

**INQUIRY INTO OPPORTUNITIES TO CONSOLIDATE
TRIBUNALS IN NSW**

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**LEGISLATIVE
COUNCIL**

Submission to the Parliamentary Committee on Tribunals

With particular reference to the guardianship tribunal

From

Jennifer Frances Wilton

14th December, 2011

Submission to the Parliamentary Committee on Tribunals

This submission is about the guardianship tribunal. My brother arranged for my mother to sign guardianship papers and changed the Power of Attorney from Joint to Sole after she was placed in care suffering dementia as well as an infection and shock about leaving her home of 67 years. When he subsequently neglected her, requiring me to take over the guardianship role, I appealed to the guardianship tribunal to make me guardian and retrieve my original POA status. The tribunal proceeded to gather 33 irrelevant documents (letters, reports and references). Members point blank refused my request to ask the Director of Nursing for the medical record to verify my statements and told me to subpoena it through the Supreme Court. I was retired and could not afford to do that and solicitors insisted it was the role of the tribunal. The guardianship tribunal has the authority to acquire and subpoena all necessary documents.

I travelled 700km to the 2 hour hearing while recovering from surgery. It was obvious that although the panel consisted of a prosecutor, a solicitor and a community member that it was just a rubber stamp for decisions already made by middle management of the tribunal. No conciliation as required by the Act was attempted. The report on the hearing was just a garbled string of inaccuracies, hearsay and conjecture and I lost my case on the grounds that there was no evidence (no medical record). About 2 months before the hearing my mother sustained a serious injury that left her blind in her left eye for 3 months. I had requested in writing that the tribunal investigate the matter and in spite of the fact that my brother's witness told panel members she had seen the injury, without the medical evidence they dismissed any responsibility to take action.

I could not appeal to the Administrative Decisions Tribunal because there had been no sound recording so no transcript could be prepared. I submitted another application to the guardianship tribunal, requesting in writing that the medical record be subpoenaed and was subsequently told that any second hearing would be delayed indefinitely. My mother died 9 months later of neglect and blood poisoning from an untreated infection. Experienced solicitors and MPs know that the guardianship tribunal has operated as a law unto itself for many years. Their procedures are cumbersome, unprofessional, create duplication and waste inordinate amounts of taxpayers' money. The withholding of crucial evidence, verdicts supplied before hearings and obstruction of appeal processes are not in the spirit of Australian law.

2.

Everything was so hidden I do not know if someone in middle management was corrupt or just incompetent. If the tribunal is to be retained then a complete overhaul of the system is required. The following recommendations are obvious and would save time and money while reducing the workload.

1. That it be made mandatory to have all crucial evidence available prior to the hearings.
2. That no irrelevant information be gathered either in writing or by phone.
3. That it be made mandatory to acquire the full medical record (not isolated reports) where there is a question of mental competence or dementia at the time of signing legal documents.

In order to ensure responsibility, transparency and accountability on all levels:

4. That the roles and responsibilities of officers be made known.
5. That it be made mandatory to have a sound recording of all hearings
To ensure----that panel members are civil to all participants
-----that reports reflect what actually occurred in hearings
-----that panel members adhere to the Act
-----that the need for appeals are reduced
-----but that an appeal process can proceed if necessary

These recommendations would not only increase efficiency and considerably reduce costs but should also improve the provision of justice and care for the most vulnerable in our society.

I have retained on file all written evidence to support the allegations in this submission and agree that it be placed on the public record. I am prepared to speak at a hearing.

14th December 2011

JENNIFER WILTON.