

Submission No. 14

Victorian Law Reform Commission
PO Box 4637
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Vic 3001

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13 MAY 2010

14 / 5 May 10

Dear Sir/Madam

Re the Guardianship and Administration Act 1986

I understand that you are considering possible changes to the above Act.

I have recently come across a situation which suggests to me that changes could be useful.

I understand there can only be one alternative Guardian nominated. This is limiting in a situation many families may now find themselves in.

The situation we faced is as follows -

A and B are in a recognized relationship and produce offspring X. As in many relationships B is replaced by C. C is diagnosed with dementia and A and C decide the time has arrived to appoint someone with enduring Guardianship powers.

X is appointed to be Guardian of their blood relative A. A is appointed as Guardian to C and X is the alternative so that one person can look after the interests of A and C at the same time if required. Both A and C want to be in the same nursing home if they both need such care at the same time. They believe that this arrangement will give them the best chance of this happening.

It is understandable that X makes it clear that should A predecease C they will not want to continue the arrangement and would want to pass the responsibility over to a blood relative of C. Because only one alternative is allowed should this situation arise and if C is incapable of making decisions X will have to revoke the existing arrangement and involve VCAT in the appointment of someone else.

X takes the view that they will be uncomfortable doing this and would have preferred a situation where a second alternative could be already appointed in the event that A predeceased C. Both A and C would have been happier with that arrangement and take the view that they could have involved the second alternative beforehand to the extent that they could have secured their commitment by asking them to sign the documents.

If I have not made myself clear please do not hesitate to telephone me.

Yours sincerely

ANTHONY J WALSH