

**GUARDIANSHIP AND ADMINISTRATION BOARD
HOBART**

Ms K.U., on the application of Ms T.T. on behalf of **Disability Services**

GAB NO. XXXX of 2006

REASONS FOR DECISION

Malcolm Schyvens (Chair)
Lindsay Wall (Board Member)
Kim Barker (Board Member)

Date of Hearing: 10th November 2006

Guardianship – accommodation and support - unsafe and antisocial behaviour – need for independence

Guardianship and Administration Act 1995 (Tas), ss 6, 20

1. This is an application pursuant to section 19 of the *Guardianship and Administration Act 1995* (“the Act”) for the appointment of a guardian, namely the Public Guardian, in respect of Ms K.U.
2. The application was received by the Board on 3 October 2006, the applicant, Ms T.T., is an employee of Disability Services which provides services to Ms K.U..
3. The Board considered the following documents:
 - (a) Original application for guardianship provided by Ms T.T. dated 29 October 2006;
 - (b) Health Care Professional Report dated 24 August 2006 completed by Dr Chris Funnell;
 - (c) Copy of correspondence from Dr Chris Funnell to Ms Carol Marino. (Disability Services) dated 2 June 2006;

- (d) Psychology Report completed by Mr Matt Thomas dated 24 April 2003;
- (e) Correspondence from Tasmania Police to Guardianship and Administration Board dated 26 October 2006 enclosing list of prior convictions and court matters pending in relation to Ms K.U.;
- (f) Copy of email from Ms Karen Fros (Disability Services) to Ms T.T. et al dated 2 October 2006;
- (g) Email from Ms Jane Blake to Guardianship and Administration Board dated 1 November 2006; and
- (h) Email from Ms Rowena Tye (Disability Services) to Guardianship and Administration Board et al dated 7 November 2006.

4. The hearing was attended by the following persons:

Ms K.U. – proposed Represented Person
Ms Jane Blake – Advocacy Tasmania
Ms Karen Fros – Disability Services
Ms Rowena Tye – Disability Services
Sgt. Brian Edmonds – Tasmania Police
Ms Lisa Warner – Public Guardian
Mr Michael Condon – Investigating Officer (GAB)

5. The application before the Board indicated that Ms K.U. is a 49 year old single woman who lives independently in a Housing Tasmania unit. Ms K.U. had been registered with Disability Services since 1988 and it was stated that Ms K.U. had been diagnosed with intellectual disability, epileptic seizures, suicidal ideation, self harm, disruptive behaviour and displaying verbally and physically challenging behaviours. The application went on to state that Ms

K.U. had for many years exhibited anti-social behaviour and that there had been frequent incidents in the community since 1995 involving the legal system. Ms K.U. is currently on a good behaviour bond for a period of 12 months. The essence of the application was the issue of Ms K.U.'s accommodation with the view expressed that if she remained in her current accommodation with minimal support there was an increased risk of Ms K.U. becoming further involved in the criminal justice system with the potential to lead to incarceration.

6. A health care professional report was supplied by Ms K.U.'s regular General Practitioner, Dr Chris Funnell. That report indicated that Ms K.U. has an intellectual disability together with borderline personality disorder and epilepsy and stated that the disability had been life long. A letter from Dr Funnell to Disability Services dated 2 June 2006 was also presented to the Board. This correspondence related to an event whereby Ms K.U. had taken an overdose of Paracetamol and Dr Funnell went on to state:

“I continue to believe Ms K.U.’s main issues as boredom and loneliness and renew my plea to place her in supportive housing. She has become an increasing danger to herself and to others. I am sure that she will be unable to obey her curfew as imposed by the police. She will eventually cause an accident in which someone will be hurt.”

7. A psychologist's report prepared by Mr Matt Thomas (Clinical Psychologist – Disability Services (South) Resource Team) dated 24 April 2003 was also presented to the Board. This report placed Ms K.U. in the “mildly intellectually disabled range of function”, noting

that Ms K.U. has a complex background (including medical and social issues), which included mild development disability, suffering head injury in childhood, as well as suspected viral meningitis and development of epileptic seizures in her early teens. The report indicated that Ms K.U.'s adaptive function was comparable with the average individual aged 14 years and 8 months.

8. On the issue of disability, all parties attending the hearing, including Ms K.U., agreed that Ms K.U. is a person with a disability.
9. The Board was satisfied on the basis of the report/correspondence from Dr Funnell (General Practitioner), Dr Thomas (Clinical Psychologist) and from evidence provided to the Board from those attending the hearing that Ms K.U. has a disability for the purposes of the Act.
10. Ms Tye provided evidence on behalf of Ms T.T. Ms Tye indicated that Ms K.U. had a long history of anti-social/unsafe behaviour which after resulted in police involvement, particularly in the last 12 months. This unsafe behaviour, which imposed a risk both to Ms K.U. and to the community, was primarily the result of Ms K.U.'s accommodation situation which does not provide sufficient support for her needs in the view of Ms T.T.
11. Ms Tye indicated that Ms K.U. received approximately 10 hours support per week from Disability Services but that the crucial time for support to be supplied was in fact outside working hours, that is, at a time when Disability Services could not provide support. This is the period when Ms K.U. has mostly exhibited anti-social

behaviour and has come in contact with Tasmania Police on numerous occasions and engaged in self harm activities.

12. Ms Tye, Ms Fros together with confirmation from Sgt. Edmonds then detailed numerous events relating to Ms K.U.'s behaviour in support of the application for the appointment of the Public Guardian, including the following:

- (a) Endangering others – it was indicated to the Board that during periods of “boredom” Ms K.U. will engage in throwing rocks at passing motor vehicles on a highway near her residence. This occurred most recently on or about 28 September 2006 and again on 30 September 2006. On each occasion police officers from the Police Station became involved. On the second occasion on 30 September 2006 Ms K.U. was taken into custody. Sgt. Edmonds indicated that this was the only option they had to ensure the safety of motorists as well as Ms K.U.'s own safety given the potential reactions of motorists who may have been struck by the rocks. Sgt. Edmonds noted that they were unable to attain Ms K.U.'s admission to the Royal Hobart Hospital and accordingly on the occasion of 30 September 2006 she was retained in custody for a period which he felt was entirely inappropriate but no alternatives were available;
- (b) Self harm – it was indicated to the Board that Ms K.U. had a long history of incidents of self harm, usually involving Paracetamol, and also having involved cuts to the body. The most recent event was stated to have occurred approximately 3 weeks prior to the hearing at which stage Ms K.U. had called an ambulance as a result of a Panadol overdose. It was suggested to the Board that there had been numerous calls by

Ms K.U. to authorities relating to potential or actual overdose of either Paracetamol or the consumption of cleaning agents; and

- (c) Dangerous activities – the Board heard that often of an evening, late at night, that Ms K.U. again when bored will walk the streets around her area which has resulted in her being the subject of abuse and assault both verbal and physical. It was alleged that Ms K.U. has also engaged in activity disturbing many in the area, for example, she has had incidents where she has been barred from local shopping centres due to her anti-social behaviour.

- 13. Ms Fros confirmed Ms T.T.'s view that Ms K.U. was in need of a more permanent support regime especially covering after hours when the majority of instances presenting risks to both Ms K.U. and to others have occurred in the past. From her experience in dealing with Ms K.U., Ms Fros indicated that Ms K.U. made “poor decisions” when she was unable to get assistance from others or to discuss how she is feeling. She felt that if Ms K.U. at least had constant access to others at or near her place of residence, she might then be able to seek assistance before making such poor decisions.
- 14. Ms T.T. then went on to describe in detail the immediate possibility of bed sit accommodation being made available for Ms K.U. which was attached to supported accommodation and which would provide the level of support that Ms T.T. believes Ms K.U. requires.
- 15. Ms K.U. confirmed that often she did become bored, especially after hours when she had no support available and that often this was when she became quite upset and incidents such as throwing rocks

occurred. However, Ms K.U. stated that she was fiercely independent and capable of living independently as she had done for many years. Ms K.U. indicated that the key to assisting with her problems was greater support and not moving her from her current residence.

16. As to the specific proposal presented by Ms T.T. for relocated accommodation, Ms K.U. was fiercely opposed on the basis that she wanted to remain independent, she was concerned as to increased cost of living due to sharing costs associated with “group living”, and she also wished to remain in the area that she was currently residing.
17. In considering all of the information presented the Board was exceedingly mindful of attempting to preserve Ms K.U.’s very evident preference for independence. However, given numerous incidents presented to the Board demonstrating the risk of harm to both Ms K.U. and to others at times when she lacked sufficient support, these considerations as to harm outweighed other considerations in this instance. The provision of more support is clearly in Ms K.U.’s best interests, to prevent her harming herself and to prevent further involvement with the criminal justice system.
18. The Board was satisfied on the basis of the information presented to it in support of the application that Ms K.U.’s disability prevented her from making reasonable judgments in respect of matters pertaining to her accommodation and living arrangements and accordingly was in need of the appointment of a limited guardian, namely the Public Guardian.

19. In appointing the Public Guardian, the Board expressed a strong view that all attempts should be made to achieve greater levels of support for Ms K.U. so that she may continue to live independently if at all possible whilst taking into account practicalities of available resources to provide such support. The Board clearly expressed the view that it in no way sanctioned the specific accommodation proposal advanced by Ms T.T. during the course of the hearing. The Board indicated that the Public Guardian will make decisions about Ms K.U.'s accommodation and support which will allow her the greatest level of independence as possible whilst minimising the risk of harm to herself and to others, the existence of which has required the decision of the Board in this instance.

The Board orders:

1. That the Public Guardian be appointed as the Represented Person's guardian;
2. That the powers and duties of the guardian are limited to decisions in respect to accommodation and support issues;
and
3. That this order remains in effect until 9 November 2009.

Reasons published 25 January 2007

Malcolm Schyvens
Chairman