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Attention Anne-Marie Holland
SACAT
GPO Box 2361
Adelaide SA 5001

Dear Anne-Marie

Resthaven comments re: AGAC Draft guidelines for Australian Tribunals: Maximising the participation of the person

Thank you for providing Resthaven the opportunity to make comment about the "Participation of the proposed represented person – Draft Best Practice Guidelines".

We note the accompanying paper as a collation of information by the NSW Department of Justice of practices in place in Australian guardianship jurisdictions, and in other relevant judicial and quasi-judicial hearing processes that take place in Australia. We also note the research conducted in the preparation of the draft guidelines indicates that there "appears to be limited, if any, evaluation of the success or otherwise of efforts to maximise the participation of people about whom guardianship and/or administration applications are made. Therefore, at this point in time, 'good practice' guidelines may well be a more accurate description of the suggested guidelines contained in this document."

Resthaven supports evaluation of systems to inform the further development of these draft guidelines, specifically in relation to the strategies currently implemented related to maximising participation of the people about whom guardianship and/or administration applications are made.

Generally, Resthaven supports the Draft Guidelines in their current context and wording.

Guidelines 1-5

Resthaven supports case management to inform and prepare the person prior to any hearing, and agrees that good quality pre-hearing case management will assist in early withdrawal of inappropriate applications, reducing the stress and anxiety to the person who is the subject of proceedings.

Guidelines 5- 17

Resthaven agrees the physical environment of waiting rooms and the hearing rooms has a big impact on the comfort, confidence and perceived safety for the person who is the subject of proceedings, and recommend a move away from courtroom-type settings in all cases except those where legal representation is an important component of the case.

Resthaven supports many vulnerable older people with cognitive impairment and/or mental illness, and is aware that the formal environment of hearings can be intimidating and overwhelming to the person involved. Resthaven has had good experience with visiting officers to residential aged care services who meet with a resident. This is far less stressful to the individual than attending a hearing where information is presented "about them" in a very clinical manner.

We also agree the ability for a person to have support at the hearing from a trusted family member, friend or representative, with clear guidelines for that person about their role, would be of benefit. Resthaven agrees with all guidelines relating to communication and use of varying modes of communication to ensure the person is well informed about matters (pre-hearing) and can actively participate in the hearing itself.

Guidelines 18-20

Resthaven supports that, as a matter of good practice, original/initial applications should be determined after an oral hearing, wherever possible. The recommendation above about preferred physical environment applies to this oral hearing also.

Review of existing orders may, in some cases, be appropriately conducted without an oral hearing (i.e. using documented evidence), but the views of the person who is subject to the determination should be considered as part of this review.

Guidelines 21-27

Resthaven agrees that the tribunal should compose of a multi-member panel for complex deliberations. There should be a multidisciplinary pool of tribunal members, from diverse backgrounds, available for selection to the tribunal, to best represent the diverse needs of the person who is the subject of the hearing. Training for tribunal members and registry staff about diversity, communication and strategies to involve persons who are the subject of applications is an important component of ensuring optimal skill and expertise in decision makers.

Current identified issues related to SACAT processes:

Generally, Resthaven is satisfied with SACAT processes: hearings usually start on time, are well managed by tribunal member/s, and follow up orders are usually clear and received the same or next day. The online application process is relatively easy to use.

In South Australia, GPs have an integral role in submission of a SACAT application. However they are sometimes reluctant to complete the required documentation and don't have a good understanding that the process requires their involvement: even when Resthaven has identified and advised the GP of an issue of risk to a client receiving Community Services. This is even more problematic in the situation where a client does not have a regular GP who is familiar with their situation. Community service providers are unable to make a SACAT referral. Resthaven recommends increased education for GP about their role/obligations, especially where actual or potential risk of abuse.

When a request to change a Substitute Decision Maker is lodged, duplicate forms related to the same person must be completed for the "outgoing" and "incoming" SDM, for the one hearing, and seems to be an unnecessary duplication in process.

There is occasionally lack of clarity in the boundaries between SACAT and Office of the Public Advocate.

Please feel free to contact me if needed.

Yours sincerely



per **SUE MCKECHNIE**
EXECUTIVE MANAGER COMMUNITY SERVICES
RESTHAVEN INC.