



Office of the Public Advocate

A short history of the Victorian

# Office of the Public Advocate

1986 - 2011

Twenty-five years of fighting for the rights of people with a disability

By Dr Mark Feigan



## About this booklet

The Office of the Public Advocate (OPA) is an independent statutory body established by the Victorian State Government. It promotes and protects the rights and dignity of people with a disability through its role as an advocate and guardian for people with a cognitive disability, and its volunteer programs.

The first Public Advocate was Ben Bodna AM, appointed in July 1986. Colleen Pearce has been Public Advocate since August 2007. In 2009-10 the Public Advocate and her staff provided guardianship to over 1500 people with a cognitive disability, and advocacy to another 200. OPA also provided important legal opinion and policy advice to government departments and other bodies. OPA's Advice Service handled over 13,500 inquiries. More than 500 volunteers supported by OPA visited services and people through the Community Visitors and Independent Third Person Programs and provided guardianship through the Community Guardianship Program.

This booklet has been produced as OPA celebrates its 25th anniversary. The author, Dr Mark Feigan, has been employed by OPA since 2005. The history of OPA was the topic of Dr Feigan's PhD thesis, the first comprehensive history of OPA and the Community Visitors Program. The Australian Research Council supported Dr Feigan's research with Linkages Projects funding.

Please contact OPA for more information about the OPA history project, or for other inquiries relating to OPA's work.

The cover image is a photo of the painting *The old man and the sea* by John Abela. The painting was purchased by OPA at the State Trustees annual *connected* art exhibition.

Design by Laura Brackley

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Office of the Public Advocate staff in 1989.

## Disability and the law

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Beginning in the 1970s, Victorians' belief that they were a culturally and socially progressive, inclusive society began to be extended to people with a disability. Before then, Victorians with a disability had largely not benefited from the espoused national ethos of the 'fair-go'.

It was popularly assumed that people with a disability and mental illness, and their families, were being properly looked after by beneficent state and charitable systems of care. In reality, a caring, generous response to disability was not to be found. People who needed high levels of support due to their disability or mental illness were mostly excluded from the mainstream in institutions. There, they were often treated abysmally. This pattern was found generally in modern western societies. This was so in Victoria since the 1870s when the large-scale incarceration of people with mental illness and intellectual disability in impoverished institutions began.

The innovative statutory role of the Public Advocate was established in 1986 by a reforming government, with broad support. The role and the broader legislative package were developed and refined over the previous ten years through a series of public policy forums and government inquiries.

The Victorian State Parliament gave the Community Visitors and the Public Advocate extensive powers to prevent the exploitation and maltreatment of people with a disability through visiting services, representation, advice and community education functions.

When necessary, the Public Advocate could be appointed guardian for adults who lacked legal capacity because of their cognitive impairment, and make important personal decisions in the legal shoes of the person. This guardianship function was to be exercised as a last resort, when a less-restrictive option was not available.

## Key dates 449 BC – 1986

c. 449 BC	Roman law, the Statute of the Twelve Tables, is the original source of guardianship law.
1816	The basis for modern guardianship (substituted decision-making) is first expressed in English law.
1848	Victoria's first institution for people with a mental illness or intellectual disability is established at Yarra Bend.
1867	The <i>Victorian Lunacy Statute</i> began the large-scale institutionalisation of people with a mental illness or intellectual disability. 'Official Visitors' inquired and reported on patient care and treatment.
1948	United Nations Universal Declaration of Human Rights ratified.
1959	The <i>Mental Hygiene Act 1959</i> separated mental health and intellectual disability service provision.
1960	USA Supreme Court developed the 'least restrictive alternative' legal doctrine.
1971	<i>UN Declaration of the Rights of Mentally Retarded Persons</i> included the right to a qualified guardian to protect the personal wellbeing and interests of a person with an intellectual disability.
1973 – 74	Advocacy concerning conditions at St Nicholas Hospital, Carlton, and a series of articles in <i>The Age</i> newspaper ( <i>Minus Children</i> ) revealed serious neglect in Victoria's institutions, stirring the public conscience.
December 1982	The <i>Report of the Committee Considering Rights and Protective Legislation for Intellectually Handicapped Persons</i> recommended the establishment of an Office of Public Advocate, empowered to act as a guardian of last resort and as an advocate.
May/June 1986	<i>Intellectually Disabled Persons' Services Act</i> , <i>Guardianship and Administration Board Act</i> , and <i>Mental Health Act</i> enacted in Victoria.



## Introducing the Public Advocates and Community Visitors

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**Bennie David (Ben) Bodna AM** had a senior executive role in the Victorian law department when he became interested in the Public Advocate position. His experience as a prison administrator made him an ardent believer in community responsibility. His seniority and self-assurance equipped him well for the advocacy demands of the role.

**Glenn Carleton** was a senior public servant when he was assigned to act as Public Advocate by the new government in mid-1993. He acted in the role for over two years on short-term contracts without tenure or parliamentary approval. OPA was reviewed during this period. He managed OPA during a very difficult and stressful time for its volunteers and staff.

**David Green** was appointed in September 1995, with intact powers after two years of uncertainty. He was well-equipped for the task of adapting OPA to a changing service landscape. The deinstitutionalisation of people with intellectual disability and mainstreamed mental health services required a change in focus.

**Julian Gardner** was attracted to the position of Public Advocate in late 1999 as it would allow him to get back to an advocacy role. Gardner had studied law and arts, and like Bodna and Green before him, graduated from the University of Melbourne. His career began in innovative, community-minded, legal advocacy and law reform.

**Colleen Pearce** became Public Advocate on 8 September 2007 after 30 years wide-ranging and senior experience in the community and health sectors. Among her previous roles was the Director of the Victims Support Agency in the Department of Justice. Pearce has refocussed OPA on its original mission to eliminate abuse of people with a disability.

## Key dates 1982 – 2010

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April 1982	Cain Labor Government is elected in Victoria.
July 1986	Ben Bodna becomes Victoria's first Public Advocate.
December 1987	First group of Community Visitors is appointed.
October 1992	Jeff Kennett becomes Premier of Victoria with the election of a new conservative Coalition Government.
July 1993	Ben Bodna retires as Public Advocate. Glenn Carleton acts as Public Advocate.
September 1995	David Green becomes the second Public Advocate and retires in October 1999.
October 1999	Steve Bracks becomes Premier of Victoria with the election of a new Labor Government.
February 2000	Julian Gardner becomes the third Public Advocate and retires in April 2007.
August 2007	Colleen Pearce becomes the fourth Public Advocate.
December 2010	Ted Baillieu becomes Premier of Victoria with the election of the Liberal/National Party Coalition Government.

## First Public Advocate

### Ben Bodna AM



Ben Bodna AM was sworn in as Victoria's first Public Advocate on 30 July 1986. Holding an independent statutory office, responsible to the parliament, he swore to represent and protect people with a disability when they were being "abused, assaulted, neglected or exploited by those who care for them".

His appointment was mandated by the just-enacted *Guardianship and Administration Board Act 1986*. The Act complemented the *Mental Health Act 1986* and the *Intellectually Disabled Persons' Services Act 1986*. Under these two Acts, the Office of the Public Advocate would also recruit and support ordinary people to visit and report on conditions in Victoria's residential services as Community Visitors.

The three Acts were a comprehensive reform of Victoria's mental health law. The Public Advocate and his small team of 12 staff moved into a new building in Carlton on 14 September 1987. The officials and hearing rooms of the complementary Guardianship and Administration Board were downstairs. Bodna had to establish the office with no obvious precedent to guide him. He was able to create expectations, rather than live up to an existing formula. He set about designing the role in a broadly supportive atmosphere of optimism and change. He was a senior public servant, towards the end of his professional career. Bodna went about his role with conviction and considerable vigour.

Bodna obtained additional funding to employ investigators, extra guardians and to support the functions added during his term, such as





Ben and Kay Bodna in 1990.  
Image courtesy of Fairfax  
Photos.

the Independent Third Person Scheme. Bodna first started with a staff of 13, with only one guardian. The number of guardians grew from two in 1987-88 to seven in 1992-93.

During this same period, the total staff grew from 24 to 56. Full-year funding for OPA had more than doubled from the 1988-89 financial year to well over \$2 million in 1992-93. This reflected the steadily increasing casework OPA was undertaking. The peak number of new guardianship cases occurred in 1990-91, when the board made 353 guardianship orders appointing OPA as guardian.

When OPA was established, many activists and advocates were glad that they might have a champion on the side of people with a disability. Bodna delivered on this very high expectation. His vision for OPA was as an agent of the public conscience. He stamped the public advocate role with his vision, values and authority. Bodna had seized this unique opportunity to establish a powerful voice and safeguard for the rights and interests of people with a disability.

The different OPA functions, far more so than the contribution of any other body, made the maltreatment of people with a disability a matter of public concern to be properly investigated and stopped. OPA delivered the guardianship and advocacy that enabled people with cognitive impairment to become more socially included.

## Key dates - Ben Bodna AM

Early  
1986

Ben Bodna works on implementing the Guardianship and Administration Board Act. He plans for a small, non-bureaucratic agency of about 12 staff.

July  
1986

Ben Bodna is sworn in as Public Advocate after the relevant section of the Act comes into operation.

April  
1987

OPA begins operations with three staff advocates.

July  
1987

Guardianship and Administration Board hearings begin, as the full Act comes into operation.

September  
1987

OPA moves from Bourke Street to Carlton premises with the Guardianship and Administration Board.

June  
1988

*OPA Charter* and mission developed to promote the rights and dignity of people with disabilities, to strengthen their position in society, and to reduce their exploitation, abuse and neglect.

New Police Standing Orders require the presence of an independent third person during interviews with a person with an intellectual disability or mental illness.



September  
1988

OPA reports it is receiving up to 350 telephone calls a day. Possible exploitation, abuse or neglect from 276 calls is referred to advocates.

June  
1989

OPA applies for guardianship for four residents of a nursing home because of grave health fears.

May  
1991

The Health Minister asks OPA to establish specialist advocacy for state psychiatric services.

OPA informs the Community Services Minister of serious concerns for the wellbeing of those at Aradale Hospital and Residential Service leading to an investigation and its later closure.



June  
1992

Ben Bodna is made a Member of the Order of Australia.

July  
1993

Ben Bodna finishes his seven-year appointment as Public Advocate.

## Acting Public Advocate Glenn Carleton



Glenn Carleton maintained OPA during a very difficult time for Victoria's quasi-independent state instrumentalities. The establishment period overseen by Bodna was OPA's honeymoon phase, and that time was now over. OPA was entering a tense new period characterised by uncertainty and growing demand for advocacy, guardianship and investigations. Carleton took great pride in how OPA staff handled regular fraught and difficult situations. These often involved high levels of conflict over what was best for the person with a disability.

Conflict with the government was inherent in OPA's and the Community Visitors' advocacy role. Funding for the OPA psychiatric advocacy program was cut at the beginning of 1994, and an announcement of a review of OPA followed in March 1994. The review recommended the cutting of some OPA functions. The recommendation was not accepted by the government, and was not implemented. The government instead moved to appoint a new Public Advocate with unchanged powers.



Glenn Carleton, staff and  
Community Visitor board members.

## Key dates

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July 1993	Glenn Carleton commences as acting Public Advocate, initially on a six-month contract.
August 1993	OPA investigates cost increases in disability services and their impact.
	OPA co-hosts Ethical Challenges Today forum for disability advocates. The head of the Health and Community Services Department strongly criticises advocacy and advocates.
October 1993	OPA and the Family Court agree on the 'friend of the court' role of OPA in special medical procedures for children with a disability to address their welfare and best interests.
April 1994	The Attorney-General conducts a review of OPA. The terms of reference include: "the legislative framework ... alternatives to its current costs structures and its organisation and management ... consistency of its charter with Government policy and its relationship with the Justice Department".
March 1995	The Attorney-General advises parliament that she has not accepted the OPA review findings which recommended a cutback to OPA functions, and that a new Public Advocate will be appointed.
September 1995	Glenn Carleton finishes as acting Public Advocate.

## Second Public Advocate

### David Green



On 7 September 1995 David Green became the second appointed Public Advocate. He re-established OPA over the next four years. Two major internal issues immediately confronted Green. These were the unsustainable budget position of OPA, and the raised expectations following his permanent appointment after the two-year hiatus of Carleton's assignment. These and other difficulties were overshadowed early in Green's appointment by the April 1996 tragedy at Kew Cottages. Nine men living there were killed by a fire, which resulted from decades of neglect by Victorian state governments.

Green knew that he would have to make changes so that OPA was better adapted to the changed context brought about by deinstitutionalisation. He also had to deal with a series of challenges, including a significant and worsening operational deficit. It also fell to Green to bring the routine and orderliness to OPA's practices, which was expected of a state instrumentality. Green had to re-establish and define OPA's relationship with the popularly elected government, and its departments.

Green needed to decide how OPA should go about its advocacy role, in the changed context. He decided to develop credibility and influence through careful advocacy, directed at departments and other agencies, which concentrated on the wellbeing of people with a disability. This cautious advocacy would be mostly conducted behind the scenes, rather than publicly in the pages of newspapers. He wanted to secure OPA as a respected and enduring element of the state institutional framework, so that it could effectively accomplish its updated original mission.



At the time of the Kew fire, Green had not yet finalised the OPA budget. Funding adequate representation for the inquest was difficult. Green's resistance to the push for OPA to conduct its own inquiry allowed it to exercise its proper advocacy role. On 18 July 1997, *The Age* reported that OPA had submitted to the coroner that he should find that the department contributed to the cause of the fire because it "neglected to accommodate the nine men who died according to its statutory and common law duty".

How OPA reacted to this tragedy shows Green's cautious successful advocacy, targeted at the key government instrumentality responding to people with a disability. OPA advocacy was competently developed and argued, using expert legal assistance, in the appropriate court which had the procedures and standing to deliver a decision beyond serious challenge. Green put his energy into getting a result for people with disability, rather than getting a high public profile in the media. His careful approach showed that OPA could practically advocate on behalf of people with a disability.

In April 1999, Green's success in consolidating OPA as a helpful and relevant state instrumentality was demonstrated. The *Guardianship and Administration (Amendment) Bill* was introduced into parliament by the government. This amendment preserved OPA, but removed the Guardianship Board from the Act. OPA was relocated from its inner-city Carlton locale to Lonsdale Street, in Melbourne's legal precinct. Six months later, having ensured OPA's future, Green announced his retirement.

## Key dates - David Green

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September 1995	David Green makes oath of office and becomes the second Public Advocate.
November 1995	Green publicly observes that OPA's focus has shifted over the last ten years from the rights and standards of treatment for people living in institutions to concerns about the quality of life of people living in the community.
April 1996	A fire in a unit at Kew Cottages kills nine men living there. It prompts many calls for OPA to conduct its own investigation.
	First hearing of the Coroner's Kew Fire Inquest commences.
July 1996	Amendments to the <i>Mental Health Act 1986</i> become law, with input from OPA. The new provisions respond to the 'Garry David' case involving serious self-mutilation.
April 1997	David Green's comments on service system inadequacies are reported in <i>The Age</i> newspaper after the death of a woman with a disability in a private jail.
July 1997	<i>The Age</i> reports OPA's submission to the Kew Fire Coroner Inquest that department neglect contributed to the cause of the fire and that the department had failed in its legal duties.

October 1997	The Coroner finds the nine men with an intellectual disability died in the fire at Kew Cottages on 8 April 1996 because of neglect by successive state governments.
April 1998	David Green raises his concern for proper review of guardianship orders by the new Victorian Civil and Administrative Tribunal (VCAT). He notes that 12 Victorians with a disability are subject to civil detention through guardianship.
July 1998	The Guardianship and Administration Board is incorporated into VCAT.
Easter 1999	OPA moves into its Lonsdale Street premises.
May 1999	The <i>Guardianship and Administration (Amendment) Bill</i> passes through parliament.
September 1999	David Green provides the OPA Annual Report to the Attorney-General which contains an overview of 'Three Decades of Progress' on disability issues.
October 1999	David Green retires as Public Advocate.

## Third Public Advocate

### Julian Gardner

Julian Gardner was appointed Public Advocate in February 2000. As with Green before him, there was an expectation, both inside and outside OPA, that he would lift its profile and focus on the big picture issues affecting people with a disability. Gardner was comfortable with this because he wanted to be an active advocate.



Image courtesy of Fairfax Photos.

Gardner also had to deal with repositioning OPA within a changing social and political context, and with OPA having inadequate funding and resources. Implementing new internal administrative arrangements also required considerable attention. With his legal training and background, Gardner distinguished himself from his predecessors' social-work background and gave OPA a human-rights orientation. Mindful of the advocacy demand, he decided, like Bodna before him, that OPA needed greater visibility, credibility and respect.

He established a review to work through necessary structural change. There was a lot of concern for staff due to their heavy and increasing caseloads. The restructure, and the new combined casework role, allowed advocacy, investigation and guardianship to be done by the one staff member, rather than being different roles. The new regionalised structure was finalised in August 2001. This restructure also promised increased resources for systemic advocacy.

Through Gardner's influence, the formal decision-making role of the guardian was emphasised. In OPA's first years, there were approximately 1.1 guardianship cases per 10,000 Victorians. During the 1990s, this ratio increased to about 1.6. By the end of Gardner's

appointment, it had more than doubled to 2.3. Using this kind of data, Gardner was able to successfully argue for a significant real increase in funding starting in 2003-04.

OPA's guardianship work frequently involves conflictual situations, and very difficult ethical issues. Gardner had to manage two high profile cases involving end-of-life decisions. Polarised positions were stirred. Continuing advances in medical interventions also tended to increase public anxiety over the management of the death process and end-of-life decisions in hospitals. In this already difficult context, the stories of two women who aroused many of these uncertainties entered the public domain. The BWV and Maria Korp cases revealed OPA's usefulness in resolving very difficult conflicts over the fate of individuals in extreme circumstances.

The BWV legal case concerned the plight of a 68-year-old woman with a disease causing a progressive form of dementia. Her case came to public attention on Christmas Eve 2002, in an *Age* report of a husband's application for guardianship. He wanted to stop the artificial tube feeding in hospital of his wife. OPA was able to successfully argue that this was a form of medical treatment that could be refused.

During May 2005, further attention was given to the role of OPA due to the highly publicised case of Maria Korp, a woman who ultimately died from strangulation by her husband's lover. OPA was able to successfully portray its specialised professional service to the Victorian community by its guardianship of her while she was unconscious. OPA explained its role in making decisions in Mrs Korp's best interests, while being informed by her values, beliefs and wishes.

OPA's role in providing influential advice on public policy and law reform issues concerning people with a disability accelerated throughout Gardner's appointment. During his appointment, OPA proved its usefulness, with the growing demand for its interventions. OPA had become an indispensable element of Victoria's social welfare infrastructure.

## Key dates - Julian Gardner

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February 2000	Julian Gardner is appointed Public Advocate.
August 2000	<i>The Sunday Age</i> newspaper publishes Gardner's article <i>Balancing competing rights and interests, society's obligation to protect vulnerable citizens raises fundamental ethical issues</i> .
September 2000	OPA develops a three-year improvement and change strategy plan which departs from OPA's Charter and redefines OPA's vision, mission and role. It identifies four distinctive attributes: independence; last resort; act in best interests; and identify and act on general issues.
August 2001	The restructure replaces the three functional casework teams of investigation, advocacy and guardianship with a combined role.
August 2002	The OPA website is launched by the Attorney-General.
August 2003	The <i>Herald Sun</i> publishes Gardner's article supporting the closure of Kew Cottages.
October 2003	OPA meets with the Aged Care Minister on the need for a plan to address elder abuse.
December 2003	OPA produces the report <i>From Corrections to the Community</i> which leads to better services for prisoners with a disability.



February 2004	In an opinion article in the <i>Herald Sun</i> , Gardner criticises the media's portrayal of people with a disability as objects of fear.
April 2004	A new enduring power of attorney law comes into effect. The <i>Instruments (Enduring Powers of Attorney) Act 2003</i> , extends OPA advocacy.
June 2004	The demand for guardianship increases by nine per cent over the previous year, with an increase of 52 per cent over the previous three years. OPA is now guardian for 524 Victorians.
July 2004	OPA makes a submission to the Senate Inquiry into Aged Care on the inappropriateness of placing young people in aged care facilities.
October 2004	As a result of OPA advocacy, a project is piloted addressing the financial viability of Supported Residential Services and resident wellbeing.
December 2004	OPA receives funding from the Victoria Law Foundation for a kit including a DVD for making powers of attorney.
April 2005	The state government announces an increase in OPA funding of \$8.7 million over four years.
	Gardner is appointed guardian for Maria Korp.
July 2005	Gardner announces that Maria Korp's life support will be withdrawn, leading to greater understanding of the OPA role.
April 2007	Gardner finishes his appointment as Public Advocate.

## Fourth Public Advocate

### Colleen Pearce



Colleen Pearce took the oath of office on 14 August 2007. She became the fourth Public Advocate, after nearly 30 years experience in the health and community sectors. During her appointment, OPA has particularly focussed on issues of violence, abuse and neglect affecting people with a disability.

Pearce has utilised the power of OPA's research function and the media to highlight the importance of identifying and naming violence and abuse, to improve people's dignity, safety, autonomy and basic human rights. A series of research and advocacy frameworks have elaborated these concerns affecting particular groups. This research and policy work draws on OPA and Community Visitor experience. The Community Visitors identified 99 people in long-stay mental health care for over five years with little possibility of discharge, in breach of their civil and human rights outlined in the Victorian *Charter of Human Rights and Responsibilities Act 2006*. Further research led to this and other issues being taken up with government through reports and submissions.

During 2009, the planning and change process led by Colleen Pearce resulted in a new strategic plan and revised organisational framework. OPA's mission became: *To uphold the rights and interests of people with a disability and work to eliminate abuse, neglect and exploitation.*

This is a continuation of OPA's original purposes, while the organisational values and attributes have been clarified through experience. Respect, compassion, inclusiveness, ethical behaviour and independence became the stated values underpinning OPA's activities and relationships. The Victorian Law Reform Commission reviewed the *Guardianship and Administration Act 1986* during 2010 and 2011. OPA suggested that while guardianship will be necessary in some circumstances, that supported decision-making should be encouraged.

## Key dates

August 2007	Colleen Pearce is appointed Public Advocate.
April 2008	<i>The Age</i> newspaper reports the Public Advocate's concern for Victoria's 'hidden shame' of the serious abuse of people with a disability.
June 2009	<i>Two steps forward, one step back: an analysis of five years of Community Visitor annual reports, 2003-2007</i> , is published.
September 2009	Pearce claims the state is neglecting its vulnerable: women are being sexually assaulted and raped in supported accommodation. <i>The Age</i> publishes her opinion piece <i>Failing our Vulnerable</i> .
October 2009	The <i>Herald Sun</i> and <i>The Age</i> champion the results of the Community Visitors 'Long-stay patient project' which finds 99 mental health patients locked in secure extended care units (SECU) well beyond their treatment period, one for 21 years.
May 2010	OPA's <i>Submission to the Victorian Law Reform Commission in Response to the Guardianship Information Paper</i> is published for the review of the Guardianship and Administration Act.
August 2010	<i>Supervised Treatment Orders in Practice: How are the Human Rights of People Detained under the Disability Act 2006 Protected?</i> report is published.
September 2010	OPA lends weight to a campaign against sexual assault of women in mental health units; the new Coalition Government provides funding to help address it.
January 2011	OPA leads a campaign to stop violence against the vulnerable including releasing research on 86 cases of violence. <i>The Age</i> and <i>Herald Sun</i> editorialise in support.
30 July 2011	Twenty-fifth anniversary of the official swearing in of Ben Bodna as Victoria's first Public Advocate.

## Community Visitors

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When OPA was established in 1986 its functions included an innovative approach to the inspection of residential care and treatment services for people with an intellectual disability or mental illness, the Community Visitors Scheme.

The provisions for the Community Visitors, in the *Intellectually Disabled Persons' Services Act 1986* and *Mental Health Act 1986*, updated the lifeless Official Visitor scheme. That old scheme had been established in Victoria in 1867. What was original about the Community Visitors was the performance of the inspection role by ordinary members of the community reporting to parliament, rather than experts reporting in-house. This distinctive feature promised lasting benefits beyond the immediate protection of people with a disability from maltreatment in services.

Eric Mushins managed the Community Visitors Program, after being appointed by Ben Bodna as its first coordinator. He calculated nearly 240 Community Visitors were needed to visit all the intellectual disability and psychiatric services. Recruitment and selection of Community Visitors began in December 1986. There would also be a later expansion of the Community Visitors to Supported Residential Services, funded through the health portfolio.

The initial group of Community Visitors were appointed to their three-year office on 22 December 1987. The Community Visitors Program was formally launched six-weeks later by the Governor of Victoria.

Community Visitors visited residential services to inquire into the adequacy, appropriateness and standard of the facilities. As well, they could investigate whether the best possible treatment or care was being provided. They could also take up complaints raised with them by the residents. To ensure they could fulfil these functions, they were given considerable coercive inspection powers which required service staff to render them reasonable assistance, with a penalty for obstruction.

The Community Visitors also had direct reporting powers: to the minister upon their request; and routinely to the Public Advocate.

While the ordinary status of the Community Visitor was integral to the performance of the role, there was a need for training and support. The considerable powers wielded by the Community Visitors created opposition and mistrust in an initially confrontational atmosphere.

In 1988 the first annual report of the Community Visitors, after five months of operation, acclaimed the volunteers as 'agents of change'. The advocacy nature of their inspection role was staked out in this first report. Community Visitor volunteers would not shirk from ensuring the best possible conditions of care for people with a disability, as this was a right, not a privilege.

There was a strong reaction to the first Community Visitors' reports from government departments and services. After negotiations with OPA, the departments accepted the Community Visitors' reporting role. Each year, the media would play their own role in using the Community Visitors annual report to highlight the problems in services identified by the Community Visitors.

**JANEFIELD A DISGRACEFUL RELIC: REPORT**

**REPORT SLAMS DISABLED CARE**

**DAMNING REPORT ON ABUSE**

**THE PEOPLE PROTECTORS**

**DISABLED SCANDAL FORCES RESIGNATION**

**MAKING FRIENDS WITH THOSE WHO'VE NONE**

**ALARM AT DISABLED ASSAULTS**

**DISABLED ABUSE: OFFICIAL 'COVER UP' REFERRED TO POLICE**

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Community Visitors who came to the role focussed on their potential for helping achieve equality for people with a disability. They wanted everyone, without exception, as human beings, to get a fair go and to be treated in the best way possible. The work done by Community Visitors, through their reports, disciplined activities and publicity was recognised in newspaper reports and through official recognition. Marjorie Phillips received the Medal in the Order of Australia in January 1994. She was awarded for her 'service to people with intellectual disabilities' as a Community Visitor. Many other Community Visitors, too, were working arduously for the rights of people with a disability. In June 1995, there were about 370 Community Visitors, having grown from 168 in June 1988.

Uncertainty over the future of OPA and the Community Visitors was resolved after the September 1995 appointment of David Green. He helped the Community Visitors adjust to the steep decline in congregate housing and treatment of people with an intellectual disability and mental illness, relative to the growth in community services. This was a challenge as the program's historical basis was in visiting many congregated residents in large-scale segregated facilities. While the purpose of visitation was unchanged, revised approaches were necessary in the new dispersed-service environment.

This process of readjustment and providing increased support to the Community Visitors volunteers was consolidated during the appointments of Julian Gardner and Colleen Pearce. Due to staff growth, the Community Visitors support staff had to move into adjacent premises in Lonsdale Street in late 2005. It is expected that OPA and the Community Visitors will again be able to share premises in Carton late in 2011.

The success of the Community Visitors Program in reinvigorating the Official Visitors role has been noticed domestically and internationally. Their task of observing and reporting issues in services has helped to secure the dignity and rights of residents of services, and prevented their abuse and neglect.



## Key dates - Community Visitors

November 1986	Eric Mushins commences as Community Visitors Program Coordinator.
	Less than \$160,000 annual funding is provided for the Community Visitors Program.
December 1986	Recruitment for the appointment of 238 volunteer Community Visitors commences.
June 1987	OPA receives 107 applications from people interested in becoming Community Visitors.
October 1987	The <i>Mental Health Act 1986</i> and <i>Intellectually Disabled Persons' Services Act 1986</i> provisions for Community Visitors come into force.
	Ben Bodna corresponds with the Health Department on the extension of the Community Visitors Program to special residential services and nursing homes.
December 1987	The first group of Community Visitors is appointed by the Governor in Council.
February 1988	The Community Visitors Program is launched by the Governor of Victoria.
September 1988	After five months of operation, the first Community Visitors Annual Report acclaims the volunteers as 'agents of change'.
November 1990	<i>The Age</i> newspaper reports on its front page: <i>Report slams disabled care</i> , based on the Community Visitors Annual Report.

# Key dates - Community Visitors (cont.)

February 1991	Community Visitors for Special Residential Services under the <i>Health Services Act 1988</i> commence.
June 1991	An eight-month independent review of the program finds the cost per visit is about \$264.
November 1992	<i>The Age</i> runs a front page story on the Community Visitors Annual Report headlined: <i>Janefield a disgraceful relic</i> .
November 1993	Through Department of Health and Community Services inaction, the reappointment of over 100 Community Visitors does not occur, leading to a critical situation.
	<i>The Age</i> newspaper carries a front-page story on the Community Visitors report into Special Residential Services.
	The state government announces a review of the Community Visitors Program.
December 1993	Eric Mushins informs Community Visitors that OPA has received departmental correspondence advising that the appointments of Community Visitors will proceed, and the program will not be reviewed.
January 1994	Marjorie Phillips OAM, of Bendigo, receives a Medal in the Order of Australia: 'For service to people with intellectual disabilities, particularly through the Community Visitors Program'.

May 1995	<i>The Sunday Age</i> reports on conditions at Kew Cottages using Community Visitors annual reports.
June 1995	There are 370 volunteer Community Visitors, 202 more than in June 1988.
May 1997	The Governor, Sir James Gobbo, attends the 10th annual general meeting and celebration of the Community Visitors Program at St Kilda Town Hall.
May 1998	An evaluation of the Community Visitors Program is produced.
May 2002	Premier Steve Bracks and Community Services Minister Sherryl Garbutt cite Community Visitors reports in closing Kew Cottages.
June 2003	<i>The Age</i> publishes a letter to the editor from an opponent of deinstitutionalisation, critical of the Kew closure, and the “bureaucrats in the Office of the Public Advocate and the Community Visitors Board”.
December 2005	Community Visitors and Independent Third Person Programs relocate to an adjacent Lonsdale Street building to make room for additional OPA staff.
June 2010	During 2009-10, the Community Visitors Program supports 335 volunteers to visit facilities.
3 March 2011	Following persistent inquiries by Community Visitors, the Ombudsman finds that DHS staff covered up a violent incident in which a 39-year-old male resident sustained second-degree burns and was left untreated for 24 hours.

# Significant milestones and publications

September 1986	OPA releases its first submission on aged abuse.
April 1987	<i>Finding the Way: the criminal justice system and the person with intellectual disability</i> is published by OPA, recommending changed approaches for police and other agencies.
1988	OPA produces the <i>Violence at Caloola</i> report which helped lead to the closure of the institution.
May 1988	OPA launches <i>Silent victims: a study of people with intellectual disabilities as victims of crime</i> .
June 1988	Police Standing orders require the presence of an independent third party during interviews with a person with an intellectual disability.
December 1988	<i>Finding new ways: review of services to the person with intellectual disability in the Victorian criminal justice system</i> published by OPA.
February 1990	'A' Stands For Advocacy published.
December 1990	<i>No Innocent Bystanders</i> report published.
	<i>Thinking ahead: an introduction to wills and estate planning for parents of children with an intellectual disability</i> (later, <i>Securing their future</i> ) published.
	Launch of <i>No innocent bystanders: a study of older people in our community</i> by state and federal aged care ministers.

May 1992	Launch of publication <i>Double disadvantage: housing for people with a disability in Victoria</i> .
June 1992	Family Court of Australia requests OPA assistance in applications for medical treatment of children with a disability, after the High Court decision in <i>re Marion</i> .
March 1993	The Family Court decides the Public Advocate has standing in the <i>Michael Case</i> , concerning consent to life-saving surgery, against the parents' wishes.
June 1993	OPA first circulates <i>The report of the inquiry into the increasing costs of disability</i> (published as <i>Paying for disability</i> in October 1994).
July 1993	First publication of <i>Take control: a guide to powers of attorney and guardianship</i> .
July 2000	OPA first publishes <i>Guardianship: a guide for people appointed as guardians under the Guardianship and Administration Act 1986</i> (later, <i>Good Guardianship</i> ).
May 2003	Supreme Court, in the BWV case brought by OPA, interprets the <i>Medical Treatment Act</i> to allow the withdrawal of artificial feeding from a dying person.
May 2004	Six years of OPA advocacy on the needs of people with multiple and complex needs results in the <i>Health Services (Complex Needs) Act 2003</i> .
October 2005	Second OPA Risk and Rights Forum attended by over 200 participants.
March 2010	Violence and Disability Forum hosted by OPA and the Victorian Women with Disabilities Network.



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