NSW LAW REFORM COMMISSION
REVIEW OF THE GUARDIANSHIP ACT

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This submission calls for the NSW Law Reform Commission to consider the role of available technology, including artificial intelligence (AI), in decision-making.

The Guardianship Act is still encumbered with general and fundamental difficulties:

1. No single person – not even an appointed guardian – is likely to be an expert in all fields of life (e.g. medical, legal, financial). Thus, their ability to assist or make informed decisions is compromised.
2. There is a need for effective communication of decision-making processes for guardians, clients, family, and concerned close friends.
3. The importance of promoting greater degrees of self-sufficient decisions.

Software

Effective decision-making involves exploring all available options, predicting consequences, balancing interests and being informed/educated. It is a difficult process that is further complicated when assisting others to make decisions.

One such solution is to incorporate products like those published by Austhink Software. This is a technology that assists critical thinking (*Rationale* software) and decision-making (*bCisive* software). For example, *bCisive* may be used to analyse reasoning, organise ideas, test hypotheses, capture discussions and explore options. This argument-mapping tool is useful in visually depicting decision-making processes, deconstructing dilemmas and communicating thought-processes.

Encouraging the development of decision support templates for specific and common situations (FAQs), such as "Should they perform this medical procedure?" or "Should you move out of home?" could be useful (as seen below). Such tools could be applied in paper form, as an online interactive form or as a Chatbot.
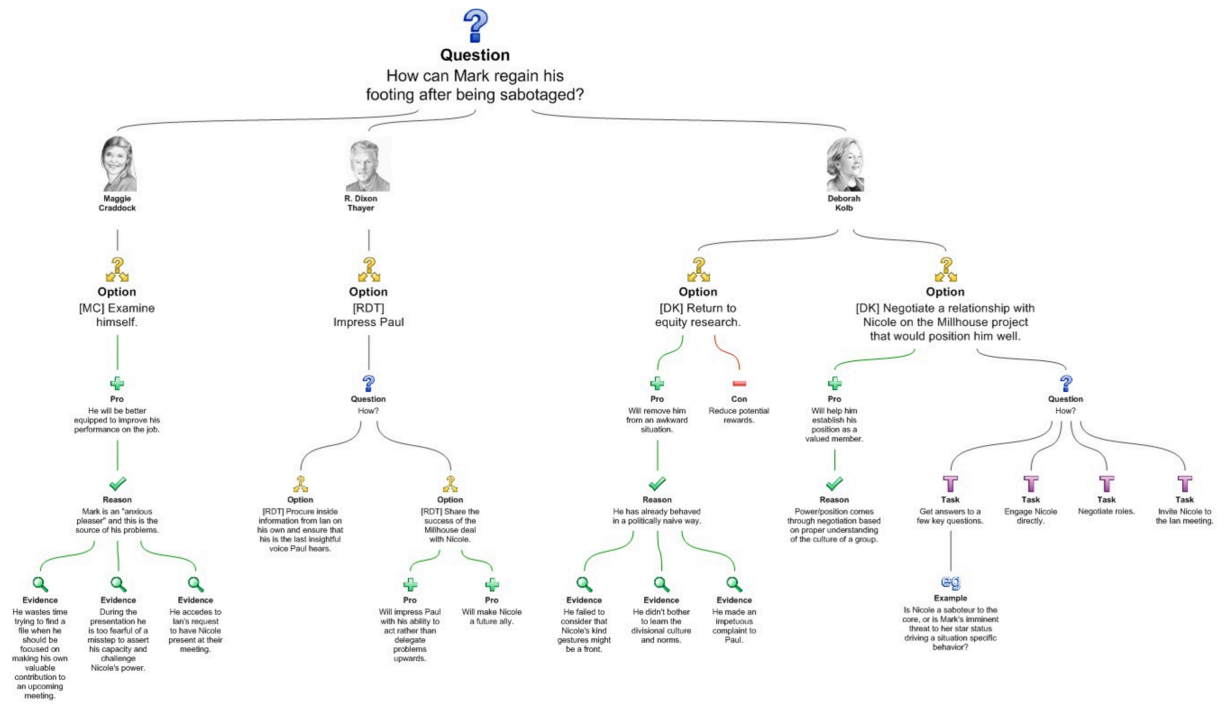
Supplementing guardianship with this technology will improve the efficiency and consistency of communication, increase transparency and provide guardians and financial advisors with greater support.

Chatbots

Chatbot technology is a conversation conducting computer program that can incorporate AI. Building a database of expert answers to fact-based questions in fields such as finance or law strengthens the support provided to individuals, guardians or financial advisors. This Q-and-A technology is easy to understand, accessible and provides objective and impartial information that educates and informs individuals. Such advice can be considered alongside the individual's circumstances and preferences before any decisions are made.

Including this technology increases the efficiency of the current system as information and expert experience is collected, centralised and easily accessed. Such programs may promote independent/self-sufficient research that precedes non-biased decision-making.

AI

A Chatbot generally incorporates various forms of AI ranging from a simple expert system based on prefabricated conditional logic to advanced machine learning. As a new age of software-assisted decision making dawns, we believe there is a necessity to incorporate AI into this area.

It will benefit everyone to systematise guardianship processes as much as possible so that AI-based tools can be introduced to augment decision-making in the future. We suggest that, at the very least, the Commission explores opportunities to "future proof" the area and reduce barriers to implementing these technologies – inevitably - at a later stage.

Though we have a vested self-interest in this submission as we plan to release smart-decision support tools in 2017, the introduction of AI will benefit guardianship.

Importantly, the benefits of incorporating technology outweigh the initial difficulties of setting it up, particularly when the focus is "human *and* machine" rather than "human *vs* machine". Initially, it will be worthwhile exploring the use of AI as a tool for assisting those providing "supported decisions" and "substituted decisions".

While untrained people can benefit from the "knowledge" in expert systems, AI is not just for "non-professionals". Surprisingly, our experience has shown that those who benefit greatly from decision support tools include busy experts: they are often saved from inadvertently overlooking something.

A software-based second opinion can also act as a knowledgeable watchdog in the hands of untrained, concerned friends and family.

Experts

We would recommend that you engage the original developers of *Rationale* and *bCisive* to work with the Commission on improving decision-making. Melbourne-based Tim van Gelder and Paul Monk are

world-leaders in the process of decision-making and could greatly enrich the Commission's efforts. (http://www.vangeldermonk.com)

Natural Justice
Finally, Administrative Law has the benefit of Natural Justice/procedural fairness, which could have an extended role into the area of guardianship. There is a whole body of law that could possibly be adapted for guardianship decision-making processes.

In conclusion, decision-making processes under the *NSW Guardianship Act* may be supplemented by available technologies. Considering the importance of technology and AI in the future, incorporating this into the existing support system will revolutionise guardianship, empower individuals and improve communication. With supporting software, access to "just, quick and cheap" processes can finally be delivered.