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2020

Nearing the fifth year of operation – a positive is the appointment of a sixth Trustee, Jill Stringer from Masterton.

Jill is leading the establishment of a Wairarapa "Hub" of WWGT, to support the needs of her local community, utilising the management structure of the Wellington organisation, rather than "reinventing the administrative wheel".



Jill is a current board member for Wairarapa District Health Board and serves on the Community and Primary Health Advisory Committee and the Disability Services Advisory Committee. She

established Touchwood Services Ltd to manage strategic and operational projects for clients including the WrHDB.

This year in conjunction with Jill the trust has already been able to assist with one Wairarapa based application.

Hubs are a strategy the trust will look to roll out for Porirua and Kapiti in due course, as we are fielding enquiry from all over the Wellington Region. Experience shows that our volunteers are best sourced through personal contacts and therefore having people and connections from other regions would assist in co-opting volunteers.

The Covid -19 pandemic raised new questions from volunteers about how to manage visitations and maintain continuity of contact with their clients. Institutions were innovative in their approach, with

Trust Objectives



1. To assist all persons who lack capacity to make decisions relating to their personal care and welfare.
2. To recruit and train suitable persons to apply for Welfare Guardian Appointments
3. Provision of Education and Training to promote and mentor volunteers.
- 4 To promote and educate the public on the role of Welfare Guardians
5. All WWGT Activities are consistent with a charitable Trust

the use of technology, and “old-fashioned” phone calls worked well. Fortunately, within the scheme of the world, there is a return to the new normal for NZ, with a respect for hygiene protocols and an understanding around the importance of isolating our most vulnerable populations.

Whanganui Meeting – Darien Mahony

Since its establishment, the Trust has received many inquiries from individuals and organisations about the work we do and how we operate. Some groups have sought information and guidance about setting up their own Welfare Guardianship Trust in their region. We try to help as much as we can. In mid-October, WWGT Trustee Darien Mahony travelled to Whanganui to be part of a public meeting about the need for volunteer Welfare Guardians. Darien’s description of the meeting follows.

“I agreed to be part of a panel discussion in Whanganui that local community lawyer Marion Sanson and representatives from Alzheimers NZ and Dementia Whanganui had set up. Their idea was to invite the public to a meeting to discuss the possibility of setting up a welfare guardianship trust along similar lines to WWGT. About 30-35 people attended the meeting, chaired by the Deputy Mayor.

The panel consisted of 5 speakers who presented on quite different topics and the audience was invited to ask questions. Kathryn Crooks, a local Family Law specialist and District Inspector of Mental Health spoke on the legal process for application to appoint WG. Kathryn assists community law with complex/contentious cases under PPPR Act. Dryden Badenoch, a clinical psychologist, and Stroke Specialist for the DHB, spoke on mental capacity and competency. His power point/talk used several video examples of Donald Trump in action to emphasise points and raise a few smiles. Wheturangi Walsh-Tapiata, CEO of Te Oranganui Trust – Disability Support Services Whanganui, spoke to the need for in depth understanding of the needs of Māori, of responding to Māori in a culturally respectful way and of the need for Māori volunteers.

Barbara Ranford - a local person who has been a WG for about 10 people over the years and whose adult daughter has just volunteered to be the WG for 2 subject people. Barbara appears to have had a care contract with the DHB when she was asked to take on WG role for one person and then another and another. She spoke about what her “humbling” experiences as a WG have meant to her – much enjoyment and surprise in getting to know the stories of many people and knowing that she has been able to help. Barbara also told a story of when she had to advocate hard for a 40-year-old man, who had suffered incapacity through strokes, to be moved to out of very inappropriate residential care. This success in advocating for a better quality of life for someone who could not, was something she held dear.

My presentation covered how WWGT was set up; how trustees were chosen robustly by interview: how the WWGT took time to establish robust systems/policies to recruit train and mentor volunteers: how we joined the Otago website; how we provide volunteer meetings and continue to respond to needs for example, writing of the FAQ. And how vital to maintaining the organisation is our wonderful volunteer administrator!

It was a well-run event, and the organisers were pleased that two people “signed up” as volunteers on the day!

A need for Welfare Guardians within prisons

A difficult area we have become aware of is that the High Dependency Unit at Rimutaka Prison has several residents who lack capacity. There was a recent episode where there was a proposal for one of these residents to be moved to a rest home with dementia level care; a level of care that they cannot manage within the prison.

The prisoner did not have a Welfare Guardian and appropriately the rest home asked that one be appointed before they were willing to accept him. In the end the patient died in prison before the process was completed.

There has been recent coverage of the case of Alf Vincent who has been in prison for the last 50 year on a sentence of preventive detention for sexual offences.

<https://www.stuff.co.nz/national/crime/122869312/ludicrous-longest-serving-prisoner-with-dementia-is-still-jailed--lawyer>

Several of the men in the high dependency unit have dementia and are serving sentences for sexual offences. As a result of their dementia firstly they do not have the cognitive ability to undergo rehabilitation, and secondly their behaviour can become more disinhibited. Dementia units are of course secure units. It is not just men convicted of sexual crimes who can be disinhibited, this can happen to many people with dementia, and an important part of good dementia care is managing behaviours that may be unacceptable to other residents.

Ben Gray has met with management personnel from Remutaka and Corrections head office to discuss these issues, with a goal of working toward recruiting appropriate volunteers to assist persons in these circumstances.

This is an issue that Corrections are taking seriously and were very happy to work with us to improve the outcome for these men.

FAQ – a new resource for Welfare Guardians

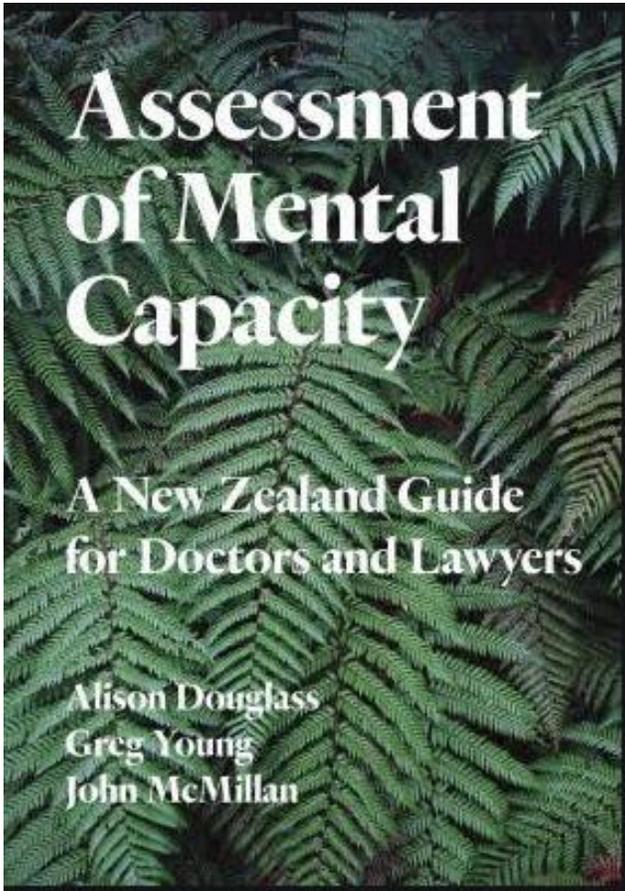
The experiences our volunteers encounter is incorporated into our FAQ document the trust has prepared. This will be a living document, added to as new circumstances arise. The recently updated version is on the website.

To view the document please go to the Wellington Welfare Guardian Page and there is a link called FAQ's.

<https://welfareguardians.nz/documents/wellington/>

BOOK REVIEW

ASSESSMENT OF MENTAL CAPACITY – A NEW ZEALAND GUIDE FOR DOCTORS AND LAWYERS – Reviewed by Annette Gray



A multi-disciplinary team comprising Alison Douglas, a Barrister specialising in health and disability law, Dr Greg Young, a consultant psychiatrist and John McMillan a Professor of Bioethics have collaborated to produce this book as a guide for both doctors and lawyers regarding the assessment of capacity across a number of circumstances facing individuals, families and professionals involved in decision making for those where there are concerns of impaired capacity.

The book is broken into three parts. The first part looks at key concepts and legal overview. Part 2 covers case studies in practise and Part 3 is the professional guidance section.

Chapters within are written by experts, including our own WWGT Trustee Ben Gray, contributing in their speciality areas. This has the great benefit in providing an extremely wide range of expert opinions, woven together in a cohesive way to cover the various topics.

This book explains why a standardised and multi-disciplinary approach to assessment is important.

There is a very pertinent chapter in the book by Mark Fisher which raises questions about the suitability of the current legal framework and the need for legislative reform, as has occurred in some overseas jurisdictions, when individuals are deprived of their liberty in care facilities when they cannot consent to such placements.

The so called “Bournewood gap” when a person is compliant with their placement in a facility where they are deprived of their liberty, but they have no capacity to consent to such a living situation.

It can therefore be seen why an accurate, consistent process for assessing capacity is vital as there are lifelong ongoing consequences for those assessed as wholly or partly lacking capacity who may then be legally deprived of making decisions for themselves.

The PPPR Act begins with a presumption of competence. Every person is presumed until the contrary is proved, to have the capacity to understand the nature and to foresee the consequences of decisions in respect of matters relating to his or her personal care and welfare; and to communicate decisions in respect of those matters.

The law has struggled to integrate legal and medical concepts of capacity.

This book provides for practitioners, both an academic analysis of issues in relation to capacity and very practical guidance as to the application of the toolkit for assessing capacity. It deals with challenging issues such as supported decision making, looking at

unconscious bias in clinical care and cultural diversity and the role of interpreters.

Psychologist Kay Cunningham addresses the issue of assessing capacity to consent to sexual relationships.

Given that we will soon be having to grapple with the End of Life Act the chapter written by Ron Patterson regarding advance decisions is particularly pertinent. Issues of client capacity are not only relevant for lawyers and judges when dealing with the statutes such as the PPPR Act but also for property lawyers. Every time they sign a client instruction and authority form to carry out a conveyancing transaction, they are also certifying that to the best of their belief their client is of sound mind.

Signing a will is an important step for many people and being satisfied that the client has capacity to do is essential for lawyers.

While losing capacity is not just something age related, statistics of New Zealand's population demographics show that we do have an aging population and considering issues of capacity is something that practitioners are likely to be increasingly called upon to deal with.

As lawyers in a busy practise it is of great assistance to have practical advice that we can regularly turn to assist us, especially in a difficult area where our legal practise intersects with medical issues.

It is helpful that the appendices to this book include the toolkit for assessing capacity and several other extremely helpful template documents which can be referred to in day to

day practice.

This is a very timely addition to the development of the law in the disability area and a reminder that as family lawyers, we do not operate in isolation from other professionals.

A multi-disciplinary collaborative approach is often the way to gather the best information to assist and advise our clients, their families and other professionals working with our clients.

This is a volume which I anticipate both family and property lawyers would come back to many times, to re-read the various papers written by the contributors to the book, and to get guidance to reflect on tricky issues that practitioners and their clients may be facing in their practises.

Annette Gray



Thank you for your continued interest...

The trust operates on a voluntary basis, and as such we are continually looking for suitable applicants to become Welfare Guardians or become involved in some way.

We again thank the wonderful volunteers in the Wellington Region who provide ongoing support and guardianship to those in need.

The trust has no funding and as such, it is truly the good will of our local people to help others in need. The trustees would like to acknowledge these people and their on-going work.

We would very much appreciate it if you could canvas your networks for persons who may have some availability to become a Welfare Guardian and assist a person in care.

For further information on the role of a volunteer welfare guardian, there is additional information on our website.

Meri Kirihimete

Ngā mihi nui ki a koe

Kind regards

Ben, Annette, Vicki, Darien, Tom, Jill, and Megan

Trustees of the Wellington Welfare Guardianship Trust 2020

**Dr Ben Gray - Vicki Wilde - Annette Gray - Darien Mahony
Jill Stringer and Tom White**



For further details on the Trust please refer to our website

<https://welfareguardians.nz/>

email wwgtrust@gmail.com

Please send this newsletter onto any person that would be potentially interested in WWGT services or as a potential volunteer.

Donations gratefully received.

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