

Brain injury survivor lived beneath poverty line under NT's Public Guardian and Trustee system

By [Samantha Dick](#)

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Tracey wants to spread awareness about life under guardianship in the remote Northern Territory. (Supplied: Tracey)

An Aboriginal woman recovering from a traumatic brain injury in the remote Northern Territory was forced to live beneath the poverty line while under financial guardianship, legal documents show.

Official figures show the number of Indigenous people under guardianship orders in the NT is growing, adding strain to an under-resourced system tasked with caring for the territory's most vulnerable.

One leading psychologist said the use of "culturally biased" cognitive tests could be exacerbating the problem.

In 2016, a violent incident left Tracey with cognitive impairment.

The ABC has chosen not to publish Tracey's surname or the name of her remote community.

While she received treatment in hospital, the NT Civil and Administrative Tribunal (NTCAT) appointed the NT's Office of the Public Guardian and Trustee as her financial guardian due to her "impaired decision-making capacity".

The plan was for Tracey's aunt — who she calls mum — to take care of her personal affairs, while the Office of the Public Guardian and Trustee managed Tracey's money.

At just 23 years old, her life had changed.

"I was relying on my mum to do things for me until I started doing things [again] without her help," she said.

"But I was still struggling at that time to do stuff on my own."

Over several years, with the support of her aunt, Tracey slowly regained her independence.

"I was so happy to go back to being me after what I went through," Tracey said.

But her recovery was only half the battle.

Legal documents obtained by the ABC show that from early 2017 to December 2022, Tracey was effectively given \$500 a fortnight — less than \$36 a day — for personal spending.

She was unaware that she had tens of thousands of dollars in victims of crime compensation locked away by the Public Trustee.

"They didn't give me much money," Tracey said.

"They just said, 'you need to save up money — you've got a long journey ahead'."

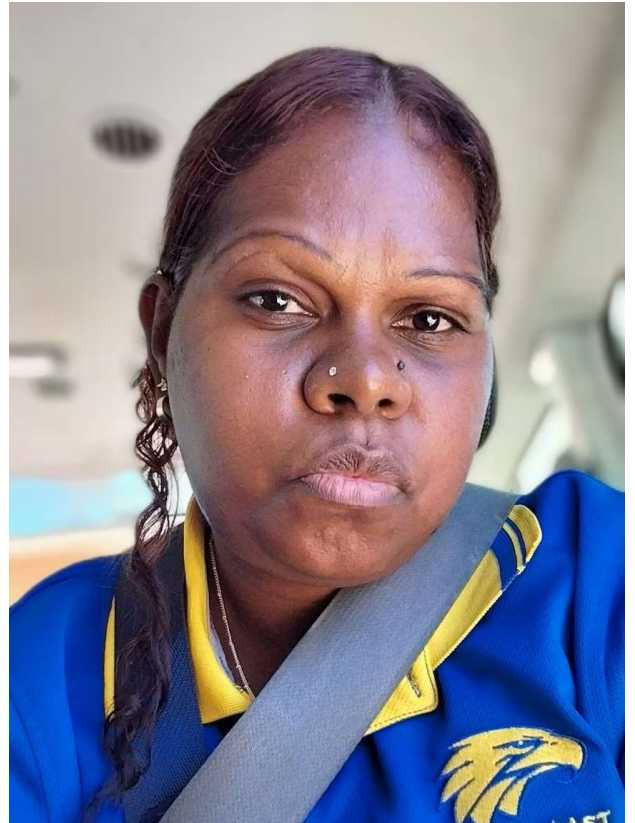
Legal documents show the Office of the Public Guardian and Trustee was putting aside \$100 a fortnight of Tracey's disability pension as savings without her knowledge.

In Australia, the poverty line works out to be \$489 per week — or roughly \$70 a day — for a single adult, according to the Australian Council of Social Service.

But the cost of living in the remote Northern Territory is significantly more expensive than in cities or regional areas of Australia, with [a tin of coffee costing \\$74 in one community last year](#).

Key points:

- A remote Indigenous woman was given less than \$36 a day for personal spending under financial guardianship
- A leading psychologist says her case exposes an urgent need to review "culturally biased" cognitive exams
- NT Public Guardian Beth Walker says the system is under-resourced and underfunded



On some days, Tracey had too little money to buy food. (Supplied: Tracey)



Tracey spent months receiving treatment at Royal Darwin Hospital. (ABC News: Michael Franchi)

Tracey said her requests to access more of her money from the Office of the Public Guardian and Trustee were frequently denied.

"Every time when I asked for something, they just rejected me and said that was too much for me to spend," Tracey said.

"That was my money, you know? I was really angry at them."

Tired of pushing for more access to her money, Tracey decided she no longer wanted to be under financial guardianship.

That was the next challenge.

An exam on politics and 'the monarchy'

Under the NT's Public Guardian and Trustee system, cognitive assessments can sometimes be used as evidence of whether a person under guardianship is capable of making their own decisions.

In some cases, a high score combined with other supporting evidence can lead to a guardianship order being revoked.

In April last year, Tracey completed one of these assessments.

The 30-year-old — who speaks English as a second language and finished school in Year 9 — said the exam was inappropriate for an Aboriginal person living in a remote community.

"I thought, why are they asking me all this?" Tracey said.

"I don't think other Aboriginal people would understand and know that as well."

See how you score on the memory component:

Score: 0 / 0

4 questions left

- A Scott Morrison
- B Malcolm Turnbull
- C Anthony Albanese
- D Tony Abbott

What is the name of the New South Wales Premier?

- A Gladys Berejiklian
- B Dominic Perrottet
- C Daniel Andrews
- D Chris Minns

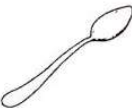
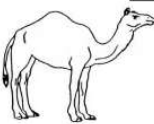
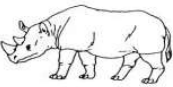
Name the US President

- A Donald Trump
- B Joe Biden
- C George Bush
- D Kamala Harris

Name the US President who was assassinated in the 1960s

- A Ronald Reagan
- B Lyndon B Johnson
- C John F Kennedy
- D John F Kennedy Jr

Reports from legal proceedings reveal that as part of Tracey's assessment, she was also asked to identify the following images.

LANGUAGE		
➤ Ask the subject to name the following pictures:		
		
		
		
		

Language
[Score 0-12]

Referring to the same images, Tracey was asked:

- Which one is associated with the monarchy?
- Which one is the marsupial?
- Which one is found in the Antarctic?
- Which one has a nautical connection?

Tracey performed poorly on the exam.

Based on her results, Tracey's rehab consultant found she could "make decisions for herself on a day-to-day basis, but still has impaired cognition, especially with memory, verbal fluency and planning".

However, he stressed the exam was just a "basic assessment" and recommended Tracey undergo an "up-to-date neuropsychological assessment to determine her ability to make her own decisions".

This never happened and Tracey's guardianship order continued.

The Office of the Public Guardian and Trustee submitted to NTCAT that it was "not necessary or reasonable to obtain the neuropsychological assessment ... due to the likely lengthy delay and the high costs involved and the limited contribution it will have to the determination of the matter".

Cognitive exam criticised as 'culturally biased'

Tracy Westerman, founder of Indigenous Psychological Services and The Jilya Institute, said the cognitive exam given to Tracey was "culturally biased".

"The problem with existing cognitive tests is they've been constructed based on mainstream or non-Indigenous populations," she said.



icy Westerman has developed the only culturally valid mental health tests for Indigenous Australians.

"If you're a white Australian, you have more exposure to the words, the concepts that the tests are testing.

"This means you'll start from a higher playing field than an Aboriginal person who speaks a different dialect and places different value on what intelligence looks like."

Dr Westerman, a Nyamal woman and leading psychologist from Western Australia, said the continued use of culturally biased tests to assess Aboriginal people was leading to many being "erroneously labelled as having cognitive deficits".

"This needs to be called out on a national level," she said.

"Until these tests are fixed, in terms of getting the cultural biases addressed, [psychologists] need to down tools and stop using them."

NT Public Guardian concedes a 'failing on our part'

In a statement, the NT Public Guardian and Trustee, Beth Walker, said she was "aware of and concerned by the cultural bias in mainstream cognitive testing".

"We do not rely solely on any one assessment and would like to see greater use of culturally relevant assessment of decision-making capacity," she said.

When asked why Tracey was only given \$500 a fortnight for personal spending by the Office of the Public Guardian and Trustee, Ms Walker said "our staff develop a personal budget in consultation with the person and sometimes other people such as family and support workers".

"Regular payments, including personal spending, should be reviewed when there is any change in circumstance," she said.

"That didn't occur in this case and we acknowledge that was a failing on our part."

Ms Walker said the biggest challenge facing the NT's Public Guardian and Trustee was a lack of resourcing.

"At the moment, we rely a lot on information provided by people like support coordinators as intermediaries because we just aren't staffed to be able to meet regularly with every person we represent," she said.

In 2005, a review into adult guardianship in the NT found there were 373 people under guardianship orders in the territory, and that 49 per cent of those people were Indigenous.

By June 2022, that figure had nearly doubled, with 600 people under guardianship orders from the Office of the Public Guardian, according to Ms Walker's witness statement to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability last year.

Of those, 75 per cent were Indigenous people with disability.

Ms Walker said First Nations people in the NT have been "over-represented in the area of guardianship for a long time".

"This isn't a new problem and there's no quick fix," she said.

"As a community we need to examine and address the reasons why Aboriginal people are more likely to come to the attention of the guardianship system in order to see real change."

In May this year, Tracey's lawyer from the North Australian Aboriginal Justice Agency successfully argued to have her guardianship order revoked by NTCAT.

It means for the first time in seven years, Tracey will be able to buy presents for her nieces and nephews this Christmas.

"I feel much better, where I am today, because I stood up for myself," she said.