



**Court of Protection
Court User Group Meeting
(General)
Wednesday, 18 October 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 14:03 HHJ Hilder (HHJH)

Attendees

HHJ Hilder (HHJH)	Senior Judge of the Court of Protection
DJ Ellington (DJSE)	Resident Judge - Court of Protection
DJ Grosse (DJLG)	Resident Judge - Court of Protection
HHJ Beckley (HHJB)	Resident Judge - Court of Protection
HHJ Miranda Robertshaw	SW Regional Lead Judge
Mala Nair (MN)	HMCTS Court of Protection - Operations Manager
Kamila Czymiel	HMCTS Court of Protection- Delivery Manager
Maureen Mohammed	HMCTS Court of Protection- Delivery Manager
Anthony Tang	HMCTS Court of Protection- Delivery Manager
Joan Goulbourn (JG)	MOJ Mental Capacity Policy Team
Chelle Farnan (CF)	NHS England
Sheree Green (SG)	Greenchurch Legal Services Ltd
Johnson Koikkara (JK)	NHS Bristol, North Somerset & South Gloucestershire ICB
Holly Chantler (HC)	Morr & Co LLP
Ruth Tarr (RT)	Rotheras Solicitors
Eilish Ferry- Kennington (EFK)	EMG Solicitors Ltd
Jemma Morland (JM)	EMG Solicitors Ltd
Rachel Kelly (RK)	Hill Dickinson LLP

Mathieu Culverhouse (MC)	Irwin Mitchell LLP/CoPPA
Katie Strong (KS)	Irwin Mitchell LLP
Karen McCulloch (KM)	Bedfordshire, Luton and Milton Keynes ICB
Devon Tobin (DT)	JMW Solicitors LLP
Ben McGuckin (BM)	Gateshead Council
Lorna Green	HMCTS Court of Protection - ACO
Robert Pheby	HMCTS Court of Protection - ACO
Wendy Treadway	HMCTS Court of Protection - ACO
Manisha Takhtar	HMCTS Court of Protection - ACO
Natalie Cheesewright	HMCTS Court of Protection
Scott Soley	HMCTS Court of Protection
Mark Higgs	Official Solicitor & Public Trustee
Victoria Newey	Official Solicitor & Public Trustee
Rachel Fiske	Office of the Public Guardian
Tanjina Begum	Office of the Public Guardian
Esijemine Nyenke	HMCTS Senior Courts Costs Office
Angela Smith	Abbotstone Law
Jenny Robinson	Bedford Borough Council
Barbara Walton	Bedford Borough Council
Ruth Atkinson-Wilks	Bevan Brittan LLP
Hannah Taylor	Bevan Brittan LLP
Samantha Vickery	Blackburn with Darwen Borough Council
Lucinda Hargreaves	Blackpool Council
Sue Clark	Boyes Turner LLP
Ruth Meyer	Boyes Turner LLP
Toby Kippax	Bristol Council
Kate Meller	Bristol Council

Julia Morgan	Bristol Council
Anjun Noreen	Bromleys Solicitors LLP
Michael Barrett	Burke Niazi
Delyth Crisp	Cheshire West and Chester
Elizabeth Emmington	Cheshire West and Chester
John Holdsworth	Coodes LLP
Teresa Pender-Stratford	Coole Bevis LLP
Amanda Hill	Court observer
Janice White	Coventry City Council
Shirley Otomewo	Croydon Council
Poki Wratten	Culver Law Ltd
Emma Costin	Davies & Partners Solicitors
Lynn Annis	Davies Blunden & Evans
Julie Brown	Durham County Council
Lindsay Jackson	Durham County Council
Lucy Cavell	East Riding of Yorkshire Council
Catherine Lazenby	East Riding of Yorkshire Council
Christine Youngs	East Riding of Yorkshire Council
Mariam Bhamjee	East Sussex County Council
Greg Phillips	EMG Solicitors Ltd
Nikki Bedford	Enable Law
Georgina Baidoun	Former Lay Deputy
Thanuja Oppilamany	Freeths LLP
Alison Meacher	Gatehouse Chambers
Stacy Keech	Hampshire County Council
Elizabeth Ryan	Hampshire County Council
Rebecca Thompson	Hampshire County Council
Charlotte Koster	Hampshire County Council
Georgia O'Reilly	Harrison Clark Rickerbys Ltd

Vani Cheganna	Harrow Council
Tonina Ashby	HCR Hewitsons
Leah Selkirk	Hill Dickinson LLP
Charlie Elmitt	Hill Dickinson LLP
Rachael Watkinson	Hill Dickinson LLP
Stuart Farmer	Howden Insurance Brokers
Amanda Shergold	Howden Insurance Brokers
Shelia Moore	Hugh James Solicitors
Catherine Adamec	Hugh James Solicitors
Connor Hegarty	Hugh James Solicitors
Nia Locker	Hugh James Solicitors
Laura Hassett	Hugh Jones Solicitors
Liz Hughes	Hugh Jones Solicitors
Gemma Buxton	Hyphen Law
Elena Hall	IBB Law
Gemma Eason	Irwin Mitchell LLP
Omar Jones-Lewis	Irwin Mitchell LLP
Elizabeth Norman	Irwin Mitchell LLP
Sophie Farrah	Irwin Mitchell LLP
Naomi Fathers	Jackson Lees Group Ltd
Joanne McNally	Jackson Lees Group Ltd
Bethan Robart	JCP Solicitors
Jac Staddon	JCP Solicitors
Alexandra Edwards	JE Bennett Law
Peter Taylor	Judge & Priestley LLP
Charlotte Alderson	Lancashire County Council
Neil Davies	Landon Bowdler LLP
Desmond Mohabir	Leicestershire County Council
Nicola Rigby	London Borough of Bexley

Elizabeth Mouricette	London Borough of Camden
Neil Micklewright	London Borough of Islington
Zena Bolwig	Mackintosh Law
Nicola Mackintosh	Mackintosh Law
Clare English	Martin Searle Solicitors
Samantha Hamilton	Mullis & Peake LLP
Sophie Edgar	Newcastle Council
Abigail Ibbett	Newcastle Council
Carly Prendergast	Newcastle Council
Charlotte Brown	North Yorkshire Council
Claire Rouse	North Yorkshire Council
Megan Shaw	Odonnell's Solicitors Ltd
Celia Kitzinger	Open Justice Court of Protection Project
Peter Slaney	Osborne Morris and Morgan Solicitors
Ciara Panayiotou	Pathfinder Legal Services Ltd
Grace Serwanga	Penningtons Manches Cooper LLP
Rachel Taylor	Penningtons Manches Cooper LLP
Desi McArd	Peter Edwards Law
Kate Benn	R Costings
Leanne Gibson	Ramsdens Solicitors LLP
Alison Palmer	Ramsdens Solicitors LLP
Saskia Witney	Reading Borough Council
Lindsey Marks	Reading Borough Council
Emily Gray	Red Kite Law LLP
Harriet Marwood	Redcar and Cleveland Borough Council
Katie Richardson	Redcar and Cleveland Borough Council
Shola Oshinuga	Rotherham MBC
Rebecca Bristow	Rothley Law
Lauren Miner	Rothley Law

Victoria Marsh	Russell and Russell Solicitors
Eirian Hitchmough	RWK Goodman LLP
Kyra Harvey	SEN Legal
Alison Lamont	Setfords Solicitors
Nicki Booker	Sheffield City Council
Georgina Garner	Slater Heelis Solicitors
Pamela Clarke	South London Legal Partnership
Hasfa Weheliye	Southampton City Council
Nicola Fitzhugh	Southerns Solicitors
Amy Dutton	Stephensons Solicitors LLP
Jessica Hobro	Stephensons Solicitors LLP
Sophie Maloney	Stephensons Solicitors LLP
Katie Mayren	Stephensons Solicitors LLP
Emma O'Brien	Stephensons Solicitors LLP
Megan Taylor	Stephensons Solicitors LLP
Jodee Mayer	Stewarts Law LLP
Siobhan Barber	Stockton-on-Tees Borough Council
Lucy Steven	Stockton-on-Tees Borough Council
Hannah Rodgers	Stonegate Legal
Annette Lawton	Suffolk County Council
Marie Leonard	Suffolk County Council
Vanessa Roper	Suffolk County Council
Frances Seager	Suffolk County Council
Helen Kite	Surrey County Council
Sian Rowlands	Swansea Council
David Stephenson	The Law Society
Fran Russell	The Professional Deputy Service Trust Corporation (Case Manager)
Angharad Palin	Thomson Reuters
Charlene Hughes	Thomson Snell & Passmore LLP

Emma Wesley	Tollers LLP
Sarah Philips	Tozers Solicitors LLP
Nilufer Ozdemir	TV Edwards LLP
Oliver Banks	Vincent's Solicitors
Nicola Mawson	Waddington and Son Solicitors
Karon Walton	Warner Goodman LLP
Heather West	Warners Law LLP
Lisa Flynn	West Berkshire Council
Hayley Monaghan	Wigan Council
Chantal UI Haq-Weedon	Wilkin Chapman LLP
Keighan Lovett	Wilkin Chapman LLP
Rachel Hayes	Wilson Browne Solicitors
Sophie Cox	Wiltshire Council
Rebecca Wherlock	Wiltshire Council Legal Services
Katrina Vollentine	Wollens
Clare King	Worth Legal Ltd
Owen Brown	Wrigleys Solicitors LLP
Susan Carol	
Catherine McGlen	
Katie B	

1. Apologies

- HHJ Owens (**HHJO**) - SE Regional Lead Judge
- Elizabeth Jeary (MOJ HQ Court Funds Office)
- DJ Jackson
- Janet Ilett (Official Solicitor & Public Trustee)
- Sam Ware (Hampshire County Council)
- Robyn Hemmings (Freeth LLP)
- Karen Royall (Bath & North East Somerset Council)
- Vicki Pearce (Wilson Browne Solicitors)
- Martin Terrell (Warners Law LLP)
- Isabelle Corbett (OM&M Law)
- Rosie Campbell **RC** (Rook, Irwin and Sweeney LLP)

**2. Minutes and action points from previous meeting 19 April 2023
Agreed and adopted.**

**3. Operations/Delivery Manager's Report – COP Senior Management
Team. Mala Nair (MN)**

Court Manager's Report

Applications and Orders

The statistics were shared with users last week and I hope you have found them useful.

Backlogs and recovery

Our staffing position has remained relatively steady over the last 6 months. We are still reliant of contract staff who make up a third of our administrative workforce.

Since we last met, we have been working on the arrears we had with our orders, which at the time was around 17 weeks. A small team was put together to tackle the legacy work with an aim to improve on the volumes and age. This has been our biggest success this year, as we have brought the timeline for issuing these orders right down to approximately 5 weeks.

With increased judicial and administrative resources in the Re X team since November 2022, we have made good progress with this area of work. All Local Authorities are now making Re X fee payments via PBA (Payment by Account). Thank you for this as it frees some of our resources to focus on the key areas. We are encouraging all professionals to use PBA to pay our fees and in general all HMCTS related payments. We can signpost you if you need any assistance with this.

P&A Digital process

Between January 2023 and September 2023, 7698 Property and Affairs deputyship applications were received by First Avenue House, of which 4416 were filed digitally, which is 57% of this work. The current disposal time is 13.8 weeks.

We are currently reviewing the e-application team resources and processes. There is a high volume of work now filed digitally and we are looking at ways of improving this service.

We are working with the Service Team to bring further improvements and expansion with digital applications. The next enhancement we are looking into is to add in financial information as part of the journey. We await a new practice direction to extend upfront notification to include other types of P&A applications. We will then be in a position to progress replacement deputy

applications digitally. New trustee applications are next in line within scope for a digital route. The work is ongoing, and we will share comms as and when we have more information on this.

Case management system replacement

We have confirmation that funding has now been approved to replace the database we are currently using. We hope to see the upgrade up and running by next summer. A modernised system is much awaited and should bring efficiencies in the way we work. I will keep you updated on progress.

Next, I'd like to introduce you to my team, the Senior Management Team of the Court of Protection. Maureen Mohammed, Anthony Tang and Kamila Czmil are the Delivery Managers here and ensure the smooth running of our services.

mala.nair@justice.gov.uk,
maureen.mohammed@justice.gov.uk
anthony.tang@justice.gov.uk
kamila.czmil@justice.gov.uk

I'd like to conclude with a big congratulations to His Honour Judge Beckley on his recent appointment as a Circuit Judge. We are very fortunate that his deployment is with the Court of Protection as we get to retain his experience.

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

Modernising Lasting Powers of Attorney

The Private Members Bill on Powers of Attorney has become an Act. The MCA policy team are working with the OPG regarding proposals for Regulations to support the new Powers of Attorney Act operationally, there are no timelines on this as yet.

Mental Capacity Code of Practice

Following the April announcement that the LPS not coming into place, discussions continue with DHSC policy colleagues regarding the publication of the response to the Consultation on the publication of a new Code of Practice.

MCA Awareness raising.

This came about following the small payments consultation and issues of dealing Child Trust Funds.

In June a toolkit was created to raise awareness of the MCA with families and carers of young adults. Work is now in progress with financial organisations for a toolkit for front line people. A presentation on the MCA is also due to take place shortly for parents and carers at the Down Syndrome Association.

Bank – identification requirements

A roundtable meeting was held on 27 September 2023 with approx. 30 attendees ('interested persons') to discuss issues effecting firms, LA's and deputies regarding ID requirements as required by Anti Money Laundering legislations and regulations. HM Treasury were also in attendance, with attendees asked to look into ways to streamline procedures. A further follow up meeting and report back to HHJ Hilder is due.

Question raised by Chelle Farnan **CF**(NHS England)

CF raised to **JG** if there was any information on the timeline of the publication of the government response to MCA Code of Practice or new Code of Practice.

JG advised not at the moment, but that she is aware that this is something stakeholders are frequently requesting from the DHSC and a topic at the top of the list at the recent National Mental Capacity forum. As soon as any timelines are known these will be passed on.

5. **HHJ Hilder Senior Judge of the Court of Protection HHJH**

- a) Late filing of pre- hearing documents
- b) Professional court users still making new deputyship applications on paper.
- c) COP9s out of time

HHJH expanded on the above

- a) The message is please 'do not do this!' The Court timelines are set to give the Court a workable timeframe, when dealing with high volumes cases. Hearing times, especially when remote, are *allocated*, not estimated, and over running causes repercussions to other cases. Directions from FAH are now consciously building in a week from the RTM to the Hearing in order for parties to file within workable timelines. Family Division Liaison Judges (i.e. outside London) have raised concerns that late vacating of COP hearings is unfairly preventing other jurisdictions from making proper use of court time. Such is the pressure on court sitting allocations, that COOP cannot let this happen. Please comply with the directions made in the order as the deadline. Expect penalties in costs otherwise.
- b) This should not be happening. Paper applications will remain a possibility but the intention behind that is to ensure that no-one is 'digitally excluded' from access to the court. Professional court users are not at such risk. From January 2024 it is likely that professionals making new deputyship applications on paper will not be allowed costs of making the application.
- c) Please do not use the COP9 application form outside its proper use under the Rules (e.g. in the hope of avoiding a court fee!) If the standard 21 days for reconsideration has lapsed, an application to vary or discharge an order (otherwise than in the course of ongoing proceedings or where specific permission has been granted) will need to be made on COP1.

6. **HHJ Owens SE Regional Lead Judge HHJO not in attendance**

Some advocates are persisting in using the now out of date template orders, which combine the injunctive provisions around protecting confidentiality for P etc with the substantive case management order

and directions, as well as sometimes erroneously referring to remote hearings as in private by default. Reminder: need to use the up-to-date templates and the significance of this to transparency issues.

HHJH reminded all that the guidance letter provided by the former VP during the pandemic has since been withdrawn, and COP remote hearings are now covered by Courts Act 2003 as amended by Remote Observation and Recording (Courts and Tribunals Regulations) 2022.

The COP's "ordinary" position under the Rules is that hearings are in public, subject to a transparency order. A Rules Committee working group is looking into simplification of the transparency order.

7. Sheree Green SG (Greenchurch Legal Service Ltd)

How to execute a statutory will

I have been executing statutory wills in exactly the same way since around 2006. The executed wills have been sealed by the court and when the person has died, admitted to probate. I am now having the executed statutory wills rejected for sealing and being told to re-execute. I am told it is a judge who is rejecting them. I have asked for this to be checked again. I have been told the way I am doing it is wrong and that I must re-execute.

By way of example, if it is a will on behalf of Joe Bloggs, I usually sign as below:

J Bloggs by S L Green

I am told:

The will should be signed in [Joe Bloggs'] name and your name. You cannot sign as [Joe Bloggs] by Sheree Green.

Clarification would be appreciated.

HHJH noted the requirements for execution of a statutory will are set out clearly in Schedule 2 of the Mental Capacity Act, paragraph 3(2).

8. Rosie Campbell RC (Rook Irwin Sweeney LLP) -not in attendance

COP3 form update – whether the Court will continue to accept the old COP3 form for a period of transition, for instance where the old COP3 form has already been completed but the application has not been made yet.

HHJH confirmed that there has been no official transition period. The old COP3 has still been accepted as a practical measure for now, recognising that steps will have been taken to seek new assessments before the new form was published. However, such cases must now be very few in number, given how long the new form has been in use. From January 2024, it is likely that applications made with an old COP3 will be returned and the completion on the new form COP3 requested.

9. Johnson Koikkara JK (NHS Bristol, North Somerset & South Gloucestershire ICB)

1) A word version of new COP3 template: It's not been possible to expand the boxes in the template to add more detail as it is in PDF format. It would be a huge help if we have word copy in which boxes can be expanded, which will be more user friendly.

2) I also have a query regarding section 6.1 of the attached template. Section 6.1 asks 'Is the person able to make the decision(s) that have been identified in section 2.1?' My query is how can the assessor answer this question before undertaking all four limbs of the functional test? Placing the question whether the person is able to make the decision before functional test doesn't seem logical in my view. I know the causative nexus has been captured in section 6.8, which is fine and it will link the inability to make the decision to their cognitive impairment. As the template stands at the moment, section 6.1 at the place it is placed/slotted appears to be in the wrong place or may be not even required. These sort of templates do influence practice on the ground and asking practitioners to make a conclusion on the functional test before it is evidenced may lead to a tick box culture. I am also worried that other organisations may follow this template, because it is coming from the Court of Protection, for their internal capacity assessments and it will send confusing messages, in my view. I can see hospitals following this template without properly evidencing how determinations have been made on the functional test.

HHJH responded as follows:

1. **HHJH** confirmed that an expandable box seems like a practical idea. The request has been passed to **JG** and the form builders to consider. It had been advised that a word version can be used but it must be ensured that no data is lost when converting this document. If the boxes that require expanding can be identified this can be further investigate by the team.
2. **HHJH** explained that the COP3 changes were made in the light of the Supreme Court decision in *A Local Authority v. JB* [2021] UKSC 52, particularly paragraphs 78 & 79, which pointed out the questions were in the wrong order. HHJH invited consideration of the difference between undertaking an assessment and reporting its conclusions. The COP3 is not meant to be a step by step guide to undertaking an assessment; rather, it is the report of the assessment conclusions. It is not necessary to attach any document to the COP3 (eg LA's own assessment documentation) as long as the COP3 is properly completed. Further change to this form would require referral to the Rules Committee and it is unlikely that there will another change to this in the near future.

Karen McCulloch KM (Bedfordshire, Luton and Milton Keynes ICB)

KM confirmed that their frontline practitioners are trained to complete their own assessments which are then sent to Court as an attachment to the COP3.

10. Holly Chantler HC (Morr & Co LLP) On behalf of an SFE member

I would please like to raise whether anything can be done regarding the COP's position on DOLS/sale of property.

I would appreciate some input on whether the court would consider granting permission to sell within the deputyship order if the following can be provided, alongside the normal evidence:

- Evidence that P lacks capacity to consent to their care/residency
- Evidence that the DOLS process has begun and that P is on a waiting list
- Evidence that P has not objected to this process/does not have capacity to understand or object to the DOLS process/ the relevant person's representative (who is often also the applicant) has not objected nor intends to object

I really hope that the court can take a common sense/best interests' approach to this, perhaps on a case-by-case basis, given the huge delays across the country and the impact this is having on these individuals.

Ruth Tarr RT (Rotheras Solicitors)

RT explained further to the above that a reference made to a court's policy document was in fact a document named 'guidance on seeking an order for sale of property' (STEP)

HHJH emphasised that the STEP document is not a court policy document, but an externally generated 'best practice' document. The Court's decisions are made on a case-by-case basis, with the *Staffordshire* decision clearly setting out the law. The Court is concerned to ensure that P's home is not sold prematurely if s/he may still require it. Experience suggests that it can help the process of obtaining appropriate authorisation if permission is granted to provide a copy of an order seeking confirmation of such authorisation, to the relevant Supervisory Body.

11. Eilish Ferry-Kennington EFK (EMG Solicitors Ltd)

- Court permission to bill 75% interim bills (Jemma Morland) JM
- The interpretation of *Re ACC* in relation to welfare matters (Eilish Ferry-Kennington) EFK

- **Jemma Morland JM (EMG Solicitors Ltd)**

JM flagged that it was understood that it had been agreed that applications could be made for permission to raise bills up to 75% pending assessment by the SCCO. These applications are being put in but are being either forgotten or ignored. Slip rule applications are then required or a wait of 10 months to raise a SCCO bill. Is there something which can be done differently?

HHJH commented that it is not likely this has been forgotten, but more likely that a best interests decision was made *not* to grant it. When this kind of approval was first raised with the Rules Committee Martin Terrell's concern was for deputies carrying a lot of billing time and a long wait, with an example given of proceedings in progress such as for a statutory will. It was not considered in the context of a standard uncontentious deputyship application. The court is not likely to grant such authorisation for a standard non-contentious deputyship application without a good explanation being provided as to why it would be appropriate, not least so avoid the unintended consequence of making applicants less likely to accept fixed fees.

HHJH noted that if a decision has been made on reconsideration, once more information has been provided, then it is really a lesson that such information should have been provided with the application from the outset.

HHJ Beckley (HHJB) requested that any request for authorisation of fees pending assessment is put in section 4.1 of the COP1 and supported by a COP24 in which it is confirmed that the professional agrees to repay to P any sum which is in excess of what the SCCO eventually authorises.

In respect of *Re ACC* authorisations, **HHJH** again referred users to the written judgment and welcomed users having their own discussions outside the CUG forum.

12. Rachel Kelly RK (Hill Dickinson LLP)

[Receipt of 'Maybe' orders and court backlog for COPDOL11 applications](#)

Further detail on this agenda item, is that we are receiving a large amount of 'maybe' orders seeking updating documents when the original care plans, etc, filed were in date when the application was initially made. It appears that due to court backlog, the documents are falling out of date when the applications are getting reviewed. We note that an update was given in the South West COP User Group Meeting in June 2023 that there was intention for the backlog to be dealt with by July/August 2023. Is there any further update on this?

RK expanded that additional documents, such as best interests assessment and COP3's are also now being requested - is this a niche request?

HHJH explained that, to address *Re X* backlogs as efficiently as possible, the new cohort of judges authorised from November 2022 were allocated applications made since April 2022, with the pre-existing cohort of judges continuing to work through older cases. The court is now up to date with post-April 2022 applications and *all*

applications are being referred to *both* cohorts of judges. It is hoped that *all* the backlog will be cleared soon.

RK queried the rejection of unpaid carers or people within the same households as Rule 1.2 reps, with different responses from different judges.

HHJH explained that the decision-maker's consideration is likely to focus on whether the person suggested has sufficient distance from implementation of the restrictions to be able to take a view from P's perspective as to whether they are proportionate.

RK queried an instance where the rule 1.2 was not permitted to sign a tenancy.

HHJH cannot comment on individual cases but noted that the person authorised to sign a tenancy on P's behalf needs to be appropriate to do so.

DJ Grosse (DJLG) requested that care plans are signed when filed.

HHJH informed users that a Rules Committee Working Group is actively looking at ways to improve the existing streamlined procedure in the wake of LPS not being implemented in the lifetime of this Parliament.

13.AOB1

Martin Culverhouse MC (Irwin Mitchell LLP) on behalf of CoPPA member

1. Ongoing issues with communication with FAH, with phones not being answered, emails not replied to and documents not being sent out in time, including documents containing notification of a hearing, which meant that the hearing could not be effective.
2. Court Staff informing us that a Court Order containing a large number of errors and thereafter tracked changes with crossings out in red etc is correct and ok to use. This was flagged to the office managers who acknowledged it should indeed be changed to a clean sealed copy, but we were then subsequently told that it shouldn't be changed.
3. Could we ask how long it is taking for the order relating to a simple online deputyship application to be sent out?

HHJH responded as follows:

1. **HHJH** observed that **MN** will have heard and taken on board these comments. Our person capacity to answer calls is not a great as we would like, and the capacity of the telephone system is limited. This is

an issue which has previously been considered by a House of Lords Select Committee but no new telephone system looks likely any time soon.

2. **HHJH** advised that a clean copy of the order should be provided, without any tracked changes visible. Any order which is amended under 'the slip rule' will have red amendments marked.

Katie Strong KS (Irwin Mitchell LLP) followed up that court staff seemed to be relying on slip rule amendments when changes quite substantial.

HHJH asked for examples and would take them up, confirming that the slip rule is only for minor, administrative-type errors such as spelling mistakes.

3. **HHJH** referred users to the timescales in **MN's** report. This backlog is due to the lack of staff resources and not the digital process. We are doubling the size of this team to bring back to the shorter timescales. **MN** echoed this.

AOB 2

Rosie Campbell RC (Rook Irwin Sweeney LLP)

Judge's reasons for refusal of welfare deputyship application – whether reasons could be given for the refusal of permission or refusal of an application for welfare deputyship, in order to assist the applicants to decide whether they wish to apply for reconsideration and if so, on what grounds.

HHJH confirmed that it should be apparent on the face on the order what the reasons for a decision are but those reasons need not be given in excessive length. There is a template order which refers to statutory provisions and *Re Lawson, Mottram and Hopton*.

Karen McCulloch KM via the CHAT

[Are Deputyship Applications being discouraged for Personal Welfare?](#)

HHJH no, but the different provisions in the Mental Capacity Act 2005 are significant. See *Re Lawson, Mottram and Hopton*.

Devon Tobin DT via CHAT

[It is sometimes appropriate and necessary to notify the GP of the application and we are often receiving an invoice for them completing a COP15PADep \(sometimes of in excess of £100 for ticking the yes box\).](#)

[Can the court give any guidance on their view on GP's charging for this?](#)

[There are some examples where the GP has been notified and said that they will not complete the form without payment but that their silence should not be taken as consent to the application. This really does not appear in P's best interests but there sometimes there are occasions where there is no one else appropriate to notify and the GP cannot be avoided.](#)

HHJH referred to the Practice Direction where it is provided that, if there is no objection within the timescales, the court will infer consent. HHJH confirmed her awareness of difficulties securing completion of COP3 forms.

JG observed that the completion of COP forms is not part of the NHS contract which is why some GPs have issues.

HHJH expressly distanced herself from JG's observation. There are live cases before the court addressing such issues.

KM commented that GPs do charge for this, even when they are told that the request comes from the Court.

AOB3

Ben McGuickin BM (Gateshead Council)

BM asked about requests for the current or updated care plan required. Does updated mean 'the most recent' or within 12 months?

HHJH confirmed the judge will require the care plan which is current, within the standard review periods.

BM enquired whether a provider care plan should be filed routinely for all applications.

HHJH explained that it needs to be made clear to the judge exactly what the restrictions are for which authorisation is sought, with care plan information provided to support this. If a care plan makes reference to restrictions set out in another plan, then that other plan will need to be provided.

Next meetings

P&A Meeting 17 January 2024 2pm MS Teams
General Meeting 17 April 2024 2pm MS Teams

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				
18-Oct-23	No actions points				