

2017: in the November edition of the Seniors newspaper, Attorney General George Brandis stated ELDER ABUSE IS ON THE NATIONAL RADAR:

Elder Abuse was also on the National Radar in 2006 when the National Inquiry mentioned below was instigated. During this inquiry, the committee received numerous complaints regarding guardianship tribunals. Scathing reports regarding the NSW Guardianship Tribunal in particular, were received however, in keeping with 'normal' practice, these submissions were not published to protect the Tribunal.

None of the 48 recommendations of the committee that conducted this Inquiry, were ever instigated. Read on:

The 2006-2007 Older People and the law inquiry

The purpose of the above inquiry was to investigate the adequacy of then current legislative regimes in addressing the legal needs of older Australians in specific areas which included fraud, financial exploitation, barriers to older Australians accessing legal services and discrimination.

During this inquiry, the President, Guardianship and Administration Committee (AGAC), Tasmania; and Chairperson, of the Australian Guardianship and Administration Committee Ms. Anita Smith made the following statement regarding the tribunals role of the removal of the rights of PWD:

"If done incorrectly, it has the potential to be a fundamental breach of human rights because you are taking away people's ability to make their own decisions in their own lives, so we always adhere to the principles of finding the course of action that is least restrictive of the person's freedom of decision and action, looking for a decision that is in their best interests, and one that reflects as far as possible their wishes".

During a public hearing, a witness advised the Committee:

- Anybody can front up to the NSW Guardianship Tribunal and make any allegation they wish and then the Tribunal basically rolls on that and makes orders as it sees fit, not in the way it should discern according to law.
- That is a basic problem that we have, we have no transparency and no accountability in these processes and this is the main reason we have so much difficulty with this.

At a Canberra public hearing the LACA Committee Chairman stated:

- The Committee has received numerous complaints regarding the NSW Guardianship Tribunal, which if true, would make your hair stand on end.

The complaints regarding systemic problems and the conduct of the NSW Guardianship Tribunal (NSWGT) authorities were described in the findings as follows:

The conduct of guardianship authorities:

Many of the complaints received by the Committee in relation to the operations of guardianship boards and tribunals raised personal matters concerning on-going or former disputes involving guardianship authorities.

The Committee retained some of these as confidential submissions to prevent the publication of allegations and attacks on individuals. These submissions are discussed to the extent that they may raise broader systemic issues.

The complaints received by the Committee concerning the operation of the New South Wales Guardianship Tribunal covered the following matters:

- Claims that the Guardianship Tribunal failed to follow its publicly stated process;
 - Lack of information provided by the Tribunal regarding avenues for appeal;
 - Lack of transparency and accountability in dealing with family members and acceptance of false information and untested allegations;
 - Lack of communication from the Tribunal; and
 - Denial of representation at hearing and intimidation by a solicitor present at Tribunal hearing
- .• In addition, a number of witnesses to the inquiry felt that they had been intimidated, bullied or victimized by guardianship authorities.
- In support of this evidence, the representative from the Redfern Legal Centre advised the Committee that they had received a 'large number' of complaints in relation to guardianship and administration.

Note: All of the above and more, applied to me and my treatment by the tribunal members who presided over my late father's case.

Recommendation 29 of the LACA Committee:

- The Committee recommends that the Australian Government propose that the Standing Committee of Attorneys-General conduct a review into the legal needs of older people appearing before guardianship boards and tribunals and consider options for improving their access to legal representation at hearings.

Like the recommendations of an inquiry into Aged Care at around that time, none of the 48 recommendations of the Older People and the Law Inquiry were ever implemented:

Elder law expert questions outcome of past inquiries as new probe launched:

The following information is taken from an ABC radio discussion in February 2016.

SIMON LAUDER: It's estimated that as many as one in 10 Australians aged over 65 has been the victim of abuse, usually financial abuse and usually at the hands of a family member.

The Federal Government has now asked the Australian Law Reform Commission to examine ways to safeguard older Australians from abuse.

Sue Field lectures in Elder Law at Western Sydney University.

SUE FIELD: Although I think it's wonderful, I would like to see some outcomes as a result of a number of the enquiries, which hasn't actually happened in the past.

SIMON LAUDER: So what outcomes have been missing?

SUE FIELD: Well, if we go back to the 2007 House of Representatives enquiry into older people and the law, they came up with 48 recommendations relating to, you know, age discrimination, access to justice, substitute decision making - and not one of those recommendations have actually been acted upon.

SIMON LAUDER: None of them?

SUE FIELD: No, not really, no, because it will be, 'well this is a state matter not a federal matter' or it's 'noted'.

SIMON LAUDER: So although you're welcoming this new enquiry, you're also wondering why they don't just implement recommendations from previous ones?

SUE FIELD: Yes. (laughs) In a nutshell, yes. As I said, I think enquiries are great if they raise the profile, but then some people say "Oh, another enquiry - what's happening with all the other ones that have been held and to the recommendations?"