

6 September 2016

Mr Steven Sapountsis  
President  
Law Institute of Victoria  
GPO Box 263  
Melbourne VIC 3000

Via email: [president@liv.asn.au](mailto:president@liv.asn.au)

Dear Steven,

**Appointment of legal practitioners  
as administrators of the estate of represented persons**

Thank you for meeting with me on 1 September 2016. I refer to the discussions at the meeting.

As you are aware, in the Guardianship List, the Victorian Civil and Administrative Tribunal ('the Tribunal') has power to appoint legal practitioners as administrators of the estate of represented persons. These appointments may occur where a family seeks a legal practitioner to be appointed to this role, or as an alternative to professional or family appointments in circumstances of conflict.

The current Tribunal order for the appointment of legal practitioners provides that:

The administrator is entitled to charge remuneration (inclusive of GST) in accordance with the Practitioner Remuneration Order from the estate of the represented person for acting as administrator. *[Optional: Accounts must be provided on a quarterly basis to the Tribunal for approval.]*

During the regular quarterly assessment of accounts, the Tribunal has found that it is not uncommon for the costs and charges claimed by legal practitioners to be very substantial and disproportionate to the magnitude of the estate of the represented person. Tribunal Members sometimes reduce the amount of high claims to prevent the depletion of estates, especially given that the work is usually administrative rather than legal in nature.

The Tribunal welcomes the availability of legal practitioners for appointment as administrators. However changes would need to be made to the Practitioner Remuneration Order and to the standard Tribunal order. The Tribunal seeks the support of the Law Institute of Victoria ('LIV') to introduce a new clause 13 in the 2017 Practitioner Remuneration Order. Such a clause might provide that:

13. Where a legal practitioner is appointed by the Victorian Civil and Administrative Tribunal as an administrator of the estate of a represented person with all the powers and duties conferred by Part 5 Divisions 3 and 3A of the *Guardianship and Administration Act 1986* (Vic), his or her charges

under the First Schedule shall be reduced to 60 per cent of the charges otherwise appropriate.

If such a clause were introduced, the Tribunal's standard appointment order could be amended to:

1. [Legal practitioner] be appointed administrator of the estate with all the powers and duties conferred by Part 5 Divisions 3 and 3A of the *Guardianship and Administration Act 1986* (Vic).
2. The administrator is entitled to charge remuneration (inclusive of GST) in accordance with clause 13 of the Practitioner Remuneration Order from the estate of the represented person for acting as administrator. [*Optional: Accounts must be provided on a quarterly basis to the Tribunal for approval.*]

The Tribunal would hope that with these changes, there would be interest in administrator appointments by members of the legal profession experienced in guardianship matters. It would also provide the Tribunal with an increased variety of cost efficient options for the appointment of administrators. The Tribunal would consider maintaining a panel of legal practitioners willing to accept appointment as administrators on this basis.

The Tribunal looks forward to working with the LIV on this matter. If you have any queries regarding the information in this letter, please contact my Junior Associate, Sara Kingston on 9628 9059 or at [sara.kingston@supremecourt.vic.gov.au](mailto:sara.kingston@supremecourt.vic.gov.au).

Yours sincerely



**Justice Greg Garde AO RFD**  
President