

Submission No. 7aPeter & Ruth den Brinker  
for**Fax**

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<b>Fax:</b>	(03) 8608 7800	<b>Pages:</b>	2 + 1 + 1 = 4 pages
<b>Phone:</b>	1300 666 555 / 03 8608 7800	<b>Date:</b>	30/03/2011
<b>Re:</b>	Victorian Law Reform Commission and Guardianship and Administration Act Consultations	<b>Reference</b>	
<b>Urgent</b>	<input checked="" type="checkbox"/> For Review	<input type="checkbox"/> Please Comment	<input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle

**Subject:** Access to VCAT Guardianship Files, VCAT, OPA, DHS, CSOs, ODSC & Ombudsman

Dear Sir/Madam

Please find attached copies of faxes sent to the Registrar and President of VCAT. We believe they are self-explanatory, however if there are any further details you require please contact us.

These faxes are effectively responses to Questions 142, 143 and 144 of the Consultation Paper. Also below further feedback is provided of some of our experiences as Plenary Guardians with The Office of the Public Advocate (OPA), the Victorian Civil and Administration Tribunal (VCAT), the Department of Human Services (DHS), the Office of the Disability Service Commissioner (ODSC) Victorian Ombudsman and Community Service Organisations (CSOs).

Our responses question the role of VCAT in protecting the rights of represented people which VCAT in our experiences has failed to do repeatedly.

A VCAT member in 2009 questioned the need for us to have guardianship at all, even though we were appointed Plenary Guardians in 2003. The VCAT member claimed that as parents we could do everything that legal guardians could do. This is incorrect and of grave concern. Furthermore, the initial reason for applying for guardianship was for legal representation of our son at VCAT and such representation at VCAT was ruled by VCAT itself as not possible without guardianship.

The Office of the Public Advocate (OPA) should also not automatically have any 'rights' without the consent of Administrators and Legal/Plenary Guardians. As Plenary Guardians, we have contacted the Public Advocate for assistance and never had any response from her. Also, when representing our son at the Office of the Disability Service Commissioner (ODSC), OPA failed to provide assistance requested. Because of that failure, for instance at a meeting in March 2009, we had to call for urgent assistance from another family member, otherwise father/plenary guardian would alone have had to face eight people:

- Three (3) members of the ODSC

- Two (2) Senior Representatives from the Department of Human Services Representatives (DHS); and
- Three (3) representatives of a Community Service Organisation (CSO) including their CEO.

Objections to the inappropriate presence of the Community Service Organisation were ignored by the Office of the Disability Service Commissioner. The ODSC was well aware of our guardianship status.

Also, in the case of OPA, we discovered that rather than providing assistance to us, OPA was subsequently found to have discussed with Department of Human Services staff the removal of Guardianship from us, as we were representing our son's interests. This included us raising the false imprisonment of our son by a Community Service Organisation, supported by DHS.

Another Community Service Organisation from New South Wales but operating in Victoria and other states, engaged in unconscionable conduct in Victoria in March 2010 in relation to services for our son. We lodged complaints with the Victorian Department of Human Services, the Victorian Ombudsman and the Victorian Disability Services Commissioner. None took any action. The Office of the Disability Services Commissioner did nothing on the basis that the Community Service Organisation was not registered as a service provider in Victoria (even though operating in Victoria). This New South Wales-based Community Service Organisation presented documentation which they wanted signed immediately (under duress – unconscionable conduct) and which had attachments which referred to the NSW Ombudsman and the New South Wales FOI legislation. This in fact should also be a case for having a Federal Guardianship Act, rather than one that only applies in Victoria.

As expressed in the attachments, we have also been concerned at the interference which has occurred in VCAT processes. This has been raised (in writing) with the VCAT President several times over the last two months ago but not even an acknowledgement has been received. We wrote to VCAT as Plenary Guardians.

Elements of the issues mentioned in our faxes were raised during two consultation meetings we attended, one last year and one last week.

If there are any further details you require, please contact us.

Yours sincerely,

P.A.V. den Brinker - Parent and Plenary Guardian

J.R. den Brinker - Parent and Plenary Guardian

**Attachments:** Copies of 2 Faxes: To Registrar of VCAT; To the President of VCAT

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