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Submission No. 37

## GUARDIANSHIP LAW REFORM RESPONSE

RAMSAY  
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Qn 5: We are in agreement with Option C.

Qn 6: We are in agreement with Option B.

Qn 7: We are in agreement with Option A. No change.

Qn 8: We are in agreement with Option A. No change.

Qn 9: No change.

Qn 14: We do not agree with the Commission's proposal to introduce new supported decision making arrangements for the following reasons:

- Concern re legal responsibility of a co-decision maker.
- Concern re the person's capacity to understand information and be able to make decisions, particularly if assessed by professionals as lacking capacity to do so. This may place a vulnerable person at risk of harm.

**NOTE:** I am unclear about the requirements for pursuing Guardianship and Administration. Are all the steps listed required before getting to that stage? Will there be an expectation by VCAT members that all steps are tried first. I have significant concern about such delays and the impact on acute health services if we are extending already lengthy processes.

Qn 23: We believe that the financial powers should be able to be activated before the person making the appointment becomes incapable. However, the date the powers become effective should be noted on the form.

Qn 24: We agree that parents or carers of children with disabilities should be able to file a document with VCAT which states their wishes about future Guardianship or Administration arrangements.

Qn 25: It should be mandatory for VCAT to take these wishes strong priority when making a decision.

Qn 27: We believe that there should be one type of appointment, but the document would need to clearly state who is being appointed for what role?

Qn 28: We believe that there should be a registration system. We are not clear about how that would work in practice? How would it be Policed if it was online only?

Qn 29: VCAT should hold the register.

Qn 30: Registration should be compulsory, with strict privacy arrangements.

**Qn 31:** If the EPOA is not registered, then it should not be valid. However, this would probably need concessions for EPOAs made prior to implementation of the new laws.

**Qn 32:** Registration should occur when the EPOA is made.

**Qn 33:** We are not sure about who should have access. Certainly the medical profession would need access to a Medical EPOA. Social Work would need access when considering a VCAT application or where there are concerns about the person's capacity.

**Qn 38:** We are in agreement with Option B.

**Qn 39:** We are in agreement that it should be possible to make instructional directives about things other than medical treatment. However, a person's safety should always override patient wishes once they have lost capacity to make decisions.

**Qn 42:** Written reason for overriding patient wishes should be provided.

**Qn 46:** Advanced directives should be registered if we are registering EPOAs.

**Qn 50:** We are in agreement with Option C.

**Qn 52:** We are in agreement with Option B.

**Qn 55:** We are in agreement with Option A.

**Qn 62:** We believe that a Guardian should have the power to make decisions about whether the represented person should have a driving assessment for safety reasons. We don't believe that the Guardian should be able to consent for organ donation.

**Qn 74:** We are in agreement with Option A.

**Qn 82:** We are in agreement with Option A.

**Qn 85:** We are in agreement with Option B.

**Qn 88:** We believe that the law does strike the right balance between respecting people's wishes and protecting vulnerable people.

**Qn 90:** We are in agreement with Option B.

**Qn 105:** Yes Administrators and EPOAs who have been investigated and substantiated to have misused the person's funds, should be made repay the money. There would need to be clear procedures for investigating such allegations.

**Qn 118:** Public Advocate should not be appointed as investigators of abuse/neglect. This should be the role of a separate body. One possibility may be a Department of Human Services Adult Protection Unit. Guardianship and Administration should be protected and kept very separate to investigation.

**Qn 127:** Public Advocate should be responsible for training and supportive private Guardians.

**Qn 135:** We believe that the Guardianship List should ensure that sufficient evidence is available before the hearing. They are then responsible for chasing all the required documents and not deferring to already stretched parties.

**Qn 137:** We are in agreement with Option A.

**Qn 138:** We are in agreement with Option A.

**Qn 139:** We are in agreement with Option A.

**Qn 150:** We are in agreement with Option A.

**Qn 151:** We believe that we should continue informal VCAT hearings.

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