

Guardianship and Administration Board
By telephone

B O, on the emergency application of Ms P, adult respite coordinator.

GAB No.

REASONS FOR DECISION

Anita Smith (President)

8 February 2003

Guardianship – emergency guardianship – allegations of physical abuse of person with intellectual disability – complex and unpredictable home life and care arrangements – represented person wanting to return home to unsafe environment – appointment of Public Guardian limited to accommodation decisions
Guardianship and Administration Act 1995 (Tas), ss 65

This is an application under part 8 of the *Guardianship and Administration Act 1995* for an emergency guardian to be appointed for BO.

B is a 23 year old woman who has an intellectual disability as a result of having Downs Syndrome. The applicant, Ms P is a Coordinator of Adult Respite at X in Tasmania (the “Respite Service”).

The Board first was contacted indirectly on Saturday evening when the Deputy Public Guardian left a telephone message and had a discussion with the Senior Investigation Liaison Officer. I was contacted directly at noon on Saturday 8 February 2003 by the Deputy Public Guardian. She indicated that an order was likely to be necessary as the result of alleged physical abuse of Ms O and she the referred the Board to Ms P for further information.

Ms P gave evidence in a telephone interview to the following effect:

- Ms O is a long term client of the Respite Service. She has usual and planned stays at the Respite Service, however, it is also usual for her mother and primary carer to extend such stays by failing to collect her from respite.
- The applicant has known the proposed represented person since September 2002, but is aware that she is a long term client of the Respite Services and Disability Services.
- B's disability presents her with a cognitive disability that impairs her ability to gather, process and contextualise information. For instance, in recent days, she has been teary due to being scared that she will get in trouble with her mother if she goes home. On the other hand she has been wanting to go home because she misses her mother. She has difficulty with social relationships. She is not experienced at making any significant life decisions and does not have the capacity to do so. B is capable of taking care of all her own physical needs, sometimes with prompting, but generally independently.
- B lives in a complex and unpredictable home life. Her mother has significant social stresses and since Christmas has also been coping with the poor recovery from an operation.
- Over Christmas 2002, B O's mother, Mrs O, had unplanned surgery for a hernia and her recovery was complicated by an infection. As a result of that, B O was taken to the Respite Service between 15 and 17 January 2003.
- On 20 January 2003, B was again admitted to the Respite Service for emergency accommodation. It was agreed with her mother that she would be collected on 22 January 2003. A letter was hand delivered to the Respite Service from Mrs O. It stated that Mrs O had received bad news about her son in Sydney that had been a shock. As a result, the letter stated, Mrs O was unwell. She asked the Respite Service to return B home on 27 January 2003 and at that stage B's brother, M, would

take over primary care of her. The letter stated a need for M to have support for B's care, due to his own delicate medical state.

- M is highly involved in B's care and this letter is not an unusual occurrence in the relationship between the Respite Service and Mrs O. The Respite Service has been unable to contact either person's responsible since delivery of the letter despite leaving numerous answering machine messages. B's stays are never well planned and this causes trauma for B.
- On Wednesday 22 January 2003, the applicant spoke to B and she mentioned having sore arms. On Thursday 23 January 2003, B showed staff at the Respite Service that some marks on her arm and stated that her mother had burnt her with a cigarette. Staff contacted the applicant. B repeated the same statement to the applicant.
- The applicant then took B to see Dr M, a GP and Sgt PA at the local Police Station, to whom she repeated the same statement.
- On Friday 25 January 2003, B attended the Police Station in Liverpool Street, Hobart for the purpose of photographing the marks on her arm. She was accompanied by RT, advocate and the applicant.
- It was not until Friday, 7 February 2003, that Police were able to conduct a video interview with B. She spoke with Officer LA and another Police Officer in a video interview. Her account of the origin of the marks on her arm was clear and consistent with all previous statements. As a result of that interview, Police have indicated that they intend to interview Mrs O on Tuesday or Wednesday the 11/12th February 2003.
- B was pre-booked by her mother to attend the Respite Service between 11 February 2003 and 16 February 2003.

- The urgency arises because B is, already, overdue for collection to return home with Mrs O and has been so since 27 January 2003. Should Mrs O or any member of her family arrive for collection of B, the Respite Service has no option but to send her home if that is B's wish. To do so would be to return her to a place where she is alleging violence has been perpetrated upon her and where Police investigations are continuing into that allegation.
- The applicant stated she had no personal knowledge of a history of violence in the O home. However, she did believe that B would experience great distress. This was on the basis that B has already been making grossly inconsistent statements about her desire to return home, on one hand, and her need to stay in the Respite Service for her own safety, on the other.
- Additionally, there is a possibility, although it appeared remote, that Mrs O has abandoned her home, perhaps temporarily. Some staff tending to Mrs O in her home reported that they have not been able to make contact. The Respite Service has also been unable to contact any family member. The staff assisting Mrs O reported that she may have moved to Sydney.
- There is possible danger of retribution against B following Police intervention. There may also be a need to consider urgently the accommodation issues for B if the contents of Mrs O's letter are correct.

In the circumstances, I am satisfied that it is proper by reason of urgency to make an order for to appoint the Public Guardian as a limited guardian in this matter for the purposes of accommodation. The order will expire on 7 March 2003.

The applicant was informed by telephone that an order would be granted. The Deputy Public Guardian undertook to inform BO of the decision personally within one hour (by approx 2.00 pm) and the reasons for it.

Anita Smith
President