

**Court of Protection Rule Committee 18 October 2022
Minutes**

Attendees	
The Honourable Mr Justice Hayden (Chair) (VP)	Vice President of the Court of Protection
Her Honour Judge Holder (HHJ)	Senior Judge CoP
Alexander Ruck -Keene (AK)	39 Essex
Joan Goulbourn (JG)	MOJ Policy
Sophie Gowans	Judicial Office.
Olivia Duarte	MOJ Policy
Martin Terrell	Warners Law
David Edwards	OSTP
Elaine Brown	OSTP
Mala Nair	HMCTS
Caroline Bielanska (CB)	Solicitor
Joseph O'Brien (JO'B)	St John's Buildings
Holly Chantler	Solicitors for the Elderly
Rachel Aaron (RA)	Lawyer, MoJ, Government Legal Department
Jess Newton (JN)	HMCTS

Item 1: Apologies

Lorraine Cavanagh
 Kate Edwards
 Alasdair Wallace.
 HHJ Marc Marin
 Jessica Newton
 Nicola Mackintosh
 Thirza Mullins
 Mary MacGregor
 David Rees
 Shadia OustaDoerfel
 Sarah Castle – Official Solicitor
 Ellie Casey

Item 2: Minutes and Actions

The Minutes were accepted.

Item 3: Update from VP

VP advised that the recent judgement on covert medication has led to enquiries from Joshua Rosenberg and Louise Tickle regarding closed hearings. As a result, the VP has put together a document concerning public and private hearings. Which he sent to Joshua Rosenberg, who has found the document helpful.

JO'B advised that there had been considerable comment on social media regarding the case, some of which had been inaccurate. He considered that there was need for a new debate around closed hearings.

ARK commented that this raised issues regarding hearings where the legal representatives of the party are not notified.

VP concluded that no further action be taken on this for the time being.

Item 4: Update from MOJ

MoJ update:

Mike Freer is the junior minister with responsibility for the MCA.

Practice Directions in relation to e-pilots and the use of the welsh language had been signed off and a request made for them to be uploaded to the judicial website.

Policy continues to work with Judge Hilder, FAH court staff, HMCTS and MoJ digital regarding the ongoing development of the upfront notifications pilot with a view to this becoming normal procedure in P&A cases in the new year.

The joint MoJ / DHSC consultation on the revised MCA Code of Practice & the proposed Liberty Protections Safeguards closed on 14th July 2022, with over 600 responses received.

Item 5: Updates from the various Working Groups

HHJ provided an update on COP3 – the group have received the draft mocked up by the forms designer and will reconvene to consider next steps.

CB – The working group on costs met on 10 October to review PD 19B (Fixed Costs). The PD is out of date especially in relation to conveyancing costs. Consideration needs to be given to how non-regulated professional deputies 'commercial deputies' are provided for.

HHJ- commented that they should have their own category. There is also the new category of 'freelance solicitor' as defined by the Law Society.

VP commented that fixed costs does not provide sufficient remuneration.

Further update on this work to be provided at the next meeting.

Item 6: Simplification of transparency orders

ARK Referred to *EM 2020 (EWCOP 31)* and Mostyn J's concerns regarding the previous transparency orders in the case. In light of Mostyn J's concerns the Committee was asked to consider whether the standard transparency order which dates from 2017, should be reviewed.

VP – The suggestion of investigating competing rights as mentioned by Mostyn J is unworkable and therefore the court should continue as is.

Item 7: Up front notifications in P&A Deputyship applications.

MoJ provided an update on the work underway in policy and legal to convert the upfront notification pilot into Business as Usual.

JN provided more detailed information on how the upfront currently works for the professional involved in the pilot and the wish to widen this out to all users making P&A applications.

RA –explained the changes that were required to be made to Rule 9 of the CoP Rules and the need to draft a new PD to support the changes.
The Committee agreed to the proposed changes.

Item 8: Clarification on methods of service

MoJ referred to the doubt amongst some court users concerning whether or not electronic service of documents is permissible in the court without a formal direction. The Committee was referred to the kneeling schedule prepared by RA which sets out the proposed changes to Rule 6 and PD 6A.

The Committee agreed that the proposed changes should be made to provide clarity to court users.

Item 9: AOB

1. **VP** – Would like future meetings to be held in person. MoJ advised that there were still difficulties in obtaining access to 2QBM in the RCJ.
2. **Capacity Justice Council** - HHJ will circulate the paper on the proposed Capacity Justice Council. **MoJ** and **SG** will commence looking into this.