



JUDICIARY OF  
ENGLAND AND WALES

## Report of the ad hoc Court of Protection Rules Committee

### Recommendations

1. The procedure and practice of the court should reflect the differences in the nature of the following categories of its work, namely (a) non-contentious property and affairs applications, (b) contentious property and affairs applications and (c) health and welfare applications.
2. This change should be implemented by (a) the introduction of new forms, and (b) relevant changes in the rules and practice directions.
3. The distinction between serving and notifying people who are or may be interested in making representations to the court should be preserved. But it should be better explained and some amendments to the present provisions relating to this process should be made.
4. The present position relating to the notification and participation of P should be retained (with some minor amendments).
5. Strictly defined and limited non-contentious property and affairs applications should be dealt with by court officers (e.g. applications for a property and affairs deputy by local authorities and in respect of small estates that do not include defined types of property). The provisions will also have to provide for an automatic right to refer any such decision to a judge and internal monitoring and review by the judges.
6. Separate applications for permission should be abandoned and the application for permission should be incorporated into the main application form.
7. The detailed and minor changes set out in annex 1 hereto should be considered. It is recognised that on a detailed consideration some may be rejected and others added and this recommendation and annex is included to assist those who are performing that detailed exercise.
8. Issues as to whether and when the court should sit in public or permit its proceedings to be made public should be dealt with by the courts through decisions rather than any rule change.
9. The proposed new forms prepared by members of this committee should be “tested” with a range of potential users before they are finalised and the relevant rules and practice directions are altered.

10. A Committee should be established to review and make recommendations relating to the procedure and practice of the Court of Protection.

### **This ad hoc committee**

11. The terms of reference and steps taken by this ad hoc committee and its membership are set out in annexes 2 and 3 hereto. Its minutes and further information as to its work can be obtained by writing to the Secretary to the committee.
12. The review carried out by this committee was planned in 2007 and has also had regard to matters raised in the media and by individuals on the practice and procedure of the court since its inception.
13. We are reporting now because we are of the view that the changes we recommend should be implemented as soon as possible and it is not our function to draft the relevant documents, although some of us have prepared the draft application forms which have provided the benchmark for much of our deliberations and a means of checking whether our recommendations are likely to bring about significant improvement. We believe that they will.
14. Decisions as to what, if any, consultation should take place before any changes are made are outside our remit. However, through our membership we represent a wide group of users and some of us (and in particular the joint chairs) are very doubtful that the delay that consultation would trigger is warranted given the common ground on the nature and extent of the problems caused by the present practice and procedure, the nature and extent of our recommendations, which include testing the new forms of application, and the changes needed to implement the changes we recommend.

### **Reasoning**

#### *Main recommendations 1 to 5*

15. We take these together because they are closely connected, and they constitute our central recommendation.
16. The Mental Capacity Act 2005 created the Court of Protection and gave it a statutory jurisdiction over both the property and affairs and the health and welfare of persons who lack capacity. This was a significant change in that it combined in one court new jurisdictions previously exercised by the old Court of Protection in respect of property and affairs and by the High Court, exercising its inherent jurisdiction, in respect of health and welfare.
17. These two jurisdictions have the potential for some overlap but they give rise to significantly different issues and for good reasons the practice and procedure adopted in the past to deal with them had not been the same.
18. However, the policy directive behind the 2007 Rules was to provide a common practice and procedure for all applications to the court. This gave rise to tensions as to how best to preserve advantages of the informality and approach of the old Court of Protection, whilst reflecting the statutory changes that dictated some change to this approach and ensuring that a common and fair procedure and practice was put in place for all applications to the court.
19. An almost universal theme of the comments made on the operation of the new Court of Protection, and of the papers put in by the members of this committee,

was that in general terms (a) its practice and procedure operated reasonably well in health and welfare cases and contentious property and affairs applications, and (b) the bulk of the problems related to non contentious property and affairs applications.

20. The unanimous view was that the solution to these problems was to recognise that the attempt to create a common practice and procedure for all types of application (and in particular property and affairs applications that are normally non contentious and contentious applications of all types) had failed and the practice and procedure should be application specific. This was considered and tested against the backdrop of new forms prepared by district judges who deal with all types of applications to the court on a day to day basis. Their approach was to focus on the information required by the court for different applications and thereby to exclude unnecessary information from individual application forms and to make them easier to complete.
21. These forms are listed in annex 4 hereto (and can be obtained by writing to the Secretary to the committee.
22. *Service / notification.* It is clear that many people do not understand the difference between these concepts and the purpose of the present provisions, and that they introduce confusion and annoyance and the potential for turning a non – contentious application into one that is disputed.
23. It is easy to so state the problem; but the solution is not obvious.
24. The underlying dilemma relates to (a) the need to inform family members and interested persons that an application is being made, whilst (b) avoiding the introduction of dispute and contentious proceedings, and thus cost and delay, when this is not appropriate.
25. A significant majority of property and affairs applications are non – contentious and are made by persons who are plainly acting honestly and in the best interests of a member of their family, or a person with whom they are closely associated. But even in those cases it seems to us that notification of other family members, and/or persons closely associated with P, is appropriate both to inform them and to demonstrate that there is no dispute. Notification also provides some safeguard against a person who lacks capacity being treated unfairly or dishonestly, albeit that any such process cannot guarantee this and a process that focused on trying to get as near as possible to achieving such a guarantee would be disproportionate and unduly expensive.
26. The problems as to notification relate essentially to the non-contentious property and affairs applications because (a) other property and affairs cases are disputed and case managed, and (b) many health and welfare applications involve public authorities and are either resolved without any application, or at the permission stage, and if they are not the earlier process has identified who the respondents should be and who knows of, or should be told about, the disputes.
27. After much discussion we have concluded that the competing factors that create the underlying dilemma have force and that the present approach should be retained with better explanation in and outside the relevant forms. We have not been able to identify an alternative that commands general support amongst us. But it was agreed that changes to provide that there be only one certificate of notification and to time limits relating to service /notification, the response to it

and evidence would be likely to promote the efficient disposal of a number of applications (e.g. the non contentious appointment of a property and affairs deputy). Also, if Recommendation 10 is adopted and in any event, it would be sensible to keep the issues relating to these competing factors, and the impact of our recommendations relating to them (if they are adopted), under review.

28. *Notification of P.* A similar dilemma underlies the participation of P and ensuring P is bound by the decision of the court. This has created fewer problems in practice and we recommend its retention with some changes of detail.

29. *Officers of the court.* The Mental Capacity Act 2005 enables rules to be made that provide that the jurisdiction of the court may be exercised by its officers and staff. But, for obvious reasons the focus of many of its provisions is on the need for decisions in the exercise of that jurisdiction to be made by the judges of the court.

30. We are of the view that great care has to be taken to ensure that court officers do not make decisions that should be made by judges but as many of the issues placed before the court are in effect administrative, or are straightforward and undisputed, to free up judge time and reduce delay in respect of all decision making we make recommendation 5.

#### *Recommendation 6*

31. Separate applications for permission have the potential for causing unnecessary delay and cost. Experience has demonstrated that it is not necessary to provide a separate process for this filter.

#### *Recommendation 7*

32. These were points recognised in the light of a general review and our other recommendations.

#### *Recommendation 8*

33. This has been the subject of recent authority and no rule change was thought appropriate or necessary.

#### *Recommendation 9*

34. This is directed to an important aspect of our central recommendation, namely whether it is user friendly. We consider this testing remains important although, by taking the approach we have in creating forms, we have sought to ask and answer whether our recommendations are likely to bring about improvements by reducing complication, cost and delay particularly in respect of non-contentious property and affairs applications.

#### *Recommendation 10*

35. We understand that such a committee serves a useful purpose in connection with the CPR and the FPR and believe that it would do so for the Court of Protection Rules.

## **Changes to introduce and support the proposed introduction of a range of forms for specific applications and other amendments to rules and practice directions**

### **Changes required to implement new forms**

The current system of hybrid application forms should be replaced with specific forms tailored to the type of application. These changes include:

- A simpler generic application form for property and affairs applications
- A series of annexes to the COP1 form to cover the most common types of application
- A new COP2 form for personal welfare applications incorporating the current COP2 Permission form and COP1B Annex for personal welfare applications
- A revised COP20 certificate of service / notification, etc that allows all people served / notified to be included on a single form.
- A new COP21 form for notifying P.

A list of the proposed new forms (subject to them being “tested” further) is at Annex 4 and they can be obtained from the Secretary to the committee

### ***Rule changes***

To implement the new forms a number of minor rule changes will be required:

- Amend rules 10 and 11 to remove references to separate permission application forms
- Delete rule 51(2)(a) and the whole of rule 52 which requires certain property and affairs applicants to apply for permission.
- In Part 8 generally, delete all references to a permission form and insert a new rule providing for the court to deal with permission, when applicable, on considering an application, including discretion to deal with permission as a discrete issue.
- Introduce a provision (by rule or practice direction) that only one certificate of notification is to be provided
- Introduce provisions that reduce the time periods for service/notification, and the response thereto (from 21 to 14 days) and extend the time limit for the service of evidence. (The detailed consideration of this should cover whether the changes should be in respect of all or only some applications.)

### ***Practice directions***

To ensure that the new forms function effectively, new practice directions will be required. These will include:

- New practice directions on service and notification to provide amongst other things comprehensive guidance on who should be named as a respondent and who should be notified, and to cover the need for an explanation as to why any person who generally should be notified has not been.
- A new practice direction relating to appointing a deputy for property and affairs

- A new practice direction relating to appointing a deputy for personal welfare
- A new practice direction relating to disputes relating to the registration of LPAs
- A new practice direction relating to applications relating to the validity and operation of LPAs and EPAs
- A new practice direction relating to the retirement of a Deputy
- An amendment to practice direction 9A to refer to all the relevant annexes

Additional practice directions in connection with other specific applications may well be useful, and some other practice directions will require consequential amendments

## **Powers of attorney**

The committee unanimously approved various amendments to rules and practice directions on enduring powers of attorney. They were set out in a paper prepared by the legal adviser to the Public Guardian and in summary are:

- Changing practice direction 23A to confine the requirement to personally serve the donor of an application under rule 201 to cases where the donor was the objector.
- Amending part 7 to create an exception for applications under rule 201.
- Amending practice direction 9H to allow applications by the person who has applied to the Public Guardian to register the instrument.
- Adding a rule and amending practice direction 9H to give the court discretion to treat an application objecting to registration of an EPA or LPA as an application to cancel registration where the instrument has already been registered.
- Amending practice direction 9H to require the Public Guardian to disclose documents relating to an application to register where the court receives an application to register. A similar provision would be required for LPAs, but there is no equivalent practice direction to 9H, and it is proposed to introduce a new practice direction on LPA objections to support the new application forms.

Also changes to Parts 9 and 23 and practice direction 9H should identify which procedure and form should be used by which type of objector and the procedure and form to be used by the donee if he wishes to pursue his application.

## **Costs**

The committee agreed in principle that some of the costs provisions should be revisited and where necessary updated to incorporate any relevant changes to the CPR. Other suggested changes are:

- Guidance in a practice direction as to when the court may depart from the general rule that costs relating to property and affairs be paid from P's estate, including awarding costs against parties who fail to co-operate with attempts to resolve disputes
- Redrafting practice direction 19A to refer to the Court of Protection rather than cross reference to the CPR.
- Provision in practice direction 19B for payments on account
- To (re)introduce provision for fixed costs for conveyancing in practice direction 19B.
- To give appropriate guidance on the assessment of costs and agreement as to their amount by a deputy
- To amend Rule 160(2) to apply it to a donee and attorney as well as a deputy

Any work on costs should take place with the assistance of the Senior Courts Costs Office.

### ***Other amendments***

A number of minor changes required to clarify or tidy up rules and practice directions have come to light during the review. Some have not been formally considered by the committee, but, are not contentious.

#### ***Part 1 Preliminary***

- No changes identified.

#### ***Part 2 The overriding objective***

- No changes identified.

#### ***Part 3 Interpretation and general provisions***

- The definitions in rule 6 will need updating to include any new ones from the new Part 10A Deprivation of Liberty Safeguards.
- Include definition of hearing to include hearings by telephone, video link or any other method permitted or directed by the court (see Rule 25(2)(d)).

#### ***Part 4 Court documents***

- Rule 11 on statements of truth may require updating to be consistent with the new form structure.
- Add provision for position statements to be filed without needing to be verified by a statement of truth.

#### ***Part 5 General case management powers***

- A specific reference to giving a direction as to the heading to be used in all further documents that identifies the parties (and records who has been notified) should be added if this is not covered by other amendments or practice directions
- No other changes identified

#### ***Part 6 Service of documents***

- Amend practice direction 6A to allow for service on a legal representative qualified to practice in England in Wales but working elsewhere in the EU (see EU Services Directive 2006/123/EC)
- Current practice is that P is not notified where the court appoints a litigation friend. Consider amending rule 33 and rule 40(2) so that P is always notified.
- It would be helpful to have guidance in a practice direction to set out how an applicant should give notice prior to proceedings, including if appropriate obtaining consents to file with an application. But this should be picked up in the new practice directions to Part 9 which would have the advantage of setting out all the steps in a single document.

#### ***Part 7 Notifying P***

- Part 7 contains no provision for service on a person who has parental responsibility within the Children Act 1989 where P is a child. In some applications P will be a child but may not be a party to the proceedings. Part 7 requires P to be notified at various stages. This contrasts with the position of a child in Part 6, rule 32 and needs review and correlation.
- Rules 42 and 43 are difficult to comply with when P has no ability to comprehend information. Instead of applying to dispense with notice the

person effecting service should be required to comment on the extent to which P appeared to comprehend the information. This should form part of the certification in rule 48.

### ***Part 8 Permission***

- Rule 52 requires updating to reflect other changes and in particular the abandonment of separate applications for permission .Practice direction 8A will need similar revision.

### ***Part 9 How to start proceedings***

- Amend to make it clear whether and if so when a single COP1 can be used for a bulk application relating to a number of different people
- Amend time limits for service or notification and responding thereto
- To ensure that respondents or proposed respondents are not disadvantaged by new time limits for responding to an application, amend rule 72(5) so the person acknowledging service or notification is not required to file evidence upon which they intend to rely when acknowledging service. New time limits for filing evidence will then have to be set and it should be considered whether in some cases evidence should only be filed by a person served or notified pursuant to a court order.
- Amend practice direction 9B as indicated above
- Amend practice direction 9E or incorporate provisions in the new practice direction suggested by the health and welfare sub-committee (see below) to ensure it covers situations where the treatment is not serious but withholding the treatment would be and that the reference to a “family and medical litigation lawyer” at the O/S is changed to “healthcare and welfare lawyer.” (see practice direction 9E para 8).
- Amend practice direction 9G to enable certain applications to appoint a trustee to be made without notice where the application is by an existing deputy or a proposed deputy and include a provision that the court may direct service or notification.

### ***Part 10 Applications within proceedings***

- Rewrite rule 78 to improve the sequencing, which is confusing and it is not clear whether the court should decide whether to hold a hearing before issuing the application notice.
- Clarify requirements for service as it is not always clear (a) if and when the applicant should serve the application notice, (b) who is to be served with an application notice under Part 10 in an application within the proceedings (e.g. when there was no respondent to the original application or applications under rule 89 where the proceedings were not contested)) and (c) in cases where the rules provide that the part 10 procedure is to be used for applications other than applications within continuing proceedings (e.g. rule 202).
- Clarify the steps to be taken by and in respect of and the forms to be used by (a) persons served with or notified of a Part 10 application, and (b) any person who is a respondent to or was notified of the original application but has not been served with or notified of the Part 10 application.
- Amend rule 81 to require the applicant to file a certificate of service.
- Consider amendments to practice direction 10B which relates to urgent and interim applications, in the light of the DoLS practice direction which is considered by the district judges to be working well.

### ***Part 10A Deprivation of Liberty Safeguards***

- No changes identified



### **Part 11 Human rights**

- No changes identified

### **Part 12 Dealing with applications**

- Rule 89(6) should be changed to include a table showing the type of judge who may reconsider a decision.
- It may be helpful to have a practice direction relating to reconsideration, for example when it should be referred to a different judge or when and how other parties should be notified of the application.

### **Part 13 Hearings**

- Introduce a practice direction or directions on bundles.
- No other changes identified.

### **Part 14 Admissions, evidence and Depositions**

- Practice direction 14A should be amended to provide that witness evidence may be provided on a COP 24 or in a format compliant with CPR r32.8 (and CPR practice direction 32).
- Practice direction 14E provides very specific detail about the format of reports, etc but visitors and judges have commented that this is not very helpful. Similar comments have been made about the draft order in the annex. The practice direction could usefully be reworked in consultation with visitors and judiciary and the offending parts removed or rewritten.
- Introduce provisions relating to hearsay evidence in the light of *LB Enfield v SA & Others [2010] EWHC 196 (Admin)*.

### **Part 15 Experts**

- No changes identified to the rules but in respect of health and welfare applications (and perhaps some other applications) there should be a practice direction in place of or in addition to practice direction 15A based on the President's Practice Direction in Family Proceedings which came into force in April 2008 and is entitled "Experts in Family Proceedings relating to Children"

### **Part 16 Disclosure**

- These provisions are based on the CPR when they might more usefully be based on family procedure with the emphasis on full and frank disclosure but with provisions for lists of documents by reference to defined issues and which cover the needs of a contentious property and affairs application as well as a health and welfare application.

### **Part 17 Litigation friend**

- Rule 141 should be reconsidered in the context of cases in which P disputes that he lacks capacity to make the relevant decision and/or has capacity to litigate
- Reconsider rule 142 and practice direction 17A to clarify how a litigation friend is appointed for a respondent who is a child or protected party and whether the proposed litigation friend needs to make an application under Part 10 or whether it is sufficient to file a certificate of suitability to act
- Provide that P is to be referred to in the proceedings by initials (if this has not been done in other amendments and is not necessary here) and therefore alter paragraph 3(a) of practice direction 17A.

### ***Part 18 Change of solicitor***

- No changes identified

### ***Part 19 Costs***

- See above

### ***Part 20 Appeals***

- Consider the introduction of a provision for appeals that relate to a important point of law or principle to be assigned to the Court of Appeal. This would mirror CPR 52.14, but it is recognised that the power on which this is based (CPR 52.14) may not apply and therefore the power to do this needs to be considered.
- The application of Rule 89 and Part 20 to a decision on paper to refuse permission to appeal needs to be considered and clarified.

### ***Part 21 Enforcement***

- No changes identified

### ***Part 22 Transitory and transitional provisions***

- Rules 195-197 and PD 22B no longer apply and need to be removed
- Practice direction 22C is now obsolete and therefore needs to be deleted.

### ***Part 23 Miscellaneous***

- Rule 201 & practice direction 23A (see powers of attorney changes above).
- Practice direction 23B paragraph 9, the requirement for the Public Guardian to state whether a final report is not required or is satisfactory is not workable as it does not give sufficient assurance to enable the court to discharge the bond. Amend to provide for suitable alternative provisions such as obtaining an assurance from P's personal representatives or asking the Public Guardian to file a wider position statement.

### ***Court officers***

- New rules and a practice direction and internal guidance relating to court officers making decisions should be considered (see Recommendation 5 above).

### ***Health and welfare sub committee recommendations***

In addition to the points incorporated above,

- There should be practice direction which replaces or supplements practice direction 9E and which updates and mirrors the practice direction promulgated in 2006 regarding declaratory proceedings under the inherent jurisdiction and applies it to the MCA 2005. It will therefore address amongst other things the powers conferred by ss. 15, 16, 17 and 18, the joining of P as a party, the joining of public bodies as parties and their notification, the role of the Official Solicitor, urgent applications and the appointment of a litigation friend. The 2006 practice direction has been found to be helpful and has been applied by analogy. (Correlation to the new practice directions in respect of Part 9 will be necessary)
- There should be guidance or a practice direction addressing the conduct of a fact finding hearing generally and in respect of specific allegations of abuse. This should cross refer to relevant cases.
- Members of that sub committee have helpfully agreed to prepare drafts.

## **Committee Terms of Reference and steps taken**

### **Terms of reference**

The Court of Protection Rules Committee is an ad hoc committee set up by the President of the Court of Protection. The terms of reference of the committee are as follows:

*The Court of Protection Rules Committee is an ad-hoc advisory committee established by the President of the Court of Protection. Its function is to review the Court of Protection Rules 2007 which govern practice and procedure in the Court of Protection. The aim of the committee is to produce recommendations for new rules or amendments to existing rules, and supporting practice directions and forms, which set out a fair and efficient procedure in rules which are both simple and simply expressed.*

### **Steps taken by the committee**

The committee met on four separate occasions. The items considered by the committee are summarised below. The minutes of meetings and associated papers can be obtained by contacting the secretary to the committee:

James Batey  
Secretary to the Court of Protection Rules Group  
Court of Protection  
Archway Tower  
2 Junction Road  
London N19 5SZ

DX 141150  
Archway 2  
Tel 0300 456 4600

#### ***Meeting one 16 February 2010***

The committee discussed the reasons why the President has set up this ad hoc committee and considered presentations and discussed what worked well with the current system, what did not work well and priority areas for reform.

#### ***Meeting two 16 March 2010***

The committee considered a summary of the views expressed at the first meeting and agreed the priority areas for reform and considered detailed proposals on the opportunities for delegating some non-contentious work to court officers and for redesigning court forms.

#### ***Meeting three 13 April 2010***

The committee received an update on the work to redraft forms and considered detailed proposals for change relating to

- Respondents
- Alternative dispute resolution
- Objections to registration of enduring powers of attorney and related matters
- Health and welfare improvements

***Meeting four 27 May 2010***

The committee considered what rule changes would be needed to implement the new forms, and, in particular, whether the rules on service and notification should be altered. It was agreed that the joint chairs would circulate a draft report.

## Members of Court of Protection Rules Committee

### Judiciary

**Mr Justice Charles (Joint Chair)**

High Court Judge of the Family Division

**Mrs Justice Proudman (Joint Chair)**

High Court Judge of the Chancery Division

**Senior Judge Denzil Lush**

Senior Judge Court of Protection

**District Judge Stephen E Rogers**

District Judge Court of Protection

**District Judge Alex Ralton**

District Judge Court of Protection

**District Judge Marc Marin**

Part time District Judge Court of Protection

**District Judge Gordon Ashton**

Regional District Judge Court of Protection

### Committee Members

**David Rees**

David Rees is a barrister at 5 Stone Buildings, Lincoln's Inn. He has a particular interest in Court of Protection litigation and has appeared in a number of leading cases. He has been the General Editor of Heywood and Massey's Court of Protection Practice since 2007.

**Alexander Ruck-Keen**

Alexander Ruck Keene is a barrister at 39 Essex Street, who is regularly instructed by individuals (including on behalf of the Official Solicitor), NHS bodies and local authorities before the Court of Protection. He is a contributor to the third edition of the *Assessment of Human Rights* (Law Society/BMA 2009)

**Caroline Bielanska**

Chair of Solicitors for the Elderly, an organisation that represents over 1000 lawyers who specialise in Court of Protection practice. Editor/ contributor to numerous legal text books which includes Heywood and Massey's Court of Protection Practice. Sits on the OPG's stakeholders' consultative forum and Court of Protection's user group.

**Henry Frydenson**

Henry Frydenson is a senior solicitor at Mishcon de Reya and founder and Chairman of the Association of Contentious Trust and Probate Specialists (ACTAPS). Henry is a solicitor advocate and well known mediator who specialises in contentious trust, probate, charities and Court of Protection matters.

**Julia Abrey**

Julia Abrey is a partner in the Estates Succession and Trust global practice group at Withers LLP and head of the Elder Law team. Her practice covers probate, succession, trust management, elder law and Court of Protection. Julia is STEP's

Elder Client Law Professional 2009/10.

**Helen Starkie**

UCL graduate, admitted 1976. For many years Head of Private Client Dept Thring Townsend Bath, Bristol and Swindon and last 3 years Head of Wealth Management Moore Blatch Southampton and Lymington. Specialises in Court of Protection and Office of the Public Guardian, Probate and elder client work. Member Law Society Probate Section Committee and member of the Court of Protection and Office of the Public Guardian stakeholders' and users' groups.

**Niall Baker**

Niall Baker is the National Head of the Business and Private Client division of Irwin Mitchell Solicitors. Niall specialises in Court of Protection work and the management of personal injury damages. He heads the largest Court of Protection department in the country and acts on behalf of many clients who are incapable of managing their own financial affairs.

**Martin Terrell**

Martin Terrell is a partner at Thomson Snell and Passmore specialising in private client and Court of Protection practice. He is joint vice-chairman of Solicitors for the Elderly and a member of the Court of Protection User Group and STEP. He is the author of A Practitioners Guide to the Court of Protection and contributor to Court of Protection Practice 2009 and Heywood and Massey's Court of Protection Practice.

**James Sandbach**

Social Policy officer for Citizens' Advice covering legal and Justice issues.

**Dave Street**

Dave Street is currently the Interim Assistant Director for Adult Services within Adult Services for Caerphilly County Borough Council. He is also currently chair of the Association of Public Authority Deputies (APAD), which provides support to more than 130 local authorities across England & Wales who undertake Deputyship work.

**Beverley Taylor**

Senior Solicitor for the Official Solicitor's office specialising in health and welfare work

**Janet Ilett**

Senior Solicitor for the Official Solicitor's office specialising in property and affairs work

**Officials**

**Alasdair Wallace**

MoJ Legal Services Division

**Sheila Bacha**

MoJ Legal Services Division

**Jill Martin**

Jill Martin was a Professor of Law at King's College London before joining the Senior Civil Service to head the Public Trustee's legal team. From 2001 to 2007 she was Legal Adviser to the Public Guardianship Office and an Assistant Master of the Court of Protection. She is currently Legal Adviser to the Public Guardian

**Helen Smith**

Area Director for the Probate Service and Court of Protection

**Martin John**

Martin John was appointed as Public Guardian and Chief Executive of the Office of the Public Guardian on the 10<sup>th</sup> July 2008. Martin is an MBA and Civil Service Fast Stream graduate who has been a senior civil servant since November 2002. During

his time in the Ministry of Justice, and its predecessor departments, Martin has been a key player in tribunal policy and administration, as; Director of Tribunals, Director of Asylum and Immigration and, prior to becoming Public Guardian, Director of Business Development for the Tribunals Service.

**Steve Wade**

After an early career in the financial sector, Steve entered the civil service in 2002, working initially on tribunal reform. He then joined the Mental Capacity Act Implementation Programme as Code of Practice Project Manager before transferring to the OPG to head up its new Policy Development Unit. Since 2009 he has been OPG Head of Policy and Customer Strategy and is a member of the agency's executive team. Steve also sits as the UK member and Vice-Chair of the Council of Europe's Family Law Committee.

**Gabby Bradshaw**

Court Manager – Court of Protection

**James Batey**

Deputy Court Manager Court of Protection and the secretary of the Rules Committee

**Neil Ross**

Deputy Court Manager Court of Protection

## Proposed new forms

Form	How form will be used
COP1 Application form property and affairs	All applications relating to property and affairs. Supported by a series of annexes that provide additional information depending on the type of application.
COP1A Annex A: Supporting information for property and affairs applications	All first applications relating to property and affairs, including the appointment of a deputy and applications to appoint a new deputy.
COP1B Annex B Supporting information for statutory will, codicil, gift(s), deed of variation or settlement of property	Applications that relate to the execution of a will or codicil on behalf of P; the settlement of P's property; deeds of variation and gifts.
COP1C Annex C: Supporting information for applications to appoint or discharge a trustee	Applications to appoint or discharge a trustee
COP1D Annex D: Supporting information where the person to whom the application relates ceases to lack capacity	Applications to discharge deputy where P no longer lacks capacity
COP1E Annex E: Supporting information for an application under existing deputy order or under a registered EPA or LP	Applications where there is already a deputy or attorney appointed. For existing deputies, applications to vary powers as deputy eg to sell property or vary security. For registered attorneys, transactions not covered by EPA or LPA where there are conditions or restrictions on the attorney's powers. For EPAs applications in respect of court's powers under Schedule 4 para 16(2) For LPAs applications in respect of court's powers under section 23
COP1F Annex F Supporting information relating to disputes on the registration of a enduring power of attorney	Objections to the registration of an EPA by donor relative entitled to notice Objection by attorney who is not a party to the application to register Application seeking registration by attorney where PG is prevented from registering instrument on receipt of valid notice of objection.
COP1G Annex G Supporting information relating to disputes on the registration of a lasting power of attorney	Application objecting to registration by named person or attorney
COP1H Annex H Supporting information relating to the validity or operation of enduring powers of attorney or lasting powers of attorney	Applications to dispense with notice requirement (Schedule 2 para 10; Schedule 4 para 7(2)) Applications to confirm revocation under Schedule 4 para 16(3). Applications to cancel registration of EPA under Schedule 4 para 16(4) Applications under section 22 determining questions as to validity of LPA, Applications to sever ineffective provisions in LPA (Schedule 2 para 11)
COP2 Personal welfare application	All applications relating to personal welfare including applications to appoint a deputy for personal welfare
COP5 Acknowledgement of service /	For anyone served or notified to become a party to the



Form	How form will be used
notification	proceedings and / or object to an application.
COP9 Application notice	Applications within proceedings, reconsiderations of decisions made without hearing and a variety of other applications.
COP10 Application notice for applications to be joined as a party	Application to be joined as a party for someone who has not been notified or served.
COP12 Special undertaking by trustees	Undertaking to court not to sell trust property
COP14 Proceedings about you in the Court of Protection	Form used by applicant to notify P
COP15 Notice that an application form is to be issued/has been issued	To notify people that an application is being made or has been made
COP20 Certificate of service/non-service Certificate of notification/non-notification	Filed by applicant or other person serving / notifying to confirm document has been served or notification provided
COP21 Certificate of notification/non-notification in respect of the person to whom the application relates	Filed by applicant or other person serving / notifying to confirm P has been notified.