

On Tue, 11 May 2021 at 16:03, Info Service <[InfoService@humanrights.gov.au](mailto:InfoService@humanrights.gov.au)> wrote:

Dear [REDACTED]

I refer to your further contacts regarding your concerns about the experiences of your mother, [REDACTED]

I am very sorry for the delay in responding; unfortunately, we are currently experiencing a backlog in enquiries. I have now had the opportunity to review all the information.

From your information, in September 2013, the Victorian State government was appointed as [REDACTED] legal and medical guardian; with the Victorian Public Advocate appointed to be her legal guardian and the Victorian State Trustees appointed to oversee her financial affairs. You state that against [REDACTED] will, she was placed in hospital and then an aged care residential facility and was denied access to appropriate medical care, which allegedly resulted in her death in 2015.

### **Our complaint handling function**

For your information, the Australian Human Rights Commission has the power to investigate and conciliate complaints about:

- discrimination because of a person's race, sex, gender identity, sexual orientation, intersex status, pregnancy, marital or relationship status, age or disability as well as sexual harassment in specific areas of public life, such as, employment, education and the provision of goods and services;
- racial hatred that takes place in public;
- discrimination in employment because of a person's criminal record, trade union activity, religion, political opinion or social origin; or
- breaches of human rights by the Commonwealth of Australia.

### **Human rights breaches**

In terms of human rights breaches, please note that this Commission only has the power to inquire into complaints alleging a breach of human rights when they involve an act or practice of the Commonwealth (Federal) government. This Commission has no power to inquire into alleged breaches of human rights by State government bodies, such as the Victorian Public Advocate (PA) and the Victorian State Trustees (ST).

### **Victorian Civil and Administrative Tribunal**

Additionally, in terms of any decisions made by the Victorian Civil and Administrative Tribunal in relation to your mother's circumstances, I should note that this Commission's complaint powers do not extend to considering claims against tribunal members when considering matters before them and exercising quasi-judicial powers and functions. Tribunal members are afforded judicial immunity when considering matters before them and exercising quasi-judicial powers and functions. This means that they are protected from suits against them including claims of human rights breaches and unlawful discrimination. The same principle of judicial immunity would also apply to any decisions made by a judge in a court.

### **Consideration of your claims**

I wish to reiterate my sincere condolences regarding the circumstances around the passing of [REDACTED]. I appreciate the concerns you have raised and the distressing and serious nature of the situation. Having reviewed all the information you have provided, for the reasons outlined above, unfortunately it remains unclear that the Commission's Investigation and Conciliation Section can help you with this matter. Unfortunately, we cannot send you a termination notice, as the Commission can only issue a termination notice when we have accepted a complaint as arguably being covered by our jurisdiction and then terminated it.

## Other referrals

For concerns relating to the administrative processes of the PA and ST and possible human right breaches, if you have not done so, you may be able to raise these with the **Victorian Ombudsman**. You can find more information about this at: <https://www.ombudsman.vic.gov.au/complaints/human-rights/>.

If you have not done so, you can also try raising your concerns with the **Victorian Coroner's Court** (<https://www.coronerscourt.vic.gov.au/>).

If you have concerns about the actions of the health service and/or health practitioners involved in relation to your mother's medical treatment, you may wish to contact the specialist complaint handling body for health services, the **Victorian Health Complaints Commissioner** (<https://hcc.vic.gov.au/>).

If you have not done so, you can seek free legal advice. You can contact:

- **Legal Aid of Victoria** ([www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au))
- **Senior Rights Victoria** (<https://seniorsrights.org.au/>)
- **Community legal centre** ([www.communitylaw.org.au](http://www.communitylaw.org.au))
- **JusticeConnect** (<https://justiceconnect.org.au/>)

There are places you can contact for more support should it be required:

- **Beyond Blue Info Line:** 1300 22 46 36 (<https://www.beyondblue.org.au/>)
- **Mens Line Australia** - 1300 78 99 78 (<https://mensline.org.au/>)
- **Griefline:** 1300 845 745 (<https://griefline.org.au/>)
- **Lifeline:** Call 13 11 14 (<https://www.lifeline.org.au/>)
- **SANE Australia Helpline** 1800 18 7263 (<https://www.sane.org/services/help-centre>)
- **Black Dog Institute** (<https://www.blackdoginstitute.org.au/>) – offer resources and support for anxiety, stress and wellbeing

Should you have any further queries or wish to provide clarification, please respond by return email.

Kind regards

██████

Complaint Information Officer

National Information Service

*Please note, I work Tuesdays, Wednesdays and Thursdays.*

### **Australian Human Rights Commission**

Level 3, [175 Pitt Street, Sydney](#) NSW 2000

GPO Box 5218, Sydney NSW 2001

**T** 1300 656 419 **F** +61 2 9284 9611

**E** [infoservice@humanrights.gov.au](mailto:infoservice@humanrights.gov.au) **W** [www.humanrights.gov.au](http://www.humanrights.gov.au)