemented
<ul style="list-style-type: none"> <li>Urgent VCAT Orders be treated as high priority and responded to in 3 working days</li> </ul>	✓			Recommendation implemented
<ul style="list-style-type: none"> <li>Section 61 Report to be checked for accuracy with Represented Person or carer</li> </ul>	✓			Recommendation implemented (Subject to Privacy)
<ul style="list-style-type: none"> <li>VCAT to provide VCAT Liaison Officer with a copy of Order requesting urgent action</li> </ul>		✓		STL will approach VCAT to accept this recommendation
<ul style="list-style-type: none"> <li>STL advises Ombudsman of outcome of liaison with VCAT re provision of Financial Statements to nominated parties</li> </ul>		✓		STL will advise the Ombudsman

Ombudsman's Recommendation	Agree & Implemented	Agree & to be Implemented	Agree (Different Action Recommended)	Action
<ul style="list-style-type: none"> <li>Literature/brochures include advice on access to financial statements</li> </ul>		✓		Literature/brochures will be updated
<ul style="list-style-type: none"> <li>Information on access to financial statements be provided where statements are not presently provided</li> </ul>			✓	Will include in Section 61 Reviews
<ul style="list-style-type: none"> <li>Where access to financial statement denied applicant be advised of their rights of appeal</li> </ul>	✓			Recommendation implemented
<ul style="list-style-type: none"> <li>Represented Person and family be advised of the costs of developing a Financial Plan</li> </ul>		✓		STL is reviewing processes around its disclosure of all PFS fees, commissions and service charges
<b>6.7 Communication</b>				
<ul style="list-style-type: none"> <li>Priority continue to be given to personal contact with Represented Persons, family and support persons</li> </ul>	✓			A specific procedure addressing "Communication with clients family" has been introduced. A client visitation program is also underway
<ul style="list-style-type: none"> <li>Clients with joint assets have one administrator</li> </ul>	✓			Recommendation implemented
<ul style="list-style-type: none"> <li>Files be monitored to ensure the minimum number of changes of Administrator</li> </ul>	✓			Recommendation implemented
<ul style="list-style-type: none"> <li>Advise client in writing when file is taken over by a new Administrator</li> </ul>	✓			Recommendation implemented
<ul style="list-style-type: none"> <li>Handover between Administrators highlights key issues such as family conflict</li> </ul>	✓			Recommendation implemented
<ul style="list-style-type: none"> <li>Administrators receive training in dealing with family conflict</li> </ul>	✓			Incorporated in STL's training program
<ul style="list-style-type: none"> <li>Complexity of files continues to be monitored after allocation</li> </ul>			✓	File allocation process is currently being reviewed

Ombudsman's Recommendation	Agree & Implemented	Agree & to be Implemented	Agree (Different Action Recommended)	Action
<b>6.8 Complaint Handling</b>				
<ul style="list-style-type: none"> <li>Supervisor be advised of any complaint against an Administrator</li> <li>Team Leader to advise Client Relations Officer of complaints against an Administrator not readily resolved or serious</li> <li>Review processes to ensure that systemic problems and issues of system improvement are reported to Management</li> <li>All significant complaints be centrally registered</li> </ul>	<ul style="list-style-type: none"> <li>✓</li> </ul>		<ul style="list-style-type: none"> <li>✓</li> </ul>	<p>Existing STL procedures include this recommendation</p> <p>STL is confident its referral process will achieve this recommendation</p> <p>Existing STL procedures include this recommendation</p> <p>The introduction of a central register of all significant complaints is being trialled</p>
<ul style="list-style-type: none"> <li>Administrators receive training in complaint resolution and recording of complaints</li> <li>Correspondence from the STL Complaints Unit advise complainants of their right to contact the Ombudsman</li> </ul>		<ul style="list-style-type: none"> <li>✓</li> <li>✓</li> </ul>		<p>Appropriate training is being developed for inclusion in the STL training program</p> <p>Recommendation implemented</p>
<b>6.9 Liaison between OPA and STL</b>				
<ul style="list-style-type: none"> <li>Improved liaison continues to be encouraged between OPA and STL</li> </ul>		<ul style="list-style-type: none"> <li>✓</li> </ul>		<p>STL has already met with representatives of OPA to discuss its relationship and process improvements. Details of the discussions along with details of a proposed joint training program will be provided to the Ombudsman in due course.</p>

Ombudsman's Recommendation	Agree & Implemented	Agree & to be Implemented	Agree (Different Action Recommended)	Action
<ul style="list-style-type: none"> <li>• Training for Administrators emphasise working with OPA in the best interests of the Represented Person</li> </ul>		✓		As above
<ul style="list-style-type: none"> <li>• Applications to VCAT for Guardianship be first referred to OPA</li> </ul>		✓		As above

## OVERALL AUDIT CONCLUSION

### Background

1.1 The provision of personal administration services to represented persons comprises a core component of STL's business. These services relate to cases where the VCAT Guardianship List has appointed STL to administer the affairs of people deemed unable to make reasonable judgements in respect of their estate. At 31 March 2000, STL was the appointed administrator for approximately 7,000 represented persons and managed assets valued at around \$400 million on their behalf.

### Impetus for the audit

1.2 As Administrator, STL is responsible for the general care and management of the estate of the represented persons and exercises all rights on behalf of the represented person. As such, STL can have a direct bearing on the quality of life of these people, who by the very nature of their mental, physical or medical incapacity, comprise one of the most vulnerable groups in our community. It is also an area which is of significant public interest and concern as reflected by the number of letters received by my Office from the public and stakeholder groups.

1.3 Against this background, it was considered that a performance audit would enhance accountability to the Parliament, represented persons and other interested parties by providing an independent assessment of the performance of STL in discharging this key responsibility.

### Audit objectives

1.4 The audit was directed at assessing whether STL had discharged its responsibilities in the best interests of represented persons, in compliance with relevant legislation, in a cost-effective manner and with proper accountability. Particular attention was paid to assessing the extent to which the standard of services provided had improved over the past 4 years, given that STL had a focus on continuous improvement over that period.

1.5 There are often a number of parties involved in providing services to represented persons. This audit also examined whether this resulted in any overlaps, gaps or lack of clarity in relation to responsibilities which impacted adversely on STL in fulfilling its obligations.

1.6 The audit also evaluated whether the arrangements between STL and DHS for the provision of community services in this area were adequate. Funding received for these services is currently around \$5 million per annum, or 20 per cent of STL's total revenue.

### Quality of services

1.7 It was clear from our audit that significant progress has been made by STL over the past 4 years in improving the quality of services it provides to represented persons. While the level of compliance with sound management practices has increased in many areas, there remains scope for improvement, particularly in areas of enhanced financial and management planning, strengthened accountability through better documentation of decisions, and improved timeliness in relation to decisions made and actions taken.

1.8 Improvements are also required in the communications processes between STL and represented persons, or their family or carers, in that we found initial visits were often not made to clients and regular ongoing contact was not always evident.

1.9 As a suitable framework was not in place to measure and assess the caseloads of administrators, it was not possible for us, or STL, to determine whether current workloads had contributed to the limited direct contact with represented persons and the delays in completing tasks.

1.10 Given that represented persons are not in a position to choose an alternate service provider, it is important that they are all assured of a high standard of service which optimises their position. A range of improvements are still needed for this to be achieved.

### Fulfilment of legislative responsibilities

1.11 We concluded that STL had generally fulfilled its responsibilities to represented persons in accordance with legislative requirements. However, several specific legislative aspects require further attention or clarification.

1.12 First, more attention needs to be given by STL, wherever possible, to its legislative responsibility to encourage and assist represented persons to become capable of administering their own financial affairs. In almost all cases examined, there was no evidence that administrators had assessed the client's capacity in this regard.

1.13 STL has a legislative responsibility to act in the best interests of represented persons by ensuring their wishes are considered. Given the current weaknesses in terms of direct contact with represented persons, their families or carers we had some doubts regarding the extent to which this requirement is adequately met.

1.14 We also found there is a need to clarify the scope of STL's legislative responsibility in acting for represented persons. In practice, STL has not always adopted a consistent approach in this regard. While their actions in the case of some represented persons were restricted to dealing only with legal and financial matters, in others they went beyond these areas on the basis that the

action was deemed to be necessary, in the best interests of the client. Discussions between STL and VCAT are needed to provide further clarification in this area.

### Gaps and overlaps in service provision

1.15 In many cases, decisions impacting on represented persons are made by a range of parties including STL, guardians, health carers and social workers. Under current arrangements, potential exists for gaps and overlaps to exist in providing services. This is particularly evident where different parties are appointed by VCAT to manage aspects of the represented person's affairs. It can be further complicated by the previously mentioned lack of clarity regarding the scope of STL's legislative responsibilities in relation to represented persons.

### Community service obligations

1.16 In accordance with a Community Service Obligations Agreement with DHS, STL is funded to administer the estate of those persons who otherwise would not have the necessary resources to meet the cost of this service. While the arrangements in relation to funding were found to be generally adequate, scope exists to improve the framework. This includes the need to enhance the appropriateness and usefulness of the performance standards used to measure the quality of services provided and the method for determining the cost to STL of providing this service.

1.17 Set out in Part 1.2 of this Report is a summary of our major findings and Part 1.3 sets out suggestions for improvement.

### Response provided by Managing Director, STL

STL welcomes the auditor's acknowledgements that, overall, there have been significant improvements in our performance and our management of the affairs of represented persons over the past 4 years.

More importantly, the audit provides an independent assessment which will help in identifying opportunities to continue improving the services in this area which is consistent with STL's objective in all areas of operation.

We note that a large proportion of the audit consisted of reviewing hard copy files. Some of the new data recording and workflow monitoring systems now used through our 'STRAITS' computer system were not tested. This may well have affected some of the results, particularly in the areas of communication and task outcomes.

For example, the hard copy files do not disclose the level of communication which is now primarily recorded electronically. For instance, last year, 1, 129 clients were visited in their own residence, 12, 800 client meetings were held at our offices and there were over 130, 000 telephone contacts. We believe this is a significant improvement in personal contact with our clients.

We shall study the suggestion that all clients be visited annually. We are not certain, however, that such a resource intensive process adds value to our service, particularly when trained carers, case managers, social workers and others provide the frequent

contact designed to meet our clients' needs. Our current policy is to visit our clients when requested, or when we have concerns.

We shall consult with DHS on this issue.

STL also keeps a central register of accommodation facilities it visits and retaining this information on each individual file is a matter that we will need to consider further.

We agree that the scope of STL's responsibility in acting as administrator needs to be clarified. For instance, the Guardianship and Administration Act provides no power for an administrator to make decisions concerning the accommodation or health care of its clients and we, therefore, refer such matters to the authorities specifically charged with this responsibility.

We thank the audit team for bringing to our attention the lack of documented procedures on the methods we use to assist our clients to become capable of administering their own estates and we shall address this issue immediately.

We will, in conjunction with DHS, examine the service standards in a further attempt to quantify and measure 'best interest' outcomes for our clients.

We thank the audit team for its constructive approach and analysis and confirm that we will be seeking additional advice on some of the issues raised.

The extent of the improvement within STL is to the credit of the staff, particularly within the very difficult area of operation covered by this report.

We see the report as assisting us to improve our ability to meet the needs of our clients in this area.

## SUMMARY OF MAJOR FINDINGS

### Community Service Obligations

- The performance standards agreed between STL and DHS as a basis for funding community service obligations focus almost entirely on quantitative and timeliness aspects of service delivery. While these are important, they do not adequately address the determinants of service quality.
- The performance standards do not adequately measure STL's achievements in relation to its legislative requirements to act in the best interests of clients, encourage financial independence and consult with represented persons to determine their wishes.
- For the 18 month period to December 1999, STL did not meet the level of performance required in relation to the ongoing management of clients funded through community service obligation arrangements. There was almost no improvement over that period.
- The \$75, 000 penalty imposed on STL for not meeting the required performance standards during 1998-99 was minimal in terms of the value of

funding received. This raises doubts regarding whether the penalty constituted a sufficient incentive to improve future performance.

- Over the 4 year period to June 1998, procedures were not in place for periodically assessing achievements against agreed performance standards.
- There were weaknesses in STL's measurement of its compliance with performance standards relating to the ongoing management of clients.
- Systems are not in place within STL to enable an accurate determination of the net cost of providing community service obligations on an individual client basis. On the basis of available data, we are of the view that current estimates are likely to be understated.

#### Quality of Services

- The quality and timeliness of STL's initial assessments of the personal and financial position of its new clients were found to have significantly improved in recent years.
- Plans of Management had not been prepared for almost half of the represented persons who became clients of STL during 1995-96. Where Plans were in place, they were often not prepared within the required 65 day timeframe or were not reviewed on an annual basis.
- Aside from some isolated instances, budgets had been prepared for represented persons with adequate consultation with represented persons and/or interested parties.
- STL's performance in preparing financial plans within the 65 day timeframe had improved from 76 per cent in 1995-96 to 84 per cent in the case of more recent files examined. The more recent achievements are still below the target.
- Annual reviews of financial plans were not undertaken in 54 per cent of the cases examined with some not reviewed for several years. Where reviews were undertaken, they were found to be comprehensive and adequate.
- STL rarely consulted with represented persons of their families regarding the contents of financial plans and investment strategies prepared on their behalf, even in cases where substantial funds were involved.
- Decisions taken by STL to realise low client investment holdings and place the proceeds within the STL's investment funds were considered appropriate and in the best interests of the represented persons.
- Over the past 4 years STL has generally improved its performance in key aspects of finalising the affairs of represented persons. Greater attention is required to ensure that statements of the financial position at the date of a client's death are prepared in a timely manner.
- Differing interpretations by administrators of STL's legislative obligations to represented persons had led to inconsistencies in their actions and, in turn, created potential gaps and overlaps in the provision of services in some cases.
- Procedures implemented by STL to procure goods and services for represented persons were assessed as generally sound. However, scope exists for further enhancements in this area.

#### Client Communication and Accountability

- Although contact programs for new clients had been developed in all cases examined, around 20 per cent were not prepared within 3 months of STL's

appointment as administrator. A high proportion of the programs were not regularly reviewed.

- Over the past 4 years, the percentage of represented persons visited at the time of STL's appointment increased significantly. However, in recent time, visits were still made in the case of only 58 per cent of new appointments.
- The level of consultation with represented persons or interested parties to determine their wishes was inadequate although there has been a significant improvement in recent years.
- The extent to which contact programs developed for represented persons had been implemented in practice was found to have improved over the last 4 years. However, in 15 per cent of more recent files examined we found that plans had still not been appropriately implemented.
- Although ongoing contact was generally maintained with the represented persons' carer or family members by telephone or letter, only minimal face-to-face contact occurred.
- STL places considerable reliance on nursing home and accommodation staff in terms of maintaining contact with the 65 per cent of the represented person who live in such facilities. However, information on the quality of nursing homes and other special accommodation facilities was not compiled.
- The number of complaints registered by STL between July 1994 and November 1999 was relatively low. However, the number may be understated as not all complaints made are registered.
- STL's annual client satisfaction surveys did not provide statistically valid results in respect of represented persons.
- Positive action has recently been taken by STL aimed at addressing past weaknesses in its communication processes.

### Management Framework

- Due to legislative constraints on the scope of the audit, we were unable to examine the accountability arrangements within VCAT for monitoring the performance of STL in relation to managing represented persons.
- STL's procedures for examining the financial statements prepared by other administrators appointed by VCAT were found to be satisfactory.
- A formal framework for determining optimum caseloads for administrators had not been established, nor had action been taken to identify appropriate methodologies to underpin such a framework.
- A reduction in staff turnover achieved by STL in the last 12 months has contributed to the establishment of an adequate skill base. This has been complemented by a sound training program.
- Aside from some minor aspects which need to be addressed, STL's approach to fraud prevention and detection was found to be adequate.
- An adequate system is in place to ensure that service charges levied on represented persons are accurately calculated.
- The capital commission charges of STL are, on face value, higher than those charged by 4 other equivalent interstate offices.
- Investment returns achieved by STL are highly competitive relative to its performance benchmarks and the returns of 2 comparable funds.

COMMERCIAL IN CONFIDENCE



**Service Delivery to Represented Persons:  
A Summary of the Report for the  
Victorian Ombudsman June 2002  
(Updated March 2003)**

Response to the Auditor General's May 2000 Report  
7 April 2003

## **AGENDA**

- 1. Updated Executive Summary from the June 2002 Report for the Ombudsman**
- 2. Updated Summary of Quality of Services from the June 2002 Report for the Ombudsman**
- 3. Updated Summary of Client Communication and Accountability from the June 2002 Report for the Ombudsman**
- 4. Summary of Initiatives Introduced since June 2002**

## AGENDA

- 1. Updated Executive Summary from the June 2002 Report for the Ombudsman**
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## EXECUTIVE SUMMARY

### The Auditor-General's (May 2000) Report

**The Report of the Auditor General (May 2000) assessed State Trustees' performance, as the administrator of represented persons, over the four years prior to the report.**

- The audit assessed the effectiveness with which State Trustees fulfilled its legislated role in the best interests of Represented Persons.
- The audit also assessed:
  - The potential for overlaps or gaps in the relationship of State Trustees with other organisations in caring for represented persons.
  - The role of the Department of Human Services (DHS) in the administration of the Community Service Obligation (CSO) Agreement and costs of service delivery.

## **EXECUTIVE SUMMARY**

### **Key Findings of the The Auditor General's (May 2000) Report**

**The audit found that significant progress had been made by State Trustees over the four year period in improving the quality of services it provided to Represented Persons.<sup>1</sup>**

**In addition, recommendations for further improvement were made in four areas:**

- Community Service Obligations
- Quality of Services
- Client Communication and Accountability
- Management Framework

**State Trustees has responded with investments in these areas to further improve the quality of service it provides to Represented Persons.**

## EXECUTIVE SUMMARY

### Community Service Obligations (CSO)

**An independent benchmarking study has been undertaken to clarify State Trustees' responsibilities in administering the affairs of Represented Persons and setting benchmarks for performance. Improved standards have been incorporated into the new contract with DHS. Internal measurements and management information systems have been enhanced to set standards for service delivery and ensure that these standards are achieved.**

- The team has been expanded by 15 consultants (37%) to support the delivery of services within CSO standards.
- State Trustees has consulted widely with stakeholders in the disability industry, including OPA, DHS, Nursing Homes, Carers and VCAT to determine clients' needs and wishes in relation to service delivery to address these needs and to clarify responsibilities in service delivery and is still actively increasing stakeholder consultation.
- DHS employed Allen Consulting Group to conduct a benchmarking review to research and develop best practice standards and measures of service delivery. Improved service standards have been incorporated in the recent CSO contract renegotiations.
- As well as this State Trustees has developed and implemented its own service measures to internally monitor and manage the quality of service provided to represented persons including internal service level agreements.
- State Trustees' information system continues to be enhanced to enable the recording, reporting and management of State Trustees performance relative to the CSO agreement and to develop operational efficiencies to provide more effective service.
- The issue relating to the Auditor General's concern that the existing system for measuring costs is likely to result in insufficient funding for the administration of represented persons' affairs' continues to be addressed with DHS as part of the CSO agreement and a viable solution over the long term is being sought.

## EXECUTIVE SUMMARY

### Quality of Services

**State Trustees has made substantial investments in a Customer Service Centre, modern Customer Contact Centre (Call Centre) and improved operations to enhance the quality, accessibility and efficiency of service to Represented Persons.**

- A specially designed Customer Service Centre has been established in La Trobe Street Melbourne. The facility is equipped for the particular needs of Represented Persons who require intensive management. We are continually exploring how this service may be improved.
- A modern Customer Contact Centre was established at the Exhibition Street office in December 2000, with improvements being made since that time and staffing increases from 5 to 17 in the past 18 months. The call centre also handles other mediums of contact including e-mail and facsimile.
- A Financial Independence Program pilot has been conducted, in which clients are able to increase the independence with which they manage their affairs. The program has been refined, as a consequence of feedback gained from clients, carers and the DHS.
- State Trustees is sponsoring research at Deakin University into the financial competency of disabled clients. Findings from this study will be used to develop and validate a test of financial competence to support the Financial Independence Program.
- System investments have improved the depth and breadth of service quality management and measurement.
- Management plans and budgets are prepared for all clients.
- A series of training modules on working with disabled clients was conducted for relevant staff.
- Cap Gemini Ernst & Young was contracted in June 2002 to review State Trustees' Personal Financial Solutions operations and the implementation of the operational improvements identified is almost complete.
- Property Services has been centralised and a review of our service and suppliers completed. Two additional staff (Property Facilitators) have been appointed and a series of operational improvements implemented.

Wellbeing

## EXECUTIVE SUMMARY

### Client Communication and Accountability

**The Customer Service Centre and Customer Contact Centre have substantially increased the frequency and quality of communication with Represented Persons. This increased direct contact with clients has been supplemented by written communications and greater stakeholder consultation.**

- The Customer Service Centre has been equipped with an ATM and amenities for disabled clients. Approximately 400 clients now visit regularly and over 1000 clients will soon be managed from this centre.
- The number of contacts made through the Customer Contact Centre has increased substantially since its inception. Improvements in technology and increased staffing mean that in February 2003 11,384 calls were handled.
- The implementation of the Customer Contact Centre has enabled customers, represented persons, social workers etc to contact State Trustees during extended business hours and in the majority of cases their needs can be met on the spot. We have also introduced outbound calls where further investigation is required on behalf of the customer.
- After trialing a regional office model we are now moving to a client visitation model where we visit clients at their place of residence. This is for the greater convenience of clients.
- The bi-annual publication of State Trustees' *Community* newsletter supplements communication with clients and stakeholders and advises of any news, service improvements or issues for clients
- A continuous client satisfaction survey was implemented in 1999 to monitor and respond to clients' perceptions on service delivery.
- An annual Image & Awareness survey is forwarded to accommodation providers and carers for their perceptions on service delivery.

## EXECUTIVE SUMMARY

### Client Communication and Accountability (Cont'd)

The Customer Service Centre and Customer Contact Centre have substantially increased the frequency and quality of communication with Represented Persons. This increased direct contact with clients has been supplemented by written communications and greater stakeholder consultation.

- A complete program for meeting new clients has been introduced. All clients are met within six weeks of receipt of appointment. **We average 1000 new appointments per year** and currently have four staff resourced for visits. We plan to further enhance the reach of this initiative.
- State Trustees has also embarked on an enhanced stakeholder management program.

## EXECUTIVE SUMMARY

### Management Framework

**A small number of recommendations were made in relation to State Trustees' management framework. These recommendations have since been addressed including the funding arrangements for the administration of represented persons' affairs.**

- A benchmarking study has resulted in an independent assessment of State Trustees' fee structures. The study found that State Trustees' fees were compared favourably to those of equivalent trustee agencies, with the exception of State Trustees' maximum commission.
- State Trustees maximum commission was subsequently reduced from 5.5% to 4.4% from 1 January 2002, in-line with the report's recommendations.
- A file complexity rating system has been developed and implemented, to enable better management of administrator caseloads.
- New fraud control strategies have been implemented, including procedures for procurement, making payments to vendors and compliance with the Whistleblowers Act 2001.

## EXECUTIVE SUMMARY

### Organisational Commitment

**State Trustees has made an organisation-wide commitment to the achievement of its new vision: "To be known for our outstanding service to our customers".**

- A new Managing Director with substantial experience in financial and customer service was appointed in September 2001.
- A customer-oriented restructure in March 2002 has resulted in a new organisational design. The new design creates a business line solely dedicated to the provision of service to represented persons. This will enable management and staff to maintain a greater focus on service to clients.
- Significant additional resources have been applied to the Represented Persons area, including a revised and stronger management structure, additional consultants and more staff for an enhanced visitation program, enabling greater contact and communication with clients in all areas of Victoria.
- The formation of specific teams with particular accountability for property and asset management.
- A separate Distribution service area including the Call Centre have been established, with a mandate to increase contact with potential and actual customers.

## EXECUTIVE SUMMARY

### Organisational Commitment (Cont'd)

**State Trustees has made an organisation-wide commitment to the achievement of its new vision: "To be known for our outstanding service to our customers".**

- The new Core Purpose, Vision & Values was created with staff and announced in March 2002.
- Increased investment in service and risk management was allocated as part of the 2002/2003 Corporate Plan. The State Trustees Customer Service Program currently under development is a key outcome of this commitment. A Culture Improvement project has been launched to create a more constructive, client focused organisation.
- Substantial investments have been made in training and development, through the High Performance Leadership and Taking Charge programs and an improved induction process.
- Two cross-functional teams have been established to research and implement initiatives to further improve service delivery to Represented Persons. Cap Gemini Ernst & Young was also contracted to investigate State Trustees' operations and to make recommendations for improving service delivery, the recommendations from which have been accepted and are currently being implemented.

## EXECUTIVE SUMMARY

### Conclusion

State Trustees has developed and implemented a number of initiatives covering the four key areas identified by the Auditor General as requiring further improvement. State Trustees is committed to further enhancing these initiatives and others to ensure our customers receive high quality customer service.

State Trustees has also developed a number of organisational initiatives that we anticipate will continue to improve the quality of service we deliver to our customers.

State Trustees recognises that continued enhancements are required to achieve its vision of being known for its outstanding service, however overall State Trustees has made significant progress in improving its quality of services since the Auditor General's report in May 2000.

Key items include:

- Reduction of company profit by \$1.3m in 2001/2002 and a further investment of \$1.5m in 2002/2003 to enhance service
- Establishment of the Customer Contact Centre (\$800k)
- Establishment of a separate PFS division dedicated to the delivery of service to represented persons
- Establishment of a Property Services Branch
- A commitment to client visits
- Increased staff in roles directly responsible for client relationship management. Refer Section 4 for full details.

## AGENDA

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2. **Updated Summary of Quality of Services from the June 2002 Report for the Ombudsman**
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## QUALITY OF SERVICES

### Recommendation

1. 5.13 - All files established prior to 1996 should be progressively reviewed to ensure a Plan of Management is in place.
2. 5.16 - Assessments of the adequacy of accommodation facilities relative to the fee paid, and the sufficiency of client allowances should be recorded on individual files.
3. 5.17 - The timeliness of preparing Plans of Management needs further improvement.
4. 5.22 - State Trustees performance in relation to its ongoing client review functions should be closely monitored.

### State Trustees Action

1. A review of files has resulted in all represented persons having a Plan of Management.
2. A co-operative effort to monitor the adequacy of accommodation facilities and financial information system enhancements now enable State Trustees to ensure that the accommodation is in line with the clients financial status and affordability.
3. Systems have been implemented to more closely monitor the timeliness of preparation of Plans of Management. Consequently 97% of Plans of Management are now completed within required timeframes (2002-03 YTD).
4. Information system reporting has been enhanced so that client reviews are prompted at regular intervals and the progress of reviews can be monitored.

## QUALITY OF SERVICES (cont'd)

### Recommendation

5. 5.53 - There is a greater need for monitoring and appropriate documentation of the assessed potential for individuals to achieve an enhanced level of independence. Strategies and appropriate staff training should be developed in this area.
6. 5.58 - Attention should be given to improving the timeliness and preparation of documentation relating to finalising client files.

### State Trustees Action

5. State Trustees developed a pilot Financial Independence Program which was launched in October 2001. Feedback from clients and stakeholders was received before launching the program. State Trustees is funding a study at Deakin University into the financial competency of disabled clients and staff training on understanding and working with disabled clients has been stepped up.
6. Internal Service standards have been developed in this area and 87% of client files are now finalised within required timeframes (2002-2003 YTD).

## QUALITY OF SERVICES (cont'd)

### Recommendation

7. 5.70 - State Trustees should seek clarification from the Victorian Civil and Administrative Tribunal where doubt exists as to the scope of its legal responsibilities.
8. 5.72 - The initiative to reduce the potential for gaps and overlaps in service provision should be monitored.
9. 5.79 - A number of areas relating to the procurement of goods and services for represented persons could be strengthened.

### State Trustees Action

7. Greater consultation has clarified the responsibilities of State Trustees and other providers of services to represented persons. Ongoing consultation will occur with VCAT and other stakeholders to reduce the potential for gaps or overlaps in service delivery to occur.
8. Greater consultation has clarified the responsibilities of State Trustees and other providers of services to Represented Persons. We continue to work with key stakeholders to develop further initiatives to assist in this area.
9. Structural and procedural changes have been implemented to ensure that the procurement of goods and services occurs in the best interests of clients. This includes an enhanced tendering process and an independent Property Services team to monitor service providers and related issues.

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## CLIENT COMMUNICATION AND ACCOUNTABILITY

### Recommendation

1. 6.13 - Consideration should be given to visit all new represented person clients at the time of State Trustees appointment.
2. 6.22 - Greater attention needs to be given to increasing the frequency of direct contact with represented persons.
3. 6.25 - Timely information on the performance of nursing homes and other special accommodation facilities needs to be compiled and used to assist in determining the need to undertake client visits.

### State Trustees Action

1. State Trustees acknowledges the importance of meeting new clients and has established a framework that ensures the client's need for initial contact is met. All clients are met within six weeks of State Trustees receiving the VCAT Order.
2. The establishment of a new, specially designed customer service centre, an enhanced rural and regional visitation program and the customer contact centre have greatly increased the quality and quantity of client communication.
3. State Trustees co-operates with other stakeholders to assess the suitability of accommodation facilities for each client. Staff make personal visits where concerns exist regarding the suitability of accommodation facilities.

## CLIENT COMMUNICATION AND ACCOUNTABILITY (cont'd)

### Recommendation

4. 6.29 - State Trustees needs to carefully monitor the application of its new client contact policy to ensure its obligations to represented persons are properly met.
5. 6.38 - Criteria in relation to the registration of client complaints should be developed with a view to ensuring comprehensive information is available for management purposes.
6. 6.44 - An annual satisfaction survey of represented persons or their immediate carers should be undertaken.

### State Trustees Action

4. Please refer recommendation 3.
5. Client complaints are reported to the Board of Directors (monthly) and the Corporate Leadership Team. The Client Concerns Committee has been formed to take direct accountability for the review and response to complaints.
6. An annual image and awareness survey was implemented in 1996 and is supplemented by an ongoing satisfaction survey to the main contact of Represented Persons.

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### **4. Summary of Initiatives Introduced since June 2002**

## INITIATIVES INTRODUCED SINCE JUNE 2002

**Since June 2002 State Trustees has accelerated the level of change, both in terms of additional resources and the investment in improved processes. All new initiatives are directed towards improving service levels to clients and the underlying robustness of the business.**

- 15 additional consultants are being recruited to lower caseloads per consultant to enable an improved service and greater communication to be provided to represented persons, family members and carers. This is an increase of 37% and all new recruits will be in place by April 2003.
- Four additional staff have been appointed to key client relationships management roles – two Client Assessment Officers whose full time roles are for client visits (up 100%) and two managers to strengthen the Personal Financial Solutions management team (up 50%).
- The recommendations of the Cap Gemini Ernst & Young study have been accepted and implementation is well advanced. Recommendations included 21 system improvements, upgraded file system, service level agreements with all internal service providers, design of an upgraded training program, risk referral process, improved file transfer process, revised approach to staff recruitment and the introduction of telephone headsets. Implementation will be complete by the second half of 2003.
- New General Manager appointed to head Personal Financial Solutions commenced in December 2002.
- As part of the new CSO we have committed to develop and pilot a vulnerability program designed to provide additional services for Represented Persons who are most vulnerable within society. The pilot commences in April 2003 and runs for six months. This complements the existing Financial Independence Program and is part of a strategy to have an even more differentiated service for clients, depending on their needs and circumstances.

## INITIATIVES INTRODUCED SINCE JUNE 2002 (cont'd)

- A ten month program to conduct a major review of approximately 2,500 files commenced in January 2003.
- Two senior staff now designated to focus on staff training, procedure development and compliance, process improvement and service improvements.
- A program for a focus shift for client visits to their place of residence for rural and regionally based Represented Persons is being developed.
- Four additional staff in the Customer Contact Centre from February 2002 (up 31%) to improve access to consultants for clients, families and carers (this is an increase to the six additional staff in the previous 12 months).
- Staff recruitment profiles reviewed with greater emphasis on client service, communication and social welfare skills. Now used for all recruitment within Personal Financial Solutions.
- Revised procedures for the management of legal issues have been developed.
- New and comprehensive staff induction program for new Personal Financial Solutions staff commenced in February 2003.
- Client statement review project has commenced to improve client financial statements and communications. The first phase will be completed mid 2003 in time for the annual statements for the 2002/2003 financial year.
- A building refurbishment and safety review has been completed and the recommendations are being progressively implemented to improve the environment for clients who visit State Trustees.

## INITIATIVES INTRODUCED SINCE JUNE 2002 (cont'd)

- Training program for staff dealing with particularly vulnerable and/or disadvantaged Represented Persons or those who require very intensive management is being developed.
- Re-tender in progress for the cleaning of clients homes to improve the quality of outcome and the sensitivity in which it is managed. The outcome of the tender will be announced in April.
- Two full time Property Facilitators recruited to visit clients to ensure their requirements in relation to their property is met. This includes spot checks on service providers, responsibility for finding homes for pets and monitoring all property related matters.
- Improved process for the management of legal issues that emerge.
- Procedures regarding the handling and transportation of a client's property have been revised and tightened.
- The procedure for conducting the initial review of a client's income tax affairs has been improved to ensure the best financial outcome is obtained for the client.
- Commitment to lodging client tax returns in advance of the ATO guidelines – currently we are seven weeks ahead of schedule.
- Commencement of taxation training provided to consultants so that they are able to identify potential and / or priority issues and act immediately.
- Financial Planning procedures have been reviewed and clarified, standard letters to clients upgraded and the commitment to improve the provision of financial plan summaries for clients and family.





