From:	Maria Berry
To:	NCAT GD AGAC Participation
Cc:	Marc NERY
Subject:	Maria Berry - Submission in Response to Draft Guideline's on the participation of the proposed represented person in Guardianship and Financial Management/Administration Hearings
Date:	Tuesday, 15 January 2019 1:00:20 PM
Attachments:	image1.png

Good Afternoon Anne,

Please see below a summary of my comments for submission to the Draft Guidelines on the participation of the proposed represented person in Guardianship and Financial Management/Administration Hearings.

I have put suggestions in reflecting on my own personal experience with VCAT and what I think could assist with improvement.

I understand that it is different from State to State. Myself living on the Border of Victoria/NSW caused a lot of confusion and headaches when my father had Guardianship. Residing in Victoria but being admitted to NSW hospital and requiring guardianship consent for procedures.

The Draft Guidelines: Easy Read 2018

On first reading I found the wording very simple.

Suggestions of some of the wording needing to be removed and changed .

Examples:
Guideline 3 :-
If the person can not read the letter the tribunal should tell them the information in others ways . Should it read " the tribunal should explain the information in other ways".

Guideline 4: -
Before the hearing tribunals should try to make sure . "Try removed - tribunals should make sure or ensure that ". Try leaves it very open.

Guideline 12:-
Open waiting areas that have everyone sitting together are areas of risk with elder abuse victims . Potentially intimidation can happen in the waiting areas. eg: personal experience my father verbally intimidated and threatened . (Have read Section 10 of the ALRC recommendations and support)

Should individual cases be assessed in more detail prior ? With the option of another waiting area for the person at risk?

Elder abuse cases are complex, complicated and all individual. We put each case in the same basket and are not currently recognising or supporting a "person centred or individual centred system".

Guideline 19-
Tribunals should try to have Hearings for reviews so the person is involved. Remove try to and replace with "should have Hearings for reviews so the person is involved". " or make every attempt to have Hearings for reviews so the person is involved ".

Discussions could be held prior to hearing reviews with the person if unable to attend . Opportunity for input and updates on information given to the person where able .

Guideline 20 :-
Tribunals should try to have Hearings for reviews so the person is involved. Remove try to , “Tribunals should make every attempt to have Hearings for reviews so the person is involved.”

Maximising the participation of the person in guardianship proceedings - Draft Guidelines for Australian Tribunals

- I support the ALRC Recommendations 10: Guardianship and Financial Administration but would like to make comment that submissions into the ALRC were not “Consumer user friendly nor enticed Consumer Input”. Input was very organisation heavy and also showed no evidence of input from a person under guardianship or administration .

My personal submission took weeks and weeks to complete .

I spoke with Professor Rosalind Croucher and the legal team in a half hour interview and was acknowledged in the final report. I think I may have been the only Consumer acknowledgement ?

I feel a lot more could have also been added in this section of recommendations but this has come from a process of more time and lived experience from myself .

Consumer input needs to be encouraged, accessible, easy and very much needed . (Thank you for the opportunity) .

4.5 Draft Guidelines 5 :

Should the listing of a hearing also take into account the risk, safety and protection of the person attending. Obtaining a more detailed history of the person . eg : own personal experience as my father and myself put at risk entering and leaving the hearing and in the waiting area . (Note in ALRC Recommendations)

Pre hearing support for the person

4.21 I support the idea of VCAT piloting a model of case management.

All other guidelines within the draft supported.

My other comments would be : -

-Suggested reviews with grounds for dismissal of an appointed Financial Administrator (my experience with VCAT) . If varying from State to State a review needed by all and support with processes on how to do for applicants. ps personal experience after applying to have Private Financial Administrators dismissed on the grounds that the financial abuse was still occurring under their appointment . Eg: Sale of livestock, wool and other property evidence was in the local paper this was denied . There were many other issues.

-Disclosure of costs relating to dispersing /sale of assets, property and property management , property “right off” of the person under guardianship needs more monitoring and accountability by Financial Administrators. Eg : personal experience my father’s car is still parked in storage in a paddock un-protected. Written off as having no value when it was actually worth $6000 - $7000 . This was at a time when my father had no money as was potentially going to become homeless with no residential care facility wanting to except him without a bond or daily fee payments.

- More detailed financial reports with more breakdowns of costs by Financial Administrators submitted and/ or reviews and monitoring of this being done more frequently . Access given to the person under guardianship to input and obtain this information. (If able)

- More opportunity to input on sale and dispersement of assets including personal belongings by the person under guardianship . (If able)

- Choice of Tribunals to appoint Private Administrators versus State Trustees ? Commission is higher with Private Administrators versus State Trustees. Is accountability more with State versus Private Trustees?

- Background check and history and knowledge of persons applying to be guardian and or financial guardian. eg : personal experience as a complete stranger to my father applied for financial administration .

- VCAT offer free Mediation with property disputes for a person under Financial Administrators with a house and house block in family disputes but not with farming properties ?

- Geography a huge challenge as mentioned eg : personal experience - Guardianship and Administrators 4.5 hrs away, not aware of the ongoing issues which included safety and well-being and declining health of my father

- Training should also be recommended for all Administrators , Case Managers, Guardians (Advocacy). Eg Office of Public Advocates Case Managers do not require any formal training .

Thank you for the opportunity to put in a submission and the extension .

Please don’t hesitate to contact me if you have any questions or require further information.

Kind Regards,

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