Information Sheet for Parties to Welfare cases in the Court of Protection

This information sheet is for people and organizations involved in welfare cases the Court of Protection. It contains information about a study about welfare disputes in the Court of Protection. The overall aims of the study are to gather good quality empirical evidence to better inform discussions about accessibility, efficiency and transparency in welfare disputes in the Court of Protection.

The principal investigator on the project is Professor Phil Fennell. Dr Lucy Series is a research associate working full time on the study. Professor Luke Clements and Dr Julie Doughty are project consultants. Their contact details are as follows:

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The research is funded by the Nuffield Foundation ([www.nuffieldfoundation.org](http://www.nuffieldfoundation.org)).

The project website is: <http://sites.cardiff.ac.uk/wccop/>

**You can contact the researchers with any questions you may have about any aspect of the research.**

### Audit of Court Files

We want to conduct an audit of files in the Court of Protection. This is to help gather statistical information about these kinds of disputes to help people understand what kinds of cases typically come to court, and issues around the accessibility, efficiency and transparency of the court process.

We are interested in information on: what the case is about; what kinds of parties are involved in the case (e.g. relatives, NHS bodies, local authorities); how the parties are represented in court; questions about timescales and evidence in the cases, and transparency issues. A full list of the data we want to extract from each file is available upon request. We do *not* plan to conduct any case studies from the court files, or publish the names of any parties or public authorities named in the files. We just want to collect data about the numbers of different types of cases. At a later point, we hope to conduct a comparable analysis of files from the First Tier Tribunal (Mental Health) to contrast the two processes.

### Legal considerations in research on the Court Files

It is against the law publish any information about proceedings in the Court of Protection without an order from a judge giving permission to do so. ‘Publication’ would include letting researchers look at the file and take information from them. This means that the researchers need a court order giving permission to look at each file.

Parties involved in cases in the Court of Protection are also entitled to confidential treatment of their personal data. Therefore, we are not allowed to tell other people about individual cases, and we have signed a *Privileged Access Agreement* with the Ministry of Justice which says we must take care to protect the privacy of people involved in these cases. We are only allowed to publish statistical data from the files, and all future publications from this research on the files will be checked by the Ministry of Justice before we share it with other people.

Because we need a court order to look at the file, any people apply to the Court of Protection for a health and welfare matter, or notified about a case, will be sent a short information sheet with information about how to object to inclusion of the case in the study. You can object by sending back the sheet, or by emailing the Court of Protection at CourtofProtectionHearings@hmcts.gsi.gov.uk, stating your refusal along with the Court of Protection Reference Number and your name. **You do not have to give any reason for your refusal. If you agree to inclusion in the study, you do not have to do anything.**

If nobody refuses to inclusion in the study, and the presiding judge feels that it is appropriate, then he or she will make an order allowing us to access the file for the research project. If *any* party withholds their consent, then we will not look at the file.

### Ethical review

This research has been reviewed and approved by Cardiff University’s Research Ethics Committee.

*Data protection and confidentiality*

The data from the file will be extracted by a researcher from the project, who will visit the Court of Protection. The file will not be removed from the Court’s premises for this research. The data will be entered into an electronic database, which will be encrypted. The database will not collect the names or addresses of any of the parties (including public authorities and care providers). The Court of Protection case number will, however, be stored, to enable the researchers to check the record against the original file in case of errors or concerns. The only people who will be given access to this database will be the named researchers on the project, the Court of Protection and the Ministry of Justice, unless we are required by law to show it to others.

The researchers will only publish statistical information from this database. This means that they will publish some graphs and tables and statistics like averages. The researchers will not publish any case studies from the files. Guidance from the Information Commissioner’s Office will be followed to ensure that people’s identities cannot be pieced together from other information (this is called ‘jigsaw identification’).

***Publishing information about the files***

We will tell other people about our findings by publishing reports and articles on our website and in professional and academic journals. We will also present our findings at conferences. If you want to read about our project, you can find more on our website. Anything we publish which is based on what we find in the Court’s files will be checked first by the Ministry of Justice.