

Man suing NSW Public Trustee over claim they altered his mother's will

ABC ILLAWARRA – AINSLIE DREWITT-SMITH

TUE AT 7:43AM



PHOTO James Prentice's mother Laurietta died in June 2019.

SUPPLIED

A man claims he has been "deceived" by the NSW Trustee and Guardian (NSWTG) after his elderly mother's will was allegedly changed without his knowledge.

Key points:

- James Prentice claims his elderly mother's will was changed by the NSW Trustee and Guardian without his knowledge
 - He says his mother would have been incapable of understanding the fee structure when it was presented to her
 - The law firm representing Mr Prentice has called for a parliamentary inquiry into the state body
-

James Prentice has launched legal action against the NSW Trustee and Guardian to have it renounce its position as executor to his mother's will.

Mr Prentice said he was not aware that he was removed as executor to the will or of the costs associated with using the NSW Trustee and Guardian, until after his 91-year-old mother died in June.

"We got handed this brochure with all of the charges applicable that mum never had, that we never had," Mr Prentice said.

"In 2016, mum was taken into this room in a very difficult state — nobody else was with her.

"We don't know what was said, we don't know what she was presented with.

"She would have been absolutely incapable of understanding any structure of fees, even if it was handed to her at the time."

Mr Prentice admits he did not request details of the fees and charges when the will was drawn up or in the years following.

"No we didn't, because we trusted them," he said.

"We trusted that they would do the right thing, that they would let you know, that they would disclose, that they would give you all of the information that you required to make an assessment at that point.

"I think it's hardcore deceit."

The Queensland-based law firm representing Mr Prentice has called for a parliamentary inquiry into the NSW Trustee and Guardian.

"There needs to be an overhaul of the system because it's currently not adequate," Attwood Marshall Lawyers senior associate Lucy McPherson said.

"It should be a requirement of the NSW Trustee and Guardian — just as it is a requirement of solicitors — to make adequate disclosure when those documents are created.

"We're not saying that the NSW TG needs to be wiped out, but we consider that there have been some serious instances of malpractice within the body that need to be investigated."

Complicated fee structure

Ms McPherson claims the state body has a history of taking advantage of some of the most vulnerable people, including those with a disability.



PHOTO Senior associate lawyer Lucy McPherson is calling for a review of the NSW Trustee and Guardian.

SUPPLIED

"Not only in instances of deceased estates, but also particularly in scenarios where the NSW TG is acting as financial manager or trustee for somebody who has a disability and is unable to make decisions for themselves," she said.

Mr Prentice alleged he was charged \$24,000 to execute his mother's will, calculated on a percentage basis according to the value of her estate.

Ms McPherson said the private sector had its fees capped and would have only been allowed to charge \$5,636 to provide the same service.

"As you can see, [there is] quite a significant difference, but in [Mr Prentice's] matter, the estate assets are quite simple, it's not a complex estate, and it certainly doesn't warrant a \$24,000 bill," she said.

"It's not a straightforward calculation; there are a number of different fees that are charged in different scenarios.

"Based on the medical evidence that we have about James's mother's capacity at that time, I have grave concerns that she had the capacity to understand the complicated nature of the fee structure."

Investigation underway

The NSW TG currently manages or oversees the financial affairs of approximately 16,000 people in the state.

Attorney-General Mark Speakman said Mr Prentice's matter was being investigated.

"I expect the NSW TG to address the allegations and to ensure that its practices meet community expectations," he said.

[Want more local news?](#)

[Subscribe to the ABC Illawarra Weekly](#)

[Local news, delivered to your inbox](#)

NSW TG spokeswoman Megan Osborne said all fees and information were discussed with clients at the time an appointment was made.

"When the customer comes in for their appointment, the will-maker, at the beginning of the interview, takes the customer through what the fees are for NSW TG to administer the estate," she said.

"NSW TG's current fees and commission were approved by the NSW Government and were based on recommendations made in the Independent Pricing and Regulatory Tribunal's review of fees of the NSW TG (2014).

"NSW TG has a fee-waiver policy which allows fees to be reduced or waived where they would cause hardship or are inequitable."

SHARE



RELATED

Woman jailed after stealing cars and cash from deceased estates

[ICAC recommends overhaul of SA's Public Trustee office](#)

Top Stories

[Live: Democrats launch impeachment inquiry into US President Donald Trump](#)

[Pelosi announces impeachment inquiry into Trump after whistleblower complaint](#)

Why is Trump's phone call with a foreign leader an impeachable offence?

Analysis: Short-term pain in the hope of long-term gain, Morrison tanks a punt on Trump's China criticism

[She was bashed, robbed, left with a broken rib, but when Keennan told police she was thrown in jail](#)

[Australian holidaymakers facing troubles of their own with another travel agent in trouble](#)

[Analysis: I learnt a lesson in Denmark to help my kids deal with their anxiety](#)

['I couldn't stop crying': Shayna Jack reveals toll of drug test uncertainty](#)

[DiDi now identifies verified Communist Party drivers in new 'Red Flag steering wheel project'](#)

[Donald Trump described Greta Thunberg as a 'very happy young girl'. This was her response](#)

['Do the decent thing and resign': UK PM urged to quit after suspension of Parliament ruled unlawful](#)

[Analysis: Boris Johnson misled the Queen by asking her to suspend Parliament. Will he survive it?](#)

[Indonesia rocked by protests against controversial laws on corruption, sex outside marriage and abortion](#)

[Vicious 'cycle of death' from chronic disease is ripping apart this community](#)

[Water authority knew about lead paint in roofs when it connected water tanks, documents show](#)

[Drought reveals 'Spanish Stonehenge' in shrinking reservoir](#)

[Woman charged over stabbing murder of her mother 18 years ago](#)

['Lying media' behind criticism of Brazil's handling of Amazon fires](#)

['A deliberate strategy': Mascot Towers residents accused of 'forcing' Government to pay for repairs](#)

[Meet the 97yo who's flying high and driving fast thanks to her young bestie](#)

[Bulgaria's prosecutor-general wants Australian Jock Palfreeman returned to jail](#)

[Did he say it or not? Defence Chief's climate speech warns of 'serious ramifications' of climate change](#)

[After Michael ran into his burning house he was classified as missing, feared dead](#)

[Dashcam captures truck's 'brilliant recovery' after trailers sway wildly on freeway](#)

['He just died, didn't he Dad?' The intractable bond between a girl and her cockatoo](#)

MORE FROM ABC NEWS

Just In

Politics

World

Business

Analysis	Sport
Science	Health
Arts	Fact Check
Other	

Top of page



Change to standard view



ABC News	Just In
World	Business
Health	Entertainment
Sport	Analysis & Opinion
Weather	Topics
Archive	Corrections & Clarifications
Terms of Use	Privacy Policy
Accessibility	Contact the ABC
© ABC	