

IN THE COURT OF PROTECTION  
SITTING AT KINGSTON-UPON-HULL

Insert Court Address

Date: 29 September 2020

**Before:**

**HHJ SARAH RICHARDSON**

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**Between:**

LCR **Applicant**

- and -

SC **First Respondent**

AEC **Second Respondent**

CP **Third Respondent**

KC (by her litigation friend, the Official Solicitor) **Fourth Respondent**

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The Applicant appeared in person  
The First to Third Respondents appeared in person  
**Miss Gardner** (instructed by MJC Law Limited) for the Fourth Respondent

Hearing dates: 10 August 2020

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**JUDGMENT**

**HHJ Sarah Richardson:**

1. These proceedings concern KC (the Fourth Respondent), who is 85 years of age. KC has a diagnosis of Alzheimer's Dementia and a consequent moderate degree of cognitive impairment. KC currently resides with her daughter, the Applicant in these proceedings ("LCR") and LCR's husband and has done so since 24 February 2018.
2. KC has three further daughters, SC, AC and CP, who are the First to Third Respondents in these proceedings. They, together with LCR and her husband, all currently live in the North of England.
3. LCR and her husband would like to move to the south of England to be closer to their adult children. Their property (which they share with KC) is currently on the market. There are currently no firm plans for the care of KC in the event that this relocation takes place.
4. On 16 August 2017 KC executed two LPAs, for the management of her property and affairs and for health and welfare decision making. Both LPAs appointed all four of KC's daughters as her attorneys. In the events that happened both LPAs were executed by KC as donor and the First to Third Respondents. LCR declined to execute the LPAs; she maintained at the time that her mother lacked the requisite capacity to grant the LPAs.
5. The LPAs were prepared by solicitors instructed by KC. Prior to the execution of them, the solicitors (who were themselves experienced in this field) obtained a capacity assessment from Sue Altass, a registered mental health nurse and specialist mental health practitioner. Ms Altass, having assessed KC on 8 August 2017, and with knowledge of KC's diagnosis of Alzheimer's Dementia in December 2016, was of the professional opinion that KC did have capacity to execute the LPAs. The capacity assessment records that "[KC] would like all 4 daughters to be granted LPA as they will all benefit from her will." The recommendations in the assessment stated as follows:

"Although [KC] has early signs of dementia, she is able to discuss her finances and any other health issues. She was able to give clear instruction regarding the LPA and who should be named. At the time of the assessment [KC] does have capacity to sign the LPA."
6. KC executed the LPAs eight days after this assessment was undertaken. She appointed all four of her daughters jointly and severally.
7. On 5 September 2017 the Applicant issued a COP7 application to object to the registration of the LPAs.

8. On 3 June 2020 LCR conceded that there is insufficient evidence to rebut the presumption of capacity at the date that the LPAs were executed by KC. On that date the court made final declarations pursuant to section 15 of the Mental Capacity Act 2005 (“MCA 2005”) that KC lacks capacity to:
  - (a) Conduct these proceedings;
  - (b) Make decisions about where she shall live;
  - (c) Make decisions as to her care;
  - (d) Make decisions about her contact with others;
  - (e) Make a decision to revoke the LPAs.
9. The issue that this court must determine is whether the LPAs executed by KC should be registered.

### **The relevant legal framework**

10. A power of attorney intended to be a LPA for the purposes of the MCA 2005 must be made in two stages for it to be valid as a LPA: the drawing up and execution of the instrument followed by its formal registration by the Public Guardian. Until both stages have been completed, a properly completed and duly executed instrument has no legal effect. For this reason, I will refer to the documents executed by KC as “the instrument” or “the instruments” in this judgment. Where it is necessary to distinguish between them I will refer to them as “the property and affairs instrument” and “the health and welfare instrument”.
11. It is helpful in the context of the present case to consider the statutory framework as set out in the MCA 2005 and relating to lasting powers of attorney, the appointment of donees, objections by a donee or named person, and, crucially, the court’s powers.

#### ***(a) Lasting powers of attorney***

12. Section 9(1) MCA 2005 states that:

“A lasting power of attorney is a power of attorney under which the donor (“P”) confers on the donee (or donees) authority to make decisions about all or any of the following –

- (a) P’s personal welfare or specified matters concerning P’s personal welfare, and**
- (b) P’s property and affairs or specified matters concerning P’s property and affairs,** and which includes authority to make such decisions in circumstances where P no longer has capacity.

13. By section 9(2) MCA 2005 a lasting power of attorney is not created unless:

- (a) Section 10 is complied with;

- (1) (b) An instrument conferring authority of the kind mentioned in subsection (1) is made and registered in accordance with Schedule 1, and  
(c) At the time when P executes the instrument, P has reached 18 and has capacity to execute it.

14. An instrument which purports to create a lasting power of attorney, but does not comply with section 9, section 10 or schedule 1 of the MCA 2005, confers no authority (see section 9(3) MCA 2005).
15. Section 9(4) MCA 2005 states that the authority conferred by a lasting power of attorney is subject to:
- (a) the provisions of this Act and, in particular, sections 1 (the principles) and 4 (best interests), and
  - (b) any conditions or restrictions specified in this instrument.

***(b) Appointment of donees***

16. Section 10(1) MCA 2005 requires that a donee of a lasting power of attorney must be:
- (a) an individual who has reached 18 (who is not a bankrupt or subject to a debt relief order: see section 10(2)), or
  - (b) if the power relates only to P's property and affairs, either such an individual or a trust corporation
17. An instrument under which two or more persons are to act as donees of a lasting power of attorney may appoint them to act jointly, jointly and severally or jointly in respect of some matters and jointly and severally in respect of others (see section 10(4) MCA 2002). Section 10(6) MCA 2005 provides that if donees are to act jointly, a failure, as respects one of them, to comply with the requirements of section 10(1) or (2) or Part 1 or 2 of Schedule 1 prevents a lasting power of attorney from being created.
18. By comparison, section 19(7) provides that if donees are to act jointly and severally, a failure, as respects one of them, to comply with the requirements of subsection (1) or (2) or Part 1 or 2 of Schedule 1—
- (a) prevents the appointment taking effect **in his case**, but
  - (b) does not prevent a lasting power of attorney from being created in the case of the other or others.
19. It is for this reason that the failure by the Applicant to execute the joint and several powers of attorney did not prevent the LPA instruments being created in the case of the First to Third Respondents.

20. In addition, there is no power vested in a donee (or, if more than one, any of them) to appoint a substitute or successor (see section 10(8) MCA 2005). When read in conjunction with section 22 MCA 2005 (and taking into account the fact that an attorney is an agent of the donor, and it is the instrument executed by the donor which creates this relationship) it is clear that in the absence of capacity on the part of KC to revoke the instruments (and create fresh LPAs executed by all four daughters) the option available to the court is to order registration of the instruments as executed in the present case or to direct that such instruments are not registered (and as such no power of attorneys are created). There is no power in the court to appoint all 4 daughters as attorney donees (if it felt that this was in KC's best interests).

***(c) Objection by donee or named person***

21. There are provisions in paragraph 13 of Schedule 1 to MCA 2005 which allow a donee or named person (in the present case the Applicant) to give notice of objection to the registration of an LPA. In such a case, the effect of paragraphs 13(2) and (4) of Schedule 1 is that the Public Guardian will not register the instrument unless the court directs him to do so.

***(d) The court's powers***

22. These are found in the present case in sections 22 and 23 MCA 2005.

23. Section 22(1) provides that:

“this section and section 23 apply if -

- (a) the person (“P”) has executed or purported to execute an instrument with a view to creating a lasting power of attorney, or
- (b) an instrument has been registered as a lasting power of attorney conferred by P.”

24. Section 22(2) gives the court the power to determine any question relating to whether one or more of the requirements for the creation of a lasting power of attorney have been met or whether the power has been revoked or has otherwise come to an end.

25. Section 22(3) provides that subsection 4 applies if the court is satisfied:

- (a) That fraud or undue pressure was used to induce P -
  - (i) to execute an instrument for the purpose of creating a lasting power of attorney, or
  - (ii) to create a lasting power of attorney, or

**(b) That the donee (or, if more than one, any of them) of a lasting power of Attorney –**

- (i) has behaved, or is behaving, in a way that contravenes his authority or is not in P's best interests, or
- (ii) **proposes to behave in a way that would contravene his authority or would not be in P's best interests.** [my emphasis]

26. By section 22(4)(a) MCA 2005 the court may direct that an instrument purporting to create the lasting power of attorney is not to be registered or if P lacks capacity to do so, revoke the instrument or the lasting power of attorney.

27. The powers contained in section 22(4) are wide ranging; they enable the court, if it is satisfied that the donee (or donees) propose to act in a way that is not in P's best interests to refuse to allow the registration of the instrument, notwithstanding the intention of the donor at the date the instrument was executed. The language of section 22(4) makes it abundantly clear that if the court is satisfied that the donee(s) propose to act in a way that is not in P's best interests the court must decide whether to exercise its discretion to refuse to allow registration. Absence such registration, there is no valid LPA.

28. In **Re J [2011] COPLR Con Vol 716** Her Honour Judge Hazel Marshall QC considered the statutory construction of s.22 and in particular the approach that should be taken if an attorney or proposed attorney is considered to be unsuitable:

*"It appears to me that the general thrust of s.22(3)(b) is that the court can revoke an LPA if it is satisfied that the attorney cannot be trusted to act in the matter and for the purpose for which the LPA was conferred upon him/her... Further, if there is sufficient evidence that the attorney is behaving in contrary to P's best interests, even in a different context, then it seems to me that that might quite reasonably provide a sufficient reason to revoke an LPA, perhaps because of conflict of interest."* [73]

*In my judgment, the key to giving proper effect to the distinction between an attorney's behaviour as attorney and his behaviour in any other capacity lies in considering the matter in stages. First, one must identify the allegedly offending behaviour or prospective behaviour. Second, one looks at all the circumstances and context and decides whether, taking everything into account, it really does amount to behaviour which is not in P's best interests, or can fairly be characterised as such. Finally, one must decide whether, taking everything into account including the fact that it is behaviour in some other capacity, it also gives good reason to take the very serious step of revoking the LPA."* [75]

29. The notes to the Court of Protection Practice state that no case has yet been brought before the courts on the ground of the future behaviour of a donee

or donees and state that “an application to revoke a lasting power of attorney on such grounds requires a high standard of proof to show why the behaviour of the attorney is not in the donor’s best interests.” Insofar as this comment requires the court to undertake a proper analysis of the available evidence, looking at factors such as the context of any evidence, the overall evidential picture and the inherent probabilities (or improbabilities) of the evidence as it relates to the past behaviour of the donee and, applying this analysis, to what it establishes about the likely future behaviour of the donee(s) and whether this is likely to be in P’s best interests, I agree. Insofar as this comment suggests that there is somehow a higher standard of proof, or that the seriousness of the matters or the seriousness of the consequences should make any difference to the standard of proof, I respectfully disagree. In the present case, as with any case before this civil court, the standard of proof is to a balance of probabilities.

### **The position of the Official Solicitor**

30. The Official Solicitor submitted (quite properly in my view) that as a starting point, the instant application was pursued on the basis that LCR contended that KC lacked capacity to execute the LPAs in August 2017. The court has already recorded (on the face of the order on 3 June 2020), that the presumption of capacity enshrined in s.1 of the MCA has not been rebutted as regards KC’s capacity to execute the instruments. The court could therefore proceed to dismiss the instant application and register the instruments as valid LPAs on the basis that KC had capacity to execute them at the time.
31. However, the position of the Official Solicitor is that the provisions of s.22 MCA 2005 provide the court with broader powers than a strict consideration of incapacity and permit the court to determine whether it is in KC’s best interests to register the instruments, even in circumstances where she had capacity at the time that they were executed. In the present case, where there is a significant and seemingly intractable dispute between KC’s adult daughters, it was submitted that the court’s powers in section 22(3)(b) MCA 2005 were engaged. The Official Solicitor (who was appointed to act for KC as to matters relating to her health and welfare only) submitted that the court should not register the health and welfare instrument and, as the issues raised are germane to both instruments, the court should also refuse registration of the property and affairs instrument.
32. The position adopted by the Official Solicitor is based, in summary, on the following which are taken from the skeleton argument submitted on behalf of the Official Solicitor:
  - (a) KC’s wishes and feelings have been evidenced throughout these proceedings. The court was referred to the attendance note of KC’s solicitor Mr Maguire from his visit to KC on 17 July 2019. When asked

about the term LPA and what she understands it to mean she said: *'It means you want them to see to things for you'*. When asked who she would wish to manage her affairs KC said: *'well, they'd all have to do it. I'd have them all involved. You know there is four of them and you don't want to leave any of them out. Lynda is the oldest.'* When asked if she trusts her daughters she said: *"they know what I want and they would do their best to give that to me. I am close with them."* When asked if she thought they were close with one another she said: *"I don't know how to say it. Sometimes they argue and sometimes they're not close. They're sisters and they keep things to themselves. I wish they were close. Some families are very close. If anything was happening to me though they would pull together."*

- (b) It is common ground between the parties that KC's capacious views in 2017 and her ascertainable wishes and feelings are that she would like all four of her daughters to have decision making authority in respect of her property and affairs and health and welfare. How that is to be achieved however is not common ground. LCR is clear in her view that she is not willing to be appointed as an attorney alongside her sisters, whereas AC, SC and CP all contend that the instruments should be registered;
- (c) An alternative to the appointment of all four daughters (given LCR's objection) would be to appoint SC, AC and CP. However, this would directly contradict KC's wishes and feelings and would serve to exclude LCR from decision making, which would be an unusual step for the court to take given KC's clear wishes and feelings and the significant role that LCR plays in KC's life. This option would be opposed by the Official Solicitor;
- (d) In the unlikely event that the court were to appoint LCR (along with KC's other daughters), against her will, it is entirely unclear to the Official Solicitor how it is proposed that KC's daughters would collaboratively make decisions on her behalf given the significant and seemingly entrenched conflict that exists. Whilst the Official Solicitor does not invite the court to scrutinise the criticisms that the daughters levy at one another, it is evident that they do not see eye to eye. Allegations of bullying and abuse have been made from both sides and despite these proceedings having been issued approximately three years ago, relations do not seem to have improved. The Official Solicitor submits that in light of the ongoing and long-standing conflict, the court cannot be satisfied that the attorneys (if appointed) would be able to act in KC's best interests by working together and making decisions on a joint basis, despite all having KC's best interests at heart;
- (e) Unfortunately, and in light of the above, the Official Solicitor does not consider that the court can properly accommodate KC's wishes and feelings in the overall evaluation of her best interests. Given that the



evidence suggests that KC's daughters would be unable to act in the manner that the LPAs were intended (i.e to make joint decisions on KC's behalf), the court can be satisfied that it is not in KC's best interests for the LPAs to be registered. In light of the nature of the issues raised above, the court may consider that the same factors may impede the proper management of P's property and affairs and conclude that the finance LPAs also should not be registered.

33. The submissions of the Official Solicitor were predicated partly on the basis that the court has the power to appoint all four of KC's daughters to manage her affairs. This could not be done under the existing instruments for the reasons set out in paragraph 20 above. If the court took the view that section 22 MCA is invoked and the instruments should not be registered on the grounds that the three named donees propose to behave in a way that would not be in KC's best interests, it is potentially open to the court to direct that the instruments are not registered and then to appoint some or all four of KC's daughters as deputies to manage her property and affairs and/or health and welfare (subject to the obvious point that LCR would be an unwilling appointee). The submissions on behalf of the Official Solicitor should, in my view, be read in this context (as opposed to suggesting that the court can appoint all four daughters as attorneys).

### **The position of LCR**

34. In a position statement dated 10 December 2019 LCR said this:

"I do not believe it would be in my mother's best interests for the LPAs to go ahead. My sisters and myself are unable to agree on anything and this I feel would be detrimental to my mother. It could delay important decisions for her health, welfare and/or finances and the unnecessary arguing would cause her distress if we were unable to prevent her from being exposed to it..... The level of hostility and objection towards me and everything I have done for our mother, with three against one, has become untenable. Therefore I feel that this is the most appropriate course of action to ensure minimal disruption to KC."

35. And this in relation to finances:

"Whilst my mother has been living with me the past two years, and on advice from the bank, I am a joint account holder on my mother's account. I have kept strict records of all ingoings and outgoings with receipts throughout this time and have always made it clear where money is kept. I have detailed and up to date accounts of all financial transactions within this period. I am aware that some monies have been spent by SC, AC and CP but am unaware if they have kept any records or receipts during the same time period. I feel that given the conflict between my sisters and me, unfortunately no formal agreement will be reached as we are polarised in our opinions and there

would be ongoing disagreements about the management of our mother's finances. I feel that it would be in our mother's best interests to have an independent person appointed to control and manage her finances. This removes any concern from all parties about the control of finances, and allows a transparent process which also protects my mother from exposure to further conflict. This independent person can file the reports to the court and the four daughters at pre agreed regular intervals."

36. In supplemental submissions filed in advance of the hearing LCR said this:

"If the LPA's are registered then responsibility for the care of KC must pass immediately to SC/AC/CP. The acrimonious and hostile relationship between the parties would mitigate against LCR providing care for KC."

37. At the hearing before me LCR maintained her objection to the registration of either instrument, stating that for the last two and a half years she had had the major responsibility of caring for KC and that she did not feel that her relationship with her sisters would change and that that it would always be one of entrenched conflict where they would not be able to work together.

### **The position of SC, AC and CP**

38. In a joint position statement dated 2 January 2020 SC, AC and CP said this (amongst other things):

"LCR and her husband for more than two years have verbally abused, intimidated and bullied AC and myself. LCR has made wrongful accusations about deceit and family fraud in relation to myself, which led to the traumatic experience of being interviewed by the police, LCR's husband physically assaulted me, there has been denial of contact of KC by LCR with AC and myself and anger management outbursts and inappropriate behaviour by LCR and her husband in front of our mother, (which AC and myself always chose to ignore while in the presence of KC) AC and myself have always been civil and shown no hostility towards LCR during these outbursts. The above incidents have been documented/recorded in emails.

In 2016 KC asked me to look after some of her money and I was asked by KC "don't tell those two....as I don't want them knowing all my business ... ". This was in reference to LCR and her husband. I respected my mother's wishes and did not inform them. The police have confirmed there was no family fraud and there was no need for an investigation. Despite this LCR is still making slanderous and libelous comments regarding her personal thoughts on the situation, even informing the doctor who conducted the most recent capacity assessment in November 2019, which was completely irrelevant and untrue. The Doctor then in turn commented on it in front of our mother,

which I feel is very unprofessional and inappropriate. LCR and her husband as executors of our father's will have not carried out all his wishes since 2008. The family property was supposed to be transferred 50% into KC's name and the remaining 50% to myself AC, CP and LCR. As of this date this has still not occurred."

39. It is clear to me that this position statement was drafted by SC. At the hearing on 10 August before me I asked all four daughters how their mother was. LCR indicated that KC's condition had deteriorated; she no longer recognised family, sometimes asking who LCR is. KC requires a lot of support with feeding. SC agreed that her mother's condition had deteriorated since the lockdown was introduced in light of the Covid-19 pandemic and that KC did not seem to be aware of her relationship with any of her daughters.
40. Against this sad picture of a clearly much-loved mother (and I make it clear that the court has no doubt at all that all four daughters love their mother dearly) it was concerning to hear AC, SC and CP tell me that they all worked together really well but that:
  - (from SC) their relationship with LCR was fractured
  - (from AC) LCR always wants to be in control, it is a lifetime thing and has always been the case and nothing will ever change
  - (from CP) she agreed that LCR always wanted to be in control and thought it would be very difficult working with LCR
41. SC, AC and CP all stated that they were aware of the requirements of donees of LPAs to act in the best interests of a patient and notwithstanding their acknowledgment of the fractured relationship with LCR wished for both instruments executed by KC to be registered. SC maintained that "despite all the conflict over the last few years" she would put this aside and work with LCR in KC's best interests if the court ordered registration of the instruments. She then quickly went on to comment that she couldn't believe that LCR had made statements querying the care given to KC by SC and her sisters.
42. AC said that the instruments should be registered, that she had always done her best but moving forward would leave decision making to SC and CP.
43. CP said that she had done her best and had never criticised LCR or her husband for the care that they provide for KC even though "we've been criticised constantly". CP also said (and this was the closest acknowledgment that any of the Respondents gave to the concerns of the Official Solicitor) that having listened to Miss Gardner (Counsel for KC through the Official Solicitor) at the hearing "a lot of what she has said is very valid and there would be difficulties."

**The application of the evidence to the relevant legal principles to the present case**

44. I make it clear that there are no concerns in the present case about current or prospective financial or emotional abuse of KC. The nub of this case lies in whether, if the court ordered registration of the instruments (thereby creating valid LPAs with the three Respondents as donees) the Respondents would be able on a day to day basis to apply the factors set out in section 4 MCA 2005 when determining what is in the best interests of KC. Those factors include taking into account KC's wishes (which were that all four of her daughters be involved in making decisions about her future care, finances etc) and (if it is practicable and appropriate to consult them) the views of anyone engaged in caring for KC or interested in her welfare. In other words, there would need to be a degree of co-operation, engagement and, where possible, agreement, between all four of KC's daughters. SC, AC and CP would be required when making decisions and considering their mother's best interests to work with LCR.
45. I am clear in my assessment that this would not happen. It is likely that LCR would be excluded from the decision-making process or there would be ongoing disagreement and dispute. There is a significant risk that if the instruments were registered, ongoing disagreement would result in matters being brought back to the court for determination. There is abundant evidence that for whatever reason LCR on the one hand and SC, AC and CP on the other, have a difficult, fractured and acrimonious relationship based on mistrust, conflict and what at times has appeared to this court to be dislike. If anything, the entrenched positions and conflict has intensified as these proceedings have progressed and as, sadly, KC's health has deteriorated. At a time when she has most needed her daughters to all pull together the chasm between them has if anything deepened and widened. It was KC's hope that her daughters would pull together and make decisions together. In my judgment, the evidence strongly indicates that sadly there is no prospect of that happening. I do not intend to make any findings as to where the rights and wrongs lie as between the Applicant on the one hand and the Respondents on the other. It is not necessary for the court to do so for present purposes. Furthermore, I am of the very clear view that it would not be in KC's best interests for the court to enter such territory.
46. I am however satisfied that there is clear evidence that the donees of both of the instruments would, if they are registered, behave in a way that is not in KC's best interests.
47. This leads me to the final consideration of the three-limbed approach articulated by HHJ Marshall QC (and which I respectfully adopt); should the court exercise its discretion and direct that neither LPA instrument is registered? I am very clear that in the present case neither LPA instrument should be registered. I say this for the following reasons:

- (a) Whilst she was a capacitous donor, KC's wish was for all four of her daughters to have decision making authority in respect of her property and affairs and health and welfare;
- (b) KC's current wishes and feelings (as expressed to Mr Maguire) continue to reflect this view;
- (c) To appoint three of KC's four daughters as attorneys would directly contradict KC's wishes and feelings and would serve to exclude LCR (who plays a significant role in KC's life) from decision making;
- (d) The appointment of three of KC's four daughters as attorneys would not heal the rifts that exist between them on the one hand and LCR on the other. If anything, it would exacerbate and emphasise the difficult and fractious sibling relationship which cannot be and is not in KC's best interests. The court is of the clear view that SC, AC and CP (if appointed) would not be able to act in KC's best interests by working together with LCR and making decisions on a joint basis, despite all four daughters having KC's best interests at heart. CP came very close to acknowledging this at the hearing and whilst all three proposed attorneys expressed the hope that they would work with LCR in KC's best interest, there is ample evidence which demonstrates that such expressions are of hope over reality.

### **The proposed order**

48. The Official Solicitor urged the court to direct pursuant to section 22(4) MCA 2005 that neither instrument be registered. I will make such an order. She also indicated that it would be appropriate for the court to order that a panel deputy be appointed to manage KC's property and affairs. I agree. In so agreeing, I apply the court's powers in section 16(6) MCA 2005 and apply the principles contained in section 1 of the Act and the best interest's principles contained in section 4. It cannot be a proper exercise of these principles and the court's powers to appoint all of KC's daughters as attorneys (especially in the face of opposition from LCR to any joint appointment with her sisters). In addition, any such appointment would not heal the rift between the four daughters of KC and lead to a working relationship that would be in KC's best interests. For the reasons already given in this judgment, the evidence strongly indicates that sadly there is no prospect of all four of KC's daughters pulling together and making decisions together. Any decisions regarding KC's property and affairs should be made by an independently appointed guardian (who in making any such decisions will be under a duty to consult with all four daughters prior to making any decision).
49. No party sought the appointment of a deputy for KC's personal welfare, and as matters currently stand it would not be appropriate for such an appointment to be made.

**Publication of this judgment**

50. The Official Solicitor has invited the court to give permission for this judgment to be published, having regard to the issues raised. I take the view that such application should be acceded to; as already noted, this is the first occasion on which a case has been brought before the courts on the ground of the future behaviour of a donee or donees.

HHJ Sarah Richardson

Designated Civil Judge for the Humber Courts and nominated judge of the Court of Protection