

Guardianship Tribunal

AOC 10/7/08

Submission No. 659

(Inq into better support for carers)

The Secretary
House of Representatives Standing Committee
On Family, Community, Housing & Youth
P.O. Box 6021
Parliament House
CANBERRA ACT 2600

Dear Secretary,

Re: Inquiry into Better Support for Carers

The NSW Guardianship Tribunal appreciates this opportunity to make a submission to the Inquiry into Better Support for carers.

The role of the Guardianship Tribunal is to appoint substitute decision makers for adults with a decision making disability. The Tribunal may appoint a guardian if a person is unable to make his or her own personal decisions, or a financial manager if they are unable to make financial decisions. The Tribunal can also provide consent for medical treatment where the patient is over 16 and is incapable of consenting to treatment.

The Tribunal endeavours to appoint family members and carers as guardians and financial managers whenever they are willing and able to take on these roles and if such appointment is consistent with promoting the welfare and best interests of the person with the disability.

The Tribunal acknowledges the vital role of carers in providing care and support for people with disabilities in the community. It is important to recognise that the extensive domestic and personal care provided by carers enables many people with disabilities to live at home rather than in residential facilities. It is crucial that carers are supported as much as possible in this work which can be stressful and demanding.

In New South Wales it is possible for a competent adult to appoint an enduring guardian to make personal decisions if the time comes when they are unable to do so for themselves. Similarly, a competent adult can make an enduring Power of Attorney to empower an attorney to manage financial matters on their behalf should they lose the ability to do so in the future.

The Tribunal is aware that, in some cases, if a carer does not have the necessary legal authority to act as substitute decision maker, there can be difficulties. This may happen if a carer is trying to deal with Centrelink or, for example, a telephone company on behalf of a person with a disability and are told that they cannot do so

unless they have a power of attorney which authorises them to act on the person's behalf.

The Tribunal suggests that it would be beneficial to provide accessible and extensive community education to increase awareness of the legal options available for the appointment of substitute decision makers. Increased community education about enduring guardianship and enduring power of attorneys would be beneficial. It is important that such education also clarifies the duties and obligations of appointed substitute decision makers to always act in the best interests of the person with a disability.

Thank you for the opportunity to make this submission to the inquiry. I would be happy to discuss it further in person, should you require.

Yours faithfully,

Diane Robinson
President
4 July 2008
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