

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

Organisation: Understand Alzheimer's Educate Australia

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The Director
Standing Committee on Law and Justice
Parliament House
Macquarie St
SYDNEY NSW 2000

25 November 2011

RE: Should NSW have a 'Super Tribunal'? – New inquiry to examine opportunities to consolidate tribunals

Dear Director,

Alzheimer's Australia NSW appreciates the opportunity to make a submission to the Standing Committee concerning the consolidation of the existing tribunals within NSW.

Alzheimer's Australia NSW works to reduce the impact of dementia through leadership, innovation and partnerships. It enables all peoples living with dementia and their carers to have a voice. Alzheimer's Australia NSW facilitates community participation and awareness-raising in metropolitan, regional and rural areas of NSW through a range of consumer consultation groups, carer support groups and dementia education for families, workers and people with dementia. It also provides free Helpline support and Memory Van visits throughout NSW. In this way, Alzheimer's Australia NSW helps link all those living with dementia to services, support and information and encourages their participation in decision-making and care plans.

The focus of Alzheimer's Australia NSW response is in relation to Option 3 presented in the Issues Paper concerning the role of the Guardianship Tribunal.

We believe that the Guardianship Tribunal should be retained as it currently functions and it should be resourced sufficiently to fulfill its responsibilities now and into the future for the following reasons:

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1. The Guardianship Tribunal demonstrates expertise and empathy with those living with dementia in dealing with applications brought to it which may be lost in a Super Tribunal
2. Because of the dementia epidemic, the Guardianship Tribunal will face increased demand from an ageing population, particularly in regional areas where its regional hearings are a positive feature of its work.
3. The Guardianship Tribunal employs a participatory approach focused on supported decision-making for people with a disability.
4. The Guardianship Tribunal has a strong reputation for its upholding of the principles and rights of people with a disability.
5. There is a high level of awareness of the Guardianship Tribunal and its existence ensures that the rights of people with dementia living in NSW to access a quasi-judicial hearing are met in accordance with the UN Convention on the Rights of Persons with Disabilities.

1. The Guardianship Tribunal demonstrates expertise and empathy in dealing with applications brought to it which may be lost in a Super Tribunal.

Alzheimer's Australia NSW is primarily concerned with changes to the role of the Guardianship Tribunal which may arise from the proposed Super Tribunal arrangements. We are most concerned that a Super Tribunal would de-emphasise the specialist role and functions the current Guardianship Tribunal undertakes for people whose dementia impedes their capacity to manage their own lives and financial affairs.

From the 2009-10 Annual Report of the Guardianship Tribunal, Alzheimer's Australia NSW understands that approximately half of the Guardianship Tribunal's existing applications are for people with dementia. This equates to approximately 3,500 people per annum. With the forecast doubling of the number of people with dementia to 2030 and then a further doubling to 2050¹, the Guardianship Tribunal will see a significant increase in applications for people with dementia. This means that the Guardianship Tribunal has developed real expertise in dealing with people living with dementia which we believe would be put at risk by a Super Tribunal type structure.

Inevitably a Super Tribunal structure would lead to a loss of focus and drive for efficiency that would impact negatively on those applicants with dementia who come before it.

¹ Deloitte Access Economics (2011) *Dementia Across Australia: 2011 – 2050*, http://www.fightdementia.org.au/common/files/NAT/20111014_Nat_Access_DemAcrossAust.pdf

2. Because of the dementia epidemic, the Guardianship Tribunal will face increased demand from an ageing population, particularly in regional areas where its regional hearings are a positive feature of its work.

This forecast increase in people with dementia is in line with the ageing of the NSW population. The forecast growth in the population with dementia in coastal areas of NSW, such as the Far North Coast, Mid North Coast, Central Coast, South Coast and the Illawarra is dramatic. Dementia is the number one cause of disability in people aged over 65 and the number one cause of death for all Australians.

Alzheimer's Australia NSW is aware through its members and consumer forums that the regional hearings conducted by the Guardianship Tribunal are very highly regarded. This is seen by the community as being highly preferable to video links and minimizes the inconvenience of travel for local communities in locations away from Sydney. This is especially relevant for people living with dementia and their families who find travel difficult and often unsettling. Alzheimer's Australia NSW would be concerned that a move to consolidate services in a Super Tribunal would risk seeing this positive regional component of the Guardianship Tribunal's work being reduced or lost in efficiency drives. The large growth in numbers of people with dementia in regional areas will see an increase in the volume of regional hearings and matters brought before them.

3. The Guardianship Tribunal employs a participatory approach focused on supported decision-making for people with a disability.

A major concern for Alzheimer's Australia NSW in any move to absorb the functions of the Guardianship Tribunal within a Super Tribunal would be the dilution of knowledge and expertise that staff and hearing panel members have.

Each panel of the Guardianship Tribunal hearing a case comprises a presiding member (a lawyer), a professional member (a person such as a medical practitioner, psychologist, or social worker who has experience in assessing or treating those who have decision-making disabilities) and a community member (a person who has experience with decision-making disabilities). While the Guardianship Tribunal staff have a strong emphasis on person focused outcomes, it is the three member, multidisciplinary panels of the Guardianship Tribunal that conduct the hearings, make the findings and then make guardianship and/or financial management orders if incapacity found and the need for an order is apparent. In following this approach and process, starting with conducting the hearing, the focus of the panel is on the person the hearing is about. Importantly, the Guardianship Tribunal's hearings are informal. Those present are heard on issues rather than in a formal order.

It is both the multi-member and the multi-disciplinary nature of the Guardianship Tribunal that is one of its great strengths. It is the view of Alzheimer's Australia NSW that stigma associated with disability and dementia is reduced through these structures and processes.

4. The Guardianship Tribunal has a strong reputation for its upholding of the principles and rights of people with a disability

Alzheimer's Australia NSW and its members believe that the Guardianship Tribunal is effective and efficient in dealing with matters brought before it through its existing structure and processes. In addition, anecdotal evidence and the views of our members and consumer committees indicate that the Guardianship Tribunal has a high level of respect within the professional and community sectors. This is no small achievement given the often contentious nature of its work and gives the community confidence in the determinations made by the Tribunal. Considering this status, major reform is not warranted.

5. There is a high level of awareness of the Guardianship Tribunal and its existence ensures that the rights of people with dementia living in NSW to access a quasi-judicial hearing are met in accordance with the United Nations Convention on the Rights of Persons with Disabilities.

The separate identity of the Guardianship Tribunal is well-known within the disability and ageing sectors and its ongoing presence and prominence sustains a commitment within NSW to the UN Convention on the Right of People with a Disability to access a quasi-judicial hearing over matters of choice and decision-making regarding guardianship and financial management.

Conclusion

The primary message from Alzheimer's Australia NSW in this submission is that the Guardianship Tribunal should remain as a stand alone entity with its existing focus and client group retained. In contrast to the view put forward in the Conclusion of the Issues Paper, Alzheimer's Australia NSW believes that in relation to the Guardianship Tribunal, a move to a Super Tribunal would result in decreased decision making quality and decrease efficiencies as a result of dissatisfaction within the community with the decisions and processes of a consolidated Tribunal.

Yours sincerely

THE HON JOHN WATKINS
Chief Executive Officer