



Social Security Appeals Tribunal

National Office
24th Floor, 500 Collins Street
Melbourne VIC 3000
PO Box 218
Collins Street West
Melbourne VIC 8007

12 February 2014

Mr Graeme Innes AM
Part-time Commissioner
Australian Law Reform Commission
GPO Box 3708
SYDNEY NSW 2001

By email: disability@alrc.gov.au

Dear Mr Innes,

Equality, Capacity and Disability in Commonwealth Laws

The SSAT seeks to make a brief, late submission in response to the following aspect of Issues Paper 44, "Equality, Capacity and Disability in Commonwealth Laws".

Question 27: What changes, if any, should be made to the nominee provisions under the Social Security (Administration) Act 1999 (Cth) to ensure that people with disability are recognised as equal before the law and able to exercise legal capacity?

The SSAT does not wish to express any opinion about those provisions but to point out that it is not the practice of the SSAT to permit any person (including such a nominee) to make and prosecute an application for a review by the SSAT of a decision about another person's entitlement to a social security payment without:

1. the person affected by the decision giving the SSAT his or her written authority; or
2. the person wishing to make and prosecute the application for review on behalf of another person providing evidence to the SSAT of his or her legal right to do so (such as an order or appointment under a relevant State law, or a Power of Attorney which expressly permits instigation of legal proceedings or the management of the person's financial affairs); or
3. the person wishing to make and prosecute the application for review providing evidence to the SSAT that the person affected by the decision is incapable of giving the SSAT a written authority and that there are sound reasons why no appointment as a guardian or administrator has been sought.

The social security law is complex. In a review of a decision made under the social security law, the SSAT permits any applicant to be accompanied by, or represented by, a person of his or her choice (whether or not that person is legally qualified). Contact details for

community organisations which may advise or represent an applicant in a review of a decision made under the social security law are available on the SSAT's website and are also given to persons asking the SSAT about assistance with an application for review.

The SSAT's *Annual Report 2012-13* (at page 14) outlines a pilot of a legal advice service being provided by Legal Aid NSW in the SSAT's premises in Sydney on a regular basis. Since then, Victoria Legal Aid has commenced the provision of a similar service in Melbourne, and the SSAT hopes that such services will be set up in other States.

As also outlined in the SSAT's *Annual Report 2012-13*, the SSAT's premises are wheelchair accessible. The SSAT provides teletypewriter and hearing loop services as well as AUSLAN interpreting on request. Applicants are invited to advise the SSAT of any special needs.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'J Macdonnell', written in black ink.

Jane Macdonnell
Principal Member