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6<sup>th</sup> September, 2017

Acting Committee Secretary  
Legal Affairs and Community Safety Committee  
Parliament House  
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#### Submission Guardianship and Administration and Other Legislation Amendment Bill 2017

The first objective stated in the explanatory notes states the legislation "is to enhance safeguards for adults of impaired capacity in the guardianship system and to improve the efficiency of the Queensland's guardianship system or improve the clarity of Queensland's guardianship legislation."

In general we accept that many of the objectives are met with sections relating to health matters, decision making processes and conflict of interest in financial matters. We believe that the Queensland legislation is probably the best in Australia and the amendments will improve it further. However there is one issue that has caused considerable difficulty that has not been addressed.

For years now we have been making representations to the Attorney General in the role at the time regarding the lack of recognition of the legal status under the Queensland guardianship model of the informal substitute decision maker trying to ensure the implementation of the express wishes of a person with impaired capacity, particularly with communication. This matter arises continually in four sectors: energy companies, telecommunications, financial institutions and health insurance including Medicare. These issues are growing in urgency with the implementation of NDIS and the need for people with impaired capacity to establish a relationship as consumers in their own right living in accommodation independent from their families.

We cite an incident from our own experience. Some years ago our own daughter sought an account in her own name with an energy provider so she could benefit from discounts available to people in receipt of a pension. There was no issue in establishing an account on-line but this needed to be verified by a phone call. She could not make such a call as she is non-verbal. As her informal substitute decision makers we were also unable to achieve the desired outcome as our status was simply not recognized by the energy company; they required formal guardianship. A complaint was made to the Anti-discrimination Commission on the grounds that the company had no process to meet her needs. The matter went to negotiation and a process was reached where we are named as her nominees. Unfortunately, the company did not agree to make this a general ruling applying to other possible customers. Unfortunately, since that decision, a matter arose when our daughter received an overdue account notice despite the account being paid by the accommodation service

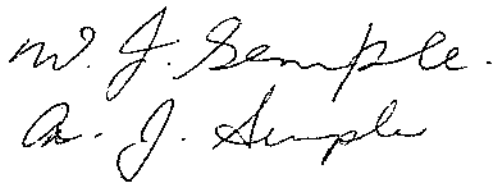
provider. Again there was much angst and the service provider had to provide us, as nominees, with a copy of their credit card account showing payment which we regard as a breach of their privacy. These companies make it as difficult as possible as transact business with them. We believe this is unnecessary and unsatisfactory.

There needs to be a process whereby the corporate sector formally recognizes the informal substitute decision makers as legal representatives of people with disability and impaired communication. We have suggested a system of registration such as that operating in British Columbia. We recognize that such a system does place administrative onus on government.

As parents of a person with impaired capacity we had hoped that this legislation would serve to solve the issue that continually causes grief and a major time impost to informal substitute decision makers. If this matter is not addressed then the only option will be for an application for formal guardianship. As NDIS develops this will place an increasing demand on the resources of this process at a cost to QCAT and Government. Consequently we request that the draft legislation be amended to include a process to solve the inadequate recognition of the legal status of informal substitute decision makers.

This alternative could be to legislate a requirement of the corporate sector to provide a simple process of naming a nominee such as that currently in use by Centrelink (Form SS313.1507). We formally suggest that the committee draft an amendment to the affect that corporations providing services in Queensland to the public where that would include people with impaired capacity have a process which allows such people to have their rights expressed through a nominee.

Yours Sincerely

The image shows two handwritten signatures in cursive. The top signature is 'W. J. Semple' and the bottom signature is 'A. J. Semple'. Both are written in dark ink on a white background.

W J & A J Semple