

10 January 2019

Ms J Rugless
Executive Senior Member
South Australian Civil and Administrative Tribunal
GPO Box 2361
Adelaide SA 5001

ABN 72 214 044 225
16 Hutt Street
Adelaide SA 5000
Tel (08) 8232 5377
Country Free Call 1800 700 600
Fax (08) 8232 1794
Email aras@agedrights.asn.au
www.sa.agedrights.asn.au

Via email: Anne-Marie.Holland@sa.gov.au

Dear Ms Rugless

AGAC Draft Guidelines for Australian Tribunals, Maximising Participation for the Person.

Thank you for the opportunity to comment on the AGAC Draft Guidelines for Australian Tribunals, Maximising Participation for the Person.

The Aged Right Advocacy Service Inc. (ARAS) is a State-wide, not-for-profit, independent, community based organization that has provided advocacy support for older people across South Australia for more than 28 years. Older people who use community or residential care services, people who live in retirement villages, and older people who are experiencing or who are at risk of abuse from family or friends, can use an ARAS Advocate to assist them to address their concerns.

ARAS is generally supportive of the draft guidelines which are a positive move in supporting participation of the person in tribunal proceedings.

As noted: '[T]he issues tribunals and guardians deal with include life and death decisions, issues of bodily integrity and cultural identity. These are some of the most far reaching and fundamental decisions that any judicial body could be called to pass judgement on.'

ARAS is a supporter of National Decision Making Principles and the Australian Law Reform Commission Report 131 Elder Abuse: A Legal Response recommendations. ARAS has had a long term interest in elder abuse advocacy and prevention. ARAS is a founding member of Elder Abuse Action Australia (EAAA) which is funded by the Australian Attorney – General's department as a national peak body, to engage with the National Plan to combat elder abuse and conduct a feasibility study on a national elder abuse knowledge hub. Further information about EAAA: <https://eaaa.org.au/welcome-to-elder-abuse-action-australia/>

ARAS is also a member of the Older Persons Advocacy Network (OPAN) and the lead for elder abuse. An independent review of OPAN elder abuse advocacy was conducted in 2017 and subsequently OPAN developed a national elder abuse prevention and advocacy framework (EA Framework) which was launched in November 2018 by the Hon Ken Wyatt, AM, Minister for Seniors and Aged Care, Indigenous Health. These documents can be found at: <https://opan.com.au/elder-abuse/> OPAN is also undertaking research into supported decision making.

The EA Framework recognizes the principles that people living with a disability have equal rights before the law and should be supported to exercise those rights. ARAS is of the view that where power is being exercised that has far reaching implications for a person then the person must be heard and supported to participate in any such hearing or decisions unless there are exceptional circumstances. The support may need to be more than information and ARAS is of the view that support around understanding and being supported to participate should be provided by an independent advocate. ARAS also understands these matters are complex.

ARAS is also of the view that non legal advocates act as a trusted independent support person and compliment legal representation. ARAS understands that some OPAN colleagues such as ADA Australia in Queensland provide a specialized guardianship human rights and elder abuse advocacy service that anecdotally has prevented guardianship orders being made and supported the human rights of persons. Further information is available: <https://adaaustralia.com.au/human-rights-advocacy/>. This service is funded by the Queensland government.

ARAS has long wanted to be able to provide advocacy support to people subject to administration and guardianship applications, hearings and/or reviews at SACAT but has not to date had the scope or resources to provide advocacy support. We do however, provide advocacy support in SACAT as part of the retirement village advocacy program.

ARAS would welcome the opportunity to meet with you to discuss the draft AGAC guidelines and explore how ARAS could better support people appearing before SACAT.

Yours sincerely



Carolanne Barkla

Chief Executive

E: carolanneb@agedrights.asn.au M: 0439206184