

Submission
No 77

INQUIRY INTO INQUIRY INTO ELDER ABUSE IN NEW SOUTH WALES

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Partially Confidential

**Elder abuse in
New South Wales**

An Inquiry by
The Legislative Council
General Purpose Standing Committee No. 2
Parliament of New South Wales
Submission by Ian Evans, OAM, PhD

SUMMARY

Presenting a case for benevolent use of the resources of elderly citizens by trustworthy members of their families. And a case study of disastrous consequences resulting from one family's encounter with the NSW Trustee and Guardian. A submission calling for reform of the NSW Trustee and Guardian. And expressing a request that the NSW Trustee and Guardian be required to relinquish all control of the affairs of .

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There is clearly cause for concern over the pillaging of the assets of elderly men and women by members of their families. These are despicable acts.

Less apparent is the distress caused among the elderly and their families by the intervention of the NSW Government body charged with protecting those who can no longer manage their own affairs. The NSW Trustee and Guardian can and does force its services upon elderly people and family members who do not wish them to get involved.

I believe that many elderly people are happy to see their assets put to use by their children and grandchildren. Providing the elderly are well-cared for and all of their needs, both present and future, are met is there any reason why they should be deprived of the pleasure of helping members of their family?

Conditioned to see avarice and greed among relatives of the elderly, the NSW TG has developed a deeply suspicious and cynical mindset and a belief in their right and duty to meddle in the affairs of families.

In doing so, they may fracture family relationships and devastate long-standing patterns of family collaboration, generosity and trust.

The NSW TG freezes bank accounts, demands the return of family loans and ignores the wishes of the elderly people in whose interests they are supposedly acting.

CASE STUDY: A Personal Experience of the Guardianship Tribunal

The matter of the blocking of my accounts by the NSW TG is subject to further enquiries with St George Bank and also via the Government Information (Public Access) Act of 2009.

The result of these enquiries will be addressed in an addendum to this submission to be forwarded to the Parliamentary enquiry as soon as the information is available.

Welcome to NSW Trustee and Guardian



The smiling faces of photographic models are everywhere in the website and printed material produced by the NSW TG. But Granny had better bring her money when she goes to them for help.

SUGGESTED CHANGES TO THE OPERATION OF THE NSW TRUSTEE AND GUARDIAN

1. A more respectful and less suspicious attitude to relatives of elderly people would be a good start to reform of this organisation. Staff need counselling and an attitude change. They are permeated with a “we know what’s best” attitude and their arrogance is clearly visible beneath their thin veneer of caring.

2. The present situation under which interested parties have a strictly limited time to lodge an appeal against decisions of the NSW TG is deeply unfair. Relatives and friends affected by their decisions may also be elderly and subject to the frailties of age. To many of them, the thought of taking on an intimidating Government agency in the NSW Supreme Court is unthinkable.

3. The only practical means of challenging a Guardianship order is by taking action in the Supreme Court. The cost of this may be as much as \$20,000.00 or more. The alternative for someone who wishes to challenge a guardianship order is, quite literally, to throw oneself upon their mercy. The dice is loaded against people who oppose the actions of the NSW Trustee and Guardian.

4. There should be a temporary arrangement under which guardianship might occur for a certain period of time, eg six or twelve months, and then revert to a family member or trusted friend.

5. Although this is denied, the NSW Trustee and Guardian has demonstrated its ability and readiness to access the private bank accounts of citizens who are not its clients, and to block them. Funds in those accounts are thus no longer available to the account holder. This appears to be outside the bounds of the legal authority of the organisation. It is a technique better known in totalitarian systems of government and was widely used in 1930s Germany to seize control of the funds of Jewish citizens. (See *Stolen Legacy: Nazi Theft and the Quest for Justice at Krausenstrasse 17/18, Berlin*: Dina Gold, American Bar Association Publishing, Chicago, 2015, pp 215 - 218).

I accept that freezing of bank accounts is rightly applied in cases of serious criminal offences and terrorism. But I do not believe that it should be utilised in matters associated with the funds of elderly Australians. This is action reminiscent of the worst kind of police state. Nor is it appropriate for the Department of Justice, under the command of the Attorney-General, to be associated with this sort of action. The Attorney-General is the chief legal and constitutional adviser of the Crown and its government in the state of New South Wales.

6. The NSW TG charges people with more than the bare minimum of assets outrageously high fees. The finances of elderly people who have struggled to accumulate assets throughout their life are ransacked and their heirs defrauded of money which should ultimately have been theirs.

was raised in a small country town in a family which suffered the full impact of the Great Depression. She has worked hard throughout her life to save and to accumulate assets for her benefit and the benefit of her family. It is deeply, deeply offensive that her capital and income (funds which she has willed to all of us:

are being pillaged by an arm of the Government of New South Wales.