

Your Ref: GUARDIANSHIP AND ADMINISTRATION AND OTHER LEGISLATION AMENDMENT BILL 2012

Quote in reply: 326 – 6- Elder Law Committee

2 October 2012

Guardianship & Administration &
Other Legislation Amendment
Bill 2012
Submission 004

The Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

By email: lacsc@parliament.qld.gov.au

Dear Research Director

GUARDIANSHIP AND ADMINISTRATION AND OTHER LEGISLATION AMENDMENT BILL 2012

Thank you for inviting the Queensland Law Society to make submissions on the *Guardianship and Administration and Other Legislation Amendment Bill 2012* (the Bill).

This letter is written with the assistance of the Elder Law Committee of the Queensland Law Society.

We note that a short opportunity for review of the Bill has been provided and, as such, an in-depth analysis has not been conducted on all the amendments. It is possible that there are issues relating to fundamental legislative principles or unintended drafting consequences which we have not identified. This submission will only address the proposed amendments to the *Guardianship and Administration Act 2000*.

It is pleasing to note that consultation on the Guardianship and Administration portions of the Bill has taken place prior to the Bill being tabled in the House.

Part 1 Preliminary

The Society notes that the title of the Bill accords with fundamental legislative principles by clearly identifying it is an omnibus bill.¹ Proper identification of the subject matter of an amending Bill is an issue the Society has previously advocated on and would like to commend the Attorney-General and the drafters of this Bill in that respect.

¹ By use of the words "... and Other Legislation Amendment Act"

Clause 209A Report on systemic matter

The Society supports the clarification set out in clause 209A(2) that a report must not contain confidential information of an adult with impaired capacity. The Society also supports in principle the insertion of clause 209A(3), which allows people's submissions² to be fairly set out in the Public Advocate's report.

Clause 210A Right to Information

The Society would like to commend the drafters of the Bill for including practical examples of what constitutes a reasonable excuse for non-compliance with the notice.³ Clarifying that legal professional privilege is an exception will provide State Authorities and legal practitioners with certainty as well as sensibly observing legal practitioners' duties under the *Legal Profession Act 2007*. To that end, the Society also supports the insertion of clause 248B Protection from liability for giving information.

Thank you for the opportunity to provide comments and submissions to the proposed legislation.

Please do not hesitate to contact either myself or have a member of your staff contact our Policy Solicitor, Louise Pennisi on (07) 3842 5872 or l.pennisi@qls.com.au if you wish to discuss these concepts further.

Yours faithfully



Dr John de Groot
President

² Which may be made as a result of the Public Advocate's proposal to include information which is adverse to that person – see clause 209A(3).

³ To give information to the Public Advocate – see clause 210A(5).