

## **SUBMISSION TO THE**

### ***Draft Guardianship and Administration (Tribunal Proceedings) Amendment Bill 2025***

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#### **Submission authorised by**

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COTA SA welcomes the opportunity to provide a submission on the *Draft Guardianship and Administration (Tribunal Proceedings) Amendment Bill 2025*.

COTA SA is an older people's movement run by, for and with older people. We represent the rights, interests and futures of around 700,000 older South Australians. Our policy and advocacy work is informed by extensive engagement across metropolitan, regional and remote communities, including through our Policy Council.

COTA SA is committed to ensuring older South Australians have the opportunity, capacity and support to navigate the changes of ageing in their place of choice, with dignity, security and purpose.

#### **Why this matters to older South Australians**

Older people are prominent users of our hospital system.

Australians aged 65 and over account for a significant share of hospital admissions and often face complex decisions about care, support and living arrangements on discharge.

Ensuring the South Australian Civil and Administrative Tribunal (SACAT) can make timely guardianship and administration orders is critical for the individuals involved, and also for the hospital system.

At the same time, these processes must include robust safeguards to uphold older people's rights and protect against unintended harm or elder abuse.

## **COTA SA's response to the proposed amendments**

### **Support for prioritising applications concerning hospital inpatients**

COTA SA supports the introduction of section 65A, which ensures that applications for guardianship or administration orders relating to people who are inpatients of incorporated hospitals are treated as a priority and must be heard within 14 days.

- We recognise this is a practical response to avoid prolonged hospital stays due to waiting for Tribunal orders.
- Timely decisions are essential to facilitate appropriate discharge, support system flow, and reduce distress for older people stuck in hospital longer than needed.

### **Concerns about reduced notification requirements**

However, we have concerns about the proposed changes to section 66, which would enable the Tribunal to dispense with or shorten notice requirements to people who might otherwise be notified of proceedings.

- While we appreciate the need for flexibility in urgent cases, it is vital that reducing notice does not inadvertently remove important checks that protect the interests of older people.
- Family members, trusted others or community supports who might otherwise be informed play a role in ensuring decisions are scrutinised and that the older person's views and wishes are understood.
- We would like to see clear guidance developed on the circumstances under which notice can be reduced or dispensed with, to maintain confidence that this safeguard is only waived when truly necessary.

### **Concerns about extended review periods**

We also note the Bill proposes to extend the standard timeframe for reviews of orders under section 57, moving from reviews within six months and annually thereafter, to within one year and then at intervals of up to three years.

- While we understand this may reduce administrative burden, we are concerned it could result in less frequent oversight.
- This is only acceptable if it remains simple and accessible for the person subject to the order (or their representatives) to initiate a review at any time.
- We would welcome assurances that pathways for applying for interim reviews are straightforward, affordable and well-communicated.

### **The opportunity to strengthen advocacy protections**

Finally, this is an important opportunity to reinforce the principle that people subject to guardianship or administration orders should be informed of their right to an advocate.

- Currently, there is no explicit statutory right for a person who is the subject of an application or order to be advised of or provided with independent advocacy.
- Establishing this would be a critical safeguard against elder abuse and undue influence, and aligns with broader commitments under safeguarding and rights-based frameworks.

### Conclusion

COTA SA appreciates the focus of these legislative amendments on enabling more timely decisions that support hospital flow and reduce prolonged stays. However, we emphasise the importance of maintaining strong safeguards to protect the rights and interests of older South Australians.

We would welcome the opportunity to discuss these matters further with the Attorney-General's Department or relevant agencies to help ensure the final Bill upholds both efficiency and protection for those most affected.

### For further information

COTA SA looks forward to continuing to contribute to discussions on guardianship and administration processes. Please contact Miranda Starke, Chief Executive, in the first instance.

### Acknowledgement of Country

*COTA SA acknowledges and respects Aboriginal people as the Traditional Custodians of the land of South Australia. We honour Aboriginal peoples' continuing connection to Country and recognise that their sovereignty was never ceded. We pay our respects to First Nations Elders past, present and emerging, and extend that respect to all Aboriginal people.*