



Appointing Court of Protection Deputies

Assisting Families in Crisis

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Michelle Rose

Partner

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Our Court of Protection Service

In our experience the hallmark of a successful Deputy is someone who is empathetic, diplomatic, yet decisive while always acting in the best interests of the protected party. This is particularly true when assisting families in crisis, dealing with hostile, often highly sensitive, contentious court of protection (CoP) situations on behalf of family members. A clear vision is essential in order to resolve what can be complex CoP issues.

Our dedicated CoP team offers a diverse range of expertise, dealing with both contentious and non-contentious CoP cases. We advise in relation to ongoing litigation claims, on complex care and welfare matters, including: contested care arrangement and gratuitous care payment applications; contested Statutory Wills; the removal of attorneys; and disputes generally relating to issues of protection.

We regularly act as Court Appointed Deputies, often stepping in where there is no one suitable to act, or a lay deputy is unwilling to act as a Deputy for the protected person. Our deputyship work is pivotal in ensuring that decisions are made in

the best interests of the vulnerable adult or child. We are often asked to act where the Court, family or other interested parties are not satisfied by the performance of the current Deputy. We work closely with the Official Solicitor where appropriate, and health care providers.

Our non-contentious work includes administration services (alongside our trust administration and personal injury trusts practice) through to advising on best interest decisions and patient welfare issues. We regularly advise and assist deputies on property and financial affairs matters, estate and tax planning, and probate matters. We ensure our Deputy clients comply with their stringent obligations and duties, with the goal of a smooth-running, cost-effective deputyship. Our unique professional deputyship service is tailored to meet the needs of the family or litigation friend and that of the protected party.

Our Professional Deputies

The national reputation of litigation partners Michelle Rose and Fiona Lawrence, and non-contentious partners, Michael Knowles and Rachael Armstrong means that they receive referrals from fellow practitioners, specialist Chancery Counsel and mediators to be appointed as professional Deputies in a variety of complex, high-valued property and affairs CoP matters.

They are supported by our specialist CoP team of contentious and non-

contentious private client lawyers, who assist with the different phases of managing the protected party's affairs through to resolution in contested cases.

What Sets VWV Apart?

Being a Deputy involves much more than decision making. Our ability to establish a clear, strategic approach where there is conflict between family members sets us apart. We invest time to understand the family dynamics, listen to family members views and steer them through to resolution in a cost-effective and efficient way.

Decisive Approach

More often than not we are appointed as Deputy when families dealing with their loved-one's affairs (who have lost capacity) have reached an impasse. In our experience, a sensitive, yet decisive approach is key to ensure matters move forward in a positive way and the deputyship runs as smoothly as possible.

Cross-Team Expertise

Our unique combination of contentious and non-contentious practitioners, combined with our extensive knowledge of the *Mental Capacity Act 2005*, means that every aspect of the CoP process is covered. Our cross-team expertise is invaluable when resolving complex, acrimonious, property and financial affairs issues, and ensures a seamless legal service for our clients.

Many of our contentious trusts and probate advisors are members of ACTAPS (Association of Contentious Trusts and Probate Specialists) and many of our non-contentious advisors are STEP (Society of Estate and Trust Practitioners) accredited. Our Contentious Probate team is ranked in the top tier of the Legal 500.

National Reputation

We have a national reputation, offering a broad geographical base to advise from, having offices in London, Watford, Bristol and Birmingham.

Our Costs

Protection of the protected party's assets is at the forefront of every decision our professional deputies make. Against a backdrop of hostility and conflict, transparency on costs is an essential part of our Partner's role as a professional Deputy. Our deputyship costs are scrutinised at each stage, with our work - carried out at competitive rates - assessed by the Senior Court Costs Office. We use experienced costs draftsman to prepare the bill of costs once a resolution has been reached.

Case Studies

Our specialist team has been actively involved in a number of contentious, high value, and complex Court of Protection matters.

Contested Statutory Will Application

Michelle Rose, as the Court Appointed Deputy for P's property and affairs, made an application to the Court of Protection for a Statutory Will to be made on behalf of P (who lacked capacity) on the basis that P's Will, made a considerable time ago, did not reflect P's testamentary wishes. The highly contested application involved multiple parties, extensive witness and financial evidence, and complex legal issues centred around P's best interests and his high value estate. Our strategic, pragmatic approach led to resolution in this

particular case, and the approval of a Statutory Will. Through our meticulous attention to detail, this application was borne out of evidence uncovered as a result of our successful recovery of P's misappropriated funds.

Disputed Capacity

Partner, Fiona Lawrence, acted on behalf of a vulnerable adult (P) living in their own home. This case centred on an order which had been issued by the local authority alleging physical abuse by P's carer, and an injunction preventing P's carer from residing or visiting P. The local authority also deemed P to lack capacity and sought an order for P to be moved from his home (against his wishes) to sheltered accommodation to allow care professionals to undertake a full assessment of P's care needs.

We had 48 hours to get to grips with the case and arrange representation for the hearing. Despite P's GP having concluded that P lacked capacity, we were satisfied, through our own assessment of P, that he did have capacity and that P could instruct us.

Swift and decisive action was required to ensure P's autonomy was protected. New expert evidence submitted supported our view and proved critical to the application being successfully defended.

The local authority refused to listen to P's views or wishes and feelings. Our quick thinking gave P his voice: we successfully negotiated an end to the proceedings on P's terms.

Conciliatory Approach

Relatives of the protected party (P) applied to be appointed as P's deputies for property and financial affairs, on the basis that P lacked capacity. The relatives intended to sell P's property and relocate P.

The application was made without P's knowledge, and against her wishes.

Partner Fiona Lawrence stepped in on an urgent basis, and made a swift assessment of the position, establishing that, in spite of the medical evidence, P's fluctuating capacity meant that P was able to appoint P's own choice of attorneys under a Lasting Power of Attorney (LPA). Taking advantage of our cross-team expertise, Michael Knowles advised P on the LPA and took on the role as P's attorney.

Instead of taking a hard-line approach and simply contesting the Deputyship proceedings, we adopted a conciliatory and holistic approach, exploring all options, and most importantly working with the family members to gain their trust and quickly establishing a rapport with P's doctor.

Whilst the medical profession work within the confines of the *Mental Capacity Act (MCA)* at every stage, we often find a lack of understanding of the interface between the MCA and the legal framework. In this instance, our unique handling of the situation, particularly with the GP, allowed an LPA to be put in place and the wishes of P respected and upheld.

Get in Touch

To consider our appointment as Deputy or if you have any questions, please contact Michelle Rose at mrose@vww.co.uk or on 07929 386 108.





Michelle Rose

Partner

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“Michelle Rose is knowledgeable, competent and expresses a profound understanding towards financial and emotional hardships of the client. She is also ready to make brave financial decisions in support of the client’s ends.”

Legal 500



Fiona Lawrence

Partner

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“Fiona Lawrence has ‘profound knowledge of the field’ and advises on contentious multi-jurisdictional trust issues, inheritance disputes and Court of Protection matters. One client commends her handling of cases, highlighting that ‘when the favourable evidence was dug out, Fiona immediately grabbed the chance and acted efficiently and thoughtfully, leading to a great outcome at the end.’ Another client enthuses that ‘she was very professional, also keeping in touch and up to date with everything.’”

Chambers HNW Guide 2020



Rachael Armstrong

Partner

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“In my dealings with Rachael, I have always found her to be very professional and knowledgeable. At all times, when discussing matters with clients, she adopts a manner which makes them feel very comfortable and always ensures they fully understand any advice she is giving and the consequences of the advice... Rachael is very personable and clients warm to her quickly and feel relaxed in her company.”

Chambers HNW Guide 2020



Michael Knowles

Partner

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“Michael Knowles of VWV is an “excellent lawyer who combines expertise along with the human element that is necessary when dealing with people’s personal affairs.” says a source. Another adds: “He’s the best kind of private client solicitor you could have. He is softly spoken, he understands everything, he’s extremely tactful and has very good judgement.”

Chambers HNW Guide 2019