

Residential Care Service Welfare Guardianship Policy

1. Purpose

To ensure that the rights, wellbeing, dignity, and safety of clients or residents with specific needs are upheld in accordance with New Zealand legislation, regulatory standards, Te Tiriti o Waitangi obligations, and best practice guidelines in disability support services. This policy affirms the essential role of guardians in care planning and decision-making.

2. Legislative and Regulatory Framework

This policy is guided by:

- Protection of Personal and Property Rights Act 1988 (PPPR Act)
- Code of Health and Disability Services Consumers' Rights 1996
- Health Information Privacy Code 2020
- Health and Disability Services (Safety) Act 2001
- Ngā Paerewa Health and Disability Services Standard (NZS 8134:2021) and relevant sector standards

3. Scope

This policy applies to all staff, including community support workers, team leaders, service managers, clinical advisors, specialist support staff, and casual staff working within the residential service.

It applies to all residents who have impaired, partial, fluctuating, or absent decision-making capacity, and any resident for whom a Welfare Guardian or Enduring Power of Attorney (EPA) is appointed.

4. Definitions

Client / Resident with Specific Needs: A client who requires additional support to understand, communicate, or participate in decisions about their care, support, or wellbeing.

Welfare Guardian: A person appointed by the Family Court under the PPPR Act to make personal care and welfare decisions for an individual who lacks capacity.

Enduring Power of Attorney (EPA) – Personal Care and Welfare: A legal authority enabling an appointed person to make care decisions once capacity is lost.

Capacity: The ability to understand, retain, weigh information, and communicate a decision.

5. Principles

- Presumption of competence unless assessed otherwise
- Least restrictive intervention
- Respect for mana, dignity, and autonomy
- Partnership and participation
- Best-interest and wellbeing-focused care
- Alignment with Enabling Good Lives principles, including person-directed support, ordinary life outcomes, and whānau-centred approaches

6. Capacity Assessment and Consent

Staff must recognise when a client's decision-making capacity may be impaired and seek appropriate assessment or advice if required. Capacity may be decision-specific and time-specific.

When a client lacks capacity:

- A legally appointed Welfare Guardian or EPA must be identified.
- Decisions must be made within the scope of their legal authority.

- The client must still be involved to the maximum extent possible.
- Whānau and support persons should be identified and involved where appropriate if no Welfare Guardian or EPA exists.

Where there is uncertainty about capacity, staff should seek guidance from senior staff or relevant professionals or consult with the client's Welfare Guardian where appropriate.

An assessment of capacity does not remove the obligation to notify or involve a legally appointed Welfare Guardian in accordance with this policy.

7. Notification and Role of Guardians and Support Persons

7.1. Identification of Guardians

The existence of a Welfare Guardian or EPA must be clearly recorded in the client's file and be readily visible to all staff. Systems must ensure this information is consistently identified, actively maintained and regularly reviewed.

7.2. Notification of Guardians

Where a Welfare Guardian or EPA is appointed, they must be promptly informed of any significant event, change, or concern relating to the client's health, behaviour, or wellbeing, regardless of the client's assessed decision-making capacity at the time, unless it is not appropriate to do so. Notification should occur as soon as reasonably practicable.

Notification must occur in situations including, but not limited to:

- Acute illness or deterioration
- Significant behavioural or functional change
- Changes in care needs or support requirements
- Incidents, accidents, or safeguarding concerns
- Prescribing or changes to medication
- Referral to external health or specialist services
- Emergency events or hospital admissions

This requirement recognises the guardian's role in safeguarding the client's wellbeing, supporting informed oversight, and ensuring continuity of care, particularly where the client has complex or poorly understood health needs.

Any decision not to notify a Welfare Guardian or EPA must be clearly documented, including the rationale.

7.3. Role of Guardians

A Welfare Guardian must be included in significant discussions regarding care and support planning, in accordance with the notification requirements of this policy. Guardians must also be involved in decisions where the client lacks decision-making capacity.

Staff must:

- Provide clear, accessible, and timely information.
- Respect the guardian's legal authority.
- Support collaborative decision-making involving the client and guardian where appropriate.
- Document all guardian notification, involvement, and decisions.

7.4. Support Persons and Whānau

Where appropriate, and with the client's consent where required, staff should involve whānau and wider support networks, alongside any guardians, to support the wellbeing and care of clients with specific needs.

8. Cultural Safety and Te Tiriti o Waitangi

The organisation acknowledges its obligations under Te Tiriti o Waitangi.

Support must be culturally safe, recognising whānau involvement, Māori health models, and the client's cultural identity.

Where appropriate, whānau and support networks should be engaged alongside guardians.

9. Dispute Resolution and Escalation

If disagreements arise between staff, clients, and guardians, the Welfare Guardian or EPA must be recognised as part of the decision-making process within the scope of their legal authority. In disagreement situations, the following steps should be taken:

- Seek resolution through discussion and clarification.
- Escalate to senior management.
- Seek external advice (e.g. clinical or Family Court guidance) where required

10. Staff Training and Responsibilities

All staff must:

- Familiarise themselves with this policy
- Understand guardianship law and decision-making obligations.
- Undertake training on capacity, consent, and supported decision-making.

Training must include:

- Recognition of Welfare Guardian and EPA orders and where to locate this information in client records
- Obligations regarding notification and documentation under this policy

11. Staff Undertaking

All staff are required to sign an acknowledgement confirming:

- They have read and understood this policy
- They will actively include guardians in all relevant decisions
- They will familiarise themselves with each client's specific needs

12. Review

This policy will be reviewed every three years, or sooner if legislative or regulatory changes occur.

Staff Acknowledgement and Undertaking

I acknowledge that I have read and understood this Welfare Guardianship Policy. I commit to familiarising myself with the specific needs of clients under guardianship and to including their legally appointed guardian in accordance with this policy, particularly in relation to notification, involvement and decision-making processes.

Signature: _____

Name: _____

Role: _____

Date: _____