Mental Capacity Law Newsletter July 2015: Issue 58

Court of Protection: Practice and Procedure

Introduction

Welcome to the July 2015 Newsletters: Highlights this month include:

(1) In the Health, Welfare and Deprivation of Liberty Newsletter: an article from Tim Spencer-Lane of the Law Commission outlining its vitally important consultation on deprivation of liberty, *Re X*, duck-spotting with Mostyn J and a significant case on medical treatment;

(2) In the Property and Affairs Newsletter: an important review of the law of 'doing the right thing' in statutory will cases, SJ Lush on wishes and feelings, and a reminder of the new LPA forms;

(3) In the Practice and Procedure Newsletter: an update on the significant changes to the Court of Protection Rules taking effect from 1 July, a useful case on the inherent jurisdiction and procedural points of analogy from cases involving children;

(4) In the Capacity outside the COP Newsletter: a stop press on ordinary residence following the Supreme Court's decision in the *Cornwall* case, the Law Society's Practice Note on meeting the needs of vulnerable clients, capacity to withdraw consent an update on the Northern Ireland Mental Capacity Bill, and the European Court of Human Rights considers life-sustaining treatment;

(5) In the Scotland Newsletter: the new Scottish Government guidance on ordinary residence and an update on the Mental Health Bill.

And remember, you can now find all our past issues, our case summaries, and much more on our dedicated sub-site here.

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Transcripts not available at time of writing are likely to be soon at www.mentalhealthlaw.co.uk.

All change at COP Towers

The remainder of the first round of COPR rule changes came into force on 1 July: an unofficial compilation of the amendments with a commentary by Alex can be found here (and the most recent issue of the Elder Law Journal includes an article by him explaining the background and thought processes in more detail).[1] They are also accompanied by new Practice Directions, available here.

Perhaps the most important change is the introduction of a new Rule 3A. It is accompanied by a new Practice Direction 2A. Rule 3A is intended to be the response to the developments in Strasbourg case-law making clear the importance of procedural safeguards in proceedings in which an individual is either (1) to be declared to lack capacity in one or more domains; (2) to be the subject of substitute decision-making. For more detail on this, see the excellent report by Lucy Series entitled 'The participation of the relevant person in proceedings before the Court of Protection.'

In summary form, Rule 3A (which is accompanied by a substitute Part 17), requires in each case the Court to consider, either on its own initiative or on the application of any person, consider whether it should make one or more of one of a 'menu' of directions relating to P's participation. That menu includes:

1. P being a party;

2. P's participation being secured by the appointment of a representative whose primary function is to give P a 'voice' by relaying information as to P's wishes and feelings;

3. Specific provision for P to address (directly or indirectly) the judge determining the application; or

4. No direction or an alternative direction (meeting the overriding objective) if P's interests and position can properly be secured.

Rule 3A has deliberately been placed at the start of the Rules to emphasise the shift in focus from the previous iteration, where the position of P was much less expressly catered for (and, indeed, was only expressly provided for in Rule 73(4), providing that P was not to be a party unless the Court ordered otherwise).

Equally importantly, assuming that the necessary steps are taken to enable this to happen by way of the creation of a panel of such representatives, Rule 3A provides that a direction may be made appointing an accredited legal representative ('ALR') to represent P. This can be done whether or not P is a party; importantly, if P is a party, then an ALR may be appointed without a litigation friend being appointed to act for P. This innovation, drawn from Rule 11(7) of the Mental Health Tribunal Rules, is designed to supplement, not supplant, the role of litigation friends; the intention (as spelled out in the accompanying Practice Direction, 2A) is that ALRs can provide assistance where urgent orders are required and it is not possible to appoint a litigation friend. They may also play an important role in 'narrow' applications such as applications under s.21A MCA 2005, thereby allowing the resources of litigation friends – whether the Official Solicitor or otherwise – to be reserved for more complex cases where, for instance, expert evidence will be required.

[1] This note draws upon that article; whilst Alex was a member of the Ad Hoc Rules Committee, this note is written in a personal capacity.

The provisions in Rule 3A and Part 17 relating to ALRs are unusual because, as at the time of writing, they relate to a panel which does not exist. The expectation is that the Law Society will take the lead role in accreditation (as they do in relation to Mental Health Tribunal representatives), but at the time of writing, has only taken preliminary steps in this regard.

Rule 3A was – deliberately – written in such a way that it can survive a failure to bring about a panel. It was also – equally deliberately – written in such a way that was (as much as possible) future-proof as regards case-law developments. The developments in *Re X* discussed in the Health, Welfare and Deprivation of Liberty Newsletter show that this may have been a wise course of events.

Rule 3A needs to be read both with Part 17 and the amendment to Rule 95, the latter of which clarifies that the court can admit, accept and act upon such information, whether oral or written, from P, any protected party or any person who lacks competence to give evidence, as the court considers sufficient, although not given on oath and whether or not it would be admissible in a court of law apart from this rule. This amendment picks up – belatedly – the decision of McFarlane J (as he then was) in *Enfield LBC v SA* [2010] EWHC 196 (Admin) and the 'work around' he gave there as to the admissibility of evidence from P.

Finally, it should be noted that there is (deliberately) is no specific mention in the rules of capacity to choose a representative (i.e. not an ALR); there may well be analogies here with the position considered in the context of the Mental Health Tribunal, *YA v CNWL NHS Trust & Ors* [2015] UKUT (AAC)). If P has the capacity to choose a representative, it would be very unlikely indeed that the court would wish to appoint a representative in whom P did not have trust (not least because such a representative would be most unlikely to be able to fulfil their functions of relaying P's wishes and feelings to the court).

Update to Practice Direction: Committal for Contempt – Open Court

Practice Guidance was issued by the Lord Chief Justice on 24 June to "answer[…] various questions which have arisen on the application and interpretation of the Practice Direction: Committal for Contempt - Open Court, dated 26 March 2015 (the Committal PD)." Of most immediate relevance is the useful pro forma for judgments made upon committal to The guidance also confirmed that the operation of the Practice Direction will be subject to review in October 2015.

Short Note: the power of the inherent jurisdiction

In *O v P* [2015] EWHC 935 (Fam), a case from earlier this year which only recently came to our attention, Baker J considered an application in wardship proceedings, or alternatively under the court's inherent jurisdiction, which would have the effect of amending an existing injunction previously made in the wardship proceedings and extending its duration beyond the ward's 18th birthday in circumstances where there was a real risk posed to her and her mother by her father, who had previously abducted her from the country, and also twice been convicted of offences of incitement to solicit the murder of her mother. The ward and her mother were now in Australia.

The mother sought an extension of the protective orders made in the wardship proceedings. This

was resisted by the father.

Baker J held that he had "no doubt" that the court has the power to grant the orders sought on behalf of the applicant and that an order should be made in this case. His reasons were set out at paragraph 27 as follows, and merit reproduction in full:

> "*(1) In my judgment, an order made during the currency of wardship proceedings may be extended following the 18th birthday of the child or young person. The dicta of Thorpe LJ in Re F* [(Adult: Court's Jurisdiction) [2001] Fam 38]*, are of general application. Where a court has ruled that a young person is at risk of harm, and has granted an injunction to protect her from that risk, it must have the power, as part of the protective measures available in wardship and under the inherent jurisdiction generally, to extend that protection beyond the young person's 18th birthday. The origins of wardship lie in the parens patriae role of the Crown. In the exercise of parental responsibility generally, decisions are often taken for the benefit of young people that extend into adulthood. In most cases, parents – and the court – stand back to allow young people to make decisions for themselves. In some cases, however, young people need continuing help and protection beyond their 18th birthdays. In such circumstances, parents continue to exercise responsibility, and this court under its inherent jurisdiction, must be prepared to do so if required.*
>
> *(2) This principle is reflected in the dicta of Munby J in Re SA* [[2006] EWHC 2942 (Fam)] *quoted above. Although dealing with a different set of circumstances – the need to protect a young woman from the risk of an unsuitable arranged marriage – the learned judge was careful to stress that there is probably no theoretical limit to the jurisdiction and (citing Singer J in Re SK* [[2004] EWHC 3202 (Fam)]*, supra) observed that the jurisdiction must evolve in accordance with social needs and social values. In my judgment, the jurisdiction extends to protect vulnerable young people whether or not they lack capacity. Since the decision in Re SA, society has increasingly recognised that there are many young people who for one reason or another are in need of protection beyond their 18th birthday. Cases of sexual exploitation are but one example. There are, of course, statutory remedies available in many cases, but the inherent jurisdiction is also available to provide protection where appropriate. As Munby J observed in Re SA at paragraph 2 in the passage already quoted,*
>
> > *'A young woman who remains just as vulnerable now she is an adult as she did when she was still a child should not suddenly be deprived with the protection which the court has hitherto felt it necessary to afford her and which I believe is still very much required in her best interests.'*
>
> *I respectfully agree.*
>
> *(3) The European Convention of Human Rights, implemented by the Human Rights Act 1998, has only reinforced that obligation. The court is a public authority and, when exercising its jurisdiction in wardship and under the inherent jurisdiction, must have regard to Articles 2, 6, and 8 when making orders that are needed to protect young people falling within its jurisdiction.*
>
> *(4) When, as here, the court has jurisdiction at the start of wardship proceedings on the grounds that the child is habitually resident in England and Wales, that jurisdiction continues until the conclusion of the proceedings, notwithstanding the fact that the ward has become habitually resident elsewhere. That is*

sufficient to provide jurisdiction in this case for the making of the orders sought by the applicant. In addition, the court may have jurisdiction on the grounds that the ward is a British national. In either case, the question is, as Baroness Hale observed in Re A whether it is appropriate to exercise the jurisdiction in the particular circumstances of the case.

(5) It follows that I reject Mr P's submission that Australia is the only forum for determining an application for protective relief. He further submits that Australia is the appropriate forum on the grounds that all parties are living there. On this point, however, I accept the submission of Mr Lyon that to require either S or the mother to make an application in Australia exposes both of them to the very risks which this court's orders have been designed and intended to avoid.

(6) Having regard to the history, and the evidence I heard during the last hearing as quoted from my 2014 judgment, I am in no doubt that this mother, and indirectly S, remain at very great risk from the man who has twice been convicted of offences involving the incitement to murder the mother, the second conviction relating to an offence committed while he was in prison in Australia and the mother was on the other side of the world in the United Kingdom. The revelation in the course of the hearing in 2014 that the father had obtained photographs that indicated he may be aware of the location of the address of the mother and S has been confirmed by his skeleton argument for this hearing. Although to date the direct threat has been towards the mother, it is in my judgment plain that S remains at risk of emotional harm as a result of that threat. I completely reject the father's reassertion of the argument, made repeatedly in proceedings in this court and in Australia, that he has been motivated solely by a wish to protect S.

28.In my judgment, it is imperative that this court makes the order within the wardship jurisdiction, or alternatively under its inherent jurisdiction to protect vulnerable adults, extending the protection provided hitherto beyond S's 18th birthday. In the circumstances of this case, it is essential that, in order to ensure the protection is extended for S, the mother is also kept within the ambit of the injunction.

The precise order made by Baker J was reproduced at the end of the judgment, and serves both as a useful template and a reminder of the power of the High Court under its inherent jurisdiction to protect those with capacity but vulnerable and in need of the assistance of the court.

Short note: Relief from Sanctions

The appeal in *Re H (Children)* [2015] EWCA Civ 583 raised the following question: "*When considering an application to extend the time for appealing in a family case relating to children, what regard, if any, should be had by the judge to the overall merits of the proposed appeal?*"

The position in civil appeals generally was set out in R (on the application of Hysaj) v Secretary of State for the Home Department [2014] EWCA Civ 1633. In that case, Moore-Bick LJ stated:

"If applications for extensions of time are allowed to develop into disputes about the merits of the substantive appeal, they will occupy a great deal of time and lead to the parties incurring substantial costs. In most cases the merits of the appeal will have little to do with whether it is appropriate to grant an extension of time. Only in those cases where the court can see without much investigation that the grounds of appeal are either very strong or very weak will the merits

> *have a significant part to play when it comes to balancing the various factors that have to be considered at stage three of the process. In most cases the court should decline to embark on an investigation of the merits and firmly discourage argument directed to them. Here too a robust exercise of the jurisdiction in relation to costs is appropriate in order to discourage those who would otherwise seek to impress the court with the strength of their cases."*

The Court of Appeal in the present case considered that it was not necessary on the facts of the case before it to deviate from the general civil law test (set out in *Hysaj*) because it was clear (indeed it was conceded by the respondent) that the grounds of appeal were 'very strong' (in this case unanswerable) and therefore the circuit judge who had heard the appeal at first instance had erred in underestimating the strength of the appeal leading him to attribute no weight real weight to the underlying merits in his relief from sanction analysis.

We suggest that exactly the same principles will apply in relation to applications for extension of time under the (revised) provisions relating to appeals, and from, the Court of Protection.

Short note: HMCTS funding of representation

The Court of Appeal has pronounced in *Re K and H (Children)* [2015] EWCA 543 upon the vexed issue of when HMCTS can be forced to fund representation for litigants in persons in family proceedings, a question of equal relevance before the Court of Protection.
At the heart of this case is a fact finding hearing to determine whether a father had abused a 15 year old girl, Y (the daughter of his partner from a previous relationship). The judge determined that a fact finding hearing was necessary but that it would be inappropriate for the father to cross-examine Y. The judge decided that a legal representative should be appointed for the father (who did not qualify for legal aid as he failed the means test requirements) and that the costs of the legal representative should be paid for by HMCTS.

The Lord Chancellor appealed against the decision with the permission of the judge.

The Court of Appeal concluded that the judge did not have power to order HMCTS to bear the costs of a legal representative for a party outwith the detailed statutory scheme (effectively overruling the decisions of Sir James Munby in *Q v Q* [2014] EWFC 31 and *In re D* [2014] EWFC 39).

The Court of Appeal considered that the father's Article 6 and his and other parties Article 8 rights could be sufficiently safeguarded by the judge conducting the cross examination in such a case. The court also suggested other case management options such as (i) questioning by a justices' clerk; (ii) the appointment of a guardian for the father's children who could question Y.

However, the court did acknowledge that there may be some complex cases where the absence of a legal representative could lead to the proceedings not being compliant with Articles 6 and 8 of the Convention. The Master of the Rolls therefore suggested that consideration should be given to the enactment of a statutory provision for (i) the appointment of a legal representative to conduct the cross examination and (ii) the payment out of central funds of such sums as appear to be reasonably necessary to cover the cost of the legal representative.

Life-long anonymity orders

In the case of *Birmingham City Council v Riaz & Ors* [2015] EWHC 1857 (Fam), the sequel to the inherent jurisdiction case noted briefly in our February 2015 newsletter, Keehan J confirmed that the High Court has the power under its inherent jurisdiction in a suitable case to make a lifelong Reporting Restriction Order ('RRO'). The case before Keehan J revolved around whether a young woman who had been the victim of Child Sexual Exploitation ('CSE') could be made the subject of a life-long RRO so as to protect her once she turned 18. No party before Keehan J ultimately contested that the power existed. Having conducted the balancing exercise required between the competing Article 8 ECHR rights of the woman and the Article 10 rights of the press and broadcast media, Keehan J concluded that, whilst there was considerable public interest in the press being able to report upon cases of CSE, there was no public interest in identifying the woman in question as a victim of CSE:

> *"42. AB is entitled to respect for her private life. What could be more private and personal than the fact that she has been the victim of CSE? I am satisfied that the fact she has been the victim of CSE is entirely a private and personal matter for AB. If, once she has attained her majority or thereafter, she wishes to make it known that she is a victim of CSE, that must be a matter for her and her alone.*
>
> *45. I have earnestly reflected on this difficult issue of whether I should grant a RRO to afford AB lifelong anonymity. I have taken account of the high priority accorded by Parliament and the courts to the protection of victims and especially to young people.*
>
> *46. I have carefully balanced the competing Article 8 and Article 10 rights. On the basis that I find no public interest in identifying AB as a victim of CSE and I find that there are compelling reasons why AB's history of being a victim of CSE should remain confidential and private to her, I am completely satisfied that the balance falls decisively in favour of granting the lifelong RRO sought by the local authority.*
>
> *47. I further consider that there is a high public interest in supporting the victims of CSE to come forward and report their abuse to the authorities and to co-operate with them. Whilst the issue of lifelong RROs in possible future CSE injunction cases will have to be determined on their own merits, there is a very real risk, in my judgment, that my refusal to grant a RRO in this case, might deter other young victims of CSE from coming forward to the authorities. In principle I propose to make a RRO in favour of AB for her lifetime."*

We suggest exactly the same principles would apply in the event that the Court of Protection is invited to grant a similar injunction.

Short Note: settling can be a prolonged process

In *Re R (A Child)* [2015] EWCA Civ 674, the Court of Appeal confirmed that a person can remain habitually resident somewhere for many years after they have ceased to have a permanent abode there. In the case before it, the Court of Appeal applied the now well-established principles applicable in family cases under both EU and Hague instruments in a situation where a woman had ceased to have permanent residence in the UK in 2006, and had moved around a number of countries (in particular spending 16 months in Morocco) until March 2013.

The Court of Appeal held that – although viewed at high level surprising – the judge had been correct to find that: (1) the mother had failed to

settle or integrate into Moroccan life; (2) there had been domestic violence; (3) the parents had lived apart for significant periods in Morocco; (4) that the mother had really only ever integrated into the UK, where she had spent over 10 years at school and university and in work; and (5) her return to Morocco had been an extended stay while she sought a temporary harbour. In consequence, given the degree of dependence of her young daughter, her habitual residence was effectively determined by that of her mother, and therefore remained in the United Kingdom at the material time.

Questions of settlement and integration are equally relevant in the context of cases before the Court of Protection, and it is suggested that the instant case supports the propositions both that:

(1) Adults with impaired capacity removed wrongfully from England and Wales will only lose their habitual residence here (and hence the Court of Protection will only lose its jurisdiction over them) after an extended period of time, especially where they have not been integrated into the second jurisdiction;

(2) Conversely, adults with impaired capacity either placed into or outside England and Wales by statutory authorities will also – as a general rule – remain habitually resident in the jurisdiction of that statutory authority even if the placement lasts a considerable period of time (a proposition accepted, obiter, by Baker J in *Health Services Executive of Ireland v PA & Ors* [2015] EWCOP 38 at paragraph 53).

Short Note: privilege and paying for care

In a case that passed up by at the time, but is the subject of a very interesting article by Sheree Green in the most recent edition of the Elder Law Journal, the Chancery Division has recently clarified the obligations of solicitors where questions of 'sharp practice' arise in relation to dispersal of assets.

In *LBB Brent v Estate of Mr Owen Kane & Ors* [2014] EWHC 4564 (Ch), the Claimant local authority sought disclosure of documents to which legal professional privilege would normally attach on the grounds that the exemption did not apply because there was evidence of iniquity or sharp practice.

The local authority had provided residential care to Mr Owen Kane for 6 years prior to his death and considered that his two sons had deliberately engaged in a series of transactions (including disposing of his property) with a view to avoiding paying for his care. The local authority therefore sought disclosure of information held by a firm of solicitors, including legal advice about the transactions relevant to the dispute.

The judge considered the case law and concluded that there was a clear exception to the principle of legal professional privilege where there was prima facie evidence of iniquity (*Barclays Bank v Eustice* [1995] 1 WLR 1238*, BBGP Managing General Partner Ltd v Babcock & Brown Partners* [2011] Ch 296*, JSC BTA Bank v Mukhtar Ablyazov and others* [2014] EWHC 2788).

The judge held (and the claimant accepted) that there had to be prima facie evidence of iniquity for privilege to be defeated (*C v C [*2008] 1 FLR 115).

The judge was satisfied that there was prima facie evidence of sharp practice in the present case and that consequently legal professional privilege did not apply. Disclosure was ordered.

This case is a useful reminder that even legal advice can be subject to an order for disclosure where there is prima facie evidence of iniquity/sharp practice.

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Conferences at which editors/contributors are speaking

International Academy of Law and Mental Health Congress

Jill is presenting a paper at this conference on 12-17 July in Vienna, entitled 'Meeting the Challenges of the General Comment on Article 12 CRPD: Scottish Incapacity and Mental Health Legislation.'

Deprivation of Liberty Safeguards

Tor will speaking at POhWER's conference on 17 July in Central London on DOLS, including discussion of the Law Commission's Consultation Paper. For further details, and to book, see here.

The Law Society of Scotland Update Conference on Mental Health and Incapacity

Jill is speaking on deprivation of liberty at this conference in Glasgow on 4 September. For further details, and to book, see here.

The Mental Capacity Act 2005 – Ten Years On

Alex will be speaking on '(Re)presenting P' at this major conference hosted by the University of Liverpool on 9 and 10 September. For further details and to book, see here.

Jordan's Court of Protection Conference

Alex will be speaking at Jordan's Annual Court of Protection Conference on 13 October 2015. For further details, and to book, see here.

Court of Protection Practitioners' Association National Conference

Alex will be speaking at COPPA's national conference on 24 September 2015. For further details, and to book, see here.

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 Mind in return for postings for English and Welsh events. For Scottish events, we are inviting donations to Alzheimer Scotland Action on Dementia.

Seventh Annual Review of the Mental Capacity Act 2005

Neil and Alex will both be speaking (along with Fenella Morris QC) at this annual fixture in York on 15 October, now under the auspices of Switalskis solicitors. For further details, and to book, see here.

Taking Stock

Neil will be speaking on 16 October at this (further) annual fixture, arranged by Cardiff Law School, at the Royal Northern College of Music. For further details, and to book, see here.

Other conferences of interest

Our friends Empowerment Matters are hosting an IMCA conference on 12 November at the Smart Aston Court Hotel in Derby, entitled 'Interesting Times – developments for IMCAs in practice and law.' For more details and to book, see here.

Chambers Details

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

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THE QUEEN'S AWARDS FOR ENTERPRISE INTERNATIONAL TRADE 2013

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Alex been recommended as a leading expert in the field of mental capacity law for several years, appearing in cases involving the MCA 2005 at all levels up to and including the Supreme Court. He also writes extensively about mental capacity law and policy, is an Honorary Research Lecturer at the University of Manchester, and the creator of the website www.mentalcapacitylawandpolicy.org.uk. To view full CV click here.

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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 contributing editor to Clayton and Tomlinson 'The Law of Human Rights', a contributor to 'Assessment of Mental Capacity' (Law Society/BMA 2009), 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 human rights, mental health and incapacity law and mainly practises in the Court of Protection. Also a lecturer at Manchester University, he teaches students in these fields, trains health, social care and legal professionals, and regularly publishes in academic books and journals. Neil is the Deputy Director of the University's Legal Advice Centre and a Trustee for a mental health charity. To view full CV click here.

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Annabel appears frequently in the Court of Protection. Recently, she appeared in a High Court medical treatment case representing the family of a young man in a coma with a rare brain condition. She has also been instructed by local authorities, care homes and individuals in COP proceedings concerning a range of personal welfare and financial matters. Annabel also practices in the related field of human rights. To view full CV click here.

Anna Bicarregui anna.bicarregui@39essex.com

Anna regularly appears in the Court of Protection in cases concerning welfare issues and property and financial affairs. She acts on behalf of local authorities, family members and the Official Solicitor. Anna also provides training in COP related matters. Anna also practices in the fields of education and employment where she has particular expertise in discrimination/human rights issues. To view 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 practising Scottish solicitor, a partner of T C Young LLP, who has specialised in and developed adult incapacity law in Scotland over more than three decades. Described in a court judgment as: "*the acknowledged master of this subject, and the person who has done more than any other practitioner in Scotland to advance this area of law*," he is author of *Adult Incapacity*, *Adults with Incapacity Legislation* and several other books on the subject. To view full CV click here.

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Dr Jill Stavert is Reader in Law within the School of Accounting, Financial Services and Law at Edinburgh Napier University and Director of its Centre for Mental Health and Incapacity Law Rights and Policy. Jill is also a member of the Law Society for Scotland's Mental Health and Disability Sub-Committee, Alzheimer Scotland's Human Rights and Public Policy Committee, the South East Scotland Research Ethics Committee 1, and the Scottish Human Rights Commission Research Advisory Group. She has undertaken work for the Mental Welfare Commission for Scotland (including its 2013 updated guidance on Deprivation of Liberty) and is a voluntary legal officer for the Scottish Association for Mental Health. To view full CV click here.