

## **CONSULTATION ON PROPOSALS FOR REGULATIONS TO SUPPLEMENT CHANGES CONTAINED IN THE ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007**

This response covers the main questions raised in the above consultation document and offers some limited general comments on each section.

### **Certification where a Power of Attorney contains both continuing and welfare powers**

The questions relate to the costs of providing certificates, which is a matter about which we are unable to comment, as we have no involvement in this. However we do believe it is a good idea to simplify the certification process in respect of Power of Attorney documents and hopefully reduce the associated costs. We are aware that the process can seem daunting to individuals considering assigning powers and the costs can be off-putting.

### **Certification of revocation of Power of Attorney**

Again we are unable to comment on the specific questions as these relate to costs levied by solicitors. As suggested in the consultation document it is generally understood that the granter should have sufficient capacity to revoke the appointment of an attorney, but for the avoidance of doubt it makes sense to formalise the process.

### **Renewal of Guardianship**

A number of issues are apparent here.

The prescribed forms for Mental Health Officers AWI(3) and for the Chief Social Work Officer AWI(6) have been significantly truncated in comparison to the reports required to accompany the original application. It does make sense for the forms to be briefer given that the original application will have been the subject of considerable scrutiny during the application process and throughout the operation of the order. However there is no scope within these reports for 'narrative', nor is there space to disagree with the application to renew. The need for narrative may arise where the powers sought are being varied or perhaps where the officer believes they should be varied in terms of the least restrictive option.

The requirement for a report by the Public Guardian in relation to renewals of financial guardianship is reasonable and should provide valuable evidence of the probity of the guardian given that the Public Guardian will have been supervising the arrangement.

The forms AWI(3) and AWI(6) note that the Mental Health Officer and Chief Social Work Officer should indicate whether the application is for 'personal welfare' or 'personal welfare and property or financial affairs' however it is not clear if s/he should comment on the appropriateness of financial measures or suitability of a financial guardian. Given that a report is required by the Public

Guardian, it seems un-necessary for the AWI(3) and (6) reports to also comment on these matters. This could be clarified simply enough by inserting the word 'Welfare' at appropriate places in Parts C,D and E. If it is intended that the reports do comment on financial guardians this should be made clear on the form for the avoidance of doubt.

### **General Comments**

Both these aspects of the legislation are widely used and are valued highly by users of Social Work services and staff alike. Some processes within the Act are seen to be quite cumbersome, time-consuming and expensive. These regulations are welcomed in that they simplify the processes around Power of Attorney and renewal of Guardianship and reduce costs for applicants.