

**Proposed amendments to the Guardianship Act 1987.
MHCC submission to the Guardianship Tribunal.**

The NSW Guardianship Tribunal has been operating since 1989 providing a vital service to protect and promote the rights of people with disabilities. The Guardianship Tribunal is a legal tribunal established under the *Guardianship Act 1987* (NSW). The Tribunal's primary function is to appoint substitute decision makers for adults with decision making disabilities.

One of the principal responsibilities of the Guardianship Tribunal is to ensure the fair administration of the *Guardianship Act 1987* (NSW). This includes reviewing the ways in which the legislation can be improved to better protect and promote the rights of people with decision making disabilities.

In making their submission, MHCC concerned that insufficient exposure was given to the amendments under discussion, suggested that changes to an Act with far- reaching and serious consequences on people with disability, impacting on their autonomy to make decisions affecting all aspects of their life required a broad consultative process. Without involving all interested stakeholders, the process fails to advance the Tribunal's integrity.

By an large, MHCC regard the proposed amendments as unambiguous in their intent to cut costs, despite comments to the contrary, and unlikely to foster the quality of the Tribunal to deliver services to people with disabilities that protect and promote their interests. We expressed the opinion that services should not be compromised and must accommodate both growth and a changing demographic profile of the population.

The following issues were of particular concern:

Composition of the Guardianship Tribunal - to be reduced to fewer than 3 persons to hear reviews of guardianship and financial management orders and applications for major medical or dental treatment. MHCC are of the opinion that the legislation as it stands acknowledges the importance of a broad spectrum of legal, clinical and community expertise in making decisions that seriously impact on a person's autonomy.

Increased flexibility to make non- reviewable Guardianship Orders – MHCC suggested that any decision be reviewable so as to ensure the individual's rights are preserved.

The Role of the Registrar to be extended to exercising procedural functions - MHCC supported the Registrar exercising *some* functions listed, but strongly objected to the Registrar exercising functions that we believe require the expertise and criteria on which Tribunal members are appointed.

364 words