

Submission to the Parliamentary Inquiry into the WA Guardianship and Administration System

May 2026



WAAMH

**Western Australian Association
for Mental Health**

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Acknowledgement of Country

The Western Australian Association for Mental Health (WAAMH) acknowledges the traditional custodians of the land on which this submission was developed, the Whadjuk people of the Noongar Nation. We acknowledge their continuing and unbroken connection to land, sea and community. We pay our respect to their culture and Elders and acknowledge their ongoing contribution to Western Australian society and culture.

Acknowledgement of Lived & Living Experience

WAAMH acknowledges the individual and collective expertise of people with a living or lived experience of mental health, alcohol and other drug issues, as well as the families and carers who provide support and have a lived or living experience.

About WAAMH

WAAMH is the peak body for the community managed (non-government) mental health sector in Western Australia, with organisational and individual members across metropolitan and regional WA. WAAMH has been engaged in the mental health sector for nearly 60 years.

WAAMH's membership comprises community managed organisations providing mental health services, programs or support in community settings, as well as individuals and families with lived experience of mental health issues and suicide, with whom WAAMH engages in genuine partnership. Community-managed organisations provide a critical network of services to support people affected by mental ill-health and their families and help them live meaningful lives in their communities.

WAAMH provides leadership for its members and the sector and aims to promote policy and legislative reform and systemic change.

Introduction

In our role as the peak body for the non-government community- managed mental health sector, the WA Association for Mental Health appreciates the opportunity to contribute our views, and those of some of our member agencies to the Parliamentary Inquiry into the Guardianship and Administration system.

WAAMH sought the views and experiences of its member agencies and received written and verbal feedback from 7 service provider agencies.

Our submission is in two parts.

The first part describes views and issues presented by representatives of WAAMH member agencies who were consulted. In this part we present their views as described to us under each Term of Reference, with minimal interpretation and analysis. This section demonstrates systemic patterns that our members believe require reform.

The second part of our submission comprises detailed submissions provided by two agencies. One submission is from a specialist regional mental health provider, and the other submission is provided by an agency that supports carers and families in metropolitan and regional areas. In each submission the agency provides detailed feedback on their agency's experiences and views about the guardianship and administration system. These two submissions provide clear directions and recommendations for systemic reform.

All recipients recognise the important work done by the Office of the Public Advocate and the Public Trustee in supporting people with significant mental health conditions. All agencies that provided WAAMH with feedback identify areas where current systems and processes could be improved.

The importance of this work is indicated by the high proportion of people with significant mental health conditions who are subject to guardianship and administration orders.

We note that as of 30 June 2025, mental illness accounted for the largest proportion (33%) of guardianship appointments. Since 2018 mental illness (and intellectual disability) have steadily risen to replace dementia, accounting for the highest number of total appointments. This is partly driven by the NDIS.¹ Thirty percent (30%) of Aboriginal and Torres Strait Islander descent who receive a guardianship order have a mental illness. We also note that mental illness is a key driver for the grown in demand for financial management.²

Part 1: Broad views of service provider agencies on the Terms of Reference

The capability, culture and activities of the Office of the Public Advocate and Public Trustee to represent and protect the rights of vulnerable people and deliver services to vulnerable people

Adopt a supported decision-making paradigm

Agencies who provided feedback reported their experience that guardians and administrators often make decisions for represented persons without their involvement and with limited

¹ Office of the Public Advocate (2025) Annual Report 2024/25, The Public Advocate of Western Australia

² Office of the Public Advocate (2025) Annual Report 2024/25, The Public Advocate of Western Australia.

communication about the reasoning and implications of those decisions. Service provider agencies were concerned that such practices may undermine the dignity, autonomy and rights of people to be involved in decisions about their life.

Agencies who provided feedback to WAAMH emphasised the importance of establishing and embedding supported decision-making as the standard practice, especially for people under guardianship orders.³

In its submission Helping Minds notes:

Carers strongly support a shift toward supported decision-making, consistent with the Queensland model and the UNCRPD. This approach better accommodates fluctuating mental health and prioritises autonomy. (Helping Minds 5.3)

Supported decision-making should be prioritised wherever possible, ensuring that individuals retain as much autonomy as their circumstances allow. This approach aligns with human rights principles and better reflects the fluctuating nature of mental health conditions. Helping Minds (6.1.3)

Supported decision making is about enabling people to make their own decisions with the right support, rather than having decisions made on their behalf. Supported decision making for people with mental health conditions typically involves collaboration with friends, family members and or professionals and other concerned parties who assist the individual to understand the situations and choices they face so they may understand, make and effectively communicate their own decisions.⁴

In broad terms, supported decision making shares three key features⁵:

1. They are based on a set of guiding principles that emphasise people's legal right to make decisions to the maximum of their capabilities
2. They recognise that people's desire for or use of support in making decisions does not mean that they need someone to make decisions for them
3. They acknowledge that there are many ways to support people with disabilities in making decisions and the support should be consistent with the person's abilities, interests, preferences and needs.

Successful use of supported decision making will assist people exercise their human rights, make choices about their life, maximise autonomy and realise greater independence when making everyday decisions.⁶

While this principle is recognised, feedback indicates it is not consistently reflected in practice, particularly for people with fluctuating decision-making capacity. Supported decision making has its foundation in the social model of disability and aligns to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

³ Kohn NA, Blumenthal JA & Campbell AT (2013) Supported Decision-Making: A Viable Alternative to Guardianship? *Dickinson Law Review*, 117 (4) 1111-1157.

⁴ Hyseni F, Martinis JG, Wise FA et.al. (2026) "I Want to be Interdependent": An Exploratory Study on the Use of Supported decision making for People with Serious Mental Illness, *Journal of Law, Medicine & Ethics*, (2026) pp1-11.

⁵ Hyseni F, Martinis JG, Wise FA et.al. (2026) "I Want to be Interdependent": An Exploratory Study on the Use of Supported decision making for People with Serious Mental Illness, *Journal of Law, Medicine & Ethics*, (2026) pp1-11.

⁶ NSW Mental Health Coordinating Council (2026) *Submission on Supported Decision Making to the Joint Parliamentary Committee Inquiry into Supported Decision Making for adults with disability and older people in NSW*, 11 March 2026.

Accessibility, responsiveness and delays

Agency representatives spoke about delays that occurred with system processes and a lack of timely responsiveness on occasions, including by the SAT, the Public Trustee and Office of the Public Advocate.

One agency told us:

Accessibility and responsiveness remain a significant concern, particularly in relation to the OPA, where it can take up to a month to receive a response, and direct contact can be difficult to establish when individuals are supported by general teams rather than a dedicated guardian.

Another agency said:

Often it can be difficult to get in contact with Guardians for consumer stakeholder meetings, even over teams. These meetings are arranged every 3 months through our service and are integral for stakeholders to know what the consumer is working on, what gains/capacities have been developed and future planning. Being available at the meetings would give Guardians greater oversight of consumer needs moving forward and would assist them in determining future Guardianship and Administration needs.

An agency representative described the impact of delays in obtaining an emergency hearing. They described the example of a resident whose dementia progressed rapidly to the extent that the person was unable to make decisions or live independently. The agency was told it would take 8 weeks to get an emergency hearing. The agency representative said:

The system that should support him is eight weeks away.

High caseloads and understaffing were identified in both the Public Trustee and Office of the Public Advocate. In their submission Helping Minds noted that:

High caseloads significantly slow down the Public Trustees ability to manage clients' financial affairs. They lead to delays in paying bills, delays in approving essential purchases and slow responses to urgent financial matters (Helping Minds 2.2.3)

Carers consistently report that the Office of the Public Advocate is significantly under-resourced, leading to slow or completely absent responses when they seek information or support. Decisions are often rushed, communication is inconsistent and there is a high turnover of guardians which disrupts continuity of care. (Helping Minds 2.1.4)

Another agency representative described delays in approvals and decisions by the Office of the Public Advocate and Public Trustee and the challenge of being able to contact staff directly. They noted:

It impacts our ability to progress things.

Another agency noted that:

While our team has had less involvement with the Public Trustee, they have noted comparatively more timely responsiveness via email.

One area where delays have an impact is in relation to the NDIS. An agency representative commented that it is often a challenge to get guardians to sign off on NDIS accounts.

Developing contemporary mental health literacy, skills and capabilities of guardians and administrators

In its submission AHA Great Southern called for a greater focus on trauma-informed and recovery-oriented practice, noting that:

A significant concern relates to whether current guardianship, administration, and tribunal processes consistently operate in a trauma-informed and recovery-oriented manner, particularly for people living with severe mental illness, psychosocial disability, paranoia, delusional disorders, cognitive impairment, or histories of trauma.

AHA has observed situations where individuals appeared insufficiently prepared for tribunal hearings or formal processes involving sensitive mental health information. In some cases, participants became distressed when professional reports, observations, or assessments that conflicted with their understanding of their circumstances were read aloud during proceedings. This had the potential to undermine longstanding therapeutic relationships and contributed to feelings of betrayal, mistrust, confusion, and destabilisation.

We are concerned that some processes may unintentionally prioritise procedural requirements over psychological safety and relational continuity. For individuals who lack insight into their illness or who engage cautiously with services, maintaining trust is often critical to ongoing engagement, safety, and stability. Formal legal processes can at times conflict with therapeutic engagement strategies developed over many years.

We believe consideration should be given to:

- *improved participant preparation prior to hearings,*
- *greater use of trauma-informed and recovery-oriented approaches,*
- *careful consideration of how sensitive material is presented during proceedings,*
- *access to independent advocacy and emotional support before and after hearings*

AHA Great Southern and several other agencies called for improved mental health literacy and understanding of psychosocial disability within the guardianship and administration system. AHA Great Southern noted:

AHA staff have also identified concerns regarding varying levels of mental health literacy and understanding of psychosocial disability within systems associated with guardianship and administration.

Interactions with statutory bodies can at times feel highly procedural, with limited flexibility or recognition of how mental illness may affect communication, cognition, emotional regulation, decision-making, executive functioning, or engagement with services.

This can result in individuals feeling unheard, disempowered, or misunderstood, particularly where processes rely heavily on rigid administrative requirements rather than person-centred practice. While accountability and oversight are essential, there is also a need for flexibility, empathy, and nuanced understanding of the realities faced by people living with severe mental illness.

Several agencies called for the guardianship and administration system to develop greater understanding about the fluctuating nature of the decision-making abilities of people with mental health conditions and psychosocial disabilities.

Limited pathways out of guardianship and administration

Several service provider agencies raised concern about the limited pathways to review a person's order and the difficulty of people being able to move out of being subject to an order. One service provider agency reported:

A person can stay administered for a lifetime. Consistently once people go on trustee, whether for finance or guardianship (there are) no processes or structures to develop their capacity to come off.

A service provider said:

A lifetime can pass and a person remains on administration without checks and balances. One person who had their finances administered told me that he didn't feel like a full human, that it had been years, he no longer had drug issues and having full control of their finances felt like a vital step in their recovery, being normal and entering their life and feeling well in their own life.

In the above example the agency reported that the person said:

"I feel like I can't be a full human until I have control of my money. I haven't used drugs for 10 years"

A consistent view expressed by service provider agencies is that there is not enough attention given to building the capacity of persons under orders, so they develop the capacity to make their own decisions with support and no longer need to be subject to a guardianship or administration order.

On this matter, a service provider said:

The system does not provide any mechanisms to build capacity with individuals, help build capacity for decision making

Another service provided noted that:

A person can seek review, however there is high risk that they will fail the review. If the person doesn't have the right support to build capacity, this has a great impact on their mental health, sense of self efficacy and can contribute to loss of hope and decline in health, limiting recovery. Tangibly this means they are also unable to apply for a review for a long period of time, limiting freedom and capacity further, and hope for full citizenship further.

Onerous obligations under the care of the public trustee

Service providers spoke about onerous obligations and a perception of overreach by trustees, including the Public Trustee, on people subject to an order.

Service provider agencies called for a more nuanced approach by Trustees and greater appreciation of the impact of their decisions on the rights of people under orders and the mental health and wellbeing and recovery of people with mental health conditions. Several providers commented that trustees often have no relationship with the person they are representing.

Some examples provided by service provider agencies of what they considered Trustee overreach were:

- A person wanted to buy a particular hospital grade bed recommended by therapist based on sleep apnoea, fluid retention COPD⁷. However, the trustee questioned whether it was needed. The person had \$35,000 in a bank account, the trustee refused spending \$4,000 on a hospital grade bed. The outcome was that the person was stuck sleeping in a chair.
- A Trustee questioned whether a person could purchase Samsung over Hisense.
- A Trustee commenting about whether buying an e-scooter is dangerous. A person with schizophrenia, bought an e-scooter for themselves.
- A Trustee questioned whether a father could pay for his daughter's funeral and clothes for her. The father had the money, and this was an important part of his grief.

Service provider agencies called for much more nuanced approach by Trustees when dealing with people with mental health conditions. Some comments they provided:

- *You are working with people who are mentally unwell, there may be dysregulation, and then the trustee doesn't take a call – impact to person's capacity to advocate spend their money if the trustee doesn't take their call.*
- *Constantly having to announce to different companies (i.e. buying a TV) that you are on guardianship and need quotes is degrading of sense of self publicly.*
- *A person who is on state trustee due to meth taking/addiction. The trustee should not have a say on what brand their television is, only that they not buying drugs, and how do we define recovery in this case and hand back the person's power.*

Greater regional awareness

In their submission AHA Great Southern identified challenges associated with guardianship and administration systems and processes that appear designed around metropolitan assumptions. They provide several examples in their submission.

AHA Great Southern identify that:

Greater regional awareness and flexibility would assist in reducing unnecessary barriers and stress for individuals already experiencing vulnerability and disadvantage.

Adequacy of mechanisms to resolve complaints, disputes and allegations

Although we heard diverse views from agencies about mechanisms to resolve complaints and disputes, the dominant view expressed is that the current mechanisms to resolve complaints are inadequate.

One agency representative said:

My experience with complaint mechanisms has raised significant concerns regarding transparency, procedural fairness, and the use of institutional power. Following a recent complaint, I submitted to the Office of the Public Advocate, the response was directed to my CEO despite them not being included in the original correspondence. In my view, this

⁷ Fluid retention COPD is also known as peripheral edema, which is typically swelling in the feet, ankles, and lower legs.

reflected a concerning use of organisational hierarchy and power dynamics that had the effect of undermining direct professional engagement and discouraging criticism.

The response itself appeared focused on defending organisational actions rather than meaningfully reflecting on the concerns raised or identifying opportunities for improved practice. This creates a perception that complaint processes operate more as risk management mechanisms for agencies rather than genuinely independent avenues for accountability and systemic improvement.

Another agency representative commented:

We have not had to go through this process with any of the consumers

Several agency representatives noted the inadequacy of existing complaint pathways.

In their submission Helping Minds identified the lack of independent complaint pathways and the limited escalation options:

There is no independent authority to which complaints about the Public Trustee or the Office of the Public Advocate can be made. Instead, complaints are investigated internally, which reduces transparency, discourages carers from speaking up, and creates fear of repercussions for their vulnerable loved ones. As the report states, carers are often reluctant to complain because their loved one is vulnerable and in the care of the OPA. (Helping Minds 2.3)

If a dispute remains unresolved, the Ombudsman is the only external option. This is not adequate for a system involving such significant personal rights and freedoms. Additionally, represented persons are currently not allowed to publicly speak about their experiences. This restricts autonomy and prevents public scrutiny. (Helping Minds 2.4)

Outcomes experienced by represented persons and their families

Member agencies noted the complex nature of guardianship or administration arrangements and acknowledged that for some people they facilitate and produce positive outcomes. However, agencies were concerned about those situations where guardianship or administration arrangements have risked further harm and even new exploitation for some people.⁸

In their submission Helping Minds noted that mental health carers report both positive and negative experiences. They express the view that negative outcomes are common and are often linked to high turnover of guardians, poor communication, a lack of meaningful engagement and limited understanding of the represented person's daily needs. They argue that these issues contribute to inconsistent quality of guardianship and undermine confidence in the system. (see Helping Minds Submission 3.3.1)

With respect to outcomes, one agency wrote that:

Has been positive. Those consumers that require the support have benefitted from Administration support until they have developed their skills to manage their own finances. Some consumers have been able to have these conditions ceased while in service after much support.

⁸ We note that similar issues are raised by Consumers of Mental Health WA (CoMHWA) in evidence presented in its submission. CoMHWA (2026) *Submission to the Inquiry into Guardianship and Administration System in Western Australia*, Perth, May 2026.

Adequacy of current oversight mechanisms to ensure guardians and administrators are held to account

WAAMH member agencies highlight the need for stronger independent governance, accountability and oversight of the Office of Public Advocate and the Public Trustee.

One provider noted:

There appears to be limited practical accountability within the current system beyond demonstrating risk management and duty of care compliance on paper. While safety is critical, principles such as dignity of risk, supported decision-making, and least restrictive practice do not appear to be consistently reflected in operational decision-making.

I am concerned that people subject to guardianship and administration are often highly vulnerable, have limited advocacy options, and face significant barriers in challenging decisions or raising concerns regarding their treatment.

In their submission Helping Minds note that in relation to the Public Advocate:

Independent oversight is essential to ensure that decision-making is of high quality, that the represented person's wishes are respected, and that delays and poor communication are addressed. It is also necessary to improve transparency in operations so that families and represented persons can have confidence in the system.

Conflicts created by the Public Trustee funding model

Several agencies expressed concern about the Public Trustee's funding model. This issue is discussed in more detail in the Helping Minds submission (see Helping Minds 2.2 & 4.1.1)

Role and conduct of the State Administrative Tribunal

A service provider noted:

More recently, I have appreciated being consulted by the Office of the Public Advocate regarding the appropriateness of SAT applications, particularly in relation to young people leaving care. However, I continue to observe situations where insufficient exploration is given to family-supported or less restrictive arrangements prior to guardianship applications proceeding.

There remains an opportunity for SAT processes to place greater emphasis on supported decision-making models and family-inclusive approaches where safe and appropriate.

Another service provider agency noted:

Positive experiences with the SAT. Consumers are aware what they need to address after hearings if they would like to come off orders.

A third agency wrote:

Engagement with the State Administrative Tribunal can also present challenges, particularly in relation to communication pathways. Contact can be difficult, with emails coming from no-reply addresses and limited ability to reach the appropriate person directly when follow-up is required.

In its submission Helping Minds highlights several issues raised by Carers in relation to the State Administrative Tribunal. These include natural justice concerns, inconsistent capacity

assessments and the need for supported decision making (Helping Minds submission 51, 5.2 & 5.3)

Part 2: Individual Agency Submissions

AHA Great Southern input for WAAMH's submission to the Parliamentary Inquiry into the Guardianship and Administration system in Western Australia

AHA Great Southern (AHA) appreciates the opportunity to contribute feedback to inform WAAMH's submission to the Parliamentary Inquiry into the Guardianship and Administration system in Western Australia.

As a regional community mental health organisation supporting people living with severe and persistent mental health conditions, AHA staff have regular contact with individuals who interact with the Public Trustee, Office of the Public Advocate, and State Administrative Tribunal processes. While we acknowledge the complexity and importance of these statutory roles, our experience suggests there are several areas where current systems and processes may unintentionally contribute to distress, disengagement, and reduced wellbeing for vulnerable individuals.

Several recurring themes have emerged through our service experience.

1. Trauma-informed and recovery-oriented practice

A significant concern relates to whether current guardianship, administration, and tribunal processes consistently operate in a trauma-informed and recovery-oriented manner, particularly for people living with severe mental illness, psychosocial disability, paranoia, delusional disorders, cognitive impairment, or histories of trauma.

AHA has observed situations where individuals appeared insufficiently prepared for tribunal hearings or formal processes involving sensitive mental health information. In some cases, participants became distressed when professional reports, observations, or assessments that conflicted with their understanding of their circumstances were read aloud during proceedings. This had the potential to undermine longstanding therapeutic relationships and contributed to feelings of betrayal, mistrust, confusion, and destabilisation.

We are concerned that some processes may unintentionally prioritise procedural requirements over psychological safety and relational continuity. For individuals who lack insight into their illness or who engage cautiously with services, maintaining trust is often critical to ongoing engagement, safety, and stability. Formal legal processes can at times conflict with therapeutic engagement strategies developed over many years.

We believe consideration should be given to:

- improved participant preparation prior to hearings,
- greater use of trauma-informed and recovery-oriented approaches,
- careful consideration of how sensitive material is presented during proceedings,
- access to independent advocacy and emotional support before and after hearings,

- and structured post-hearing follow-up support for vulnerable participants experiencing distress or loss of trust.

2. Mental health literacy and understanding of psychosocial disability

AHA staff have also identified concerns regarding varying levels of mental health literacy and understanding of psychosocial disability within systems associated with guardianship and administration.

Interactions with statutory bodies can at times feel highly procedural, with limited flexibility or recognition of how mental illness may affect communication, cognition, emotional regulation, decision-making, executive functioning, or engagement with services.

This can result in individuals feeling unheard, disempowered, or misunderstood, particularly where processes rely heavily on rigid administrative requirements rather than person-centred practice. While accountability and oversight are essential, there is also a need for flexibility, empathy, and nuanced understanding of the realities faced by people living with severe mental illness.

3. Regional service realities

As a regional organisation, AHA has observed challenges associated with systems and processes that appear designed primarily around metropolitan assumptions.

There have been occasions when reasonable purchases or necessary expenses for people living in regional areas were delayed or questioned due to limited local payment options, differing business practices, or difficulties obtaining specific forms of documentation requested by the Public Trustee. Local businesses may not always provide the same documentation systems available in metropolitan areas, despite transactions being legitimate and necessary.

Greater regional awareness and flexibility would assist in reducing unnecessary barriers and stress for individuals already experiencing vulnerability and disadvantage.

4. Increasing reliance on digital systems

A further area of concern relates to the increasing reliance on digital communication and technology-based systems.

Many people subject to guardianship or administration orders do not independently use technology, access email, maintain mobile phones, or navigate online systems consistently. This is particularly relevant for people living with severe mental illness, homelessness, cognitive impairment, psychosocial disability, low literacy, financial hardship, or paranoia relating to technology.

As systems increasingly rely on online communication, portals, electronic forms, and phone authentication processes, support workers are often informally required to act as

intermediaries between vulnerable participants and statutory agencies. This creates several concerns:

- role boundary issues for frontline staff,
- privacy and consent complexities,
- increased participant dependency,
- reduced direct engagement between agencies and participants,
- and increased risk when staffing changes occur or support is withdrawn.

AHA believes it is important that accessible non-digital pathways remain available, including face-to-face engagement options and simplified communication approaches that reflect the actual functional capacities of vulnerable individuals.

5. Impact on support workers and service systems

AHA staff have also experienced situations where support workers appeared to be expected to provide advocacy, assurances, opinions, or administrative support beyond their professional role or scope of practice in order for participant requests to progress.

This can create inappropriate pressure on frontline staff, blur professional boundaries, and unintentionally make access to services or funds dependent upon the capacity of support workers to navigate complex systems on behalf of participants.

We believe there would be benefit in greater clarity regarding the role of support workers within guardianship and administration processes, alongside more direct engagement between statutory agencies and participants wherever possible.

6. Conclusion

AHA acknowledges the important protective and oversight functions performed by the Public Trustee, Office of the Public Advocate, and State Administrative Tribunal. However, based on our experience supporting people living with severe mental illness in regional Western Australia, we believe there are opportunities to strengthen the system through:

- greater trauma-informed and recovery-oriented practice,
- improved mental health literacy,
- increased regional responsiveness,
- reduced reliance on digital-only systems,
- clearer role boundaries,
- and stronger participant preparation and follow-up support throughout tribunal and decision-making processes.

We appreciate the opportunity to contribute these observations and would welcome further discussion if helpful to the Inquiry process.



Helping Minds

Mental Health Services,
Education and Carer Support

Feedback Report

Submission to the Parliamentary Inquiry into
the Guardianship and Administrative System

8/06/2026

Feedback Report

Summary Report – Submission to the Parliamentary Inquiry into The Guardianship and Administration System

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1. Executive Summary

- 1.1.1. Helping Minds is proud to be celebrating fifty years of supporting Western Australian families affected by mental health challenges. Helping Minds is a leading provider of mental health services, education and dedicated carer support across Western Australia.
- 1.1.2. Through its state-wide Carer Advocacy Service, Helping Minds provides specialised assistance to people who care for a family member or loved one experiencing mental health challenges. For many years, this service has supported carers navigating the State Administrative Tribunal (SAT), the Office of the Public Advocate (OPA), and the Public Trustee. This work places Helping Minds in a unique position to observe how the guardianship and administration system operates in practice, particularly for those who are vulnerable, unwell, or unable to advocate for themselves.
- 1.1.3. The Carer Advocacy Service assists carers by helping them understand complex legal processes, preparing them for SAT hearings, ensuring their voices are heard, and supporting them to navigate interactions with government agencies and service providers. Advocates regularly attend hearings, family meetings and case conferences, and provide culturally sensitive support to families from diverse backgrounds. Through this direct involvement, Helping Minds witnesses the challenges carers face, the barriers to participation, and the systemic issues that impact both carers and represented persons.
- 1.1.4. The insights presented in this submission are drawn directly from the lived experiences of carers who have engaged with the guardianship and administration system. These perspectives highlight recurring themes: inadequate communication, lack of cultural awareness, limited transparency, inconsistent decision-making, and the emotional and practical burden placed on families. Carers often feel excluded from processes that profoundly affect their loved ones, despite being the people who know them best and provide the majority of their day-to-day support.
- 1.1.5. Helping Minds brings these experiences forward not only to reflect the concerns of individual families, but to demonstrate broader systemic patterns that require reform. The organisation's long-term involvement in advocacy, combined with its direct support of carers across Western Australia, provides a strong evidence base for the issues raised in this paper. The recommendations offered are grounded in real-world experiences and aim to strengthen the guardianship and administration system so that it better protects vulnerable people, respects their rights and preferences, and recognises the essential role of carers.

2. Issues or Concerns with the Role, Capabilities, Capacity and Activities of the Public Trustee and the Office of the Public Advocate

2.1. Office of the Public Advocate (OPA)

2.1.1. Lack of Community Education and Early Communication

Community education is a core responsibility of the OPA, yet many carers report being completely unprepared when contacted by an OPA investigator advising that a SAT hearing has been scheduled. Many of our carers find themselves blind-sided when they are contacted by an investigator informing them that there is a SAT hearing coming up.

In many cases, the application has been submitted by a hospital social worker without the family's knowledge. Carers are left scrambling to understand the process, the implications, and their rights. This lack of early communication is particularly harmful for families already under stress due to their loved one's mental health crisis.

2.1.2. Cultural Awareness and Accessibility Issues

CALD families face additional barriers within the guardianship and administration system. Translators are often not provided, and information is not delivered in culturally appropriate or accessible ways. A de-identified case illustrates this clearly: a CALD carer attended a hospital meeting where a social worker casually mentioned that a SAT hearing would occur in two days. The carer, who was focused on medical discussions and had limited English, did not understand the significance of this information. It was only after an advocate intervened and involved the carer's English-speaking daughter that the family was able to participate meaningfully in the process. This case demonstrates a lack of cultural awareness, a failure to ensure informed participation, and missed opportunities to appoint suitable family members instead of defaulting to public guardianship.

2.1.3. Delegation of Care Without Oversight

Many carers report that once a public guardian is appointed, the guardian may go months without meeting the represented person. During this time, carers frequently observe poor hygiene and other unmet daily living needs, indicating a lack of oversight. They also report inadequate food supplies in supported accommodation, with fridges containing only minimal or unsuitable items. In addition, service providers often ignore important dietary requirements, leaving carers concerned that essential health needs are not being met.

Despite decision-making being removed from families, carers often continue to monitor and intervene informally because they fear neglect. They carry responsibility without authority.

2.1.4. Under-resourcing, High Turnover and Poor Communication

Carers consistently report that the Office of the Public Advocate is significantly under-resourced, leading to slow or completely absent responses when they seek information or support. Decisions are often rushed, communication is inconsistent, and there is a high turnover of guardians, which disrupts continuity of care. In many cases, represented persons are managed by broad “teams” (such as Team 4 or Team 7), meaning carers may end up speaking to whichever staff member is available rather than a consistent guardian who knows the person well. Carers also describe receiving quick responses that lack proper consideration, along with a general absence of meaningful engagement with families and support networks. Very large caseloads further limit guardians’ capacity to adequately represent the person, contributing to a system that feels fragmented, impersonal and overwhelmed.

2.2. Public Trustee

2.2.1. High, Complex and Poorly Explained Fees

There are ongoing concerns about the Public Trustee’s fee structure. The Public Trustee is self-funded, meaning it relies heavily on client fees. The Public Trustee’s fee structure results in some clients being charged more in order to subsidize others who cannot afford to pay. These fees often do not reflect the actual amount of work carried out on a client’s behalf, creating a sense of unfairness. In addition, information about fees is unclear and not provided regularly, leaving carers feeling that the system is opaque, confusing, and disempowering.

2.2.2. Lack of Choice and Power Imbalance

People placed under administration often have no choice in who manages their finances. There is limited independent oversight, leaving clients feeling unable to question decisions about their money or assets. One carer reported intrusive questioning about her personal property and overseas assets, raising concerns about overreach and lack of sensitivity.

2.2.3. Delays and System Weaknesses

High caseloads significantly slow down the Public Trustee’s ability to manage clients’ financial affairs. They lead to delays in paying bills, delays in approving essential purchases, and slow responses to urgent financial matters. These pressures, combined with weaknesses in the systems designed to safeguard client funds, create additional risks for vulnerable people.

2.2.4. Need for Independent Oversight

In 2023, the WA Government committed to establishing an independent governing board to improve oversight and develop a more transparent fee model. This has not yet been implemented, leaving significant gaps in accountability.

2. Adequacy of Complaint Mechanisms

2.3. Lack of Independent Complaints Pathways

2.3.1. There is no independent authority to which complaints about the Public Trustee or the Office of the Public Advocate can be made. Instead, complaints are investigated internally, which reduces transparency, discourages carers from speaking up, and creates fear of repercussions for their vulnerable loved ones. As the report states, carers are often reluctant to complain because their loved one is vulnerable and in the care of the OPA.

2.4. Limited Escalation Options

2.4.1.1. If a dispute remains unresolved, the Ombudsman is the only external option. This is not adequate for a system involving such significant personal rights and freedoms. Additionally, represented persons are currently not allowed to publicly speak about their experiences. This restricts autonomy and prevents public scrutiny.

3. Outcomes for People with Mental Health Conditions Subject to the Activities of the Public Trustee and OPA

3.1. Lack of Representation and Understanding at SAT Hearings

3.1.1. The Helping Minds Advocacy Service frequently observes represented persons attending hearings without support. They often appear confused, overwhelmed and unaware of the consequences. A de-identified case describes a young woman appearing online from hospital, supported only by a social worker who had started the previous day. She did not understand the process or outcome. Her mother, the primary carer, was distressed by the appointment of a public guardian and trustee.

3.2. Loss of Autonomy and Reduced Self-Worth

3.2.1. Guardianship removes control over fundamental aspects of a person's life, including where they live, who they are allowed to see, and how their money is spent. This loss of autonomy can cause significant distress, frustration and a reduction in self-worth. Carers often feel that the decisions being made do not reflect the person's own wishes or preferences, which further undermines the individual's sense of dignity and independence.

3.3. Inconsistent Quality of Guardianship

- 3.3.1.** Carers report both positive and negative experiences with guardianship. Positive outcomes generally occur when service providers are supportive, inclusive and actively involve families in decision-making. However, negative outcomes are common and are often linked to high turnover of guardians, poor communication, a lack of meaningful engagement, and limited understanding of the represented person's daily needs. These issues contribute to inconsistent quality of guardianship and undermine confidence in the system.

3.4. Difficulty Revoking or Reviewing Orders

- 3.4.1.** Carers and represented persons must apply to SAT to have orders reviewed or revoked. This requires extensive evidence and can be difficult to prove, especially when mental health fluctuates.

4. Accountability and Oversight of the Public Trustee and OPA

4.1. Public Trustee – Conflicts Created by the Self-Funding Model

- 4.1.1.** The self-funding model creates incentives to maximise fees from clients who can pay. This is inappropriate for a public institution entrusted with managing vulnerable people's finances. Clients should not unknowingly subsidise others.

4.2. Office of the Public Advocate – Need for Independent Governance

- 4.2.1.** Carers report inconsistent experiences depending on which guardian or team is assigned, highlighting the need for stronger independent governance of the Office of the Public Advocate. Independent oversight is essential to ensure that decision-making is of high quality, that the represented person's wishes are respected, and that delays and poor communication are addressed. It is also necessary to improve transparency in operations so that families and represented persons can have confidence in the system.

5. Role of the State Administrative Tribunal (SAT)

5.1. Natural Justice Concerns

- 5.1.1.** SAT is required to comply with natural justice, yet carers often receive only a few days' notice of hearings. They are frequently not provided with professional reports in advance. Hearings are often rushed, leaving carers overwhelmed and unable to respond adequately. Carers are overwhelmed to respond adequately in a one or two hour hearing, often with only a few days notice.

5.2. Inconsistent Capacity Assessments

- 5.2.1. There is no single legal definition of mental capacity in WA. SAT often relies heavily on professional reports, even when carers have long-standing knowledge of the person's abilities and preferences. Carers frequently express confusion about the term "capacity" and feel that the person's will and preferences are not adequately considered.

5.3. Need for Supported Decision-Making

- 5.3.1. Carers strongly support a shift toward supported decision-making, consistent with the Queensland model and the UNCRPD. This approach better accommodates fluctuating mental health and prioritises autonomy.

6. Recommended Actions

- 6.1.1. Improving recognition and inclusion of carers is essential to strengthening the guardianship and administration system. Primary carers should be identified early in the process through simple, direct questions such as, "Who takes you to your appointments?" This ensures that the people who provide day-to-day support are acknowledged, consulted and included in decision-making from the outset.
- 6.1.2. Strengthening notification and transparency is also critical. All stakeholders, particularly carers, should receive a minimum of fourteen days' notice before any SAT hearing. This timeframe allows families to prepare, seek advice and understand the implications of the proceedings. Carers must also be provided with all reports, assessments and evidence in advance so they are not blindsided by information presented for the first time during the hearing.
- 6.1.3. Introducing least-restrictive decision-making principles is another important reform. Supported decision-making should be prioritised wherever possible, ensuring that individuals retain as much autonomy as their circumstances allow. This approach aligns with human rights principles and better reflects the fluctuating nature of mental health conditions.
- 6.1.4. Exiting the system must also be made easier. Review and revocation processes should be simplified so that individuals are not trapped under guardianship or administration orders longer than necessary. The burden of proof required to demonstrate regained capacity should be reduced, recognising that recovery is often gradual and nuanced.
- 6.1.5. There is also a need to clarify roles across agencies. Many carers struggle to understand the distinct responsibilities of guardians, administrators and service providers. Clearer communication and public education would help families navigate the system more confidently and reduce confusion.
- 6.1.6. Funded advocacy for all carers and represented persons is essential. Every individual involved in a SAT hearing should have access to advocacy or legal support to ensure their rights, wishes and interests are properly represented.

- 6.1.7. Independent governing boards should be established to oversee both the Public Trustee and the Office of the Public Advocate. Independent oversight would improve accountability, enhance transparency and ensure that decisions are made in the best interests of vulnerable people.
- 6.1.8. Finally, complaints processes must be simplified and strengthened. An external, specialised complaints body should be created to provide impartial review and restore confidence in the system. Represented persons should also be allowed to speak publicly about their experiences, provided their privacy and the privacy of others are appropriately protected. This would promote transparency and empower individuals whose voices are often overlooked.

7. Conclusion

The experiences shared by carers throughout this submission reveal a guardianship and administration system that is struggling to meet the needs of the very people it is designed to protect. While the system plays an essential role in safeguarding vulnerable Western Australians, the perspectives presented here demonstrate that significant reform is required to ensure fairness, transparency and respect for the rights and preferences of represented persons.

Carers consistently describe feeling excluded from critical decisions, despite being the individuals who know their loved ones best and who provide the majority of day-to-day support. Their insights highlight systemic issues such as inadequate communication, cultural and language barriers, inconsistent decision-making, limited oversight and a lack of accessible complaints pathways. These challenges not only undermine the wellbeing and autonomy of represented persons but also place an immense emotional and practical burden on families.

As Helping Minds celebrates fifty years of supporting Western Australian communities, the organisation remains committed to amplifying the voices of carers and advocating for a system that recognises them as essential partners. The recommendations outlined in this submission aim to strengthen accountability, improve transparency, and embed supported decision-making principles that uphold dignity and autonomy.

Reforming the guardianship and administration system is not simply an administrative task - it is a matter of human rights, compassion and justice. By listening to carers and acting on their lived experience, Western Australia has the opportunity to build a system that truly protects vulnerable people while honouring their individuality, their relationships and their right to be heard.