

INQUIRY INTO ELDER ABUSE IN NEW SOUTH WALES

Name: Name suppressed

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Partially Confidential

Inquiry into Elder Abuse Submission

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I am writing about the difficulty I encountered under the current system to gain assistance when I suspected my brother was financially and emotionally abusing my mother.

My mother's Power of Attorney (POA) stipulated that her doctor decided when her POA could be invoked. I discussed the problem with her doctor and he referred my mother to a geriatrician to evaluate my mother's capacity. The doctor also advised me to start proceedings with the Guardianship Tribunal, as this was my only legal course of action. I also contacted the Elder Abuse Hotline and they also advised that the Guardianship Tribunal was my only course of action.

My older sister also believed my brother was abusing my mother, and because of her mistrust of the process stopped the geriatrician's evaluation of my mother by ordering the specialist out of my mother's house. On the advice of mum's lawyer the geriatrician was finally able to evaluate my mother one week prior to the hearing. My sister also talked my daughter into trying to stop me proceeding with the application to protect my mother. My sister said "that if mum wanted to lose her house, then it was Mum's right to do so" My sister did not trust the Public Trustee and she also believed the trauma of the Guardianship Tribunal enquiry would have been too stressful for my elderly mother to cope. I was accused by my sister and my daughter of trying to kill my mother.

My intention was only to have my mother's POA invoked thereby restricting my brother's influence on my mother and the drain on her money, but my sister's actions left me with no option except to use the Guardianship Tribunal to protect my mother.

My brother was burdening my mother daily with his problems to the point that it consumed her day. He had no consideration that she was suffering from lung cancer and a crushed vertebra or that she could not afford to assist him with his failing business. She stopped eating as it was too expensive, stopped her pensioner bus trips on Wednesday as they were too expensive, and went to bed by 5pm without dinner to save on heating and food. All so she could give him her money.

Her savings reduced by \$17,000 in a couple of years and it was when her bank account was at \$3,000 that I decided it was time to act. A couple of years prior the bank had rang me and requested that I be a signatory on my mother's bank account as she did not understand the basics. When I made the application to the Guardianship Tribunal my mother removed my signature from her account. She is now telling everybody that will listen including my husband that I took her to court to take her pension even though I have no contact with her POA or her money. This is why even now twenty two months later, I cannot have any contact with my mother.

A couple of weeks ago my mother was hospitalised with pneumonia, weighing 36 kg and severely malnourished. Her lung cancer has been in remission for the last six years.

When I made enquiries to the Police, they said they had no power whilst Mum was willingly giving her son her money. In the early 1990's my mother went guarantee for my brother using her house as collateral. The bank started to foreclose on my mother's house, I stepped in and negotiated with the bank, offering the bank her \$7,000 in savings in return for the \$20,000 guarantee saving her home, but this left her penniless. My brother convinced my mother that he was not responsible for failing to pay even one dollar off the loan, he convinced mum that it was his ex-wife's fault even though the loan document was in joint names. He had history, which is why I had to act before my mother lost her house.

I can only highlight my experience, for almost two years I have been isolated from my family. My mother has forbidden everybody to talk to me, including her case manager even though I had been

her primary carer for over 20 years and had been instrumental in her gaining her services to allow her to continue living in her own home. Even my daughter, who has not spoken to me for twenty months, is now barely talking to me, when she does it is strained and tentative. The only reason she is trying to talk to me is because my sister, POA and my daughter are not coping looking after mum and they want me to take over again. This isolation has resulted in me seeking assistance from a Psychologist. All members of the family, my brother excluded, now accept I did the right thing.

It appears the process required to obtain assistance when being abused requires a level of competency far greater than most elderly people would possess. They would already be traumatised and fragile after being abused and be in fear of losing their family. To be successful with a positive outcome the applicant will need to be a detective, accountant and lawyer and to be doggedly persistent and unflaggingly determined in order to succeed. Specially trained social workers could offer support to the applicant and elderly person during this process to help them cope. I asked the Guardianship Tribunal if there was any support for the applicant and they said no. I have been left severely traumatised. I don't believe my experience is what the government intended to be the outcome. I would certainly think seriously whether to assist another person who was being abused. The applicant will need to be super human just to try to provide assistance to somebody they know is being abused.

The only positive to come from my experience is the Tribunal decided that I was justified in taking the matter to them, that they believed she was being financially exploited, and that my mother did not have the competency to fully manage her financial affairs. The Tribunal invoked my mother's POA dismissing the application for a financial management order as the POA would have the desired effect.

"Preventing and responding to abuse of older people NSW interagency policy 2014" The strategies sound great, but neither my mother nor I were offered any of these services or strategies when we were going through the process. Are these strategies being funded? Either the Elder Abuse Hotline or the Guardianship Tribunal suggested that the banks have policies in place for Elder Abuse and to discuss my concerns with my mother's bank. The bank manager had no knowledge of a policy and said there was nothing the bank could do to assist.

Teachers have a duty of care to report suspected abuse of a minor, could the bank be legislated to have a similar duty of care to the elders.

The problem, as I see it, is that the Rights of the Elder is also the primary inhibitor from stopping the abuse, carers have to respect the privacy and choices of the elder. There is also the problem of family isolation and/or ignorance. If it is the carer abusing the elder, the elder may believe if they do anything about the problem they will lose the carer's assistance. What a dilemma. My ninety year old neighbour came in for coffee the other day; her son (her only child) takes her shopping three times a week and is her POA. She told me that she believes he is taking her money. I suggested that she ring the Elder Abuse Hotline or put her POA in the hands of the Public Trustee. Her concern is how she will cope if she does not have his assistance so she decided it was best to do nothing.

I found the members of the Guardianship Tribunal at both hearings were highly professional, very gentle with my mother and very astute at evaluating the situation.

The problem was that my mother believed her rights were being taken away, and she did not understand that the Tribunal was there to protect her best interest. She even employed a lawyer to represent her interests and support her during the hearing. Is it possible that maybe the community representative could spend a little time with the elder prior to the hearing to help the elder

understand the role of the Tribunal and so that the elder does not feel unsupported at the hearing? When the elder arrives to the hearing, they would already know one of the members and feel more comfortable. In our experience my mother only saw three strangers on the day of the hearing and she believed they were there to punish her and take away her independence.

A Government public relations advertising campaign of the role of the Guardianship Tribunal and Public Trustee would help elders and carers in understanding the role of these bodies and help eliminate mistrust and fear. The public is not aware that these government bodies are there to help and protect them. The elders also need to understand the effect on their future aged care and Government funding if the elders exceed the gifting rules.

If you require the "Reasons for the Decisions" from my mother's Guardianship Tribunal hearings, I would be happy to provide them as long as I am not breaching my mother's rights.