

5 February 2018



The Hon. Mark Speakman, SC MP
Attorney General
GPO Box 5341
Sydney
NSW 2001

Subject: NSW Law Reform Commission: Review *Guardianship Act 1987 (NSW)*: Draft Proposal - Establishment of a Public Advocate in NSW and the role of Community Advocacy

Dear Attorney General

The Mental Health Coordinating Council (MHCC) is the peak body representing mental health community managed organisations (CMOs) in NSW. The MHCC is also a founding member of Community Mental Health Australia (CMHA) the alliance of eight state and territory community sector mental health peak bodies. Together we represent more than 800 CMOs delivering mental health and related services nationally. Our members deliver a range of psychosocial disability support programs and services including housing, employment and social inclusion activities, in addition to clinical and peer support services with a focus on trauma-informed recovery oriented practice. MHCC members also include organisations that provide advocacy, education, training and professional development and information services.

MHCC work in partnership with both State and Commonwealth governments, and the public, community and private sectors in order to effect systemic change. We also manage and conduct collaborative research and sector development projects on behalf of the sector and the MHCC Learning and Development arm is a widely respected registered training organisation delivering nationally accredited mental health training and professional development courses to the sector.

Since March 2016, MHCC has provided a number of submissions to the Review of the *Guardianship Act 1987 (NSW)*, including a preliminary submission; second and third submissions in August and December 2016 respectively, and submissions to Question Papers 4; 5 & 6 in February 2017.

In NSW, mental health community managed organisations (CMOs) provide a diversity of psychosocial rehabilitation and support services for people living with mental health conditions. In the context of the growing integrated service delivery environment, MHCC highlight the recent changes to the way people with lived experience are accessing services. This is as a consequence of NSW mental health reform processes, the establishment of PHNs and the broad-based roll-out of the NDIS. These circumstances are producing gaps in service monitoring, and without appropriate mechanisms to monitor and safeguard rights and to ensure proper access to complaints processes, these gaps will result in significant systems risks. With little transparency or ability to ensure detection, these risks have the potential to allow a range of harms and rights violations to occur with little accountability and advocacy processes in place.

Many organisations and agencies including the MHCC thoroughly endorse the need to establish a Public Advocate to respond to matters of abuse, neglect and exploitation of vulnerable people in community mental health and human service settings. Nevertheless, MHCC are one of many organisations that have highlighted, the vital role community advocates play in addressing a raft of important issues, and working closely with individuals and minimising the need for matters to be brought to the Public Advocate.

The role of community advocates and the Public Advocate is complementary and whilst there is a need for a body to exist that looks at systemic issues as well as individuals' matters, this in no way duplicates the role community advocates play in offering support to individuals and helping them navigate a complex and difficult terrain, as well as supporting them at hearings for guardianship, financial or legal matters.

MHCC have raised these issues in numerous submissions to the NSW Law Reform Commission, Review of the *Guardianship Act 1987* (NSW). We have also expressed our support for the Public Advocate as the authority that should be setting standards, guidelines and accreditation of support facilitators and enduring representatives, undertaking review of complaints and consideration of ethical practice.

In our view the Public Advocate should have the three-fold functions of advocacy, support and representation as well as investigative responsibilities and setting of standards and guidelines. These functions should operate through two separate divisions. Our preference is that the Public Advocate absorbs the existing role of the Public Guardian as substitute decision-maker as well as providing the oversight of decision-making supporters or representatives across the spectrum of need.

MHCC are keen to emphasise the need for both the Public Advocate and community advocacy services and are hopeful that the NSW Government will commit to a range of community managed services that undertake this work across service settings.

We thank you for your interest in this matter and express our willingness to be consulted at any time in the future. For further information about this letter and our submission please contact: Corinne Henderson, Principal Advisor/ Policy & Legislative Reform at corinne@mhcc.org.au or (02) 9555 8388 #101

Yours sincerely



Carmel Tebbutt
Chief Executive Officer
Mental Health Coordinating Council
E: carmel@mhcc.org.au
T: 02 9555 8388 #102

CC
The Hon. Brad Hazzard, MP
Minister for Health and Minister for Medical Research
GPO Box 5341
Sydney, NSW 2001

The Hon. Tanya Davies, MP
GPO Box 5341
SYDNEY NSW 2001

Steve Kinmond
Deputy Ombudsman
Community & Disability Services Commissioner
E: skinmond@ombo.nsw.gov.au

Elizabeth Koff
Secretary NSW Ministry of Health
73 Miller St North Sydney NSW 2060
Locked Mail Bag 961 North Sydney NSW 2059

Michael Coutts-Trotter, Secretary FACS
219-241 Cleveland Street
Redfern NSW 2016
Locked Bag 10
Strawberry Hills NSW 2012