

Submission to the Community Development and  
Justice Standing Committee Inquiry into the  
Guardianship and Administration System in Western  
Australia

**28 May 2026**

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## Who we are

The **Australian Lawyers Alliance (ALA)** is a national association of lawyers, academics and other professionals dedicated to protecting and promoting access to justice and equality before the law for all individuals.

Our members and staff advocate for reforms to legislation, regulations and statutory schemes to achieve fair outcomes for those who have been injured, abused or discriminated against, as well as for those seeking to appeal administrative decisions.

The ALA is represented in every state and territory in Australia. We estimate that our 1,650 members represent up to 220,000 people each year across Australia.

Our head office is located on the land of the Gadigal people of the Eora Nation. As a national organisation, the ALA acknowledges the Traditional Owners and Custodians of the lands on which our members and staff work as the First Peoples of this country.

More information about the ALA is available on our website.<sup>1</sup>

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<sup>1</sup> [www.lawyersalliance.com.au](http://www.lawyersalliance.com.au)

## Introduction

1. The ALA welcomes the opportunity to provide submissions to the Community Development and Justice Standing Committee Inquiry into the Guardianship and Administration system in Western Australia.
2. The ALA is a strong supporter of the rights of people with disabilities. Many of our members act for clients without decision-making capacity usually because they are a child or due to brain injuries, mental illness and intellectual disabilities (“represented persons”).
3. Our members provide legal representation to represented persons on instructions from the Public Trustee in relation to predominantly personal injury claims; including for historical child sexual abuse, workers’ compensation, motor vehicle accident, national redress, public liability and criminal injuries compensation.
4. ALA members are subject to strict confidentiality obligations. Accordingly, these submissions are necessarily broad in nature and do not address identifiable client matters.
5. The ALA notes that members’ interactions with the Public Trustee are primarily through its legal officers and legal support staff. Accordingly, the observations below largely arise from members’ experiences engaging with the Public Trustee’s legal function in the context of acting in relation to personal injuries claims.

## Organisational Capability and Representation and Protection of Vulnerable Persons

### *The Public Trustee*

6. ALA members have observed that legal matters referred by the Public Trustee for represented persons are increasing in both number and complexity.
7. In particular, common law negligence claims, criminal injuries compensation claims and national redress claims arising from child abuse and/or neglect often require extensive review of historical records, complex liability considerations, psychological injury evidence and management of vulnerable clients with significant trauma histories.
8. The increasing number and complexity of matters appears to place additional demands on existing Public Trustee resources and may affect the timeliness with which instructions are provided, decisions made and matters progressed.

9. ALA members report receiving instructions on a piecemeal basis, including briefs containing extensive evidentiary material that has not been chronologically organised, categorised or otherwise distilled, as well as briefs that lack information necessary to properly advise or progress claims.
10. Members observe that significant practitioner time can therefore be spent undertaking administrative tasks such as collating records, preparing chronologies, identifying missing material and seeking further instructions, before substantive legal work can commence.
11. The ALA does not attribute these issues, which can contribute to delays, duplication of work and increased legal costs, to individual conduct. Rather, member experience suggests they are reflective of broader workload and resourcing pressures encountered by the Public Trustee in terms of staffing levels.
12. Delays have potential consequences for represented persons whose legal claims may depend upon timely evidence gathering, medical assessments or compliance with statutory limitation periods. Such delays may also prolong legal proceedings, increase uncertainty and impede timely resolution of claims for represented persons.
13. Additionally, where legal costs are ultimately borne by represented persons' funds, inefficiencies in briefing processes and information management may have direct financial consequences for represented persons.
14. This issue may be of particular concern in relation to criminal injuries compensation claims and national redress claims. In those matters, legal costs are commonly met from any award obtained by the applicant, meaning unnecessary delay, duplication of work or additional administrative burden will reduce the net benefit ultimately received by the represented person.
15. Members have observed that the increasing complexity of certain claim types, combined with administrative inefficiencies and resourcing pressures, may affect the willingness or capacity of practitioners to accept instructions from the Public Trustee on behalf of represented persons and particularly in certain jurisdictions, creating access to justice issues.
16. The ALA considers that improved resourcing within the Public Trustee's legal department may facilitate more streamlined briefing practices, including provision of organised chronologies, relevant medical records, key evidentiary documents and clear instructions at the outset.

17. Increased resourcing for additional administrative staff may also improve the Public Trustee's capacity to undertake administrative tasks such as evidence gathering and completion of procedural documentation. Improved efficiency in these areas will likely shorten delays and reduce costs ultimately borne by represented persons.

*The Office of the Public Advocate*

18. Based upon members' experiences, the ALA similarly considers that the Office of the Public Advocate may also be affected by resourcing constraints.
19. Though members engage significantly less with the Office of the Public Advocate than with the Public Trustee, from time to time it may be necessary to consult with the Office of the Public Advocate, as guardian of a represented person, to determine whether they are capable of engaging in a certain legal proceedings or in medico-legal processes.
20. Members have observed significant delays in communication and obtaining responses from the Office of the Public Advocate in relation to such matters. Delays of this nature have potential to impede progression of claims and contribute to prolonged uncertainty for represented persons.
21. The ALA considers that existing resourcing levels within the Office of the Public Advocate may warrant review to ensure vulnerable persons receive timely support, representation and assistance with decision-making.

## **Organisational Culture of the Public Trustee and Office of the Public Advocate and Service Delivery**

*Public Trustee*

22. The ALA has not identified concerns regarding organisational culture within the Public Trustee in the limited context of members' dealings with its legal officers. Feedback from members suggests interactions are generally professional and constructive.
23. To the extent concerns arise, they more commonly relate to delays and administrative pressures, which are likely attributable to resourcing constraints rather than cultural issues.

*The Office of the Public Advocate*

24. The ALA has not received sufficient feedback from members to make observations concerning organisational culture within the Office of the Public Advocate.
25. We note however that our members' interactions with the Office of the Public Advocate tend to be comparatively limited and generally arise only in specific circumstances relating to represented persons.

## **The adequacy of mechanisms currently in place to resolve complaints, disputes and allegations**

26. Members report that, from time to time, represented persons express dissatisfaction or raise concerns regarding decisions made by the Public Trustee and/or Office of the Public Advocate in relation to administration of their affairs, financial management, guardianship decisions or other matters affecting their personal circumstances.
27. Based upon members' observations, the processes available for raising and resolving such concerns do not always appear transparent to represented persons. In particular, represented persons may experience difficulty understanding how complaints are assessed, progressed or determined, and what avenues of review or escalation may be available.
28. The ALA considers that greater transparency regarding complaint pathways, review mechanisms and decision-making processes may assist represented persons and their families to better understand how concerns can be raised, reviewed and independently considered.
29. Additional funding and resources could assist with the facilitation of clear guidelines, factsheets and further education to better assist protection persons and their families with their understanding regarding complaints, disputes and allegations .

## **Accessibility of Information**

30. The ALA has not undertaken extensive enquiries of members concerning the accessibility of information provided by the Public Trustee or Office of the Public Advocate, outside members' dealings with legal officers in the course of progressing legal matters.
31. Accordingly, the ALA is not in a position to make broad observations regarding whether information is generally provided in a timely, fair and transparent manner.

## **Outcomes for represented persons and their families**

32. The ALA acknowledges the Public Trustee's role in discharging its obligations to act in the interests of represented persons, including by obtaining legal advice and pursuing legal claims where appropriate.
33. Members' experiences suggest that the Public Trustee is generally proactive in seeking legal assistance in circumstances where specialist advice is required to protect the interests, entitlements or assets of vulnerable persons.
34. The ALA considers that outcomes experienced by represented persons and their families in the context of personal injury claims may improve if the resourcing issues and administrative constraints discussed above are addressed. In particular, improved resourcing may assist in reducing delays, improving efficiency and communication, and supporting more timely progression of matters affecting vulnerable persons.
35. The ALA has not undertaken extensive enquiries of members concerning broader outcomes experienced by represented persons and their families and is therefore not in a position to make further observations on this issue.

## **Whether current oversight mechanisms are adequate to ensure guardians and administrators are held accountable for their decisions.**

36. The ALA has not undertaken extensive enquiries of members concerning the adequacy of current oversight mechanisms applicable to guardians and administrators and is therefore not in a position to make broad observations regarding whether existing mechanisms are sufficient to ensure accountability.

## **The role and conduct of the State Administrative Tribunal**

37. ALA member's interactions with the State Administrative Tribunal in matters involving represented persons, commonly consisting of applications for guardianship and/or administration orders (or reviews of such orders) have generally been positive.
38. Members observe that the State Administrative Tribunal frequently adopts an active case management role, progresses applications in a timely manner and takes practical steps to facilitate efficient resolution of matters.

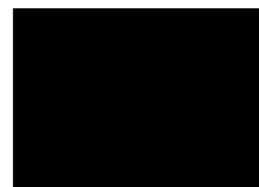
39. Members further observe that the Tribunal appears mindful of the circumstances and vulnerabilities of represented persons when managing applications and conducting hearings.
40. The ALA considers that active case management and a focus on accessibility and timeliness are important features in proceedings involving vulnerable persons and continued resources including the additional appointment of further full-time 1 x Senior Member and 1 x Ordinary Member in addition to the current appointments would assist with any backlogs experienced to date and will ensure the expediated hearing of matters in a timely manner.

## **Conclusion**

41. In summary, the ALA's recommendations focus on strengthening the capacity and increasing staffing resources of the Public Trustee and the Office of the Public Advocate (as well as the State Administrative Tribunal) to better support represented persons through improved resourcing, more efficient administrative and briefing practices, and clearer, more transparent complaint and review processes.
42. In the ALA's view, these measures would assist to reduce delay, minimise unnecessary legal costs, improve communication and decision-making, and promote more timely and effective outcomes for protective persons and their families in the context of personal injuries claims.

Thank you for the opportunity to provide submissions.

We would be more than happy to appear before the Community Development and Justice Standing Committee and give evidence with respect to this Inquiry if this would be of assistance.



**Eleanor Scarff**  
**President of the WA Branch**  
**Australian Lawyers Alliance**