

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON MENTAL HEALTH
LEGISLATIVE MEASURES MET AT HENTY HOUSE, LAUNCESTON, ON
17 FEBRUARY 2009**

Mr CLINT TAYLOR MADE THE STATUROY DECLARATION AND WERE EXAMINED.

CHAIR (Ms Forrest) - Welcome. We do record proceedings, Clint, and we will often use some of the transcript in our report because we actually prepare a report which will contain recommendations that the Government will consider but might not act on but the purpose of the inquiry is to look at the issue particularly related to the legislation that enables us to treat people without consent and that sort of thing. If you want to discuss things that you think are private in nature and you would not want them as part of the report then just ask for that. We still record it but it does not actually become part of the record. If that is the case you only have to request that and we can consider your request at that time. We can do it all in camera or only the part that you need and also things that are part of the public record we may actually quote in our report so you just need to keep that in mind in the evidence that you are giving.

You have not actually prepared a written submission for us but if you could just give us an overview of why you want to speak to the committee, and particularly if it is related to the legislation that guides that protective aspect of mental health services.

Mr TAYLOR - Some of my concerns are actually hearsay, there is no evidence -

Mr WILKINSON - Clint, I notice that you have some things in front of you. Is it easier to read from that? Then we can ask you questions.

Mr TAYLOR - I also have difficulties in speaking.

CHAIR - What would be the easiest for you? You tell us what would be the easiest.

Mr TAYLOR - I could answer questions and maybe have someone read what I have written so far and then ask questions based on that.

Mr DEAN - Chair, Clint was an official visitor to -

Mr TAYLOR - An official friend.

Mr DEAN - An official friend of -

Mr TAYLOR - Jess Bruce.

Mr DEAN - He has had a lot of involvement with Ward 1E in one way or another and has had a lot of experiences from that contact with Ward 1E. He spoke to me about them and that is why I referred him to this committee. I do not know whether Clint wants to talk to us about some of those experiences that he had as an official friend of the ward of that area and some of the things that happened.

CHAIR - Could you, first of all Clint, explain what an official friend is and what that role is. We know about the official visitor scheme where people go in and assess the service and what is happening and if people's rights are being met or considered. What does an official friend do?

Mr TAYLOR - It is someone who can be a personal friend to a patient but who can officially come and visit them and talk about their problems and issues.

CHAIR - And talk to the medical staff about their problems?

Mr TAYLOR - Yes, they can also liaise with them and be privy to some information. For example, you can request a meeting with the psychiatrist.

CHAIR - So you did that in your role with the friend you were representing?

Mr TAYLOR - Yes. There is also leave of absence. I took my friend under my care for some periods of time.

CHAIR - So you took responsibility for what happened to your friend -

Mr TAYLOR - Basically.

CHAIR - when they weren't in the hospital?

Mr TAYLOR - Yes.

CHAIR - In doing that have you or has your friend had problems with how that has worked? Is that what has happened?

Mr TAYLOR - To start with it was hard to even get to speak to the psychiatrist to talk about that. I was made to wait a long time before even getting to speak to the psychiatrist. I don't know what else I can say on that.

Mr WILKINSON - What was wrong with your friend, Clint?

Mr TAYLOR - Officially?

Mr WILKINSON - Yes.

Mr TAYLOR - He was diagnosed with paranoid schizophrenia.

CHAIR - Is an official friend similar to a responsible person? Do you know what a responsible person is under the Guardianship and Administration Act?

Mr TAYLOR - No.

CHAIR - That is someone who can make decisions on behalf of another. If, say, I had a child who was unable to make decisions for himself or herself regarding their treatment I could be the responsible person and make decisions on their behalf. Is that the sort of role you have?

Mr TAYLOR - It's not quite on that basis. It is only in the circumstances of leave of absence that I was responsible.

CHAIR - Did you have to fill out a form?

Mr TAYLOR - No, strangely enough.

CHAIR - So what happened then?

Mr TAYLOR - It was verbal. I had to approach them and state that I was interested in becoming my friend's official friend.

Mr WILKINSON - Was this person your friend beforehand?

Mr TAYLOR - Yes.

Mr WILKINSON - Right, so you had known him for some time?

Mr TAYLOR - Yes.

Mr WILKINSON - If I can ask, did the authorities want any evidence to show that you were a friend of his and that you had been a friend of his for some time or could it have been anybody who walked in off the street and said, 'I want to take whoever away to stay with me for a couple of days'?

Mr TAYLOR - The first part, no. The second part, yes, but you did have to have conversations with the relevant staff to affirm that you were associated in some way.

Mr DEAN - Clint, how did you know about this position? How were you aware of the fact that you could do that, that you could come in and identify yourself as an official friend?

Mr TAYLOR - I think I was told that by one of the nurses.

Mr DEAN - Is it an official position or is it simply something that Ward 1E have accepted? Do you know?

Mr TAYLOR - Yes. It's verbally official.

CHAIR - There's not a policy in place that you're aware of that would guide how that works, is there?

Mr TAYLOR - Not that I'm aware of.

CHAIR - We can ask about that, anyway. Was your friend on medication when he went to stay with you for that leave of absence?

Mr TAYLOR - Yes, he'd already been medicated.

CHAIR - So did you have responsibility for ensuring that he was compliant with his medication when he was with you?

Mr TAYLOR - I am just trying to recall - he started off on one form of medication and was switched to another during his stay. He could have been on tablets and I'm not sure of the regularity or any of that, because it wasn't my responsibility. There was no need for me to oversee medication.

CHAIR - When he was in hospital, was he a voluntary patient? Was he there of his own free will?

Mr TAYLOR - No, he was involuntary.

CHAIR - So he was on an order.

Mr TAYLOR - A community treatment order, yes.

CHAIR - So he was put on a community treatment order when he left hospital under your care, basically.

Mr TAYLOR - He was still under that. The same rules applied.

CHAIR - Yes. How long had he been on that order, do you know?

Mr TAYLOR - It might have been a couple of weeks by the time that I managed to arrange for leave of absence. My first contact in Ward 1E was shortly after his admission, within several days.

CHAIR - Okay. So when he left with you, it was on a continuing community care order. What support did you get, because if you weren't responsible for ensuring his compliance with medication when he was on an order, someone should be, I would think, or maybe not. Was there follow-up? Who actually was involved? How long was he out there with you in the community, and what support did you get when he was in the community with you?

Mr TAYLOR - Firstly, it started out on, I think, on the basis of a couple of hours, and then you can get access to do that, say, a couple of times a week. If that goes well, then you can request overnight leave or weekend leave. I had got to the stage of getting weekend leave and I had him out overnight when I had to return him to the ward because I had to go to Melbourne. But there weren't any provisions or any outside supervision or anything during that time.

CHAIR - So if a crisis had occurred with his health while he was in your care, either overnight or just for the day, what would you be required to do?

Mr TAYLOR - If I felt it was necessary, I'd have to return him to the ward.

CHAIR - Did you ever have to do that?

Mr TAYLOR - No, he was fine. He was just unwell.

CHAIR - Yes.

Mr WILKINSON - Is he out and about now?

Mr TAYLOR - Yes.

Mr WILKINSON - What did you think the problems of Ward 1E were, from your knowledge?

Mr TAYLOR - Disorganisation.

Mr WILKINSON - Why disorganisation?

Mr TAYLOR - It seemed to have had a lot of nursing staff who didn't keep proper memos and messaging between themselves, so you would speak to one person on one occasion and maybe they couldn't help you. They'd tell you to speak to someone else and that person didn't know anything about it, and all that sort of thing. It was a bit of a rigmarole, in my experience. It was poor communication.

Mr WILKINSON - So no communication and disorganisation - that's the first one. Any other problems?

Mr TAYLOR - Nursing staff and the resident GP would be telling my friend and me one thing, and then Dr Hyde, the psychiatrist, would tell us something else. It was his decision ultimately, but -

Mr WILKINSON - What was his name - Dr Hyde?

Laughter.

Mr TAYLOR - You could say that it was almost speculation what I was being told by the nurses or the resident GP. There was a lack of communication between themselves and Dr Hyde but he had the ultimate say so he could contradict what I had been told by the nursing staff.

CHAIR - How often was Dr Hyde involved? Did he see your friend on a weekly basis or a daily basis?

Mr TAYLOR - I am not sure of that. It was often hard to get to speak to him and from my friend's perspective, it was also difficult to get to have a review within a reasonable time.

Mr WILKINSON - Did he have parents who were alive or were you the only person that he could rely on?

Mr TAYLOR - No, he has a grandfather who had some dealings with the staff. He was told that my friend was going to be released so he came back to pick him up and they had changed their mind or something and he actually accused the staff of lying to him.

CHAIR - His grandfather did?

Mr TAYLOR - Yes, he was very displeased.

Mr WILKINSON - Were there any other problems that you could see with it? There was disorganisation, poor communication, problems getting to see Dr Hyde within a reasonable time -

Mr TAYLOR - And being within the time frame of, say, a 28-day period for -

CHAIR - The review by the tribunal?

Mr TAYLOR - Yes. I do not think he was keeping in line with that.

CHAIR - The doctor was not keeping in line with that?

Mr TAYLOR - Yes.

CHAIR - How long did it take to have a review of the order then, do you know?

Mr TAYLOR - I am not sure that that has even happened officially. There is a bit of ambiguity there.

CHAIR - Your friend would have been informed of the hearing and able to attend so you do not think he has attended a hearing at all with the Mental Health Tribunal?

Mr TAYLOR - No. He was told that that would take place but it did not happen. He ended up being released without an official -

CHAIR - He was discharged before the 28 days?

Mr TAYLOR - I think he was kept longer but he did not get to have a review.

CHAIR - He was discharged before that?

Mr TAYLOR - Another concern about that was that he was held longer than necessary on the grounds that he was going to have dental treatment and those appointments were mucked up. They brought forward his injection, which seemed unreasonable considering it had to be periodically and it was before the due date; it was so that he could be injected before he left their care rather than waiting until the earliest available time according to their guidelines.

CHAIR - That is his medication for the treatment of his schizophrenia you are talking about?

Mr TAYLOR - Yes.

CHAIR - Another concern is the fact that he was on tablet medication - I am not sure of the exact medication - and for some reason Dr Hyde decided to inject him with the antipsychotics. Actually I think that was because he refused tablet medication on the grounds that they were making him unwell and since he refused tablets they decided to inject him and he refused that. He told them that if they were going to force that upon

him that he would resist, which he did, and they put him in seclusion and then a restraint room overnight.

CHAIR - Was he actually on an order prior to that? He was an involuntary patient before that happened?

Mr TAYLOR - Yes, he was admitted on an involuntary basis by the guardianship ruling.

CHAIR - How long was he kept in seclusion in the restraint room?

Mr TAYLOR - I think about 12 hours, and according to him he received some rough treatment.

CHAIR - Did he also receive medication at the time? Did they actually give him the injection at that time?

Mr TAYLOR - I am not clear on that.

Mr DEAN - Do you know if out of that he made any complaints to the system?

Mr TAYLOR - Not officially.

Mr DEAN - Meaning by that that he probably did talk to someone. Is that what you are saying?

Mr TAYLOR - He spoke to me about it and in some form or another I think he has complained to the review board.

Mr DEAN - As an official friend did you take it up with the authorities?

Mr TAYLOR - No, not as yet.

CHAIR - Have you talked to your friend about doing that?

Mr TAYLOR - Yes, but we are not too optimistic about it.

CHAIR - Do you know there is a process where you can go to the Health Complaints Commission, which is a totally independent body? The Health Complaints Commissioner is also the Ombudsman and they assess all health complaints on their merit and they are not involved with the hospitals at all. It is totally independent. That may be something you could consider but that is separate to this, obviously.

If we are looking at a way forward here and obviously you and your friend have experienced some challenges in the system, how do you think it could be better? What do we need to do as a State to make it better? You do not have to have all the answers here but I am just thinking from the perspective of a person who has been on the inside.

Mr TAYLOR - There could be a bit more transparency and adherence to guidelines and procedures. It seemed that Dr Hyde was not fully adhering. He ran by his own timetable, so to speak.

CHAIR - Do you think he knew what had gone on? When you work in the health system you know that the specialists are only involved on a reasonably infrequent amount of time compared with how much the nursing staff is with a patient. Do you think it is because he did not have the information that he needed to make decisions or do you think it is bigger than that? You said there were some communication issues between the nursing staff and the GP -

Mr TAYLOR - I do not think the nursing staff would have much bearing on his decisions. That is totally his discretion and authority. I will note that my friend has a bit of an issue with immaturity. He had a problem with the psychiatrist and he was uncooperative so he did not open up; he did not really want to talk to this guy.

CHAIR - Was he offered the option to talk to a different psychiatrist?

Mr TAYLOR - I don't think so.

CHAIR - I know that the official friend obviously plays a role and we have heard from other people about the role of advocates where someone is actually more trained in that field of representing people. Was an advocate ever offered to your friend to come in and speak on his behalf and to assist him when he is perhaps in an unwell state that makes it hard for him to make decisions and do you think that would be important?

Mr TAYLOR - No, it wasn't offered to him. He did speak to an official visitor on one of their rounds and she checked to make sure that basically the paperwork was in order and that is all she could do. There was really nothing within her power, other than that, that she could do about issues of abuse and allegations. I think that is an area of concern.

Mr WILKINSON - How often did you see him?

Mr TAYLOR - A couple of times a week to begin with and near the end before his release I spent about five days.

Mr WILKINSON - Did you see him getting better or deteriorate or a bit of both or what over the period he was in Ward 1E?

Mr TAYLOR - When I first saw him he didn't look good. He appeared sort of lethargic and drowsy and he wasn't feeling very well but he was still coherent and intelligible and so forth.

Mr WILKINSON - From your knowledge of him did you believe that he should have been there in the first place?

Mr TAYLOR - I don't believe he should have been there and certainly not medicated with anti-psychotics.

Over the duration of my spending time with him he was having certain effects from the tablet medication and -

Mr WILKINSON - What effects were they?

Mr TAYLOR - As I say drowsiness, bit slow with speech and thought process but he was still pretty coherent and so forth. Once he had been injected with the anti-psychotics he became quite ill.

Mr WILKINSON - Physically ill? Vomiting?

Mr TAYLOR - Yes, physically ill. At one stage he did black out and vomit. He felt very weak and tired so it was an effort to be mobile.

Mr WILKINSON - How long did that last?

Mr TAYLOR - This continued for several weeks before he was discharged and then for about four weeks afterwards.

Mr WILKINSON - Was he injected only the once or more than once that you know of?

Mr TAYLOR - Periodically.

Mr WILKINSON - Periodically being, on average, every two weeks or every week?

Mr TAYLOR - I'm not sure. It depends on the dosage. To start with it could have been fortnightly and then they decided to do it monthly, which is the case now.

After being released he was still quite unwell. He was unable to carry out normal living and look after himself and so forth.

Mr MARTIN - How long has he been in Ward 1E? When did he first go in?

Mr TAYLOR - He spent about five weeks there.

Mr WILKINSON - You say his grandfather was the relation who cared for him. How did he get there in the first place? You say it was the guardianship board that placed him there -

Mr TAYLOR - Yes.

Mr WILKINSON - but who made the request?

Mr TAYLOR - I think it was a community nurse or case manager, I am not sure what her title is, Helen Kirkland.

CHAIR - He was known to the services prior to that?

Mr TAYLOR - Yes.

CHAIR - So when you said his official diagnosis, has he had other alternate diagnoses in the past?

Mr TAYLOR - No.

CHAIR - So when was that diagnosis made?

Mr TAYLOR - I think I have a reference to that here.

This is dated 28 November. I am not sure when the diagnosis was made, but it would have been prior to this.

CHAIR - In 2008 are you talking?

Mr TAYLOR - Yes. This is a copy that my friend received after requesting it. That is information on diagnosis, treatment and review.

CHAIR - Was that when he was first admitted to Ward 1E?

Mr TAYLOR - No. I don't think he was initially immediately diagnosed with that condition.

CHAIR - Was he being treated by a GP or someone previous to that?

Mr TAYLOR - No.

CHAIR - So how did he come to have a case worker?

Mr TAYLOR - He had been admitted previously and they had not been able to determine what his state of mind and condition was. That was on two previous occasions.

CHAIR - How long ago was that?

Mr TAYLOR - Going back to about 2002.

CHAIR - So a case worker was appointed to provide supervision and care for him after that.

Mr TAYLOR - I think it might have been after the previous admission.

CHAIR - So is there anything else you would like to suggest for the way forward. We are happy to take the written notes, if you like, and read them at a later time if you have more information but we are interested in your getting your point across.

Mr TAYLOR - Can I just go over this?

CHAIR - Absolutely.

Mr TAYLOR - I have been doing a little bit of reading of the Mental Health Act.

CHAIR - It is good reading, isn't it?

Mr TAYLOR - Well, it is funny how it has been written for the patients, specifically, and it is termed 'you' all the time and then it says 'the patient' so it switches in between saying 'you' and 'the patient'. I think it is a bit funny.

There is no provision or a section for guidelines for outpatients under community treatment orders so I mention that. So I have a question in regard to that. Are community treatment orders for our patients reviewed periodically?

CHAIR - They are supposed to go before the Mental Health Tribunal - I am not sure what the time frame is though. Just one point, Clint, there is a big review of the Mental Health Act going on at the moment and they are sort of getting to the tail-end of that, and some of these issues regarding the number of reviews and time of the reviews is one of the things that is being considered. But we have your views on this because that bill will no doubt come before Parliament at some stage and there has been a lot of input into that from Mental Health Services and people involved at various levels.

So even though that may be addressed, we are still happy to hear your views on what needs to happen. So you are essentially saying that the community treatment orders need to be reviewed as well.

Mr TAYLOR - Yes.

CHAIR - How often do you think that needs to occur?

Mr TAYLOR - At least on a quarterly basis.

CHAIR - Anything else that you have there from your reading of the act?

Mr TAYLOR - I would need to spend a bit more time putting some more thought into it and preparing something that is a more intelligible about the issue.

CHAIR - You can certainly do that, Clint, if you want and then forward it on to Sue because we are happy to receive that information from you and, again, there will be opportunities to potentially consider making comment on the new bill when it comes out in the draft. They tell us it will be out for public comment possibly in about six weeks' time but that is a bit loose - but it will be out for public comment so it might be worth your while keeping an eye out to have a look at what is being suggested because it may well address some of these issues that you raise.

We are happy to receive any other information from you in relation to the things that you think need to be addressed.

Mr TAYLOR - What I have so far is more of a draft on my thoughts and notes. I need something that is fully compiled.

CHAIR - Well, anything you would like to leave, we are quite happy to receive it. If you would like to prepare something to forward -

Mr TAYLOR - I might leave a copy of this.

CHAIR - Yes.

Mr TAYLOR - Another query, and it could be hearsay, is the Department of Justice providing funding for anti-psychotic injections for involuntary patients on community

treatment orders under the guardianship ruling. I spoke to the official visitor about that and she seemed to think that that wasn't right or appropriate.

CHAIR - We can certainly look at that. The Department of Justice funds the Guardianship and Administration Board because that board fits under the Department of Justice and not Health. Justice funds the board and its activities.

Mr TAYLOR - Okay.

CHAIR - Thanks for making yourself available to come and speak.

Mr TAYLOR - I am sorry I couldn't be more informative.

CHAIR - No, that's fine. If we want to use any of the transcript, would you be happy for us to use that in our report?

Mr TAYLOR - Sure.

CHAIR - Thanks for that.

THE WITNESS WITHDREW.

Mr ROBERT FITZ WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Bob, the proceedings are recorded. At the end of the committee's deliberation we will prepare a report and in the report we might use quotes from the transcript of the hearings, so if there is anything that you want to discuss that you think should be private it will be heard in-camera.

Mr FITZ - I have been an advocate for 18 years so I have a fair idea how the world works. I would like to go off record, tell you what I think and then we can come back on the record and put on the record what we have discussed. Can we do that?

CHAIR - You want to?

Mr FITZ - Go into camera -

CHAIR - To talk about your -

Mr FITZ - then the main issues that I have discussed because obviously you are going to ask a lot of questions -

CHAIR - Probably will, yes.

Mr FITZ - Right, out of those questions will come some answers -

CHAIR - Yes. You want to give us an overview in camera first is that what you are saying?

Mr FITZ - Yes.

CHAIR - Okay. You tell us when you are happy to go back into the public record okay?

Mr FITZ - Yes, right.

Evidence taken in camera.

Mr FITZ - On term of reference (2) - whether Tasmanian legislation reaches world's best practice and provides adequate protection to the rights and wellbeing of people with psychiatric disabilities and their families - they probably do but they don't appear to recognise other people's rights. You can't have your cake and not share it. In our family there are eight and all she is doing now is isolating herself because of the way she is. There does not appear to be clarity and certainty with the medical practitioners while her GP has to ring mental health who then send out a nurse, and I don't know what qualifications a nurse has, who then rings Dr Johl, who has seen her probably once and said there is nothing wrong with her - after about 35 years' worth. So where is the certainty there? Where is the clarity there? I suggest to you there is none.

Now I do not think my sister is violent. I have seen her fire up. The only one in the family of whom she is frightened is me and I am happy for that. There is a reason for that; when I tell her something she knows she has been told. I went out there one day

over this business with the money. She said, 'I don't want you to be my carer any more; come and get your stuff'. She had sold all the furniture. She had a chair to sit on, a bed and that was it. The stove did not work, the fridge was not there - and this is in the middle of summer - so the family bought her a stove, a fridge and a freezer, a TV and a video and she sold them all. Then we bought her a fridge, a TV and a video, because she likes her own company, and she sold them all. How much longer can we keep doing it?

CHAIR - She does this when she is not taking medication?

Mr FITZ - Yes. Financially she is reckless and we put that down to it too. But the mental health team told me that that has nothing to do with it; that is financial.

CHAIR - What if you had a system that enabled all those matters to be considered, like the mental health, financial management for that person, accommodation and so on?

Mr FITZ - After one of the last episodes she went into respite, into a group home in George Town Road somewhere.

Mr DEAN - Yes, it is on George Town Road on the left-hand side.

Mr FITZ - Anyway, she was full of beans and she said that she was going into the group home. I rang my mother and I said, 'She wants to be careful', because I was on the RSL able care team for about five years and had dealings with the CEOs of nursing homes. Whilst they have to take people they do not have to take those sorts of people. If they say they have not the capability of dealing with them medically then they do not have to have them. Bear in mind that my sister is 58 so this is another hurdle we have to get over somewhere along the line. What does she do for a nursing home because inevitably that is where she will be? It is inevitable, but they do not have to take her because they have not the people trained to deal with her. If they take her then they have to worry about her spinning out the population of the aged care home.

CHAIR - She is not of an age yet where she should be in an aged care facility but when she is the secure dementia units may be an option for her, but that is not an option at the moment.

Mr FITZ - She is not demented, though.

CHAIR - No, but they are secure. She would not be able to leave it without someone knowing.

Mr FITZ - If she doesn't qualify for dementia she wouldn't get in. She is schizophrenic.

Mr MARTIN - So she has been diagnosed at some time in the past.

Mr FITZ - Years ago and subsequently every time since. Every time she plays up and goes on a -

CHAIR - Until just recently.

Mr FITZ - Yes, until just recently, and now Dr Johl's team has said there is nothing wrong with her. The police cannot act, we cannot do anything and the doctor cannot do anything because she has rights.

Mr WILKINSON - Is she still acting strangely, Bob?

Mr FITZ - Yes.

Mr WILKINSON - Over the last couple of weeks?

Mr FITZ - She followed a neighbour around a fortnight ago and was screaming at her down the driveway and onto the street about having dementia. How the bloody hell she would know whether she had dementia or not, I do not know. The neighbour rang me up and she was terrified. She said, 'Your sister is completely mad and wants putting away'. I said, 'Ring the police'. Henceforth I rang Ottley up but he can't do anything. All they can do is bang on the door and say, 'Look'. I said to Ottley, 'If she was in the mall what would happen?'. He said, 'We'd pick her up and she'd be out within half an hour'. I do not know the legal technicalities around strange behaviour but they cannot hold them.

CHAIR - The police cannot pick them up unless they do something wrong. Behaving strangely in the mall is not a crime.

Mr FITZ - But if you were in the mall and somebody is behaving strangely towards you, you would probably be terrified.

CHAIR - It depends how they are behaving.

Mr FITZ - I am not going to say what I was thinking. Look, we do not know what to do.

Mr DEAN - It is very upsetting for families, isn't it? For you and for her.

Mr FITZ - This is the point I am trying to make though, Ivan. Where do we go, what do we do?

Mr DEAN - You are saying you have tried and the system is letting you down.

Mr FITZ - Yes, we have tried everything.

Mr DEAN - There is not a system there that can handle this and/or they are letting you down, one or the other.

Mr FITZ - Yes, that is right.

Mr WILKINSON - It would seem obvious, Bob, wouldn't it? Johl said that she is okay but you could show that over the last 30-odd years, maybe 40 years, she has not been okay and a number of different doctors have said she has not been okay, so there is only one person marching out of step with the doctors' opinions, isn't there?

Mr FITZ - I had better not go down that road but Johl is not a person that we would deal with. The RSL flatly refuses to have him deal with anybody that we deal with.

CHAIR - So, Bob, have you considered seeking any advice from a private psychiatrist?

Mr FITZ - How do you get her to go and see one?

CHAIR - It is up to the GP to try and arrange an appointment.

Mr FITZ - She will not talk to the GP, she will not talk to anybody. She likes her own company and the bloody mental health team is on her side, saying that she has rights. She has rights all right and, by jeez, she works them pretty well.

CHAIR - She also has a right to good health, doesn't she? Same as we all have.

Mr FITZ - I have the right to go to bed. When the phone rings and you pick the phone up, then the phone goes dead and it rings about another half hour later, you go to pick the phone up and it goes dead - you know who it is. I have that call-back thing and I ring back, and it says it is a private number. As soon as it becomes a private number, I know who is doing it.

Mr DEAN - Yes, it is sad.

CHAIR - But what I am saying that she has a right to good health, if she does not have good health - and, clearly, you can see that - then we need to establish a system that enables people to achieve good health and, in some cases, it means through being treated, doesn't it?

Mr FITZ - Well, you cannot force them to be treated.

CHAIR - We can. The legislation is there to do it but you have to access it, and that seems to be the problem. The systems of accessing that have failed because a certain doctor has said that there is no problem.

So the system is there to do it but it is not being used, I suggest, because the system is there to treat involuntarily. The Mental Health Act enables us to do that.

Mr FITZ - If he says there is nothing wrong with her -

CHAIR - Yes, I know.

Mr FITZ - Have you ever seen a doctor override another doctor?

CHAIR - Yes, on many occasions. I have worked in health and they do, that is why some people seek second opinions. That is what I am saying, the system is there that could assist your sister but it is not working -

Mr FITZ - My comments - it is not an argument, we are commenting - would be these. Okay, if there is an ability to seek a second opinion, how do I get it?

CHAIR - You need to talk -

Mr FITZ - Her GP - I rang her and was told I am allowed to leave messages that she is out of control. She will not discuss with me my sister because she is her patient. This privacy has gone through and into space. It is the biggest sticking point that people hide behind - you cannot talk to anybody about anything because of privacy and they are using the Privacy Act wrongly.

CHAIR - I hear what you are saying, Bob. Maybe you need to talk to Advocacy Tasmania or someone like that to see if they can assist you through the process because there is a system in place in Tasmania that enables people, such as your sister, to be treated but it is not working for you. That is what you are telling us, isn't it? It is not working, okay? So maybe you need other assistance.

As a committee, we cannot provide that assistance. It is not within our scope and we do not have the skills required. It is like asking me for legal advice. You can ask Jim but do not ask me because I am not a lawyer.

So you probably need assistance from someone who is able to provide that level of support and look at how the system can work to meet your needs because, clearly, it is not meeting your sister's needs, is it?

Mr FITZ - I do not think anything would work - our last resort has to be the guardianship board. That will be our last resort and nobody wants to go down that road, not even me.

CHAIR - But that is what it is for, Bob. If you cannot get the system to work - that is why they are there. That is why it was established.

Mr FITZ - There has to be another system, another way forward than that.

CHAIR - But we have systems in place to enable that. Shouldn't we use those systems?

Mr DEAN - But another system, Bob, as you were saying, would probably only be able to carry out and do the functions that the guardianship board can do now anyway. So when you say another system -

CHAIR - But if you have not tried it, how do you know, Bob, that is what I am saying?

Mr DEAN - Yes, that is what I mean. The guardianship board is there and you ought to try to use it, at least give it a go.

Mr FITZ - It is the sort of thing that I can only do in short spasms.

Mr DEAN - It is hard on you. It is tough.

Mr FITZ - You are not dealing with somebody you don't know; you are dealing with somebody you do.

Mr MARTIN - Bob, for the record what are your concerns with going down the guardianship path.

Mr FITZ - Once the orders are made they are final.

CHAIR - They are reviewed.

Mr FITZ - We don't need it to be - we just need somebody to be able to get her back on the tablets. It's a pity the bloody court didn't have the power or the police didn't have the power to go to the court and say she is spinning out of control in the neighbourhood, she's causing problems, we know she has funny traits and get the court order.

CHAIR - That is what the guardianship board does though, that is what they do.

Mr MARTIN - But you worry that it's -

Mr FITZ - It's the finality of it.

Mr MARTIN - Yes, okay.

Mr FITZ - That's what I am worried about.

Mr WILKINSON - I don't know, Bob, whether it's an enduring thing. I don't think it is.

Mr FITZ - It can be. I have been to the guardianship board on a few occasions too and all the ones that I have had dealings with at the guardianship board have all been final.

CHAIR - But they have to go before a review panel. The Mental Health Tribunal has to review orders. Some of the proposed changes - we haven't seen a draft bill yet for the Mental Health Act, but these were in the discussion paper - were to make that period of review more robust. What was happening was that people were on a 28-day order and there was no requirement to review it for 28 days so people were being treated and then discharged before the 28 days so there was no review. What they are looking at doing - and we don't know whether this will be the case - is bringing it back to 10 days for the review. It takes more than 10 days for the medications to work in these sorts of cases. So the order would go on and on; it would be reviewed. If the tribunal thought it needed to continue then they might make that determination but they would have to have evidence to support it. They could not that an order went on forever - it would have to be reviewed.

If you talk to someone at Advocacy Tasmania they can explain to you more fully how it works. They are not going to make you do it. They will just explain to you how it works. As someone who is trying to do this on their own pretty much, you really need to get someone who can help you.

Mr FITZ - Understand that I don't want to go there. I'm aware of what they can do. As I said to you, I spoke to Anita Smith - well, I didn't speak to her, I spoke to one of her research people or case managers because Anita wouldn't talk to me, as she'd be involved in -

CHAIR - She sits on the tribunal.

Mr FITZ - She's the chairman and I know Anita pretty well. Anita knows my sister too well because she has been to see her about some issues.

Mr WILKINSON - I suppose one of the things, Bob - and I hear what you say that you are concerned that it might be final - but in the end it's driving you up the wall because you are trying to do everything you can -

Mr FITZ - The bottom line is this, Jim, I am worried that she's going to hurt somebody.

Mr WILKINSON - Yes.

Mr FITZ - Apart from throwing things at me I don't think she has been violent like -

Mr WILKINSON - So with that worry and with the, I suppose, chance that she might hurt somebody isn't it best to do as we've suggested. When you look at the odds, nothing is happening now. She's remaining a problem, nothing is happening so what are the options? The only option now is this guardianship board. That seems to be the only option. Just because it is an order doesn't mean that it is forever because if there can be evidence to show that everything is okay now I am positive that that can be reneged. I am positive it can be set aside.

CHAIR - They do take advice from family. The tribunal will hear from family members. If you can see that she is taking medication and that she is back on track - and you of all people would be the person who could make that assessment because you know her so well - then they do consider that. It is not like they get in a room and make the decision themselves without taking advice.

Mr FITZ - I spoke to the guardianship board and they wouldn't even talk to me about these issues that we are discussing right now. What can I do? How far can I go? Until I make an order or request a hearing they won't talk to me. So I can't talk to the guardianship board about what their powers are -

CHAIR - You could talk to Advocacy Tasmania. There is the mental health advocate - there is only one in the State but she does travel around - and she could advise you because that is her job, that is what she does. She knows how the systems work or how they are supposed to work and how you can access them. They're very much wanting to help people, that's what they do. Supporting not just the clients, but also the families. It's up to you to decide, obviously, but I think we all acknowledge it's a pretty tough position that you're in and we feel pretty powerless in a way to effect change immediately for you here and now.

Mr FITZ - I can only come to you with this story and tell you that I don't think it's working. She's got rights but nobody else has got rights, and I think that the rights of other people should be taken into account, and it should be done at a lower level than the guardianship board. If a doctor rings the guardianship board and says, 'We need an order made', they should be able to make an interim order and get the doctor to deal with it, because they're more able to do it than I am.

Mr MARTIN - That point's been made a fair bit by some of the witnesses we've had, the privacy stuff.

CHAIR - Yes. The use of the Privacy Act is a bit of an excuse.

Mr FITZ - Well, I've already said that they hide behind it.

Mr MARTIN - The rights issue is the tough one, really.

Mr FITZ - Well, what's the point in having you here if it doesn't get tough going?

Mr MARTIN - Yes, that's right.

Mr FITZ - There is another issue I want to bring up: I've already stated that I am an RSL advocate and on three or four occasions I've had to take people who are half way to heaven up to the LGH. You get up there and they don't want them.

Mr MARTIN - Where's this to?

Mr FITZ - Up at the Launceston General. 'Take them home and you look after them'. But that's not my role. When somebody tries it on like that, the next 24 hours is absolutely crucial, and I think that's got to stop.

Mr DEAN - When you've done that, Bob, who have you spoken to?

Mr FITZ - The battle starts at the hospital, the A&E. The counselling service at Elphin Road has sent me out a couple of times. I pick people up, one bloke's sitting there one night and he had a bloody butcher's knife on the table. He had tablets and then he had his beer. It was like he was making a war plan. So I rounded up his tablets and beer and put them in a bag, took the knife, took him and dragged him into the A&E, and they just said, 'What's he here for? The assessment team's here, we'll deal with him'. No problem again.

Anyway, a doctor comes out and says, 'We haven't got any place to put him, you'll have to take him home'. I said, 'This bloke lives by himself, you can't send him home'. 'Well, we can't have him here, I've just been told there are no places for him'. Anyway, they stuck him in a bed somewhere and they pumped him out. He still talks to me today about how they pumped him out, and he'd never do it again. So the lesson they gave him was a good one. The fact of the matter is they're telling me on more than one occasion to take them home to my place and look after them.

CHAIR - It must be because of lack of room in the ward. That's what they told you?

Mr FITZ - Lack of room in the hospital.

CHAIR - Yes.

Mr FITZ - It's been a while since I've had that happen to me, but I wouldn't doubt that it still happens. I believe the Salvation Army got a Federal grant, but we don't hear anything about where they are, what they've done with them, whether they refer -

CHAIR - A grant to provide - do you know what it was for?

Mr FITZ - For that specific thing, because the staff at the General and the staff at St Vincents specifically don't like anybody who's been drinking on the ward.

CHAIR - So an alcohol dry-out place you're talking about.

Mr FITZ - Yes. If they'd been drinking and they'd taken an overdose of tablets, they usually do it in conjunction with alcohol and that's when it all starts.

CHAIR - We have another witness who is probably waiting. Did you have anything you want to add in conclusion?

Mr FITZ - I just hope you can come up with something that will take care of my concerns. We should all have rights, and it's the rights part, like you said, Terry, that's the hard part.

Mr DEAN - And your concerns, Bob, are similar to some of the concerns of other people as well, which is, from our point of view, one that we need to look at.

Mr WILKINSON - Bob, it's easy for me to say, but the hard part really in your issue seems to be with you saying, 'I've got to get her to the guardianship board'. I know it's hard, but that seems to be the answer.

Mr FITZ - I've got eight brothers and sisters.

Mr WILKINSON - Yes, I know.

Mr FITZ - One person to act alone in a family, I'd be like the man in the striped coat in the Bible.

CHAIR - No, they wouldn't make you the guardian.

Mr FITZ - Oh, wouldn't they? You don't know my family.

CHAIR - No, no. Your family doesn't make that decision; the guardianship board can appoint the guardian.

Mr FITZ - I've got to wear the stigma of going to the guardianship board.

CHAIR - Oh, I see what you mean. Yes.

Mr WILKINSON - Yes, that's the problem.

Mr FITZ - Those people aren't stupid.

Mr WILKINSON - That's the issue with it, yes. I agree with you.

Mr FITZ - It probably is the issue, but I've got other family.

Mr WILKINSON - I know that.

Mr FITZ - My mother, she's 84 and she's got a tongue on her like nothing on earth. I tell you.

Laughter.

CHAIR - I hope she keeps that until the end.

Mr FITZ - Nothing you can do is right and nothing you do is wrong. Do we get a look at what you have come up with?

Mr FITZ - I would appreciate that, because I might have to carry this somewhere else.

CHAIR - Thank you for your time.

THE WITNESS WITHDREW.