



Welcome to the September 2022 Mental Capacity Report. Highlights this month include:

- (1) In the Health, Welfare and Deprivation of Liberty Report: Person-specific contact and sexual relations capacity; treatment plans for disordered eating; and updated DoLS statistics.
- (2) In the Property and Affairs Report: Electronic billing pilot rolls out.
- (3) In the Practice and Procedure Report: Transparency orders; and the BMA opines on s.49 MCA reports.
- (4) In the Wider Context Report: Brain stem death testing; deprivations of liberty of young people in Scotland; the CRPD's application in the Battersbee case; foreign convictions; coercive control; litigation capacity; the Care Act considered in the Court of Appeal.
- (5) In the Scotland Report: Further updates on Guardians' remuneration and the PKM litigation; nearest relatives; and the MHTS project concludes.

You can find our past issues, our case summaries, and more on our dedicated sub-site [here](#), where you can also find updated versions of both our capacity and best interests guides.

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The picture at the top, "Colourful," is by Geoffrey Files, a young autistic man. We are very grateful to him and his family for permission to use his artwork.

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Electronic Billing in the Court of Protection

In a pilot scheme, running from 1 November 2022 until 28 April 2023, professional deputies appointed by the Court of Protection, their legal representatives and other legal professionals involved in Court of Protection cases, may file their bills in respect of general management and other applications where the relevant authority has been obtained from the Court of Protection in electronic spreadsheet form. This is not compulsory but costs practitioners will by now be well used to electronic bills and, assuming that the pilot is a success, it is very likely that the use of electronic bills will become mandatory.

[This link](#) goes to the the Courts and Tribunals Judiciary news item about the pilot; and [this link](#) goes to a helpful article on the Professional Deputies Forum.

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Victoria regularly appears in the Court of Protection, instructed by the Official Solicitor, family members, and statutory bodies, in welfare, financial and medical cases. Together with Alex, she co-edits the Court of Protection Law Reports for Jordans. She is a contributor to 'Assessment of Mental Capacity' (Law Society/BMA), and a contributor to Heywood and Massey Court of Protection Practice (Sweet and Maxwell). To view full CV click [here](#).



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Neil has particular interests in ECHR/CRPD human rights, mental health and incapacity law and mainly practises in the Court of Protection and Upper Tribunal. Also a Senior Lecturer at Manchester University and Clinical Lead of its Legal Advice Centre, he teaches students in these fields, and trains health, social care and legal professionals. When time permits, Neil publishes in academic books and journals and created the website www.lpslaw.co.uk. To view full CV click [here](#).



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Nicola appears regularly in the Court of Protection in health and welfare matters. She is frequently instructed by the Official Solicitor as well as by local authorities, CCGs and care homes. She is a contributor to the 5th edition of the *Assessment of Mental Capacity: A Practical Guide for Doctors and Lawyers* (BMA/Law Society 2019). To view full CV click [here](#).



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Katie advises and represents clients in all things health related, from personal injury and clinical negligence, to community care, mental health and healthcare regulation. The main focus of her practice however is in the Court of Protection where she has a particular interest in the health and welfare of incapacitated adults. She is also a qualified mediator, mediating legal and community disputes. To view full CV click [here](#).



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Rachel has a broad public law and Court of Protection practice, with a particular interest in the fields of health and human rights law. She appears regularly in the Court of Protection and is instructed by the Official Solicitor, NHS bodies, local authorities and families. To view full CV click [here](#).



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Steph regularly appears in the Court of Protection in health and welfare matters. She has acted for individual family members, the Official Solicitor, Clinical Commissioning Groups and local authorities. She has a broad practice in public and private law, with a particular interest in health and human rights issues. She appeared in the Supreme Court in *PJ v Welsh Ministers* [2019] 2 WLR 82 as to whether the power to impose conditions on a CTO can include a deprivation of liberty. To view full CV click [here](#).



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Arianna has a specialist practice in mental capacity, community care, mental health law and inquests. Arianna acts in a range of Court of Protection matters including welfare, property and affairs, serious medical treatment and in matters relating to the inherent jurisdiction of the High Court. Arianna works extensively in the field of community care. To view a full CV, click [here](#).



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Nyasha has a practice across public and private law, has appeared in the Court of Protection and has a particular interest in health and human rights issues. To view a full CV, click [here](#).



Simon Edwards: simon.edwards@39essex.com

Simon has wide experience of private client work raising capacity issues, including *Day v Harris & Ors* [2013] 3 WLR 1560, centred on the question whether Sir Malcolm Arnold had given manuscripts of his compositions to his children when in a desperate state or later when he was a patient of the Court of Protection. He has also acted in many cases where deputies or attorneys have misused P's assets. To view full CV click [here](#).



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Adrian is a recognised national and international expert in adult incapacity law. He has been continuously involved in law reform processes. His books include the current standard Scottish texts on the subject. His awards include an MBE for services to the mentally handicapped in Scotland; honorary membership of the Law Society of Scotland; national awards for legal journalism, legal charitable work and legal scholarship; and the lifetime achievement award at the 2014 Scottish Legal Awards.



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Jill Stavert is Professor of Law, Director of the Centre for Mental Health and Capacity Law and Director of Research, The Business School, Edinburgh Napier University. Jill is also a member of the Law Society for Scotland's Mental Health and Disability Sub-Committee. She has undertaken work for the Mental Welfare Commission for Scotland (including its 2015 updated guidance on Deprivation of Liberty). To view full CV click [here](#).



Conferences and Seminars

Forthcoming Training Courses

Neil Allen will be running the following series of training courses:

14 September 2022	AMHP Legal Course Update
16 September 2022	BIA/DoLS legal update (full-day)
30 September 2022	Court of Protection training
13 January 2023	Court of Protection training

To book for an organisation or individual, further details are available [here](#) or you can email [Neil](#).

The University of Essex is hosting two events in October:

3 October 4.30pm – 7pm: Evaluation of Court of Protection Mediation Scheme Report Launch

Garden Court Chambers,
57-60 Lincoln's Inn Fields, London, WC2A 3LJ, and online by zoom
Register at: <https://www.eventbrite.com/e/evaluation-of-court-of-protection-mediation-scheme-report-launch-tickets-411843032597>

5 October 1pm – 5pm Mental Capacity Law in Contract and Property Matters

Wivenhoe House Hotel, University of Essex, Colchester, and online by zoom

Register at: <https://www.eventbrite.co.uk/e/mental-capacity-law-in-contract-and-property-matters-tickets-365658192497>

Speakers include: Clóna de Bhailís, Researcher, NUI Galway, Shonaid and Andy, PA and Support Workers, Outside Interventions
Professor Rosie Harding, University of Birmingham, John Howard, Official Solicitor and Public Trustee Property and Affairs Team, Gareth Ledsham, Russell Cooke Solicitors, Her Honour Judge Hilder, Court of Protection

Advertising conferences and training events

If you would like your conference or training event to be included in this section in a subsequent issue, please contact one of the editors. Save for those conferences or training events that are run by non-profit bodies, we would invite a donation of £200 to be made to the dementia charity [My Life Films](#) in return for postings for English and Welsh events. For Scottish events, we are inviting donations to Alzheimer Scotland Action on Dementia.

Our next edition will be out in October. Please email us with any judgments or other news items which you think should be included. If you do not wish to receive this Report in the future please contact: marketing@39essex.com.

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