

Submission No. 697

(Inq into better support for carers)

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Office of the
Public Advocate

Queensland Government

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The Secretary of the Committee
House Standing Committee on Family, Community, Housing and Youth
House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600

House Standing Committee: Inquiry into better support for carers

I seek to make a brief submission to the House Standing Committee's Inquiry into better support for carers in regard to issues for adults with impaired decision making capacity.

Interest of the Public Advocate

The Office of the Public Advocate was created under the *Guardianship and Administration Act 2000* to provide systemic advocacy for adults Queenslanders with decision-making disability. Section 209 provides that the role of the Public Advocate is to:

- *Promote and protect the rights of adults with impaired capacity for a matter*
- *Promote the protection of the adults from neglect, exploitation or abuse*
- *Encourage the development of programs to help the adults to reach the greatest practicable degree of autonomy*
- *Promote the provision of services and facilities for the adults*
- *Monitor and review the delivery of services and facilities to the adults.*

As outlined above, broadly the functions of the Office of the Public Advocate are to protect and promote the rights of adults who have impaired decision-making capacity. This cohort includes people with mental illness, intellectual disability, acquired brain injury and dementia. The Office makes these comments to you to promote and protect the rights and interests of these adults.

Adults with impaired capacity are the most vulnerable party

I welcome the Commonwealth Government's inquiry into the support needs for carers. Their role in providing care for those with significant support needs constitutes a valuable contribution not only to the individuals being cared for, but for society. Further, it is recognised that in undertaking care and support for another person, carers may sacrifice their own aspirations or experience barriers to social and economic participation. Certainly, the development of strategies to assist carers to access the same range of opportunities and choices as the wider community is a constructive initiative.

However, while I support better support for carers, I would remind members of the Committee that it is the people being cared for, who are often people with impaired decision-making capacity, who have the greatest needs, and who are the most vulnerable parties, in this situation. Accordingly, I would encourage the Committee to ensure that the rights and interests of the people being cared for are protected and promoted, and that they are not disadvantaged by a focus on the needs of carers.

Carers are often articulate and organised, and their perspectives are often presented through influential lobby groups. Adults with impaired decision-making capacity, by comparison, are often isolated and generally are not members of lobby groups, and are unable to advocate in their own interests. Most often, people being cared for rely on their carers to represent their interests.

In many instances what is in the best interest of the carer is also in the best interest of the person being cared for. However, there are times when this is not the case, where what is in the best interest of the carer may not be in best interests of the person being cared for, or indeed may be disadvantageous to the interests of the person being cared for. That is, sometime there may be a conflict of interest between the needs of the carer and the needs of the person being cared for, and in any such situation, it needs to be recognised that the person being cared for is most likely to be the most vulnerable, the most disadvantaged, the most disempowered party, the least able to protect themselves and promote their individual rights and interests.

One particularly salient example of this is where the carer is dealing with financial issues. For example, the carer may be receiving a Carer's pension, or may be dealing with the financial assets of an adult with impaired capacity.

Substitute decision making

Where a person being cared for has impaired decision-making capacity, a carer is often in a position of making decisions on behalf of that person. In Queensland, the *Guardianship and Administration Act 2000* and the *Powers of Attorney Act 1998* provide a framework for substitute decision making for adults with impaired capacity. This includes the role of family members or close friends as informal decision makers in relation to both personal and financial matters, as well as the formal roles of guardian and/or administrator, Statutory Health Attorneys and attorneys.

Carers need to understand their status under this regime, their rights and responsibilities. For example, carers need to be aware of and understand that any decisions they make on behalf of an adult with impaired capacity, whether in an informal or formal role, needs to be consistent with the General Principles under the *Guardianship and Administration Act 2000*.

This Office is concerned that many substitute decision makers are not aware of their rights and obligations under this Act.

In order to promote an improved understanding of the substitute decision making regime, carers should be provided with relevant education, information and support. Ensuring that appropriate substitute decision making process occur promotes transparency, provides protection for carers, and most importantly, protects the interests of adults with impaired decision-making capacity.

Conclusion

In considering the needs of carers, and in developing strategies to better support carers, the Committee is urged to consider the likely ramifications of any strategies on those being cared for, and to ensure that the rights, interests and well-being of those being cared for are not compromised.

Yours sincerely



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