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# Court of Protection

27 February 2019

Plymouth

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Focused on issues of capacity and consent, this event will be chaired by renowned QC, Nageena Khalique of Serjeants' Inn 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', which was published in October 2018. Nageena was also appointed Assistant Coroner Birmingham & Solihull in 2017.

First run in London on 13 November 2018, delegates commented:

- Excellent, impressive and well informed speakers. Very impressed, one of the best day long training events I have attended.
- Very informative for clinicians and up to date information that is useful for brain injured clients and their families.
- Some fascinating speakers and topics covered.

Accredited by APIL Training – 5 hours (litigator/senior litigator).

## AGENDA

**9.30 Welcome from the Chair Nageena Khalique QC, Serjeants' Inn 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 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 – James Tonks, Haven Clinical Psychology Practice Ltd**

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: supported decision-making and the effective participation of P – Nageena Khalique QC, Serjeants' Inn 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 Avoiding contested applications to the CoP:**

- **Keeping the family relationship healthy** Dr Kelly Camilleri, Camilleri Clinical Psychology Ltd

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?** Andrew Hannam, Enable Law

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** Karen Jackson, 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?** - Jonathan Derrington, 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 End of Life decisions** Patricia Wass, Immediate Past Chair of STEP Worldwide, 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

#### **15.40 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](mailto:julie.mccarthy@braininjurygroup.co.uk)**  
**Delegate Rates**

Brain Injury Group member firms qualify for ONE free place.

All other delegates £95 + VAT

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.

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### **About our speakers:**

#### **Nageena Khalique QC, Serjeants' Inn Chambers**

Nageena has expertise in a wide range of medical and public law including health, social care, the Court of Protection (welfare and property and affairs), inquests, clinical negligence and historic sexual abuse cases. Formerly a Registrar in Maxillofacial surgery, which gives her a technical advantage, she appears regularly in the High Court and Court of Appeal in a welfare and property & affairs cases instructed by the Official Solicitor, the Public Guardian, NHS bodies, local authorities and family members.

Her recent cases include removal of a professional deputy managing a £9 million PI award, a serious medical treatment case challenging a DNAR protocol and withdrawal of life support, a judicial review in respect of the decision to remove a violent patient from a GP list, an inquest into the death of a child where a serious case review revealed multi-agency failings, a claim for substantial damages where a retained tube was discovered in a patient 15 years post-op which gave rise to chronic illness and consequential disabilities, and a pending appeal in the Court of Appeal regarding the correct approach to the issue of fluctuating capacity.

Nageena is the Chair of the NICE 'Safeguarding adults in care homes' guideline committee (due 2020) and the NICE 'Supported decision making in adults who lack capacity' committee (published 3.10.18); co-author Cross Border & Jurisdictional Guidance for Adults with Incapacity for the Chief Social Worker of Scotland and author of the chapter on Mental Health in Children and Young People in Clarke Hall & Morrison. She was appointed Assistant Coroner Birmingham & Solihull in 2017.

#### **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.

#### **Dr James Tonks, Haven Clinical Psychology Practice**

James is managing director of Haven Clinical Psychology Practice. This is a practice made up of Clinical Neuropsychologists and Psychologists, Speech & Language Therapists and Education Specialists that offer expertise in providing complex neuropsychological expert witness and treatment work with children and young adults up-to 25 years after brain injury. This includes both criminal and civil work, and mental capacity assessments for various purposes. He has a Ph.D. from the University of Exeter in the field of Paediatric Neuropsychology. He is an Honorary Lecturer at the University of Exeter Medical School, and Visiting Fellow in Paediatric Neuropsychology & Neuroscience at the University of Lincoln.

#### **Dr Kelly Camilleri, Camilleri Clinical Psychology Ltd**

*To follow*

#### **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.

#### **Karen Jackson, Enable Law**

Karen worked in the field of health and social care for thirty years providing advice and assistance both in the public sector and to private individuals. She is currently a leading solicitor in Mental Capacity Law.

Karen has extensive experience in advising upon issues arising from Health and Local Authority statutory duties, Judicial review, Mental Health and Court of protection.

Karen has represented a range of clients including the Official Solicitor in complex health and welfare matters and is an experienced Advocate in Tribunals and Courts. She has published articles on recent case law in LexisNexis.

#### **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).

**Patricia Wass, Immediate Past Chair of STEP Worldwide, 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 Immediate Past Chair of the Society of Trust & Estate Practitioners Worldwide. 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

## Specialist training from brain injury experts



### Delegate details:

Name	
Company	
Address	
Telephone	
Email	
Dietary requirements	None/Vegetarian/Vegan/Gluten Free/other (please specify)
Access requirements	Yes/no

### Course details:

Course name	
Date	
Location	

### Fees:

First delegate Brain Injury Group member law firm/associate: Free  
All other delegates: £95 + VAT (£114)

Cancellation charges apply (see below).

### Payment options: (please tick to confirm option)

- Free place – first delegate Brain Injury Group member law firm/associate member.
- 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](mailto: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 via email to [julie.mccarthy@braininjurygroup.co.uk](mailto:julie.mccarthy@braininjurygroup.co.uk)

## Terms and Conditions

- 1. Confirmation of booking:** Your booking will be confirmed on receipt of payment in full, or on issue of our invoice if opting for this payment method. Joining instructions will be sent prior to the event. Payment is required in advance of the training and we reserve the right to refuse entry to the event if payment has not been received. In certain circumstances, we may agree that payment can be made after the event, but such agreement must be obtained in advance in writing from us.
- 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.
- 3. Cancellations, substitutions and refunds:** Cancellations must be received in writing. A refund of the training fee (less an administration charge of £25) will be made if cancellation is at least 4 weeks before the event. No refunds will be given for cancellations notified after this period, and full payment will still be due irrespective of when the booking was made. No refunds will be made for failure to attend. Substitution of delegates can be made without charge at any time by giving us written notice.
- 4. Contract:** This booking constitutes a legally binding contract. The delegate and employer are jointly and severally liable for payment of all the fees due. To the extent permitted by law, neither the Brain Injury Group nor its presenters will be liable by reason of breach of contract, negligence or otherwise for any loss or consequential loss occasioned by any person acting, omitting to act or refraining from acting in reliance upon the course material or presentation of the event.
- 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](mailto: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. Accredited by APIL Training 5 hours (litigator/senior litigator).

## Brain Injury Group

Abbey House  
25 Clarendon Road  
Redhill  
Surrey RH1 1QZ

[www.braininjurygroup.co.uk](http://www.braininjurygroup.co.uk)

0800 612 9660 / 01737 852213



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