The Honourable Robert Charles Kucera
Minister for Health
10th Floor
Dumas House
2 Havelock Street
WEST PERTH WA 6005

Dear Minister

In accordance with section 192(3) of the *Mental Health Act 1996* I submit for your information and presentation to Parliament the Annual Report of the Council of Official Visitors for the financial year ending 30th June 2001.

As well as recording the operations of the Council for the 2000–2001 year the report once again reflects on some of the trends and issues affecting consumers of mental health services in Western Australia.
Yours sincerely

Stuart Flynn
HEAD
COUNCIL OF OFFICIAL VISITORS

Artwork produced by Craig Wood through Creative Expression Unit at Graylands Hospital.

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1 INTRODUCTORY REMARKS

This report is submitted after the Council of Official Visitors has been operational for just over 3 years and, thus, offers the opportunity to reflect upon a significant body of experience. One major lesson from that experience is that improving the public mental health system may depend more on using current resources better rather than simply asking for more.

The Council of Official Visitors attempts to be objective and yet at the same time unreservedly committed to the interests of consumers. It starts from the basic assumption that those who work in the public mental health system share this commitment.

Experience has shown that, in fact, at the level of individual wards and facilities the majority of managers and staff do share this desire to improve the lot of consumers. The Council's convention of formally acknowledging good practice and giving credit where it is due has been well received and, in most cases, there is a heartening sense of collaboration and shared purpose. There is no doubt that the Council has been much more successful than its predecessors, the Boards of Visitors, in achieving improvements for consumers but there is still a very long way to go.

In the case of the public in-patient units, staff and managers experienced a turbulent 2000–2001 with the problems of mental health services receiving much negative publicity and the election of a new government foreshadowing wholesale changes to the management structures of the health system.

This environment militates against optimal patient care and the system desperately needs stability. Unfortunately, this stability seems some time off.

The absence of one locus of ultimate decision making authority in the system is problematic. Thus, whilst the management of metropolitan services remains decentralised it is only to be expected that local managers will develop local solutions with little concern for the bigger picture.

The problem of overcrowding at Graylands Hospital, for example, cannot be seen in isolation when the various mental health services have little incentive to co-operate to remedy metropolitan-wide problems. They are, predictably, more interested in protecting their own resource base rather than assisting other units and, by implication, all consumers.

In such situations there needs to be a referee.

Criticism of the public mental health system also fails to acknowledge that the system has in fact become the refuge of last resort for those whom the alcohol and drugs, disability and criminal justice systems cannot or, as is often the case, will not help.

As this report indicates (refer to section 7.1.5) the present silo-like departmental approach to people in need can put consumers last and bureaucratic self interest first. The experience of the Council suggests that if real progress could be made towards the achievement of what is known as 'a whole of government approach' there would be significant improvements in terms of both resource utilisation and quality of life for consumers.

Consumers of mental health services often complain that the system is slow to act upon or simply ignores their expressions of concern.

The Council has experienced similar frustrations.

Whilst general uncertainty about the future has certainly played a part in getting the Council's concerns addressed, this report cites serious issues which have effectively been ignored, in some cases for over 3 years.

As illustrated below there are many points in the system where the response has been tardy at best. In particular, a substantial degree of lethargy or disinterest has characterised the response of the Mental Health Division and the Office of the Chief Psychiatrist to a number of significant issues raised by the Council, some of which involved breaking the law.

Good policy and effective organisational structures will help to deliver good quality consumer care, but they will count for little if not matched by energetic commitment to putting consumers first.

PRACTICAL THINGS THAT COULD BE CHANGED WITH POSITIVE IMPACT ON CONSUMERS

Following are 10 quick and inexpensive ways the Council has identified to improve the quality of life for consumers of mental health services and / or the residents of psychiatric hostels:

- Whenever any resident of any psychiatric hostel uses the bathroom in the hostel they can be confident that there will be soap and plugs and shower and toilet cubicle doors that lock;
- All bedrooms in licensed private psychiatric hostels will have doors and / or wardrobes that are lockable to ensure privacy and security for residents and their belongings;
- The outdoor area of Joondalup Mental Health Unit's secure ward to be extended to an appropriate size and / or its configuration changed to allow access to the garden area;
- Increased access to the gymnasium where there is one on site and / or basic exercise equipment in authorised hospitals with no gymnasium (e.g. bicycles, basketball or other court type games);
- Make fresh milk available in all licensed private psychiatric hostels;
- Provision and use of BBQs in all hospitals to improve socialisation in a "normal setting" and to involve consumers (particularly long-stay) in cooking their own meals;
- Use of the term "Acting Psychiatrist" or "Psychiatrist" to cease being used for medical practitioners who are not Psychiatrists. Staff to be clear in discussion with consumers and others of the correct title of medical staff responsible for their care;
- Resident Agreements to be developed and implemented in all licensed private psychiatric hostels detailing the rights and responsibilities of residents and owners;
- "Search the Person" and Use of Video Monitoring policies to be developed, implemented and monitored across the whole mental health system;
- Lighting to be installed in the car park adjacent to the Bunbury Acute Psychiatric Residential Unit to improve safety.

UPDATE ON PRIORITIES IDENTIFIED FOR 2000—2001

The Council identified a number of areas in the mental health system as priorities for its attention during 2000–2001. These are listed with a comment regarding the outcome to date:

1 Development and implementation of standards related to quality of life / care issues in the licensed private psychiatric hostel industry.

Outcome: In February 2001 the Council was invited by the Commissioner of Health to be involved in a committee to develop standards for the licensed private psychiatric hostel industry (refer to section 7.1.3 of this report);

2 Development of strategies to address the issues of overcrowding in authorised hospitals and the immediate impact on consumers.

Outcome: Short term strategies have been put in place to address specific problems with overcrowding at Graylands Hospital in Perth. There still do not appear to be any long-term strategies in place to address this issue on a system-wide basis (refer to section 7.1.1.1);

3 Amendments to the *Mental Health Act 1996*, in particular, the definition of '*affected person*' under section 175.

Outcome: This issue can only effectively be addressed via amendments to the *Mental Health Act 1996* (refer to section 7.2.1);

4 Improved access to age appropriate services for adolescents.

Outcome: The Council is unaware of any contingency plan being developed to address the situation when the specialist adolescent unit is full (refer to section 7.1.1.2);

5 Development of system-wide polices covering all mental health services – public, private, metropolitan, rural and remote – regarding issues impacting on consumers, including "search the person".

Outcome: The Office of the Chief Psychiatrist has indicated some willingness to develop system-wide polices regarding issues impacting on consumers. This however appears to be on a reactive rather than proactive basis (refer to section 7.1.2 & 7.1.11);

6 Improved procedures for the security of consumers' belongings.

Outcome: The Council has not witnessed any improvements in the procedures for the security of consumers' belongings (refer to section 7.1.9); and

7 Review of the *Criminal Law (Mentally Impaired Defendants) Act 1996*, in particular in relation to consumers' rights.

Outcome: A review of the *Criminal Law (Mentally Impaired Defendants) Act 1996* has not occurred and there is no timetable for this to occur.

Two areas of the Council's own operations were identified as requiring priority attention during 2000–2001. These areas are listed below with an accompanying comment regarding the progress to date:

1 Increasing the percentage of formal inspection visits which occur at times other than Monday to Friday, 9.00 am to 5.00 pm.

Outcome: The Council has been successful in increasing the percentage of formal inspection visits at times other than Monday – Friday, 9.00 am to 5.00 pm (refer to section 6.1.1 & Tables Two, Three & Four);

2 Implementation of a formalised process to audit whether the requirements of the *Mental Health Act 1996* associated with the issuing of Community Treatment Orders is occurring.

Outcome: A policy and procedure to audit whether the requirements of the *Mental Health Act 1996* associated with the issuing of Community Treatment Orders are being met has been developed by the Council and implemented in one health service area. Its implementation across all health service areas is yet to occur.

2 LEGISLATIVE FRAMEWORK

The Council of Official Visitors (the Council) has been established in accordance with the *Mental Health Act 1996* (the Act), Part Nine, sections 175–192.

3 WHO ARE THE OFFICIAL VISITORS?

The Minister for Health may appoint a person to be 'Head of the Council of Official Visitors' and such numbers of persons as seems appropriate to be members of the Council, known as 'Official Visitors' (the Act section 177).

The Official Visitors "*are to be appointed from amongst the general community;*" and "*are not required to have any particular experience or qualifications*" (the Act section 177 (2)(a)&(b)). The Minister is "*to have regard to the usefulness of any experience or qualifications that the person may have*" (the Act section 177 (3)) in the consideration of appointments.

4 ROLE AND METHOD OF OPERATION

The *Mental Health Act 1996*, Part Nine, prescribes the functions and responsibilities of the Council of Official Visitors.

The major focus of the Council's role is to ensure that 'affected persons', as defined in section 175 of the Act, are aware of their rights and that those rights are respected. This includes monitoring the quality of care provided to 'affected persons' to ensure that it is of the highest possible standard. The Council also has a responsibility to undertake a complaint management role for 'affected persons'.

'Affected person', under the Act (section 175), includes:

- an involuntary patient, including a person subject to a Community Treatment Order;
- a mentally impaired defendant who is in an authorised hospital;
- a person who is socially dependent because of mental illness and who resides, and is cared for or treated, at a private psychiatric hostel; and
- any other person in an institution prescribed for the purposes of this section by the regulations.

The Council is required to ensure an Official Visitor or panel visits each hospital authorised under section 21 of the Act at least once per month and licensed private psychiatric hostels are visited as per a direction from the Minister for Health (the Act section 186 (1)(a) & (b)). The Minister, under "Functions of the Council of Official Visitors Direction 2000", (gazetted in the Government Notices of 12 January 2001), has directed that the specified hostels be visited by an Official Visitor or panel at least once every two months. This direction revoked the previous "Functions of the Council of Official Visitors Direction 1997" which contained similar requirements.

A list of facilities visited by the Council is contained in Appendices 1A and 1B.

A visit from an Official Visitor can be requested by an 'affected person' or another person on their behalf (section 189 the Act). A visit is then arranged as soon as is practicable (section 186 (c)). Requests can be made in writing or via telephone or personal contact.

In an effort to provide a more timely and responsive service Official Visitors have the delegated authority of the Council to follow up and endeavour to resolve issues raised with them by consumers or identified at inspection visits at the lowest possible organisational level.

Reporting Lines

The Council and its individual members are directly responsible to the Minister for Health. The Act (section 192 (3)) requires that the Head of Council provide a written report to the Minister for Health on the Council's activities as soon as practicable after the end of each financial year. The Minister is to cause a copy of the report to be laid before each House of Parliament (section 192(4)).

Any Official Visitor, or person on a panel, who considers that the Minister for Health or the Chief Psychiatrist should consider a matter may make a report to that person (section 192). The Council has adopted a process, in practice, whereby the Head of Council typically makes reports on behalf of the Council members.

Executive Officer & Other Staff

The Council's Executive Officer and other office staff are public servants (as per section 182 of the Act) and employed by the Health Department of WA. The Executive Officer is thus formally accountable to the Director, Corporate Management, Health Department of WA. In practice she is also responsible to the Head of Council for the day-to-day operation of the Council. Other support / administration staff report to the Executive Officer.

Full Council Meetings

The Council reviewed its meeting structure twice during the 2000–2001 period. These reviews occurred following the appointment of new members to the Council and the associated increase in membership numbers.

For the period July 2000 to May 2001 full meetings of the Council occurred on a bimonthly basis, with the first meeting for that period in August 2000. These meetings were held in Perth and all members of the Council, metropolitan and regional, were expected to attend. Discussions at these meetings focused on the operation of the Council and issues of interest or concern to the Council.

At an extraordinary meeting of the full Council in May 2001 it was determined, that effective June 2001, the Council would operate utilising an Executive decision making group. This group would meet monthly and comprise a representative from the sub groups within the Council and the Head of Council. The Council's Executive Officer would attend as a non-voting member. It was agreed that full meetings of the Council would occur quarterly, effective June 2001, with a professional development focus. These arrangements will be reviewed after six months of operation.

Group Meetings

The Council's membership was divided into four groups (two metropolitan and two regional) based on geographical areas of responsibility. Each group was responsible for providing services to consumers associated with the facilities in the specified area. These groups met on a monthly basis to discuss issues of specific concern and to arrange routine inspections for the following month. Feedback from these groups was provided to full meetings of the Council.

Orientation

A two day orientation session was conducted on 25 and 26 September 2000 in Perth for newly appointed metropolitan and regional members.

Code of Conduct

The Council previously adopted a Code of Conduct to complement its Code of Ethics. The Code of Ethics and Code of Conduct are provided to all Official Visitors at the time of their appointment and are binding on all members of the Council.

A copy of the Code of Ethics and Code of Conduct is available from the Council's office.

A summary of the meetings attended by Council members during 2000–2001 is contained in Table One below.

Table One

ATTENDANCE AT COUNCIL OF OFFICIAL VISITORS' MEETINGS 2000—2001

OFFICIAL VISITOR	BUSINESS		EXTRAORDINARY		PROFESSIONAL DEVELOPMENT	
	Present	Apol.	Present	Apol.	Present	Apol.
Di Annear	5	0	0	1	1	0
Sandra Brown	5	0	1	0	1	0
Rita Burgess	4	1	0	1	1	0
Peter Davies	5	0	1	0	0	1
Jean Ellis	5	0	1	0	1	0
Jane Ensor[1]	–	–	–	–	1	0
Stuart Flynn (Head of Council)	4	1	1	0	0	1
Adrian Gavranich	3	2	1	0	1	0
Jane Gibson	5	0	1	0	1	0
Kevin Guhl	4	1	1	0	0	1
Amara Hogeveen	5	0	1	0	1	0
Kevin Hogg	5	0	1	0	1	0
Lynn Hudson	4	1	1	0	1	0
Gary Hulse	0	2	0	0	0	0
Cushla Leech[1]	–	–	–	–	1	0
Helen Lette	3	2	0	1	1	0
Edana McGrath	4	1	1	0	1	0
Sean O'Connell	5	0	1	0	1	0
June O'Connor	5	0	1	0	1	0
Noreen Paust	5	0	1	0	1	0
John Rooney	4	1	0	1	1	0
Catherine Sawtell	3	2	1	0	1	0
Rosalind Sawyer	4	1	1	0	1	0
Maxinne Sclanders	3	2	1	0	1	0
Sheila Stephens	5	0	1	0	1	0
Nepia Teio	4	1	1	0	1	0
Hilary Tuffin	4	1	1	0	1	0
Brenda Van Zalm	2	2	1	0	1	0
Catriona Were-Spice	5	0	1	0	1	0
Michael Wright[1]	–	–	–	–	0	1

[1] *Advice of appointments commencing 09 April 2001 received mid May 2001*

Ongoing Education and Development

The Council is committed to providing a quality service to consumers accessing its service. To assist in this the Council endeavours to ensure that all Official Visitors are provided with appropriate training and development opportunities to enable them to carry out their functions efficiently and effectively.

Ensuring the professional development needs of regional based Official Visitors are addressed was identified as an area requiring attention by the Council. Strategies to ensure that these needs are adequately addressed will be a focus during 2001–2002.

As part of the ongoing programme of providing training and development opportunities a number of Official Visitors attended lectures, workshops and conferences external to the Council during 2000–2001. These included:

- "Feast of Psychiatry", hosted by Fremantle Hospital & Health Service;
- "Breakthrough" series of lectures sponsored by ARAFMI and Casson Homes Inc.;
- 8th Rural & Remote Mental Health Services Conference;
- Law Week 2001 – Hypothetical – "Safeguarding Vulnerable People Does This Mean Their Rights Come Last"; and
- Mental Health Review Board "Seminar Series".

In addition the Mental Health Law Centre provided some initial training to Official Visitors on advocacy in relation to Mental Health Review Board hearings.

5 Administrative Issues

5.1 Council Composition 2000—2001

Mr Stuart Flynn continued in his appointment as the Head of Council during the 2000–2001 financial year. In December 2000 the then Minister for Health appointed him for a subsequent term expiring in February 2003. This appointment was confirmed following the change of government in February 2001.

At 01 July 2000 the Council comprised 30 members, including the Head of Council, covering the Perth Metropolitan area and some regional areas.

During 2000–2001 a number of members were reappointed to the Council following the expiration of their initial terms of appointment. These individuals were required to nominate their interest and be considered along with other individuals who expressed their interest in appointment to the Council.

Following the appointment of additional members in August 2000 and April 2001 the Council's composition now more widely reflects the general community, including Aboriginal representation.

It is anticipated that the Kalgoorlie Mental Health Unit will be opened and authorised under section 21 of the *Mental Health Act 1996* in mid to late 2001. To ensure that the Council can provide a locally based service to this unit, advertisements for Expressions of Interest from individuals in the Northern Goldfields area were placed in the local newspapers during June 2001. Interviews of the interested people are to occur in early August 2001.

Appendix 2 lists the members of the Council during the 2000–2001 financial year.

5.2 Accommodation

The Council continued in its premises at Unit 1, 1076 Hay Street (cnr Harvest Terrace) West Perth. These premises are centrally located and provide adequate and appropriate space for staff and Council members and good access for people with disabilities.

5.3 Staffing

The staffing for the Council's office continued as for the previous financial year, consisting of a full time Executive Officer (Level 6), Ms Catherine Stevenson; a full time Administrative Officer (Level 2), Ms Leah Knapp; and a part time (0.75 FTE) Clerical Officer (Level 1), Ms Elsie Ekstrom.

5.4 Budget

The Council was allocated a budget of $419,000 for 2000–2001. This proved sufficient to operate the Council (refer to section 5.4.2).

5.4.1 Remuneration

The *Mental Health Act 1996* (section 180(1)) provides that Official Visitors are remunerated for the work undertaken on behalf of the Council. The remuneration rates for members of the Council are determined in accordance with the recommendations of the Ministry of the Premier and Cabinet, Public Sector Management Office. These rates have remained the same since the Council's establishment.

Official Visitors are also reimbursed for the costs incurred in the performance of their role (for example, travel expenses). In accordance with WA government policy members of the Council who are employed by State or Commonwealth government departments or tertiary educational institutions are not eligible for payment of sitting fees but can be reimbursed for other expenses.

5.4.2 Expenditure

Expenditure for the Council of Official Visitors for the financial year 2000–2001 totalled $387,005. Due to delays beyond the Council's control some projected expenses were not incurred before year end and a small sum was returned to the Health Department of WA.

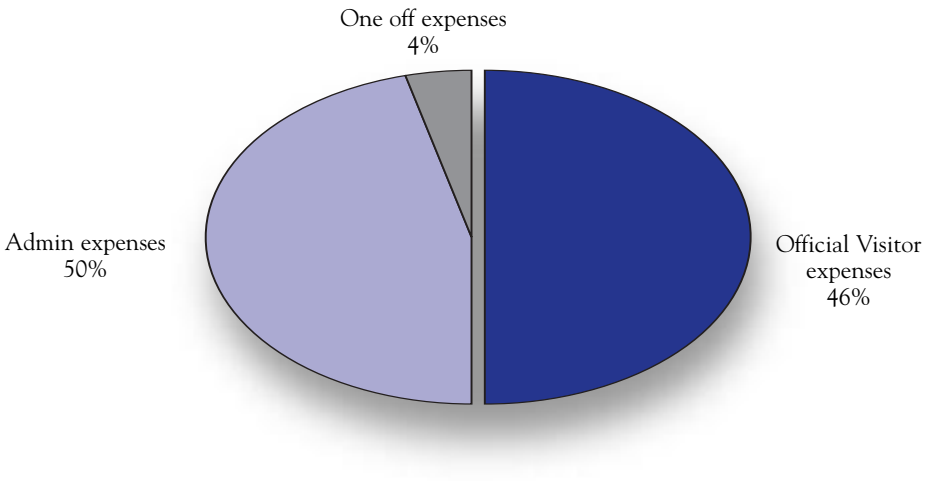
Chart One below provides a summary breakdown of the expenditure of the Council for the financial year.

$179,915 (46%) was spent on the sitting fees and associated expenses for Official Visitors. These associated expenses include travel for members of the Council undertaking Council business, primarily visits with consumers and inspection visits and training. This amount only reflects payments actually processed during the 2000–2001 year and does not account for all activities by Official Visitors.

$193,394 (50%) was accounted for by the administrative costs associated with the operation of the Council including employment of staff, rental of premises, telephone charges and production of pamphlets and posters.

CHART ONE

EXPENDITURE 2000—2001



A sum of $13,696 (4%) was accounted for by 'one off' expenses including web site development, database fine tuning and software purchases.

As required under the *Electoral Act 1907*, section 175ZE(1), during 2000–2001 the Council expended the following in relation to the designated organisation types:

(a) advertising agencies – nil;

(b) market research organisations – nil;

(c) polling organisations – nil;

(d) direct mail organisations – nil;

(e) media advertising organisations – Marketforce Productions, $1,955.

6 ACTIVITIES OF THE COUNCIL

The Council of Official Visitors' major areas of responsibility are to:

- respond to requests from consumers in a timely fashion; and
- undertake inspections of authorised hospitals and the licensed private psychiatric hostels.

The Council endeavours to be flexible and responsive to the needs of consumers. It has continued in its practice of attempting to deal with matters at the lowest appropriate organisational level to ensure they are addressed as quickly as possible.

The Act (section 190 (2)) empowers the Council members to visit facilities with or without notice. The Council continued with the majority of inspection visits occurring unannounced. It increased the number of inspections conducted outside normal working hours compared to 1999–2000 (refer to section 6.1.1).

Panel Appointments

Eight individuals were appointed by the Council as Panel Members, as prescribed in section 187 of the Act, during 2000–2001.

6.1 FACILITY INSPECTION VISITS

6.1.1 Facility Inspection Visits–Statutory Requirements

The *Mental Health Act 1996* (the Act) specifies the functions of the Council of Official Visitors as follows:

> "**186.** *It is a function of the Council of Official Visitors–*
>
> *(a) to ensure that each authorized hospital is visited at least once in each month by an official visitor or panel;*
>
> *(b) to ensure that at any time the Minister so directs, a place where any affected person is detained, cared for, or treated under this Act is visited by an official visitor or panel, in accordance with that direction;".*

Under direction from the Minister for Health the Council is required to ensure that an Official Visitor or panel visits designated hostels (refer to Appendix 1B) at least once every two months. The initial direction entitled, "*Functions of the Council of Official Visitors Direction 1997*" was revoked in January 2001 with the gazettal of a new direction entitled, "*Functions of the Council of Official Visitors Direction 2000*" which added Honey Brook Lodge to the list of specified hostels.

Inspection visits adopt a focus of ensuring that 'affected persons' are aware of their rights, these rights are observed and that the facility is kept in a "*condition that is safe and otherwise suitable*" (as per section 188 (c) of the Act). Time is spent with consumers and staff within the facilities during these visits.

The Council continued the process of focusing on specific areas during inspection visits in an attempt to develop a 'snap shot' of the whole of system for those areas.

Areas focused on during 2000–2001 included:

- Access to Recreational and Vocational Activities;
- Privacy;
- Hostel Residents' Finances;
- Choice; and
- Furnishings.

A breakdown of the total number of inspection visits to authorised hospitals and licensed private psychiatric hostels by the time and day of is detailed in Tables Two and Three below, respectively.

Individuals live in and are cared for in these facilities 24 hours per day, seven days per week therefore the Council has set itself the target of conducting at least 25% of its inspection visits outside "normal" working hours (ie other than Monday to Friday 9.00 am to 5.00 pm). Numerous other visits, including responding to consumer requests, occur outside these hours. These latter visits are not reflected in Tables Two and Three below.

The Council's performance in conducting visits outside normal working hours improved during 2000–2001 compared to previous years (refer to Table Four). Approximately 29% of inspection visits to authorised hospitals for 2000–2001 occurred outside these hours. Inspection visits to the licensed psychiatric hostels outside 'normal working hours' during the same period accounted for approximately 37% of the inspection visits conducted.

It is important to note that the Council failed to complete all the required visits. Specifically two facilities, Casson Group Homes and the Richmond Fellowship Teague Street houses, both only received five inspection visits during the year instead of the required six per facility.

The Council treats this very seriously. This is a performance issue for the Official Visitors concerned and appropriate counselling has occurred. Strategies have been implemented in an attempt to prevent any recurrence.

Table Two

AUTHORISED HOSPITAL INSPECTIONS BY HOSPITAL & TIME & DAY OF INSPECTION 2000—2001

AUTHORISED HOSPITAL	TOTAL NUMBER OF INSPECTIONS	TIME OF INSPECTIONS			
		Mon – Fri 9 am – 5 pm	Mon – Fri 5 pm – 9 am	Sat / Sun / Pub Hol 9 am – 5 pm	Sat / Sun / Pub Hol 5 pm – 9 am
Albany Regional Hospital – Mental Health Unit	12	9	2	1	0
Alma Street Centre	24	20	2	2	0
Armadale Kelmscott Memorial Hospital – Adult and Elderly units[1]	1	1	0	0	0
Bunbury Acute Psychiatric Residential Unit	12	9	0	2	1
Graylands & Special Care Health Services	39	23	10	3	3
Joondalup Mental Health Unit	12	9	1	1	1
Mills St Centre	30	19	11	0	0
Selby Lodge	12	9	0	2	1
Swan Health Service Boronia Unit & Swan Valley Centre[2]	17	14	2	1	0
TOTAL	**159 (100%)**	**113 (71.1%)**	**28 (17.6%)**	**12 (7.5%)**	**6 (3.8%)**

Notes:

1 Orientation visit June 2001

2 Visits commenced February 2001

Table Three

LICENSED PRIVATE PSYCHIATRIC HOSTEL INSPECTIONS BY HOSTEL & TIME & DAY OF INSPECTION 2000—2001

LICENSED PRIVATE PSYCHIATRIC HOSTEL	TOTAL NUMBER OF INSPECTIONS	TIME OF INSPECTIONS			
		Mon – Fri 9 am – 5 pm	Mon – Fri 5 pm – 9 am	Sat / Sun / Pub Hol 9 am – 5 pm	Sat / Sun / Pub Hol 5 pm – 9 am
175 Anzac Tce & 6 Mann Way Bassendean[1]	6	1	5	0	0
Casson Homes[2]	5	2	2	0	1
Casson House	6	5	1	0	0
Devenish House	6	2	2	1	1
Dudley House	6	6	0	0	0
Franciscan House	6	4	2	0	0
Glyde Street Hostel	6	4	2	0	0
56 & 58 Glyde Street East Fremantle[1]	6	5	1	0	0
Honey Brook Lodge[3]	3	3	0	0	0
John Wilson Lodge	6	4	2	0	0
Maude Armstrong	6	5	1	0	0
Romily House	6	4	1	0	1
Rosedale Lodge	6	1	4	1	0
Salisbury Home	6	3	2	1	0
Shannon House	6	1	4	0	1
Sherwood House	6	4	0	2	0
Success Hill Lodge	6	5	1	0	0
2 & 13 Teague Street Victoria Park[1,4]	5	5	0	0	0
Woodville House	6	5	0	1	0
TOTAL	**109 (100%)**	**69 (63.3%)**	**30 (27.5%)**	**6 (5.5%)**	**4 (3.7%)**

Notes:

1 Richmond Fellowship Houses

2 'Casson Homes' includes Aitken House, Gormley House, Violet Major House & Yates House as per Appendix 1B. No inspection visit March 2001

3 Inspections commenced January 2001

4 No inspection visit September 2000

TABLE FOUR

FACILITY INSPECTIONS BY TIME & DAY OF INSPECTION
1998–1999 TO 2000–2001

FINANCIAL YEAR	FACILITY TYPE	TIME OF INSPECTIONS (% OF TOTAL)			
		Mon – Fri 9 am – 5 pm	Mon – Fri 5 pm – 9 am	Sat / Sun / Pub Hol	Mon – Fri Time not recorded
1998–1999	Authorised Hospitals	77.8%	13.8%	0.6%	7.8%
	Licensed Private Psychiatric Hostels	75.2%	16.5%	0%	8.3%
1999–2000	Authorised Hospitals	69.7%	12.9%	17.4%	0%
	Licensed Private Psychiatric Hostels	77.6%	14.6%	5.2%	2.6%
2000–2001	Authorised Hospitals	71.1%	17.6%	11.3%	0%
	Licensed Private Psychiatric Hostels	63.3%	27.5%	9.2%	0%

Over the three full years of the Council operation it has consistently increased the percentage of inspection visits conducted outside "normal working hours". For the period 1998–1999 to 2000–2001 the percentage of visits outside "normal working hours" has increased from approximately 23% to 32% of the total visits.

6.1.2 Summary of Issues Raised

LICENSED PRIVATE PSYCHIATRIC HOSTELS

The lack of standards for licensed private psychiatric hostels and the differing approaches to the management of hostels across the industry continued as challenges for the Council. Council's frustration with the difference in support services offered to hostel residents and staff by the local mental health services also remained. These differences relate more to geographical location rather than the identified needs of the residents. These issues are also noted in section 7.1.3 and 7.1.4 of this report respectively.

Inconsistency in the facilities available to residents continued as reported in the Council's 1999–2000 Annual Report. This included:

- residents' access to or availability of beverages;
- facilities available for residents to make and receive telephone calls; and
- facilities available for residents to lock their bedrooms or a cupboard within their room to secure their belongings.

During 2000–2001 the Council referred a number of issues of concern to other agencies. These included concerns regarding residents' finances and fees charged, and quality of care issues.

Finances

The apparent lack in the private psychiatric hostel industry of a routine system of objective, external accountability which would satisfy auditing industry benchmarks, is of concern to the Council (refer to section 7.1.13).

The residents of all Richmond Fellowship Houses raised concerns regarding the planned increases in the fees they were to be required to pay. There had been no increase in fees for Richmond Fellowship residents for a number of years therefore the increases were more significant to the residents. This concern was compounded for residents by a degree of disquiet and concern regarding the restructuring of staffing at these facilities.

Catering

During a small number of inspections during 2000–2001 the Official Visitors observed meals being served before the earliest time specified in the regulations governing the licensing and conduct of private psychiatric hostels, for example, evening meals served before 5.00pm. These occasions were brought to the attention of the licensees with a request that this be rectified. The Council will continue to monitor this.

Authorised Hospitals

Consumer Rights

Facilities' compliance with the requirements under the *Mental Health Act 1996* to inform consumers of their rights continued as an area of concern for the Council. In a number of instances staff in facilities failed to document this action. In addition consumers often stated that they did not remember being informed even though this had occurred. This highlights the need to ensure that consumers are advised of their rights at numerous times during their admission.

Recreational / Vocational Activities

Access to recreational / vocational activities continued to be restricted for consumers in authorised hospitals. Access to gymnasium type facilities, particularly for people in secure wards, also remained limited.

In January 2001 the Council received complaints regarding the decrease in the provision of some pastoral care services at Mills Street Centre due to a withdrawal of funding.

Amenities

The Council received numerous complaints (and some compliments) regarding the menus available to consumers in authorised hospitals. Of particular concern was that consumers in the psychiatric units at Fremantle and Bentley Hospitals did not receive the same number of choices on the menu as consumers in the general sections of those hospitals. The Council viewed this as discriminatory. This issue was raised with the management of both facilities. At 30 June 2001 Mills Street Centre has altered the system in place to address this and the Alma Street Centre is investigating what action can be taken.

Physical Facilities

Since May 1998 the Council has raised concerns regarding the poor state of the furniture and fittings in the Mills Street Centre Lodge. Whilst attempts have been made to address some of these concerns the Council remains seriously concerned at the state of the furniture and the potential risk it poses to consumers and staff in the facility. The Council understands that lack of funding is the major reason for the furniture not being replaced.

The inadequacy of Joondalup Mental Health Unit's secure ward outdoor area has been of concern to the Council since March 1998. This continued during 2000–2001.

The lack of adequate lighting in the car park adjacent to the Bunbury Acute Psychiatric Residential Unit was raised as a safety concern for consumers, visitors and staff. At the time of this report adequate lighting has not been installed.

6.2 CONSUMER VISITS AND CONTACTS

6.2.1 Requests

Table Five below summarises the number of consumers seen by Official Visitors in response to a request and where a report was forwarded to the Council's office.

Non-Identifiable Action

The Council has mailboxes in wards at a number of the authorised hospitals and one psychiatric hostel. These boxes are cleared regularly by Official Visitors.

During 2000–2001 the Council received a number of pieces of correspondence from these boxes where, due to the lack of an author's name or other details, it was not possible to act on the request. A total of 14 pieces of such correspondence was received from the Alma Street Centre, 32 from Graylands Hospital and 1 from the psychiatric hostel.

For the year 2000–2001 there was an increase of 24.5% in the total number of consumers having contact with the Council in response to requests, compared to 1999–2000 (refer to Tables Five and Six).

There have been significant increases in the number of consumers from the Mills Street Centre, Bunbury Acute Psychiatric Unit and the Albany Mental Health Unit having contact with the Council during 2000–2001 compared to the previous year. The increase in consumers from Swan Mental Health Service relates directly to the opening of the Swan Valley Centre in October 2000.

Overall the number of visits related to consumer requests has increased in proportion with the increased number of consumers requesting such contact. It is interesting to note that the frequency of telephone contacts increased at a rate greater than the increase in consumer numbers.

TABLE FIVE

CONTACTS WITH CONSUMERS BY FACILITY 2000–2001

FACILITY	NUMBER OF CONSUMERS CONTACTED	CONTACT TYPE			
		VISIT	TELEPHONE CALL	LETTER	MHRB[1] ATTENDANCE
Albany Mental Health Unit	9	19	11	1	1
Alma Street Centre Fremantle	48	62	45	7	2
Bunbury Acute Psychiatric Residential Unit	12	33	16	1	1
Graylands & Special Care Health Services	245	433	304	71	10
Joondalup Mental Health Unit	14	10	29	8	1
Mills Street Centre Bentley	42	60	57	11	10
Selby Lodge	1	1	1	0	1
Swan Mental Health– Swan Valley Centre & Boronia	11	7	22	0	0
Metropolitan Clinics	18	6	32	8	9
Non-Metropolitan Clinics	0	0	0	0	0
Psychiatric Hostels	20	21	39	6	1
Other	2	4	2	1	0
TOTAL	**422**	**656**	**558**	**114**	**36**

Notes

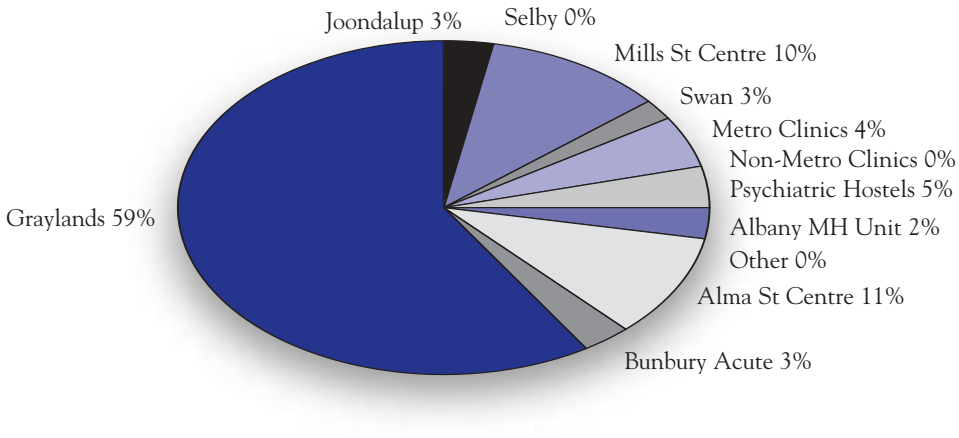
1 MHRB Mental Health Review Board

Significantly there was also a threefold increase in attendance at Mental Health Review Board hearings from 12 in 1999–2000 to 36 in 2000–2001. Whilst the increase in number of attendances at Mental Health Review Board hearings to support consumers is positive it is of concern to the Council that the actual number of such attendances is small. It is of particular concern if consumers are attending such hearings with no support or assistance from the Council or other representation (e.g. the Mental Health Law Centre) through lack of knowledge or the ability to access the services.

Similar to 1999–2000 the majority of consumers with whom the Council had contact were from Graylands Hospital (59%) (refer to Chart Two).

Chart Two

Percentage of total consumers by facility 2000–2001



Tables Six and Seven below provide overviews of the increase in the number of consumers having contact with the Council in response to requests and the contact type associated with these requests for the three full years of the Council's operation.

There has been an increase in the total number of consumers requesting contact with the Council during this three year period (refer to Table Six). It is significant to note that, to date, no requests have been received from consumers from regional mental health clinics. There were a small number of consumers discharged from hospital subject to Community Treatment Orders in the regional areas who had follow up contact from members of the Council but no new requests were received.

Similarly there has been a consistent increase in the total number of contacts between Official Visitors and consumers following these requests over the same period (refer to Table Seven).

Table Six

TOTAL CONSUMERS CONTACTED BY FACILITY 1998–1999 to 2000–2001

FACILITY	NUMBER OF CONSUMERS		
	1998–1999	1999–2000	2000–2001
Albany Mental Health Unit	4	2	9
Alma Street Centre Fremantle	45	48	48
Bunbury Acute Psychiatric Residential Unit	2	3	12
Graylands & Special Care Health Services	212	203	245
Joondalup Mental Health Unit	13	13	14
Mills Street Centre Bentley	52	29	42
Selby Lodge	4[1]	1	1
Swan Mental Health– Swan Valley Centre & Boronia	1[2]	0[2]	11
Metropolitan Clinics	20	16	18
Non–Metropolitan Clinics	0	0	0
Psychiatric Hostels	7	22	20
Other	2	2	2
TOTAL	362	339	422

Notes:

[1] Lemnos Hospital

[2] La Salle Hospital / Boronia Unit only

TABLE SEVEN

TOTAL CONTACTS WITH CONSUMERS
1998–1999 TO 2000–2001

FACILITY	NUMBER OF CONSUMERS CONTACTED	CONTACT TYPE			
		VISIT	TELEPHONE CALL	LETTER	MHRB[1] ATTENDANCE
1998–1999	362	519	189	48	Not Reported
1999–2000	339	515	374	93	12
2000–2001	422	656	558	114	36
% increase 1998–1999 to 2000–2001	16.6%	26.4%	195.2%	137.5%	200%[2]

Notes:

[1] MHRB Mental Health Review Board

[2] 1999–2000 to 2000–2001 only

6.2.2 Summary of Issues Raised

The Council continued to utilise the same categorisation of complaints as that adopted by the Office of Health Review and individual Mental Health Services. Complaints are categorised based on the complainant's view of the issue. A summary of the issues, as raised by consumers, is contained in Table Eight below.

1 Access

Complaints relating to access accounted for 23.5% of complaints received. Access issues included restricted access to outside areas for consumers in secure units; delays in discharge and lack of access to escorted ground access from secure wards. Access to outside areas in secure wards and escorted ground access are dependent on staff being available however these issues have consistently been raised across the services. This appears to indicate a need to review the procedures in place and commitment to ensuring that consumers have such access.

2 Communication

Failure in communication accounted for 2% of complaints. Failure to fulfil statutory obligations regarding informing consumers of their rights accounted for 0.5% of complaints. Whilst in a significant number of these situations it was apparent that the consumers had been advised of their rights they did not remember this. This serves to highlight the need for a system of ensuring that individuals understand and remember their rights rather than advising them only once. In a number of instances however, the informing of rights was not documented in the consumer's record as required by the *Mental Health Act 1996*.

3 Decision Making

"Consent not obtained" complaints (6%) related to consumers complaining that they were receiving medication or other treatments against their wishes.

4 Quality of care

Complaints regarding inadequate treatment (6.5%) related to people not receiving treatment for both psychiatric and general medical conditions.

5 Costs

Complaints about the "Amount charged" related to the fees at some licensed psychiatric hostels, including Richmond Fellowship and the charging of fees to involuntary inpatients who were deemed to no longer require "acute care".

6 Privacy / Consideration / Discourtesy

Negative attitude or lack of courtesy from staff members was the basis for 5.7% of complaints. These were difficult to substantiate as they primarily reflect two individuals' differing perceptions of events.

Allegations of assault either by staff members or other consumers accounted for 2.3% of complaints. In one instance there was a lengthy delay in the complaint being investigated by the service concerned. Difficulties with the investigation were compounded by the lack of adequate documentation surrounding the alleged incident. The procedures surrounding the documentation of such events by that agency have been improved.

Of the 3 complaints relating to sexual impropriety or transgression, two allegations involved staff and the third another consumer. There was inadequate information to substantiate the complaints regarding staff.

7 Grievances

Only one complaint was received regarding one agency's inadequate response to a complaint. This was referred to the agency involved for its action.

8 Other

Complaints regarding food (Catering), accounted for 3.5% of complaints. In particular complaints received related to Alma Street Centre and Mills Street Centre. Of concern was the lack of choice of menu for consumers in these two mental health units. It became apparent that they were being treated differently to consumers in the general part of the same facility. Mills Street Centre has addressed this issue and Alma Street has been asked to address it. Concern regarding the lack of variety of food was also raised.

Concerns regarding the facilities for consumers accounted for 6.6% of the complaints. These included concerns regarding the lack of facilities available for consumers due to overcrowding, including being moved during the night, and the facilities in place for consumers at Graylands Hospital whilst major renovations were undertaken on a ward. In relation to the latter, following negotiations, it was agreed that, for their comfort and safety, consumers would not be returned to the ward until the major work had been completed.

9 *Mental Health Act 1996–Other*

Assistance with and support at Mental Health Review Board hearings accounted for approximately 12% of consumer contact issues. Assistance with arranging second opinions accounted for 2.5% of contacts. It is interesting to note that whilst the actual number of requests for these three issues increased significantly from those received in 1999–2000, their percentages of the total issues remained at approximately the same level.

TABLE EIGHT

TOTAL CONSUMER CONTACTS BY ISSUE CATEGORY—
ALL FACILITIES
2000—2001

1.	ACCESS	NUMBER	PERCENTAGE (%) OF TOTAL
1.1	Delay in Admission or treatment	31	3.2
1.2	Waiting list delay	1	0.1
1.3	Non-attendance	4	0.4
1.4	Inadequate or no service	30	3.1
1.5	Refusal to admit or treat	0	0
1.6	Discharge or transfer arrangements	160	16.6
1.7	Access to transport	0	0
1.8	Physical access/entry	1	0.1
1.9	Parking	0	0
	TOTAL	**227**	**23.5%**

2.	COMMUNICATION	NUMBER	PERCENTAGE (%) OF TOTAL
2.1	Inadequate information about treatment options	3	0.3
2.2	Inadequate information on services available	6	0.6
2.3	Misinformation or failure in communication	19	2
2.4	Failure to fulfil statutory obligations	5	0.5
2.5	Access to records	2	0.2
2.6	Inadequate or inaccurate records	1	0.1
2.7	Failure to provide interpreter	0	0
2.8	Certificate or report problem	0	0
	TOTAL	**36**	**3.7%**

3.	DECISION MAKING	NUMBER	PERCENTAGE (%) OF TOTAL
3.1	Failure to consult consumer	8	0.8
3.2	Consent not informed	2	0.2
3.3	Consent not obtained	57	6
3.4	Private/public election	1	0.1
3.5	Refusal to refer or assist to obtain a second opinion	4	0.4
	TOTAL	**72**	**7.5%**

4.	QUALITY OF CARE	NUMBER	PERCENTAGE (%) OF TOTAL
4.1	Inadequate diagnosis	5	0.5
4.2	Inadequate treatment	63	6.5
4.3	Rough treatment	20	2.1
4.4	Incompetent treatment	7	0.7
4.5	Negligent treatment	1	0.1
4.6	Wrong treatment	10	1.1
	TOTAL	**106**	**11%**

5.	COSTS	NUMBER	PERCENTAGE (%) OF TOTAL
5.1	Inadequate information about costs	1	0.1
5.2	Unsatisfactory billing practice	5	0.5
5.3	Amount charged	5	0.5
5.4	Overservicing	0	0
5.5	Private health insurance	0	0
5.6	Lost property and/or reimbursement	6	0.6
	TOTAL	**17**	**1.7%**

6.	PRIVACY / CONSIDERATION DISCOURTESY	NUMBER	PERCENTAGE (%) OF TOTAL
6.1	Inconsiderate service/lack of courtesy	55	5.7
6.2	Absence of caring	17	1.8
6.3	Failure to ensure privacy	5	0.5
6.4	Breach of confidentiality	5	0.5
6.5	Discrimination	1	0.1
6.6	Discrimination of public consumer	0	0
6.7	Sexual impropriety	1	0.1
6.8	Sexual transgression or violation	2	0.2
6.9	Assault	22	2.3
6.10	Unprofessional conduct	1	0.1
	TOTAL	**109**	**11.3%**

7.	GRIEVANCES	NUMBER	PERCENTAGE (%) OF TOTAL
7.1	Inadequate response to a complaint	1	0.1
7.2	Reprisal following a complaint	0	0
	TOTAL	**1**	**0.1%**

8.	OTHER	NUMBER	PERCENTAGE (%) OF TOTAL
8.1	Administrative practice	26	2.7
8.2	Catering	34	3.5
8.3	Facilities	64	6.6
8.4	Security	32	3.3
8.5	Cleaning	20	2.1
8.6	Fraud/illegal practice	2	0.2
	TOTAL	**178**	**18.4%**

9.	*MENTAL HEALTH ACT 1996* (OTHER)	NUMBER	PERCENTAGE (%) OF TOTAL
9.1	Mental Health Review Board Application	74	7.7
9.2	Mental Health Review Board Attendance	39	4
9.3	Second Opinion Request (not 3.5)	24	2.5
9.4	Mental Health Act 1996 Information	9	0.9
9.5	Mental Health Act 1996 Non-Compliance (not 2.4)	4	0.4
	TOTAL	**150**	**15.5%**

10.	*CRIMINAL LAW (MENTALLY IMPAIRED DEFENDANTS) ACT 1996*	NUMBER	PERCENTAGE (%) OF TOTAL
10.1	Mentally Impaired Defendants Review Board	3	0.3
	TOTAL	**3**	**0.3%**

11.	UNABLE TO BE DETERMINED	NUMBER	PERCENTAGE (%) OF TOTAL
11.1	Unknown / Undetermined	59	6.1
	TOTAL	**59**	**6.1%**

12.	COMPLIMENTS	NUMBER	PERCENTAGE (%) OF TOTAL
12.1	Compliments	5	0.5
	TOTAL	**5**	**0.5%**

6.3 POLICY DEVELOPMENT AND ADVOCACY

The Council continued in its role related to policy development and advocacy at the local and systemic levels. Some of the issues raised are discussed in Section 7 of this report.

The process of regular meetings between the Head of Council and the Chief Psychiatrist, Director, Metropolitan Mental Health Service and the Executives of the major authorised hospitals continued during 2000–2001. In addition a process for regular meetings with representatives of the Private Psychiatric Hostels Association has been established. The Head of Council also corresponds with and has access to the Minister for Health.

The Council also has representation on the WA Association for Mental Health's Human Rights and Social Justice Committee.

Chief Psychiatrist and / or the Commissioner of Health

A number of issues were raised with the Chief Psychiatrist and / or the Commissioner of Health during the year including:

- use of mechanical bodily restraint in authorised hospitals;
- detention of voluntary patients in authorised hospitals;
- use of video monitoring in authorised hospitals;
- policies on personal searches, particularly strip searching;
- issues associated with level of care and supervision in specific licensed private psychiatric hostels; and
- financial record keeping relating to residents' finances in the licensed private psychiatric hostels.

Metropolitan Mental Health Service

The following issues were raised with the Metropolitan Mental Health Service:

- consumer access to range of options for second opinions;
- use of the term "*acting psychiatrist*" for medical staff who are not psychiatrists;
- privacy provisions for consumers to make and receive telephone calls at the Alma Street Centre; and
- consumers' access to records under the *Mental Health Act 1996* (section 160 and 161).

Mental Health Review Board

Members of the Council made a number of observations, both positive and negative, relating to the conduct of Mental Health Review Board hearings they attended throughout the year. The observations included differences in the manner in which hearings were conducted, locations of hearings, and perceived interactions between Board members and consumers and / or their representatives. These were raised with the President of the Mental Health Review Board in writing and in person in March 2001. The President of the Review Board responded positively to the feedback and undertook to raise the issues of concern with members of the Board.

Public Trustee

Council members had contact with residents in the licensed private psychiatric hostels who were subject to Administration Orders under the *Guardianship and Administration Act 1990* and for whom the Public Trustee was the appointed administrator. Concern was raised with the Public Trustee regarding the accountability mechanisms in place when money was forwarded to a third party by that office on behalf of their clients. There appeared to be no accountability mechanism in place to ensure that the money was distributed appropriately. This matter is discussed more fully in Section 7 of the report (refer to 7.1.13).

Search of Patient's Person or Property – Graylands Hospital

Graylands Hospital reviewed its policy and procedures related to searching of a patient's person and belongings. Following this they requested that the Council be involved in providing an external review of any searches of the consumer's person being undertaken. The Council agreed to be involved in the process to ensure that consumers' rights to privacy were being respected in this process. The Council looks forward to the full implementation of the policy and procedure across Graylands Hospital wards.

Management Plan for Planned and Unplanned Closure of Psychiatric Hostels

At the invitation of the Chief Psychiatrist, the Executive Officer of the Council was involved in a committee established to develop a risk management plan to address the issues associated with the planned or unplanned closure of any licensed private psychiatric hostel. The Council's interest in this process was to ensure that the rights of residents were respected in the event of any hostel ceasing service. The result of this process was the development of a strategy to be implemented if and when a hostel ceased to provide a service. In addition, the committee identified a number of issues which, if addressed on a routine basis, would assist in dealing with any closure at short notice.

At 30 June 2001 the Council understands that the Management Strategy was under consideration by the Mental Health Division of the Health Department. It is unclear what action is to be taken to ensure that the routine management issues identified are addressed as a matter of course.

6.3.1 Position Statements

During 1999–2000 the Council developed and adopted a position in relation to:

- Access to Telephones–Privacy Provisions; and
- Use of Video Monitoring.

These position statements are available from the Council and have been provided to service providers and other groups. It is disappointing to note that issues associated with the location of telephones in authorised hospitals continue as a concern for the Council in some facilities. In relation to the use of Video Monitoring no state-wide policy had been adopted at the time of the report (refer to section 7.1.11).

The Council has begun compiling a position paper on issues associated with the design of new inpatient units that should be considered in the design and development stage. This will be further developed in 2001–2002.

6.3.2 Submissions

The Council provided comment and submissions in relation to:

- the design of the Armadale Mental Heath Unit for Adults prior to its opening; and
- revision of the forms utilised in the operation of the *Mental Health Act 1996*.

6.4 QUALITY ASSURANCE

The Council of Official Visitors continued in its commitment to continuous quality improvement in its service delivery during 2000–2001. Feedback of an informal and formal nature regarding the operation of the Council and / or the conduct of individual Official Visitors or staff from customers of its service is essential to this process and welcomed.

6.4.1 Complaints Regarding Council Operations

During 2000–2001 six complaints were received regarding the operations of the Council. The complaints were received from consumers, family members and staff at facilities. The complaints, as reported by the complainants, related to the operation of the Council and the perceived attitude or actions of the Official Visitors including:

- Delay in receiving service;
- Not clarifying issues with relevant staff at facilities before taking action; and
- Exhibiting a "rude and unprofessional attitude".

In relation to delays in receiving a service in one instance there was no record of earlier requests being received and in the other the Official Visitor attempted to see the consumer at the agreed time however the consumer was in seclusion at that time hence the visit was postponed.

As part of their orientation Official Visitors are advised that they are expected to raise issues, where appropriate, with staff at facilities prior to leaving the facility. In response to the complaint that this had not occurred Official Visitors were reminded of this expectation.

In one situation the complaint raised issues associated with the Council's mandated role and the potential that involvement from the Council may have a negative impact on the 'affected person's' situation in the short term. This is discussed more fully in Section 7 (refer to 7.2.8).

In the case of the alleged rude and unprofessional attitude it was acknowledged that the Council member involved could have managed the situation more sensitively. However, the matter under consideration was in itself highly sensitive and, overall, the situation was essentially, a case of six of one and half a dozen of the other.

Where Official Visitors have been found to have performed at less than optimal standards they are counselled by the Head of Council. All complaints are treated very seriously irrespective of their source.

It is a matter of great pride to the Council that, given the nature of its work and the frequency of interactions of Official Visitors, the number of complaints about its operations is so few.

6.4.2 Customer Survey

In February 2000 the Council of Official Visitors determined that it would annually request feedback from its 'customers' including consumers and service providers via a survey. A survey of service providers with whom members of the Council had contact commenced on 01 June 2001 and is due to finish on 31 August 2001. The results of this survey are not available at the time of this report.

Obtaining feedback from consumers in a manner that is effective and respectful of their situation has raised a number of issues for the Council. Discussions occurred with the Consumer Representative Training Project regarding this.

Issues identified included:

- confidentiality and section 206 of the Act limiting the ability to use an external independent body to undertake the survey;
- perception of "coercion", specifically, that consumers may experience fear of not receiving a service from the Council if they provide negative comment and / or if they decline to be involved.

The process for formally obtaining feedback from consumers remains under consideration.

6.5 OTHER ACTIVITIES

6.5.1 Presentations to Community Groups

Presentations to community groups by members of the Council and / or the Executive Officer continued during the 2000–2001 year. These presentations are important in maintaining and increasing consumers' and service providers' knowledge of the Council. Presentations were made to various groups including:

- Orientation of new staff at Graylands Hospital, Swan Valley Centre and Armadale Mental Health Units;
- Graylands Hospital–session as part of Staff Development Programme;
- Mental Health Law Centre–Volunteer Training Program;
- Mental Health Law Centre –Mental Health in Legal Practice Training Program with UWA Law students;
- Advanced Clinical Skills in Mental Health Course through Fremantle Hospital and Health Service;
- Schizophrenia Awareness Week Launch–*Mental Health Act 1996* Hypothetical.

An Official Visitor also staffed an information stall at the opening of Mental Health Week 2000.

The Council was pleased to be able to provide information regarding its establishment and method of operation to the Northern Territory government to assist in the development of Official Visitor programmes in that jurisdiction.

7 MAJOR ISSUES RAISED

The Council has experienced increasing frustration that a number of the serious issues raised in its two previous Annual Reports (1998–1999 and 1999–2000) have remained unresolved. In some case little or no action appears to have been taken by the appropriate bodies to attempt to address the issues.

The issues can be categorised into one of three broad topics "Consumer Care", "Legal" and "Administrative". The following tables highlight the major issues raised that remain either in whole or in part unresolved at 30 June 2001.

The details relating to the issues identified follow the tables. Background information on issues raised in previous years is contained in the Council of Official Visitors' 1998–1999 and 1999–2000 Annual Reports. Copies of these are available from the Council's office upon request.

7.1 CONSUMER CARE

ISSUE OF CONCERN	YEAR FIRST RAISED	PRINCIPAL RESPONSIBILITY
PLANNING RATIOS AND BED AVAILABILITY – Adult Authorised Hospitals	1998–1999	General Manager, Mental Health Division & Service Managers
PLANNING RATIOS AND BED AVAILABILITY – Adolescents' Access to Age Appropriate Services	1999–2000	General Manager, Mental Health Division & Service Managers
LACK OF SYSTEM-WIDE POLICIES INCLUDING "SEARCH THE PERSON"	1998–1999	Chief Psychiatrist
LACK OF STANDARDS FOR LICENSED PRIVATE PSYCHIATRIC HOSTELS	1998–1999	Commissioner of Health Chief Psychiatrist, Licensing Standards and Review Unit
SUPPORT SERVICES TO RESIDENTS OF LICENSED PRIVATE PSYCHIATRIC HOSTELS	1998–1999	Service Managers
CONSUMERS WITH DUAL DISABILITIES	1998–1999	Service Managers
DUTY OF CARE IN AUTHORISED HOSPITALS	1998–1999	Service Managers
DUTY OF CARE IN LICENSED PSYCHIATRIC HOSTELS	2000–2001	Hostel Licensees, Licensing Standards and Review Unit, Chief Psychiatrist
CRIMINAL LAW (MENTALLY IMPAIRED DEFENDANTS) ACT 1996–Restricted Access to Outside Areas	1999–2000	Service Managers
MEDICAL TREATMENT MAY BE APPROVED BY THE CHIEF PSYCHIATRIST – *Mental Health Act 1996*, section 110	1999–2000	Chief Psychiatrist

ISSUE OF CONCERN	YEAR FIRST RAISED	PRINCIPAL RESPONSIBILITY
SECURITY OF CONSUMERS' BELONGINGS	1999–2000	Service Managers
ACCESS TO CULTURALLY APPROPRIATE SERVICES	1999–2000	General Manager, Mental Health Division
DESIGN OF NEW FACILITIES	2000–2001	General Manager, Mental Health Division & Service Managers
USE OF VIDEO MONITORING	2000–2001	Chief Psychiatrist
HUMAN RELATIONSHIPS AND INTIMACY	1999–2000 (not reported on)	Chief Psychiatrist & Service Managers
FINANCIAL ACCOUNTABILITY – RESIDENTS OF LICENSED PRIVATE PSYCHIATRIC HOSTELS	2000–2001	Public Trustee, Commissioner of Health, Licensing Standards and Review Unit.

7.2 LEGAL

ISSUE OF CONCERN	YEAR FIRST RAISED	PRINCIPAL RESPONSIBILITY
LIMITATIONS ON THE ROLE OF THE COUNCIL	1998–1999	Health Department of WA
SECOND OPINIONS–*Mental Health Act 1996*, sections 111 & 164(2)	1998–1999	Chief Psychiatrist & Service Managers
CONSUMER ACCESS TO PERSONAL RECORDS – *Mental Health Act 1996*, sections 160 & 161	1998–1999	Chief Psychiatrist & Service Managers
CRIMINAL LAW (MENTALLY IMPAIRED DEFENDANTS) ACT 1996–External Review	1998–1999	Ministry of Justice
MECHANICAL BODILY RESTRAINT– *Mental Health Act 1996*, Division 9 sections 121–124	1999–2000	Chief Psychiatrist
VOLUNTARY PATIENTS DETAINED IN SECURE UNITS	1999–2000	Chief Psychiatrist
STAFF/FACILITY COMPLIANCE WITH *MENTAL HEALTH ACT 1996*	1999–2000	Service Managers
COUNCIL'S LEGAL RESPONSIBILITY IN CONFLICT WITH WELFARE OF PERSON	2000–2001	Council of Official Visitors

7.3 ADMINISTRATIVE

ISSUE OF CONCERN	YEAR FIRST RAISED	PRINCIPAL RESPONSIBILITY
OFFICE OF THE CHIEF PSYCHIATRIST AND METROPOLITAN HEALTH SERVICE BOARD	1998–1999	Chief Psychiatrist & Director, Metropolitan Mental Health Service

7.1 CONSUMER CARE

7.1.1 PLANNING RATIOS AND BED AVAILABILITY–

7.1.1.1 Adult Authorised Hospitals

Since February 1999 the Council has consistently raised serious concerns about the overcrowding in metropolitan authorised hospitals, particularly at Graylands Hospital, with various levels of management responsible for the hospitals, senior bureaucrats and the Minister for Health. No positive action has been taken to deliver a long-term remedy for consumers although short term 'quick fixes' have been applied usually as the result of negative media coverage.

Problems with overcrowding in authorised hospitals, in particular Graylands Hospital, continued at an unacceptable level during part of 2000–2001.

The overcrowding resulted in consumers being accommodated in secure wards that were severely overcrowded, with excessive noise and many anxious and, in some cases, potentially violent consumers confined in close proximity.

The **impact on the consumers** included:

- sleeping on mattresses on the floor of seclusion rooms;
- sleeping in bedrooms with more people than the bedroom was designed for;
- limited space (less than 40 centimetres) and no privacy screening between beds;
- nowhere for the consumers to store personal belongings; and
- on at least one weekend not enough crockery and cutlery for consumers in a ward.

On 19 February 2001 the Council wrote to the newly appointed Minister for Health advising him of the Council's continuing concern in relation to this matter. The situation was impacting negatively on the quality of care provided to the consumers.

Following a visit by the Minister for Health to Graylands Hospital in February 2001 the additional beds were removed from wards. **Whilst this action was to be applauded it simply served to transfer the problem by placing pressure on other facilities within the metropolitan area, potentially resulting in people being discharged before their mental health condition has fully stabilised.**

Inpatient Bed Numbers

Inpatient beds have been transferred to Swan Mental Health Service and Armadale Health Service. It has become apparent that there are difficulties with recruiting and retaining appropriately trained staff for these new facilities. This impacts negatively on the service available to consumers.

The Council has not observed any obvious difference in pressure in the other units, such as Graylands Hospital, since Swan Valley Centre and Armadale Mental Health Unit opened.

Community Accommodation Services

Official Visitors continued to encounter individuals who were considered ready for discharge from an authorised hospital but for whom this was not possible due to the lack of appropriate accommodation in the community. In particular this related to older people, younger people with challenging behaviours and people with dual or other disabilities.

A new interim community rehabilitation service is due to be opened in July 2001. It will initially be based in the grounds of Graylands Hospital with a bed capacity of approximately 12. The Council trusts that this service will be successful in assisting consumers to develop the skills required for independent community living and reduce some of the pressure on acute inpatient beds.

7.1.1.2 Adolescents' Access to Age Appropriate Services

The Council has been very concerned by the number of admissions of adolescents to adult authorised hospitals. During 1999–2000 this occurred on a frequent basis however the Council did not observe this occurring as frequently during 2000–2001. Whilst the frequency appears to have decreased it remains a likely outcome when the adolescent unit, the 'WAY Centre', is at capacity. It has also been noted that adolescents continue to be admitted to the forensic unit at Graylands Hospital.

The Council first raised its concern regarding this issue with the Metropolitan Health Service Board in November 1999 and requested advice regarding the development of a contingency plan for when the WAY Centre was at capacity. A similar plan had been developed in relation to adult authorised hospitals. In May 2000 the Council was advised that a draft contingency plan was under development.

As of 30 June 2001 no advice had been received regarding the finalisation or adoption of such a plan.

7.1.2 "SEARCH THE PERSON"

The Council originally raised concerns with the Office of the Chief Psychiatrist in November 1998 regarding the need for a system-wide policy related to the searching of consumers admitted to authorised hospitals. The Council was and remains of the view that the likelihood of being subjected to this type of intrusive action should be correlated to clinical assessment / need not to a consumer's geographical location as appeared to be the case.

A policy concerning the conduct of searches of a consumer's person and / or belongings was developed and adopted by the Metropolitan Mental Health Service and re-endorsed in June 2000. This policy only applies to public mental health services in the Perth metropolitan area. It is unclear how effective its implementation has been across the metropolitan system.

Subsequently the need for a system-wide policy relating to the searching of a person was again raised with the Chief Psychiatrist in November 2000, who appeared to be in agreement. As of 30 June 2001 no further advice had been received regarding the progress of this issue.

It appears that 12 months have gone by without any action being forthcoming.

7.1.3 LACK OF STANDARDS FOR LICENSED PRIVATE PSYCHIATRIC HOSTELS

The Mental Health Division (the Division) of the Health Department of WA (the Department) has initiated a review to more clearly define what 'personal care services' the Division will purchase from the licensed private psychiatric hostels in relation to specified residents of those facilities. The Council welcomes this review.

In February 2001 the Commissioner of Health invited the Council to be involved in the *Private Psychiatric Hostels Standards Reference Committee* being convened as part of the Licensing Reforms process instigated by the Department. Mrs Di Annear, Official Visitor, is the Council's representative on this group. The Council is strongly committed to the aim of establishing effective standards for the sector.

The Council had a very positive meeting with representatives of the Private Psychiatric Hostels Association to discuss issues of mutual concern. Similar meetings are planned for the future.

7.1.4 SUPPORT SERVICES TO RESIDENTS OF LICENSED PRIVATE PSYCHIATRIC HOSTELS

Access to support services by residents of the licensed private psychiatric hostels is an area of ongoing concern to the Council. The geographical location of the hostel rather than residents' clinical needs remain the single most significant determinant of the type and degree of services that are available to residents.

Examples of variance between health services include:

- access to psychotropic medication provided free of charge by one health service and not by another;
- access to podiatry and dental services; and
- range of social / recreational / rehabilitation services available.

The selectivity of service provision to residents of the psychiatric hostels continues.

It is apparent that the failure to appropriately target such services is wasteful of scarce resources, will prolong the need for support and, in some cases, lead to unnecessary admission to acute care.

7.1.5 CONSUMERS WITH DUAL DISABILITIES

The Council has had continuing contact with consumers in authorised hospitals who experience a psychiatric as well as other disability (for example autism, intellectual or mobility disabilities). An acute psychiatric hospital is not always the most appropriate setting in which to provide care however the lack of alternate facilities in the community appears to necessitate this occurring.

Alternatively, consumers who did require inpatient care in an authorised hospital cannot be discharged due to the absence of appropriate community accommodation. This appears to be exacerbated when co-operation between mental health services and the Disability Services Commission is required.

To confront the territorialism inherent in the relationship between these two bodies is daunting. It makes a complete mockery of any claim to a 'whole of government' approach and is characterised by a desire to protect bureaucratic boundaries rather than any apparent concern for the consumer.

Case Study:

WN, has been an inpatient in an authorised hospital for a number of years. In addition to her psychiatric disability she is a registered client of Disability Services Commission (DSC). She has been assessed as ready for discharge to appropriate community accommodation.

Hospital staff have made several funding applications to DSC for community accommodation for WN. Reportedly her last application was rejected on the basis that she was already appropriately housed. The Council considers it inappropriate that WN appears to have been denied access to community accommodation primarily on the basis that she has accommodation. A bed in an acute authorised psychiatric hospital is not appropriate accommodation. The Council will continue to advocate on behalf of WN regarding her discharge to appropriate community accommodation.

7.1.6 DUTY OF CARE–

7.1.6.1 Authorised Hospitals

The Council has raised a number of concerns relating to the duty of care in authorised hospitals. These issues appear to have become more prevalent with the opening of new units and the apparent shortage of appropriately qualified staff across the sector.

Issues raised included:

1 wide scale use of agency nurses;

2 use of extended or double shifts;

3 apparent ease with which nurses employed in public mental health facilities obtain permission to work for agencies or in other 'second' jobs; and

4 practices of such nurses undertaking shifts as part of their employment at a hospital followed by another shift at the same or a different facility as an agency nurse.

The Council is aware that a number of strategies have been implemented in an attempt to address the shortage of nursing staff in Western Australia however these concerns continue with an obvious shortage of nursing staff on an almost daily basis. This appears to be experienced by all facilities in all health sectors.

The widespread frequency of the problem does not excuse nor reduce its negative impacts on consumers.

7.1.6.2 Licensed Psychiatric Hostels

During 1999–2000 the Council raised concerns with the Office of the Chief Psychiatrist regarding the level of care available to residents in one of the licensed private psychiatric hostels. The concerns related to the physical health care needs of residents not being adequately attended to and on one occasion the Police not being notified of a missing person until at least 24 hours had elapsed even though the person required regular medication for a physical condition. The Council was also concerned that staff from the local mental health service who attended the hostel in question at least once per week had not noted these issues.

These concerns were addressed and strategies put in place during 2000–2001 to ensure that resident population was appropriate to the level of care able to be provided at the hostel.

During 2000–2001 the Council referred concerns regarding another licensed private psychiatric hostel to the Office of the Chief Psychiatrist. The concerns were raised following receipt of complaints from a resident that other residents had assaulted him on numerous occasions. The complainant had a history of exhibiting very challenging behaviours which, had resulted in other residents "striking out" at him.

The Council's concerns were that:

- the level of supervision available to residents did not appear adequate, in particular to ensure that staff could intervene before a resident's challenging behaviour reached a point where he/she was subject to an assault;
- the level of constructive support or advice provided to staff of the hostel by the local mental health service to deal with challenging behaviours appeared to be minimal if not non-existent;
- there was no record of the alleged assault incidents in the day book despite the legislative requirement for this to occur;
- there was a delay in arranging medical assistance;
- the alleged assault matter was not referred to the Police; and
- the lack of notification to the Office of the Chief Psychiatrist (OCP) or the treating team, of the alleged assault despite the legislative requirement for the OCP to be advised.

During 2001–2002 the Council will work with the relevant bodies to ensure that strategies are developed to address the general issues raised by this incident.

7.1.7 *CRIMINAL LAW (MENTALLY IMPAIRED DEFENDANTS) ACT 1996*

Restricted Access to Outside Areas

Concern was expressed by consumers who had the right to access the outside areas of units that this was restricted on occasions due to the lack of staff / pressure on staff numbers. This continued to be an issue at the Frankland Unit during 2000–2001 and was also experienced in other secure wards of other authorised hospitals.

7.1.8 MEDICAL TREATMENT MAY BE APPROVED BY THE CHIEF PSYCHIATRIST–*Mental Health Act 1996,* section 110

During 1999–2000 advice was sought from the Crown Solicitor's office regarding whether section 110 of the Act allows the Chief Psychiatrist to consent to medical treatment only when the involuntary patient or mentally impaired defendant is unable to consent. That is, does the involuntary patient retain the right to withhold consent if he/she has that capacity? The initial advice received stated:

> *"… in my view section 110 of the Act does allow the Chief Psychiatrist or his delegate to approve medical treatment for an involuntary patient or mentally impaired Defendant (sic) against that person's will, even if the person would have the capacity to consent if he or she were not an involuntary patient or a mentally impaired Defendant (sic)."*

Subsequent and contrary advice was received from the Crown Solicitor's office in March 2001 which, in brief, stated that section 110 of the Act only applies where:

> *"… the patient is not capable of consenting to the medical treatment."*.

In practice this means that consumers with the capacity to consent to medical treatment retain their right to withhold consent and this decision cannot be overridden by section 110 of the *Mental Health Act 1996*.

7.1.9 SECURITY OF CONSUMERS' BELONGINGS

Security of consumers' belongings has been raised with the Council on a number of occasions. Authorised hospitals have policies in place in an attempt to ensure that consumers' belongings are kept safe. In practice, however this raises questions related to the individual's right to choose to have belongings, including money, with them without restriction, and the question of their ability to make an informed decision relating to this.

The notion of 'all care, no responsibility' appears to be adhered to in authorised hospitals. This is compounded when staff in facilities fail to follow policy and procedure regarding documenting the location of a consumer's property on property sheets.

In at least one instance the loss of belongings involved a substantial amount of clothing and shoes, not just one item. This was referred to the Metropolitan Health Service and subsequently to the Minister for Health.

Case Study:

DD was an involuntary patient detained in a secure ward of Graylands Hospital. During the admission, a large quantity of his clothes and personal property was misplaced. Concerns regarding the loss were initially raised with the hospital and the Clinical Nurse Specialist endeavoured to locate the missing items and assisted DD's father to obtain some clothing to replace the lost items. The replacement clothing was not DD's clothes but from a stock of clothing which had not been claimed by its owner/s.

The Council wrote to the General Manager of the hospital expressing its concern at the level of care being exercised in the secure wards in regard to the security of consumers' belongings. The Council was advised that no responsibility could be taken for lost items if the consumer retained them. The Council believes that this is less than satisfactory.

A considerable amount of DD's property was lost and that so many items did go missing in a secure ward where consumers are under very close supervision by nursing staff seems, to the Council, to indicate a significant failure to provide due care and attention. The hospital's response to the situation merely compounds this lack of care.

The Council's opinion was, and is, that insufficient care was taken to ensure the security of DD's possessions, considering he was being detained on a secure ward under close supervision. Applications for financial compensation from the hospital concerned and the Minister for Health, as the Metropolitan Health Service Board, were denied.

7.1.10 DESIGN OF NEW FACILITIES

During the course of visits to the numerous authorised hospitals in Western Australia Council members have developed an appreciation and cross facility awareness of some of the pitfalls of building design. This is based on Official Visitors' own observations and feedback from consumers and facility staff.

Of particular concern to the Council is how the requirements of the *Mental Health Act 1996* can fail to be addressed in building design.

Examples of pitfalls in building design include:

- the location of the public telephones in wards and its impact on "*reasonable privacy*";
- the lack of provision of specific rooms in secure units for use by consumers to receive visitors in "*reasonable privacy*";
- the lack of separate activities areas to allow groups to occur without having to use dining / lounge rooms;
- outdoor areas in secure units that are of an inappropriate size for the consumer group both in terms of number and characteristics; and
- the lack of consideration of other than Anglo Christian cultures in the design of facilities.

The Council believes that if these practical issues are considered and incorporated during the design and development stages they will improve the facilities provided to consumers and provide a cost saving for the services concerned. The need to alter an area after it has been completed is costly and time-consuming.

The Council will further develop its position in relation to these matters during 2001–2002.

7.1.11 USE OF VIDEO MONITORING

The use of video monitoring in authorised hospitals was first raised with the Council by a service provider requesting the Council's position. The Council subsequently developed and adopted a position statement in relation to the use of video monitoring in authorised hospitals. A copy of this is available, upon request, from the Council's office. In the process of developing this statement it became apparent no authorised hospitals with video monitoring capacity had policies in place concerning its use. One facility, Bunbury Acute Psychiatric Residential Unit, was in the process of developing such a policy.

The Council was of the view that a system-wide policy concerning the use of video monitoring was required. **In November 2000 the Council raised this with the Chief Psychiatrist, who indicated his intention to develop such a policy. At 30 June 2001 the Council had received no advice regarding the progress of this matter.**

7.1.12 HUMAN RELATIONSHIPS AND INTIMACY

In February 2000 the Council wrote to the General Manager of the Mental Health Division regarding the development of a system-wide policy related to "Personal Relationships and Sexuality". This was in response to the Council's concern that the needs of consumers related to personal relationships and sexuality may not be being acknowledged and addressed. The Council's belief is that these issues are important for consumers of mental health services in inpatient units, the general community and licensed private psychiatric hostels.

The Council is aware that policies relating to Personal Relationships and Sexuality have been developed locally by other government agencies responsible for the long-term care and treatment of people with disabilities (for example the Disability Services Commission) and interstate by at least one psychiatric hospital.

In response, the Council was advised that the issues raised fell "*within the provision of holistic case management that reflects compliance with the National Mental Health Standards (NMHS) and good clinical practice*". It was further advised that Mental Health Services were adopting the NMHS that included a number of specific policies relating to this matter.

Case Study:

MN, an inpatient in a long-stay ward of an authorised hospital, requested access to condoms. Staff denied him this access. Staff expressed concern regarding MN's intended sexual partner and that person's ability to consent. This issue did not appear to have been discussed with MN.

The Council's concern is that access to condoms was denied on the basis that this would stop MN wanting to establish a sexual relationship with another person. Council is of the view that refusal of condoms would not address either the desire to establish a sexual relationship and / or the ability of MN or his intended partner to make an informed decision regarding this. In effect it may have placed both MN and his intended partner at risk of practising unsafe sex.

The Council remains concerned that, despite the adoption of the NMHS, the relationship and intimacy needs of consumers are not being adequately acknowledged and addressed within the mental health system.

7.1.13 FINANCIAL ACCOUNTABILITY – RESIDENTS OF LICENSED PRIVATE PSYCHIATRIC HOSTELS

As noted in Section 6 of this report, the Council had contact with numerous residents of psychiatric hostels for whom the Public Trustee was the appointed administrator under the *Guardianship and Administration Act 1990*.

The Council became aware that for these Public Trustee clients it was not uncommon for that office to forward their personal spending money, as well as the board and lodgings owed, directly to the licensee on behalf of residents. Further, that there was no requirement for the licensee to provide any evidence to the administrator that the money forwarded for personal spending was distributed to the residents and / or items purchased on their behalf. Often cigarettes were the most regular and significant purchase.

The Council understands that if the person subject to an Administration Order, or another party on his/her behalf, requests access to funds to purchase items such as clothing or electrical goods then it is a requirement of the Public Trustee that receipts are provided. The Council does not consider that purchasing of cigarettes is in any way different, particularly given that the amounts of money are often significant.

The Council was gravely concerned that this practice placed vulnerable people at risk of exploitation and therefore requested that accountability requirements for third parties who are provided with money on behalf of residents of the licensed psychiatric hostels be reviewed and altered as a matter of urgency by the Public Trustee.

In April 2001 the Public Trustee's office replied to the Council's concern advising that many of those subject to administration orders and living in psychiatric hostels did not have the ability to control even small weekly allowance amounts paid to them, hence the need to pay the money to the Licensees, a third party.

The Council's concern does not relate to the instances where the money is paid directly to the represented persons. It relates to those individuals who have been deemed as not having the ability to control even small amounts paid to them as a weekly allowance and where the money is therefore provided to a third party.

Further the Council was advised:

> "*If a client is not getting the value for the money they are entitled to then in the majority of cases the client would probably bring this to the attention of the Public Trustee*".

The Council raised concerns in relation to this response with the Public Trustee's office in May 2001. Specifically, that the vast majority of people who, in the Public Trustee office's own opinion, lacked the capacity to manage even small amounts of money, would be unaware of whether they were receiving "*value for money*" and, because of their incapacity to manage money, would also be unable to bring this to the attention of the Public Trustee.

Case Study:

The Public Trustee, as the appointed administrator for selected individuals, forwards both the board and lodging owed to the hostel and the residents' personal spending money to the Licensee of the private psychiatric hostel for distribution to the residents. The Licensee banks the funds in the business account. The Licensee purchases cigarettes on behalf of residents of that hostel utilising the residents' personal spending money. No receipts are provided to individual residents nor to the individuals' administrators, the Pubic Trustee. The hostel proprietor adopts a practice of charging all residents who smoke the same amount irrespective of the quantity smoked. Some residents are therefore subsidising others' smoking habits. Residents, due to their decision making impairment, are not in a position to be aware of this to be able to raise it with their administrator.

The Council requested that a different method of accountability for funds paid to a third party be put in place. No response had been received at the time of this report and the inconsistent policy of the Public Trustee remains.

The apparent lack of a routine system of objective, external accountability that would satisfy auditing industry benchmarks, in the private psychiatric hostel industry compounds this concern. This lack of any standard external review also places the hostel proprietors in a difficult situation should questions arise regarding the management of residents' finances.

The Council estimates that up to $6 million per annum may be being paid directly to hostel proprietors on behalf of residents. **It would be in the interests of everyone to have a transparent, rigorous system of accounting in place.**

The Council conducted a focus on financial record keeping of residents' finances in psychiatric hostels during 2000–2001. This process highlighted a number of deficiencies in the current system. These included:

- the absence of the records from numerous premises despite the regulation requirement that they are on site (Regulation 15(2)(g) of the *Hospital and Health Services Act 1927, Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997*);
- lack of awareness by residents of their finances;
- lack of direct access to personal spending money by residents; and
- accuracy of record keeping.

These concerns were first raised with the Health of Department WA as the licensing body in November 2000. The Council was advised that an investigation would occur and it would be advised of the outcome. At 30 June 2001 the investigation had not been completed. The Council expects that one outcome of this investigation will be recommendations for standards relating to record keeping of residents' finances in the licensed private psychiatric hostels.

7.2 LEGAL

7.2.1 LIMITATIONS ON THE ROLE OF THE COUNCIL

Limitations on the role of the Council are unchanged since its 1999–2000 Annual Report. The Council is limited by its ability to assist only involuntary patients either in an authorised hospital or on a community treatment order, selected mentally impaired defendants and residents of licensed private psychiatric hostels who have a psychiatric disability.

There is a continuing lack of access to the Council by people in the following circumstances:

- referred for assessment under the *Mental Health Act 1996*;
- subject to Hospital Orders under the *Criminal Law (Mentally Impaired Defendants) Act 1996*;
- voluntary patients in authorised hospitals; and
- people with psychiatric disabilities residing in hostels other than licensed private psychiatric hostels.

7.2.2 SECOND OPINIONS

The Council's concerns regarding the processes available for involuntary inpatients in public authorised hospitals to exercise their right to be interviewed by a psychiatrist who for the time being is not the treating psychiatrist (the Act section 164 (2)) continued during 2000–2001.

In the Council's experience the only options offered to consumers are:

- an opinion from another psychiatrist from within the authorised hospital where they are currently detained; or
- an opinion from a psychiatrist in private practice, assuming the consumer can afford this and is able to make the arrangements him/herself.

A number of consumers expressed concern that the provision of an opinion by another psychiatrist within the same hospital, sometimes the same treating team, is not an independent second opinion. Consumers perceive a major conflict of interest.

A very limited number of people have been able to afford the costs associated with obtaining a second opinion from a psychiatrist in private practice.

In a very small number of cases individual consumers, or someone on their behalf, has negotiated for an opinion from a psychiatrist employed in another public mental health service or facility (e.g. the psychiatrist treating them in the community). To the Council's knowledge this is not generally offered as an option to consumers.

The Council believes consumers should be provided with a greater range of options in relation to the provision of second opinions, including the provision of an opinion from a psychiatrist, not within the same authorised hospital, but who is employed by another public mental health service.

It is acknowledged that there are advantages and disadvantages with the options mentioned and these should be explained to consumers so that they may make as informed a decision as possible.

In June 2001 the assistance of Dr Aaron Groves, Director Metropolitan Mental Health Service was requested to develop a process whereby a number of options are available to consumers. The Council appreciates Dr Groves' commitment to improving the current process and looks forward to its further development.

7.2.3 CONSUMER ACCESS TO PERSONAL RECORDS, *Mental Health Act 1996,* sections 160 & 161

Section 160 of the Act provides involuntary patients, whether or not they are in an authorised hospital, and mentally impaired defendants in an authorised hospital with the right to inspect and be given an accurate reproduction of any document that relates to them. Section 161 provides some exceptions to this right. Further it provides consumers with the right to nominate a "suitably qualified person" to exercise their right under section 160 if any exceptions are made.

In August 1998 the Chief Psychiatrist determined that the interpretation of "suitably qualified person" should be restricted to 'Consultant Psychiatrists'. Further it was stated that that office and the Legal Services branch of the Health Department of WA would take carriage of determining other classes of individuals who would be deemed to be "suitably qualified".

The Council's concern regarding the limitation on the definition of "suitably qualified person" by the Chief Psychiatrist and the apparent lack of attention being paid to clarifying this definition continued as reported from 1998–1999.

On a number of occasions staff in facilities were observed to continue to refer involuntary patients to the Freedom of Information legislation when requesting access to their medical records. Involuntary patients have the right to access their records via Freedom of Information legislation but they also have a specific right under the Act for this information.

Lack of timely access for consumers to written reports provided for Mental Health Review Board hearings continued in 2000–2001. Council is of the view that lack of timely access to medical records and reports prior to Mental Health Review Board hearings does adversely affect the ability of the consumer or his/her legal or other representative to fully prepare.

The right to access records was confirmed in the Supreme Court in its decision *EO v Mental Health Review Board* [2000] WASC203.

It is a matter of considerable regret that consumers attempting to challenge their detention against their will do not have the basic right to ensure that their legal representatives are fully briefed.

This would be viewed in any other jurisdiction as a fundamental infringement of a person's rights but is sanctioned by the Western Australian mental health system.

7.2.4 *CRIMINAL LAW (MENTALLY IMPAIRED DEFENDANTS) ACT 1996*

External Review Process

Mentally impaired defendants subject to Custody Orders under the *Criminal Law (Mentally Impaired Defendants) Act 1996* (CLMIDA) are entitled to review by the Mentally Impaired Defendants Review Board. The *Mental Health Act 1996* contains provisions regarding the time period between reviews of involuntary patient orders made under that Act. Other than the initial determination by the Mentally Impaired Defendants Review Board regarding the place of detention there are no timeframes contained in the CLMIDA legislation regarding the frequency of reviews. Council is of the view that a maximum time period between reviews, for example six months, should be contained within the legislation.

In addition the reviews of mentally impaired defendants by the Mentally Impaired Defendants Review Board are conducted without the mentally impaired defendant being present. The defendant can make written submissions to the Board. The Council is concerned that this fails to ensure natural justice for mentally impaired defendants.

These issues associated with the Board have been identified by the Council as requiring amendment during any review of the CLMIDA.

7.2.5 MECHANICAL BODILY RESTRAINT – *Mental Health Act 1996,* Division 9, sections 121–124

The Council originally raised concerns regarding the lack of adherence to the requirements of the Act in relation to the use of mechanical bodily restraint and the illegality of the Chief Psychiatrist's Instruction Number 3 in August 1999.

Chief Psychiatrist's Instruction Number 3 was withdrawn in relation to 'involuntary patients' in December 1999. In March 2000 the Council received advice from the Crown Solicitor's office that the requirements of the Act governing such restraint related to all patients in authorised hospitals, irrespective of their status, ie voluntary and involuntary.

Council members observed that voluntary patients continued to be restrained during 2000–2001.

The Chief Psychiatrist appeared to persist in the view that the provisions of the *Mental Health Act 1996* relating to this type of restraint did not apply to voluntary patients, despite Crown Solicitor's advice to the contrary.

The Council referred this matter to the State Ombudsman for investigation. A response was received from the Ombudsman in May 2001 requesting the Council's comments on the report provided to that office by the Health Department of WA on this matter. At 30 June 2001 the Council's response was being finalised.

It remains Council's view that the law continues to be broken in this regard.

7.2.6 VOLUNTARY PATIENTS DETAINED IN SECURE UNITS

The Council's concerns continue as reported in its 1999–2000 Annual Report regarding the detention of voluntary patients in hospitals authorised under the *Mental Health Act 1996*.

As noted in its 1999–2000 Annual report:

> *"The basis of the Council's concern is its interpretation of the legal situation. At no time has it been suggested that this interpretation is flawed. The Council would suggest that had a legal opinion been sought when this issue was first raised then it might well have been more expeditiously resolved."*

The detention of voluntary patients was referred to the Police Commissioner for investigation. In September 2000 a response was received from the Police Service advising that they planned to take no further action. The Council is of the view that the lack of further action by the Police Service does not mean the detention of voluntary patients in authorised hospitals is legal.

A meeting of agencies identified as relevant by the Office of the Chief Psychiatrist occurred on 13 June 2000 to discuss this issue. The outcome of this meeting was that a draft protocol for the management of the elderly in locked facilities would be developed and that the Chief Psychiatrist would discuss the matter with the Commissioner of Police. It was also agreed that the group would be reconvened after a response was received from the Police Service. The Chief Psychiatrist, despite receiving a response from the Police Service in September 2000, has not convened a further meeting. The Council has also not been advised of the outcome of the development of the draft protocol.

Due to the lengthy delays in the Chief Psychiatrist taking any action in relation to this issue the Council referred the matter to the State Ombudsman. A response was received from the Ombudsman in May 2001 requesting the Council's comments on the report provided to that office by the Health Department of WA on this matter. At 30 June 2001 the Council's response was being finalised.

It remains Council's view that the law continues to be broken in this regard.

7.2.7 STAFF/FACILITY COMPLIANCE WITH *MENTAL HEALTH ACT 1996*

Some staff in facilities still lack the required level of knowledge of the legislation and, by default, place themselves in breach and subject to penalties.

The **examples of failure to comply with the Act** cited in the 1998–1999 & 1999–2000 Annual Reports continued including:

- failure to inform consumers of their rights each time an order is made;
- failure to document such action in medical records; and
- refusal to allow Official Visitors access to affected persons' records.

These serve to highlight the need for ongoing education and training for **all** staff in facilities.

A number of examples where individual staff, or facilities as a whole, have, in the Council's opinion, failed to comply with the Act are described more fully below.

Issuing of Orders and Explanation of Rights

Section 156 of the Act requires that an explanation of rights is given to a person both verbally and in writing when he/she is admitted to an authorised hospital, or an involuntary patient or community treatment order is made or he/she is granted leave. In addition section 158 (2) of the Act requires that a record of this explanation being given is made.

The detail contained in the "Your rights under the Mental Health Act 1996" card issued by the Mental Health Division, appears to be the basis for the explanations given. Whilst providing an overview, the use of this card alone in the giving of the explanation does not, in the Council's opinion, provide adequate details, "*having regard to the particular situation of the person*" (the Act and *Mental Health Regulations 1997 Regulation 18*). It is also not uncommon for Official Visitors to find that there is no notation of the explanation having been given to the person.

The paucity of information contained in some of the orders completed under the Act continues to be of concern to the Council.

Second Opinions–*Mental Health Act 1996* section 164 (2)

Occasions continue to occur where experienced staff arrange for interviews and examinations by medical practitioners who are not psychiatrists, as defined in the Act.

This in part appears to be related to the practice that has developed of using the term "Acting Psychiatrist" for medical staff responsible for the day-to-day management of consumers' treatment, whose names are not contained in the register of psychiatrists prepared by the Medical Board (e.g. Registrars and Senior Medical Officers).

Telephone Privacy Provisions–*Mental Health Act 1996,* section 167

The degree of privacy afforded to consumers making and receiving telephone calls continues to vary depending on the facility involved and in a number of instances there is not "*reasonable privacy*".

Confidentiality and *Mental Health Act 1996*

Council members encountered a number of examples where it would appear that the actions of the staff in a facility may have been in breach of the confidentiality provisions of the *Mental Health Act 1996* (section 206).

Consumers' Names/Details Displayed

Council members noticed on visits to wards that consumers' full names and details relating to their legal status and other treatment issues were listed on white boards which could be viewed by anyone entering the ward. This failed to provide consumers with privacy and confidentiality. This has been addressed by all authorised hospitals

Release of Information to Third Party without Consent

The Council received complaints from separate consumers that personal information relating to them had been released to a third party without their consent. In the first instance an independent agency had been contracted to conduct a patient satisfaction survey and had passed on a consumer's contact details, identifying them as a former in-patient of a mental health unit.

This matter has been adequately addressed.

In a separate instance, a consumer complained that details relating to his/her treatment had been released to the professional Board with which they were registered. This effectively compromised this consumer's ability to earn a livelihood. A response has been received from the Commissioner of Health and the consumer is yet to advise what further action if any should be taken.

7.2.8 COUNCIL'S LEGAL RESPONSIBILITY IN CONFLICT WITH WELFARE OF PERSON

During 2000/2001 the Council was faced with a situation where its involvement with a consumer was felt, at that time, to not be in the long-term interests or welfare of that consumer.

Following liaison with the local mental health service it was decided by the Head of Council to withdraw the consumer's direct access to the Council's services with any request for assistance being referred in the first instance to the community mental health nurse.

Whilst there is no doubt that, in this instance, the decision proved to be beneficial to the consumer, it may be considered that the Council had, in effect, breached its own mandate.

7.3 ADMINISTRATIVE

7.3.1 OFFICE OF THE CHIEF PSYCHIATRIST AND METROPOLITAN HEALTH SERVICE BOARD / METROPOLITAN MENTAL HEALTH SERVICE

The Council's concern regarding the lack of any one position taking responsibility for the direction of mental health services, including the setting of system-wide policies, continued. It is noted that in a number of policy areas, for example, search the person and use of video monitoring, the Office of the Chief Psychiatrist has finally indicated a willingness to address these on a system-wide basis. The Council's concern remains however as this appears to have occurred on an ad hoc or reactive basis rather than proactive basis.

8 PRIORITIES FOR 2001—2002

A number of priority areas in the mental health system have been identified for attention during 2001–2002. These include continued advocacy for:

- Development and implementation of standards related to quality of life/care issues for the licensed private psychiatric hostel industry.
- Amendments to the *Mental Health Act 1996*, in particular, the definition of "*affected person*" under section 175.
- Improved access to age appropriate services for adolescents.
- Development of system-wide polices covering all mental health services–public, private, metropolitan and regional–regarding issues impacting on consumers, including search the person.
- Improved procedures for the security of consumers' belongings.
- Review of the *Criminal Law (Mentally Impaired Defendants) Act 1996*, in particular in relation to consumers' rights.

In relation to its own operations the Council will focus its attention during 2001 – 2002 on the following areas:

- Provision of the 2001–2002 Annual Report to the Minister for Health by 30 September 2002.
- Development of a Position Statement related to the "Right to Receive Visitors in Reasonable Privacy" (*Mental Health Act 1996* section 168)
- Development of a Position Statement relating to "Translating Legal Rights into Building Design Guidelines".
- Development and implementation of strategies to ensure that consumers in non-metropolitan areas have access to and utilise the services of the Council.
- System-wide implementation of the formalised process adopted to audit whether the requirements of the *Mental Health Act 1996* associated with the issuing of Community Treatment Orders is occurring.
- Increasing the percentage of inspection visits undertaken outside normal working hours for licensed private psychiatric hostels to 40% of visits and for authorised hospitals to 25% with 40% of visits to secure wards being at these times.

APPENDICES

APPENDIX 1A: AUTHORISED HOSPITALS

(As per *Mental Health Act 1996* section 21)

Albany Regional Hospital
Albany Mental Health Unit
Albany

Fremantle Hospital and Health Service
Alma Street Centre
Alma Street
Fremantle

Armadale-Kelmscott Memorial Hospital[1]
Albany Highway
Armadale
Including Acute Adult Mental Health Inpatient Unit
Acute Inpatient Mental Health Unit for Older People

Bunbury Regional Hospital
Bunbury Acute Psychiatric Residential Unit
Bunbury Health Campus
Bunbury

Graylands Selby Lemnos and Special Care Hospital
Graylands Hospital
Brockway Road
Mount Claremont
Including Frankland Centre (forensic)

Graylands Selby Lemnos and Special Care Hospital
Selby Lodge
Lemnos Street
Shenton Park

Joondalup Health Campus
Joondalup Mental Health Unit
Shenton Ave
Joondalup

Bentley Hospital and Health Service
Mills Street Centre
Mills Street
Bentley
Including Mills St Lodge
WAY Centre

Swan District Hospital
Swan Health Service
Eveline Road
Middle Swan
Including Swan Valley Centre[2]
Boronia Inpatient Unit
Sheoak Rehabilitation Centre
Swan Adult Mental Health Centre

1 Armadale Mental Health Units authorised May 2001, commenced service in July 2001
2 Swan Valley Centre authorised October 2000, service commenced end of January 2001

APPENDIX 1B: LICENSED PRIVATE PSYCHIATRIC HOSTELS

(As per *"Functions of the Council of Official Visitors Direction 2000"*)

Casson Homes	
Aitken House	55 View Street North Perth
Casson House	2–10 Woodville Street, North Perth
Gormley House[1]	25 View Street, North Perth
Violet Major House	47 View Street, North Perth
Woodville House	425 Clayton Road, Helena Valley
Yates House[1]	34 Camellia Street, North Perth
Richmond Fellowship	
	175 Anzac Tce, Bassendean
	56 Glyde Street, East Fremantle
	58 Glyde Street, East Fremantle
	2 Teague Street, Victoria Park
	13 Teague Street, Victoria Park
	4–6 Mann Way, Bassendean
Devenish Lodge	54 Devenish Street, East Victoria Park
Dudley House	24 Dudley Street, Midland
Franciscan House	16 Hampton Road, Victoria Park
Glyde Street Hostel	48 Glyde Street, Mosman Park
Honey Brook Lodge[2]	42 John Street, Midland
John Wilson Lodge	38 Hamilton Street, East Fremantle
Maude Armstrong	16 Davies Road, Claremont
Romily House	19 Shenton Road, Claremont
Rosedale Lodge	22 East Street, Guildford
Salisbury Home	19–21 James Street, Guildford
Shannon House	23 Coolgardie Street, Subiaco
Sherwood House	5 Kalamunda Road, South Guildford
Success Hill Lodge	1 River Street, Guildford

1 Licences surrendered by Licensee & homes closed effective 30 June 2001

2 Inspections commenced January 2001

APPENDIX 2: COUNCIL OF OFFICIAL VISITORS

Head of Council	Expiry Date of Term
Mr Stuart FLYNN	01 February 2003[1]
Official Visitors	
Mrs Di ANNEAR	06 April 2002
Ms Sandra BROWN	07 April 2003[1]
Mrs Rita BURGESS	07 April 2003[1]
Mr Peter DAVIES	07 April 2002[2]
Mrs Jean ELLIS	30 August 2001
Ms Jane ENSOR	07 April 2003[2]
Mr Adrian GAVRANICH	07 April 2004[1]
Ms Jane GIBSON	07 April 2003[2]
Mr Kevin GUHL	30 August 2001
Ms Amara HOGEVEEN	07 April 2003[1]
Mr Kevin HOGG	07 April 2003[1]
Mrs Lynn HUDSON	07 April 2003[2]
Dr Gary HULSE	06 April 2002
Mrs Cushla LEECH	07 April 2003[2]
Dr Helen LETTE	07 April 2003[2]
Ms Edana MCGRATH	07 April 2004[1]
Mr Sean O'CONNELL	07 April 2002[2]
Ms June O'CONNOR	30 August 2001
Mrs Noreen PAUST	30 August 2001
Dr John ROONEY	30 August 2001
Ms Catherine SAWTELL	07 April 2002
Mrs Rosalind SAWYER	07 April 2003[1]
Mrs Maxinne SCLANDERS	07 April 2003[1]
Mrs Sheila STEPHENS	07 April 2004[1]
Mr Nepia TEIO	07 April 2002[2]
Ms Hilary TUFFIN	07 April 2002[2]
Ms Brenda VAN ZALM	07 April 2002
Ms Catriona WERE–SPICE	07 April 2002[2]
Mr Michael WRIGHT	07 April 2003[2]

1 Reappointment during 2000–2001

2 New appointment during 2000–2001