

## **AWI 2000 - Aide Memoire - Chairing the pre Guardianship Case Conference**

**The Chair at a Guardianship case conference should:**

- Prepare for the conference by obtaining as much information as possible in advance – Report must be provided by Adult Social Care Worker
- Give consideration to a protected period without family when there are serious concerns about a conflict of interest between the Adult and/or family members
- Begin the conference with a specific statement about the purpose, i.e. to discuss the necessity or otherwise for Guardianship - clarify reason for meeting
- Explain the process to relatives – Check whether they intend to make their own application, if not why not. LA have a duty to make an AWI application **only if it is necessary and no one else willing/able to apply**
- Ensure that everyone present or invited has an opportunity to air their views
- Ensure that the Adult's wishes and feelings are represented, either by themselves, or by an advocate. The Adult should be invited to attend at least in part, unless it's considered detrimental to their health and well-being.
- Ensure, as far as is possible, that consensus is reached, and to reconcile disagreements
- Ensure that a clear decision is reached at the end, and that decisions are properly recorded
- Allow enough time for a proper discussion without prolonging matters – 1-1 1/2 hours should be sufficient time
- Make one of the following decisions:

**Apply for Guardianship** – be clear what powers are being asked for, how they are going to be used and by whom taking account of principles (benefit, minimum intervention...)

**No Application necessary** – give reasons why.

**No AWI Application for Guardianship, but consider alternative arrangements such as 13ZA, which will need to be recorded** - Please see separate Highland Procedure

Sum up at the end of the conference – the following issues **must** be covered and included in the minute:

- **Capacity** – confirmation is required that Adult lacks capacity
- **Risk assessment** – current risks and reasons for Intervention
- **Give relatives the opportunity to apply** – this should have been discussed prior to case conference and family solicitor should be invited to the meeting. If relatives are wishing to progress the Application obtain name and contact details for family solicitor as notification will be sent in writing by Chair advising solicitor of decision of Case Conference and time scales/urgency as appropriate.
- Major decisions which need to be made on the Adult's behalf – if Guardianship is necessary there should be a clear decision as to **what powers will be required and how these will benefit the Adult. How will the powers be used, delegated, by/to whom?**
- Timescales – LA application estimated timescale would be around 12 weeks
- Guardianship powers – see above
- Local Authority Application - Who does what – MHO co-ordinates medicals and submits medicals plus MHO report to Legal **within 21 days of first medical**. Legal will complete summary application and **lodge papers in court by day 30**. It is the responsibility of the Health & Social Care Worker/Professional allocated to the case to prepare a report for the Case Conference and gather as much information as possible to inform the MHO and Legal Services to enable them to proceed with the completion of the application within statutory timescales.
- Agree who should inform the Adult of decisions/outcome of case conference

## **What to do if there is disagreement**

Consensus is reached in the vast majority of case conferences, and it is usually straightforward for the Chair to sum up the decisions reached and to reflect the views of those present.

However if it is not possible to reach agreement, whether with relatives and/or other professionals, in the end **the Council, represented by the Chair**, has to make a decision as to how to proceed, based on the information available, and bearing in mind the principles, especially that of least restrictive intervention, whilst weighing up any risk factors.

If the Council decides to go ahead with Guardianship, relatives have the right to object and be heard in Court, or to apply themselves, in which case both applications will be heard by the Sheriff. If there were serious concerns about the motives of relatives, the Council has the option of making an Interim application to ensure that the Adult's Welfare and/or Finances were protected speedily.

**It should be noted that local authorities have a duty to apply for Guardianship if the conditions are met, and no-one else is willing or able to apply. This includes Financial Guardianship when a solicitor or accountant would have to be identified as Guardian.**

A Minute of the pre guardianship case conference **must** be completed, signed and distributed to all within 10 working days. **This is the responsibility of the Chair of the Case Conference.**

Karin Campbell

Principal Mental Health Officer