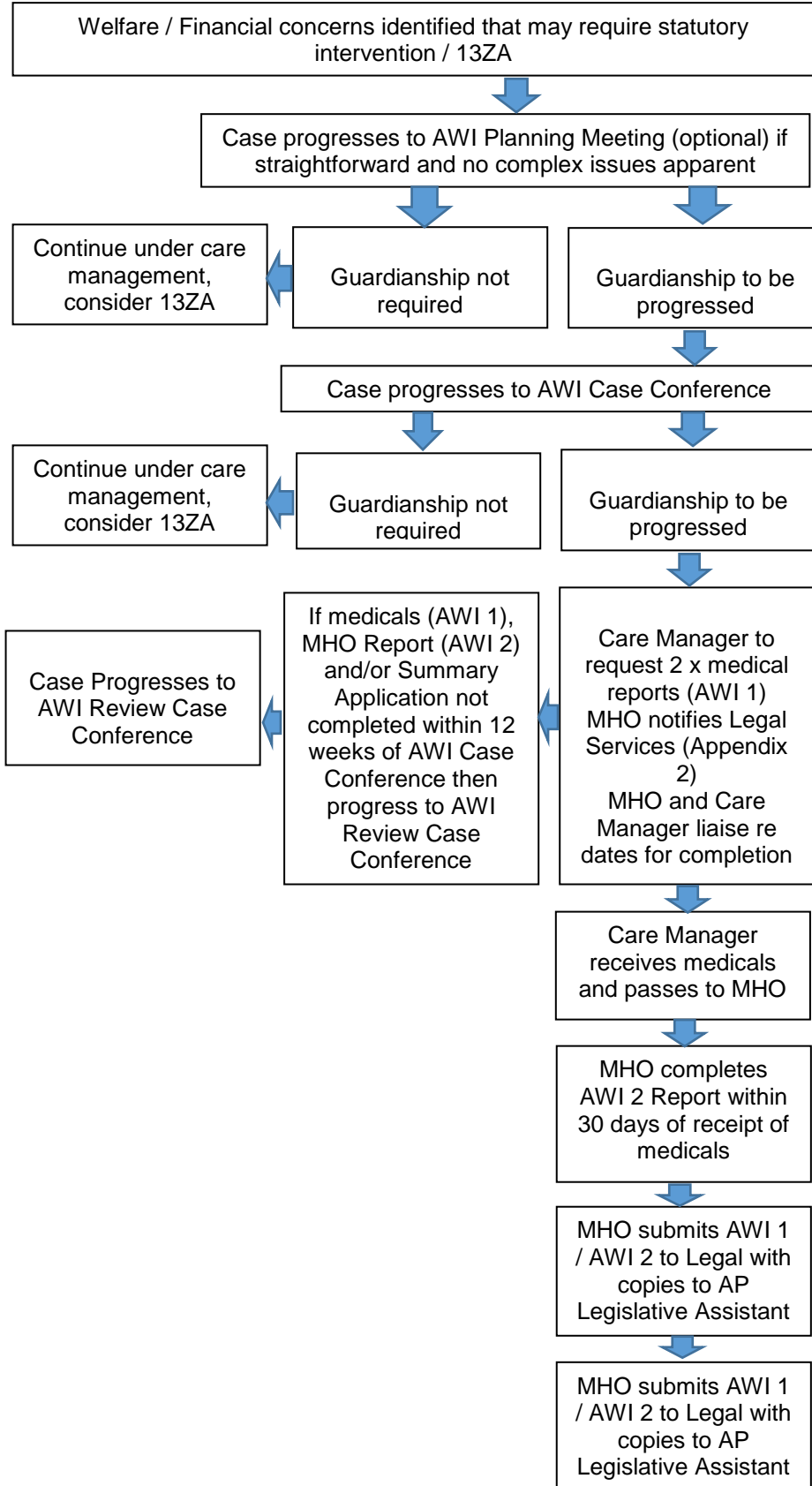


Director: Eddie Fraser

### AWI Guardianship Process Flow Chart



**Situations where s.13ZA cannot be used**

- where there is a welfare guardian or welfare attorney with powers to make such decisions
- where there is an intervention order authorising the proposed steps
- where an application has been made but has not been determined for an intervention order or guardianship order relating to the proposed steps
- where the Adult expresses any objection to the proposed steps, whether verbally or by other means
- where the Adult has previously expressed a view that would be contrary to the proposed steps
- where either the nearest relative or any other family members do not agree with the proposed steps (positive agreement to be sought rather than reliance placed on absence of objection)
- where there is a disagreement between professionals about the proposed steps

**Procedural requirements where s.13ZA is to be used**

- the decision is that of the local authority
- there should be a formal procedure regarding decision making under s.13ZA to ensure full consideration is given to all the requirements and that there is consistency of approach
- prior to making any decision under s.13ZA a comprehensive assessment of the adult's needs will require to have been undertaken
- there will require to be a considered view about the adult's capacity, as defined in the AWI Act
- the section 1 AWI principles will require to be invoked and the position recorded re:
  - benefit to the Adult (this will need to identify specific benefits to the Adult of the actual proposed placement as opposed to the existing placement or indeed living at home)
  - least restrictive option
  - current views of the Adult
  - past wishes of the Adult
  - views of the nearest relative and primary carer
  - the views of any other person with an interest
- an assessment will need to be undertaken of the extent to which the proposal will deprive the Adult of his liberty. If the proposal is significantly restrictive then the use of s.13ZA may not be appropriate even for the initial move
- where consideration is being given to residential accommodation with nursing care, particular care should be taken to consider the proposed arrangements
- independent advocacy services should be provided for the Adult
- all uses of s.13ZA should be recorded
- there should be procedures in place for monitoring and review to ensure that any use of s.13ZA is followed up by a guardianship application