



Professional Deputyship Symposium:

Improving Outcomes for Incapacitated People

Case Studies

John's story

John is 18 years of age and has a learning disability, attention deficit hyperactivity disorder, autism spectrum condition and challenging behaviour. Due to these difficulties, John has been cared for by the local authority for most of his childhood as his parents were unable to provide the care he needed.

He lacks mental capacity to make decisions about residency and care, and to manage his finances. He is financially reliant on welfare benefits and has £3,000 in a matured Child Trust Fund.

The local authority social services department are responsible for arranging and commissioning his care. He requires 24-hour supervision and support to help him comprehend and manage everyday tasks in rented accommodation. John needs one to one support, and so the accommodation must also be provided for his carers.

Finding suitable accommodation for any adult with care and support needs is difficult due to rental shortages and a limited number of supported living accommodation being available in the area. John is being cared for in temporary short-term accommodation funded entirely by the local authority. The room is funded via John's housing benefit. The lack of personal space and routine is making John anxious and so his behaviour has become unpredictable and aggressive.

John is being deprived of his liberty under Article 5 of the European Convention of Human's Right as he is under constant supervision and not free to leave without a carer. An application is made to the local authority's deprivation of liberty team to undertake assessments and to make an application to authorise John's deprivation at the temporary accommodation.

July 2024: the local authority identifies accommodation 1, a two-bedroom flat. The local authority applies to the Court to become John's financial deputy to access and manage the Child Trust Fund, his welfare benefits and sign the tenancy agreement.

To secure the accommodation the local authority pays £700 each month to the landlord. John moves into the property without a signed tenancy agreement. As he does not have a signed tenancy agreement, he is not entitled to housing benefit to secure this accommodation.

December 2024: The Court made the deputyship order, but it does not give the deputy authority to sign the tenancy agreement for accommodation 1. They issue directions asking the local authority to confirm that an application is being made to the Court for authorise John's deprivation of liberty in accommodation 1, before they will give authority in relation to the tenancy. The deputy registers the order with the Child Trust Fund bank and ask to close the account.

January 2025: The deputy sends a witness statement to the Court and confirms the deprivation of liberty application was made to the court in December 2024.

February 2025: the Court (deprivation of liberty team) grants authorisation for John's deprivation of liberty and sends the order to the local authority.

March 2025: the Court (financial deputyship team) sends the deputy an order authorising them to sign the tenancy agreement for accommodation 1, which the deputy signs and submits an application for housing benefit for accommodation 1.

April 2025: the landlord serves notice to quit on John. John has smashed the doors and pulled the toilet off the wall and smashed the glass in the shower. The local authority start looking for alternative accommodation. The landlord starts possession proceedings to remove John from the flat. He is given 4 weeks' notice to leave.

June 2025: Accommodation 2 is identified. John moves in without a signed tenancy agreement, and the local authority starts paying the new landlord £800 per month. The deputy receives the Child Trust Fund money and spends this on buying John furniture and flooring for his accommodation. As there is no longer any money to manage other than John's DWP benefits, the deputy makes an application to be discharged as his deputy.

John is not entitled to housing benefit for accommodation 2 until a tenancy agreement is signed, so the deputy also applies to the Court of Protection to sign a tenancy agreement for accommodation 2. At the same time, they ask their deprivation of liberty team to prepare the paperwork for an application for the Court to authorise John's deprivation of liberty in accommodation 2.

August 2025: the local authority's deprivation of liberty team files the application for John to be deprived of his liberty in accommodation 2. The Court makes the order.

October 2025: the Court (financial deputyship team) makes an order allowing the deputy to sign the tenancy agreement for accommodation 2. The housing benefit claim can now be made.

November 2025: the order discharging the deputy is made by the Court.

Helen's story

Helen is 87 years of age. She has resided in a series of care homes, having been diagnosed with vascular dementia in 2011. She moved to her current care home in August 2023. She owns her former home. The local authority have been paying her care fees and a significant debt is now owed to them. There is also a debt to the care home, which accrued before the local authority were involved and they are pressing for payment. Helen has limited cash resources.

Helen's home has previously been damaged following a burst pipe and is badly affected by mould. There was no insurance in place to cover the cost of the damage. It is thought to be uninhabitable, and protective clothing is advised for anyone entering the property.

April 2016: Helen's daughter was appointed as financial deputy,

March 2022: The OPG apply to court for her daughter's appointment to be revoked and the local authority's authorised officer to be appointed as deputy instead. Helen's daughter had not been paying the care home fees and had taken most of Helen's cash funds. The local authority had stepped in to pay the care fees moving forward but have not paid the arrears which have built up.

April 2022: The local authority advise that do not have the staff to take on the deputyship.

June 2022: The OPG asks a deputy from their approved panel if she will agree to be appointed as deputy and she completes and sends to the court a deputy's declaration agreeing to her appointment.

May 2023: The order is made and sent to the deputy appointing the professional deputy, but it contains restrictions. The deputy cannot sell or charge a property without obtaining a further order from the court.

This means that the deputy cannot enter into a deferred payment agreement with the local authority. This is a statutory scheme which allows those who meet strict criteria to have a charge over their property to secure the care fees debt, instead of having to sell their home. It gives the local authority certainty that they are the first creditor and takes the pressure off selling a property in rushed conditions, where poor decisions are more likely.

The professional deputy arranges unoccupied property insurance and arranges for a local estate agent to do weekly checks at the property.

Helen's care home has not applied to the local authority for authorisation for her deprivation of liberty. The professional deputy presses the care home to apply and chases them. There is a considerable backlog and delays with the local authority's deprivation of liberty team.

February 2024: The professional deputy receives the deprivation of liberty authorisation and so applies for authority to sell Helen's home and provides extensive background information regarding Helen's successive stays in a number of care homes and the condition of the property.

August 2024: The professional deputy emails the court to request the application be considered urgently. Helen is increasingly frail, and her property is vulnerable.

17 September 2024: Helen's daughter contacts the professional deputy and tells her there are trespassers in the house. The professional deputy calls the police. She also makes contact with the trespasser, who informs her "he is moving in and taking over the property as it is so neglected – as an act of public service"

17 September 2024: The professional deputy drafts and sends to the court an urgent application with a witness statement in support seeking authority to litigate and recover possession of the property, in addition to current application seeking authority to sell the property. This is filed with the court by email.

20 September 2024: The professional deputy receives the order authorising the sale of Helen's home. The order was made on 12 September and issued (stamped) 7 days later.

23 September 2024: The professional deputy drafts and sends to the court a further application seeking a variation of the order made on the 12th of September to include authority to litigate to recover possession of the property.

The police arrested the trespasser, who was charged with burglary.

November 2024: An officer accompanies the trespasser to the property to recover any items he had remaining there. The police advised the deputy to change the locks.

January 2025: Helen's home is sold, and the local authority and former care home are paid the debt they are owed.

Faisal's story

Faisal is 40 years old and has an acquired brain injury following a road traffic accident, when he was hit head on by a lorry driver who lost control of his truck when overtaking some parked cars. Faisal now lives with severe physical disabilities and is severely brain injured. He requires round the clock care.

At the time of the accident Faisal was working as a teacher. He has a wife, Huda and their son, Amir who is now 8 years old.

A compensation claim for his personal injuries is being brought on Faisal's behalf by his wife Huda as his litigation friend.

Faisal was initially cared for in hospital and then moved to a rehabilitation centre as he was unable to return to the family home as it did not meet his needs. The family home is owned jointly by Faisal and Huda, and she wishes to sell it as she wants to buy a property which is more suitable. Huda has been advised that the litigation plan is to advance a claim for suitable accommodation to be purchased and adapted to meet Faisal's long-term needs. In the meantime, Faisal his wife and son have been living in a small-rented property. It is not far from Faisal's parents and siblings and Huda's two sisters. They are all involved in his care.

Due to the likely size of the personal injury claim, it was necessary for a professional financial deputy to be appointed.

April 2019: The accident occurred.

June 2020: Litigation commenced for compensation in the civil court and application made for a professional financial deputy to be appointed in the Court of Protection. At the same time, a separate application (known as 'a trustee application') is made to appoint another person on Faisal's behalf (as the home is owned in joint names) so the home can be sold.

July 2021: The deputy is appointed. The court order does not allow the deputy to buy a property.

September 2021: Trustee order is made, and the family home can now be sold.

October 2021: An interim payment of £500,000 is made. Liability has now been agreed, but quantum is to be determined. The money has been used partly to cover the costs of debts that accrued over the previous year and half, as Huda was managing only on welfare benefits. The deputy working with the litigation team contracts with a case manager to undertake care assessments, write a care plan and recruit and commission care to meet Faisal's needs. Until Faisal is in more suitable accommodation, and there is a further compensation payment there are limits on how far this can be implemented, due to the limits of the space within the home for a team to be present, to carry out therapies and to store equipment.

November 2021: The home is sold. Case manager recommends an application is made for NHS funded continuing health care, as Faisal should qualify given the extent of his disabilities.

December 2021: the NHS commissioning body turns down Faisal's claim for NHS funded continuing health care. The deputy writes a letter to the NHS commissioning body to challenge their decision. At the same time the deputy submits an application to the Court for authority to seek a review of the decision to refuse funding and to be permitted to be paid for this. In support the case manager submits a witness statement with evidence of why they think Faisal should receive funding.

May 2022: The deputy puts in a full response to the NHS commissioning body, but without the court's authority due to the risk of being out of time.

The deputy amends the earlier application, for retrospective approval and asks to be paid for seeking a full review without first having obtained authority.

October 2022: Further interim payment of £1 million is paid to the deputy. The court grants authorisation for the deputy to seek a review of the NHS funding application but there is no mention of approval for their costs.

The deputy submits an application to the court for reconsideration so they can be paid.

Due to the size of the new interim payment the deputy also applies to the Court to review the level of guarantee bond.

November 2022: The deputy starts signing employment contracts for the carers who are supporting Faisal. National insurance, PAYE records and pensions are set up and all responsibilities associated with Faisal being an employer of 2 carers. Huda is increasingly stressed and upset that they are living in a small flat and she is unable to have a normal life with Faisal and Amir. She is also worried that Faisal's recovery will be impacted by the limited scope within the rented property for his rehabilitation activities.

The deputy instructs a property specialist to locate a suitable home for Faisal and his family, which can be adapted to meet his ongoing needs. The property specialist will work with Huda and the case manager to identify a suitable property.

December 2022: The local NHS commissioning body refuse Faisal's claim for NHS continuing healthcare and the deputy puts in an independent review application to NHS England.

April 2023: The property specialist identifies a suitable property, (property 1) but it will need adapting to meet Faisal's needs and there is another interested buyer. The deputy explains he needs an order from the court before he can commit. The seller goes with the other buyer.

May 2023: Further interim payment of £2 million is paid. The property specialist identifies another property (property 2) which needs adaptations. It is more expensive than the first and there is less interest from other potential buyers. The deputy commissions a report from a specialist architect who has experience of adapting properties for people with significant physical disabilities.

July 2023: the deputy submits an application to the court to authorise the purchase of property 2. The deputy attaches the plans for adaptations with projected costs.

September 2023: the court issues the application and requires the deputy to notify Huda and his family of the application. Due to the size of the transaction the matter must be decided by a judge.

October 2023: NHS England decide that Faisal is eligible for NHS continuing health care. They ask whether the deputy would like a personal health care budget so the care can be commissioned directly. The deputy is not allowed to manage this as this is not money belonging to Faisal. Instead, Huda agrees to manage the funds. This creates practical difficulties in commissioning and accounting as some care is arranged by Huda and other care is arranged and paid for by the deputy.

January 2024: the deputy makes an application asking for the court to make an urgent order as the owner of property 2 is threatening to pull out. The owner has said that there has been no progress after 7 months and they have someone else who is interested.

February 2024: The owner of property 2 pulls out.

March 2024: The deputy receives the court order authorising the deputy to buy property 2.

June 2024: Another property (property 3) has been located, suitable to meet Faisal's needs. Thankfully, there is no conveyancing chain. The deputy puts another application in to have authority to buy property 3. It attaches new plans for adaptations with projected costs.

January 2025: The court makes the order authorising the deputy to buy property 3.

April 2025: The property purchase completes, and work starts on adapting Faisal's forever home.

June 2025: The final settlement is reached. In total Faisal has received £10 million.

During this period, one of the carers reported Huda to adult safeguarding at the local authority, claiming she was not looking after her son, Amir properly. Huda was distraught as she was trying her best. She sacked the carer, who is now claiming unfair dismissal. The deputy will need to obtain the court's authority to deal with the claim.

The deputy decided to pay for Amir to attend a private school. This relieves the pressure on Huda who wants to continue to provide care for Faisal and ensure the Amir has extracurricular activities and more fun than has been possible.

The deputy also agreed to pay Huda's sisters to provide care, rather than strangers.