

Thank you for opportunity to comment on the Draft Best Practice Guidelines for Participation of the proposed represented person.

It is not clear if there is any empiric evidence base for any of the Guidelines. I think it would be helpful if this was stated somewhere in the document. My understanding is that little exists.

Draft Guideline 1

might also include the notion that pre hearing management should not harm the person or inhibit their participation.

Draft Guideline 2

does not make clear whose responsibility to promptly notify of an application.

Draft Guideline 3

might be better phrased as Notice of hearing needs to be given in the most appropriate form to enable participation.

support for WA direct delivery would seem warranted.

Draft Guideline 4

seems to repeat 2 & 3; does not make clear who is the decider regarding possibility of harm from participation ; and

what evidence base is being used to avoid confusion and anxiety occurring.

Draft Guideline 5

there does not seem to be any consideration of substantive hearings being conducted at times outside usual court type hours.

there may be a need for multiple interpreters

the time consumed setting up multimedia participations

Draft Guideline 8

there are major limitations to phone participation particularly for older persons without assistive devices that are uniform across all users.

Draft Guideline 9 & 10

Numerical data alone is of limited use: it also to require whether the person felt enabled by the process or inhibited by it, and

what benefit to the person arose from the decision to appoint or not appoint a representative.

Draft Guideline 11

Venue considerations also need to consider cognitive and mental health and cultural needs not just motor aspects

Draft Guideline 12

Needs to be based on empiric evidence and followed up by prospectively planned evaluation
Draft Guideline 13

what are the considerations where the subject person wishes a particular other person or persons not to be present?

Draft Guideline 15

legal representation of parties other than the subject person should be limited where the subject person is not also represented

Draft Guideline 17 & 25, 26, 27

any training needs to be evaluated for effectiveness and duration of effect (and also for any harm)

Missing from the guidelines is any notion that a hearing with the capacity to enable the subject person to express their views in the absence of other parties and the general public be established. For older people with family fighting or where family are considered the possible source of abuse, this mechanism enhance the participation of the subject person.

Helen Creasey, (part time professional member, GD, NCAT NSW, Geriatrician and Neurologist) AM
MB BS FRACP