

# An Open Letter to All Australian Governments: Repeal of Default Non-Publication Provisions in Guardianship and Administration Matters

3 December 2025

To the Honourable Premiers, Chief Ministers, and Attorneys-General of Australia,

We write to you as Australians from all walks of life, representing various disabilities, united in our call upon all state and territory governments to initiate legislative amendments to repeal default non-publication provisions in guardianship and administration matters, and to replace them with targeted, discretionary powers that align with the principles of open justice and human rights.

The human cost of these existing laws, and the urgent need for balanced reform, were recently highlighted by the experience of disability advocate Mr Uli Cartwright. In 2021, Mr Cartwright's documentary *Life Is a Battlefield* was withdrawn from public broadcast because he identified himself as a former client of Victoria's State Trustees. In Victoria, where Mr Cartwright resides, Clause 37 of Schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998 (Vic)* imposes non-publication requirement as a default position. Hence individuals under guardianship or administration orders cannot publicly discuss their own circumstances without the leave of the Victorian Civil and Administrative Tribunal (VCAT).

In evidence before the Disability Royal Commission, Mr Cartwright stated: *"You can't do anything ... you may as well have your identity stripped."*<sup>1</sup> In further describing the effect of this provision, he said, *"It strips away [your dignity] and autonomy... People living with disability ... shouldn't have to ask for permission to tell their own story."*

Nationally, an estimated **50,000 Australians live under guardianship or administration orders** administered by public guardians and public trustees (ABC, 2023). In nearly every jurisdiction, these individuals are subject to statutory prohibitions—commonly referred to as “gag laws”—that prevent them from publicly identifying themselves or speaking about their own experiences without the prior authorisation of a tribunal. Note these issues also occur under Mental Health Tribunals that authorise involuntary treatment on people with psychosocial disability.

While these provisions are framed as protective, in practice they often amount to censorship. In denying individuals the right to tell their own story, they also deny their ability to seek accountability and to live with dignity and autonomy.

At the same time, we recognise that there are circumstances where non-publication orders are necessary and appropriate - for example, to prevent exploitation, undue influence, or serious psychological harm. The issue is not the existence of protective powers, but their use as a blanket rule rather than as a targeted safeguard.

A comparison of the legal landscape below identifies that every Australian state and territory continues to enact gag laws with the exception of Tasmania:

- **Victoria (VCAT):** Default gag under clause 37.
- **NSW (NCAT):** Identifying publication prohibited; decisions anonymised.

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<sup>1</sup> <https://www.lawreform.vic.gov.au/publication/i-want-to-tell-my-story-the-guardianship-and-administration-confidentiality-law/introduction/>

- **Queensland (QCAT):** Section 114A of the *Guardianship and Administration Act 2000 (Qld)* makes identifying publication an offence.
- **South Australia (SACAT):** Publication prohibited unless specifically authorised.
- **Western Australia (SAT):** Offence provisions under the *Guardianship and Administration Act 1990 (WA)*.
- **Northern Territory (NTCAT):** Non-publication orders and anonymisation powers exercised by default.
- **ACT (ACAT):** Open justice applies, subject to discretionary non-publication orders.
- **Tasmania (TASCAT):** Reforms enacted in September 2024 permit individuals to identify themselves and to speak publicly without retribution.

Tasmania’s legislative reform, however, demonstrates that change can occur and still be consistent with protective objectives. The findings of the following authorities also support this reform:

- **Disability Royal Commission (Final Report, 2023; Recommendation 6.12)<sup>2</sup>:** Recommends repeal of default confidentiality provisions and adoption of open justice, with targeted protective measures applied only when necessary.
- **Victorian Law Reform Commission (Spotlight Report, 2025):** Identifies ongoing inconsistency of gag laws with human rights and lived-experience voices.<sup>3</sup>
- **Queensland Public Advocate (2022):** Called for repeal of section 114A, noting it silences adults even where they wish to speak<sup>4</sup>.
- **Former Victorian Public Advocate, Dr Colleen Pearce:** Warned that such laws are inconsistent with both privacy and freedom of expression under the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

As we recognise the importance of safeguards, there are circumstances where non-publication orders may still be necessary. This is where there is evidence of:

- **Exploitation risk** — exposure to financial abuse, predatory behaviour, or coercion.
- **Undue influence** — where family members, service providers, or others may push the person to speak against their will.
- **Serious psychological harm** — where disclosure would likely cause severe and lasting distress.
- **Safety or privacy breaches** — disclosure compromising physical safety, security, or sensitive medical details.

In these circumstances, non-publication orders must remain available and enforceable. However, they should be by **exception and not be the default**.<sup>5</sup>

To this end to ensure that any reform is balanced, we have identified principles to guide the reform:

1. **End default gags** — individuals must have the default right to identify themselves and to speak about their own lives.

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<sup>2</sup> <https://disability.royalcommission.gov.au/publications/final-report-volume-6-enabling-autonomy-and-access>

<sup>3</sup> <https://www.lawreform.vic.gov.au/publication/i-want-to-tell-my-story-the-guardianship-and-administration-confidentiality-law/introduction/>

<sup>4</sup> <https://www.lawreform.vic.gov.au/publication/i-want-to-tell-my-story-the-guardianship-and-administration-confidentiality-law/views-on-the-safeguards-in-interstate-models/#footnote-ref-242>

<sup>5</sup> <https://disability.royalcommission.gov.au/publications/final-report-volume-6-enabling-autonomy-and-access>

2. **Proportionality test** — orders should be the least restrictive option, tailored to the specific risk.
3. **Embed human rights** — implement Recommendation 6.12 of the Disability Royal Commission in full.
4. **Centre lived experience** — ensure reform processes include the voices of people directly affected.
5. **Safeguards** — a safeguard framework needs to exist.

To the last principle, Safeguards, recommendations from Victoria's Law Reform Commission, Tasmania's 2024 Administrative Orders Reform and the Disability Royal Commission's Recommendation 6.12, support a safeguarding framework that includes the following features:

- i. **Capacity threshold:** publication is permitted where the person demonstrates decision-making capacity, in relation to disclosure or is supported to make that decision.
- ii. **Informed consent standard:** Individuals must be supported with clear, accessible information about risks before consenting to disclosure.
- iii. **Harm test:** targeted non-publication orders are only used where a tribunal finds clear evidence of serious risk or harm to the individual.
- iv. **Partial-anonymity options:** Orders can suppress third-party identifiers (family, carers) or sensitive details without silencing the individual.
- v. **Review periods:** All non-publication orders should be time-limited, subject to periodic review, and open to appeal.

## Call to Action

In summary, we respectfully call upon all state and territory governments to initiate legislative amendments to **repeal default non-publication provisions** in guardianship and administration matters, and to replace them with **targeted, evidence-based powers** that preserve protective safeguards while ensuring the right of individuals to speak openly where it is safe and appropriate to do so.

This reform is timely, providing a once-in-a-generation opportunity. With the **Disability Discrimination Act** currently under review—an area where we would gladly support the adoption of a **National Human Rights Act** creating a positive duty for all duty holders—and with the most extensive suite of reforms across the disability sector in decades underway, including the redesign of the NDIS planning framework and the implementation of other recommendations from the Disability Royal Commission, there is a clear opportunity to align Australia's guardianship systems with contemporary human-rights standards and the principles of open justice.

Maintaining blanket non-publication laws is not a neutral position. It entrenches secrecy, shields maladministration, and suppresses the voices of those most affected. By contrast, reform would empower individuals to share their experiences, inform better policy, and ensure that rights recognised in law are supported by mechanisms that make them real in practice—especially where decisions affect participation in community and public life.

As disability advocate Mr Uli Cartwright stated: "It's just outdated. It needs to be changed." (SBS, 2023)

We concur. Reform is overdue. Tasmania's 2024 amendments demonstrate that this change is achievable, responsible, and consistent with protective objectives. We therefore urge every government in Australia to act without delay to bring guardianship and administration law into line with human-rights obligations and the lived realities of the people it is intended to serve.

We would appreciate the opportunity to meet with you at your earliest convenience and look forward to working with you to deliver this greatly needed reform.

Your sincerely,

Jenny Karavolos  
Co-chair, Australian Autism Alliance,

respectfully submitted on behalf of:

### **Individual Endorsements**

Colleen Pearce, Former Public Advocate Victoria  
Craig Dent, Former State Trustee, CEO, Victoria

### **Organisational Endorsements**

Australian Autism Alliance  
Australian Federation of Disability Organisations  
Berry Street Yooralla  
Children and Young People with Disability Australia  
Citizen Advocacy South Australia Inc  
Community Mental Health Australia  
Council for Intellectual Disability, NSW  
Developmental Disability WA  
Disability Advocacy and Complaints Service of South Australia ('DACSSA')  
Disability Advocacy Network Australia  
Down Syndrome Australia  
Every Australian Counts  
Justice and Equity Centre  
Life Without Barriers  
National Mental Health Consumer Alliance  
National Ethnic Disability Alliance  
Parent to Parent  
Physical Disability Australia  
Speak Out Advocacy  
Trauma-Informed Yoga Australia  
Uli Cartwright and Crew  
Victorian Advocacy League for Individuals with Disability (VALID)  
Villamanta Disability Rights Legal Service  
Young People in Nursing Homes National Alliance



AUSTRALIAN  
Autism Alliance



Australian Federation of  
Disability Organisations



Children and Young People  
with Disability Australia



LIFE  
WITHOUT  
BARRIERS



