



Aged Residential Care without Consent

“This is not my home”



In Association with:



Selwyn Village Theatre
Target Road
Point Chevalier
9/27/2016

“This is not my home” Aged Residential Care without Consent

Many people with moderate or severe dementia are recommended for residential care at the same time as they are assessed as no longer having legal capacity to consent to this care. Often, they have not anticipated this situation and have not appointed anyone to be their Enduring Power of Attorney.

Consequently, families, clinicians and residential care providers are confronted with people with dementia needing to go into long-term care, but with a lack of clarity around the legal authority to facilitate this. This situation risks either long hospital stays, or having to remain in unsatisfactory living circumstances while a legal basis for proceeding is sought. There is often dispute over which party should take responsibility for those proceedings.

This seminar focusses on this situation, and looks at the use of the Mental Health (Compulsory Assessment and Treatment) Act, the Protection of Personal and Property Rights Act and the Code of Health and Disability Services Consumers’ Rights. We hope to find consensus through discussion about how and when each of these legal processes can be employed, seeking to provide what is in the person’s best interests. We will also consider the principles that underpin New Zealand’s wider legislative framework and its international treaty obligations relating to human rights and detention.

Finally, there will be a presentation on proposed liberty safeguards for people who lack capacity, in light of international developments, with a view to filling this gap in our legal framework, so that it is better designed and more user-friendly in the future.

This seminar is supported by The Northern Regional Alliance Health of Older People Group. To reserve your place please contact Sue Thomson - Northern Regional Dementia Behavioural Support Advisory Coordinator at sue.thomson@middlemore.co.nz before September 1st. There are limited places so a wait list may be in place.



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Programme

	Subject	Presenter
0930 - 1000	Registration	
1000 - 1015	Welcome and Introductions	Judge Philip Recordon
	Session One: Scope of the problem	
1015 - 1035	The nature of the problem Introduction of cases	Dr Mark Fisher
	Session Two: Legal interpretations	
1035 - 1055	What is the role of the Mental Health Act in placing people into long term Age Related Residential Care?	Iris Reuvecamp
1055 -1115	The Role of the Protection of Personal Property Rights Act?	Andrew Finnie
1115 -1145	The Role of Right 7 (4) and Necessity?	Dr Cordelia Thomas
1145 -1230	Lunch – provided	
	Session Three: A way forward	
1230 - 1400	Panel discussion of initial cases	The Speakers, plus Janet Anderson-Bidois Paul Gibson Kate Diesfeld
1400 - 1430	Minding the Gap: Liberty safeguards for people with impaired capacity.	Alison Douglass Barrister
1430 - 1500	Next steps discussion	Judge Philip Recordon
1500 – 1510	Closure	Dr Alan Davis

About the speakers



Janet Anderson – Bidois is the Chief Legal Adviser at the Human Rights Commission. Janet has an interest in issues relating to informed consent, mental health and capacity. She spent 15 years as an in-house medico legal adviser for several district health boards in the Auckland region and worked previously as an investigator for the Health and Disability Commissioner's office and as a general litigator in private practice. Janet has a master of laws degree from Auckland University.

Dr Alan Davis is a physician and geriatrician based in Northland. He is clinical director of Health of Older People & Clinical Support, and associate chief medical officer for the Northland District Health Board. Currently Alan is clinical lead for both the Health of Older People & Stroke Networks across the Northern Region. He has an interest in dementia, medication management and stroke care and is currently acting chair of the National Medication Safety Expert Advisory Group and a member of the National Stroke Leadership Group. He is also heavily involved in integrated care and implementing information initiative to support this.



Alison Douglass is a Dunedin barrister, specialising in health and disability law. Alison is appointed by the Family Court as counsel for the "subject person" (people who lack capacity) under the PPPR Act and for the care recipient under the Intellectual Disability CCR Act. She has been counsel in a number of Family Court, High Court and Court of Appeal cases. Alison is the 2014 recipient of the New Zealand Law Foundation international research fellowship and recently released her report on a comparative analysis of the English Mental Capacity Act, developments in the UK and proposed law reform of the PPPR Act entitled: Mental Capacity: updating New Zealand's Law and Practice:

<http://alisondouglass.co.nz/>

Professor Kate Diesfeld is a member of the California State Bar. With Professor Freckelton, she edited *Involuntary Detention and Therapeutic Jurisprudence* (2003). With Ian McIntosh, she edited *Elder Law in New Zealand* (2014). She has held academic roles at the University of Kent in England and Te Piringa Faculty of Law at the University of Waikato. Now she is Chair of the Ethics Committee at Auckland University of Technology. Her research focuses on elder, medical and disability law.





Andrew Finnie is a senior family law barrister based in Auckland, NZ. He has more than 17 years' experience in the field of family law and went to the independent bar in 2003. He undertakes court appointed work to represent children in court proceedings (Lawyer for the Child), vulnerable adults in court proceedings (Lawyer for the Subject Person) and intellectually disabled offenders (Lawyer for the Care Recipient). He also acts as Counsel for people detained under the Mental Health (Compulsory Assessment and Treatment) Act

Dr Mark Fisher is currently Clinical Head and Consultant Psychiatrist in Mental Health Services for Older People in Counties Manukau Health, South Auckland. He is also the Director of Area Mental Health Services (DAMHS) for Counties Manukau under the Mental Health Act. Dr Fisher has been a practicing psychiatrist for 20 years, and has worked in Old Age Psychiatry, Liaison Psychiatry and ECT services. He has spent many years in Leadership roles within Mental Health. He has worked primarily in New Zealand but also worked in the United Kingdom. His research interests are in Dementia services, Mental Health law and Driving in Dementia. He has been keenly involved in the setting up of new dementia services in South Auckland.



Paul Gibson is Commissioner with responsibilities for disability issues at the Human Rights Commission. He is a former president of the Disabled People's Assembly and was involved in the development of the United Nations Convention on the Rights of People with Disabilities (CRPD). Mr Gibson is partially blind and uses Braille and assistive technology. He has twenty years of experience in the health and disability sector including working for Capital Coast District Health Board as a senior disability adviser. A key focus area for Mr Gibson is promoting the Convention and disabled people's rights. Key areas of work include: violence; education; mental illness and the rights of older people. He is also committed to inspire change in

New Zealand society so that living in the community for disabled people is easier and welcomed.

Judge Philip Recordon practiced as a lawyer in his hometown of Auckland, New Zealand, for 30 years prior to his appointment in 2003 to the District Court at Waitakere and then Manukau (both in Auckland) where he currently sits. His legal practice was varied with a constant thread of working with those who struggle within the city. Family Law, Youth Law and Mental Health Law were also constants of his practice.





Iris Reuvecamp is a barrister and solicitor who has specialised in health law since 2001 in both an advisory capacity, and in the context of dispute resolution. She has a particular interest in the law as it relates to mental health, disability and aged care. She is passionate about, and committed to, matters relating to people who are unable to make decisions themselves, or who need support to make their own decisions due to a lack of capacity. Iris is appointed by the Family Court as “Lawyer for the Subject Person” under the PPPR Act. She also has an academic interest in this area of the law, and has published articles on related issues. Iris regularly presents in various forums on legal issues in the health sector.

Dr Cordelia Thomas is the Associate Commissioner- Investigations for the Health and Disability Commissioner. She was previously the HDC Acting Chief Legal Advisor, Specialist Senior Legal Advisor and Investigations Manager. Previously, she was the senior legal advisor for Toi te taio : the Bioethics Council. Her projects included “Who Gets Born: Prebirth testing” and “Human Embryos for Research”. For a number of years she was a senior lecturer in law at Massey University and continues to teach Public Health Law. Her research interests include medical law and bioethics and her PhD thesis in law proposed a legal framework for the collection, retention and use of human body parts. She has published widely and is the author of several textbooks.



Certificate of Attendance:

All participants will receive a Certificate of Attendance

Seminar Registration Form

We thank you for your interest in attending our Seminar!
Attendance is limited so please do not be offended if we need to put you on to a wait list.

Attendees Name

Will appear on certificate of attendance

First	Last

Role

Company / Organisation

Phone

Email

Address

Street Address	
Street Address Line 2	
City	Post code

Special Dietary Requirements

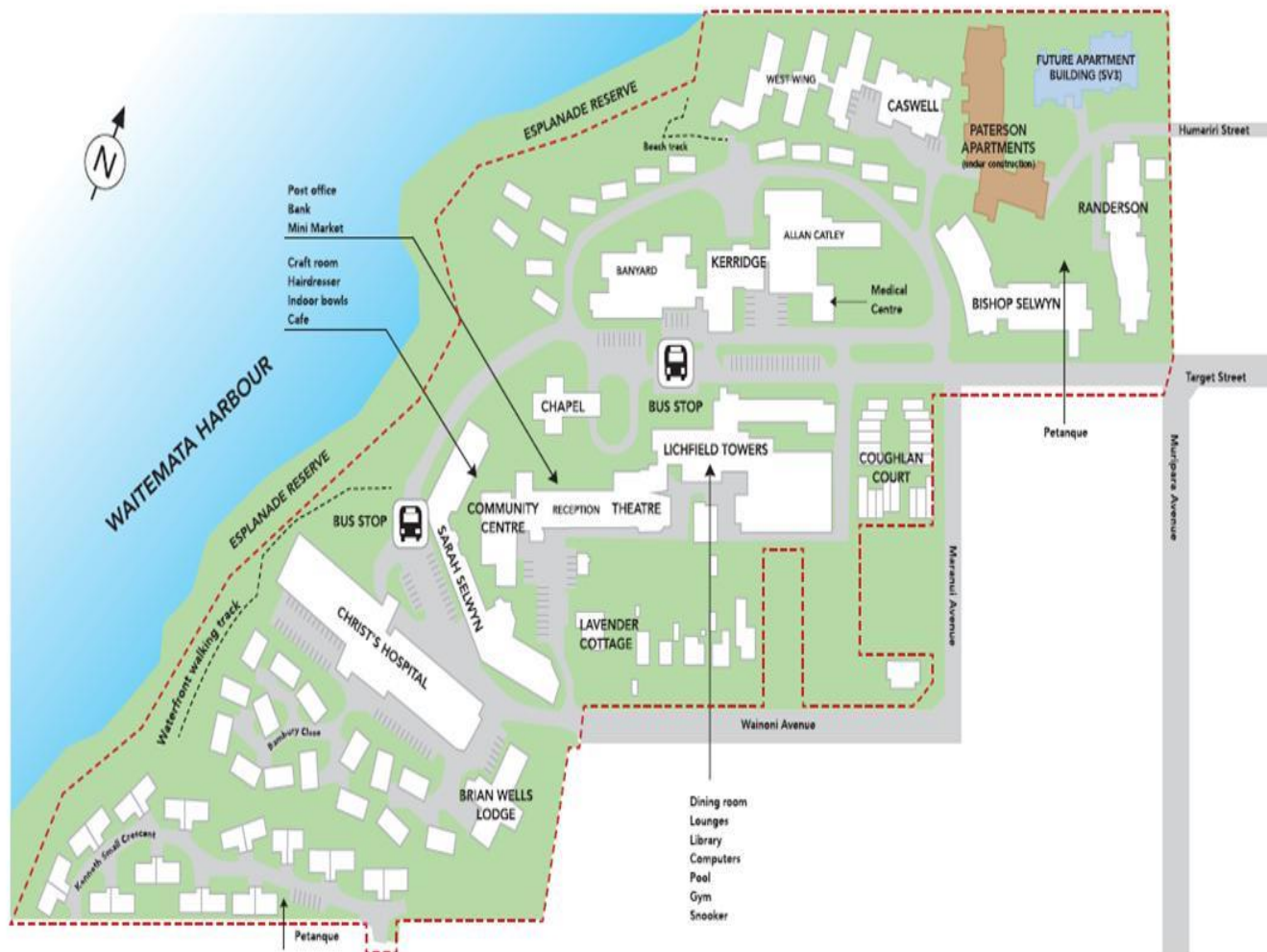
Vegetarian		Gluten Free	
Soya Bean free		Dairy Free	

All registrations should be emailed to sue.thomson@middlemore.co.nz or posted to Sue Thomson, Northern Regional Dementia Behavioural Support and Advisory Coordinator, Middlemore Hospital, Private Bag 93311, Otahuhu, Auckland 1640.

Map

Selwyn Village Theatre
43 Target Road
Point Chevalier

Selwyn Village site diagram



This site diagram includes the approximate location of the Paterson Apartments and a future apartment building to be constructed at Selwyn Village.