

Submission No. 62.1
Date Received

The Elderly and the Law, Oral Submission 14th May 2007

Sirs

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BY: LACA

My oral submission today is in 3 parts:

Firstly the need for a Framework for the Evaluation of all Submissions.

You will receive, possibly hundreds of submissions from around Australia by distraught people complaining about the treatment of their relatives by all the State Public Trust Offices including the NSW Office of the Protective Commission, OPC. Many people will dismiss these traumatic life histories as "sob stories" or merely isolated hardship cases in a system that is otherwise working well. Many people may even 'demonise' these distraught people who believe that they and their relatives have been victimised by all the various State Public Trust Offices.

You will also receive submissions from those State Public Trust Offices and from their national lobby body stating what an exemplary job they are doing. They may also state that they need more powers to cope with the aging population, the rise in dementia and adult children unable or unwilling to care for aged relatives.

I request that, you consider every submission regarding the State Public Trust Offices including the NSW OPC by distraught people as fitting into my framework.

A framework of a desperate need for money by non treasury funded State Public Trust Offices.

Who is this Parliamentary Committee to believe?

What framework are you to place these conflicting submissions for objective evaluation?

I believe that I have given you a Holistic framework for evaluation.

As "Deep Throat" told Woodward and Bernstein "Follow the money trail".

Now my Second part is a request for a Pilot Validation of my Holistic Framework.

I respectfully request that you validate my submission and give credence to the many sad submissions of individuals, which I believe, support my submission. I do not ask you to validate their individual submissions by investigation, but I ask you to validate their submissions holistically.

I respectfully ask this committee to request the Australian National Audit Office, ANAO to conduct a small scale pilot audit of only the NSW OPC. The ANAO will be able to validate my submission and that of the many distraught people who have traumatic stories. I ask that the sample be chosen at random so as not to investigate any specific case that may have been brought to the Standing Committee's notice.

This pilot audit would only need to review about 30 cases to validate my submission. This random sample should address 10 cases each in the following 3 categories:

- a) 10 part rate Centrelink pensioners for accuracy of income and asset details on the Centrelink payment system. This will determine if the correct rate of Centrelink pension is being paid. Accuracy of Rent Assistance payments to the pensioner. The possibility of direct payment of nursing home fees by Centrelink, thereby reducing administrative costs by the NSW OPC to the pensioner. The adequacy of the payment of the residual pension to the pensioner for their daily needs, commonly called by Centrelink "Comfort payments". The need for the NSW OPC to establish Large Savings accounts for the pensioners for their future needs considering that they will always receive the pension.

- b) A similar review of 10 DVA cases using the same evaluation criteria.
- c) A review of 10 cases where there is a Centrelink "married homeowning couple" who are receiving the "Separated due to ill health" pension rate. This couple should have been receiving this rate for the last 12 months. The main purpose is to determine if the matrimonial home was sold. This review to consider firstly the sale of the matrimonial home from the viewpoint of The Family Law Act to determine if it was legal for the OPC to liquidate and divide the family assets of a married couple without resort to the Family Court of Australia or its practice notes and without obtaining 'cross vesting rights'. Secondly if the liquid assets of the sale were correctly declared to Centrelink.
- d) In each of the above 30 cases I ask that firstly the tax obligations of the sale of assets, the consolidation of superannuation be considered as well as PAYE implications of income earned from the trust account. Secondly I ask that any subsidisation by The Department of Health and Aging of nursing home fees if the person was ineligible to receive the pension due to incorrect information being held by Centrelink be taken into account.

My Third point is my Proposed Recommendations for Change.

- 1) When this pilot audit validates my allegation that the NSW OPC is in breach of many Commonwealth laws I ask that this pilot audit be the trigger and basis for a large scale audit by the ANAO of all Australia's State Public Trust Offices including the NSW OPC.
- 2) I ask you to consider, the effect on Commonwealth expenditure of the NSW OPC forced relocation of people to Commonwealth subsidised nursing homes. These are people who had been managing in their own homes with their relatives support and/or with the support of 'Home care' or 'Meals on wheels'. They were independent people leading a self sufficient life at little cost to the Commonwealth, which is the Commonwealth's stated policy aim.
- 3) When the ANAO pilot audit results substantiate my allegations of fraud against the Commonwealth, by all the State Public Trust Offices, I ask the committee to recommend to the Commonwealth Attorney General that he consider appropriate legal action.
- 4) I sincerely and earnestly ask this committee to recommend to the Commonwealth Attorney General that he consider enacting Commonwealth Guardianship legislation to protect the rights of individual Australians. There needs to be national guardianship legislation to protect ordinary Australians citizens from all the State Public Trust Offices as well as from rapacious relatives. Currently those organisations needing money to fund their operations are the same organisations who have the power to achieve their aims of stripping people of their most basic right, the right to be a legal person and to determine their own lives. What is needed is to break the nexus between guardianship of a person as their legal entity and control of their financial assets which makes them desirable takeover targets. The basic right of a citizen to be their own legal person can only be achieved if the Commonwealth enacts guardianship legislation.

Yours Faithfully
John Mayger
14 April 2007