

INQUIRY INTO SUBSTITUTE DECISION-MAKING FOR PEOPLE LACKING CAPACITY

Organisation: Coalition for Appropriate Supported Accommodation for People
with Disabilities

Name: Ms Myree Harris RSJ

Position: Convener

Telephone: 02 9564 0194

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SOCIAL ISSUES COMMITTEE

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Coalition for Appropriate
Supported Accommodation
for People with Disabilities

PO Box 3263
MARRICKVILLE METRO NSW 2204

Phone/Fax: (02) 9564 0194

Standing Committee on Social Issues
Legislative Council
Parliament house
Macquarie St
Sydney 2000

12th August 2009

Dear Sir/Madam,

I enclose a submission to the **Inquiry into substitute decision-making for people lacking capacity.**

I and perhaps other members of CASA would be willing to give evidence at the Inquiry should this be appropriate.

Yours sincerely,

A handwritten signature in blue ink, reading "Myree Harris RSJ".

Myree Harris RSJ
Convener



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**LEGISLATIVE COUNCIL OF NSW
STANDING COMMITTEE ON SOCIAL ISSUES**

INQUIRY INTO SUBSTITUTE DECISION-MAKING FOR PEOPLE LACKING CAPACITY

**SUBMISSION FROM CASA: COALITION FOR APPROPRIATE SUPPORTED
ACCOMMODATION for people with disabilities in NSW.**

In NSW, licensed boarding houses are populated mainly by people who have mental illness, intellectual disability or brain damage. There are currently 41 such facilities, with 785 beds

The management of estates of people incapable of managing their affairs

A significant number of these residents require assistance to manage their financial affairs, often by the NSW Trustee and Guardian (formerly the Office of the Protective Commissioner). However, there are complicating factors which impede efforts of advocates to assist residents to manage the "comforts" money supplied by NSW Trustee and Guardian. This is meant to be available for the residents' personal use to cover travel, incidental coffee or snacks and recreational activities such as films or visits to the swimming pool and personal care costs such as haircuts.

A recent trial at Denroma, England Avenue, Marrickville, which involved the NSW Trustee and Guardian and Newtown Neighbourhood Centre, acting as support people and advocates, revealed just how complex the situation can be. In just about every licensed boarding house, as well as rent and board, there are extra costs, which may include distribution of cigarettes. It will be a major exercise if an attempt is made to clarify this raft of extra costs in each of the remaining 41 licensed boarding houses in NSW. How far this erodes into the "comfort" money supplied to residents by NSW Trustee and Guardian may differ in every case.

Then there is the situation where a request may be made by the owner of the facility to NSW Trustee and Guardian for a lump sum, eg \$400, per resident, in one case, so that clothes can be purchased for residents. In one recent case, this lump sum went to the owner, but there is no proof of clothing having been purchased for each individual.

It seems essential that legislation be passed, perhaps as part of a replacement for the 1973 YACS Act which currently governs licensed boarding houses, that requires clear financial accounting in these facilities. Specifically, it is essential that residents, where they are capable, be allowed to access and use their full allocation of "comforts" money. Residents who are capable of managing their finances should be assisted to set up and manage their own bank account. Owners of licensed boarding houses should not be allowed to hold bank books of residents and ask for signed withdrawal slips.

The guardianship of people who have disabilities

Because this population of people with disabilities in licensed boarding houses has experienced institutionalization, whether previously in psychiatric hospitals or in the boarding houses themselves, they have mostly lost living skills, initiative and the resources to explore other options. In the Inner West, a recent survey found 60% had no family contact and only 10% had regular contact. Apart from staff of ALI (Active Linking Initiative) programs, or DADHC case workers, they have few resource people they can consult. Their disability, whether psychiatric, intellectual or organic brain damage may render them unable to make appropriate choices and decisions.

In some cases, PWD (People with Disabilities, Australia) have been given funding to provide individual advocacy for some residents. Most lack such support.

Where there is no family contact or individual advocate , and the person is found to be unable to make reasoned choices, it seems imperative that the individual be referred to the Guardianship Tribunal. Then a hearing can establish the need for a Public Guardian to be appointed to ensure the safety and appropriate care of this vulnerable person.

Myree Harris RSJ
Convener

12th August 2009