

# Outline of proceedings

## JUSTICE ATKINSON: WELCOME

### Welcome

Attorney-General, the Hon Linda Lavarch, judicial colleagues, members and staff of the Law Reform Commission and honoured guests and friends. It is my pleasure to welcome you, on behalf of the Queensland Law Reform Commission, to the launch of the first discussion paper in our Guardianship Review.

The guardianship legislation was enacted to safeguard the rights and interests of adults with impaired capacity, that is, adults who are not able to make some or all of their own decisions. This impaired decision-making capacity might arise through dementia, intellectual disability, an acquired brain injury or mental illness. The guardianship legislation establishes a framework that allows others to make decisions on an adult's behalf, either informally or formally.

### The Guardianship Review

Late last year, the Attorney-General asked the Law Reform Commission to review the *Guardianship and Administration Act* and the *Powers of Attorney Act* and make recommendations on how to improve the existing system.

The Commission has a long involvement with this area of the law. It was the Commission's report in 1990s, *Assisted and substituted decisions*, which is the basis of today's guardianship legislation. It is therefore appropriate that the Commission is now charged with reviewing that legislation and making recommendations about how it could be improved.

It is also the sort of review that the Commission is ideally placed to consider for at least a couple of reasons.

Firstly, we are independent of the Government. That independence ensures that the Commission looks at these issues with an open mind and with our sole focus being to develop the best guardianship laws for Queensland.

Secondly, the Commission also has an established practice of wide and inclusive consultation with the public. For a review of guardianship legislation, which affects so many people in the community, this sort of public dialogue is not just desirable but essential.

### The Commission's Paper

The Commission's terms of reference direct it to take a three stage approach:

- First, the Commission must consider the role of confidentiality in the guardianship system.

- Second, the Commission will review the legislation's General Principles – these are the guidelines for how decisions for adults with impaired capacity should be made.
- Finally, the Commission will examine the guardianship legislation more broadly.

Our focus today is on stage one – confidentiality – which is the subject of this Discussion Paper *Confidentiality in the Guardianship System: Public Justice, Private Lives*.

Embedded in this title is the tension that underpins this issue. On the one hand, the importance of justice being dispensed in public so that it is accountable. On the other hand, respecting that the guardianship system is there to protect adults with impaired capacity, who like the rest of us, are entitled to their privacy.

I will now invite the Attorney-General, the Honourable Linda Lavarch, to officially launch the Discussion Paper.

## **ATTORNEY-GENERAL LAUNCHES DISCUSSION PAPER (APPROX 5 MINUTES)**

### **JUSTICE ATKINSON: INTRODUCE BEN**

The consultation process has now officially begun and we would like to hear your views and the views of the community. I will now ask Ben White, the full-time Commissioner of the Law Reform Commission with responsibility for this reference, to speak about the consultation process and the Discussion Paper.

### **BEN SPEAKS**

## **JUSTICE ATKINSON: CLOSE**

### **Thank you**

Thank you all for your interest and support for the Commission's Guardianship Review. Before closing, I would like to briefly thank some of the people who have contributed to this review so far.

1. The Commission's Reference Group. Early in the Review, the Commission established a Reference Group to advise the Commission on issues it would need to consider and how best to consult with people. Members of this group have been very generous with their time and their input has been invaluable.
2. I would also like to thank those members of the public who have already taken time to make a submission already. Those submissions have been useful in framing some of the issues in this Discussion Paper and we are grateful for your help.
3. Thank you also to the Honourable Linda Lavarch for launching our discussion paper and for supporting this independent review of guardianship legislation.
4. I should also like to thank Dr Ben White, who is the full time Commissioner responsible for the guardianship reference and QUT who has given him to the Commission on secondment, and the part-time commissioners and staff of the Commission, particularly Paula Rogers for their hard work and commitment to this project. In addition I would like to thank Donna Macdonald who did so much to assist in making the consultation documents more accessible.

Finally, thank you to everyone who has taken the time to attend today and who has expressed an interest in the Guardianship Review. I invite your continued involvement with the Review, and the Commission looks forward to hearing your views on Queensland's guardianship legislation.