

Submission
No 9

**INQUIRY INTO ELDER ABUSE IN NEW
SOUTH WALES**

Name: Name suppressed

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Partially Confidential

**I take this opportunity to thank the General Purpose Standing Committee No. 2 for the opportunity to make a Submission concerning this very important subject of Inquiry
ELDER ABUSE IN NEW SOUTH WALES**

**THIS SUBMISSION IS FOR PUBLICATION BUT THE AUTHOR'S NAME IS TO BE
WITHHELD FOR PERSONAL REASONS**

Eleanor Roosevelt - 1993 :

“Where, after all, do human rights begin? In small places, close to home - so close and so small that they cannot be seen on any map of the world yet they are the world of the individual person, the neighbourhood he lives in the school or college he attends, the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity and equal dignity without discrimination.”

ZERO TOLERANCE!

Firstly, abuse and neglect of the elderly and/or disabled/cognitively impaired elderly person has no boundaries and it occurs in every strata of society and in all cultures.

Secondly, abuse and neglect of the elderly is far reaching. It is not restricted to institutional and residential settings or family members – the perpetrators could be anyone. Abuse and neglect more often than not also occurs at the coalface of government organisations that are specifically mandated to protect society's most vulnerable. Generally, it is not so much that the elderly are vulnerable but, rather, it is the systems and the prevailing culture within the aged care industry as a whole which renders them vulnerable. This abuse is also perpetrated in hospitals, nursing facilities, by service providers and other allied personnel.

For the purposes of this Submission, I will hereinafter refer to all and every elderly and/or disabled and/or cognitively impaired person of every level of health, as “the elderly person”. My Submission will also focus on the operations and practices of the Guardianship Tribunal, Public Trustee and Public Guardian.

Whilst my comments about these organisations are far from complimentary I would like to acknowledge that there are a small number of officers who have personal integrity and a moral compass and who, against all odds, try to do their best. Those people and the ones that get pushed aside, are punished for raising their concerns and vilified. They all pay a high personal price for doing so. They deserve our thanks and utmost respect.

Guardianship in this country is a “civil death” because persons subjected to such measures, usually against their will, are not only stripped of their legal capacity in all matters related to their finance and property but are also deprived of many other fundamental rights and freedoms. Plenary guardianship is the mechanism by which this occurs.

The Guardianship Tribunal's role is not to function as arbiter of what constitutes the “Brady Bunch” or the optimum family unit. Its role is to protect society's most vulnerable from exploitation and harm and to act solely in their best interests. Equally, the Public Guardian and the Public Trustee whose role is to protect and serve, do not act in accordance with either the spirit or the mandates of

the NSW Guardianship Act. The inherent failures and severely flawed operational models of these three entities render them unfit for purpose.

It would be an understatement to say that theoretical spin disseminated by government organisations such as the Guardianship Tribunal, Public Guardian and Public Trustee is misleading. Each of those entities go to great lengths to portray themselves as protectors of elderly persons from external predators when, in many instances, financial exploitation, neglect and abuse systematically occurs from within their own backyard. They do so because they can as, in reality, there are no safeguards, legal or otherwise, to prevent them from doing so. They are not accountable, transparent or subject to any legal sanction or punishment for their wrongdoings. The Public Trustee, in particular, preys on the elderly by offering them free Will preparation but with the self-serving agenda of being appointed as the Executor of their Estate. Usually, only after the passing of the elderly person, do the families realise -

- a) the Public Trustee takes a handsome commission on the sale of the home – lawyers do not do this;
- b) their fees for administrating Probate of the Estate are almost three times higher than the scale charges lawyer levy against the Estate;
- c) their inefficiencies and tardiness in finalising estates is second to none;
- d) delays in distribution of the estate funds to the beneficiaries is legendary;
- e) have no conscience as to how they expend estate funds in litigated matters

NSW Guardianship Tribunals, the Public Guardian and the Public Trustee have wide reaching powers which allow them to interpret the Act as they see fit. They are not bound by rules of evidence, are not required to establish truth from fiction and are not required to undertake any useful investigation of the claims or documents relating to the matter before them. In arriving at a decision, they are only required to have an opinion as to what they personally consider is in the best interests of the elderly person. This is an extraordinary power when considering that the Tribunal members and employees of the Public Guardian and Public Trustee have NO intimate knowledge of the person's background, their preferences, cultural beliefs, family dynamics, wishes, personality, needs or wants.

Equally, none of the panel members presiding in Tribunal hearings have the in-depth specialist training, expertise or competency requirements to sagely adjudicate in the majority of complex matters. Consequently, the elderly person and the family/carers/friends are at the mercy of the panel's own personal opinions, biases and peccadilloes. This is hardly a basis on which to make judicious orders which will impact on the elderly person's life and freedom. This “cheap and quick” method of dispensing with matters has justifiably earned the Tribunal the derisory reputation of being a “Mickey Mouse” or “Kangaroo Court” which would be laughable if the outcomes of its decisions were not so horrific.

Contrary to the proclamations made by Guardianship Tribunals, the making of plenary guardianship orders are neither unusual nor made only in cases of “**last resort**”. To state otherwise is deceitful and self-serving. More often than not, plenary orders are placed on the majority of elderly persons without any justification and certainly against their will. It is contrary to the mandates under which they operate, it disregards the Principles and Guidelines of the UNCRPD and ignores the Tribunal's own Guardianship Standards none of which are enforceable under the law.

The usual mechanism for seeking a review etc. are ineffective and invariably produce a predictable outcome, i.e. the status quo remains the same. It matters not whether it is apathy, just ticking the boxes or expediency that pushes the default button of “last resort”. The fact remains that plenary guardianship is being applied in large number of cases when there is neither a need nor a

justification for the Guardianship Tribunal to do so.

Unfortunately, the costly and stressful exercise of appealing to the Administrative Tribunal is also a fruitless exercise as it rarely overturns a Guardianship Order. Appealing to the Supreme Court is financially prohibitive and to do so without the benefit of legal representation is an exercise in futility no matter how obliging and helpful the presiding Judges may be to the self-represented. In any event, rarely, does the Supreme Court make a Judgement and Order for the removal of Guardianship and/or Financial Management “*as it is not their role to do so*”.

From my experience, and that of many others, once a Guardianship Order is made, the elderly person simply becomes a commodity. The “individual” ceases to exist. That person is stripped of any human rights, freedoms or entitlements to interact within the community or maintain family relationships as they would wish – hence the term “*civil death*”.

The elderly person and the family and friends are subject to legal action and substantial penalty (\$20,000) by the Tribunal if they publicly identify the “protected” person and their complaints whilst under a Guardianship Order – essentially a legal gag clause. This outcome was NOT the intention of the legislation of the Guardianship Act nor was it the outcome that the development of Principles and Guidelines of the UNCRPD intended to achieve.

These entities thus become a protected secret society not only because of the gag clause but also because they can move incompetent guardians into another section and make it difficult for investigators, such as the Ombudsman, to get to the truth. File notes are removed or made up and statements made knowing full well that their veracity will not be examined.

For example, when one Guardian stated that she had visited the elderly person on two separate occasions, it was accepted as fact by the investigators. Yet, the family of the elderly person had proof that this was not possible as on one of the dates the public guardian was on vacation (and they received an email regarding her absence from the office) and on the other day, it was an access date for a sibling who took the elderly person out for the day. Why are public service personnel not punished for wrongdoing but ordinary citizens are and why are public service whistle blowers protected (as so they should) but ordinary citizens threatened with legal action?

Public servants are adept at cover up and reciting Acts, Principles, Standards, Guidelines etc. etc. Platitudes get bandied about and mock concerns raised. Our voices are being heard but no one is listening. Therefore, the only way that truth of the matter can be disseminated is by word of mouth by affected family member and, only occasionally by the Press after the elderly person's death. Inquiries and Submissions do not reach the general public as only those immediately or closely involved with the issues are aware of them.

The amount of money and effort expended on intense advertising and propaganda campaigns extolling the virtues of the “benevolent” services offered by these entities beggars belief. It is not surprising, therefore, that an unwary public is easily manipulated into believing all the spin. No one would believe the horror until they actually experience it for themselves. Faceless public servants who display little or no common sense, who adhere to a culture of “them and us”, and who excel in apathy, incompetence and arrogance is what the Tribunal, Public Guardian and Public Trustee actually provide in *practice*. The rest is simply very convincing *theory* and motherhood rhetoric to deceive the naivety of an unsuspecting public.

My recommendation to the Committee is that each of those entities be obligated, by legislation, to commission an annual survey by a totally independent agency or organisation. The Questionnaire

would be sent out to every single elderly person and/or the families/carers/friends to evaluate the services provided by the above three departments. There would be no Terms of Reference which covertly required a predictable outcome nor any consultation with those entities throughout the survey period. The Questionnaire would be formulated and prepared with input from communication specialists and independent aged care advocates and community legal centres which deal with aged care complaints on a daily basis.

I have no doubt that the feedback received from such an independent Survey would identify a level of dissatisfaction from those under guardianship orders which would disprove the laudatory claims made in the Annual Audit and submitted to the Government by each of those three organisations. Those results and the issues raised would be the basis on which to formulate and implement law reforms and completely restructure the functions and operations of those organisations. For once, there would be a mechanism for policing the policeman.

In September 2014, sitting in the gallery of the IPART Round Table Hearing on fee structures, I was shocked to hear Imelda Dodds, the CEO of the Public Trustee, publicly state that “if we don't raise the fees then we will not survive – we will be unemployed”. This was her justification for fee increases despite evidence provided by elderly persons' representatives on the day. Her concern was not with the abysmal record of her organisation's performance or the adverse impact such poor performance has had on the estates of the vulnerable persons and its “clients” but, rather, it was all about empire building and protecting her organisation's pay packets.

In Family Law Courts, where children are involved, and there is conflict between parents, the Court relies on evidence and goes to great lengths to try and establish the truth, ensuring that the best interest and wishes of the children are not only taken into account but are of paramount importance. The Court's goal is to ensure that, whenever possible, the children will reside in a safe and secure familiar family environment where they are nurtured and well cared for. The children are not punished. They are not arbitrarily removed from the home. They are not institutionalised and placed in an orphanages because of warring parents. The children's needs come first.

Tribunals do the exact opposite . They operate as Clayton's courts which serve no fruitful purpose other than acting as clearing houses for the Public Guardian and the Public Trustee, dispensing with matters as quickly as possible irrespective of outcomes of their decisions. This is not a *person-centred approach* to which these entities purport to and are mandated to uphold.

In Tribunal hearings, despite the different levels of disability and cognitive impairment, these elderly persons are not provided with the services of specially trained professionals to assist them in communicating what they really want. They need specialists who are capable of formulating and presenting a question in a manner which is open and non-leading. For example asking a cognitively impaired person whether they want to “*see all your children*” is quite different from “*do you like spending a lot of time with*” or “*who do you prefer to spend your time with...*”. Tribunal panel members have no training, expertise or skills in this area. Instead, they patronise these elderly people as if they were devoid of any competency whatsoever and ask such leading questions as to only obtain a Yes or No answer. Without specially trained communication professionals who can skilfully ask and correctly interpret what the elderly person's wants or needs, leaving such specialist tasks in the hands of the panel members is comparable to asking an abattoir worker to perform brain surgery – the outcome is just as disastrous.

The Government has initiated many programs to assist the disabled to remain living in their own home with the appropriate level of care if they wish to do so. The copious amount of research, reports and medical evidence clearly supports the view that institutionalisation is not an optimum or desired mode of living and should only be used as a decision of **last resort**. Yet, the Guardianship

Tribunal, Public Guardian and Public Guardian ignore these facts and readily put in train a process which inevitably leads to institutionalisation of society's most vulnerable and the depletion of their estates.

At this point, I would like to refer, in part, to a statement made by the Ombudsman in its recent *Submission to the Senate Committee Inquiry in Abuse Neglect and Violence against disabled people* and quote -

“5.2 - Opportunity & Risks :

It is important to recognise that the transition to the NDIS and individualised funding arrangements present significant opportunities to address many of the long standing and endemic issues that create and perpetuate unsafe accommodation and support environments for people with disability. For example, there are opportunities to:

- **move away from services ‘placing’ individuals in accommodation vacancies and making the critical decisions about who lives where and with whom**
- **change staff culture and the way in which supports are provided, and**
- **heighten the awareness and response of people with disability, their supporters, support providers, and the broader community in relation to abuse, neglect and exploitation.”**

Also, an article in **The Sunday Herald on June 14, 2015** clearly articulated the disgraceful decisions and orders made by the NSW Civil and Administrative Tribunal. The heading was :-

“EXCLUSIVE: Law reforms a victory for our campaign – Kids saved from Crims”

The same article could be rewritten transposing “Kids” for the elderly person. The editorial was particularly scathing of the poorly qualified people who presided in NCAT hearings with the recommendation that the NSW Government overhaul the clearance system, highlighting a lack of expertise in handling complex cases.

Unfortunately, the plight of the elderly person does not receive the same exposure or importance. And so it remains, that the views of service providers and other authorities invariably take precedence over the concerns of the families regarding the welfare of their loved one who know and understand them the best. Regretfully, for those elderly persons who have no family or ally to advocate on their behalf, the abuses, neglect and violence continue unabated and unreported. Prison inmates and hardened criminals have more legal protections and rights than elderly persons under guardianship.

Nursing homes are masters of cover-up, police are not trained to investigate these issues and the elderly person, including their families/carers/friends, are rendered helpless with nowhere to turn. The whole system is structured in such a way that elderly persons and their supporters are faced with a David and Goliath battle. The Govt. juggernaut always wins, the service providers are always right and the elderly persons seldom or ever receive any justice. Anyone within the system who exposes the corruption is victimised, discredited or dismissed – such is the reward of the “whistle blower”.

There is a canker that permeates throughout the whole of the Aged Care system . Organisations and service providers, be it Docs, Guardianship, Department of Human Services, Disability Commissioner, nursing home operators, group homes, et al operate with the same dysfunction,

inertia, incompetence and greed. Wrongdoing is swept under the carpet. Aged Care is big business and easy money. Their stock in trade is the elderly who are easily dispensed with as there is always another “product” waiting in the wings to maintain their inventory. The elderly have become Australia's new “stolen generation”.

The powers of the Police Force and their ability to respond to allegations of elder abuse are non-existent. They are not trained in these matters nor do they wish to become involved when they are informed that the abused person is under guardianship. To discredit the elderly person, and for the perpetrator to be instantly believed, he only has to say that the elderly person is suffering from some sort of cognitive impairment and that the allegations made are delusional.

The following are a minuscule sample of case histories which are the reason for my making this Submission and it is submitted with the hope that the issues confronting elderly people will at long last be taken seriously and reshape guardianship law in Australia.

Many matters come before the Guardianship Tribunal because of conflict. There are seasoned predators and master manipulators either within the family or outside individuals who have exploited the elderly person. These cunning predators use the Tribunal's system and its inherent flaws to achieve their goals and readily convince the Tribunal that they genuinely have the elderly person's best interests at heart when in reality nothing could be further from the truth.

Because of the structure and manner in which the Tribunal operates, the seasoned liar generally wins, the elderly person remains the pawn in their web of lies and the abuse continues. These predators come from all walks of life and are highly skilled in the art of deception. This is all the more reason why rules of evidence are so important in guardianship matters and why the guardianship tribunal is an ineffective vehicle to protect the elderly person..

Case 1: (Nursing Home)

An example of abuse by a nursing home is one where the Director of Nursing “DON” and her Registered Nurse “RN” tried to have an elderly parent placed under guardianship because they said the daughter was interfering with their in-house routines and not acting in his best interest. They then fabricated a story saying that they found the elderly person wandering along the corridors with a bag full of medicine and this was a danger to him and to other residents. They said that the daughter was irresponsible and that she should never have taken the zipped bag into the nursing facility despite their instructions for her not to do so. They made an urgent application to place the father under full guardianship and wanted to have him sectioned under the Mental Health Act.

The daughter had complained to the DON over a period of time that her father appeared to be heavily sedated and seemed very unwell. Despite their denials, the daughter followed her instincts to take her father to hospital as she had become very concerned about his obvious physical deterioration. As she attended the nursing home for several hours every day she was a keen observer of her father's health and wellbeing.

The truth of the matter was that the nursing home, amongst other things, had drugged the father to the point where he was almost comatose, the condition of which was confirmed by Concord Hospital. The DON and RN clearly fabricated the story and made the application to the Guardianship Tribunal in order to avoid any investigation, which was what the daughter had threatened to do. By applying and hopefully receiving guardianship over the elderly father, the DON would be able to prevent an inspection of what was going

on in the nursing home, particularly over sedation, and the possibility of being sanctioned by the relevant authorities. Guardianship would also give them authority to ban the daughter from visiting the father.

and The Tribunal's "investigating officer" who telephoned the daughter was rude, adversarial aggressive. Such unprofessional and unseemly conduct towards the daughter ultimately resulted in a written apology from the Tribunal. This officer's conduct highlighted the fact that most of the staff in the Tribunal have only rudimentary training, make inappropriate assumptions and form opinions which indicate they have very little understanding of or the skills required to competently fulfil their role. This is not an isolated incident.

It would appear, also, that the investigating officer may have sided with the DON or the RN due to some prior connection. The application was given an urgent hearing date within a matter of days of the application being lodged. That investigating officer also rang the daughter whilst she was at the hospital, demanding to speak to the father, refused to accept the daughter's reply that he was not able to articulate and was unwell. Further, she refused to accept or understand that the father suffered from severe dementia and his cognitive disability was severe. Despite repeated requests, the officer refused to explain to the bewildered daughter what a Guardianship Tribunal was, what the application was for and by whom it was made. She also refused to give the daughter a date by which the defence had to be submitted and offered no explanation as what the matter was about. After trying to inform herself, the daughter was left with only three days to prepare and submit her defence.

In this case, however, the application was dismissed by the Tribunal because of the EVIDENCE and also because the presiding member at the time was a litigation lawyer:-

- (a) The Report from Concord Hospital confirmed over sedation.
- (b) The daughter had mentioned to the staff that the zipped medicine bag was missing from the father's locker days prior to the date on which the DON and Registered Nurse stated they found the father wandering around with the bag.
- (c) A staff member confirmed to the daughter that she had witnessed the DON and the RN enter the father's room and take the bag.
- (d) The father never went near the locker and could not reach the bag which was high up in the locker under some garments nor did he have the dexterity required to unzip the bag.
- (e) The clothes in the cupboard were still very neatly folded and not in disarray. This would not have been the case if the father took the bag as he would have had to pull clothes out from the back of the locker to find the bag.
- (f) Written statements by various individuals attested to the exemplary care the daughter had given to her father and their awareness of the daughter's concerns regarding the treatment of her father and the other residents in the nursing home, and
- (g) the daughter's intention that her father was to come and live with her in her home as his full time carer within the next couple of days as she had now been granted a care package.

In Summary: The daughter, who was her father's Power of Attorney and Enduring Guardian removed her father from the facility and brought him to her home two days prior to the hearing where he remained for the next seven years. The Application by the DON and RN was dismissed. The daughter also received confirmation of her "person responsible" status. However, the issue of poor care, over sedation, and corrupt conduct by the nursing home, and the DON and RN in

particular, received no punishment or sanction.

Case 2: (Hospital)

The elderly person (father) lived in Queensland. When the daughter flew to Queensland in order to bring him home to live with her, the doctor would not discharge him unless he had written proof that the elderly person would be admitted to a nursing home in Sydney. The young doctor, who had no knowledge or made pertinent enquiries of the daughter's financial, physical or other capabilities, simply decided that as the elderly person suffered from cognitive impairment he must be placed in a nursing facility. Not knowing any better or having any awareness of her rights and her father's rights, the daughter did what the doctor told her and pre arranged admission into a nursing facility prior to her father's departure for Sydney. Her father was then released and allowed to travel to Sydney and admitted to a nursing facility on that day. Once the daughter became better informed as to her rights and the care available, she immediately removed him from the facility approximately 6-7 months later. In her care, his health improved exponentially and happily lived with her for several years until he passed away.

However, before his return to Sydney, the daughter had to make two trips to Queensland. On the first trip, the flight home was aborted because the doctor had, again, heavily sedated the father who was now unfit for travel. When questioned, the doctor insisted that he had to do that because the father was calling the nurses "Basta" which he interpreted as being "bastard". In fact, the father was speaking in Italian saying "stop, stop" - the Italian translation is "basta". The father was, in fact, pleading with them to stop pushing and prodding him and from being roughly manhandled.

Abuse, neglect and violence against elderly persons happens anywhere. Some of it is because of greed and malevolence but a great deal of it is also because of ignorance, apathy and incompetence. Many times the elderly are treated by those in the aged care industry, including by some doctors and allied medical staff, as being expendable and having exceeded their use by date and thus do not receive appropriate care.

Case 3. (Guardianship Tribunal)

In this case, a hospital social worker made an application to the Tribunal to have the elderly person removed from the care of the daughter with whom she had lived all of her life. The mother had just undergone a hip operation due to a fall she had sustained whilst living in the family home. She tripped in the garden. The mother also had a mild cognitive impairment.

There was a personality clash between the social worker and the daughter who was not happy with the care her mother was receiving from the allied medical personnel. Instead of addressing the concerns, the social worker became adversarial. She applied to the Guardianship Tribunal for a guardianship order and stated, in the application, that the daughter was "in denial and grieving" about her mother's cognitive condition, had no understanding of dementia, was suffering from "carer stress", the home was inappropriate accommodation, the daughter could not competently care for her and that the elderly person should be placed in a nursing home due to her high care needs and her aggressive behaviour. She also said that the elderly person was immobile. In other words, she ticked every box on a standard form to support her application.

At this point, it should be noted that the social worker -

- ⑩ was not qualified to make a medical prognosis,
- ⑩ had no intimate knowledge of the daughter or the mother's character, background, capabilities or their financial circumstances;

- ⑩ had never visited the home to make an assessment of the condition or suitability of the home;
- ⑩ had no understanding of the care the daughter provided for the past 10 years,
- ⑩ had little or no understanding of the full spectrum of cognitive impairment, and
- ⑩ was ignorant of the fact that cognitively impaired elderly people become very disorientated, and confused when they are in an unfamiliar environment. In particular, cognitively impaired elderly persons become agitated when their sleep is constantly interrupted by noise, bright lights and being pricked and prodded, especially in hospitals.

The truth was that the elderly person did recover from the hip operation and within one week of the surgery was walking around in the hospital, albeit with a walking stick. The treating doctors also said the elderly person was ready for discharge.

As the Tribunal hearing had yet to take place, and the hospital had no medical reason to detain her mother, the daughter was advised by a private advocate to discharge her mother and immediately take her home. Since her return, the mother fully recovered from the operation, is mobile and pottering around in the home, living happily in the home with her daughter's full time loving care.

Despite the above, a Guardianship Tribunal hearing date was arranged. A telephone conference was scheduled to take place in the hospital. After the hearing, and based on the social worker's report, a plenary guardianship order was placed on the elderly person for a period of nine months. – Given the circumstances, this was hardly a case of “**last resort**” which required plenary guardianship.

Whilst required to do so, at no time during the guardianship period did the Public Guardian visit the home. The only visit that took place was one day immediately prior to the Review Hearing to ensure that he ticked the “visitation” box – a requirement of his role as guardian!

Whilst having been informed by the elderly person's medical practitioner that she was doing exceptionally well, the Public Guardian throughout the ensuing nine month's period kept telephoning the daughter insisting that a nursing home placement for the elderly person needed to be found. He also berated her for not having done so and insisted that she had to engage outside carers to assist with her “carer stress”. Naturally, all of this was extremely upsetting to the daughter as the only stress she was under was “guardian generated stress”.

During the nine months of the Guardianship Order and up until the review period, the daughter lived with the daily nightmare of her mother possibly being removed from the home at any time. She received no guidance from TARS, Community Justice Centres or any of the other organisations which purport to advocate for carers or the elderly persons. Fortunately, she continued to be advised by and rely on the same private advocate who, at no cost, gave her ongoing support and guidance throughout this whole ordeal as well as attending the review hearing with her. Had the daughter not received this assistance, the mother would have been detained in the hospital, also against the hospital's wishes, until a nursing home placement was obtained. This is the modus operandi of the Public Guardian regarding nursing homes for the elderly. Once admission occurs, there is little chance of the elderly person ever being allowed to return to her own home whilst under plenary guardianship.

The inefficiencies of the Public Trustee were another source of aggravation as it was continually tardy in paying bills. On a number of occasions the family received disconnection notices and letters of demand because the utility and telephone bills had not been paid. This had never happened in the 54 years that both of them had been living in the home and managing their own finances.

In Summary: The final outcome of this matter was that since there was no conflict in the family, the mother was very well looked after by the daughter (confirmed by her GP) and the fact that the daughter did not suffer from carer stress, it was determined that the Guardianship Order should lapse. At the same time, the Tribunal member satisfied herself that the estate had very little financial value and there was no point in pursuing financial management of the estate.

This is another of many examples of abuse of power, disrespect and devaluation of carers and a system which demeans and dehumanises the elderly. The prevailing negative attitudes are that only institutions are the only suitable places the elderly person to reside, it is what they deserve and where they belong.

Case 4. (a)(Public Guardian)

Whilst under guardianship, many families have been denied the right to have their loved one reassessed by ACAT or other medical specialists to ascertain if in-home services could be provided and the elderly person returned home. Instead, the families have been refused access to the facility and any approved attendances by them are closely monitored. In this case, when an ACAT representative attended the nursing facility she was refused access to the elderly person and was asked by management to leave. This action was endorsed by the Public Guardian.

This elderly person did not have a cognitive impairment and had a son who wanted to continue to care for his mother in her home as he had done for the major part of his life. It was also the mother's constant request and wish to return home into his care. The mother came under plenary guardianship because of family conflict. None of the applicants wanted to care for the mother except the son who contested the application. Where was this a case of “**last resort**”?

(b)(Public Trustee)

Over the years, despite repeated request for a review of the decision, removal of guardianship was denied. The son was ultimately removed from the family home and the Public Trustee sold the house. The son, in his 50s, was left homeless and the entire contents of the home sold. The two sisters who made the guardianship application lived overseas and did not visit their mother. They simply disliked the brother who was also disabled due to a childhood burns accident. They went to great lengths to ensure that his and their mother's wishes to remain living in the family home with his full time care were refused. The son's physical disability did not prevent him from providing excellent 24/7 in home care for his mother. Throughout this whole period the son was relentless in his attempts to have his mother returned to the home but failed because there is never really a good chance of overturning a plenary guardianship order. These, essentially, are a life sentence.

By its actions, the Public Guardian and the Public Trustee deprived the mother of her liberty for many years and the son was denied the privilege of taking care of his mother in her own home. As a result of the sale, the son remained homeless for approximately 3 months, living on the street or in emergency housing. He had to move a considerable distance from his mother and lives in a caravan.

Again, this is another example of the Tribunal, Public Guardian and Public Trustee's so called “*person-centred*” approach to managing the elderly person's care and well being!

In summary: Eventually, the mother had a nervous breakdown and was admitted to a mental hospital. The mental facility recommended and finally one of the daughters agreed to allow the mother to be removed from the nursing facility. The Public Trustee then agreed to purchase a small retirement unit in a village paid from the proceeds of sale of the family home. That son, in his late

50s, is forced to walk the streets which cause incredible pain and he cannot reside in the unit with his mother. There are no agencies which can provide him with any support or accommodation other than the disability pension. The legacy of this unfortunate story is -

- ⑩ The Public Trustee received a handsome commission from the sale and achieved its objective. They still continue to manage her financial affairs.
- ⑩ The Public Guardian no longer had to deal with the son's complaints and was happy.
- ⑩ The siblings achieved their objective and destroyed the son.
- ⑩ The mother, after extreme depression and heartache, finally was removed from the nursing facility which she hated and now had her freedom but cannot not share her home with her own son. Both of them suffered unnecessarily.
- ⑩ The son's future, after years of dedication to his mother, is limited.

In many cultures, including Australian culture, parents hope that one day their children will look after them when they are old and in need of assistance. Parents also work hard and hope to provide a good future for their children and generally leave a financial legacy for them when they are gone.

The Guardianship Tribunal and its cohorts instead of trying to uphold those family values, look down upon them. Caring for the elderly parents is disrespected and those that do are devalued, disenfranchised and are at the mercy of faceless public servants who do all within their power to dismantle the family unit?

Case 5. (Public Trustee)

Because of conflict between brother and sister, the Guardianship Tribunal made a plenary guardianship order on the father. The daughter is his full time carer – the son had no interest in becoming one. At the time of the Order, the Public Trustee retained \$560,000 in the father's estate. Both father and daughter wished to live in the country and purchase a small home on acreage in the sum of \$360,000. This would also accommodate their animals. The Public Trustee refused stating -

“at 90 years of age, your father is too old to have a house bought for him and, in any case, houses in the country take years to resell.”

In summary: Some 5 years later, the family is forced to rely on rental accommodation in regional Australia in remote areas as it is all that they can afford. They have incurred unnecessary moving expenses three times during those 5 years either because the landlord wanted to move back into the property or the property was to be sold. This causes confusion and disorientation for the father.

The family has no security, no continuity and the funds have now reduced to approx. \$180,000 which is an insufficient purchase price. Is this a *person centred* approach that the Public Guardian and Public Trustee could be proud of? At what age is one too old to have a home to call their own and to enjoy the comfort and security that comes with such stability?

Case 6. The Guardianship Tribunal, Public Guardian & Public Trustee

In this particular instance, there were four adult children. The first two sibling, elder brother and younger sister, (hereafter referred to as “the original Attorneys”) had a long standing Power of Attorney which included a clause that the mother was not to be placed in a nursing facility. This document was executed 3 years prior to the mother being diagnosed with cognitive impairment.

Three years after the diagnosis, the eldest sister and younger brother (hereafter referred to as “the conspiring siblings”) arranged, by stealth, for a solicitor of questionable ethics to revoke the original

Power of Attorney and Enduring Guardianship. A new and unworkable Power of Attorney was created appointing all four siblings as Attorneys and removed the clause regarding a nursing home.. The same solicitor attended the conspiring sibling's home where those siblings had taken the elderly person under the guise of a family visit. The solicitor then asked the elderly person to sign a document that she had no possibility of understanding. He was also fully aware that she had been diagnosed with dementia. The solicitor continued to procure the mother's signature to the documents despite the fact that the -

- (a) mother was cognitively impaired;
- (b) English was not her first language and was rudimentary;
- (c) was unable to understand complex legal documents;
- (d) neither of the two conspiring siblings nor the solicitor had advised the original attorneys of the meeting for the mother to sign legal documents.

The solicitor subsequently appointed only the two siblings as their mother's new Attorneys. Upon receiving advice from the solicitor that their Power of Attorney had been revoked, the original Attorneys naively made an application to the Guardianship Tribunal to have the fraudulent document set aside and justice restored. Instead, the Guardianship Tribunal ignored the facts, did not address the issue of the Power of Attorney and placed the elderly person under plenary guardianship for 12 months.

Subsequent evidence from bank records, showed that as soon as the fraudulent document was signed by the new Attorneys, the conspiring siblings withdrew from the mother's bank account a sum of \$13,000. A new bank account was opened in their names, and the \$13,000 was subsequently spent by both of them for their own use.

Twelve months following the Order, a review by the the Public Guardian confirmed that the elderly person was being looked after very well whilst living in her own home. They also confirmed that it was the elderly person's wish to do so. Accordingly, the Public Guardian submitted a written recommendation at the Tribunal hearing stating that the Guardianship Order should lapse.

Instead, at the hearing, the Guardianship Tribunal placed a further plenary guardianship order for three (3) more years.

Throughout the ensuing years, the son (original Attorney) who was granted key carer status , submitted to the Public Guardian copious amounts of evidence including photographs , written statements by independent service providers and independent advocates informing them that the the eldest sister , one of the conspiring siblings, was abusing the elderly person, was violent towards her and was misappropriating her funds. Neither the Public Guardian nor Public Trustee showed any interest or took any action to investigate the claims and said it was “ not their role to do so”. Instead, the Public Guardian provided even more access to the elderly person by the conspiring sibling.

During the one plus three year period of guardianship, the round robin circus of Public Guardians reacted in two ways – they either become arrogant and condescending to the original Attorney and told him that they (the Guardian) are the ones in control and what they say goes or, alternatively, they refused to take calls, ignored e-mails or told the original Attorneys to ring them back at a time when they knew they were taking rostered days off or were going on leave.

In addition, the Public Guardian also made last minute changes to the access orders to accommodate every request the conspiring sibling made. The Public Guardian failed to consult with the son, who was the original Attorney, and designated key carer, prior to approving those revised arrangements. Instead, at 3pm on a Friday afternoon, the time the Public Guardian left for the

afternoon, an email was sent to the original Attorney informing him of the altered access arrangements, permitting another overnight stay with the conspiring sibling. At no time did the Public Guardian -

- (a) enquire if the elderly person was willing to spend the extra time with the abusive sibling for overnight stays,
- (b) whether the protected person was well enough to undertake such extended outings ,
- (c) if the original Attorney had already made arrangement for the weekend or
- (d) if paid carers (at the original Attorney's expense) was contracted for the day to attend to hairstyling, manicures etc., the fees for which were payable by the original Attorneys whether the elderly person was available or not. Cancellation of the service required 24 hours notice.

This dysfunction and bias continued throughout the whole period the elderly person was under guardianship. The Public Guardian's entire focus was on access arrangements and not the protection, well-being, needs or wishes of the elderly person. When the conspiring sibling attended the elderly person's home, the following events occurred on a regular basis:-

On access days, the original Attorneys paid from their own funds for the services of an agency carer to be in attendance when the conspiring sibling arrived -

- (a) in order to avoid the barrage of abuse that accompanied her arrival into the home towards the original Attorney, and
- (b) to ensure the elderly person's safety whilst in the home and awaiting her arrival.

despite the presence of the paid carer, the elderly person was dragged out of bed by the conspiring sibling and told that she had to go out whether she wanted to or not.

If the elderly person was sitting in the family room having a cup of tea with the agency carer, the tea was pulled from her hands and the carer abused and told to leave the room;

After the elderly person was dragged from the kitchen table and wheeled into the bedroom she was admonished and hurriedly made to dress and removed from the home .

On two occasions, the conspiring sibling left the elderly person at the top of the stairs in the wheelchair without putting on the brakes. If the paid carer was not there to monitor the conspiring siblings behaviour, the wheelchair could have toppled down the 13 stairs.

The conspiring sibling did not help the elderly person down the 13 stairs in a safe or responsible manner but left the elderly person on the stairwell hanging by the banisters whilst she took photographs of the care worker screaming at her saying "I am going to report you and get you sacked – you wait and see, I'll get you".

A large number of these episodes were recorded either by video or tape recording. The Public Guardian was not interested in listening or viewing this evidence.

Photographic evidence of cuts, bruises, skin tears, severe nappy rash etc. suffered by the elderly person during the overnight stays with the conspiring sibling were ignored by the Guardian.

Because of the Public Guardian's incompetence, all communication had to be conducted by e-mail. The original Attorneys would not get call-backs from the Guardian and on the rare occasion that they did the Public Guardian denied the content of any previous conversations.

Invariably, when the elderly person was returned to the home after the overnight stay, she was disoriented, exhausted and distressed and she had welt marks on her body. The original Attorneys had nowhere to turn for help from any authority, least of all the Public Guardian.

Not once during the full period of guardianship did the Public Guardian visit the family home,

discuss matters with the original Attorneys or, indeed, the elderly person. The elderly person's cognitive ability was not so compromised as not be able to articulate or understand what was going on. Sworn Statements from two independent carers, one of which was lodged with the Police, attesting to the violent and abusive behaviour of the conspiring sibling were also ignored. It was only after a public advocate, who witnessed some of the behaviour, and was an employee of a large service provider, rang the Public Guardian and told her that she had witnessed this behaviour did the Public Guardian stop one particular form of abuse from occurring, i.e. disallowed nightly abusive and manipulative telephone calls which were upsetting the elderly person. Nonetheless, the following was allowed to continue:-

- a) the elderly person was taken out and left in the shopping centre car park or other open area sitting alone in the car for long periods of time, whilst the conspiring sibling made use of the disabled parking for her own purposes;
- b) the elderly person was constantly being taken to the cinema by the conspiring sibling who was a movie lover. It was necessary for the elderly person to accompany the conspiring sibling because she could get in free with the Companion Card whilst the elderly person paid for her own entrance fee;
- c) the elderly person was forced to go on very lengthy bus trips because the conspiring sibling wanted to go on them but would not have been eligible to participate without the elderly person who was wheelchair bound; during the trips, the conspiring sibling then spent her time socialising with all the other people on the bus and left the elderly person to sit by herself during the trips. Because of the Companion Card, the conspiring sibling travelled free of charge whilst the elderly person did not;
- d) three times a week the conspiring sibling charged the mother's account for expenses which she submitted to the Public Trustee for payment. These expenses were a regular withdrawal of \$110 per week claiming that she took the elderly person to expensive restaurants. Meals of \$45 and over were charged to the account when it was common knowledge that the elderly person, who had a very minimal appetite, could not possibly have consumed such meals.
- e) during these outings the Public Guardian would not specify to the original Attorney when the elderly person was to return home from access with the conspiring sibling. Sometimes the elderly person was returned to her home at 8pm or 9pm at night at which time the elderly person had to climb 13 stairs to enter the home. She was regularly left sitting in a lounge chair alone with no underwear and the soiled undergarments strewn on the floor with a note saying "You are the carer – you clean it up".
- f) The original Attorney had to park down the street for hours, waiting for the conspiring sibling to arrive, so as to avoid any confrontation in the home upon her arrival. If the original Attorney was waiting in the home the conspiring sibling would scream profanities and abuse at the original Attorney which was distressing particularly for the elderly person and an added embarrassment for the original Attorney and his neighbours.
- g) After such outings, it took at least an hour for the original Attorneys to calm the elderly person and debrief her from the mental manipulation their conspiring sibling had inflicted upon her. Upon her return to the home, particularly from overnight

stays, the elderly person appeared very subdued and frightened of the original Attorneys believing that did not care about her, were her enemies and were going to harm her.

- h) on a number of occasions whilst the elderly person was at the conspiring sibling's home, she would hit and scream at the elderly person if she did not eat the food she had prepared for her or if she sat in a particular lounge chair. The conspiring sibling also told the elderly person that she was only allowed to use two sheets of toilet paper as toilet rolls were very expensive.
- i) the conspiring sibling abused the two external service providers engaged by the original Attorneys despite the fact that those services were paid for from their own personal funds. Those services were to provide social interaction for the elderly person. On every occasion, and upon arrival at the home and whilst the paid carer was just about to leave, the conspiring sibling tried to physically attack them, insulted and called them derogatory names and then made false accusations against them to their employer.
- j) By removing all external carers, the conspiring siblings ensured that no outsiders would have any influence over the elderly person. In order to manipulate the elderly person, the conspiring sibling did all she could to keep the elderly person completely isolated and under her control;
- k) the Public Guardian also ignored the written statement of a Senior Social worker of the hospital during one of the elderly person's admissions and the report of a Professor of Geriatric Medicine both of whom interviewed and confirmed that the mother said "*My daughter always fight me. Sometime she treat me well - sometime no good, she hurt me*".
- l) the Public Guardian also ignored the advice of another hospital social worker which was relayed via telephone conference during which the original Attorneys were in attendance. The social worker very strongly stated that, upon discharge, she would not permit or recommend that the elderly person be released into the care of the conspiring sibling as a result of what she had witnessed. She also went on to state that the conspiring sibling was not a competent or appropriate carer for the elderly person;
- m) both conspiring siblings encouraged and supported the Public Guardian in an application to remove the elderly person from her own home and the care of the original attorneys. They wanted the elderly person to be placed in a nursing institution. By so doing, the elderly person would be more accessible to them where she would be isolated and they could have more control over her and be able to exert further undue influence upon her.

Several months prior to the first Guardianship Order being made, the original Attorneys had made enquiries to install a lift in the home as they were aware that the elderly person would encounter difficulties negotiating the 13 stairs to ingress and egress the home as she got older. When the Guardianship Order was made, all arrangements had to stop.

As the elderly person's mobility deteriorated, the original Attorneys approached the Public Guardian and Public Trustee for permission to install a lift in the home. Throughout a period of approximately 4 years, a revolving door of approvals and denials occurred, including written

confirmation by the Public Trustee to the original Attorney's local MP and the Attorney General, confirming approval for the lift installation but denied at the eleventh hour even though Architect and engineering fees had already been expended.

The elderly person had more than sufficient funds to cover the cost of the installation and the original Attorneys had also offered to pay for half of the cost from their own personal funds. Nonetheless, the Public Trustee and Public Guardian refused to have the lift installed.

As an alternative, one of the original Attorneys (the younger sister) offered to have the mother live with her in her own home which was a single level dwelling with 3 bedrooms and two bathrooms. It was also fitted out with a full compliment of mobility aids as she had looked after her elderly father for many years until his passing. This too was refused by the Public Guardian even though it was only a street away from the elderly person's own residence. The elderly person refused to live with either of the conspiring siblings, neither of whom had in any case offered to accommodate her.

After four years under guardianship, and still living in the family home, the Public Guardian seized the opportunity it was waiting for. As a precaution, the original Attorneys admitted the elderly person to hospital suspecting a mild chest infection, from which she fully recovered 5 days later. The Public Guardian refused to allow the elderly person to be discharged. This was despite clearance from the hospital and her medical doctors. The Public Guardian, at great cost to the health system, insisted that she remain in hospital until a nursing home admission was secured. The period in hospital was TWO MONTHS.

A hospital occupational therapist and a physiotherapist – both in their 20s and with very little experience - stated that the elderly person should also be institutionalised because they believed that in home care was not possible as they had assessed her as “high care”. This was despite the fact that the elderly person's medical condition had not deteriorated, her mobility was exactly the same as it was before she came into the hospital, and the original Attorneys who had been providing excellent one-on-one care for her prior to her admission were fully willing and capable of continuing provide the care. None of the elderly person's previous living circumstances has changed.

Again, the same pattern and mindset that seems to permeate throughout the whole aged care and disability sector emerged– *lock them up and throw away the key*. The RSPCA displays and provides more care and concern for their animals than the aged care and disability sector provides to the elderly.

Finally, in absolute despair and frustration including almost financial ruin, the original Attorneys instructed lawyers and barristers to appear on their behalf at Administrative Decisions Tribunal hearing with the hope of reversing the Public Guardian's decision and have their mother returned to her home and allowing the lift to be installed. This application was denied.

During that hearing, and under cross-examination, the Public Guardian admitted that it seized upon this opportunity to demand that the mother be detained in the hospital until a nursing home was found. The Public Guardian also admitted on record that “ **it was always our intention to institutionalise her**”.

During the hearing, it was also acknowledged by both the Public Trustee and Public Guardian that -

**a lift was required in order for the elderly person to remain living in the home,
yet
they refused to allow a lift be installed so that she could remain home**

At this point it should be noted that the living quarters were all on one level – there were no internal stairs to negotiate. The only stairs were the 13 stairs leading in and out of the home.

At the initial ADT hearing the conspiring sibling (sister) also stated -

“My mother is 96. She is too old, giving her a lift is a waste of money”!

The other conspiring sibling (brother) stated -

“I want her to be in a nursing home so I know that she is taking her medication”

These are the three breathtaking reasons why the elderly person was deprived of her freedom, her right to live as she wished and the denial of her basic human rights.

Throughout this period, the conspiring siblings told the elderly person that the nursing institution was her home and that she just had to get used to it and, to stop crying. When she again pleaded to the conspiring sibling (the younger brother) to let her come home he again repeated *“This is your home now, get used to it. By the way, I have to go now as I am taking my mother in law out to dinner tonight”*. He then left.

After seven months in the nursing facility, the elderly person lost her will to live, became exceedingly depressed and said she just wanted to die if this was what her future life would consist of. Once being told that there was no avenue of appeal left to the original Attorneys, the elderly person became inconsolable. Shortly after she suffered a stroke and was left to die in horrific circumstances in the nursing home because the Public guardian and the conspiring siblings refused to allow her to enter a hospice or return home.

In summary

All of those organisations and their employees each punished the elderly person and her carers – they offered no protection, they did not act in her best interests, they did not adopt a person centred approach and they acted with incompetence, indifference and absolute cruelty. The system failed the elderly person and the original Attorneys on every level. The Guardianship Tribunal, Public Guardian and Public Trustee were all guilty of abuse and neglect.

After four years of constant stress, a sense of total hopelessness and despair for their elderly person, the original Attorneys have nothing but contempt for the systematic failure of the Government, its agencies and so called support advocates who all let them down and gave no assistance in trying to protect their elderly person. The original Attorneys are left financially ruined having incurred substantial legal fees in trying to seek justice for the elderly person. One of the original Attorneys suffers from post traumatic stress and the other has not remained unscathed. The legacy of the aged care system is one of unbounded shame.

RECOMMENDATIONS:

1. The Guardianship Tribunals, Public Trustee and Public Guardian must be completely disbanded or at the very least, totally restructured. It is imperative that consideration be given to -
 - (a) the need for dedicated counsel to hear cases of violations of the UNCRPD,
 - (b) the need for alternative non-institutionalised guardians;
 - (c) a serious interplay between guardianship laws and international laws

Quasi-courts are mock courts. Guardianship Tribunals in their current form have no

value and provide no justice. In fact, they are counter-productive and destructive, serving only to reinforce the belief that *“The Government wants to be seen to be doing something when in fact it is doing nothing”*.

There is no regional Human Rights Court or Commission in Australia vested with the authority to hear the violations perpetrated against elderly persons. And because of this, the Principles and Guidelines of the UNCRPD have no significant impact or benefit for the elderly person by which they can protect themselves or obtain any justice from the wrongdoings of any organisations or individuals. If the Principles and Guidelines of the UNCRPD were legally enforceable in Australia then the elderly would have the necessary protections against the perpetrators who abuse those Principles and Guidelines. Currently, they have none. Nor is there any punishment for those who violate those Principles and Guidelines.

2. I believe that an independent Specialist Court should be set up specifically to seriously deal with the concerns of elderly people. The Court would have the authority to hear matters on a case- by-case basis and be bound by rules of evidence. The Court would consist of judges who have extensive legal expertise in the field of elder law. They would be specifically chosen personnel who have a genuine interest in protecting the rights of the elderly. The Court must have no interference from Government and operate totally independently. They must not be public servants. They must be private sector employees engaged under three year renewable contracts. Remuneration must be at market rates in order to attract the high calibre of personnel who have the necessary work ethic and commitment required in order to make this new system work.
3. In addition to the Specialist Court, an Investigation Unit should be set up side-by-side with the Court structure. The Unit would consist of highly trained investigative staff from select fields such as -
 - a) specially trained police officers or detectives who can investigate cases of alleged financial fraud;
 - b) legal officers who can advise on legal matters and investigate if Wills, Powers of Attorney , property matters etc. have been misused or misappropriated by outside influences and any other legal issues relating to the rights of carers of the elderly persons and the elderly persons themselves;
 - c) communication specialists who are familiar with the cognitive abilities or disabilities of elderly persons and are able to converse with them in a way which will not intimidate or devalue them;
 - d) medical practitioners who specialise in elder care and are trained to recognise any signs of abuse, undue influence and manipulation.
 - e) an information unit where elderly persons and their carers can be advised of the range of services available to them which can assist with their care and any Govt. benefits or care packages which may be suitable for their purposes; This would provide the support mechanism they need and make Guardianship Orders redundant.
 - g) an administrative/support unit consisting of experienced case workers who, for a sliding scale of fees, can offer services such as paying bills etc. , locating pre-screened tradespeople to carry out maintenance and repairs etc. for elderly persons who have no other support network;
 - f) the availability of fully trained and experienced advocates from culturally diverse areas who are able to translate for the elderly person, if required, and are the first port of call for the elderly person and/or their carer to contact regarding their concerns of abuse and direct them to either the police unit or legal unit who will act on

- their behalf.
- g) police officers with special training in forensic psychology who have the skills to investigate the allegations of abuse and recognise the traits of a highly skilled manipulators. This is especially important in the case of some family members who are abusing the elderly person. Too often family carers and the elderly parent are abused by a sibling who has a severe personality disorder yet is able to convince authorities that the allegations made against them are false and that they are in fact the victim.
In these cases, the carer and the elderly person are in impossible situation and will never be able to get any help if no one will believe them because the abuser is very cunning and knows how to manipulate every situation to their advantage. Having said that, a forensic psychologist would be able to gather enough evidence to establish truth from fiction or at least, with the benefit of a doubt, recommend and have the authority to enforce suitable measures that will offer some protection to the elderly person and their carer/family member/friend from the alleged abuser.
 - h) an effective carer support unit which can advise carers of their rights, responsibilities, assistance available and all other matters related to the caring role. In essence, these carers are for the most part, unpaid and not receiving Govt. support because of the assets test. They give up paid employment to care for the elderly person yet they are disrespected and looked down upon. Caring roles are very demanding but it is not generally the role which is stressful, it is the lack of support and dealing with obtuse service providers and Govt. systems which cause them extreme stress.
 - I) a number of private guardians, within the Investigative Unit, from whom the elderly person or their families/carers/friends can choose as a support person. They are not their legal guardian but have a recognised status where they can assist the elderly person with their day to day requirements, dealing with doctors, CES etc. and help them with managing their finances. They will have not authority to tell them how to live their daily lives or make judgements, e.g. what they should eat, what they should wear, where they should go and with whom. In other words, allow them the freedom to live their own lives as they wish. They can also be dismissed by the elderly person and their families if they no longer wish to retain their services.

Only in cases where an elderly person has no support network whatsoever, is in real and immediate danger of physical harm and/or exploitation and needs someone to oversee their well being should a formal guardian be temporarily appointed. This could be a private guardian from within the Investigation Unit . If the elderly person does not wish to have a guardian appointed, despite the risks, then no court or authority should have the legal right to do so.

SUMMARY

Frankly, I have had reservations as to whether or not I should expend any time or effort in preparing yet another Submission. It is draining and very depressing. For the past thirty years, it appears that all the Inquiries, Reports, Submissions, Complaints, Research et al have failed to produce any worthwhile results to remedy the issues raised and which remain a cause for concern.

There is more than enough evidence, nationally, on elder abuse to warrant a Royal Commission yet this has not occurred. Wilful blindness practised by lawmakers, politicians and others in authority seems to be alive and well. So the questions remain, why is this Inquiry any different from the others or, is it? And the next question is, why do I and the many others like me still persevere in the face of such futility and the likelihood that all of our Submissions will end up either as door stoppers or shredded?

The answers are really very simple. The General Purpose Standing Committee No. 2 will have to

live with its own conscience and decide if it really wants to make a difference or just be another one of the many game players filling in time whilst collecting hefty salaries.

I and the many others like me abhor man's inhumanity to man yet it still alive and well in 2015. One has only to read the harrowing Submission to the recent Senate Inquiry on Abuse, Neglect and Violence against the Disabled for confirmation. Elderly people are some of society's most vulnerable and are in need of real safeguards and protections. Currently they have none, particularly if they are cognitively impaired. So, in answer to the second question, I and many others like me will continue to prepare our Submissions in the hope that one day there will be a champion in the corridors of power who will say “**It is time** “ and “**Enough is enough**” and implement the necessary legislation & reforms to restore justice & legal safeguards for our elderly.

Thank you for reading my Submission.