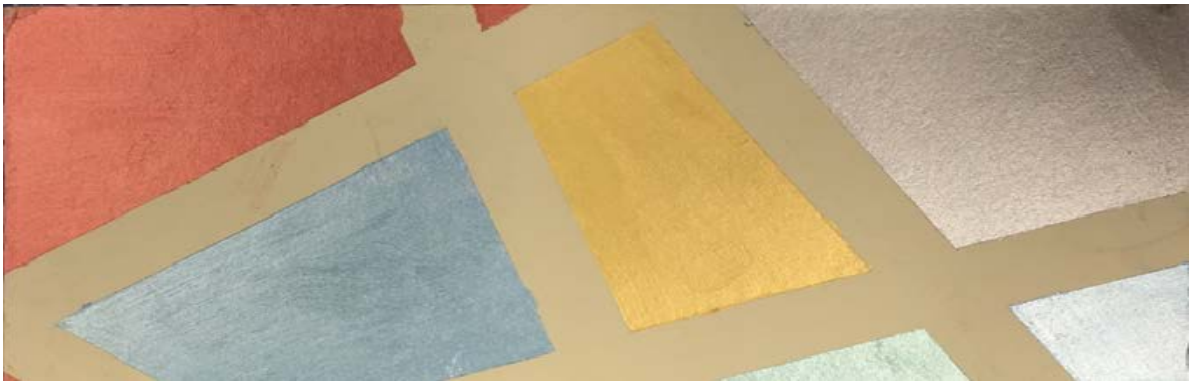
Essex CHAMBERS

MENTAL CAPACITY REPORT: PRACTICE AND PROCEDURE

September 2023 | Issue 134



Welcome to the September 2023 Mental Capacity Report, which we think is our largest ever, thanks to judicial hyperactivity over what is usually the (relatively) quiet summer period. Highlights this month include:

(1) In the Health, Welfare and Deprivation of Liberty Report: the MHA/MCA interface revisited; belief, diagnosis and capacity, and questioning an independent spirit;

(2) In the Property and Affairs Report: the SRA looks at law firms providing LPA / deputyship services, OPG guidance on completing LPA forms and a shedinar on the MCA and money;

(3) In the Practice and Procedure Report: transparency in committal hearings and on death, and why belief is not the same as proof when it comes to capacity;

(4) In the Wider Context Report: the wider MHA context within which many MCA matters arise, the limits of autonomy in medical settings; litigation capacity under the spotlight in both civil and family courts; and the second of our reports from Ireland as the new Act beds in;

(5) In the Scotland Report: Articles 3 and 2 ECHR in play in the capacity context

You can find our past issues, our case summaries, and more on our dedicated sub-site here, where you can also sign up to the Mental Capacity Report.

We also take this opportunity to bid farewell and thank you to Stephanie David, whose commitments mean that she has to take a step back from the editorial team.

Editors
Alex Ruck Keene KC (Hon)
Victoria Butler-Cole KC
Neil Allen
Nicola Kohn
Katie Scott
Arianna Kelly
Nyasha Weinberg
Simon Edwards (P&A)

Scottish Contributors
Adrian Ward
Jill Stavert

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.

Contents

New COP3 form 2
Committal hearings in the Court of Protection – publicity and complexity 2
Short note: best interests in the absence of wishes and feelings, and transparency on death 12
The Court of Protection faces an agonising dilemma (and why belief is not the same as proof) 14
Legal aid – some good news 17
Short note: good practice in life-sustaining treatment cases 18

New COP3 form

A substantially updated COP3 form is now live on the .gov.uk website. It has been overhauled (amongst other things) so as to reflect the correct ordering of the capacity test, to focus in on the need for clarity as to the relevant information, and to make clear (to paraphrase) that the primary requirement for assessing capacity is competence rather than letters before or after one's name.

Alex has done a walkthrough of the form here; he has also made inquiries in relation to when the old form will no longer be accepted, and the answer is that the new form should always be used now; if it isn't used, the application may be delayed if the court considers that the matter can't progress without the improved information which the new form offers and so makes an order for the evidence to be filed in the new format. There will come a point when the court gives notice that the old form will no longer be accepted. There is no time set yet for the old form not to be accepted.

Committal hearings in the Court of Protection – publicity and complexity

Esper v NHS NW London ICB (Appeal: Anonymity in Committal Proceedings) [2023] EWCOP 29 (Poole J)

COP jurisdiction and powers – contempt of court – media – anonymity – court reporting

Summary

The appellant, Dr Philip Esper, brought an appeal against by a decision of District Judge Beckley to name him in committal proceedings in the Court of Protection relating to his relative, AB.

The contempt and committal proceedings. DJ Beckley had found that Dr Esper had committed a contempt of court by breaching an order restricting his contact with AB (which followed an admission by Dr Esper to doing so). The Respondent ICB made an application to commit Dr Esper to prison; at a hearing in June 2023, District Judge Beckley decided that no sanction should be imposed for the contempt of court where it appeared that Dr Esper's compliance with court orders had improved since the time of the admitted breaches. No appeal was taken against the finding of contempt, the decision not to impose a sanction, or to the decision to hear the contempt proceedings in public. Dr Esper had made an application that District Judge Beckley should recuse himself, which was refused; again, no appeal was taken against this decision.

Poole J noted that the underlying proceedings were subject to a Transparency Order "*which prevents information being published or communicated that identifies or is likely to identify AB, and his relatives who are the other respondents in those proceedings, including Dr Esper*" (paragraph 6). However, this order expressly excludes any committal proceedings from its ambit. DJ Beckley had made "*a further order which applies to the committal proceedings, and which prevents the reporting of the names and some other specific details of AB and two of his relatives identified in his order, but which he did not extend to prevent the identification of Dr Esper. That decision not to prevent the disclosure of Dr Esper's identity is the decision central to this appeal*" (paragraph 6).

The appeal: The appeal related to the following decisions:

i) To publish a judgment naming Dr Esper as a contemnor; and

ii) To permit the publication of Dr Esper's name, while restricting the identification of AB, and two other relatives of AB who are respondents in the Court of Protection proceedings.

Senior Judge Hilder directed that this matter be considered by a Tier 3 judge in a rolled-up hearing considering both permission to appeal and the substantive appeal. Orders were also made that Dr Esper's anonymity should be preserved pending the outcome of the appeal.

The grounds of appeal were set out at paragraph 4 of the judgment as follows:

> *i) The judge was wrong to decide that he was obliged to permit the publication of the Appellant's details and publish them in accordance with the Lord Chief Justice's Practice Direction: Committal for Contempt of Court - Open Court, March 2015 (as amended in 2020).*
>
> *ii) The judge was wrong to decide that Court of Protection Rule 21.8(5) permitted him to direct the anonymity of the other parties to the application in proceedings for contempt of court but prevented him directing the anonymity of the appellant.*
>
> *iii) The judge was wrong, to the extent that he had a discretion, as to whether he directed the anonymity of the appellant, when he:*
>
> *(a) decided that it was in the interests of justice that a contemnor who had been found to be in breach should be identified, even though no committal order was being made;*
>
> *(b) had indicated by his observations and conduct during the hearing, apparent bias against the appellant.*

In addition to submissions from the parties, the court had submissions from the Press Association and the Open Justice Project.

The legal framework: Poole J noted that the rules governing committal proceedings in Court of Protection, Civil Courts and Family Court had all been amended recently, though there were inconsistencies between the sets of rules. At paragraph 9, Poole J specifically noted that

> *iii) Whereas the COPR provide wide powers to protect the anonymity of P in Court of Protection proceedings, there are only narrow circumstances in which P or any other party's identity will be protected in contempt proceedings arising out of Court of Protection*

> *proceedings, namely those set out at COPR r21.8(5).*
>
> *iv) Whereas COPR r21.8(5) requires the court to order the non-disclosure of the identity of any party or witness only if certain conditions are met, the equivalent rule in the CPR, applies to "any person".*
>
> *v) The requirements as to the listing of a committal application in the Court of Protection, and the requirement to publish a transcript of a judgment in committal proceedings are less than clear.'*

Poole J considered both COPR Part 21 and the Lord Chief Justice's Practice Direction: Committal for Contempt of Court - Open Court, March 2015 (PD 2015).

The new COPR 21.8 states that contempt proceedings are to be heard in private if necessary for the administration of justice and one of a range of other factors was met, though the starting position was that all contempt hearings were to be in public. PD 2015 stated that 'all committal hearings' were to be held in public, save for cases with exceptional circumstances. Poole J also reminded himself of his earlier decision in *Sunderland City Council v Macpherson* [2023] EWCOP 3. He set out his views on the apparent conflict between COPR Part 21.8 and PD 2015:

> *14.* […] *There is an apparent conflict between the mandatory requirement in PD 2015 paragraph 13 that a defendant who has committed a contempt of court must be named and their name published, and COPR r21.8(5) which requires the court not to disclose the identity of a party (which would include a defendant) if the two tests of necessity within that rule are met* […]
>
> *15* […] *insofar as it relates to defendants in committal proceedings, which it clearly does, I do not read COPR r21.8(5) as applying only to those who have not, or not yet, been found guilty of contempt of court. Further, in relation to defendants who have been found in contempt of court, I do not agree that PD 2015 takes precedence over the COPR Part 21 such that publication of the name of the defendant is mandatory even if the necessity conditions of COPR r21.8(5) are met. In my view, where they are incompatible, COPR r21.8(5) prevails over PD 2015. COPR r21.8(5) applies to all parties and witnesses in committal proceedings in the Court of Protection, and at all stages – before and after any findings of contempt and/or the making of any committal order…*

Poole J summarised the overall effect of PD 2015 and COPR Part 21 thus:

> *23. In my view, PD 2015, paragraphs 14 and 15, and COPR 21 (11) and (13) as explained or qualified by COP PD 21A(4), are consistent in requiring a reasoned judgment to be given in public at the conclusion of all committal proceedings in the Court of Protection but only to require judgments to be published on the judiciary website in those cases where a committal order has been made. The making of a committal order is, in my view, a "committal decision" for the purposes of PD 2015, paragraph 14. COP PD 21A(4) qualifies COPR r21.8(13), it is not inconsistent with it.*

Poole J considered requirement to give a reasoned judgment is not necessarily a requirement to name the defendant or P or publish that judgment. However, "*COPR r21.8(5) applies to all stages of a committal application and so requires a direction not to disclose the identity of the defendant if and only if the two necessity conditions within that rule are met*"

(paragraph 25). Poole J elaborated on when the requirement to name a defendant found to have committed a contempt of court arose:

> *26. Where a defendant is found to have committed a contempt of court there are inconsistencies within PD 2015 paragraph 13 and as between that provision and COPR R r21.8(5). As to the apparent internal inconsistency within PD 2015 (see paragraph 17 above), I am satisfied that, without straining the meaning of the words, it is possible to read paragraph 13 as imposing the requirements to name the defendant in public and to publish their name when they have been found to be in contempt of court, whether or not they have been made subject to a committal order. The explanation in paragraph 13(2) underlines that the court should never withhold the name of a defendant it has made subject to a committal order, but it does not follow that the first and fourth requirements of paragraph 13(1) do not apply when no committal order is made. I reject Mr O'Brien's submission to the contrary. However, the resolution of the internal inconsistency does not resolve the external inconsistency between PD 2015 paragraph 13 and COPR r21.8(5).*

Poole J considered that where there was a conflict between the COP Rules and a Practice Direction, the rules must take precedence. The court took a firmer view than it had in the *Macpherson* case, concluding that:

> *32* […] n*otwithstanding the provisions of PD 2015, judges in the Court of Protection should apply COPR r21.8(5) when considering an order for the non-disclosure of the identity of any party or witness in committal proceedings, including the defendant. Insofar as PD 2015 indicates that there is no power to order non-disclosure of the defendant's name, it should yield to COPR r21.8(5) which requires non-disclosure of the defendant's name if and only if the two tests of necessity set out in that rule are met. COPR r21.8(5) applies at all stages of a committal application in the Court of Protection, it applies to a defendant, any other party or a witness, and it applies to the disclosure of the identity of a party or witness by way of their being named in court, in a judgment and/or in a report of the proceedings.*

Non-disclosure orders: Poole J considered that "*[i]f the court makes a non-disclosure order under COPR r21.8(5), then s.11 Contempt of Court Act 1981 allows the court to make ancillary orders preventing disclosures out of court. In a Court of Protection case those orders might prevent the disclosure of information that would be likely to reveal the identity of the person whose identity is not to be disclosed, such as information about their address or their precise relationship with another person in the case*" (paragraph 33).

Poole J summarised the scenarios in which a party in contempt proceedings would be the subject of a non-disclosure order:

> *36. Accordingly, in my judgment COPR r21.8(5) requires the court to order non-disclosure of the identity of any party or witness if the two necessity conditions within the rule are met. Section 11 of the Contempt of Court Act 1981 allows for ancillary orders to ensure that the purpose of such a non-disclosure order is not defeated. However, it will be a rare case in which the two limb test allowing the court to order non-disclosure of a defendant's identity will be satisfied, and an extremely rare case where they are met in respect of a defendant found to have committed a contempt of court and/or who has been made the subject of a committal order.*
>
> *37. The first test under COPR r21.8(5) is that non-disclosure is necessary to*

secure the proper administration of justice […]

38. […] *non-disclosure of a party's identity would be a derogation from the principle of open justice which it must be established is necessary to secure the administration of justice. The requirement of necessity means that there must be no lesser measure that will secure that end – only a non-disclosure order will do. Having regard to the authorities, it seems to me that in the case of an order that the identity of a party or witness in contempt proceedings in the Court of Protection should not be disclosed, it would have to be established that,*

i) Without a non-disclosure order, the application to commit could not effectively be tried or the purpose of the hearing would be effectively defeated; or

ii) The purpose of the proceedings within which the committal application was made would be effectively defeated; or

iii) The parties seeking justice – which would be the applicant for the committal and any persons on behalf of whom the application was made – would be deterred from bringing their application, or

iv) The order is necessary to protect the human rights of the party or witness, having regard to the importance of the protection of the freedom of expression protected by Art 10 of the ECHR and the extent to which the person's identity has, or is about, to become public, and the public interest in publishing their identity pursuant to section 12 of the Human Rights Act 1998; or

v) In some other way the proper administration of justice would be undermined.

40. The second limb of the test under COPR 21.8(5) enjoins the court to consider whether non-disclosure of the identity of a party or witness is necessary to protect that person's interests. Application of this test will include consideration of the protection of their Convention rights.

41. So far as a party who is P in the Court of Protection proceedings is concerned, it might readily be established that ordering the non-disclosure of their identity will be necessary to secure the administration of justice and to protect their interests. Depending on the particular circumstances of each case, an order for non-disclosure might be necessary:

i) To protect the integrity of orders made in the Court of Protection proceedings including the Transparency Order.

ii) To avoid disclosure of the identity of P defeating the purpose of the Court of Protection proceedings to protect P.

iii) To avoid disclosure of the identity of P defeating the purpose of the committal application to enforce the orders of the Court of Protection which will be designed to protect P.

iv) To avoid deterring the applicant from bringing a committal application (the naming of P in the committal proceedings would be a deterrent to the application to bring those proceedings).

v) To avoid deterring P from giving evidence whether in person or to their Litigation Friend, the police or

someone else (if P's evidence were relied upon).

vi) *To protect the Art 8 rights of P who had not chosen to bring the committal proceedings, without any corresponding significant interference with the Art 10 right of freedom or expression and without any adverse impact on the overall openness of the proceedings and the public interest.*

vii) *To protect P's other Convention rights.*

42. So far as relatives of P who may be witnesses or parties are concerned, it may often be established that ordering the non-disclosure of their identity will be necessary to secure the administration of justice and to protect their interests. Depending on the particular circumstances of each case an order for non-disclosure might be necessary:

i) *To protect the integrity of orders made in the Court of Protection proceedings including the Transparency Order.*

ii) *To avoid the likelihood of the disclosure of the identity of P by means of jigsaw identification, thereby defeating the purpose of the Court of Protection proceedings to protect or of the committal application to enforce the orders of the Court of Protection designed to protect P.*

iii) *To avoid deterring the applicant from bringing a committal application (the jigsaw identification of P in the committal proceedings would be a deterrent to the application to bring those proceedings).*

iv) *To avoid deterring family members from giving evidence (if their evidence were relied upon).*

v) *To protect the Art 8 rights of family members who had not chosen to bring the committal proceedings and whose alleged conduct had not prompted committal proceedings, without any corresponding significant interference with the Art 10 right of freedom or expression, and without any adverse impact on the overall openness of the proceedings and the public interest.*

vi) *To protect the other Convention rights of the family members.*

43. So far as the defendant to committal proceedings is concerned, it will rarely be established that the tests under r21.8(5) are met. Some, but not all, of the same considerations as set out above might well apply but, in most cases:

i) *There will be a very much greater public interest in knowing the identity of the defendant who may have or has been found to have committed a contempt of court, and who may be, has been, or may have been at risk of being made subject to a committal order.*

ii) *The non-disclosure of the defendant's identity and at least some information about them would be far more likely to render a judgment or reports about the committal proceedings, empty of meaning, thereby undermining the Art 10 right to freedom of expression and the public interest in knowing about committal proceedings in the Court of Protection.*

iii) *A defendant whose conduct has been found to have been in*

> *contempt of court, will have brought the contempt proceedings on themselves, a fact which alters the balance between protecting their Art 8 rights and protecting the Art 10 right to freedom of expression. There will be an even greater importance in ensuring freedom of expression about proceedings concerning conduct in contempt of court. There would be less importance given to protecting the private life of a person whose conduct has been in contempt of court. Those made subject to court orders with penal orders attached have been warned that they may be sent to prison if they breach those orders. They must be taken to know that the courts pass sentences of imprisonment in public (or do so save in the most exceptional circumstances) and so if a court sentences a contemnor to prison (whether an immediate or suspended sentence) their names will be made public. It would be going too far to say that they have waived any right to a private or family life by being in contempt of court, but their claim to protection of their anonymity is very much weakened.*

Transparency Orders and Reporting Restrictions: Considering COPR Part 4, Poole J noted a standard Transparency Order does not ordinarily cover contempt proceedings, and committal proceedings are nearly always heard in public. As a result, any reporting restrictions made in committal proceedings would be "different or additional restrictions" for the purposes of paragraph 3 of COP PD 4A (paragraph 47). Unlike other Court of Protection proceedings (which are subject to an order making them be heard in public), no order is required for committal proceedings to be heard in public, "*and the provisions of COP PD 4A in relation to public hearings do not appear to apply*" (paragraph 48). Poole J considered that decisions regarding reporting restrictions in committal proceedings "*must rely solely on COPR r21.8(5) in relation to non-disclosure of the identity of any party or witness in the committal proceedings. Hence, if, and only if, the tests within r 21.8(5) are met, the court will order the non-disclosure of the identity of a party or witness*" (paragraph 49). Poole J noted that:

> *50. It is important to distinguish between different stages of committal proceedings. COPR r21.8(5) applies throughout the proceedings but factors making it necessary for the court to order non-disclosure of a party's or witness's identity may well change during the proceedings. What may be necessary before a finding of contempt, might not be necessary after such a finding has been made. At each committal hearing the court will have to consider whether any r21.8(5) orders must be continued – do the two necessity tests continue to apply? If there has been a finding of contempt or a committal order, does that now mean that no order should be made?*

Listing committal hearings: Poole J also noted that the names of defendants in committal proceedings must be published on listings prior to a judge hearing the relevant case. The court considered 'that COPR r21.8(5) must allow the Court of Protection to make a non-disclosure order regarding the identity of the defendant or any party or witness in committal proceedings in the Court of Protection, even before the first hearing, and regardless of the mandatory terms of paragraph 13 of PD 2015.' [52] The court suggested that as a matter of practicality, 'every committal application in the Court of Protection should be put before the appropriate judge prior to the first hearing so that the question of whether COPR r21.8(5) must prevent the

identification of the defendant's name in the public court list can be considered. In the absence of any order to the contrary, the defendant's full name must appear in the list. Court listing offices need to be fully aware of that requirement. However, if the court is satisfied that the necessity tests in r21.8(5) are met, then it must direct that the defendant's name shall be anonymised in the court list. The press should be notified and may make representations at the first hearing.' [53]

Suggestions on committal proceedings: The court stated that given 'the anomalies and inconsistencies identified', further consideration should be given by the Court of Protection Rule Committee on the contempt provisions. At paragraph 54, Poole J offered the following suggestions until such consideration had taken place:

> *i) Open justice is a fundamental principle and the general rule is that hearings should be carried out and judgments and orders made in public. Derogations from the general principle can only be justified in exceptional circumstances when strictly necessary as measures to secure the proper administration of justice.*
>
> *ii) Committal hearings may be heard in private but if the court is considering doing so it must follow the procedures set out at paragraphs 8 to 12 of PD 2015.*
>
> *iii) Immediately upon issue committal applications in the Court of Protection should be referred to a judge to consider prior to the first hearing:*
>
> a) *Whether COPR r21.8(5) requires that the defendant's name should not appear in the court list. In the absence of any such order, committal proceedings should be listed with the full name of the defendant appearing, in accordance with paragraphs 5 or 11 of PD 2015 depending on whether they are to be heard in public or in private. Anonymisation of the defendant on the court list would be a derogation from open justice. Notice of any such decision should be given to the press and the continuation of any r21.8(5) order considered at the first hearing.*
>
> b) *Whether the existing Transparency Order may need to be extended to cover the non-disclosure of the identity of any party or witness in the committal proceedings. A Transparency Order made in Court of Protection proceedings will not extend to committal proceedings unless there is an express order of the court to that effect. COP PD 4C does not apply to committal proceedings. COP PD 4A only applies if a hearing in public is the result of a court order under COP R r4.3 and so does not apply to committal hearings which are heard in public unless otherwise ordered. The court in committal proceedings in the Court of Protection cannot therefore rely on an existing Transparency Order or use COP PD 4A to restrict reporting. COPR r21.8(5) appears to be the only basis for ordering non-disclosure of the identity of the defendant, other party, or witness in a committal application. It applies at all stages of a committal application in the Court of Protection. If the court is considering making a r21.8(5) order, other than in relation to*

the anonymisation of the defendant in the public list for the first hearing, it should adopt the procedure at paragraphs 3, 4, 8, 9, 10 and 12 of PD 2015.

iv) Unless ordered otherwise, the parties in the Court of Protection proceedings are the parties to the committal application within those proceedings. Accordingly, COPR r21.8(5) applies to those parties as well as to any witness in the committal proceedings. Unlike CPR r39.2(4), COPR r21.8(5) does not apply to someone who is neither a party nor a witness.

v) COPR r 21.8(5) requires the court to order the non-disclosure of the identity of a party or witness if the two necessity conditions within the rule are met. The Contempt of Court Act 1981 s11 applies to allow ancillary directions to be given if a r21.8(5) order is made. Such ancillary directions may include restrictions on publishing or communicating specific identifying information to prevent the disclosure of the identity of the particular party or witness to whom the r21.8(5) order applies.

vi) The court must order that the identity of any party or witness shall not be disclosed if, and only if, it considers non-disclosure necessary to secure the proper administration of justice and in order to protect the interests of that party or witness - COPR r21.8(5). Therefore the non-disclosure of the name of the defendant, or any other party or witness, must be ordered if it meets both those requirements but cannot be ordered if it does not meet them. If a lesser order will suffice, then the order for non-disclosure may not be made. The wording of COPR r21.8(5) reflects paragraphs 3 and 4 of PD 2015, namely that open justice is a fundamental principle, derogations from which can only be justified in exceptional circumstances, when they are strictly necessary as measures to secure the proper administration of justice. It adds a second requirement to be met before the court may order non-disclosure of the name of a party or witness, namely that non-disclosure is necessary to protect the interests of that party or witness. The procedural requirements at paragraphs 3, 4, 8, 9, 10 and 12 of the PD 2015 apply.

vii) The court must consider the application of the tests in COPR r21.8(5) separately in respect of P, the defendant, and other parties or witnesses in the committal proceedings. Where P is a party, the court may readily find that the necessity tests in r21.8(5) are met so that it must direct the non-disclosure of the identity of P. In such a case the court may make ancillary orders under s 11 of the Contempt of Court Act 1981 to protect P's identity.

viii) If the conditions in COPR r21.8(5) are met in respect of the defendant, then the court must anonymise the defendant in any published judgment and must direct that disclosure of the defendant's identity shall be prohibited. The court may make ancillary orders under Contempt of Court Act s11. A convenient mechanism for making these orders would be by extending the relevant parts of the Transparency Order to the committal proceedings.

ix) COPR r21.8(5) is not triggered to prevent the disclosure of the identity of the defendant if the sole purpose is to protect the interests of P. It must be the interests of the defendant that need protecting. In the event of a committal order it will be exceptionally rare for the court to find that the r 21.8(5) conditions are met in respect of the defendant. In the event of a finding of no contempt of court, it will be relatively more likely that the court will find that the r 21.8(5)

conditions are met in respect of the defendant, but it will still be an exception for the identity of a defendant to committal proceedings not to be disclosed.

x) Subject to an order for non-disclosure of the identity of the defendant being made under COPR r21.8(5), in which case the defendant must be anonymised in any published judgment and reporting of their identity prohibited, the following practice should be adopted in relation to giving judgment and naming the defendant in committal proceedings:

a) If the court finds the defendant not guilty of contempt of court, then COPR r21.8(11) requires the court to give a reasoned judgment in public but there is no requirement for that judgment to be published on the judiciary website, nor would the requirements of PD 2015 paragraph 13 apply so as to require the defendant to be named and his name to be published on the judiciary website. Nevertheless, the court may decide to name the defendant and to publish their name by inclusion in a published judgment or otherwise.

b) If the court finds the defendant in contempt of court but does not make a committal order, then a reasoned judgment must be given in public and the defendant must be named in court and their name published on the judiciary website, but there is no requirement for a transcript of the judgment to be published on the judiciary website, although the court may choose to do so.

c) If the court finds the defendant in contempt of court and imposes a committal order then a reasoned judgment must be given in public, the defendant must be named in court and their name and the judgment must be published on the judiciary website. The requirement to publish the defendant's name will be met by naming them in the published judgment.

Conclusions on the appeal in Dr Esper's case: Poole J considered the grounds of appeal in turn.

The court did not consider itself bound to name Dr Esper: Poole J concluded that under COPR 21.8, the court was required to give a judgment, but was not obliged to post that on the judiciary website where no committal order was made. Dr Esper's identity was only to be subject to non-disclosure orders if the tests under COPR 21.8(5) were met. The court reviewed the transcript and found that DJ Beckley had recognised that he was not obligated to name Dr Esper publicly, and thus did not fall into error in this way.

The decision not to order non-disclosure of Dr Esper's identity: DJ Beckley considered whether it was in the interests of the administration of justice to order non-disclosure of Dr Esper's identity, and found that it was not. "*The Judge examined the circumstances of the case and determined that COPR r21.8(5) did not apply to require the non-disclosure of Dr Esper's name. He took into account that Dr Esper had been found guilty of contempt of court but had not been made subject to a committal order*" (paragraph 62). The court found that "[t]*here is no doubt that DJ Beckley was entitled in the circumstances to find that the first test in COPR r21.8(5) was not met and therefore that the order should not be made. Indeed, it would have been extremely surprising had he found that one or both tests were met. In the circumstances, he could not order the non-*

disclosure of Dr Esper's identity" (paragraph 63). Poole J found that where DJ Beckley "*rightly gave a reasoned judgment in public*," he was not obligated to post this on the Judiciary website, but was free to do so at his discretion.

Permitting the public of Dr Esper's name while anonymising AB and other relatives: Poole J rejected this challenge, and noted that no appeal was taken to the decision to anonymise AB and others. "[T]*he considerations for the court when deciding whether the two necessity tests in COPR r21.8(5) are met in respect of parties other than the defendant, or witnesses, will be different from those that apply to the defendant. There is no logical inconsistency in the decisions made by DJ Beckley. Again, it would have been surprising if he had not found that the tests were not met in respect to AB, and he was clearly entitled to find that they were met in relation to AB's relatives other than the Defendant*."

Poole J also rejected challenges that DJ Beckley had behaved unfairly, and noted that there was no appeal against his decision not to recuse himself. The court also found no error in allowing reporting of Dr Esper's age and profession, noting that "[h]*aving decided that Dr Esper should be named, it seems to me that the judge was entitled to decide that it was not necessary to protect AB to restrict the reporting of Dr Esper's profession. Disclosure of Dr Esper's age would not be likely to lead to the identification of AB*" (paragraph 67).

Comment

Poole J's judgment is comprehensive in its analysis of the problems that have been caused by the disjointed way in which reforms to the law relating to contempt have been carried out. It undoubtedly lends weight to the timeliness of the Law Commission's contempt project, and, more immediately, to the need for the relevant Rules Committee to consider what can be done in the interim.

Short note: best interests in the absence of wishes and feelings, and transparency on death

The decision of Poole J in *Hillingdon Hospitals NHS Foundation Trust v IN & Ors* [2023] EWCOP 32 is of wider relevance for two reasons. The first related to observations made in the course of the substantive determination of the application. The second related to the question of anonymity.

A hospital Trust applied for a decision that continued life-sustaining treatment was not in the best interests of a man who had suffered a serious brain injury and had been in a coma for six months. The man's daughter and brother opposed the application, not disputing the medical analysis, but contending that he would have wanted clinically assisted nutrition and hydration to continue so that he could be kept alive as long as possible, on the basis that he was a "fighter" whose Christian faith would have led him to believe that God might perform a miracle to bring him back to consciousness and a fuller life. Applying decisions made in the context of children, Poole J made the important observation at paragraph 34, that, even if "*IN cannot experience pain, it does not follow that continued treatment is not burdensome – see King LJ in Re A (A Child) [2016] EWCA Civ 759, and Baker LJ in Parfitt v Guy's and St Thomas' Children's NHS Foundation Trust [2021] EWCA Civ 362, at [61]. IN's condition and the interventions required to keep him alive are burdens even if he is unaware of them*." Conversely, Poole J continued, "[i]*n like manner, I should also consider the wider benefits to him of continuing CANH even if he is unable to experience pleasure*." Poole J also joined the growing number of judges who have made clear that they do not find the concept of 'dignity' to be of assistance – at least

in isolation - noting at paragraph 36 that: *"I do not find it helpful to co-opt the notion of "dignity" - to suppose that the managed withdrawal of life-sustaining treatment as opposed to continuing such treatment enhances innate human dignity. He would not be in "anguish" as his daughter has said she fears. The plan for palliative care is designed to prevent that. For some, there is dignity in a managed death, for others there is dignity in fighting for life and survival. Human dignity is a very important concept in decisions about end of life care and it is recognised and respected by application of the principles in the MCA 2005 and the authorities, and by an intense focus on IN's best interests. However, based on the evidence I have received about IN's character, I am sure that he would have preferred a peaceful death if only to protect his family from avoidable distress."* This was also a situation in which Poole J considered that it was not possible to ascertain IN's own wishes and feelings, and – importantly, requiring separate consideration – that his beliefs and values may or may not have led him to discontinue CANH. The ultimate decision was that continuation was no longer in IN's best interests.

In the first reported Court of Protection judgment to do so, Poole J expressly applied the approach set down (in relation to children) by the Court of Appeal in *Abbasi*,[1] noting that the decision "applies equally to the Court of Protection where [Transparency Orders] are commonly made to cover a wide range of healthcare professionals and to last 'until further order'" (paragraph 45). Applying the 'intense focus' he considered required to the Articles 8 and 10 ECHR rights engaged, Poole J reached the following conclusions (at paragraph 47):

> *This case has not previously been the subject of reporting. Information is not already in the public domain. The family members have expressed no wish to publicise matters in or arising from this case. However, there is an interest in such Court of Protection proceedings involving end-of-life decision-making. This is not a case where there has been adverse commentary on social media or elsewhere directed to the hospital or healthcare professionals. There are only a few healthcare professionals whose identities are relevant to the proceedings. It is important that those professionals feel enabled to carry out their functions without the fear of hostility. It is a fact that whilst some will regard it as unethical to continue CANH in a case such as this, others will regard the withdrawal of CANH as unethical and deserving of condemnation, including personal condemnation of those responsible. Of course, Judges who make these decisions are named but healthcare professionals are more commonly involved in these difficult decisions and it is important that they are able to make those decisions free from untoward interference. In the present case the Trust invites the court to discontinue the injunction against reporting in relation to the hospital and the identified clinicians at the hospital until after IN's death. I shall direct that those parts of the injunction shall be discharged 7 days after IN's death unless there is a further or other order of the court. The reporting restrictions in respect of IN and members of his family shall remain until further order. AN does not wish IN to be identified. MN was content to leave that decision to the Court. I am satisfied that the continued anonymisation of IN, and therefore of members of his family (to avoid jigsaw identification) will not so adversely affect the Art 10 rights of those who wish to comment or report on this case*

[1] Note, the Supreme Court has given permission to the Trusts involved to appeal.

> *as to justify what would be a significant interference with the Art 8 rights of IN's family were his and their names to be made public. Accordingly, the TO will remain in place until further order in relation to the identification of IN and family members. I shall delete the reference to "attendees" in the TO – it was not made clear to me who those persons were (beyond the clinicians and the family members). Dr Hanrahan, as an expert, may be named. I vary the TO accordingly.*

Whilst not disagreeing with the decision reached at paragraph 47, it is perhaps important to note that Poole J may not have been on entirely firm ground in aligning himself with the assertion of Mostyn J in *Re EM* [2022] EWCOP 31 that transparency orders are conventional reporting restriction orders, requiring the carrying out – in each case – of the detailed balancing exercise required in the latter cases. As Alex has explained in relation to *EM*, the position in relation to transparency orders made by the Court of Protection is more nuanced, as they do not involve a position where proceedings previously being held in public are being 'shut down' in some way. Rather the operation of the Transparency Practice Direction relates to the application of a general provision guiding judges as to the application of the balancing exercise in circumstances where Parliament has decreed that the starting point is that the tap of publicity is off and the court is deciding whether to turn it on. In such circumstances, the making of the 'ordinary' transparency order represents an implicit – and we would suggest sufficient – judicial determination that the appropriate balance remains that set out in the Practice Direction.

That having been said, it is undoubtedly necessary to be careful before allowing a transparency order made at the beginning of proceedings simply to roll on into the future after the end of proceedings (including, as here, the death of the person) without fresh consideration.

The Court of Protection faces an agonising dilemma (and why belief is not the same as proof)

Barnet Enfield And Haringey Mental Health NHS Trust & Anor v Mr K & Ors [2023] EWCOP 35 (John McKendrick KC, sitting as a Tier 3 Judge)

Medical treatment – best interests

Summary

This case concerned the health and welfare of a 60 year old man, Mr K, and in particular the relief necessary to protect him from his resistance to the treatment of his chronic bilateral venous leg ulcers. He was subject to a standard authorisation in a care home following five years spent in a mental health facility in which he was not detained but which he refused to leave. He suffered from persistent delusions and paranoia and refused to engage with professionals. He had a long-standing heart condition which made any treatment against his will extremely difficult to carry out. Previous orders made by the Vice President of the Court of Protection, Theis J, had authorised his successful conveyance from hospital to a care home with provision for physical and chemical restraint – neither of which was in fact required. He had longstanding leg ulcers which he had previously treated himself. He refused to allow staff or other medical professionals to assist him or assess them.

In light of the evolving medical evidence (from both treating and independent clinicians), and evolving care plans, produced at considerable speed – and by clinicians during the course of the junior doctors' strike in England – John

McKendrick KC summarised the dilemma faced by Mr K at the point the court had to decide, at speed, what to do:

> *62* […]. *On the one hand, he needs an urgent assessment of, and treatment for, his chronic bilateral venous leg ulcers. Without this, the evidence suggests, an infection may become sufficiently serious that amputation of both legs below the knee will be indicated. He remains resistant to professional assessment of his ulcers at B Home. He remains resistant to being returned to hospital for investigations and treatment. As far back as 26 June 2023 serious concerns were raised in respect of the urgent necessity of treatment of the ulcers. A member of staff noted they could see bone appear in the wound. After a short period of time in Mr Ks' room, the manager of B Home rushed out to vomit, over-powered by the smell of the wounds. Urgent safeguarding concerns were raised at round table meeting in June 2023.*
>
> *63. Mr R, the Manager at B Home has provided an alarming level of detail of concern. He states that in his opinion Mr K's wounds are severely infected and malodorous. He says "the ankle bone is visible and seriously infects skin is hanging down his leg". He thinks the wounds have not been dressed since 17 July 2023. He states that Mr K screams in pain, mainly at night. Notwithstanding this, Mr K refused assistance from B Home staff and from tissue viability nurses and will "never allow anybody to touch his leg and will retaliate with force if someone tries ". Paramedics have been called in May and June but Mr K refused to engage.*
>
> *64. On the other hand, as a result of his documented cardiac problems, the evidence from the cardiologists and experts in anaesthesia suggests, for now at least, that the use of chemical and physical restraint poses significant risks to Mr K if conveyed to hospital against his will. Further, should he remain resistant to treatment when in hospital and therefore require longer term sedation, the risks of prolonged chemical sedation are significant.*
>
> *65. Even if he were to be conveyed to hospital and underwent the necessary investigations set out above in the vascular evidence, there is a reasonable likelihood that any procedure which involves a general anaesthetic would be contrary to his best interests because of the risks it poses to his cardiac ill-health and in any event may not be an option and clinicians may not provide it.*
>
> *66. This is the stark background that confronts the court. Mr K is in a parlous state.*

Proceeding in stages to seek to resolve the dilemma, the first question was as to Mr K's capacity. John McKendrick KC noted at paragraph 57 that:

> *Section 48 of the 2005 Act has most recently been considered in the cases of: (i) Local Authority v LD [2023] EWHC 1258 (Fam) (Mostyn J) and (ii) DP v London Borough of Hillingdon [2020] EWCOP 45 (Hayden J). I take from these authorities that the language of section 48 needs no gloss and that the court need not be satisfied, on the evidence available to it, that the person lacks capacity on the balance of probabilities, but rather a lower test is applied. Belief is different from proof. Section 48 requires: 'reason to believe that P lacks capacity.' Section 2 requires: 'whether a person lacks capacity within the meaning of this Act must be decided on the balance of probabilities'. That being said in a case of this nature, where medical treatment is being considered which the patient does not consent to,*

> *the court must be satisfied there is evidence to provide a proper basis to reasonably believe the patient lacks capacity in respect of the medical decision.*

On the basis of the material before him, in a situation where no party sought to persuade him that Mr K had capacity in respect of the treatment of his ulcers, John McKendrick KC was "*entirely satisfied*" (paragraph 68) that there was reason to believe that Mr K lacked the material capacity. He made a declaration to this effect under s.48. Upon receipt of the draft judgment, Counsel for the Official Solicitor questioned whether he should make such declarations in light of the decision of Hayden J in *DP v LB Hillingdon* in which the former Vice-President had questioned (in the context of s.21A proceedings) whether there was such a power, as opposed to simply making a judicial 'finding'. John McKendrick KC amplified his reasoning accordingly, from the starting point that it was desirable that the Court retains the power to make interim declarations in respect of capacity (paragraph 102):

> *A determination that there is reason to believe P lacks capacity in relation to the matter, is an important steps which establishes the court has jurisdiction to make best interests orders in respect of P, if additionally the section 48 (c) test of 'without delay' is met. The declaration should be precisely worded to make clear the matters in respect of which the court has jurisdiction. A finding is a less precise basis upon which to exercise the court's jurisdiction.*
>
> *103. Therefore I add to the* [relevant paragraph] *that I am making a section 48 order and an interim declaration pursuant to section 47 of the 2005 Act and COP Rule 10.10. (1) (b).*
>
> *104. I have not heard argument on this narrow matter, as there is a pressing need to hand down judgment and approve the orders to permit the assessment at B Home to take place tomorrow, so if I am wrong in respect of this analysis, I also apply the learning of paragraph 40 of DP v London Borough of Hillingdon and make a finding in the same terms as the interim declaration. Through either route, as there can be no further delay, the best interests orders above are made for Mr K, who needs the Court's protection.*

As regards best interests, and whilst the last paragraph above gives a spoiler, John McKendrick outlined how there were (at least) four options: await further evidence; provide for an order to permit urgent investigation, assessment and interim treatment at B Home; convey him to hospital; and persuade Mr K to attend hospital. The first option was not viable. The third was, at this stage, too risky, but it was finely balanced, given that:

> *73.* […] *on the evidence of the vascular surgeons, that some form of inpatient investigations will be needed, for scans etc to assess the damage to Mr K's venous and arterial system and to assess whether or not his wounds are capable of healing. Option three is not currently in his best interests, but I anticipate that the evidence which emerges from the assessment to take place this week (see below) and the evidence from the two experts instructed by the Official Solicitor, will result in the court confronting the acutely difficult dilemma of balancing the risks to Mr K's physical and psychological health of non-admission to hospital and therefore limited treatment at B Home for his chronic bilateral venous leg ulcers, against the cardiac risks of chemical and physical restraint in, or being conveyed, to*

> *hospital. This will be a difficult balancing act and will require clear, expert evidence to assist the court to undertake the balancing exercise in Mr K's best interests.*

The fourth option was potentially viable, given that there was a different hospital under the management of a different Trust Mr K had previously spoken very highly of. This was an option that had to be explored at speed, but if it was not going to be possible, John McKendrick KC found himself in a position where he had to endorse option 3, for assessment and treatment to take place at the care home, including with the use of chemical and physical restraint as a last resort, prior to a further hearing to consider the next steps.

Comment

The dilemma faced by all concerned was acute, and could not be avoided – although, as so often, it is difficult not to want to ask as to all the points along the way at which other options might have presented themselves for Mr K and those concerned with his welfare. John McKendrick KC's careful examination of the position that now prevailed, and – in particular – his concern to ensure that each step on the restriction ladder would be as carefully tested as time would allow, is a very useful 'worked example' of how to proceed in thinking through such dilemmas.

Of wider interest, at least to procedural enthusiasts, is the judge's crisp analysis of the vexed issue of s.48. His summary of the threshold and of the ability of the court to make interim declarations would, we would suggest, draws a line under what had become an unnecessarily complicated debate. And his observation that 'belief is different to proof' is clearly of relevance also in relation to those applying s.5 MCA outside the court room setting, who are held to the standard of a 'reasonable belief' in the person's lack of capacity to consent to the relevant act(s) of care and treatment.

Legal aid – some good news

Reflecting commitments made in the response to the Legal Aid Means Test Review, the Criminal and Civil Legal Aid (Amendment) Regulations 2023 (SI 2023/745) have been laid before Parliament. The SI amends the civil and criminal legal aid means tests to remove the means test for:

- Individuals under the age of 18 applying for criminal advice and assistance;
- Individuals under the age of 18 applying for all civil legal representation (including Exceptional Case Funding representation) and family help (higher);[2]
- Legal representation for parents of, or those with parental responsibility for, a child (aged under 18) facing the withdrawal or withholding of life-sustaining treatment; and
- Legal help relating to inquests where, if the individual were to make an application for Exceptional Case Funding (ECF) representation, due to a breach of Human Rights, or, where the Director of Legal Aid Casework thinks there is a significant wider public interest in legal aid being provided, it would be reasonably likely to succeed.

The SI will also make amendments so that determinations of legal help for inquests can be dated to an earlier date than the determination itself, so that legal aid providers can continue to

[2] See further in this regard also the updated guidance from the Lord Chancellor at section 2.7, which also addresses the situation where the child turns 18.

claim for legal help carried out prior to the date of determination.

The changes made by this SI, except for the legal help assessment for inquests, came into force on 3 August 2023. The changes for legal help for inquests came into on 4 September 2023.

Short note: good practice in life-sustaining treatment cases

Alder Hey Childrens NHS Foundation Trust v D & Ors [2023] EWHC 2000 (Fam) and [2023] EWHC 1997 (Fam)[3] concerned a 14 year old boy who had been in hospital for over a year, and was suffering from a range of medical conditions which meant that he required artificial ventilation and would not be able to be discharged home.

We mention the case here to identify one point of relevance to medical treatment cases involving adults, and one important point of difference.

D's mother supported the withdrawal of active treatment, but his father did not. D's was conscious, and experienced significant pain but was also seen to respond with pleasure. He was not asked for his views because of the distress it would cause him and the difficulty in eliciting a meaningful response. In the first hearing, the court refused to grant the declarations sought by the Trust such that active treatment would cease, notwithstanding that those declarations were supported by both the child's mother and his Guardian. Instead, the court directed further expert evidence to be obtained from a neurologist, and a paediatric intensivist – there having been no independent second opinion previously obtained in the latter discipline. Morgan J identified (*Alder Hey Childrens NHS Foundation Trust v D & Ors* [2023] EWHC 2000 (Fam) at paragraph 110) that such a practice was 'routine' in cases involving children and – we would suggest – involving adults.

The two experts duly reported and concluded that there was no realistic prospect of the child's situation improving. He could live for years in ITU in a minimally conscious state, but could equally succumb to an infection or other complication and die much sooner. The court concluded that continued treatment was not in his best interests, because the burdens of his condition and the treatment required to keep him alive outweighed the ability he had to derive comfort and pleasure from the company of his family.

We note that the independent neurologist applied the 2013 Royal College of Physicians Guidance to determine that C was in a minimally conscious state (*Alder Hey Childrens NHS Foundation Trust v D & Ors* [2023] EWHC 1997 (Fam)). We have no reason to question the conclusions reached, but it is perhaps important to note both that the 2013 guidance has been superseded by a 2020 iteration, and that the 2020 guidance expressly states that it is to apply to those aged 16 and above (see page 14). Caution must therefore be exercised before applying it to those under 16.

[3] Katie was involved in the case, but has not contributed to this note. Despite the neutral citation number being higher, the decision reported as [2023] EWHC 2000 (Fam) came before the decision reported as [2023] EWHC 1997 (Fam)

Editors and Contributors

Alex Ruck Keene KC (Hon): alex.ruckkeene@39essex.com
Alex has been in cases involving the MCA 2005 at all levels up to and including the Supreme Court. He also writes extensively, has numerous academic affiliations, including as Visiting Professor at King's College London, and created the website www.mentalcapacitylawandpolicy.org.uk. To view full CV click here.

Victoria Butler-Cole KC: vb@39essex.com
Victoria regularly appears in the Court of Protection, instructed by the Official Solicitor, family members, and statutory bodies, in welfare, financial and medical cases. She is Vice-Chair of the Court of Protection Bar Association and a member of the Nuffield Council on Bioethics. To view full CV click here.

Neil Allen: neil.allen@39essex.com
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.

Arianna Kelly: Arianna.kelly@39essex.com
Arianna practices 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 inherent jurisdiction matters. Arianna works extensively in the field of community care. She is a contributor to Court of Protection Practice (LexisNexis). To view a full CV, click here.

Nicola Kohn: nicola.kohn@39essex.com
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 2022). To view full CV click here.

Katie Scott: katie.scott@39essex.com
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.

Nyasha Weinberg: Nyasha.Weinberg@39essex.com

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.

Adrian Ward: adrian@adward.co.uk

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.

Jill Stavert: j.stavert@napier.ac.uk

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

Members of the Court of Protection team regularly present at seminars and webinars arranged both by Chambers and by others.

Alex is leading a masterclass on approaching complex capacity assessment with Dr Gareth Owen in London on 1 November 2023 as part of the Maudsley Learning programme of events. For more details, and to book see here.

Alex is also doing a regular series of 'shedinars,' including capacity fundamentals and 'in conversation with' those who can bring light to bear upon capacity in practice. They can be found on his website.

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.

Sheraton Doyle
Senior Practice Manager
sheraton.doyle@39essex.com

Peter Campbell
Senior Practice Manager
peter.campbell@39essex.com

Chambers UK Bar
Court of Protection: Health & Welfare
Leading Set

The Legal 500 UK
Court of Protection and Community Care
Top Tier Set

clerks@39essex.com • DX: London/Chancery Lane 298 • 39essex.com

LONDON
81 Chancery Lane,
London WC2A 1DD
Tel: +44 (0)20 7832 1111
Fax: +44 (0)20 7353 3978

MANCHESTER
82 King Street,
Manchester M2 4WQ
Tel: +44 (0)16 1870 0333
Fax: +44 (0)20 7353 3978

SINGAPORE
Maxwell Chambers,
#02-16 32, Maxwell Road
Singapore 069115
Tel: +(65) 6634 1336

KUALA LUMPUR
#02-9, Bangunan Sulaiman,
Jalan Sultan Hishamuddin
50000 Kuala Lumpur,
Malaysia: +(60)32 271 1085