

IN THE COURT OF PROTECTION

CASE NO: -----

IN THE MATTER OF THE MENTAL CAPACITY ACT 2005

IN THE MATTER OF X [*THE INITIALS CHOSEN TO IDENTIFY P*]

BEFORE -----

BETWEEN

[*APPLICANT*]

Applicant

and

[*FIRST RESPONDENT*]

First Respondent

[*SECOND RESPONDENT*]

Second Respondent

[*PARTIES IN APPROPRIATELY ANONYMISED FORM*]

IMPORTANT

If any person disobeys the order made by paragraphs (5) to (9) (the Injunction) they may be found guilty of contempt of court and may be sent to prison, fined or have their assets seized. They have the right to ask the court to vary or discharge the order.

UPON READING the Court file

AND UPON HEARING -----

AND UPON IT APPEARING TO THE COURT that there should be an attended hearing to which the pilot provided for by *Practice Direction – Transparency Pilot* should apply

IT IS HEREBY ORDERED that:

The direction that hearings are to be in public

- (1) This application be set down for an attended hearing on ----- with a time estimate of ----- at which the Court will consider the following issues:
- (a) ---,
 - (b) --- .

[DEFINE THE ISSUES]

- (2) Subject to further order of the Court that attended hearing and all further attended hearings of this application are to be in public PROVIDED ALWAYS THAT the Court may exclude from an attended hearing any person (other than a party) on the grounds that it is in the interests of justice to do so (for example if that person refuses a request to sign a document recording their attendance and that they are aware of the terms of this order).
- (3) The attended hearing is to be listed as follows:

[SET OUT A DESCRIPTION BY REFERENCE TO THE GENERAL DESCRIPTION LIST]

- (4) Part 3 of Practice Direction 13A to the Court of Protection Rules 2007 (which permits the communication of specified material and information in certain circumstances when there is no public hearing) shall continue to apply to these proceedings.

The persons bound by the Injunction

- (5) The following persons (the Persons Bound by this Injunction) are bound by the order made in paragraphs (5) to (9) hereof (the Injunction)
- (i) the parties and their representatives,
 - (ii) the witnesses,
 - (iii) all persons who attend all or any part of an attended hearing,
 - (iv) all persons who by any means obtain or are given an account or record of all or any part of an attended hearing or of any order or judgment made or given as a result of an attended hearing,
 - (v) all persons who are provided with or by any means obtain documents and information arising from this application, and
 - (vi) any body, authority or organisation (and their officers, employees, servants and agents) for whom any such person works or is giving evidence.

The subject matter of the Injunction

- (6) The material and information (the Information) covered by this Injunction is:

- (i) any material or information that identifies or is likely to identify that:
- (a) [*THE INITIALS CHOSEN TO IDENTIFY P*] is the subject of these proceedings (and therefore a P as defined in the Court of Protection Rules 2007) [or -----
----- IN A SERIOUS MEDICAL TREATMENT CASE – a person whose medical treatment is in issue in these proceedings], or that
 - (b) any person is a member of the family of the subject of these proceedings (namely [---- *INITIALS CHOSEN TO IDENTIFY P* -----]), or that
 - (c) [*ANONYMISED PERSON*] [--- *ANONYMISED REFERENCE TO ANY OTHER PARTY* --] is a party to these proceedings, or that
 - (d) [*ANONYMISED PERSON*] [----- *ANONYMISED PERSON WHOSE IDENTITY SHOULD NOT BE PUBLISHED* -----] (who the Court has so identified to the parties in private) [----- has taken a part in / or been referred to in -----] these proceedings; and
- (ii) any material or information that identifies or is likely to identify where any person listed above lives, or is being cared for, or their contact details.

What the Injunction prevents people from doing

- (7) Subject to further order of the Court and save as provided by paragraph (9) the Persons Bound by this Injunction shall not by any means (and so orally or in writing or electronically by way of social media or in any other way) directly or indirectly:
- (i) publish or communicate the Information or any part or parts of it, or
 - (ii) cause, enable, assist in or encourage the publication or communication of the Information or any part or parts of it.

Duration of the Injunction

- (8) This Injunction shall have effect [until further order of the Court] [the death of *THE INITIALS CHOSEN TO IDENTIFY P*] [X weeks / months after the death of *THE INITIALS CHOSEN TO IDENTIFY P*].

What the Injunction does not prevent people from doing and does not apply to

- (9) Subject to further order of the Court this Injunction:
- (i) does not prevent the Persons Bound by this Injunction:

- (a) reporting or commenting upon these proceedings, save in so far as such reports or comments are prohibited pursuant to paragraph (7) above,
- (b) reporting or commenting upon proceedings in the Court of Protection generally or in relation to applications similar to this one,
- (c) publishing information relating to any part of a hearing in a court in England and Wales (including a coroner's court) in which the court was sitting in public and did not itself make any order restricting publication,
- (d) complying with an order of any court with competent jurisdiction, and
- (e) disclosing information for the purposes of caring for [*THE INITIALS CHOSEN TO IDENTIFY P*]

(ii) does not prevent the Persons Bound by this Injunction from communicating information relating to these proceedings to the persons and in the circumstances set out in paragraphs 33 to 37 of Part 3 of Practice Direction 13A to the Court of Protection Rules 2007 (which permits the communication of specified material and information in certain circumstances).

(iii) does not apply to a public hearing of, or to the listing for hearing of, any application for committal.

Variation of this order

- (10) The parties and any person affected by this order may apply to the Court for an order (and the Court may of its own motion make an order) that:
- (i) varies or discharges this order or any part or parts of it, or which
 - (ii) permits the publication of any of the Information on the basis that it is lawfully in the public domain or for such other reason as the Court thinks fit.

Further orders

- (11) Subject to further order of the Court any transcript of a hearing of and any judgment or order given in these proceedings shall be anonymised so that it shall contain no reference by name or address to the persons or bodies referred to in paragraph (6) and shall refer to them by their descriptions therein but when the person served or provided with any transcript, judgment or order needs to know the identity of any anonymised person that document is to be served on or provided to that person with a copy of this order and a confidential schedule that provides the necessary identification.
- (12) At any time the Court may give such directions as it thinks fit (including directions relating to anonymisation, payment, use, copying, return and the means by which a copy of a document or information may be provided) concerning the provision of information or copies of documents put before the Court and the terms on which they are to be provided to any person who attends an attended hearing (and is not a person to whom the document can be

provided under Part 3 of Practice Direction 13A to the Court of Protection Rules 2007).

- (13) A record (the Record) of the Information shall be kept by the Court. The Record shall contain a list of the names separately from the other parts of the Information. The Record or some of it may on request be made available to anyone who attends or has attended a hearing on such terms as the Court thinks fit.
- (14) Application may be made to the Court by any person who has not been present at an attended hearing (and so become aware of or been able to request the Information) for a direction that they be provided with the Information or some of it on such terms as the Court thinks fit. Any such application must be accompanied by evidence setting out why such a direction is sought.

Rights of audience

- (15) Subject to further order of the Court, any person who would have been entitled under the Legal Services Act 2007 to exercise rights of audience at the attended hearing if this order had not been made and it was held in private (and is not otherwise entitled to exercise such rights), shall be entitled to exercise equivalent rights of audience at that attended hearing and any further attended hearing of this application.

Costs

- (16) Costs reserved.

Dated:-----