

Capacity outside the Court of Protection

Welcome to the December 2016 Newsletters. Highlights this month include:

- (1) In the Health, Welfare and Deprivation of Liberty Newsletter: DOLS and objections, the scope of s.21A appeals and best interests in treatment withdrawal;
- (2) In the Property and Affairs Newsletter: capacity to revoke an LPA, capacity and IVAs, and litigation friends, influence and trusts;
- (3) In the Practice and Procedure Newsletter: the Court of Appeal looks at committal, dismissing vs withdrawing proceedings, and the acceptable limits in criticising witnesses;
- (4) In the Capacity outside the COP Newsletter: news from the National Mental Capacity Forum, new consent guidelines for anaesthetists, an important Serious Case Review regarding self-neglect, an update on the international protection of vulnerable adults and a Christmas book corner;
- (5) In the Scotland Newsletter: delegation by attorneys and getting it backwards as regards capability to stand trial.

And remember, you can now find all our past issues, our case summaries, and much more on our dedicated sub-site [here](#). 'One-pagers' of the cases in these Newsletters of most relevance to social work professionals will also shortly appear on the SCIE [website](#).

We will be back in early February, and wish you all a very happy holidays in the interim.

Editors

Alex Ruck Keene
Victoria Butler-Cole
Neil Allen
Annabel Lee
Anna Bicarregui
Simon Edwards (P&A)

Guest contributor

Beverley Taylor

Scottish contributors

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For all our mental capacity resources, click [here](#).

National Mental Capacity Forum News

The NMCF has launched a new online space for members of the Forum. On registration, members will be able to access dedicated information – including the growing collection of excellent blogs and information about future events – and also to hold online discussions with other members. You can sign up [here](#).

The Forum has also launched a short [film](#) which sets out the principles of the Mental Capacity Act in a simple way that works for all sectors. Please feel free to use this video and to encourage others to share it too. If you think there are other videos like this that would help you in your work, please feel free to share your thoughts on the new online forum.

The second mental capacity action day will be on 27 February 2017, with the theme ‘Supporting decision making’. If you wish to nominate a colleague who did not attend this year’s event please email nmcf1@justice.gsi.gov.uk. The day is, however, expected to be heavily over-subscribed. The forum has space for a maximum of 150 people and will need to ration places to ensure a good geographical spread and range of professionals.

Finally, the indefatigable Baroness Finlay, chair of the Forum, will shortly be publishing her first annual report, which we will cover in the next issue of this Newsletter.

New consent guidelines from the Association of Anaesthetists of Great Britain and Ireland

The AAGBI has just published new [guidelines](#) on consent for anaesthesia. Previous guidelines on

consent for anaesthesia were issued by the AAGBI in 1999 and revised in 2006. The new guidelines have been produced in response to the changing ethical and legal background against which anaesthetists, and also intensivists and pain specialists, currently work, while retaining the key principles of respect for patients’ autonomy and the need to provide adequate information. The main points of difference between the relevant legal frameworks in England and Wales and Scotland, Northern Ireland and the Republic of Ireland are also highlighted in a document which may be of more general use for anyone seeking to understand the differences in approach between these jurisdictions to questions of consent to medical treatment more broadly.¹

Care Act Guidance updated to take account of Cornwall decision

The Department of Health has finally updated its statutory guidance under the Care Act 2014 to take into account the judgment of the Supreme Court in *Cornwall Council v Secretary of State for Health and Others* [2015] UKSC 46 (reported in our July 2015 newsletter). It deals with the vexed question of how to determine ordinary residence where P lacks capacity to decide where to live.

In *Cornwall*, the Supreme Court considered where P was ordinary resident in Cornwall, Wiltshire or South Gloucestershire. P had severe physical and learning disabilities and lacked the capacity to decide where to live. He lived with his parents in Wiltshire until he was four years old. Wiltshire Council then arranged for P to live with foster carers in South Gloucester where he lived for the next 14 years. After P turned 18, he went to live with his former foster carers before

¹ Full disclosure: Alex was a member of the working party.

moving to two different care homes in Somerset. In the meantime, P's parents had moved to Cornwall and P occasionally went to stay with them in Cornwall. Applying a modified version of the test in *Shah* [1983] AC 309, a majority of the Supreme Court decided (to some surprise) that P was ordinarily resident in Wiltshire.

The *Shah* test provides that ordinary residence is determined by reference to "a man's abode in a particular place or country which he has adopted voluntarily and for settled purposes as part of the regular order of his life for the time being, whether of short or long duration." However, the *Shah* test cannot be applied directly without modification to people who lack capacity to make decisions about their accommodation as it requires the voluntary adoption of a place of residence.

The revised Care Act 2014 statutory guidance provides at paragraph 19.32:

...with regard to establishing the ordinary residence of adults who lack capacity, local authorities should adopt the Shah approach, but place no regard to the fact that the adult, by reason of their lack of capacity cannot be expected to be living there voluntarily. This involves considering all the facts, such as the place of the person's physical presence, their purpose for living there, the person's connection with the area, their duration of residence there and the person's views, wishes and feelings (insofar as these are ascertainable and relevant) to establish whether the purpose of the residence has a sufficient degree of continuity to be described as settled, whether of long or short duration.

The Supreme Court's decision in *Cornwall* also has significant implications for determining the ordinary residence of looked after children transitioning to adult social care services. In this

respect, the revised statutory guidance provides at paragraph 19.38:

... for the purposes of the 2014 Act, and where relevant, the 1984 Act, any person who moves from accommodation provided under the 1989 Act to accommodation provided under the 1948 Act, or 2014 Act, which is accommodation to which the deeming provisions under the 1948 Act or the 2014 Act apply, remains ordinarily resident in the local authority in which they were ordinarily resident under the Children Act.

In cases where the deeming provisions do not apply, the starting point is still the presumption that the adult is ordinarily resident in the area in which they were ordinarily resident under the Children Act. Paragraph 19.41 states:

...although the provisions of the Children Act normally no longer apply once a young person reaches 18, local authorities should start from a presumption that for the purposes of the 1948 Act or the 2014 Act the young person remains ordinarily resident in the local authority in which they were ordinarily resident under the 1989 Act. However, this is only a starting point and if the young person remains in the area in which he was placed as a child or moves to a new local authority area the presumption may be rebutted by the circumstances of the individual's case and the application of the Shah test.

You can access the full guidance [here](#) and our updated guidance note on ordinary residence [here](#).

It is frustrating that the updated statutory guidance is currently only available online in html format and not downloadable in pdf or otherwise available in any hardcopy format. The guidance in its entirety is unwieldy and very difficult to

navigate. We would welcome a more workable and user-friendly format from the Department of Health.

Short note: another personal injury funding impasse

As reported in [Community Care](#), St Helen's council has refused to comply with the findings of a Local Government Ombudsman report which stated that it should fund care for a man with a brain injury who had received a personal injury award of £3m. The council said his care should be funded by the personal injury award but a Local Government Ombudsman investigation [published](#) in July 2016 rejected this and found the council at fault.

The ombudsman found the council had failed to act in line with case law and government guidance in place at the time, which stated that councils could only take into account the income generated from a personal injury claim, but not the capital itself and recommended the council should carry out a financial assessment for the man, calculate the funding required to meet his eligible needs and pay any money due to him from January 2012.

St Helens council rejected those recommendations, stating that it disagreed with the ombudsman's interpretation of case law and has arguing that the case should be considered by the High Court as it could set a precedent for similar cases.

The council maintained that funding the man's care would amount to a "double recovery", whereby a person receives council funding and personal injury damages for their care costs.

The council's refusal to accept the ombudsman's recommendations and the suggestion that there should be litigation triggered a second complaint and subsequent investigation. A report published in [December](#) concluded that the man should not have to use his personal injury award to fight a legal battle with the council.

It appears that as part of the initial investigation, the council told the ombudsman that comments made in the case of *Peters v East Midlands SHA* [2009] EWCA Civ 145 about the need to avoid breaching the principle of double recovery were relevant to this complaint.

In the *Peters* case, the Court of Appeal ruled that because the court had awarded future care costs, there was no duty on the deputy to seek public funding from a local authority, because this would be double recovery.

However, the Ombudsman found that in this case no such restriction had been placed on the man's deputy and no amount for his future care costs had been set out in the court order. Further, the *Peters* judgment came out after the man's personal injury claim was settled and, in a separate case also involving St Helens Council, it was decided that *Peters* could not be applied retrospectively.

We note in this regard that the fraught interaction between deputies and public funding bodies will be looked at by the Court of Appeal in due course as permission has been granted to Manchester City Council to challenge the decision in [Tinsley v Manchester City Council and others](#) [2016] EWHC 2855 (Admin) we reported upon in the November Newsletter. Although this will be in the context of s.117 MHA 1983, it is likely that their approach will take account of the wider interaction.

Self-neglect and capacity: Serious Case Review into the Case of Mr C

On 3 October 2016, the Bristol Safeguarding Adults Board published a [report](#) into the death of Mr C, who died in a house fire in Bristol on 6 September 2014, which makes both depressing and important reading for practitioners grappling with the difficult issue of self-neglect.

Mr C had suffered from mental health problems since May 1985. He had also used street drugs throughout his life. He had been known to a variety of agencies locally. He was open about his drug use and believed that this had no negative impact on his mental well-being. In the period from 1997-2011 Mr C was admitted to psychiatric in-patient services on eight occasions. Mr C was not always willing to engage with services and his behaviour caused sufficient concern to his landlord, BCC Housing Services, that in 2003 they obtained a Deed of Variation to his tenancy agreement, so that it became a condition of his tenancy that he engage with support services.

Mr C's circumstances changed in 2012. His son, who had previously been an important source of practical and emotional support informed AWP formally, that because of his father's increasingly difficult behaviour related to his use of cocaine and the threat of danger to himself he was no longer able to continue to support his father as he had been doing up until then.

Mr C was admitted to hospital for a short period in June 2012, and at his discharge meeting it was noted that Mr C did not accept he had any chronic mental health needs and rejected any care planning processes that could help him avoid crisis or improve his quality of life. In the light of Mr C's unwillingness to engage with services, the decision was taken at a meeting in September

2012 to discharge Mr C from mental health services.

Thereafter, his increasingly erratic behaviour was characterised primarily being anti-social, exacerbated by his use of drugs. Consequently his behaviour was no longer seen in terms of mental illness, and the police no longer responded by using s.136 MHA 1983, which in the past had led to a hospital admission. Instead the agencies involved had to find an alternative way of responding to the situation that was now viewed as anti-social behaviour.

In the period June 2013 to September 2014, concerns were increasingly expressed about his setting fires on his balcony, as well as about the cluttered state of his flat and his ability to self-care. The Case Review set out a depressing litany of failed attempts to coordinate interventions between agencies prior to his death in September 2014.

The Serious Case Review found that:

Mr C's mental illness was, by its nature cyclical. Periods of relative stability were followed by periods when his behaviour aroused concern both for his and others' safety. Agencies were in touch with each other during these crisis periods, but there is no evidence of overall analysis or planning to inform a shared strategic approach. Each episode or incident tended to be viewed in isolation and not in context, either of Mr C's previous history, or of other agencies' experience of him. His history of serious mental illness was downplayed when the decision was taken to discharge him from secondary mental health services in 2012. This meant that the pattern of his breakdowns was not factored in when agencies were assessing or considering appropriate responses to his various anti-social behaviours.

The inconsistency of joint working meant that individual agencies did not have a clear idea of what input was being provided to Mr C by others, so, for example, no agency appears to have registered the significance of his son's withdrawal or responded to his reasonable expectation that Mr C would now need to be monitored more closely.

There appears to have been no proactive input from the GP throughout the period under review, which is a concern given the key role of GP's in the continuing care of all people who experience serious mental ill health and the NICE clinical guidelines (CG185) on Bi-polar Disorder. Equally, there is evidence that the GP was not involved in Mr C's discharge from mental health services.

Looking at the whole narrative it appears that for much of the time Housing Officers were working alone, and were not able to rely on consistent help from other agencies. This meant that they were not always aware of the most effective referral route to find the help they thought Mr C needed.

None of the agencies saw it as their role to provide a leadership or coordinating function across all partners. This meant for example that information was not shared when one partner decided to discharge, was not taking up a referral, or was passing it to another agency. When referrals were passed on from one agency to another, there was no follow up to see what had happened as a result of the referral.

The lack of consistent joint working meant that frontline staff did not have the opportunity to learn about the way that other agencies work, how to target referrals or what their duties or powers are. This lack of understanding also meant that agencies were unable to escalate their concerns effectively

when they identified deterioration in Mr C's situation.

The findings of the review highlighted a number of key things, particularly around how agencies recognise and deal with the complex issues of self-neglect and mental capacity. It looked also at how risks are identified and managed, how concerns are shared and escalated within and across organisations and the importance of context on how decisions are made. The report also highlighted the impact that restructuring had on agencies' responses.

A number of recommendations were made in the report.

- An escalation process be put in place so that concerns can be more easily flagged and shared across agencies;
- The development of multi-agency guidance about cases of self-neglect;
- Policies, practice and guidelines in relation to engaging with individuals with co-morbid mental health and drug misuse issues should be reviewed in the light of learning from this case;
- Review of training and adherence to policies in respect of practice in relation to mental capacity assessments;
- Ensuring implementation of the recommendations across agencies and scrutinising changes to ensure they are long-lasting.

Beverley Taylor

[Editorial Note: this will be Beverley's last contribution to the Newsletter as she is now

entering a well-earned retirement from the law. We are extremely grateful to her for her contributions both to this Newsletter and more widely in her numerous guises, not least at the heart of the Official Solicitor's office for many years and on the Law Society's Mental Health and Disability Committee.]

Section 136 guidance document for London

A guidance document, [Mental Health Crisis Care for Londoners: London's section 136 pathway and Health Based Place of Safety specification](#), has just been published aimed at stakeholders involved in the s.136 MHA 1983 pathway, specifically, London's police forces, London Ambulance Service, Approved Mental Health Professionals and Acute and Mental Health Trusts. It outlines a consistent pathway of care across London and a minimum standard for Health Based Place of Safety sites.

The guidance covers the s136 pathway from when the individual is detained in a public place, conveyance processes, the interface with Accident and Emergency departments and processes at the Health Based Place of Safety (including the Mental Health assessment and arranging follow up care). Importantly, it sets out specific arrangements between the various organisations involved in each stage of the pathway, and therefore should go some way to eliminating debates on the ground as to responsibilities in the face of individual cases.

CQC annual report on MHA 1983

The Care Quality Commission (CQC) has published its [annual report](#) on the Mental Health Act which makes for sobering reading. The headline concern is that the number of uses of

the MHA has been rising, and 2014/15 saw the highest ever year-on-year rise (10%) to 58,400 detentions.

The report acknowledges that the reasons why increasing numbers of mental health patients are being detained are likely to be complex and vary from area to area. However, the report identifies that one potential cause is the Supreme Court's decision in *Cheshire West* in 2014. The report states:

It is likely that this has reduced the proportion of patients admitted to mental health beds on an informal basis, as services become more sensitive to issues of unauthorised deprivation of liberty (also referred to as 'de facto detention') and seek to avoid it. Allowing for some caution as the dataset is not complete, the number of patients detained under the MHA at any one time may now be surpassing the number of beds occupied by informal patients. This would be an important change in the profile of resident patients: before 2014/15, there were always more informal than detained patients in mental health beds.

We welcome the news that the number of informal patients has decreased. One of the key objectives of the DOLS regime when it was introduced was to protect the rights of informal patients, who were being 'de facto' (objectively) deprived of their liberty without proper procedures (the so called "Bournewood gap"). We are however concerned to hear that there are now more patients detained under the MHA than ever before. The report identifies a number of significant failings, many of which are repeated in previous reports, and it is alarming that, in 2015/16, the CQC "*found little or no improvement in some areas that directly affect patients, their families and carers.*" This is one piece of a bigger picture which strongly suggests that our health and social care services are in crisis.

The international protection of vulnerable adults: recent developments from Brussels and The Hague

[Editorial Note: we are delighted to be able to reproduce here as a guest article a post by Pietro Franzina, Associate Professor of International Law at the University of Ferrara (Italy), from the [Aldricus](#) blog]

On 10 November 2016, the French MEP Joëlle Bergeron submitted to the Committee on Legal Affairs of the European Parliament a draft report regarding the protection of vulnerable adults.

The draft report comes with a set of recommendations to the European Commission. In the draft, the European Parliament, among other things, “deplores the fact that the Commission has failed to act on Parliament’s call that it should submit ... a report setting out details of the problems encountered and the best practices noted in connection with the application of the [Hague Convention](#) [of 13 January 2000 on the international protection of adults, also known as Hague 35], and ‘calls on the Commission to submit ... before 31 March 2018, pursuant to Article 81(2) of the Treaty on the Functioning of the European Union, a proposal for a regulation designed to improve cooperation among the Member States and the automatic recognition and enforcement of decisions on the protection of vulnerable adults and mandates in anticipation of incapacity.”

A document annexed to the report lists the ‘principles and aims’ of the proposal that the Parliament expects to receive from the Commission. In particular, following the suggestions illustrated in a [study](#) by the European

Parliamentary Service [reported on in our [November 2106 Newsletter](#)], the regulation should, *inter alia*, “grant any person who is given responsibility for protecting the person or the property of a vulnerable adult the right to obtain within a reasonable period a certificate specifying his or her status and the powers which have been conferred on him or her,” and “foster the enforcement in the other Member States of protection measures taken by the authorities of a Member State, without a declaration establishing the enforceability of these measures being required.” The envisaged regulation should also “introduce single mandate in anticipation of incapacity forms in order to facilitate the use of such mandates by the persons concerned, and the circulation, recognition and enforcement of mandates.”

In the meanwhile, on 15 December 2016, Latvia [signed](#) the Hague Convention of 2000 on the international protection of adult. According to the press release circulated by the Permanent Bureau of the Hague Conference on Private International Law, the Convention is anticipated to be ratified by Latvia in 2017.

The Convention is presently in force for [nine countries](#): Austria, the Czech Republic, Estonia, Finland, France, Germany, Monaco, Switzerland and the United Kingdom. As far as the UK is concerned, however, the Hague regime, pursuant to a declaration made by the British Government in accordance with Article 55, only extends to Scotland.

Constitutional procedures aimed at the ratification of (or accession to) the Convention have been initiated in other countries. [Editorial Note: this does not, sadly, include any current proposal in the United Kingdom to extend ratification to England and Wales].

The Council of the European Union periodically requests Member States to indicate whether they intend to become a party to the Convention (or to state the reasons why they do not wish to). The latest compilation of replies is in a (partially accessible) Council document dated 4 November 2016. The document, available [here](#), also provides information as to the experience developed so far with respect to the Convention in the Member States that have ratified it.

Earlier compilations drawn up for the same purposes may be found [here](#) (2010) and [here](#) (2015).

Book corner

For all those of you looking for last minute Christmas presents, or otherwise to stock the shelves, we present a few recent book reviews by Alex. In all cases, by way of full disclosure, he thanks the publishers for providing him with copies (and expresses his readiness to review other books in the area of mental capacity law, broadly defined).

[Disabled Children: A Legal Handbook](#) (2nd edition): Steve Broach, Luke Clements and Janet Read (Legal Action Group, 2015, paperback/eBook, £50)

The second edition of this book is a real tour de force. As with the first edition, but comprehensively updated and significantly expanded, it takes the reader through the bewildering complexity of statutory provisions non-statutory provisions, codes of practice and case-law that set down the law in relation to children with disabilities. It does so from a resolutely practical perspective sensitive to the needs of children with disabilities, their families and carers, and reflecting the deep expertise of

the authorial team (joined for this edition by a number of expert contributors).

For present purposes, I would single out the chapter on decision-making: the legal framework (chapter 7), which provides as secure a guide as possible to the strange contortions that the law ties us into as we seek to divide those below 18 to those who may lack competence and those who may lack capacity. How the Mental Capacity Act applies to those aged 16 and 17 is extremely poorly understood in general, in my experience, and the chapter is extremely helpful in this regard, and in outlining (insofar as it is sensibly possible to do so given the grey areas of the law that exist) when and how those with parental responsibility may decide on behalf of their children

Almost the best thing about the book is that, thanks to the Council for Disabled Children, it is available to download in its entirety for free from their [website](#). Not least because it runs to 597 pages, and because the proceeds go towards the marvellous Legal Action Group, do please consider purchasing it!

[The Modern Judge: Power, Responsibility and Society's Expectations](#) (Sir Mark Hedley, Jordan Publishing, 2016, paperback, book and ePDF £20.00)

In *The Modern Judge: Power, Responsibility and Society's Expectations*, Sir Mark Hedley conveys in a very short compass the fruits of a lifetime in the law, and displays the wisdom that made him one of the most respected family and Court of Protection judges. In a series of short chapters, originally delivered as lectures at Liverpool Hope University, Sir Mark asks profound questions as to the place of the judge in society and to the basis and justification for their role in determining cases involving the welfare of children and those

falling within the scope of the MCA 2005. Although he disclaims any attempt to characterise the book as a scholarly text, reflecting instead his own experiences at the Bench, it does not need to be festooned with footnotes in order to achieve its goals.

For me of most importance, perhaps, was the clear identification of the role of judge as individual human being, seeking to exercise a discretion granted to them, the width of which is very little understood by members of society more generally. Sir Mark is very right to ask whether this model is preferable to a model based on clear rules (or the administration of an algorithm). He is also undoubtedly correct to note that whilst rules have the benefit of certainty, they have the ability to generate harsh results in some cases; whilst, conversely, discretion can avoid this outcome, it can also lead to uncertainty and difficulty in predicting the outcome of taking any case to court. Further, the greater the discretion granted to judges, the more significant the role of their own value-systems and the greater the obligation upon judges to be self-aware as to the “baggage” that they are bringing to the determination of any case.

On balance, he makes a convincing case for discretion, not least given the fact that as our society continues to evolve and become more diverse, what might constitute generally acceptable norms upon which rules can be founded becomes ever more difficult. But he is absolutely right to identify that leaving judges with such discretion (or indeed actively imbuing them with it) does commensurately increase the need to identify a real basis on which the trust is warranted. The twin qualities that Sir Mark advocates for judges, of humility (recognising the inherent fallibility of the system) and confidence

(in navigating a way to a decision), are undoubtedly ones that he displayed throughout his judicial career. To the extent that other judges reflect such qualities, I would suggest that such does indeed represent a sound basis for reposing trust in them.

Indeed, I would also suggest that the same questions and the same principles apply to all those who seek to apply s.4 MCA 2005 outside the court system, given the way in which the Act has made so many more people informal “judges” in this context, both as to capacity and to best interests.

I would very strongly recommend this short but profound to book for anyone concerned not just with the role of the judiciary in the context of children and incapacity, but also with the wider balancing exercise between protection and autonomy that is required in both of these spheres by others outside the courtroom.

[Lasting Powers of Attorney: A Practical Guide](#) (Craig Ward, Law Society Publishing, 2016, paperback £59.95)

This is the third edition of a work which does precisely what it says on the cover, setting out in very considerable (one might almost say exhaustive) almost all conceivable matters relating to the creation, operation, and control of powers of attorney. It is particularly helpful in its focus on the bigger picture of powers of attorney, as can be seen in three examples.

The first is the examination of the law and good practice relating to the instruction of a solicitor to prepare an LPA, which raises distinct (albeit related) issues to that involved in the creation of an LPA itself. Importantly, the author does not

stop at questions of capacity, but goes on to look at the issues of potential vulnerability and undue influence covered in the recent Law Society Practice Note, [Meeting the Needs of Vulnerable Clients](#).

The second is the very clear and helpful discussion of how LPAs interact with advanced decisions to refuse treatment, which is an area which can really trip people up.

The third and final example is to be found in appendix in which the author draws on empirical research that he has conducted into why the court is so reluctant to grant health and welfare deputyships. The results of that study emphasise the importance of establishing (wherever possible) a power of attorney for health and welfare matters in advance of incapacity.

The author also has a particular interest in how LPAs can be used by those in business to secure their interests in periods of incapacity. The operation of LPAs in this context raises complex questions given the numerous duties imposed on directors and others by company law. The book provides a surefooted guide to those seeking to set up and make use of powers of attorney in this area.

Given the exhaustive nature of the book, it is a (small) shame that the author does not take the opportunity, even in an appendix, to consider how LPAs may fit into the context of the CRPD and the requirement under Article 12 that states take measures to secure the effective exercise of legal capacity by everyone on an equal basis. On one view such powers are very much in line with the CRPD, but, as discussed in the recent EAP [Three Jurisdictions Report](#), the way in which they are currently provided for under English law does make for some interesting tensions (see §6.3 of

the report). And on a very minor technical note, I would say that (picking up paragraph 1.6.2 of the book), it is in fact clear that the provisions of Schedule 3 relating to certificates are not in force in England and Wales, see the decision of the President in [Re PO](#)).

But these are very minor niggles, and overall the book makes essential reading for anyone (and in particular any solicitor) concerned with these powerful tools.

Conferences at which editors/contributors are speaking

Royal Faculty of Procurators in Glasgow

Adrian will be speaking on adults with incapacity at the RFPG Spring Private Law Conference on 1 March 2017. For more details, and to book, see [here](#).

Scottish Paralegal Association Conference

Adrian will be speaking on adults with incapacity this conference in Glasgow on 20 April 2017. For more details, and to book, see [here](#).

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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.

Our next Newsletter will be out in early February. 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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Alex is recommended as a 'star junior' in Chambers & Partners for his Court of Protection work. He 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 Wellcome Trust Research Fellow at King's College London, and created the website www.mentalcapacitylawandpolicy.org.uk. He is on secondment to the Law Commission working on the replacement for DOLS. **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.**



Neil Allen: neil.allen@39essex.com

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.**



Annabel Lee: annabel.lee@39essex.com

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.**



Adrian Ward adw@tcyoung.co.uk

Adrian is a practising Scottish solicitor, a consultant at 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.**



Jill Stavert: J.Stavert@napier.ac.uk

Jill Stavert is Professor of Law, Director of the Centre for Mental Health and Incapacity Law, Rights and Policy 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, 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 2015 updated guidance on Deprivation of Liberty). **To view full CV click here.**