

MARCH EDITION

2026

DEPUTYSHIP MATTERS

**MANAGED
MIGRATION TO
UNIVERSAL
CREDIT**

**HOW TO SUPPORT A
CLIENT TO SECURE A
TENANCY FOLLOWING
THE INTRODUCTION
OF THE RENTERS'
RIGHT ACT 2025**

**PDF | THE PROFESSIONAL
DEPUTIES FORUM**

**INSIDE THE
SPRING
CONFERENCE
2026**

KEY CASES OF 2025

Round up of key cases and themes from the Court of Protection's Property and Affairs jurisdiction in 2025.

MARCH EDITION

DEPUTYSHIP MATTERS

- 03** **Message from the CEO**
Samantha Bossi, PDF CEO
- 05** **PDF News**
- 10** **Spring Conference Insight**
- 13** **Forum Focus**
- 14** **Managed Migration to Universal Credit**
Adam Booth, Chase de Vere
- 16** **Key cases: a round-up from 2025**
Sophie Hurst, Kings Chambers
- 20** **Compliance for CoP Teams**
Caroline Featherby, Barcan & Kirby
- 23** **How to support a client to secure a tenancy following the introduction of the Renters' Right Act 2025**
Sarah Cummins, Nikki Basin & Emma Tante, Anthony Gold Solicitors
- 27** **The Secret Deputy**
- 28** **A spring clean for Deputyship files**
Tom Hall, Hugh James

EDITORIAL TEAM

SAMANTHA BOSSI

CEO of The PDF

STEPHANIE KAYE

Committee Member

CHARLOTTE FLETCHER

Committee Member

OLIVER BANKS

Committee Member

THANK YOU TO OUR CONTRIBUTING WRITERS

ADAM BOOTH, CHASE DE VERE

SOPHIE HURST, KINGS CHAMBERS

CAROLINE FEATHERBY, BARCAN & KIRBY

SARAH CUMMINS, ANTHONY GOLD SOLICITORS

NIKKI BASIN, ANTHONY GOLD SOLICITORS

EMMA TANTE, ANTHONY GOLD SOLICITORS

TOM HALL, HUGH JAMES

INTERESTED IN BEING PART OF THE NEXT EDITION?

EDITORIAL CONTRIBUTIONS:

samantha.bossi@deputiesforum.co.uk

ADVERTISING:

admin@deputiesforum.co.uk

Message from the CEO

SAMANTHA BOSSI

As we reflect on another year, I am filled with gratitude for the dedication, expertise, and collaboration that define our PDF community. Our work continues to focus on uplifting professional standards, providing practical guidance, and ensuring deputies have the support and training they need to deliver the highest quality service in the Court of Protection for P.

I would especially like to thank our Chair, Stacey Bryant, our Directors, and the wider Committee for their unwavering commitment, professionalism and insight, which make everything we do possible. From developing resources for members and expanding our Accreditation scheme to launching targeted webinars and engaging closely with the OPG and the Court, these initiatives reflect our shared mission to foster excellence and support deputies at every stage of their professional journey. I am excited to share the outcomes of our recent Strategy Day and the plans that will shape the year ahead.

The PDF Committee recently met in person for our annual Strategy Day – a productive day reflecting on the year and setting priorities for the months ahead. Representing around 83% of all court-appointed professional deputyships, the PDF continues to play a vital role in supporting practitioners and shaping Court of Protection practice. “Collaboration is key – bringing together practitioners, organisations, the OPG, and the Court ensures our work reflects real-world practice.”

Last year’s Symposium highlighted the PDF’s role in facilitating shared learning across the sector. There are several actions we are taking forward from this which have been worked into our plans below.



Training and Professional Development Accreditation

The PDF’s Accreditation scheme supports our mission to uplift and uphold professional standards as well as providing a benchmark for deputyship practice. We have seen encouraging sign-ups for the Foundation and Intermediate levels, which have been praised by those completing them as comprehensive and valuable. While they require time, dedication and commitment, achieving accreditation is a positive milestone in professional development and a way for deputies to demonstrate their expertise.

“I am so proud of myself for managing to pass The Professional Deputies Forum Foundation accreditation- as someone who has not studied for over 20 years I can easily say this has tested me at times and yes it may have taken many months but I got there and has got me wanting to learn more!”

An Advanced scheme is currently in development and will be rolled out later this year, offering an even greater opportunity to demonstrate advanced skills and knowledge of deputyship work.

Key Initiatives Underway

- Health and Welfare membership category – launching soon.
- Affiliate scheme – expanding engagement with professionals and organisations.
- Guidance & templates – including template orders, COP9 guidance and templates, and ACC guidance with EHCP application templates.
- Collaboration – working with panel deputies and local authority deputies to share best practice.
- Lay deputy guidance – accessible information for non-professional deputies.

Supporting deputies through training and practical guidance remains central to our work. Discussions at Strategy Day also focused on:

- Wellbeing
- Lone working
- Promoting COP work to law students – encouraging the next generation of practitioners

By equipping deputies with the right tools, we can enhance confidence, reduce errors, and minimise delays across the Court of Protection.

Upcoming Webinars

Our webinar programme continues to grow, offering practical support across the sector.

Webinars planned include:

- Post-Death Costs
- DoLS
- Lumb (once judgment is released)
- PW2
- Litigation/COP collaboration
- PPOs / Peters Undertakings / Reverse Indemnities
- AI & GDPR
- Drugs
- Investments
- SARs
- PD19b / Costs

“Training and knowledge-sharing help reduce errors and delays, improving outcomes for clients.”

Ongoing Work & Member Support

- Continuing to liaise with the SCCO on Fixed Recoverable Costs.
- SCCO Appeals – members are encouraged to contact the PDF with cases where they feel an appeal that benefits the wider membership.
- The committee is currently actively working with the OPG, feeding in comments on the Deputy Standards currently under revision, ensuring they meet the needs of practitioners and clients alike.
- Ongoing Meetings – with the Court Manager, OPG and SCCO as well as other stakeholders and organisations.

“The PDF ensures professional deputies have a voice and that practice standards evolve in line with the needs of both deputies and the Court.”



PDF NEWS

News and Updates from the PDF HQ

New membership category coming soon!

The PDF will be expanding our membership in 2026 to include health and welfare as a new category.

According to PDF Chair, Stacey Bryant, the introduction of this new membership group will ensure the PDF continues to meet the needs and respond to the issues of our sector, and the appointment of Zena Bolwig to lead this exciting opportunity:

"I am really pleased Zena has agreed to lead this sub-committee for the PDF. Including health and welfare as a distinct membership group will hopefully lead to a more seamless approach to collaboration across the COP community, ultimately meaning we are all able to meet the needs of our clients."

"I am delighted to support the Professional Deputies Forum as it brings together Property & Affairs and Health & Welfare practitioners to promote excellence across Court of Protection practice. For too long, these areas have operated in parallel. By welcoming Health & Welfare practitioners into the PDF, we can share expertise, support one another and encourage greater consistency of approach, all for the benefit of the people at the centre of our work."

- Zena Bolwig (PDF Committee)

Further details on the new Health & Welfare membership can be found on the PDF website [here](#).

Register for our next webinar

Join us on Wednesday 22 April at 12.30pm for the next webinar in our 2026 series: Deputyship Guidance.

This webinar will be hosted by Holly Chantler, Partner at Morr & Co LLP, and presented by Fay Collinson, Kings Chambers who will unpack several questions that frequently arise in Court of Protection practice but where the law and procedure can be unclear.

(This is not legal advice to members; only guidance)

Secure your spot



Exhibition Spaces for Annual Conference SOLD OUT!

The PDF Annual Conference promises to be even bigger and better than last year, and once again the support from our Corporate Members has been incredible. Our exhibition spaces sold out in just 48 hours!

Over 40 exhibitors will be joining us in Coventry, including headline sponsors PLG Consultants, Evelyn Partners, EA Mobility, Fraser & Fraser, ils Case Management, and Quilter Cheviot.



PDF welcomes new Charity Member: Almond Tree Foundation

Almond Tree Foundation



Earlier this year we welcomed our newest Charity Member, the Almond Tree Foundation, to the PDF.

The Almond Tree Foundation provides wellbeing support and education for anyone who supports someone living with disability or serious illness. Their work brings together wellbeing education and a supportive community, so parents feel less alone and more grounded as they navigate life.

It runs free online events, including webinars and drop-in sessions, that offer a safe space for reflection, discussion, and support, alongside the support of a community of people who have walked similar paths.

Discover more about the Almond Tree Foundation here: www.thealmondtree.org

Contact the team via admin@deputiesforum.co.uk to discuss Charity membership.

First PDF members of 2026 achieve accreditations

It has been a busy start to 2026 with a number of PDF members successfully achieving the Foundation level of our Accreditation programme.

Congratulations to:

Suzanne Wibberley (BBH Legal Services Limited)
Isobella Robins (JE Bennett Law Limited)
Emma Keely (Rogers & Norton Solicitors Limited)
Millie Palin (BBH Legal Services Limited)
Kelly Phelps (Forrester Sylvester Mackett Solicitors)



Our Accreditation Scheme is open to all PDF Members; Deputy, Senior and Associate Members. Learn more now: <https://www.deputiesforum.co.uk/training/accreditation>

An illustration of an hourglass with a wooden frame and a clear glass body. The top bulb is mostly empty, while the bottom bulb is filled with a light brown, wavy substance representing sand. The hourglass is tilted slightly to the right. It is surrounded by several colored circles (purple, teal, yellow, purple) connected by thin lines, suggesting a network or a timeline.

Shifting Sands

Join us for a day of informed discussion, networking, shared learning & forward thinking perspectives on the changing landscape of professional deputyship.

PDF | THE PROFESSIONAL
DEPUTIES FORUM

Conference 2026

Thursday 17th September
Coventry Building Society Arena

REGISTER NOW



TICKETS ON SALE NOW



PDF COMMITTEE: Welcome Leanne & Sameena

At the end of 2025, the PDF launched a search for two new committee members to support our exciting plans in 2026 and we're excited to announce that **Sameena Munir** (Kingsley Napley) and **Leanne Gibson** (Ramsdens Solicitors LLP) have recently been appointed to the PDF Committee.

Both Sameena and Leanne bring a wealth of Deputyship and Court of Protection experience, and we look forward to working with them over the coming months.

Meet Sameena Munir

Sameena provides support to property and financial affairs Deputies, with a particular specialism in cerebral palsy and severe brain injury cases.

She works closely with clients who lack capacity, preparing statutory will and gift applications to the Court of Protection and creating personal injury trusts. Sameena is skilled at all aspects of Court of Protection work and also advises on lasting powers of attorney and probate matters.

Meet Leanne Gibson

Leanne is a Solicitor in the Court of Protection team at Ramsdens Solicitors. Following her roles as Paralegal and Trainee Solicitor, Leanne chose to qualify in Court of Protection in 2023.

Leanne specialises in Deputyship management for elderly and vulnerable adults. She also specialises in Court of Protection applications including, but

not limited to, ordinary Deputyship applications and specific issue applications such as obtaining authority to deal with property.

"The Professional Deputies Forum is the leading committee in our area of law, providing informative legal updates and top tips in practice. The community feel is unmatched! I'm excited to be able to help the committee with ideas, solutions, and training development which will provide our members with updated COP knowledge, in turn ensure that we are meeting P's best interests."

- Leanne Gibson (PDF Committee)

Upcoming Events

Sponsored by



The Professional Deputies Forum Spring Dinner 2026

Thursday 16 April 2026
6.30pm – 10.00pm

The Marylebone Hotel,
47 Wellbeck Street, London, W1G 8DN



PDF Spring Dinner Thursday 16th April, London

This annual event is a fantastic opportunity for Deputy & Senior PDF members to meet and network.

Sold Out

[Join the waiting list](#)

PDF Conference 2026

Thursday 17 September, Coventry

Shifting Sands
Changing Landscape of the Role of a Professional Deputy

PDF Annual Conference 2026 Thursday 17th September, Coventry

A day focussing on the changing landscape of professional deputyship.

On Sale Now

[Secure your ticket](#)

COMING SOON

Webinar Series 2026

Topics including:

- The use of AI
- GDPR
- Peters Undertakings
- PPO's
- PW2
- Lumb

PDF | THE PROFESSIONAL DEPUTIES FORUM

WEBINAR





Spring Conference: Insight into Capacity for Deputies



Samantha Bossi
CEO, The Professional Deputies Forum



Our recent Spring Conference brought together leading experts in deputyship and capacity assessment to explore best practices in supporting individuals. Sessions highlighted tailored rigorous preparation for capacity evaluations, complex deputyship challenges, and emerging issues such as AI in client communications.

Bev Palmer, our first presenter, stressed the importance of comprehensive pre-assessment groundwork: ensuring medical stability, optimising the environment around the client, accommodating individual learning styles (visual, auditory, kinaesthetic), and employing communication aids where necessary. Her case study of a 33-year-old man with traumatic brain injury, aggression, substance issues, and trauma illustrated multi-stage trust-building, family involvement, creative therapies, and staff training to enable valid assessment.

Tim Farmer followed the session and complemented this with a three-stage framework:

1. Pre-assessment (defining the decision and legal threshold),



2. Evidence gathering (using the CMSL model: Concepts, Mechanics, Short-term memory, Long-term implications), and
3. The person-centred assessment itself. Techniques included rapport-building, concrete language, visual aids, practical demonstrations (e.g., making tea), and careful management of emotional triggers such as shame or frustration.

Both speakers underscored the importance of multidisciplinary collaboration, the use of conditional

findings in reports, and the need for reassessment when circumstances change.

Ian Brownhill followed with a thought-provoking session exploring recent case law on sex, drugs, and foreign travel within the Court of Protection. He began by unpacking the developing law around assessing P's capacity to engage in sexual relations and the scope of a Deputy's authority when bringing welfare applications on this issue. He then revisited the key principles from *EG v P [2024]*, focusing on the Deputy's position when confronted with the issue of paying a drug debt, and highlighted how the judgement has recently been considered by the Jersey Courts. Ian also touched upon the scenario of a Deputy providing P with an allowance that P then uses to supply drugs, emphasising the important reminder that there is no such thing as "capacity to take drugs." The session concluded with the moving case of Jamie Cole, emphasising the importance of carefully assessing P's capacity to make decisions about travelling to a foreign jurisdiction. Ian provided practical guidance on what decisions should be assessed, as well as the safeguards that might be considered. Crucially, he distinguished





between foreign travel and foreign relocation, noting that the latter engages a different legal test and requires consideration of P's habitual residence.

In the afternoon, our deputy panel explored complexities through real-world cases. Gemma Moreland described managing a client with brain injury whose family trust failed due to misappropriation, necessitating deputy appointment, property structuring to optimise tax, and contentious Court of Protection proceedings. Strategies to increase autonomy for the client included budget flexibility, financial education, and transparent chronologies.



Stacey Bryant examined a young woman's case marked by safeguarding failures, inadequate local authority assessments, and protracted litigation, emphasising the value of early expert input from clinical psychologists and behaviour support plans.



Lucy Nicol addressed transitions to adulthood, highlighting family emotional dynamics, risk-autonomy balance, and proactive preparation through investment exposure and education.

A recurring theme throughout the day was the growing use of AI tools (e.g.,

ChatGPT) by clients and families to draft communications, potentially masking capacity limitations and complicating professional evaluations. Presenters urged vigilance and adaptive approaches.

Overall, the conference reinforced the necessity of individualised, collaborative, evidence-based practice to safeguard vulnerable clients while promoting autonomy where possible, ensuring decisions remain defensible, ethical, and focused on long-term wellbeing.

“The best line up of speakers. Incredibly engaging, informative and interesting. Thank you to the Professional Deputies Forum planning committee for another successful spring conference.”

Our thanks to our Spring Conference hosts Evelyn Partners and our sponsors and exhibitors Nova Care Consultants, ilis Case Management, 39 Essex, and Chroma.

“A really interesting and thought provoking spring conference on mental capacity.”

Forum Focus



PDF Forum Question asked.... kcnsnv;onnv dnonvnnv nnnvknv 'ksdnvld dknvknv'ldnvl'dmvd gls smcmcmc dkdclcl;c

The role of a deputy is rarely straightforward, particularly when clients make requests for funds or support that sit uncomfortably and raise concerns that extend beyond the deputyship, and impact on the deputy's firm and various regulatory compliance.

This thread [Professional Deputies Forum](#) concerns a client wishing to travel to Russia despite current FCDO advice against all travel. The client has capacity to decide to go on holiday generally, is a dual national, and has close family in the destination country. The deputy's concern is less about the abstract right to travel and more about safeguarding, sanctions, insurance validity, limited consular support and the firm's regulatory exposure if matters go wrong.

One response described a related scenario in which a client travelled to a sanctioned country without informing the deputy in advance. Difficulties arose managing the compliance consequences: funds could not be transferred while the client was abroad.

In a second post [Professional Deputies Forum](#) a deputy has asked whether specific authority is required within a standard P&A order to apply for a passport for an adult who cannot sign or consent, in circumstances where there is no health and welfare order.

The responses so far reveal uncertainty. One post questioned whether the authority could properly derive from a financial appointment at all, particularly if the underlying issue is capacity to decide to travel. Another distinguished between the decision to obtain a passport and the decision to travel, suggesting the former might be justified for identification purposes. A further pragmatic suggestion was to seek informal guidance from the OPG and record it carefully.

What unites these posts is the uneasy line between financial authority and personal decision-making, in this case where travel is concerned.

The Mental Capacity Act is clear that individuals can make unwise decisions, and this does not mean that they necessarily lack capacity. If a client has capacity to decide to travel, the deputy cannot veto that choice. However, a deputy is not just a provider of funds. The decision to release substantial sums for travel to a high-risk or sanctioned jurisdiction engages fiduciary obligations and regulatory compliance risk. The deputy must consider whether funding the trip is consistent with their duties, and whether specialist sanctions advice is required. This would require recourse to their firm's compliance department.

In relation to the passport, this is not merely a travel document. It is also a primary form of identification increasingly required in financial transactions. If the purpose of the application is to overcome banking or

anti-money laundering hurdles, the argument that it falls within general financial authority is stronger. If, however, the passport is sought to facilitate overseas travel for a client who lacks capacity to make that welfare decision, the situation does not feel as clear.

Both discussions demonstrate the importance of decision-specific capacity assessments when a client is considering travel, particularly to a more high-risk area. It is of course also the case that incapacity to manage finances does not necessarily remove the ability to decide whether to hold a passport.

What is clear from these forum posts is the practical reality experienced by deputies. Clients do not always consult deputies before acting. In those cases, the deputy's role becomes reactive, navigating blocked transfers, insurance exclusions and compliance constraints after the event, no doubt making the situation even more complex.

These posts are a useful reminder that deputyship rarely operates within neat silos. Financial decisions frequently have welfare consequences and welfare choices often have financial implications. Where travel is concerned and with the situation in the world as it currently is, it feels like considerations and concerns in relation to clients going overseas are only going to increase.



MANAGED MIGRATION TO UNIVERSAL CREDIT



Adam Booth
*Welfare Benefits Advisor,
Chase de Vere*

Managed Migration is the process of moving working age legacy benefit claimants (income-related ESA, income-related JSA, Income Support, Tax Credits and Housing Benefit (in most circumstances) to Universal Credit. If a client is in temporary or Supported Exempt Accommodation (SEA), their rent remains being paid by Housing Benefit.

SEA is housing provided by a landlord and offers care, support or supervision, so observationally rental charge is usually much higher than generic accommodation. For those clients who will be worse off on Universal Credit than legacy benefits, they will have an additional payment called Transitional Protection. When Universal Credit rates rise (in April each year, unless frozen), the transitional protection will reduce by the same amount.

A client will receive a Managed Migration notice inviting to apply for Universal Credit, and they have three months from the deadline to make an application. All clients should now have received their Migration Notices as these should have been issued by December 2025, as the Department for Work and Pensions (DWP) plans to finish Managed Migration by the end of March 2026.

Personal Injury monies are disregarded for Universal Credit purposes if held under Court of

Protection (COP) or in a Personal Injury Trust (PIT). Within the application process, it asks about savings, investments and income. There is a box in there called compensation payments. My recommendation is to total all monies and just input into compensation payments, then put a journal note advising that it is personal injury settlement held under COP or PIT and is to be disregarded as per Universal Credit Regulations 2013, Regulation 75, then paragraph 4 for PIT, or 5 for COP (administered by the court). Universal Credit claims are made and managed online using an online journal. If you encounter any difficulties during the process, please do email me at adam.booth@chasedevere.co.uk and I am more than happy to assist you.

Employment and Support Allowance (ESA)

The DWP is converting contribution-based ESA to New Style ESA. While conditionality is the same, claimants are unable to have income-related components added to a New Style ESA claim. Clients will receive letters advising of this change, and I'd presume many clients may have already received letters advising of this. From December 1st, 2025, income-related ESA can no longer be added to an existing New Style ESA claim. Previously, if somebody fell below £16,000.00 in non-disregard savings, the Deputy could

request income-related components be added to the claim. Instead, these claimants will now have to claim Universal Credit.

Many Universal Credit claimants will still receive New Style ESA, and it is deducted from the Universal Credit claim as it is an unearned income. While it is not financially beneficial to have both payments in payment together, should the client receive a lumpsum of capital (i.e inheritance), that takes them above £16,000.00, the Universal Credit will end but the New Style ESA will remain in payment.

Changes to limited capability for work and work-related activity (LCWRA) element

There are some considerable upcoming changes to the LCWRA element. Firstly, from April 2026 the LCWRA is being rebranded as the health element by the DWP as part of a restructuring of support for disabled claimants.

Currently, a claimant receives LCWRA payment of £423.27 per month on Universal Credit. However, from April 2026, this is subject to change for some claimants, and they will instead be entitled to the reduced element of £217.26 per month.

Claimants are only automatically entitled to the higher rate if they are already in receipt of the LCWRA, are terminally ill with less than twelve months prognosis, or meet Severe Conditions Criteria (SCC).

For new claimants, the LCWRA is payable from three clear months after the condition has been reported. For example, somebody has a monthly assessment period (MAP) from 5th of one month, to 4th of next. They report

their condition on 20th of January, the remainder of the MAP that 20th January falls into, plus three clear MAPs after this, the LCWRA is not payable, so the first MAP of which would be payable is 5th May to 4th June.

A fit note will be required to trigger a Work Capability Assessment (WCA). WCA is an initial capability for work questionnaire and is sometimes followed by an assessment with a healthcare professional. It can take some time for the DWP to process the WCA so they will backdate to the relevant date. Fit notes will need to be required until a decision has been made.

TIP: If you have reported a condition already during or before the MAP that ends on or before 5th January and it has triggered a WCA, for the client to automatically be entitled to the higher rate of the health element, you must ensure there are no gaps in the fit notes being submitted. If there are gaps, the DWP may start the LCWRA from the date of the latest fit note without a gap and this could mean that they do not receive the higher rate automatically. For many claimant's, this date would have been in December 2025.

Severe Conditions Criteria (SCC)

The SCC have been in place for over a decade but have never been something that we as professionals have had to consider. The SCC will ensure the higher rate of the health element is maintained for new recipients from April 2026.

The criteria are:

- The claimant is assessed (via WCA) as having LCWRA, meeting at least one of the LCWRA descriptors.

- Lifelong condition once diagnosed
- No realistic prospect of recovery of function; and
- Unambiguous diagnosis, so fully investigated and confirmed

Some claimants may pay privately for a diagnosis. Therefore, for the diagnosis to be recognised by the DWP, the client may require a supporting letter from a GP or other NHS professional to confirm that they accept the diagnosis, as DWP guidance emphasises NHS corroboration when private diagnosis is used.

There has not been a list of conditions that are considered to meet SCC, but conditions such as severe ABI, Parkinson's Disease and all forms of Dementia are expected to be accepted conditions for the SCC.

When completing the capability for work questionnaire, I suggest ensuring that certain buzz words and phrases are used, such as lifelong, unlikely to improve and permanent limitations. If somebody meets the SCC, they will essentially have this consideration for the rest of their life and are not expected to complete a further WCA. While few clients currently do not have re-assessments, it is part of the DWP's future plans to assess those clients more regularly, similar to PIP. Please note that some existing LCWRA claimants may already meet SCC rules whereby not re-assessed, but this is not something we would previously have seen in decisions.

There is likely to be future case law surrounding SCC, so if you receive a decision in the future for a client and you believe they meet the SCC but have not been awarded the higher rate, please do contact me on adam.booth@chasedevere.co.uk

SOPHIE HURST, BARRISTER AT KINGS CHAMBERS, EXPLORES SOME OF THE KEY CASES AND THEMES FROM THE COURT OF PROTECTION'S PROPERTY AND AFFAIRS JURISDICTION IN 2025.

Key cases: A round-up from 2025



A departure from the general rule as to costs - Riddle v NA [2025] EWCOP 39 (T3)

This case concerned the appeal of Mr Riddle against an order of a District Judge that there be no order as to costs following a finding that P had capacity to manage his property and affairs and thus, Mr Riddle's application to be appointed as P's professional deputy failed.

In the appeal, which came before Harris J, the court upheld the order of the District Judge and found that the departure from the general rule under 19.2 Court of Protection Rules 2017 was justified. Notwithstanding Harris J finding that the application had been brought by Mr Riddle in good faith, the application had nonetheless failed with the protected party having gained "little to no benefit or advantage" from the application being brought.

In responding to a submission made on behalf of Mr Riddle that such a determination may deter professional deputies from making such applications in the future and leave protected parties vulnerable, Harris J commented:

[28] [...] the Court is not persuaded the answer to such a systemic problem is that the vulnerable adult, P, should bear the burden of those costs, as opposed to alternative solutions being found. Local authorities pursuant to their safeguarding duties and responsibilities would need to assume the burden of bringing such applications before the court, ensuring P would not fall through a safeguarding gap. Alternatively, the public authority could choose to enter into contractual arrangements to underwrite the costs of professional deputies such as Mr Riddle to bring the applications on their behalf. That may seem a fairer solution than imposing the costs burden on vulnerable adults such as NA.

Retrospective assessments of capacity and costs - Furley Page LLP v KFL [2025] EWHC 1703 (SCCO)

In this case before Costs Judge Whalan, the court was asked to determine the enforceability of costs against an unnamed Defendant with a diagnosis of dementia, who had instructed the Claimant solicitors firm to represent him at a time when, it was argued, those solicitors knew, or ought to have known, he lacked contractual capacity. The court was therefore required to consider the Defendant's capacity retrospectively.

Paragraphs [13 - 17] of this judgement provide a helpful summary of the relevant legal principles and paragraphs [40-45] set out their application to the facts of this case. Costs Judge Whalan relied upon contemporaneous assessments of

capacity, documents and records in reaching his conclusion as to when the Defendant, on the balance of probabilities, lost the requisite capacity, as well as when the Claimants could be said to have had “actual or constructive knowledge” of such incapacity.

Whilst the court ultimately determined that the Defendant had capacity at the time of signing a retainer with the Claimant solicitors, the case provides an important reminder that contemporaneous records must be retained and that considerations as to capacity ought to be thoroughly explored at the time of instruction.

Testamentary capacity - *Parfitt v Jones & Anor* [2025] EWHC 1552 (Ch)

In this case, in which the daughter of the deceased sought to challenge the validity of her mother’s will, the High Court upheld the established, common-law test of capacity to make a will, as set out in *Banks v Goodfellow*.

Within the judgement, HHJ Keyser KC was clear that *Banks v Goodfellow* “does not lay down a memory test” [80.7] but is instead is about a testator’s understanding. Whilst an expert was instructed to provide evidence as to the testator’s capacity retrospectively, the court made a number of criticisms of the report produced and instead placed far greater weight on contemporaneous records and documentary evidence. The court ultimately determined that the testator did have testamentary capacity at the time the will was made.

This judgement emphasises the necessity for a clear, evidential basis

when alleging incapacity, with the court expressing stern criticism at the lack of evidence in this case and HHJ Keyser KC observing that “*It is, I fear, rather unsavoury and disrespectful to the dead to advance what I regard as a groundless case that a clearly capable testatrix lacked testamentary capacity*” [81]

A deputy’s authority to pay P’s drugs debt - *EG & Anor v P* [2024] EWCOP 80 (T3)

This ex-tempore judgement reported in 2025 concerns the authority of a financial deputy to pay off a drug debt incurred by a protected party. P had been arrested with a large quantity of drugs being seized from his home, the dealer of which was seeking payment of £17,000 from P in recouperation. The matter was brought to the attention of the court by P’s professional deputies and came before the President of the Family Division who determined that the key issue was whether or not P had capacity to make the decision to repay the debt, or not.

The court accepted the conclusions of the consultant clinical psychologist instructed to prepare a report in the case, who had found P to lack capacity to make that decision. Having found P to lack capacity, the court went on to explain, “*Ordinarily, in a welfare setting, the court would move on to evaluate P’s best interests and decide whether or not the particular step in P’s affairs should or should not be taken. But as I have indicated, it is common ground that there is no prospect of a court sanctioning a payment of this nature in these circumstances. The court would effectively itself be engaging, albeit at arm’s length, in serious criminality and that is not a step that is to be contemplated.*” [19]

At paragraph [7], the court sets out the approach to be taken if P had been found to have capacity, “*If P does not lack capacity, then it is accepted before this court and I accept that he is entitled to ask for whatever sum of money he desires for the particular function for which he has capacity and that the deputies would not be in the position of placing themselves in jeopardy of criminal prosecution were they to abide by his instructions; indeed, they would have to abide by his instructions because, with respect to the sum, it is his money and he would have capacity.*”

Hearing cases in private - *W v P* [2025] EWCOP 11 (T3)

In this case, Rajah J was required to consider whether an application made by P’s wife for a statutory will and to enter into a number of lifetime dispositions, ought to be heard in public or in private. The protected party was a figure who used to be in the public eye and it was accepted that their affairs were likely to be the subject of public curiosity.

Paragraphs [5 – 11] of this judgement provide a helpful overview of the rules and practice directions relevant to whether hearings ought to take place in private or in public.

In determining that the case ought to proceed in private, Rajah J explains at paragraph [13], “*In this case, a public hearing which identified P would inevitably result in significant publicity to satisfy public curiosity. That would be a serious intrusion in the private life of P and his family. For reasons on which I will not elaborate here, this could have serious consequences for P and his family. The “supposition” that a transparency order would protect P’s privacy is, in this case, displaced.*”

I am satisfied that it is not possible to craft reporting or other restrictions which would protect P's identity and the privacy of P and his family. There is a very significant risk of jigsaw identification unless the reporting restrictions (and other measures such as exclusion of the public from parts of the hearing) were so stringent as to make a public hearing meaningless. This substantially outweighs any legitimate public interest in this hearing being in public, even with reporting restrictions, and amounts to a good reason for the matter to be heard in private."

The court's jurisdiction and the authority of a deputy over a minor and their affairs when habitually resident overseas - Irwin Mitchell Trust Corporation Ltd v KS & Ors [2025] EWCOP 7 (T2)

This case concerned a child who suffered a brain injury as a result of clinical negligence at birth. Irwin Mitchell Trust Corporation Ltd was subsequently appointed as their financial deputy, however, a year later, the child and their family moved to India.

The deputy made a number of applications to the Court of Protection in relation to the child's affairs, including to purchase properties in India. The court was therefore required to determine whether it retained jurisdiction over the child and if the deputy's authority over their affairs remained valid.

At paragraphs [45 – 57] of this judgement, Senior Judge Hilder points to Article 14 of Hague 34 and the associated commentary in the Handbook and the Lagarde Report to

explain her reasoning for finding that the Court of Protection did retain jurisdiction and that the deputy did retain their powers, notwithstanding the child's habitual residence in India.

At paragraphs [53 - 55] Senior Judge Hilder does highlight a caveat to Article 14, that the continuation of such jurisdiction would be subject to any steps taken by the state in which the child is residing to modify, replace or terminate those protective measures currently in place. Additionally, she explains that the conclusion may well be different if the child had never been habitually resident in England, but had been awarded damages in England in respect of injuries sustained on holiday. Such a situation would need to be considered as and when it arises.

Removal of a deputy - AECO [2025] EWCOP 5 (T2)

This case concerned an application by the Office of the Public Guardian to

remove AECO's mother as her financial deputy and replace her with a professional deputy.

Whilst the court ultimately found that AECO's mother ought to be removed and replaced by a professional deputy on account of multiple failings - including failures to submit annual reports on time, failure to pay the supervision fee as it fell due, mixing AECO's money with her own, occupying AECO's property, making questionable transactions and failing to co-operate with professional and statutory bodies - HHJ Cronin reiterated that, *"The court will always prefer to have a family member as deputy where there is a family member who is able and willing to take on that responsibility"*. [16].

The case serves as a reminder that "the court has an unfettered power to remove a deputy where it is in a protected party's best interests to do so" [6].



Litigation capacity and retrospective assessments - *Johnston v Financial Ombudsman Service* [2025] EWCA Civ 551

In this case heard by the Court of Appeal, Mr Johnston sought to assert that he lacked litigation capacity and had done so at the time he had commenced proceedings against the Financial Ombudsman Service which had ultimately been struck out and Mr Johnston ordered to pay costs. The court dismissed the appeal and found that Mr Johnston had failed to rebut the presumption of his capacity to litigate.

Within this judgement, the court provides a helpful summary of the legal principles and leading

authorities governing assessments of capacity. At paragraph [66] Baker LJ emphasises *"The presumption of capacity is a fundamental principle in our law. As Burnett J observed in V v R, 'the underlying policy of the Act is to avoid concluding that incapacity is established unless, after careful enquiry, it is necessary to do so'. Furthermore, 'in the context of litigation, a finding of incapacity curtails the right of unimpeded access to the law' – a further fundamental principle. The evidence adduced on this appeal comes nowhere near rebutting the presumption.*

When considering how to determine capacity retrospectively, the court endorses the list of evidence identified by Poole J in *Public Guardian v RI and Others* [2022] EWCOP 22 as being of

particular importance, [27] "[...] *"... Ideally, where there is a dispute about past capacity which the court is required to determine, it would be helpful to have evidence as to, a. The certificate provider's experience ... b. Evidence from carers and family members ... c. Medical evidence, capacity assessments, assessments for benefits, records from carers or activity centres, or other professional evidence roughly contemporaneous with the relevant date ... d. An assessment by a suitably qualified and experienced person of P's current capacity and reasoned opinion as to their capacity ... at the relevant time, such opinion being informed by review of relevant medical records, contemporaneous assessments, and the evidence from carers and family members."*



Compliance for COP Teams: Teal Compliance Top Tips

Simon Harbord delivered an insightful webinar for the PDF at the end of 2025 and highlighted some key areas relevant to COP teams when it comes to compliance issues. Here, we share some top tips from that webinar.



Caroline Featherby
PDF Committee,
Barcan & Kirby



1. Being aware of Money Laundering and risks to COP teams – often the money has already been laundered by the time it would get to a Law firm, even more important to be highly vigilant when it comes to source of funds.
2. S.327 Proceeds of Crime Act – you would be guilty of committing an offence if you conceal, convert, remove, disguise or transfer monies, if you know or suspect. Can be as easy as moving funds from client account to somewhere else for a client. Source of funds and source of wealth is hugely important.
3. S.328 Proceeds of Crime Act – enter into, or become concerned in an arrangement, which you know or suspect facilitates the control of criminal property – you don't have to be doing a transaction to be caught out by this, even just advisory matters can be caught.
4. Increase in matters where an elderly person is being given money to put in their accounts – this could become our problem if you then become that person's financial deputy and take control of the accounts/transfer funds into client account.
5. Money Laundering Regulations will require you to stop working if you cannot complete your client due diligence. If suspicious at all, obligation to report to the National Crime Agency. Difficulty if funds are already in client account, cannot send it back to client without committing an offence. **Don't accept any funds until client due diligence is complete, and that includes ID as well as source of funds/source of wealth.**
6. Don't include client account details in the client care letter; a client should not have those bank details until all client due diligence has been completed.
7. Criminal property is property that represents a person's benefit from criminal conduct; and the alleged offender knows or suspects it constitutes or represents such a benefit. This can be the client or the client's family, e.g. if advising an adult child and you know or suspect their parents have been involved in criminal conduct, we have a duty to report and not to act.
8. Definition of **suspicion** – statute does not require the suspicion to be clear or firmly grounded or based upon reasonable grounds, however, a vague feeling or unease would not suffice (R v Da Silva [2006]).
9. If you need to report to the National Crime Agency it can take up to a week for them to get back to you – be aware of timescales and manage expectations of client, ensure all due diligence is completed and satisfactory before undertaking any work. If red flags are ignored you could face imprisonment.

10. The person who is the beneficiary of the advice you are giving is the person you need to do client due diligence on.

11. Client due diligence – 5 requirements:

1. Matter risk assessments – identifying high/medium/low risk isn't sufficient, need to add a detailed narrative of the risk associated with the instruction
2. Identify your clients
3. Verify your client's identity
4. Obtain information on the purpose and intended nature of the business relationship:
 - What is the purpose of the transaction?
 - Is that usual for this kind of client?
 - Is it an unusually large or complex transaction?
 - Does it lack economic or legal purpose?
 - Where is the money coming from and how did they get it?
5. Conduct on-going monitoring – if instructions change through lifetime of the client, need to re-check source of funds/repeat risk assessment

12. For Trust clients – need to ID the Trustees, the beneficiary, the Settlor and any Guarantor's of the Trust.

13. Source of funds & source of wealth:

1. Where did the money come from? How did you obtain it? Does it make sense that you obtained it based on your lifestyle/salary, does it tally with your income?
2. Check bank statements, read through them all
3. If transfers between accounts, need to see all statements

4. Need to be satisfied that client has obtained their money through legal activities

14. If monies from criminal activity are mixed with legitimate funds such as PI settlement award monies, all of it is tainted. There is no distinction between the legal and illegal funds.

15. Politically Exposed Person's – if they are a UK based person can be fairly relaxed about it, however still need to do Enhanced Due Diligence on them. Also need to get senior management approval to be able to act for them – this is required by the SRA.

16. Due Diligence – which one?

- Simplified Due Diligence – Know/Ask re Source of Funds and Know re Source of Wealth
- Standard Due Diligence – Proof re Source of Funds and Ask re Source of Wealth
- Enhanced Due Diligence – Proof re Source of Funds and Proof re Source of Wealth

17. For Trust clients – need to ID the Trustees, the beneficiary, the Settlor and any Guarantor's of the Trust.

18. Source of Wealth:

1. May need to consider
2. May need to ask
3. Are the client's funds from an inheritance, a re-mortgage, or a gifted deposit from parents/other family?
4. May need to prove it – what are the documents that back this up?
5. Gifts and donors – what evidence is required and what checks should be done?

19. Third party funders – if acting as a deputy for P, and other family members/third party get involved in buying something such as a property. Need to do source of funds and source of wealth for the third parties as well.

20. Matter risk assessments – 3 stages:

1. File opening
2. Client due diligence and source of funds/source of wealth
3. Before the transaction takes place

21. Sanctions – you must not undertake paid work for a designated person unless you have been granted a licence to do so by the Office of Financial Sanctions Implementation or acting under a general licence. Applying for a licence can take up to 3 months.

22. Can check on Treasury website to check if someone has been sanctioned.

23. Financial Sanctions – cannot deal with funds or economic resources owned, held or controlled by a designated person.

24. Sanctions Compliance – Key differences to AML:

1. Sanctions = strict liability offence
2. Sanctions cover fees – AML have "adequate consideration"
3. Ownership and control differs from MLR UBOs
4. Reporting is different
5. Can't delegate responsibility





YOUR QUESTIONS ANSWERED:

What to do re source of funds requirements for PI clients where information be limited?

Can only work with what you have but look back at what they did for work and what would be reasonable for someone like them. Remember not obliged to act for anyone, can always refuse instructions if not sure.

How can you identify if a client is a victim of cuckooing?

If someone has been befriended by someone that was not known to them previously, check with family etc, people who know them. If anyone you're not sure about, start by googling them. If concern re cuckooing, would need to report to the Police.

What requirements for review procedures for a deputyship file?

A review should take place when something transactional is due to happen, if new monies have come in. Are you being instructed to do something unusual for that client? Can be more relaxed about it if only management settlement award monies.

Who do we need to get ID for?

Whoever the client is. The beneficiary/settlor/donor/P as well as any Trustees. Ideally get a copy of their bank statement before transferring funds to them. If sending monies to another country would need to keep record of all those dealings.

What steps to take if P is a PEP?

The law requires you to understand the source of their wealth and get senior management approval.

What steps should be taken if P is hoarding cash?

It depends on what would be considered unusual – what was their background, would they have been involved in cash only businesses? Or are they elderly who prefers to keep cash in the house? The key is know your client. What is normal/unusual for them.

How do you ID a client if they don't have a passport or driving licence?

If they are in a care home, a letter from the manager of the care home on letterhead would suffice to prove address. If they have letters with a NI or NHS number on them, letter from benefit agencies would be okay.

HOW TO SUPPORT A CLIENT TO SECURE A TENANCY FOLLOWING THE INTRODUCTION OF THE RENTERS' RIGHT ACT 2025



Sarah Cummins
Housing Partner
Anthony Gold Solicitors



Nikki Basin
Senior Housing Associate
Anthony Gold Solicitors



Emma Tante
PDF Committee, Partner
Anthony Gold Solicitors



A deputy will frequently be engaged to find a tenancy for their client in the private rented sector and often this will involve paying rent in advance to secure the tenancy. This is because the tenant does not have a regular income from employment, is often reliant on benefits or cannot pass the required credit checks.

On the 1 May 2026, the Renters' Right Act 2025 ('the Act') comes into force and there will be new restrictions on landlords and agents taking rent in advance which will prevent deputies and landlords from agreeing large upfront payments to secure a tenancy.

What are the changes to rent paid in advance?

From the 1 May 2026, all existing assured shorthold tenancies will automatically convert to assured periodic tenancies meaning that these tenancies will no longer have fixed terms. Tenancies will continue as



periodic "rolling" contracts until they are ended either by the tenant serving a notice to quit, the landlord proving a ground to recover possession or the parties mutually agreeing to end the tenancy. Amongst other changes, restrictions on landlords requesting rent in advance will apply to assured periodic tenancies.

The Act restricts landlords and agents requiring rent in advance at different stages of agreeing a tenancy. These stages can be broken down as follows:

1. Before the tenancy is entered into (signed by the parties) a landlord or agent cannot take any rent from the tenant. If they do, they risk enforcement action by the local authority. Deputies can therefore



no longer pay or even offer large upfront payments before a tenancy is signed to secure the tenancy.

2. Between signing the tenancy and the tenancy starting. During this period the landlord cannot take more than 1 month's "initial rent".
3. Once the tenancy has started the landlord or agent cannot require the tenant to pay rent before the period for which it is due. For example, if rent is due on the 15th of the month the landlord cannot ask the tenant to pay before the 15th. The landlord cannot require the tenant to pay many months' rent upfront.

The rent in advance changes only apply to assured periodic tenancies entered into on or after 1 May 2026.

What do the changes mean for deputies entering into tenancies on behalf of protected clients?

Tenancies entered into before 1st May 2026

- A deputy can enter into an assured shorthold tenancy agreement any time before 1 May 2026 and still offer to pay rent upfront both before the tenancy is signed and as a term of the tenancy agreement.
- An assured shorthold tenancy entered into before the 1 May 2026 will automatically convert to an assured periodic tenancy from the 1 May 2026. If the converted tenancy contains rent in advance provisions, then rent in advance can continue to be taken. The terms remain valid and enforceable by the landlord for the duration of the agreement even though the tenancy will have converted to an assured periodic tenancy on 1 May 2026. For example, where a tenancy entered into before 1 May 2026 requires the tenant to pay 6 months' rent in advance, this will continue to be an enforceable obligation for the duration of the tenancy.

Tenancies entered into on or after 1st May 2026

- The landlord or agent cannot accept rent or an offer of rent before the tenancy is signed even if the tenant wants to pay this and pays voluntarily. The landlord or agent would have to return the payment or risk the local authority issuing a civil penalty.
- Once the tenancy agreement has been entered into and before it starts, a landlord or letting agent may take rent in advance but the

amount they can take is limited to one month if the tenant is paying rent monthly, or 28 days if the rent period is less than one month, for example, weekly.

- Once the tenancy has started, a tenant may still choose to pay or offer to pay rent in advance in a lump sum, but the landlord or letting agent cannot require the tenant to make this payment and/or make this a condition or term in the tenancy as it will be unenforceable. Payment will be voluntary and deputies will need to consider the risk of making large upfront payments.

The changes to the tenancy structure and the ban on accepting large upfront payments is likely to result in landlords and agents being more risk averse when selecting tenants. They are likely to screen tenants more thoroughly by checking their credit history, financial record and/or insisting on guarantors. Deputies should be prepared to evidence the requested information.

The arrangement where a deputy is involved can already raise suspicion for landlords and some agents, as they are often not familiar with the concept of a deputy. Any delays or complexities that arise in providing information could cause the landlord to lose trust in the financial security of the tenant and to look elsewhere. Where tenants are unable to provide the requested financial information, landlords can simply choose to let to other tenants that are able to provide this information.

It is also important to note, that the reforms also ban rental bidding and prevent a landlord from accepting a rent higher than the advertised market

sum. This means that a deputy cannot simply seek to secure a tenancy, by offering a higher rental sum at the outset.

Other changes in the Act aimed at preventing discrimination in the rental market do provide some helpful protection for clients of a deputy, which is that a prospective tenant cannot be refused on the basis that they are reliant on benefits income. Whilst this appears to be a welcome development in theory, it is unclear how this will be monitored in practice and there is no prohibition on a landlord taking a person's income into account when considering whether a prospective tenant would be able to afford the tenancy.

Practical Tips

To overcome the above issues deputies may want to consider the following:

1. Can a guarantor be provided and, if so, by whom? The requirements for a guarantor are likely to differ depending on the referencing agencies used by agents and their individual policies. Some referencing companies and agencies will not accept a corporate guarantor such as a law firm, nor will they accept deputies who are acting in their professional capacity. Understandably, professional deputies are very unlikely to want to act as a guarantor in their personal capacity and they may not be insured to do so. A deputy could explore the possibility of a family member acting as a guarantor, but it may not be liability they are willing, or able, to take on.

2. The deputy may want to explore engaging a professional guarantor service. However, applications may meet the same referencing barriers as applying for a tenancy and, even if accepted, the service itself can be expensive. Each organisation's terms and conditions should be checked in detail and at present, it is not known if any professional guarantor service is in a position to support a deputy.

3. A deputy should ensure enough funds are in place to meet the referencing requirements. In some cases, we have seen that a deputy has been asked to show they hold at least 3 years' worth of rent. Where someone has suffered an accident, and the claim is ongoing, it will be essential for deputies to have sufficient interim funds to meet these requirements. Putting the litigator on notice of this need, as early on as possible will be crucial. In our experience, it has also been persuasive to set out on headed paper from the firm handling the litigation the position with the claim, the potential value, and the timescales for when the claim is likely to settle and/or when further funds are likely to be received.



4. A side letter of comfort: a further potential option that deputies may want to consider is offering a side letter to the landlord confirming an intention to pay rent in advance voluntarily during the tenancy. This may provide some comfort to landlords but would not be legally enforceable and any such term in the tenancy agreement itself would be void and contrary to the Act's provisions. As above, the deputy would need to have some security for the rent paid up front, in case the tenancy needs to end earlier than expected. In practice, agents may be nervous about holding large upfront payments of rent in advance, given the changes introduced by the Act.

5. Providing references: deputies can seek references from previous landlords to demonstrate their previous rental payment history. It is also worth highlighting to agents and landlords that the fact a professional is involved in overseeing the tenancy and managing the payments should offer more security than an average tenant as they have a stable source of funds available and are not vulnerable to financial

problems that often lead to arrears, for example, the loss of a job. It may be that over time where clients can show a history of paying rent upfront voluntarily, landlords will be less cautious about entering into tenancies with protected parties.

Conclusion

All of the above will make finding and securing a suitable tenancy for a deputy's client more difficult, particularly while landlords and agents adjust to the new rules. Sadly, it seems reforms designed to improve tenants' rights will result in unintended consequences for vulnerable individuals making it harder for them to secure accommodation in the private rented sector. This is a developing area, and it may be that over time, these issues can be managed.

The above is a short guide on some of the issues we have encountered to date.

If you have any further questions, please feel free to reach out to Sarah Cummins and Nikki Basin at Anthony Gold Solicitors LLP on scm@anthonygold.co.uk and nba@anthonygold.co.uk.

HAVE YOU EXPLORED OUR CoP DIRECTORY YET?

THE PDF COP DIRECTORY IS A UNIQUE AND COMPREHENSIVE
COLLECTION OF BUSINESSES RELEVANT TO COURT OF PROTECTION
WORK.

[VISIT OUR COP DIRECTORY NOW](#)

FIRMS LISTED IN THE DIRECTORY ARE PDF CORPORATE MEMBERS SO IF YOU
FOLLOW UP WITH A LISTING FROM THIS DIRECTORY, DON'T FORGET TO LET THEM
KNOW WHERE YOU FOUND OUT ABOUT THEM!

CoP Directory

LOG IN

PDF | THE PROFESSIONAL
DEPUTIES FORUM

BE PART OF THE PDF COMMUNITY

RAISING STANDARDS

Regular webinars, training &
guidance

CONNECT

Join our face to face events
throughout the year.

**WE'RE STRONGER
TOGETHER**

**SHARE
EXPERIENCES**

Active member forum for
advice and support



The Secret Deputy

If you'd told me three months ago that I'd be sitting here, in February 2026, writing an update that could essentially be copied and pasted from November... well, I'd have said: "Yes, that does sound exactly like the Court of Protection."

Because here we are. Still waiting. Still refreshing. Still living in this strange, procedural Groundhog Day where everything is "imminent," "expected shortly," or "with the judge." In fact, I'm beginning to suspect that several key judgments have been quietly moved to the same secure location as PW2, the Holy Grail and the Ark of the Covenant.

In the meantime, the entire profession now treats BAILII refreshes with the same intensity that normal people reserve for tracking Taylor Swift ticket drops. I've seen seasoned deputies develop complex emotional cycles – hope, denial, mild fury, acceptance – all in the space of a single browser refresh. One colleague has even taken to announcing, every Friday: "Maybe next week." A phrase that has now lost all semantic meaning.

And with the vacuum of information comes... speculation. Endless, creative, borderline-fantastical speculation. Someone swears a clerk was spotted carrying a thick leverarch file, so "that must mean something is coming."

Another reports that a certain judge smiled faintly on Teams, which apparently signals judicial movement on a major issue. At this rate, we're about a week away from dedicating a corner of the office to interpreting judicial omens like ancient priests reading smoke patterns.

In fairness, the profession has developed some fairly creative coping mechanisms to help us all survive this extended period of judicial radio silence. I've now seen offices running unofficial bingo cards for the most frequently repeated judicial phrases ("I'll reserve judgment," "Let me consider that," "We'll list it for directions"), and one team has instituted a rule that every time someone says "We're still waiting," they have to contribute a snack to a growing communal "morale table."

Another firm reportedly has an office sweepstake not on when a judgment will be handed down, but on which one will be delayed the longest. And honestly? At this point, it feels like a valid CPD activity.

And remember my festive wishlist?

- Quick COP9 responses? No change.
- Faster SCCO assessments? Absolutely not.
- Correct orders? I admire my own naïve optimism.
- PW2? Don't even ask – it's practically folklore at this point.

So yes – not much to report. But perhaps that's the comfort of COP: the chaos may change shape, but the underlying rhythm of waiting, improvising, and politely explaining the inexplicable to clients remains a constant.

Here's to the next three months: may they bring clarity, consistency, and the faintest possibility of a judgment... or at the very least, a new rumour to keep things interesting.



A SPRING CLEAN FOR DEPUTYSHIP FILES: A PRACTICAL REVIEW FOR PROFESSIONAL DEPUTIES



Tom Hall
Partner
Hugh James

However experienced we may be, it is all too easy for long-running property and financial affairs deputyships to slip into a rhythm. Bills are paid, accounts are filed, investments tick along and reviews happen as they fall due. Yet the OPG's Professional Deputy Standards remind us that good deputyship practice is not simply about maintenance; it is about active, structured oversight. An annual "spring clean" of each file, alongside regular file supervision, can be an invaluable discipline.

1) Authority and Scope

Start with the basics. Revisit the deputyship order and confirm that the authority being exercised aligns with its terms. Are there restrictions that require renewed attention? Have circumstances changed such that a further application to the Court may be necessary – for example, in relation to gifting, statutory wills or significant property transactions? Applications are currently taking several months at the Court of Protection, and so planning for these in advance where possible (for example when it is clear that a property purchase or sale will be required) can save valuable time later.

2) Care, Funding, Capacity and Best Interests

An annual review should revisit the client's current care regime and associated costs. Are care packages still clinically supported and proportionate? If the client is in receipt of a

substantial damages award, is the budget sustainable, and if not, are there plans in place to address this and have relevant best interests' decisions in relation to expenditure clearly recorded on the file? If local authority funding or NHS Continuing Healthcare is in place, has eligibility been reassessed, or have circumstances changed so that it should now be considered?

The deputy should also review the benefits being received by the client and ensure that these remain appropriate, or whether there are further benefits could be claimed. This should include a review of the client's council tax position. The deputy should also arrange periodic benefits reviews by a specialist benefits advisor. An annual spring clean will allow the deputy to consider when this was last carried out, and whether a further one should now be undertaken.

Deputies should also sense-check whether any further capacity assessments are needed, and whether there are any emerging best interest decisions on the horizon. An annual spring clean can be a good opportunity to look to the future and consider any major life events that are approaching, such as turning 18 or leaving education. Advance planning, consultation with the client, family and professionals can prevent difficulties arising when these life changes do occur, and ensure everyone feels prepared

for the changes that may follow. This is particularly important as children approach the age of 18 and parents in particular can struggle with this transition if they are not fully prepared for it.

3) Investments and Financial Planning

The OPG standards emphasise prudent financial management. Each year, consider whether the investment strategy remains suitable. Has the client's life expectancy, risk profile or expenditure pattern changed? Is the cash buffer sufficient? Have investment managers provided clear, comprehensible reporting? The deputy should ensure that they meet with the client's financial advisor on at least an annual basis to review these points.

This is also a good moment to review tax compliance, ISA subscriptions, trust arrangements (for example property ownership trusts) and insurance cover. Properties should be inspected periodically, insurance valuations checked (to include whether rebuild costs have changed) and tenancy arrangements scrutinised where relevant.

Another very important point to revisit is the need for a will for the client. Do they have a will in place and if so, does it remain valid and in line with their likely wishes and feelings. Has the client, or their family, been through any significant milestones, bereavements or births which may mean that a will needs to be revisited. Alongside this, is the question of whether an up to date capacity assessment in relation to testamentary capacity is required.

4) Record Keeping and keeping things in order

The annual report to the OPG should

never be a last minute scramble. A spring clean allows deputies to test whether file notes properly evidence best interest decisions, whether capacity assessments are recorded where required, and whether monthly financial schedules reconcile to bank statements.

Check that client visits are documented, and any arising actions have been recorded, actioned and followed up on. The deputy should visit their client on at least an annual basis to ensure everything is in order, but more frequent visits can be undertaken if necessary, but of course the costs of such visits will need to be justifiable.

From a practical perspective, a spring clean should also extend to the housekeeping of the file itself. Digital files in particular can quickly become unwieldy if documents are saved inconsistently or across multiple locations. Deputies should check that correspondence, key financial records, investment reports, tax returns and Court orders are saved in the correct folders and are clearly labelled. Duplicates and outdated drafts can be archived appropriately. Consider whether there is a comprehensive electronic case plan at the front of the file: a concise, living document setting out the client's background, family dynamics, deputyship authority, key professionals, investment strategy, property details, anticipated future decisions and any known risks etc. This should not be a static document created on appointment and forgotten; it ought to be reviewed and refreshed continually so that anyone within the team can quickly understand the essential features of the deputyship and step in confidently if required.

5) Risk and Safeguarding

A file spring clean will provide a deputy with an opportunity for an additional review of petty cash expenditure, family tensions or changes in care providers that warrant closer monitoring. Deputies are often well placed to identify early signs of financial abuse or safeguarding concerns. The Deputy should always be alert to such issues, and an annual spring clean of the file is a good opportunity to review and consider any worrying dynamics from a fresh perspective.



6) Supervision and Peer Review

Finally, no professional deputy should operate in isolation. Structured supervision within departments, coupled with periodic peer review of files, strengthens practice and protects both client and deputy. A fresh pair of eyes may identify an overlooked application, an outdated investment strategy, a surety bond that needs to be reviewed, or a recording gap that could prove problematic under scrutiny. The above is a non-exhaustive list but provides some examples of areas which require additional oversight.

In busy practices, it is tempting to focus only on the urgent. A deliberate annual review of each deputyship matter, in addition to regular supervision, reinforces compliance with the OPG standards and, more importantly, ensures that our clients' affairs are managed proactively, transparently and in their best interests. A spring clean is not administrative housekeeping; it is good deputyship.

PDF | THE PROFESSIONAL
DEPUTIES FORUM