




Speech By  
**Rob Molhoek**

**MEMBER FOR SOUTHPORT**

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Record of Proceedings, 26 March 2019

## **GUARDIAN AND ADMINISTRATION AND OTHER LEGISLATION AMENDMENT BILL**

 **Mr MOLHOEK** (Southport—LNP) (4.30 pm): I rise to make a short contribution in respect of the Guardianship and Administration and Other Legislation Amendment Bill 2018. At the outset, I want to stress that this legislation deals with often very perplexing and challenging circumstances for families and relatives. That is why it is so important that these amendments are made and this legislation addresses some of the issues that occur for families who are dealing with relatives or parents or other family members with impaired capacity.

It is important to make meaningful improvements to the safeguards for some of our community's most vulnerable people which is why we will not be opposing the bill. As outlined by the shadow minister and key stakeholders who provided submissions and evidence to the previous committee, there are some areas that raise some concerns, particularly regarding clarity. Families should be confident in the legislation designed to safeguard their family members. Legislation should be readable and the clarity of guardianship should be the goal. However, I believe this legislation is written in a way that creates some contradictions and some challenges.

The Public Advocate raised concerns that the bill implements recommendation 14-14 of the review to provide clarity around when QCAT can make an order removing the Public Guardian if another appropriate person exists. However, the bill does not implement recommendations 14-13 and 14-15 to provide a similar process for the Public Trustee. The Public Advocate stated—

It is unclear why recommendation 14-13 has not been implemented in this Bill. That recommendation proposed amending section 14 so that the tribunal should appoint the Public Trustee only if there is no other person who is appropriate and available for appointment as administrator.

Queensland Advocacy Inc. and ADA Australia raised concerns that the bill does not require QCAT to consult with the adult and their family when making interim orders. QAI commented that they were aware of cases where the adult and families were only made aware that an order had been made after the proceedings had been completed.

I have had an instance in my office which incorporates both of these concerns that were brought to my attention by a constituent. It was very perplexing for this individual. Upon the passing of his mother, who had been the nominated primary carer for his disabled brother, without his knowledge orders were made regarding his brother's guardianship and the outcome of his mother's will. I will not enlighten the House as to the details. It is only fair that I protect the identity of the particular constituent.

On many occasions this particular family came to my office to discuss some of the challenges they were dealing with. I understand firsthand just how complex these family issues can be. At the time it did not appear to me that fair consideration had been given to the fact that this man had effectively acted as guardian not only for his brother for many years but also for his ageing mother. It was sad that he certainly did not feel that he had been consulted in a fair and reasonable manner.

What I witnessed was that the fight to have these things rectified ended up being emotionally challenging. It certainly created a great deal of stress between this particular individual and his brother. It was not that there was any animosity between them but it was simply perplexing for them both to try to resolve things and make decisions that seemed to me at the time reasonable and fair. They were somehow caught in the vortex of administration. It was particularly unfortunate given that this man certainly had his brother's best interests at heart. The money required to be spent on legal fees could perhaps have been much better spent on addressing some of his brother's needs.

I am proud to be a member of the LNP. I am proud of the achievements we made while in government in terms of implementing the recommendations and government response to the Law Reform Commission's review. In 2012 we enacted recommendations, including retaining and strengthening the independence of the Public Advocate and improving the ability of the Public Advocate to effectively perform its functions. In 2014 we made further commitments to implement further recommendations from the report. I will not be opposing the bill. I commend the bill to the House.