

## **Report on a Survey of Private Welfare Guardians (2014)**

## **Conducted Summer 2014**

### **Who we are**

The Mental Welfare Commission for Scotland protects and promotes the human rights of people with mental health problems, learning disabilities, dementia and related conditions.

We do this by:

- Checking if individual care and treatment is lawful and in line with good practice
- Empowering individuals and their carers through advice, guidance and information
- Promoting best practice in applying mental health and incapacity law
- Influencing legislation, policy and service development

### **Our monitoring role**

In order to influence incapacity legislation we monitor the operation and use of the Adults with Incapacity (Scotland) Act 2000 (the Act). This Act introduced a system for safeguarding the welfare and managing the finances and property of adults who lack capacity to act or make some or all decisions for themselves, because of mental illness, learning disability, dementia or other condition (or inability to communicate due to a physical condition). It allows other people, called guardians or attorneys, to make decisions on behalf of these adults, subject to safeguards. The majority of guardians are private individuals, usually family members. Local authorities can also take on this role, especially if private individuals do not wish to do this.

### **Why we undertook this survey**

The rate of increase in private applications year on year, which had slowed to 8.3% in 2012/13, increased to 14.2% in the past year. In 2013/14 there were over 1,600 new private welfare guardianships granted. We felt it was important to find out why private welfare guardians were applying to take on this role.

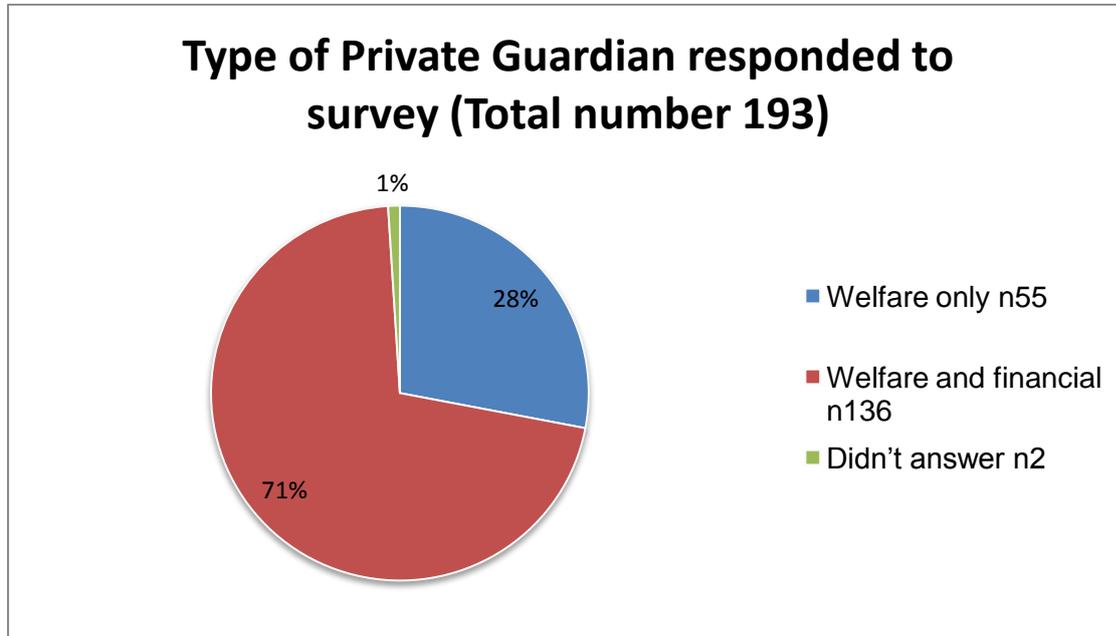
We wanted to find out the views of private individuals who had decided to apply for welfare guardianship. In particular we wanted to know what had triggered their application and whether they believed it had been worthwhile.

We sent out a brief questionnaire to 732 new private welfare guardians between 1<sup>st</sup> April and 31<sup>st</sup> July 2014, including a reply paid envelope. We also gave the private guardians the alternative of completing an online survey monkey.

This is a report based on the 193 responses we received.

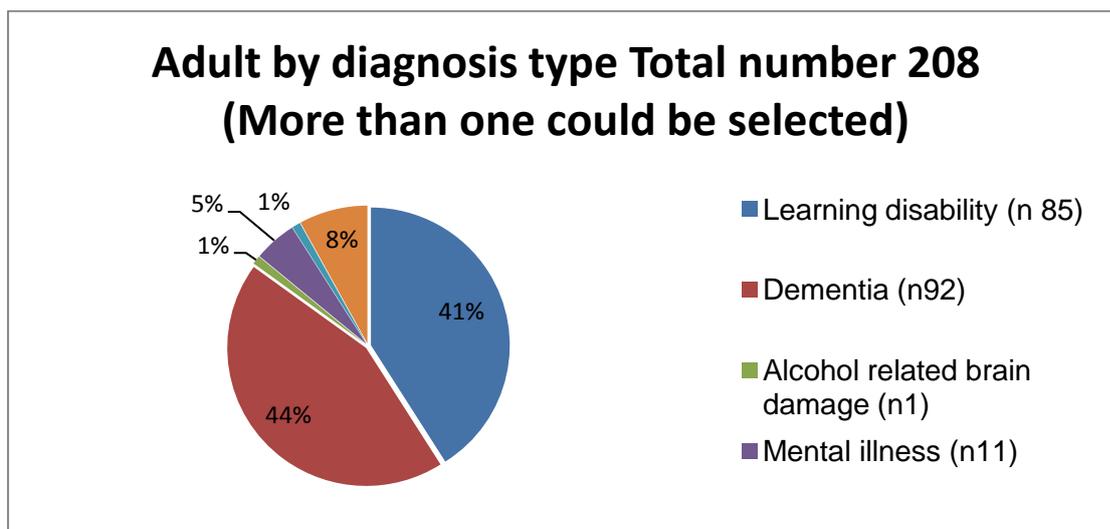
### Type of Order

We asked them to identify whether they were welfare only, or welfare and financial guardians. Nearly three-quarters (72%) were both welfare and financial guardians.



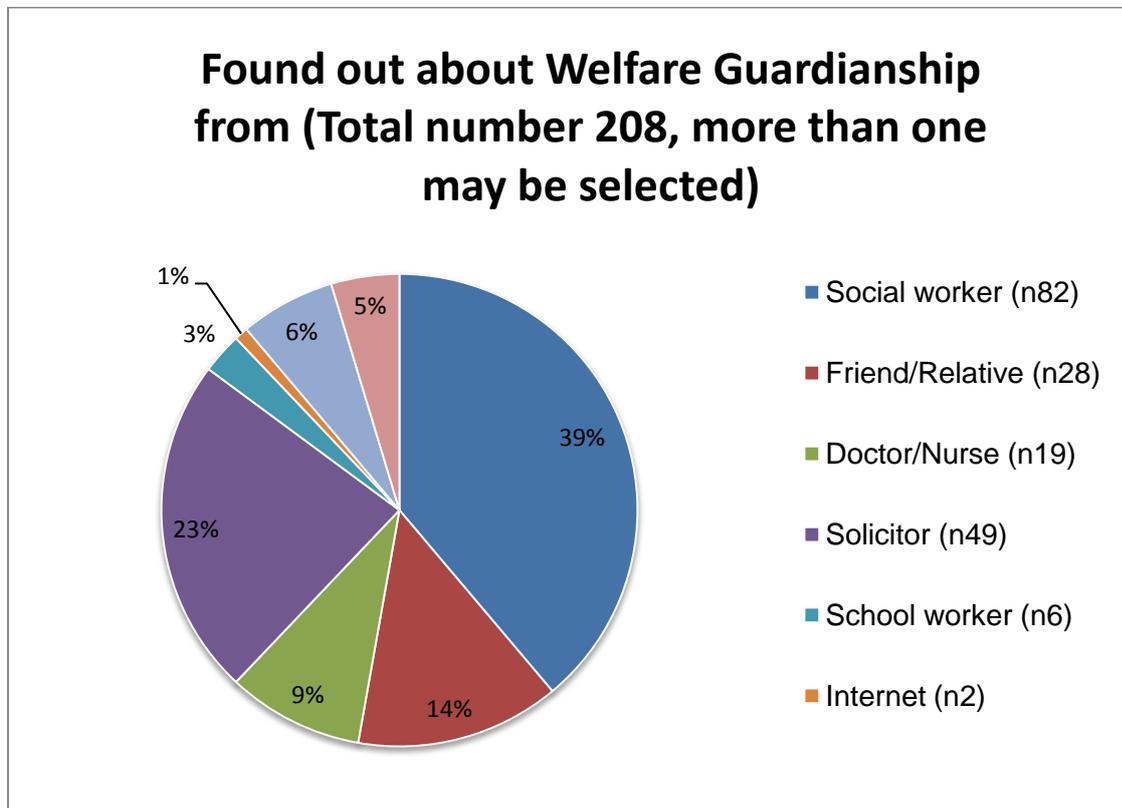
### Type of incapacity

We asked the guardians to identify the diagnosis of the adult for whom they were guardian. They could select more than one diagnosis. The vast majority of the guardians (85%) were a guardian for someone with either dementia (44%) or a learning disability (41%).



## How did you find out?

We asked all of the guardians to identify who had told them about guardianship. In some cases more than one category was selected, but well over a third (39% of the 193) answered that it had been a social worker who first told them about guardianship. Nearly a quarter (23%) told us that it had been a solicitor.



Looking only at adults with dementia there was a small increase in the percentage of guardians who were getting their initial information from a doctor or nurse but this was not significant. Social workers and solicitors remained the main source of information. Healthcare workers may need to be made more aware of the Adults with Incapacity (Scotland) Act 2000 and the importance of sharing information about guardianship.

Looking only at adults with a learning disability there was a noticeable increase in the percentage of guardians who got their first information from friends and relatives (19%), overtaking solicitors (18%).

For those guardians who initially sought to resolve financial matters but then took out welfare powers too, they were more likely to have been informed about guardianship by a solicitor than others (28%) but social workers were still the biggest group (34%).

## Why did the guardian apply?

The most complicated part of the survey to analyse is when we asked the guardian to select as many statements that suited their situation as they wished, that described why they had taken out welfare guardianship. We provided 6 possible statements, but asked the guardians to put other reasons down if they wished.

The 193 guardians selected on average between 2 and 3 statements each (504 statements in total).

<b>I applied for Welfare Guardianship because</b>		<b>%</b>
I thought it would be a good idea to have the formal role of guardian	62	32
It was necessary to authorise decision making; care arrangements are very complex	119	62
I needed financial powers, and took welfare powers at the same time	71	37
I was told if I did not then the local authority/social work would	44	23
I was told I had to, if I wanted a say in what happens	117	61
I was told I had to, to apply for and manage SDS/tenancy/ contract etc	50	26
Other or Comment	41	21
<b>Total (More than one picked)</b>	<b>504</b>	

Almost a third of all guardians (32%) agreed with the statement “I thought it would be a good idea to have the formal role of guardian”. However, this was far more important (43%) for guardians of people with a learning disability, than guardians of adults with dementia (27%).

Double the number, two-thirds of guardians (62%), selected the statement “I applied for guardianship because it was necessary to authorise decision making; care arrangements are very complex”. There was no difference between those guardians of adults with different types of incapacity. This was the most selected statement for guardians who took both financial and welfare powers.

The Commission has been concerned that some welfare powers may be being sought, and some welfare guardians appointed, even though they would not have been seeking welfare guardianship if there had been no financial trigger for seeking the order. Well over a third of all guardians that responded to this survey (37%) agreed with the statement “I applied for guardianship because I needed financial powers, and took welfare powers at the same time”. More guardians of adults with dementia (40%) than those with learning disability (34%) agreed with this statement but this might be expected.

The statement that fewest guardians agreed with - “I applied for guardianship because I was told if I did not then the local authority/social work would apply” was

still agreed with by nearly a quarter (23%) of guardians. It was of less concern for guardians of people with a learning disability (17%) than those with dementia (26%).

The 2<sup>nd</sup> most popular statement by a narrow margin, selected by 61% of all guardians, was “I applied for guardianship because I was told I had to, if I wanted a say in what happens”. For those 55 guardians who only had welfare powers this was far and away the most popular statement (73%). It was more likely to be selected by guardians of people with a learning disability (68%) than dementia (59%).

Finally, of the pre-scripted statements, “I applied for guardianship because I was told I had to, to apply for and manage SDS/tenancy/contract etc” applied in just over a quarter of all cases (26%). It was selected in one third (33%) of situations for people with a learning disability, but still applied in nearly a fifth of cases (19%) for guardians of adults with dementia. Where welfare powers only were granted it was still applicable in nearly a fifth of situations (18%), but was more applicable (29%) in financial and welfare guardianships.

Although a fifth of guardians made a comment about the reason why guardianship was applied for, most comments added detail to the statements and why more than one was selected. Many mentioned a feeling of duty or family responsibility, whilst others wrote about the difficulties they had experienced with care providers, or the need to protect the adult against exploitation.

### **Was welfare guardianship worth it?**

We asked two questions about the early experience of the guardian since the order had been granted. The order had only been granted in most cases in the last 3 months and we would like to re-run this questionnaire with guardians later in their period of tenure.

However, we asked all guardians to tell us whether they had found being welfare guardian helpful so far? Two-thirds (65%) said it had been helpful, a quarter (25%) said it had not made any difference, and the majority of others thought it too early to answer this question. Only a handful of guardians felt strongly enough already to say it had not been helpful. Despite our anxieties about the necessity for seeking welfare powers in orders triggered by financial matters, the satisfaction rate for being a welfare guardian went up to over three-quarters (77%) in these cases.

We also asked all guardians to tell us “Would you advise others in your situation to apply for Welfare Guardianship?” Nine out of 10 guardians agreed with this statement. Only a few (5%) said they would not. A similar number told us it was too early to say.

Tony Jevon

Social Work Officer

26/11/14