

Submission  
No 63

**INQUIRY INTO SERVICES PROVIDED OR FUNDED BY  
THE DEPARTMENT OF AGEING, DISABILITY AND  
HOME CARE**

**Organisation:** Guardianship Tribunal  
**Name:** Mr Malcolm Schyvens  
**Position:** Acting President  
**Date received:** 5/08/2010

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# Guardianship Tribunal

The Hon Ian West MLC,  
Chair,  
Legislative Council Standing Committee on Social Issues,  
Parliament House,  
Macquarie Street,  
SYDNEY NSW 2000



Dear Mr West,

## **Inquiry into services provided or funded by the Department of Ageing, Disability and Home Care**

Thank you for your letter of 5 July 2010, and for inviting the Guardianship Tribunal to make a submission to this Inquiry. The Tribunal very much appreciates being offered the opportunity to assist the Legislative Council Standing Committee on Social Issues through this participation.

The Guardianship Tribunal is an independent statutory Tribunal, established under the *Guardianship Act 1987* ("the Act"). The Tribunal exercises quasi-judicial functions under that Act, and under other key legislation, such as the *Powers of Attorney Act 2003*.

In exercising its statutory functions, the Tribunal may, from time to time, hear evidence which some might consider to be relevant to the quality, effectiveness and delivery of services provided, or funded by Ageing, Disability and Home Care (ADHC). However, this is evidence taken in Tribunal proceedings, and the Tribunal itself does not have a statutory function to, in any way, collate, assess or evaluate that evidence insofar as it relates to ADHC.

The Tribunal, as such, is not in a position to assess the quality, effectiveness and delivery of services provided, or funded by, ADHC in a systemic manner. Accordingly, the Tribunal's ability to contribute to the Inquiry would be based only on anecdotal material, and may, for that reason, be of very limited value to the Inquiry.

Further, the Tribunal is itself bound by the provisions of the *Guardianship Act 1987*. That Act prohibits the disclosure of any information obtained in connection with the administration or execution of the Act, unless the disclosure is made in the circumstances permitted by section 101 of the Act.

For the removal of doubt, the Tribunal does not regard itself as falling within the ambit of "services provided by" ADHC, because:

- the Tribunal is statutorily independent of ADHC.

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- the Tribunal is not a "service" provided by ADHC;

The Tribunal is keen to assist the Legislative Council Standing Committee on Social Issues in whatever way might be appropriate. Accordingly, I am enclosing with this letter a copy of the Tribunal's most recent Annual Report and would be pleased to provide to the Committee upon request, any further statistical data held by the Tribunal which might assist in the Inquiry.

Thank you again for inviting the Tribunal to assist in this way. Please advise if the Tribunal may be of any further assistance to the Standing Committee in relation to this Inquiry.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'MS', with a long horizontal flourish extending to the right.

Malcolm Schyvens  
**Acting President**  
4 August 2010