Welfare Cases in the Court of Protection:

Survey for Independent Mental Capacity Advocates

# How to complete this survey

This survey is for Independent Mental Capacity Advocates (IMCAs) with professional experience of the Court of Protection’s health, welfare and deprivation of liberty jurisdiction. Before completing this survey, please read the **information sheet.** If you are happy to participate in the survey, **please complete the consent form** and return it to us. We are happy to accept the consent form with your name typed on it as an email attachment in lieu of your signature.

The survey is a list of 11 questions, on the themes of accessibility, efficiency and transparency. The questions relate only to cases involving health and welfare matters, including deprivation of liberty cases, but do not relate to cases which are only about property and affairs matters.

The survey uses a Word form. You will need to save a copy of the survey with your responses.

You may write as much or as little as you choose in response to each question – there is no minimum or maximum word count. You do not have to answer all the questions if you do not want to. If you would like to clarify any questions before responding, do not hesitate to contact us.

**Please could you return the completed survey, with the information sheet, to Lucy Series before 30th September 2015. You can send it by post or by email to:**

Dr Lucy Series

School of Law and Politics
Cardiff University
Museum Avenue
Cardiff
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# Survey questions for healthcare staff

*Accessibility*

1. **In what types of circumstances do you think welfare and deprivation of liberty cases need to go to court and, in your experience, how do welfare cases usually reach court? What is the role of IMCAs in referring matters to the Court of Protection?**

Click here to enter text.

1. **What are the main barriers for IMCAs in referring cases to the Court of Protection or acting as a litigation friend for the relevant person?**

Click here to enter text.

1. **What are the main problems experienced by people who may lack capacity and their families in applying to the Court of Protection and participating in litigation?**

Click here to enter text.

1. **Do you have any suggestions for how the accessibility of the Court of Protection, and opportunities for the relevant person to participate, could be improved?**

Click here to enter text.

1. **What is the impact and longer term outcome of litigation in the Court of Protection on the person who is the subject of the proceedings, and their families?**

Click here to enter text.

*Efficiency*

1. **What are your experiences of the *cost* of Court of Protection welfare proceedings, and what in your experience are the factors that contribute to increased cost?**

Click here to enter text.

1. **What are your experiences of the *duration* of Court of Protection welfare proceedings, and what in your experience are the factors that contribute to delay or lengthy proceedings?**

Click here to enter text.

1. **Do you have any suggestions for how any issues around cost, delay and protracted proceedings could be improved?**

Click here to enter text.

1. **In our research, we found that the use of barristers and expert reports significantly contributed to the costs of welfare litigation in the Court of Protection.[[1]](#footnote-1) Do you think there are ways in which their use could be reduced without detriment to the process?**

Click here to enter text.

*Transparency*

1. **In January 2014, the President of the Court of Protection – Sir James Munby – issued new Practice Guidance on transparency in the Court of Protection. This Practice Guidance created a presumption that anonymised judgments would routinely be published for certain types of welfare cases, and a presumption that public bodies and professionals would be named in this guidance unless there were compelling reasons not to do so.**

**Has this practice guidance impacted on welfare cases in the Court of Protection, and what are your thoughts on this new guidance?**

Click here to enter text.

1. **The President of the Court of Protection is also consulting on new practice guidance regarding media access to the Court of Protection; it is likely that it will be brought in line with the family courts and there will be a presumption that the media are granted access to hearings.**

**What are your thoughts on increasing media access to the Court of Protection?**

Click here to enter text.

1. Series, L., Mercer, A., Walbridge, A., Mobbs, K., Fennell, P., Doughty, J. and Clements, L. (2015) *Use of the Court of Protection’s welfare jurisdiction by supervisory bodies in England and Wales*, Cardiff University School of Law and Politics. Available: sites.cardiff.ac.uk/wccop/local-authorities-in-the-court-of-protection-new-research/ [↑](#footnote-ref-1)