



## FAQ's

### What qualifications do I need to be a WG?

The Court must be satisfied that the proposed Welfare Guardian:

- is aged 20 or older and capable of carrying out a welfare guardian's duties satisfactorily
- will act in the Subject person's best interests
- does not have any conflict of interest
- has met the requirements of a NZ Police check, and
- has given written consent to their appointment.

The Wellington Welfare Guardianship trustees interview each candidate to assess their suitability for the role, they consider everyone based on:

- Relevant experience might be having acted as EPOA or Welfare Guardian in the past or having an interest in caring for persons lacking in capacity.
- Professional experience in the health or social sector is desirable but not essential to an appointment.

### What are the limits of a WG's responsibilities?

Once appointed as Welfare Guardian, you may make all necessary decisions about the Subject Person's care and welfare subject to any limitations contained in the Court Order. You have the duty to ensure such decisions are carried out.

When a Welfare Guardians is making and carrying out decisions, they must:

- promote and protect the Subject Person's welfare and best interests;
- encourage the person to develop and use whatever capacity they do have;
- encourage the person to act on their own behalf wherever possible;
- make decisions which integrate the Subject Person into the community as far as is possible.

### A Welfare Guardian is forbidden to:

- make any decision about the Subject Person getting married or entering a civil union, or ending (dissolving) a marriage or civil union;
- make any decision to do with the adoption of any of the Subject Person's children;
- refuse to allow the Subject Person to have any standard medical treatment or operation that is intended to save their life or prevent serious damage to their health;
- allow the Subject Person to be given electro-convulsive treatment;
- allow any surgery or other medical treatment that is intended to destroy any part of the Subject Person's brain, or to change the way their brain works, or to change their behaviour.



- allow the person to be part of any medical experiment (except one to save the person's life or prevent serious damage to their health).

### **How often do I visit the person requiring a Welfare Guardian?**

This will vary between WGs and the SP.

Some WGs visit monthly and some a little more often. It is ideal if you can be present when the SP has their regular medical check (usually three monthly, unless there are ongoing health issues which require more frequent checks) being available at least by phone for urgent problems is desirable

In some instances a telephone call can replace a face to face visit. (For example, during the Covid-19 lockdown period this worked successfully)

### **Am I required to keep records of my visits?**

It is important that you write notes after each visit with the SP for the purpose of accountability and keeping a record of your observations and any issues / concerns.

The notes do not have to be extensive but should include date, time, duration of visit, and any significant observations of the SP or issues raised during the visit. For example, your notes may include: highlights, changes (or no change) in the SP's presentation, conversation, mood, concerns, plus any insights or concerns you may have from the visit about the SP or their living situation. The notes can be helpful for any required follow up and for building a record that can be referred back to if necessary. The notes can also be viewed by the Chair and Coordinator of the WWGT.

WWGT have developed a secure web-based records system, where notes can be directly typed in/ or handwritten notes can be scanned and saved by date of visit. The trust coordinator will train volunteers to use this system, or if volunteers prefer a manual system the coordinator can upload scanned notes onto the subject persons file on their behalf.

### **What does a WG need to know if the person they are caring for (SP) dies?**

Legally the relationship between the SP and WG ends upon the death of the SP.

The care facility will take care of the funeral arrangements. However, most WG's have developed a relationship and it is reasonable to ask the facility to keep you informed on any funeral arrangements (if any). It is prudent to make an enquiry while you are the WG as to any arrangements that may be in place in respect of a funeral, and in conjunction with the SP's wishes with respect to their death.

Inform WWGT as soon as practical, and if needed contact your support trustee.



### **What support is available to a WG regarding their role?**

In Wellington we appoint a trustee as a support person for each guardian to approach with questions or issues. In the first instance most problems can be resolved through discussion with the trustee.

The Trust has connections with many other agencies in health and law agencies that they can seek advice and support from.

WWGT encourage the referral agent (often a social worker) to retain a link to the volunteer especially in the initial period as both parties get to know each other. Our volunteers note that the relationship with caregiving staff is important and often helps in developing knowledge of the subject person.

### **What is the difference between a "welfare guardian" and someone who has "power of attorney for health and welfare" responsibilities for someone?**

An Enduring Power of Attorney (EPA) for personal care and welfare gives someone you trust the power to make decisions about your health and welfare if you are unable to.

It's a legal document prepared in advance whilst you have full capacity that gives someone you trust the power to look after your health and welfare if you're unable to because of illness, an accident or an age-related disease. This person is called your attorney. They're often a family member or a trusted friend.

You can also establish an EPA for property, which gives someone you trust the ability to make decisions about your money and property if you become too sick to do so.

A welfare guardian is a court appointment of a guardian for someone who no longer has capacity to make health and welfare decisions and is for only three years – although can be renewed.

Volunteer welfare guardians are usually appointed for people who have no one available to do this for them. The role of the trust is to provide training and support for people in this role

### **I like to travel overseas and could be away for a 4-6 weeks at a stretch - can I still be a Welfare Guardian?**

Similarly, to a situation when assisting family members, a welfare guardian may have times where they are on holiday or overseas for work.

We would suggest that an arrangement is made with the care facility to ensure that an email address or mobile telephone number is available for any urgent relay of information. The welfare guardian should advise the care facility of their impending travel or work plans and discuss how best to manage communications during this period.

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### **What happens if the home or caregivers cannot get hold of me for an urgent decision?**

In clinical practice it is quite common that a person who lacks capacity requires urgent care decisions and the EPOA or Welfare Guardian is not available.

In the event that you are not there and are not contactable clinicians are able to provide care to the SP according to their assessment of their best interests as outlined in Right 7(4) of the HDC Code of Health and Disability Services Consumer's Act.

### **What happens when the term of appointment of a WG is nearing its expiry date, whether the WG wishes to renew or end the role?**

There is a legal process and process for WG decision to renew/or opt out of a further three-year appointment.

### **Whose responsibility is dental care?**

As with all professional care needs it is the responsibility of the care facility to arrange for these.

Day to day oral hygiene is the responsibility of the Care facility. For dental care, if the person has no money, then a referral to the hospital. Be aware, there are no root canals or cap work done on teeth at hospital, just extractions.

### **Money – If I purchase something for my subject person how do I get reimbursed?**

The SP will likely have a 'comfort fund' (or an equivalent) which the care institution manages on behalf of the resident (SP). This is usually a limited fund which belongs to the SP and is intended for purchasing personal items such as clothing, toiletries, treats ....

It would be prudent/useful for you to find out from the institution what and how their fund operates, and the process to follow for reimbursement of any purchases you make on behalf of the SP.

Welfare Guardian should keep records of any money that they spend on behalf of the SP

### **Can Welfare Guardians decisions be challenged?**

Providing that the Welfare Guardian has disclosed their appointment to all concerned parties the Welfare Guardians decisions, or lack thereof, cannot be challenged unless, on application to the Court, it is shown that the welfare guardian acted in bad faith or without reasonable care. However note that the WG cannot decline any standard medical treatment or operation that is intended to save their life or prevent serious damage to their health; if there is any dispute about decisions the WG has made then it would be wise to discuss this with your support trustee.

### **If the SP expresses a desire to go back home, what should the WG do?**

Suggested steps to help you / the WG make an informed decision as to the best course of action:

- Check any records of the SP's history prior to their assessment of loss of capacity and entry to institutional care. This may provide useful background information.
- Check with the SP's General Practitioner for their view of the SP's desire to go home

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- Talk with the Care Manager of the institution about their view
- The inquiry to this point may indicate to you whether a request for a formal assessment is warranted.

Note: A person's health and wellbeing may improve as a result of being in institutional care (i.e. they get regular healthy meals and required health care). This may give reason to believe the person's mental capacity has also improved to the extent a request for a formal assessment of capacity is warranted. If you believe that they have regained sufficient capacity to be able to have such a request approved you are able to ask for a formal capacity assessment to be done. This is usually by the GP or the Psychogeriatric service. If this situation arose discuss with your nominated trustee.

### Does the SP have the right to refuse medical treatment or examinations?

Whilst often medical practitioners recommend a treatment and or medical examinations – despite the SP having diminished capacity they still are entitled to a choice and any decision (often based on their fear) should still be respected.

Often-time there is a work around, perhaps more time, further explanations to allay fears. People have the right to change their mind and this is where the relationship counts. Perhaps there is a staff member that the SP feels more comfortable with to attend an appointment.

### Why be a volunteer?

One of our volunteers wrote

“It hasn't escaped (*name of institution*) staff's attention that I continue my visits despite Mr X's deterioration and inability to converse.

I've become a reference point and in a strange way a “sign post”. My visits signify to the staff that Mr X **matters**, outside the institution as well as within, and has worth.

It is an unexpected and unplanned consequence, which adds to the satisfaction of undertaking this role.”