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BY: LACA

Questions for the Public Advocate of South Australia arising from the
Older People and the law inquiry public hearing in Adelaide, 31 July 2007

1. *Can the Public Advocate explain to the Committee what the witnessing arrangements are for a general or enduring power of attorney in SA?*

An authorised witness means a JP in any state or territory, a commissioner for taking affidavits in the Supreme Court of SA (which includes a lawyer proclaimed bank manager or proclaimed member of the police force) or any notary public.

Are these arrangements satisfactory in the Public Advocate's view?

The witnessing provisions are satisfactory except that there are different witnessing provisions for the various advance directives because they are dealt with under 3 different pieces of legislation.

2. *It has been put to the Committee that one of the major barriers to older people accessing legal services is cost, and that specific legal aid funding should be allocated to address this issue.*

I agree. There is no specific legal aid funding to assist older people unlike youth and women.

3.

Because of the strict legal requirements regarding the responsibility of lawyers providing advice to person providing a third party guarantee the advice of the Law Society in SA is for legal practitioner not to undertake this work unless they have extremely good skills to analyse the guarantee and do an assessment of the financial ability of the guarantor to meet any liability to the lender.

The time involved in this exercise is large and guarantors are normally not prepared to pay for the advice.

I agree that if the lawyer is properly trained and has the specialised skills to provide the advice sought he or she is the best person to provide advice.