

# Budget submission for improving natural justice and procedural fairness in the ACT Administrative and Civil Guardianship Tribunal

February 28, 2024

2024-25 ACT Budget Consultation  
ACT Treasury

Dear 2024-25 ACT Budget Consultation

Subject: 2024-25 Budget submission for enhancing natural justice and procedural fairness in the ACT Civil and Administrative Guardianship Tribunal.

I am writing to submit a proposal for the allocation of funds to improve natural justice and procedural fairness within the ACT Civil and Administrative Guardianship Tribunal. At present, the processes of the Tribunal are failing to protect some of the most vulnerable in our community, their families, carers and supported and alternate decision makers. Recognising the fundamental importance of these principles in upholding the rule of law and ensuring procedural fairness for all parties involved, I propose the following initiatives to enhance the functioning of our tribunals:

1. Review into the processes and outcome of the ACT Civil and Administrative Guardianship Tribunal: Conduct a review into the processes and outcomes of the Tribunal and make recommendations for improvement. In my experience, some Members are ill equipped to make decisions on complex mental health matters. In addition, the ACAT was unable to provide an interpreter at a hearing, and failed to meet it's own timelines and service mandate.
2. Provision of mental health experts to advise Members: Members, who generally have a legal background, are at times out of their depth when interpreting mental health reports. They rely on their own interpretation of medical evidence with little understanding of mental health conditions on the executive functioning and decision-making ability of vulnerable persons in the community. Implement an expert adviser (e.g. a mental health expert) to sit on Tribunals to assist Members with their decisions.
3. Training and development of ACAT Members and Staff: Implement a comprehensive training and development program for Tribunal Members, legal practitioners, and support staff focused on the principles of natural justice, procedural fairness, ethical conduct and treatment of vulnerable persons, their families, carers and decision makers. This program would

include workshops, seminars, and online resources designed to enhance awareness, knowledge, and skills in navigating complex legal proceedings while upholding fairness and impartiality.

4. **Enhanced access to legal assistance:** Allocate resources to establish or expand legal assistance programs aimed at providing free or subsidised legal representation to individuals who may otherwise be unable to afford legal representation. This initiative will promote access to justice and ensure that all parties have adequate support to effectively participate in tribunal proceedings, thereby mitigating disparities in legal representation and empowering vulnerable populations. At times, the Guardianship Tribunal is incapable of assessing complex information pushing burden back on to vulnerable persons and their support networks and leaving them with only the option to seek unaffordable legal representation.
5. **Technology and infrastructure upgrades:** Invest in technological upgrades and infrastructure improvements to streamline Tribunal processes, reduce administrative burdens, and enhance the accessibility of Tribunal services. This may include the development of online platforms for case management, electronic filing systems, remote hearing capabilities, and facility upgrades to accommodate the needs of diverse users, including those with disabilities.
6. **Community engagement and outreach:** Allocate funds for community engagement and outreach initiatives aimed at increasing public awareness of Tribunal processes, rights, and responsibilities. This may involve hosting public forums, producing informational materials in multiple languages, and collaborating with community organisations to ensure that all members of the community are informed about their rights and avenues for seeking redress through the tribunal system.
7. **Research and evaluation:** Allocate resources for research and evaluation activities to assess the effectiveness of implemented initiatives, identify areas for improvement, and inform evidence-based decision-making. This may involve conducting surveys, collecting feedback from stakeholders, and commissioning external evaluations to measure the impact of interventions on the attainment of natural justice and procedural fairness objectives. Make the research and evaluation public in a time manner (e.g. every 12 months).

In conclusion, the proposed initiatives aim to strengthen the integrity, efficiency, and accessibility of the ACT Civil and Administrative Guardianship Tribunal, which is failing some of the most vulnerable in the ACT community, by prioritising natural justice and procedural fairness principles. By investing in training, legal assistance, technology, community engagement, and research, we can ensure that our tribunals adhere to fundamental principles of fairness, equity, and transparency in the administration of justice.

Thank you for considering this budget submission. I am confident that with your support, we can make meaningful strides towards achieving our shared goal of enhancing access to justice for all members of the ACT community.

Yours sincerely,

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