
Court of Protection

In association with No 5 Chambers and Enable Law

London – 13 November 2018

Plymouth – 27 February 2019



Focused on issues of capacity and consent, this event will be chaired by renowned QC, Nageena Khaliq of No5 Chambers, an expert in Court of Protection and Public Law matters.

Nageena's experience spans working in the NHS as a hospital registrar for several years as well as working in mental health tribunals and making both written and oral submissions to the Parliamentary inquiry into cerebral palsy.

She was appointed Chair of the Guidelines Committee by NICE in its collaboration with the Social Care Institute for Excellence to produce 'Guidelines: Supporting decision-making for people who may lack mental capacity', due for publication in August 2018. Nageena was also appointed Assistant Coroner Birmingham & Solihull in 2017.

AGENDA

9.30 Welcome from the Chair Nageena Khaliq No 5 Chambers

9.40 Avoiding common problems in dealing with a person's property and affairs - Ian Brownhill, No 5 Chambers

A session exploring the ways in which common difficulties are faced by attorneys and deputies can be avoided, in particular, considering the ambit of deputyship powers, the co-ownership of property, the making of gifts and replying to requests of the Office of the Public Guardian.

10.20 Capacity testing – Tim Farmer, TSF Consultants

A look at the different types of capacity tests dependent on the circumstances, including capacity to make a Will, conduct a sexual relationship, financial affairs, health and welfare.

11.00 Refreshment break

11.20 Respecting rights – Nageena Khaliq QC, No 5 Chambers

Considering the recent Law Commission Report on DOLS and developments in cases which focus on rights to family life and the consideration of religious and cultural needs/beliefs.

12.00 Alternatives to contested applications to the CoP:

- **Keeping the family relationship healthy Richard Maddicks, Psychology Chartered**

Keeping families working together with the support team to ensure the family do not feel they have lost their position as parents/spouse/brothers/sisters and looking at their own psychological needs in coming to terms with the situation they find themselves in.

- **Could mediation be the way forward?** Chris Danbury, Berkshire NHS Trust (London)/Andrew Hannam, Enable Law (Plymouth)

Where areas of dispute arise, could mediation be a viable alternative to contested applications? To include health and welfare disputes, including disputes about medical treatment, residence, care and support and deprivation of liberty, serious medical treatment disputes, property and financial affairs disputes and mixed health and welfare, and property and affairs disputes.

13.00 Lunch

13.40 Capacity and consent Katie Webber and Paul Sankey, Enable Law

This session will look at capacity and consent, including Gillick competency in relation to children and young adults where parents are wanting to make decisions.

14.20 Children: what can be claimed? - Mamta Gupta (London) and Jonathan Derrington (Plymouth) No 5 Chambers

Presentation of a case study to look at a schedule of loss for a brain injured child including what can be claimed for, the effect of contributory negligence on post settlement affordability, etc.

15.00 Refreshment break

15.20 Managing the money post settlement – making the award last - Nick Martin, Nestor

16.00 End of Life decisions Patricia Wass, Worldwide Chair of STEP, Enable Law

Dealing with end of life decisions including the legal framework and key flash points:

- The Human Rights Act 1998
- The MCA 2005
- The Convention on the Rights of Persons with Disabilities
- Consultation
- Wishes and feelings at the end of life
- Life-sustaining treatment and court declarations

16.40 Close from Chair

Brain Injury Group is accredited by APIL Training and provides award winning specialist training from brain injury experts. Designed for lawyers including barristers, our training is also highly relevant to insurers, case managers, other health and social care professionals working with brain injured individuals and those from charities which support people affected by brain injury.

For more information, please email julie.mccarthy@braininjurygroup.co.uk

Delegate Rates

Brain Injury Group member firms qualify for ONE free place. Additional places available at the preferential rate of £95 + VAT

£95 + VAT for charities, students, healthcare and social care professionals

£190 + VAT for all other delegates

Booking form, terms and conditions can be found at the end of this flyer.

Price includes refreshments, lunch and course materials which will be available to download.

Registration will commence at 9 am for a 9.30 am start and the day will finish around 4pm.

About our speakers:

Nageena Khalique QC, No 5 Chambers

Nageena is Deputy Head of Chambers and Head of Public Law, Court of Protection and Inquests, Public Inquiries and Coronial Law at No 5 Chambers.

She was appointed initially as Committee member and Vice Chair and latterly as Chair of the Guidelines Committee by NICE in its collaboration with the Social Care Institute for Excellence to the NICE Guideline Committee to produce Guidelines: Supporting decision-making for people who may lack mental capacity due to be published in 2018. She is also an advocacy trainer for Gray's Inn.

Her experience having previously worked in the NHS for 5 years and as a hospital Registrar in Maxillofacial Surgery and her mental health tribunal work is hugely advantageous. She is known for her tenacious advocacy, yet at all times is sympathetic to and understanding of her clients in particularly sensitive cases.

Nageena has also advised and acted in cases involving cross border and jurisdictional issues and is co-authoring written guidance on such issues at the request of the Chief Social Worker of Scotland. She is also the co-author of the chapter on Mental Health in Children and Young People in Clarke Hall & Morrison.

Ian Brownhill, No 5 Chambers

Ian regularly appears before the Court of Protection at all levels. Ian appears in both health and welfare and property and affairs cases.

Ian regularly acts for RPRs, local authorities, the Official Solicitor, the Office of the Public Guardian, the NHS as well as for family members. Most of Ian's cases involve protecting the human rights of individuals who lack capacity and the rights of their family members. Ian has an interest in those cases where P is at risk of committing violent or sexual offending and in addition those cases where family members have been accused of harming P.

The clear majority of Ian's property and affairs work surrounds the financial abuse of vulnerable adults. Ian regularly appears in cases involving the operation of LPAs, EPAs and Deputyships. In addition, Ian has dealt with cases involving statutory will applications.

In addition, Ian appears in applications in the Family Division of the High Court relating to the inherent jurisdiction of vulnerable adults, judicial reviews with regard to the treatment of vulnerable adult

prisoners and inquests involving the deaths of vulnerable adults. Ian has also advised the CQC on prosecutions relating to deaths in care settings.

Tim Farmer, TSF Consultants

Tim Farmer is one of the UK's leading experts on the assessment of mental capacity. Named as Expert Witness (Mental Capacity) 2016 by Lawyer Monthly, he is the author of the Amazon bestseller 'Grandpa on a Skateboard; the practicalities of assessing mental capacity and unwise decisions'.

Tim is also the founder and Managing Director of TSF Consultants, the UK's leading provider of mental capacity assessments to the legal and financial sectors. TSF Consultants were recently named as 'Mental Capacity Assessors –firm of the year 2017' by Lawyer Monthly.

In addition to this, Tim is a National Committee Member for CoPPA (Court of Protection Practitioners Association) and a member of Baroness Finlay's leadership team for the National Mental Capacity Forum. Tim has written numerous articles on the assessment of mental capacity as well as co-authored a research paper on mental capacity within the financial sector. Tim regularly provides training to legal professionals around the practicalities of assessing mental capacity.

Richard Maddicks, Consultant Clinical Neuropsychologist, Psychology Chartered

Richard's decision to pursue Clinical Neuropsychology followed his experiences during doctoral training at Hurstwood Park Neurological Centre in 1995. Consequently, he went on to complete a post-doctoral diploma in Clinical Neuropsychology at the Maudsley Hospital in 2000 and has been a Full-Practitioner member of the BPS Division of Neuropsychology since.

Richard has worked in neuro-rehabilitation settings in both the NHS and independent sector since 1996. 20 years' experience as an expert neuropsychologist has also seen him instructed in many diverse and complex civil, criminal and family law cases. His strong interest in neuro-rehabilitation has also underpinned an emphasis on therapeutic work with patients and their families following trauma, head injury and other diverse neuropsychological presentations. Recent training and consultative projects have focussed on providing other professionals with a greater understanding of how to work alongside complex and challenging families and 'systems'.

Chris Danbury, Consultant Intensive Care Physician, Royal Berkshire Hospital

Chris has almost 30 years of experience as a doctor. Following training in the UK and Australia, he was appointed as consultant intensive care physician in 2002 at the Royal Berkshire Hospital. This is one of the busiest District General Hospital Intensive Care Units in England. The unit has an excellent record, is widely known as a centre of excellence and has a particular reputation for both Outreach services and follow up after critical illness.

After gaining an M.Phil in Medical Law, Chris was offered a personal appointment as Visiting Fellow in Health Law by the Senate of the University of Reading. Chris has been Honorary Secretary of the Intensive Care Society, delivered the national the Core Standards for Intensive Care Units 2013 and edited "Law and Ethics in Intensive Care" OUP, 2011(second edition in preparation), Chair the Legal and Ethical Policy Unit of the Faculty of Intensive Care Medicine, 1st tier APIL expert and is a CMC registered commercial mediator.

Andrew Hannam, Enable Law

Andrew is a member of the clinical negligence and mental capacity teams at Enable Law. He has wide experience of investigating and litigating clinical negligence cases with a particular interest in birth injury/cerebral palsy claims and has concluded a number of multi-million pound settlements for children who were brain injured as a result of birth accidents.

Andrew has extensive experience in Court of Protection cases instructed on behalf of the Official Solicitor. Andrew's experience of acting for learning disabled adults has included acting as joint lead solicitor in the group action against Cornwall Partnership NHS Trust (a claim involving 160 claimants) and for families with members at Winterbourne View.

Andrew is also an accredited mediator and founding Chairman of the Association of South West Mediators. He is also a past president of the Bristol Medico-Legal Society, a member of the Law Society's Clinical Negligence Panel and on the referral panel for Action against Medical Accidents.

Katie Webber, Enable Law

Katie is a Senior Associate and leads the health and welfare team within Enable Law's mental capacity practice. The team is recognised by the Legal 500 as being 'one of the leading firms in the South West for Court of Protection welfare work'.

Katie is a specialist practitioner with experience in representing individuals who lack capacity, both on the instruction of the Official Solicitor and Independent Mental Capacity Advocates, as well as family members, care homes and healthcare organisations in complex health and welfare disputes before the Court of Protection. She routinely provides advice and representation in relation to deprivation of liberty issues and also has experience in seeking damages for breaches of the Human Rights Act.

In addition, Katie is a committee member of the South West Court of Protection Practitioner's Association and regularly provides training to charities and public bodies and regarding their mental capacity policies and the implementation of changes in the law.

Paul Sankey, Enable Law

Paul is a specialist clinical negligence solicitor and partner in Enable Law, based in Bristol. He previously worked for many years in London, leading one of the largest clinical negligence teams there.

He represents patients seriously harmed from negligence by medical practitioners. He has a particular interest in claims for people with serious brain and other injuries after stroke, sepsis, haemorrhage, meningitis and raised intracranial pressure. His other specialist areas of interest include the delayed diagnosis of cancer and claims involving amputation.

He publishes regularly in the legal press particularly on issues concerning the law of consent. He lectures to lawyers and doctors on medico-legal issues. He is involved in providing for medical experts. He has spoken on local and national TV and radio.

Independent legal directories have ranked him a 'Leader in his Field'. Legal 500 described him as "an absolutely brilliant lawyer, utterly professional, and wonderful with clients." Chambers UK referred to him as, "a highly respected figure" and said he is "experienced, thorough and takes a realistic approach."

Mamta Gupta, No 5 Chambers

Mamta is a Clinical Negligence specialist. She has extensive experience in the full gamut of medical negligence work. Mamta works on complex matters including those involving multiple Defendants and of high value awards, both in her own right and when acting as Junior with Leading Counsel.

She is consistently ranked in the Legal Directories for her work in Clinical Negligence as a "widely respected junior who is noted for her outstanding client skills" who is "great with clients".

Jonathan Derrington, No 5 Chambers

Jonathan has a wide-ranging practice in the areas of clinical negligence and personal injury.

His clinical negligence practice has included cases involving: general medical practice, nursing practice (including fatal pressure sore injury and malnutrition cases), negligently performed operations (including general surgical error, abdominal surgery, urological surgery, orthopaedic surgery, (including hip replacement surgery)), delays in treatment and diagnosis including cancer cases and failure to diagnose malaria; failed cosmetic surgery (including breast surgery and abdominoplasty), GP negligence; orthopaedic mismanagement, failure to give informed consent and negligent dental treatment. Jonathan's practice in this area is exclusively claimant based. He is praised for his careful yet effective handling of sensitive issues with clients and for his proficiency in extracting the best from medical experts.

Both as an advocate and as an advisor/strategist, Jonathan practices at all levels of litigation (including pre-action and at inquests, where his client care skills and forensic experience come to the fore).

Nick Martin, Nestor

Nick has been a financial adviser for over twenty three years', nineteen of which as an IFA.

Following a successful career at major building societies and banks, Nick has spent the last thirteen years working exclusively within the personal injury investment arena.

His expertise is unparalleled when considering Periodical Payments, Personal Injury Trusts and complex High Court and Court of Protection investment cases.

Nick works efficiently with the legal profession, and is frequently asked to provide talks and seminars to legal organisations. He has developed a reliable reputation and offers advice to both claimants and defendants.

Patricia Wass, Worldwide Chair of STEP, Enable Law

Patricia has over 30 years' experience working as a Solicitor dealing with all aspects of private client law. Patricia is a consultant in the mental capacity team at Enable Law (part of the Foot Anstey Group) and specialises in Powers of Attorney, Court of Protection work and legal issues relating to the elderly and vulnerable. She is a Panel Deputy for the Office of the Public Guardian, one of only 71 people acting in this role throughout England and Wales. She lectures regularly on her practice area for various legal training providers and contributes articles to legal journals.

Patricia has written for the Law Society, the Elder Law Journal, and has been interviewed by industry publications including STEP and CityWealth Magazine.

Patricia is the current Worldwide Chair of the Society of Trust & Estate Practitioners. Patricia served as a member of the West of England STEP Committee between 2000 and 2013 (Chair between 2006 and 2009) and is a Past Chair of the Law Society Private Client Executive Committee. Patricia is also a past Chair of the STEP England and Wales Regional Committee, a member of the STEP Governance Council, and acts as a Director on the STEP Worldwide Board.

She is also a fully accredited member of Solicitors for the Elderly (SFE) and assisted on the Committee for the Devon & Cornwall SFE Regional Group. Patricia is recognised as a Top Ranked 'Leader in her Field' by Chambers UK legal directory.

Booking Form

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Dietary requirements	None/Vegetarian/Vegan/Gluten Free/other (please specify)
Access requirements	Yes/no

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Course name	
Date	
Location	

Fees:

First delegate Brain Injury Group member law firm/associate: Free
Additional member delegates: £95 + VAT (£114)
Health and social care professionals: £95 + VAT (£114)
All other delegates: £190 + VAT (£228)

Cancellation charges apply (see below).

Payment options: (please tick to confirm option)

- Free place – first delegate Brain Injury Group member law firm/associate member.
- Cheque: please return your cheque, payable to Brain Injury Group, with this booking form, to Julie McCarthy, Brain Injury Group, Abbey House, 25 Clarendon Road, Redhill, Surrey RH1 1QZ. Your place will be confirmed on receipt of payment.
- Bank transfer: Santander, sort code: 09-01-27, account number 82919083. Please add you name and training date as reference and return this form via post or email to julie.mccarthy@braininjurygroup.co.uk Your place will be confirmed on receipt of payment.
- Invoice: your place will be confirmed on issue of our invoice which is payable within 14 days of issue or prior to the training date, whichever is soonest.

Please return this form to:

Julie McCarthy, Brain Injury Group, Abbey House, 25 Clarendon Road, Redhill, Surrey, RH1 1QZ or via email to julie.mccarthy@braininjurygroup.co.uk

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- 2. Indemnity:** It may be necessary for reasons beyond our control to alter the content and timing of the event, or to cancel it if absolutely necessary and issue a full refund. The Brain Injury Group accepts no liability if, for whatever reason, the event does not take place.
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- 5. Data protection:** Please note that your information may be used to send you details of services or events that we offer that we have identified as likely to be of interest to you. If at any point you would like to opt-out of receiving communications from us, please use the unsubscribe button on our marketing emails, or contact us by email at info.services@braininjurygroup.co.uk. Please be reassured that we will not release your information to any third party for them to use for their own direct marketing purposes, unless you have requested us to do so. We use a global marketing platform to manage marketing communications relating to events, newsletters etc., therefore the processing of data may take place outside the European Economic Area in respect of that. Your data will, however, always be held securely and the platform is compliant with the requirements of UK data protection legislation. Your information will be held by us until such time as you choose to unsubscribe, or for a period of 7 years from the date of the training event.
- 6. Accreditation:** The BIG Network Limited T/A Brain Injury Group is accredited by APIL Training. Accreditation for each course is applied for, but cannot be guaranteed.

Brain Injury Group

Abbey House
25 Clarendon Road
Redhill
Surrey RH1 1QZ

www.braininjurygroup.co.uk

0800 612 9660 / 01737 852213



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