

11 January 2018

Attention: AGAC Project
Guardianship Division
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Dear Sirs,

Participation of the proposed represented person in guardianship and financial management / administration hearings - Draft Best Practice Guidelines

We refer to your letter dated 28 November 2018.

Thank you for your invitation to make submissions regarding the draft best practice guidelines for participation of proposed represented persons in guardianship and financial management / administration hearings (**draft guidelines**).

Background

Australian Unity Trustees Limited is a regulated trustee company, providing traditional trustee company services across Australia. Australian Unity Trustees (in its current and previous forms) has been appointed by the Victorian Civil and Administrative Tribunal for numerous people in need of administration for over 30 years. Currently, Australian Unity Trustees is the financial manager / administrator for over 600 Victorians who are unable to manage their own financial affairs. Since becoming a licensed trustee company in February 2017, Australian Unity Trustees has also been appointed as financial manager / administrator for represented persons in other Australian States by their respective Tribunals.

Australian Unity Trustees Limited is part of the larger Australian Unity Group, which has a 176 year old history as a member based mutual organisation with a core purpose of improving the wellbeing of its members, clients and customers.

Submissions

1. Draft Guideline 4: Pre-hearing processes

It is recommended that draft guideline 4 includes that pre-hearing processes should seek to ensure that information is provided to the person about the possible outcomes of a hearing, including options available for a guardian and administrator.

In our experience, proposed represented persons are often unaware of the options available to them, if it is determined that a guardian and/or administrator is required. The lack of knowledge by the proposed represented person, their family or other support network, and in some instances, tribunal members, may result in the “default” option of the public guardian and/or public trustee being appointed, which may not necessarily be the best option, or in line with the will or preferences of the person.

So that a proposed represented person can participate in the decision making process in a meaningful way, they need to be provided with all relevant information to enable them to form a view and express their will and preferences as to a proposed guardian and or administrator.

Providing the person with information about options available if a guardian and or administrator is required, may support and assist the person to consider and nominate those s/he may wish to be appointed. For financial matters where it is not appropriate for a family member or other support person to be appointed (for example, where there is significant conflict, allegations of elder abuse and/or the person’s financial affairs are complex) a proposed represented person may prefer to seek appointment of a trustee company, rather than a public trustee.

If information about options is provided to a proposed represented person and or their support persons before a hearing (for example in a simple fact sheet outlining options, costs and contact information) the person may make further enquiries and arrange for their preferred option to attend the hearing.

2. Draft Guideline 11 and 12: Amenities of hearing venues and waiting room spaces

In some circumstances, for the safety, wellbeing and peace of mind of a proposed represented person (and in some instances, their key support person(s) who assist with decision making), it is appropriate for security measures to be in place and or security personnel to be available at a hearing. In our experience, a person may be unwilling to attend a hearing out of fear for their safety or wellbeing, if a family member or other person may be present at the hearing.

It is recommended that hearing venues, including waiting room spaces, should include, appropriate security, or the ability to access appropriate security measures.

We thank you for the opportunity to make submissions regarding the draft guidelines and look forward to the final version.

If you wish to discuss the matter further or require any further information, please contact Sharon Favero, on (03) 8682 5342 or by email: sfavero@australianunity.com.au.

Yours sincerely,



Sharon Favero
Senior Legal Counsel