

Tasmanians locked out of decisions of loved ones under outdated guardianship orders

By [Adam Langenberg](#)

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Christine Underhayes and Justin Brown say they've found it hard to communicate with the Public Trustee. (ABC News: Laura Beavis)

When Tasmanian Christine Underhayes wanted to spend her own money on Christmas presents for her grandchildren, she had to fight the Public Trustee for the right to do so.

Ms Underhayes, who is cared for by her friend Justin Brown, has also said she has heard no response from the Public Trustee to her request to buy a unit in Tasmania's northwest.

She is one of many Tasmanians who say crucial decisions about their lives and wellbeing are being made without their consent by the Public Trustee and the Public Guardian — bodies that can be given control over financial matters or medical care.

Key points:

- A Tasmanian rights advocate has called for the change within the state's Public Trustee and Public Guardianship bodies
- The Public Trustee has been accused of selling clients' homes and possessions without consultation
- Recommendations from a 2018 report on reforms to the Guardianship Act remain largely unactioned

The Tasmanian Government said it was "committed" to making changes. *(Supplied: Rosie O'Beirne)*

Mr Brown said he had decided it was not appropriate for him to make financial decisions on behalf of his friend and applied to the Public Trustee to manage her finances.

He said the body had done a bad job of managing Ms Underhayes's money.

"In fact, we can barely make contact with them. They do not answer their phones. They do not answer emails," he said.

He said the pair had been unable to secure a face-to-face meeting with the Public Trustee since it started managing her finances in October.

Mr Brown said he also had to fight for funds for Ms Underhayes to buy Christmas presents for her grandchildren, and to be reimbursed for purchasing medications on her behalf.

Christine said she would like to buy a unit in Devonport, but had not heard back from the Public Trustee about it.

She said she was unsure what the Public Trustee was doing with her money.

"I don't know whether it's just sitting somewhere in a bank or if it's invested. I have no idea," she said.

Fifteen-year investment sees \$200 return

Devonport resident Frank Webb said he invested \$5,000 with the Public Trustee on behalf of his injured three-year-old grandson.

Frank Webb spoke out on his concerns over the state's Public Trustee. *(ABC News: Monte Bovill)*

Fifteen years later his grandson was handed a payment of \$5,200, a profit of just \$200 once "exorbitant" fees and charges had been subtracted.

Mr Webb said the fees and charges were more than what his grandson received as a return.

"I would call that a very poor investment," Mr Webb said.

"It gives me the impression they're more interested in themselves and their own fees and charges than looking after the people they're supposed to be looking after."

Mr Webb said he would like to see an investigation by the government or an independent body into the Public Trustee's handling of accounts.

"All these people are complaining. It's got to be very, very, serious," he said.

"I think they ought to have a serious look into why this is happening, why all the fees and charges and all the other things that have gone on."

One Tasmanian said the office of the trustee "do not answer their phones ... they do not answer emails". (*Pexels: Matthias Zomer*)

Families traumatised by decisions

Rachel, who cannot be identified for legal reasons, said her mother was hospitalised in 2018 after a minor fire at her unit.

She said hospital staff determined her mother was not able to return home, and applied for a guardianship order, without contacting her.

Rachel said her mother was moved to a Hobart nursing home and her house sold.

Rachel, who is based in Sydney, said it took two years to locate her estranged mother.

"I was horrified. The thing is, she does have a loving family. They made no attempt to find me ... I'm her next of kin. I'm her only child," she said.

"It's shattering for her [to be in a nursing home] ... you can't help but cry when you see her."

Rachel then applied to the Guardian and Administration Board to be appointed as her mother's guardian — but her claim was rejected

"We thought it would be so simple. We turned up and said we were away, but we're here now and we want to look after her," she said. "But they find a little bit of disagreement in a family and exploit it.

"No family is perfect, no-one lives the Brady Bunch life."

If you or anyone you know needs help:

- [Advocacy Tasmania](#)
1800 005 131
- [Elder Abuse Hotline](#)
1800 441 169
- [Lifeline](#)
13 11 14

'Your rights are taken away'

Advocacy Tasmania chief executive [Leanne Groombridge told ABC Radio Hobart on Wednesday](#) there are numerous "appalling situations" in the state, including instances of the Public Trustee making financial decisions without consulting its clients, and selling houses and personal items without consent.

"People are losing their ability to make decisions," Ms Groombridge said.

"If the system worked well and the Public Guardian and the Public Trustee were liaising with the represented person, that wouldn't be so bad. But that doesn't happen in the majority of cases. You lose total control.

"There is abuse by the very system that is meant to be protecting you," she said.

Leanne Groombridge believes sweeping change in public guardianship is needed. (ABC News: Luke Bowden)

Leanne Groombridge said many of her clients had been left "devastated and traumatised" by their dealings with the bodies, which she described as "a law unto themselves".

"At the hospitals – and this is generally where it starts – your rights are taken away. You've got no recourse," she said. "The person themselves – who generally would have decision-making capacity – isn't even consulted on things that affect their lives.

"At least if you're going to be imprisoned you get a day in court. When you go to a guardianship hearing you're allocated an hour or an hour-and-a-half. It's incredibly daunting for people."

Under Tasmanian legislation, the Guardianship and Administration Board has the authority to deliver a guardianship order, so that decisions concerning a person's medical care are made by the Public Guardian.

In most circumstances the Public Guardian appoints the Public Trustee to manage the person's finances.

In a statement, a spokesperson for the Public Trustee said they were unable to comment on specific cases but worked to deliver services with "integrity and understanding."

In a statement, a spokesperson for the Public Guardian said decisions were made in a way that "favours the will and preferences" of a represented person, but acknowledged that it sometimes made a decision "contrary to their wishes" when it was in their "best interests".

Reforms yet to be implemented

In its annual report tabled to Parliament last June, the Tasmanian Public Trustee said that it managed the financial affairs of 889 clients under guardianship orders, 47 more than the previous year.

In the 2019-2020 financial year, the Public Trustee paid a dividend to the Government of \$107,902.

Meanwhile, Public Guardian Kim Barker said in the agency's 2020 annual report that there had been an "exponential rise in case-loads" over the past three years.

She said her staff had been unable to meet some of the National Standards of Public Guardianship due to "limited resources".

In 2018, the Tasmanian Law Reform Institute handed down a report detailing recommendations of sweeping reforms to the state's guardianship legislation — but changes are yet to be implemented.

Govt 'committed' to 2018 report

Attorney-General Elise Archer said the organisation operated independently from government and would not comment on individual cases.

Ms Archer said the Law Reform Institute report was still under review by her office, but added she was "committed to it".

"I thought it best to do it in tranches, so we've started with advanced care directives ... and I'll move next to a second tranche in conjunction with what my department advises is the appropriate course of action to take," she said.

Ms Archer said people could go to the Ombudsman if they were concerned about their dealings with the Public Guardian or Public Trustee.