



**Court of Protection  
Court User Group Meeting  
(General)  
Wednesday, 19 April 2023 2pm  
via MS Teams  
Terms of Reference**

The purpose of the Court User Group is to provide a forum for discussion of matters causing concern for Court Users and views and comments on policy issues.

**These minutes may be widely disseminated.**

**MINUTES**

Meeting started by HHJ Hilder (HHJH) at 14:05

**Attendees**

HHJ Hilder (HHJH)	Senior Judge of the Court of Protection
HHJ Owens (HHJO)	SE Regional Lead Judge
DJ Beckley (DJJB)	Resident Judge - Court of Protection
DJ Grosse	Resident Judge - Court of Protection
DJ Ellington	Resident Judge - Court of Protection
DJ Jackson	Court of Protection Judge sitting in retirement
Mala Nair (MN)	HMCTS Court of Protection – Operations Manager
Tom Gearing (TG)	HMCTS Court of Protection- Delivery Manager
Anthony Tang	HMCTS Court of Protection- Delivery Manager
Natalie Cheesewright	HMCTS Court of Protection
Ross Hamilton (RH)	HMCTS Court of Protection – ACO
Jennifer Li	HMCTS Court of Protection - ACO
Laura Walters	HMCTS Court of Protection - ACO
Joan Goulbourn (JG)	MOJ Mental Capacity Policy Team
Janet Ilett (JI)	Official Solicitor & Public Trustee
Elaine Brown	Official Solicitor & Public Trustee
Mark Higgs	Official Solicitor & Public Trustee
Christine Leggett	HMCTS Senior Courts Costs Office

Mandy Giedrojic	Office of the Public Guardian
Megan Shaw (MS)	Odonnells Solicitors Ltd
Thomas Boden (TB)	North Tyneside Council
Dianne Fossey (DF)	Richmond and Wandsworth (DOLS Lead Network)
Michael Barrett (MB)	Burke Niazi
Rosie Campbell (RC)	Rook Irwin Sweeney
Rebecca Sparrow (RS)	Moore Barlow LLP
Holly Chantler (HC)	Morrison's Solicitors LLP
Jane Warren (JW)	North Somerset Council
Katie Ledwith (KL)	JMW Sols
Martin Terrell (MT)	Warners Law LLP
David Rees KC (DR)	5 Stone Buildings
Francesca Gabbitas	Abbotstone Law LLP
Deborah Pardoe	Allied Services Trust
Niamh Leyland	Anthony Collins Solicitors
Karen Royall	Bath & North East Somerset Council
Barbara Walton	Bedford Council
Samantha Vickery (SV)	Blackburn with Darwen Borough Council
Rizwana Patel	Blackburn with Darwen Borough Council
Lucinda Hargreaves	Blackpool Council
Alexander Wright	Boyes Turner LLP
Nicole Jarrett-Francis	Brent Council
Anjun Noreen	Bromleys Solicitors LLP
David Hilton	CFG Law (On behalf of COPPA)
Angharah Rees-Hughes	Cheshire West and Chester
Marie-Clare Churchman	City of Doncaster Council
John Holdsworth	Coodes LLP
Teresa Pender-Stratford	Coole Bevis LLP

Shirley Otomewo	Croydon Council
Poki Wratten	Culver Law Ltd
Judith Naylor	Cumbria County Council
Emily Gray	Davey Law Solicitors
Lynn Annis	Davies Blunden & Evans
Lucy Cavell	East Riding of Yorkshire Council
Catherine Lazenby	East Riding of Yorkshire Council
Sara Sutcliffe	East Riding of Yorkshire Council
Mariam Bhamjee	East Sussex County Council
Georgina Baidoun	Former Lay Deputy
Robyn Hemmings	Freeths LLP
Alison Meacher	Gatehouse Chambers
Tom Crookes	Gateshead Council
Sheree Green	Greenchurch Legal Services Ltd
Vani Cheganna	Harrow Council
Tonina Ashby	HCR Hewitsons
Claire Whittall	Higgs LLP
Leah Selkirk	Hill Dickinson
Stuart Farmer	Howden Insurance Brokers
Amanda Shergold	Howden Insurance Brokers
Alison Greatbanks	HSW Solicitors
Eve Carter	Hudgell Solicitors
Shelia Moore	Hugh James
Isobel Turnbull	Hugh James
Elena Hall	IBB Law
Katie Strong	Irwin Mitchell LLP
Mathieu Culverhouse	Irwin Mitchell LLP/CoPPA
Naomi Fathers	Jackson Lees
Bethan Robart	JCP Solicitors

Jac Staddon	JCP Solicitors
Alexandra Edwards	JE Bennett Law
Ian Macara	JE Bennett Law
Lucy Speed	Lanyon Bowdler Solicitors
Desmond Mohabir	Leicestershire County Council
Reem Yassin	Leigh Day
Mark Collins	London Borough of Bexley
Karen Noulton	London Borough of Bexley
Phillip Joseph	London Borough of Ealing
Neil Micklewright	London Borough of Islington
Clare English	Martin Searle Solicitors
Kaileigh Hazeldine	Miles and Partners
Samantha Hamilton	Mullis & Peake LLP
Rebecca Jones	Neath Port Talbot CBC
Yagoda Subotic	On behalf of APAD
Peter Slaney	Osborne Morris and Morgan Solicitors
Jasbir Lall	Reading Borough Council (ADASS)
Philip Warford	Renaissance Legal
Ruth Tarr	Rotheras Solicitors
Sophie Crook	Roythornes Limited
Alicia Dodds	Roythornes Limited
Elizabeth Young	Roythornes Limited
Tricia Grout	RWK Goodman LLP
Louise Nettle	RWK Goodman LLP
Hayley Mason	SEN Legal
Alison Lamont	Setfords Solicitors
Jill Thomason-Stewart	Slater Gordon Lawyers
Georgina Garner	Slater Heelis Solicitors
Pamela Clarke	South London Legal Partnership

Nicola Fitzhugh	Southerns Solicitors
Jessica Hobro	Stephensons Solicitors LLP
Sophie Holmes	Stephensons Solicitors LLP
Sophie Maloney	Stephensons Solicitors LLP
Megan Taylor	Stephensons Solicitors LLP
Jodee Mayer	Stewarts Law LLP
Annette Lawton	Suffolk County Council
Shivali Naik	Suffolk County Council
Vanessa Roper	Suffolk County Council
Frances Seager	Suffolk County Council
Neil Cawthorn	The Professional Deputy Service Trust Corp (Chairman)
Emma Wesley	Tollers LLP
Esha Kansal	Torbay Council
Nilufer Ozdemir	TV Edwards LLP
Nicola Mawson	Waddington and Son Solicitors
Karon Walton	Warner Goodman LLP
John Mackenzie	Warners Law
Lisa Flynn	West Berkshire Council
Laura Knowles	West Berkshire Council
Annabel Munro	West Berkshire Council
Charlotte Alderson	Westmorland & Furness Council
Holly Mievill-Hawkins	Wills and Equity Committee (Michelmores)
Charlotte Koster	Wiltshire Council Legal Services
Katrina Vollentine	Wollens
Owen Brown	Wrigleys Solicitors LLP
Angela	

## 1. **Apologies**

- DJ Batten (Resident Judge - Court of Protection)
- Yvonne Mitchell (on behalf of APAD)
- Elizabeth Jeary (MOJ HQ Court Funds Office)
- Caroline Bielanska (Caroline Bielanska Consultancy)
- Katherine Schimmel (Rotherham MBC)
- Melissa Law (Edwards Duthie Shamash Solicitors)
- Elizabeth Mouricette (London Borough of Camden)
- Melissa Law (Edwards Duthie Shamash Solicitors)
- Jess Newton (HMCTS Jurisdictional Operational Support, (Secretariat)
- Ruth Meyer (Boyes Turner LLP)
- Philippa Davies (Dawson Cornwell)
- Amy Chater (Leigh Day)
- Sue Clark (Boyes Turner LLP)

## 2. **Minutes and action points from previous meeting 19 October 2022**

Previous meeting minutes agreed and adopted.

The one action point carried over from meeting on 27/10/21 – COP Internal audit of LA COP4 confirmed has now been completed and can be removed from the action log.

## 3. **Operations/Delivery Manager's Report – COP Senior Management Team.**

**Court Manager's Report** update given by Tom Gearing (TG)

The statistics for Q4 of 2022 have been shared and I hope you have had some time to review the figures. Thank you again to all our users who engage with us constructively and for supporting the improvements we are making at the court.

### **Staffing and Recruitment**

I am pleased to report that the court is in an improved staffing position since our last update. However, with 18% of our admin officer workforce joining the court since January 2023, this recent period has been extremely busy time for the court with training and onboarding of new staff.

The recruitment campaigns that ran last year have not provided the numbers of permanent or fixed-term contract staff we had hoped for, and we are still reliant on contract agency workers. We hope that the increased staffing levels will result in a noticeable improvement on delivery times for all our users once this training is completed over the coming weeks. We are also planning to be able to target specific areas of work to further reduce our backlogs.

### **Surety Bonds**

You may be aware of the change in surety bond providers. To ensure a sustained bond provision in the future, the Office of the Public Guardian, the OPG, recently undertook an exercise to procure a framework of suppliers to meet their requirements. As a result of that work, there are now 3 providers: Marsh, Howden, and Insync Insurance Solutions Ltd.

The new framework came into effect on Saturday 1 April 2023. This will not affect existing bonds in any way, and there is no change to any of the processes associated with obtaining a bond or being appointed as a deputy. This change only applies to new bonds obtained from 1 April onwards.

Further information can be found on the OPG gov.uk site. If you have any queries regarding this, please contact the OPG.

### **E-applications and upfront notification update**

Following our successful upfront notification pilot, I am pleased to report that the court's online application portal was opened to all users in February 2023. This includes a payment portal for citizens which streamlines the payment process for both our users and the court.

Since the introduction of the e-applications for property and affairs deputyships in January 2023, we have received over 820 applications. 258 applications have concluded with the appointment of a deputy and 538 applications are currently live. The average time taken to complete a property and affairs e-application filed in 2023 is less than 8 weeks.

We are looking to expand this portal to include more streams of work in the future. We will, of course, keep our users up to date with any developments in this area.

### **Re X update - Deprivation of Liberty Safeguards (DOLS)**

Following a successful judicial recruitment and training period, we have seen several new judges onboarded recently. Through recruitment and training, we have increased our admin staffing in this area to support accordingly. The team is using developments in our digital working from the e-apps pilot to manage the work in the most efficient way. The increase in judiciary and staff is showing real improvements to our oldest work as well as managing the increasing applications.

We are grateful to the Local Authorities who are making ReX fee payments via PBA (Payment by Account), as this allows us to keep our staff resources where they are most needed; processing applications and issuing orders.

Following the recent decision to delay the implementation of the Liberty Protection Safeguards (or LPS) beyond the life of this government, COP will continue to handle national applications under the DOLS scheme. We will therefore continue to look for improvements and maintain the progress we have made already in this area.

### **Closing**

Finally, as part of our ongoing work to improve our service, the court undertook a Continuous Improvement event in January. The objective was to look at our processes and find efficiencies in our working. This was done in collaboration with the regional courts, judiciary, our FAH staff, and an external expert team. We are slowly seeing improvements and we are working hard to maintain the progress made already.

No questions raised following report.

HHJH flagged that the bond scheme comes under the responsibility of the OPG and not the COP. It was noted that the Court was aware that the speedy bond process has been suspended and although it is not in the courts powers to re-instate this, it was hoped this could be re-introduced with the new bond providers as soon as possible.

4. **Update from the Mental Capacity Policy Team – Joan Goulbourn (JG)**

1. Liberty Protection Safeguards (LPS)

It has now been confirmed by DHSC that the implementation of LPS will be delayed 'beyond the life of this Parliament'. Any decision on this to be taken in future. There are now queries rising from this as to whether there will be revisions to the Code of Practice or updates for DOLS code, this is all still in progress and updates will be provided when possible

2. Small Payments Scheme

The Government response to the Consultation on proposals for a small payments scheme was published in February 2023.

The response advised that whilst respondents to the consultation were in favour of the scheme there was no consensus on the required safeguards. In addition, the banking organisations were not in favour of operating a scheme that would be costly to administer whilst only benefitting 1% of the population. Campaigners for CTF are still seeking a government solution and there are further discussions ongoing in this area

3. Upfront notifications in P&F cases.

We continue to support the Court with the upfront property and affairs deputyship applications and we adjustments to the practice direction (PD6) and the judicial website in progress.

4. Modernising Lasting Powers of Attorney

Stephen Metcalf's Private Members Bill on Powers of Attorney has completed 3 stages in the House of Commons and the first stage in the and now awaiting a date for the second reading.

HHJH confirmed that the anticipated PD6 amendments were due to a change of approach with regards to typed names and not a correction of error. HHJH also noted that recent publicity on CTFs has not all been accurate.

5. **Radha Pillai (Islington Council) - not in attendance**

[Delays with receiving court orders. I understand there is a staff shortage and there is a backlog with the processing/issuing team. However waiting for over 3-4 months for a court order causes issues when dealing with property and affairs on behalf of P](#)

HHJH accepted with regret that this is the current delay between making and issuing an order, and the consequential distress caused to court users. There are active steps being taken to try to improve this situation, in particular with helpful input from Ryan Gallagher (**Senior Operations Manager – Civil and Family (London), Recovery and Performance Lead**). For example, an orders 'super team' is being put in place with 6 members of staff (3 existing and 3 new) allocated to the issuing of orders only. It is hoped their impact will be seen soon.

More positively, last month the COP issued approx. 4,800 orders – its highest ever number. There is still a substantial backlog, but we hope to see reductions soon.

**Jane Warren (JW)** enquired whether the court was still working through covid related backlogs.



**HHJH** responded that the COP did not have covid related backlogs as it had remained open throughout the pandemic. Rather, backlogs are a reflection of general resource pressures.

**Janet Ilet (JI)** asked whether there was a breakdown within the 4,800 figure between HW and PA cases, noting a recent peak of 160 welfare invitations, which it was hoped related to clearance of backlog cases and not a trend

**HHJH** noted that, as there are no backlogs in issue of welfare applications, this is likely to be a trend.

**Martin Terrell (MT)** enquired whether the drop in PA applications is a trend or whether there is a reason for this.

**HHJH observed** that it is difficult to draw firm conclusions from the last quarter figures, but recent change of process could be having an impact, as could the upward trend in applications for attorneyships. COP management team contact email addresses shared for cases with significant delays:

[mala.nair@justice.gov.uk](mailto:mala.nair@justice.gov.uk)

[maureen.mohammed@justice.gov.uk](mailto:maureen.mohammed@justice.gov.uk)

[tom.gearing@justice.gov.uk](mailto:tom.gearing@justice.gov.uk)

[Anthony.Tang@justice.gov.uk](mailto:Anthony.Tang@justice.gov.uk)

#### 6. **Jac Staddon (JCP Solicitors) JC**

I would like clarification on the requirement for COP5 forms to be sent out with the COP14PADep and COP15PADep notification forms. Government guidance provides that COP5 forms are required to be sent out simultaneously but other sources have indicated that this is not the case

This point was moved to the AOB section of the meeting

#### 7. **Marie Leonard (Suffolk County Council) not in attendance**

We are experiencing more frequent requests from the OS and court that we cover costs for initial hearings before financial enquiries are completed and/or finance orders are made. Local authorities will generally wish to secure the OS' involvement at an early stage for P's benefit and so that effective directions can be made to progress the application, and also find that the court will expect us to agree to cover costs. However, the financial burden upon authorities is challenging in the current climate. We would therefore welcome some discussion about any guidance that exists about this matter and any helpful approaches that other authorities might adopt

**HHJH** commented that there had been internal communication with **HHJ Owens (HHJO)** on this point. There is no "guidance." There are the costs rules, which provide for determinations generally in the process and at the end of proceedings, rather than prospectively. It is clear that there are no powers to compel Local Authorities to meet P's costs in advance but sometimes the Court may explore if agreement can be reached, so that progress can be made. Perhaps, it is a reflection of applications being made too late.

**HHJO** confirmed that with regards to the Suffolk case it was suspected that the majority of requests were coming from the OS and not the Court. There had only been 2 cases located where a judge had approached the LA to consider funding for the OS and this had only been in urgent/serious cases.

**Megan Shaw (MS)** via the chat

It would be helpful for local authorities to obtain the financial information in order to apply for legal aid as soon as possible, and before making the application if at all possible. This is an issue where people are being asked to be ALRs as well.

**HHJH** observed that sometimes, particularly in the 16/17yr old cases, there was little choice other than for the LA to fund the initial costs of P's representation so that timely decisions can be made.

**Jl** added that in her capacity as OS gatekeeper for welfare applications, with large amounts of urgent cases, budgetary pressure and knowing the OS acceptance criteria for costs, it would be helpful if the LAs could frontload information. Jl assured users that where the OS does get an undertaking to meet her costs, they always do their best to find the information to apply for legal aid. Jl encouraged the LA's to contact her directly on urgent matters if needed.

**HHJH** agreed that all systems are financially stretched which increases the need to work together on this.

**Thomas Boden (TB)** explained experience of difficulty with family members not sharing information.

**HHJH** advised that the OS cost order made with the first directions should be able to be used. Family members may not be the only or best source of information – often LAs already have information too.

**HHJH** noted a side effect of the demise of LPS was that the prospect of non-means tested legal aid disparity between S21a and S16 is now gone.

8. **James Pantling-Skeet (Boyes Turner LLP)** not attending meeting

Two questions to submit, the first is whether it is possible to have an update as to the timeframe for processing personal welfare deputyship applications. We have a handful of applications made in 2021/2022 whereby we await final orders. Is there a target timeframe for resolving these applications? I suspect there may be backlog but it would be helpful to have an indicative timeframe to assist with managing the expectations of the applicants.

The second is whether it is possible to have an update as to the timeframe for processing standard property & affairs or health and welfare applications. For example, we made an application concerning a safeguarding issue pursuant to Re ACC on 22 December, it was issued on 3 January 2023 and we are yet to receive an indication from the Court as to the timeframe for a directions hearing. As the telephone line is often very busy, how would the court prefer us to obtain updates in circumstances such as these without wishing to add to the workload for the applications team?

**HHJH** responded

Q1 The process for permission to apply for a PW deputy is that these matters are not generally prioritised as urgent but are referred to a judge on a paperwork day when first entered onto the court system, so within days of receipt. The order made will then join the queue for issuing, which is currently at a 3–4-month backlog. For any delays outside of this timescale please contact MN.

Q2 The PA application timeframes are as already confirmed. If there is a safeguarding issue and the matter marked as urgent this would be referred to the Urgent Business Judge (UBJ) with an order made and issued as a priority.

9. **Claire Barcham (ADASS) not in attendance**

Given the continued delays to the LPS scheme, could improving current systems and forms be added to the agenda as an item? A lot has been learnt since the processes were initially put in place, and as a group we would welcome the opportunity to improve processes and forms where its possible to do so

**HHJH** advised that the LPS working group has one further meeting to be scheduled, to close off considerations of LPS and to set terms of reference for considering how the Re X system can best be operated. CB's input is welcome on this. JG to liaise on this.

**Diane Fossey (DF) with the chat**

I represent the National DOLS leads and would welcome the opportunity to join the group looking at the forms. **HHJH** welcomed this too.

10. **Michael Barrett (Burke Niazi) MB**

Delays with injunction orders in particular – all orders are important, but there is a real urgency for injunction orders to be sealed and served without delay

**HHJH** acknowledged the need for urgency but unfortunately issue can only be achieved as speedily as available staff can humanly manage. As already noted, steps are in train to address issue delays.

11. **Rosie Campbell (Rook Irwin Sweeney LLP) RC**

Urgent out of hours applications

**RC** explained difficulties experienced when making an out of hours application and requested clarification on the process.

**HHJH** explained that there is no out of hours service at First Avenue House. The only out of hours service is that operated through the RCJ as follows:

**Out-of-hours emergency applications**

Telephone: 020 7947 6000

**HHJH** reminded court users that the out of hours service should not be used unless genuinely needed. In-hours applications are generally to be preferred.

12. **AOB**

Returned to 6 of the agenda

**HHJH** explained that under the new upfront notification system, forms COPPADEP14 (P) and COPPADEP15 (other) are used for notification.

Practice Direction 9H sets out the requirements. At the last CUG PA meeting, there was some discussion around how to achieve confirmation of notification. In practical terms, the aim should be to ensure that the decisionmaker at FAH is satisfied that proper notification has been given. A COP5 *may* still be used to do this but that is not strictly the requirement of the new process.

**HHJH** noted that notification on paper applications (as distinct from the applications made via the online portal) is too often not being evidenced correctly according to the new process requirements, so the ACOs have to make a directions order to address deficiencies, which rather defeats the purpose of upfront notification. We are looking again at the wording of section 5 of the COP1 to see if we can improve clarity. Where possible, applications should be made via the portal, which 'spoonfeeds' applicants through this process, reducing errors.

**Rebecca Sparrow (RS)** raised the question of whether notification was required for applications where authority to purchase for a professional deputy or ACC.

**HHJH** referred to PD10 but it may be in any given case that the decision-maker requires notification and directs it.

**AOB1 Caroline Bielanska (Caroline Bielanska Consultancy) not attending meeting**

I wanted to raise some concerns about the new on line PFA process, which are:

1. the landing page still refers to the need to submit a COP5 and the application still asks whether a copy is to be uploaded. Given that COP14PADep consolidates the COP5 form then there should not be a need for this and it is very confusing for all users, but particularly lay people.
  2. It is hard to see on the landing page what to click to start the application- can this be clearer?
  3. the application asks for COP14PA Dep to be uploaded- but it may not need to be if it has not been returned by P- the wording needs to be changed so it is not a direction to upload but a request if it has been returned to be uploaded.
  4. Will there be any user guide for lay people- the landing page is too unwieldy for most people and it might be useful to have a downloadable guide with an overview.
- Happy to assist in writing something if the Court feels it has merit.

**HHJH** addressed the issues raised

1. Already dealt with
2. This will be referred to Jess Newton (HMCTS) to assist, not picked up as a general problem.
3. The Practice Direction sets this out specifically, what we are aiming for is that there should be no doubt of proper notification
4. This is not something that would be allowed to put on our website. However, the court does not wish to stand in the way of generous offers to produce guides helpful to court users independently of the court.

**HHJH** raised 2 further points:

1. If applications are made on paper, please ensure the latest version of the forms are used
2. COP9 applications for reconsideration: we have noticed an increase in applications made outside the time limit, often many months outside the time limit. Please do not misuse R13.4 as an attempt to avoid making a proper COP1 application where that is what is required.

**JW** enquired re COPDOL renewal applications and whether the court can now accept an electronic signature of forms COPDOL11 and COP24.

**HHJH** agreed that practice had eased during the pandemic, for practical reasons of necessity. The recent rule changes confirmed that we would now accept electronic signatures (not typed names). However, it then became apparent that the digital portal for p&a deputyship applications (in common with most new digital processes across other jurisdictions) cannot cope with 'wet' signatures. Hence the anticipated further change in the Rules. Meanwhile for COPDOL11 applications a typed signature will be accepted where we can confirm its source by the method of receipt i.e., a recognised LA e-mail.

**Katie Ledwith (KL)** queried the receipt of PA orders received from the regions using the electronic seal.

**HHJH** confirmed that this is not correct. The regional hub court should send the approved order to FAH to issue with the embossed seal.

**HHJO** added that this has been identified and addressed as a training issue by new members of staff. Please contact HHJO should there be any further issues in the SE region.

**HHJH** clarified that in welfare matters the OS costs order does not any longer require the embossed seal and the electronic seal can be used, thanks to progress made with secure verification methods between the financial institutions, the court and the OS. Welfare deputy orders do not require an embossed seal either.

**Martin Terrell (MT)** asked whether there was a preferred method of filing requests for additional/unusual clauses

**HHJH DJ Beckley (DJJB) and Ross Hamilton (RH)** confirmed that a COP24 to be used.

**David Rees KC (DR)** requested that the point on electronically sealed PA orders be flagged to the Family Court associates at the RCJ.

**Samantha Vickery (SM)** enquired on the preferred method of filing for COPDOL11 applications (paper/email)

**MN and HHJH** confirmed that COPDOL11 applications may be filed by email to the correct address. [COPDOLS\\_or\\_S16@justice.gov.uk](mailto:COPDOLS_or_S16@justice.gov.uk)

No further questions raised.

The next meeting dates;

**P&A 12 July 2023 at 2pm MS Teams**  
**General 18 October 2023 at 2pm MS Teams**

Meeting ended 15.13

**Court of Protection - Court User Group General**  
**Open Actions**

Meeting Date	Action Point	Owner	Deadline	Status	Description of Status
19-Apr-23	No actions points				