



Court of Protection
Health and Welfare

emgsolicitors

*'A first class service.
Eilish Ferry-Kennington
was excellent.'*



EMG Solicitors have a wealth of experience and expertise in supporting clients in issues relating to mental health and mental capacity. We work closely with vulnerable people, their family members and loved ones and can provide professional help where important decisions about health and welfare need to be made.

Court of Protection and Disputes

Where there is agreement about the best interests of an individual, the Court often does not have to be involved. However, if there is a dispute, it may be necessary for the Court to make a decision.

Common Court of Protection cases include:

- Whether a person has the mental capacity to make a certain decision for themselves
- Challenges to deprivation of liberty safeguards (DoLS)
- Disputes relating to an individual's health and welfare; e.g. the care or medical treatment that a person receives, who the person should have contact with or whether the person has capacity to consent to sexual relations or enter into a marriage
- Safeguarding concerns
- Objections to the registration of a Lasting Power of Attorney
- Disputes about the appointment of a deputy
- Entering into or termination of a tenancy agreement
- Appointment of a health and welfare deputy

Deprivation of Liberty Disputes

In certain circumstances where decisions are made in the best interests of a person who lacks capacity to make decisions about their residence and care, this can result in a deprivation of their liberty. A common example is where a person lives in a care home with a locked door. Deprivations of liberty can arise in any setting including hospitals, care homes, independent supported living placements or in an individual's own home.

Whether the deprivation of liberty is in a person's best interests can sometimes be a contentious issue which requires consideration by the Court of Protection.

Where there is a dispute about whether a deprivation of liberty is required, Court proceedings can be lengthy including numerous hearings, complex legal issues and expert evidence. It is essential to get the right advice and representation from the beginning to help you through the proceedings.

We can provide advice and representation if you are concerned about the decisions being made on behalf of an incapacitated relative, either before or during Court of Protection proceedings. We have experience of representing individuals who lack capacity to instruct solicitors. This involves taking instructions from a litigation friend, who may be a family member, advocate or the Official Solicitor.

We can support you in various ways including the submission of representations to the local authority to ensure they recognise and act upon a deprivation of liberty, the preparation of witness statements agreeing to or contesting a deprivation of liberty, through to full representation throughout Court proceedings.

Mental Health

Most people who are detained under the Mental Health Act (sectioned) have a right to appeal against that detention.

We can advise patients in relation to appeals, detentions under the Mental Health Act or Community Treatment Orders (CTOs). When the Mental Health Tribunal or Hospital Managers Hearing convene, they consider whether the legal criteria for ongoing detention or CTO are met. They have the power to discharge the patient from detention.

We can also advise on issues relating to the role of nearest relative in Mental Health Act cases.

'I have been dealing with EMG Solicitors for a few years now and can honestly say their customer care is second to none. I would definitely without hesitation recommend using EMG for any aspect of legal work.'

Community Care

We can provide advice regarding services from a local authority and/or NHS because of illness, disability or mental capacity.

This includes:

- challenges to assessments
- withdrawal or reduction in community care service
- challenging financial assessments for contributions to care
- unlawful decision making.

Legal Aid Services

We are contracted with Legal Aid Agency to provide services under Mental Health and Court of Protection (Health and Welfare).

You are welcome to contact us so we can advise on your eligibility for Legal Aid.



Eilish Ferry-Kennington

Associate Solicitor

Eilish is a specialist solicitor in the areas of Mental Health and Court of Protection Health & Welfare. Eilish is a member of the Law Society Mental Health Accreditation Panel and an Accredited Legal Representative on the Law Society Mental Capacity (Welfare) Accreditation Scheme.

Eilish has experience representing clients suffering cognitive impairments, learning disabilities and mental illness. She has represented patients who have been detained under the Mental Health Act and family members at Mental Health Tribunals. Eilish regularly acts for adults who lack the capacity to make decisions for themselves. This often involves taking instructions from a litigation friend who instructs a solicitor on the person's behalf.

Eilish also acts on deprivation of liberty cases and where there are disputes about an individual's welfare. This may involve acting for the individual themselves or for a family member.

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Mandy Cheung

Solicitor

Mandy specialises in Court of Protection Health and Welfare. She is particularly experienced in dealing with Court of Protection disputes and deprivation of liberty cases, both within the community and care home.

Mandy regularly represents vulnerable clients and their family members. She is often instructed by the Official Solicitor, advocates and other litigation friends where a person lacks capacity to instruct a solicitor themselves.

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Charlotte Greenwell

Paralegal

Charlotte joined EMG Solicitors in 2019 assisting on matters involving the care, treatment and living arrangements of vulnerable clients. Charlotte completed her LPC alongside a Master's degree in Law at Northumbria University. Charlotte assists with matters where an individual lacks the capacity to make decisions for themselves and can include; where they live, their care or treatment and their finances.

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