Neutral Citation Number: [2022] EWCOP 18

Case No: 13249213

COURT OF PROTECTION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 03/05/2022

Before:

THE HONOURABLE MR JUSTICE HAYDEN
VICE PRESIDENT OF THE COURT OF PROTECTION

- -

Between:

Andrew James Riddle

Applicant

- and –

Parker Rhodes Hickmott Solicitors **Respondent**

- -
- -

Andrew James Riddle (as a **Litigant in Person**) for the **Applicant**

Hearing dates: 11th April 2022

- -

Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....

THE HONOURABLE MR JUSTICE HAYDEN

MR JUSTICE HAYDEN:

1. This is an application made by Mr Andrew Riddle, who acts as a Deputy in the Court of Protection. On the 26th September 2018, Mr Riddle was appointed as Deputy to make decisions on behalf of Margaret Celia May, a widowed lady in her 90s, in respect of whom the Court had been satisfied she lacked capacity to make various decisions concerning her property and affairs. The Court had been further satisfied, as it is required to be, that the purpose for which the order was made could not be as effectively achieved in a way that was less restrictive of her rights and freedom of action.

2. As the order granted by Her Honour Judge Hilder, Senior Judge of the Court of Protection, records, the Deputy must apply the principles set out in Section 1 of the Mental Capacity Act 2005 ("the Act") and have regard to the guidance in the Code of Practice. The power of appointment is regulated by Section 16 of the Act:

> *"**16 Powers to make decisions and appoint deputies: general***
>
> *(1) This section applies if a person ("P") lacks capacity in relation to a matter or matters concerning—*
>
> *(a) P's personal welfare, or*
>
> *(b) P's property and affairs.*
>
> *(2) The court may—*
>
> *(a) by making an order, make the decision or decisions on P's behalf in relation to the matter or matters, or*
>
> *(b) appoint a person (a "deputy") to make decisions on P's behalf in relation to the matter or matters.*
>
> *(3) The powers of the court under this section are subject to the provisions of this Act and, in particular, to sections 1 (the principles) and 4 (best interests).*
>
> *(4) When deciding whether it is in P's best interests to appoint a deputy, the court must have regard (in addition to the matters mentioned in section 4) to the principles that—*
>
> *(a)a decision by the court is to be preferred to the appointment of a deputy to make a decision, and*
>
> *(b)the powers conferred on a deputy should be as limited in scope and duration as is reasonably practicable in the circumstances.*
>
> *(5) The court may make such further orders or give such directions, and confer on a deputy such powers or impose on him such duties, as it thinks necessary or expedient for giving effect to, or otherwise in connection with, an order or appointment made by it under subsection (2).*

(6) Without prejudice to section 4, the court may make the order, give the directions or make the appointment on such terms as it considers are in P's best interests, even though no application is before the court for an order, directions or an appointment on those terms.

(7) An order of the court may be varied or discharged by a subsequent order.

(8) The court may, in particular, revoke the appointment of a deputy or vary the powers conferred on him if it is satisfied that the deputy—

(a) has behaved, or is behaving, in a way that contravenes the authority conferred on him by the court or is not in P's best interests, or

(b) proposes to behave in a way that would contravene that authority or would not be in P's best interests."

3. Section 18 of the Act circumscribes the powers of the Deputy:

18. Section 16 powers: property and affairs

"(1) The powers under section 16 as respects P's property and affairs extend in particular to—"

(a) the control and management of P's property;

(b) the sale, exchange, charging, gift or other disposition of P's property;

(c) the acquisition of property in P's name or on P's behalf;

(d) the carrying on, on P's behalf, of any profession, trade or business;

(e) the taking of a decision which will have the effect of dissolving a partnership of which P is a member;

(f) the carrying out of any contract entered into by P;

(g) the discharge of P's debts and of any of P's obligations, whether legally enforceable or not;

(h) the settlement of any of P's property, whether for P's benefit or for the benefit of others;(i)the execution for P of a will;

(j) the exercise of any power (including a power to consent) vested in P whether beneficially or as trustee or otherwise;

(k) the conduct of legal proceedings in P's name or on P's behalf.

(2) No will may be made under subsection (1)(i) at a time when P has not reached 18.

(3) The powers under section 16 as respects any other matter relating to P's property and affairs may be exercised even though P has not reached 16, if the court considers it likely that P will still lack capacity to make decisions in respect of that matter when he reaches 18.

(4) Schedule 2 supplements the provisions of this section.

(5) Section 16(7) (variation and discharge of court orders) is subject to paragraph 6 of Schedule 2.

(6) Subsection (1) is subject to section 20 (restrictions on deputies).

4. The criteria for appointment of the Deputy are set out in Section 19 of the Act:

19. Appointment of deputies

"(1) A deputy appointed by the court must be—"

(a) an individual who has reached 18, or

(b) as respects powers in relation to property and affairs, an individual who has reached 18 or a trust corporation.

(2) The court may appoint an individual by appointing the holder for the time being of a specified office or position.

(3) A person may not be appointed as a deputy without his consent.

(4) The court may appoint two or more deputies to act—

(a) jointly,

(b) jointly and severally, or

(c) jointly in respect of some matters and jointly and severally in respect of others.

> *(5) When appointing a deputy or deputies, the court may at the same time appoint one or more other persons to succeed the existing deputy or those deputies—*
>
> > *(a) in such circumstances, or on the happening of such events, as may be specified by the court;*
> >
> > *(b) for such period as may be so specified.*
>
> *(6) A deputy is to be treated as P's agent in relation to anything done or decided by him within the scope of his appointment and in accordance with this Part.*
>
> ***(7) The deputy is entitled—***
>
> > ***(a) to be reimbursed out of P's property for his reasonable expenses in discharging his functions, and***
> >
> > ***(b) if the court so directs when appointing him, to remuneration out of P's property for discharging them.*** *(my emphasis)*
>
> *(8) The court may confer on a deputy powers to—*
>
> > *(a) take possession or control of all or any specified part of P's property;*
> >
> > *(b) exercise all or any specified powers in respect of it, including such powers of investment as the court may determine.*
>
> *(9) The court may require a deputy—*
>
> > *(a) to give to the Public Guardian such security as the court thinks fit for the due discharge of his functions, and*
> >
> > *(b) to submit to the Public Guardian such reports at such times or at such intervals as the court may direct.*

5. The scope and ambit of the Deputy's authority is identified in Section 20 of the Act:

> ***"20. Restrictions on deputies***
>
> *(1) A deputy does not have power to make a decision on behalf of P in relation to a matter if he knows or has reasonable grounds for believing that P has capacity in relation to the matter.*
>
> *(2) Nothing in section 16(5) or 17 permits a deputy to be given power—*

(a) to prohibit a named person from having contact with P;

(b) to direct a person responsible for P's health care to allow a different person to take over that responsibility.

(3) A deputy may not be given powers with respect to—

(a) the settlement of any of P's property, whether for P's benefit or for the benefit of others,

(b) the execution for P of a will, or

(c) the exercise of any power (including a power to consent) vested in P whether beneficially or as trustee or otherwise.

(4) A deputy may not be given power to make a decision on behalf of P which is inconsistent with a decision made, within the scope of his authority and in accordance with this Act, by the donee of a lasting power of attorney granted by P (or, if there is more than one donee, by any of them).

(5) A deputy may not refuse consent to the carrying out or continuation of life-sustaining treatment in relation to P.

(6) The authority conferred on a deputy is subject to the provisions of this Act and, in particular, sections 1 (the principles) and 4 (best interests).

(7) A deputy may not do an act that is intended to restrain P unless four conditions are satisfied.

(8) The first condition is that, in doing the act, the deputy is acting within the scope of an authority expressly conferred on him by the court.

(9) The second is that P lacks, or the deputy reasonably believes that P lacks, capacity in relation to the matter in question.

(10) The third is that the deputy reasonably believes that it is necessary to do the act in order to prevent harm to P.

(11) The fourth is that the act is a proportionate response to—

(a) the likelihood of P's suffering harm, [and]

(b) the seriousness of that harm.

(12) For the purposes of this section, a deputy restrains P if he—

> *(a) uses, or threatens to use, force to secure the doing of an act which P resists, or*
>
> *(b) restricts P's liberty of movement, whether or not P resists, or if he authorises another person to do any of those things."*

6. In *Re MN v O and P,* the Court emphasised that the appointment of the Deputy for someone who lacks capacity to manage their affairs is a discretionary exercise for the Court, securely rooted in precedents long pre-dating the modern Court of Protection, created by the MCA 2005. Senior Judge Lush noted:

> *"Many of the old authorities governing the appointment of receivers and, before that, the appointment of committees of the estate and committees of the person, are still pertinent to the appointment of deputies. These authorities generally acknowledged that there was an order of preference of persons who might be considered suitable for appointment as a committee or receiver. I have called it an order of preference, rather than an order of priority to avoid giving an erroneous impression that certain people were, in the past, automatically entitled to be appointed as a committee or receiver or are automatically entitled now to be appointed as a deputy. They aren't. The Court of Protection has discretion as to whom it appoints, however, in the past when appointing a committee or receiver, it traditionally preferred relatives to strangers. The decision of Lord Chancellor Eldon in Re Le Heup (1811) 18 Ves Jun 221 was often cited in this respect. Generally speaking, the order of preference is:*
>
> - *P's spouse or partner;*
> - *Any other relative who takes a personal interest in P's affairs;*
> - *A close friend;*
> - *A professional advisor, such as the family's solicitor or accountant;*
> - *A Local authority's social services department; and finally*
> - *A panel deputy, as deputy of last resort."*

In reality, the discretionary exercise in appointing a Deputy will and ought to be entirely directed by the facts of the individual case.

7. As will be clear from the above, a Deputy will often be an individual who is not legally qualified. Mr Riddle is not a qualified lawyer. There was, in this case, no need for him to be so. In this application, Mr Riddle has appeared in person and presented his own

written arguments. The written arguments reflect the input of some legal assistance but neither they nor the Grounds of Appeal filed identified clearly which order it is that Mr Riddle sought to appeal. Though the Court administration and I endeavoured to identify this, we were not successful and, in order to save further time, I called this case in for an oral application for Permission to Appeal to be made.

8. The central issue in this application concerns the remuneration of the Deputy. This, as I have highlighted in emphasis above at paragraph 4, is regulated by Section 19(7) of the Act. The MCA confers a right to remuneration of expenses, but it is the Court that provides legal authority for remuneration. As Charles J noted in *Re AR [2018] EWCOP 8* at paragraph 24, the authorisation of remuneration is a *"best interests"* decision for the Court, taken by reference to the individual facts of the case.

9. The rules regulating a Deputy's remuneration are found in r19.13 of the Court of Protection Rules 2017 (COPR 2017).

> *"**Remuneration of a deputy, donee or attorney***
>
> *19.13.—(1) Where the court orders that a deputy, donee or attorney is entitled to remuneration out of P's estate for discharging functions as such, the court may make such order as it thinks fit including an order that—*
>
> *(a) the deputy, donee or attorney be paid a fixed amount;*
>
> *(b) the deputy, donee or attorney be paid at a specified rate; or*
>
> *(c) the amount of the remuneration shall be determined in accordance with the schedule of fees set out in the relevant practice direction.*
>
> *(2) Any amount permitted by the court under paragraph (1) shall constitute a debt due from P's estate.*
>
> *(3) The court may order a detailed assessment of the remuneration by a costs officer in accordance with rule 19.10(b)."*

10. All this is supplemented by Practice Direction:

> *"**Practice direction as to costs***
>
> *19.14. A practice direction may make further provision in respect of costs in proceedings."*

11. The relevant Practice Direction is **PD 19B – Fixed Costs in the Court of Protection**. It sets out the fixed costs that may be claimed by solicitors and public authorities acting in Court of Protection proceedings and the fixed amount of remuneration that may be claimed by solicitors and those office holders appointed to act as Deputy for P. It applies principally to solicitors or office holders in public authorities appointed to act as

Deputy. Importantly, it contains the authority enabling the Court to direct that its provisions may also apply to other professionals acting as deputy including accountants, case managers, and not for profit organisation.

12. Paragraph 5 of PD 19B provides:

> *"**Claims generally***
>
> *5. The court order or direction will state whether fixed costs or remuneration applies, or whether there is to be a detailed assessment by a costs officer. Where a court order or direction provides for a detailed assessment of costs, professionals may elect to take fixed costs or remuneration in lieu of a detailed assessment."*

13. In Re AR (supra), Charles J noted the following:

> *[32]. Common ground was reached that:*
>
> *i) there is no presumption that a deputy should be appointed on the basis that his charges are governed by PD 19B, and that*
>
> *ii) the adoption of this course is one of the options open to the COP when appointing a deputy.*
>
> *I agree and consider that this is clear from the provisions of Rule 167(1) (a) to (c) (now 19.13 (1)(a) to (c)) which expressly set out alternatives. It is also consistent with the generality of the power conferred by ss. 16(5) and 19(7) of the MCA.*
>
> *[33]. As I have already mentioned, Senior Judge Hilder in Various Incapacitated Persons and the Appointment of Trust Corporations as Deputies points out that s. 16(3) of the MCA provides that the decision to appoint a property and affairs deputy under s. 16(2)(b) of the MCA is a "best interests" decision and is therefore made by reference to the individual facts of a particular case. This also applies to a decision that enables the deputy to be paid remuneration under ss. 16(5) and 19(7) of the MCA, Rule 167 (now 19.13) and PD 19B."*

14. Thus, the approach of the Court, is to choose between the practically available options i.e., which of the possible Deputies requires to be appointed, on the facts of the case, and on what terms. I would very much endorse the observations of Charles J in *Watt v ABC [2016] EWCOP 2532*. There, Charles J makes it entirely clear that the application of presumptions, starting points or bias is irreconcilable with a test which is predicated on P's best interests.

> *"[75]. In short, the weighing or balancing of competing factors is at the heart of decision making under the MCA and it does not*

> *fit with presumptions, starting points or a bias that have to be displaced.*
>
> *[76]. Rather, it introduces a reasoning process that can, for example, start with all of the factors that favour the appointment of a deputy over other results and so points that deputies are appointed and regulated under a statutory scheme (a) which is directed to persons who lack capacity and so need someone to make decisions for them, and (b) which has statutory tests for decision making, access to the COP, checks and balances and provisions that provide security (and so the points made in paragraphs 32 to 34 of SM v HM and paragraph 53 hereof).”*

The above reasoning applies with equal force to the terms of appointment as well as to the identity of the Deputy.

15. None of this means that the rates fixed by the Practice Direction, which inevitably will fall for periodic review, nor the potential impact in other cases of orders permitting higher rate costs is irrelevant. They plainly are not, but they are not presumptive.

16. In his skeleton argument, Mr Riddle has submitted that the following points can be distilled from Her Honour Judge Hilder's judgment in *London Borough of Enfield v Matrix Deputies Ltd and Others (No. 2) [2018] EWCOP 22:*

> “1. If a Deputy Order authorises “fixed costs” without specifying at what rate, that necessarily implies the lower, public authority rate;
>
> *2. If an order authorises “fixed costs” without specifying at what rate but also authorises the deputy to seek assessment from the Senior Courts Costs Office (SCCO), that does not imply the higher, solicitors' rate;*
>
> *3. There is nothing in the PD which requires the court only to provide for SCCO assessment if it applies the solicitors' rate of fixed costs. It is open to the court to apply the lower, public authority rate and also provide for assessment if the deputy prefers (see [51]);*
>
> *4. An assessment obtained from the SCCO without authority is not sufficient to establish entitlement to claim the assessed fee. At best, the deputy may seek to rely on such assessment in support of an application for release of liability in respect of any fee charged at the assessed rate. Any lack of challenge from the OPG to a report submitted to it by the deputy does not constitute authorisation to charge the reported fee.”*

17. Judge Hilder also made the following observations in *London Borough of Enfield* (supra):

> *"[56]. Clearly the court is not obliged to provide for authorisation of a deputy by reference to the fixed fees of the Practice Direction. Rule 19.13 expressly sets out alternative options of remuneration at a "fixed amount" or a "specified rate." However, each of these alternatives may be perceived as having some practical disadvantages. Authorisation of remuneration of a "fixed amount" means it is more likely that there will need to be future applications to court (with attendant cost to P) because in a particular year the vicissitudes of life present more demands on the deputyship than usual, or simply to update the amount to reflect rising costs over time. To some extent these difficulties can be addressed by index-linking (as in Re AR) but the orders, and the steps necessary to quantify authorised fee, necessarily become more complex. Authorisation of a "specified rate" on the other hand does not inherently carry any limit on how much of that specified rate would be reasonable. These disadvantages are mitigated if remuneration is by reference to the Practice Direction fixed rates, which are updated periodically."*

18. In the order of appointment on the 26th September 2018, Judge Hilder made the following provision relating to costs and expenses:

> *"the Deputy is entitled to receive fixed costs in relation to this application and to receive fixed costs for the general management of Margaret Celia May's affairs at the prevailing public authority rate"*

19. Mrs May had, I have been told, approximately £140,000 savings. She also had a comfortable, well decorated bungalow in Derbyshire valued at £210,000. There were no further assets. Judge Hilder considered that fixed costs at the public authority rate was the appropriate authorisation. She made that order and it was not appealed. Though Mrs May had substantial savings, they were sadly and inevitably quickly depleted by the costs of her care. As they declined, Mr Riddle took the view that an application should be made authorising the sale of the bungalow. It would appear that this application took some time to progress through the system. Mr Riddle pressed the Court for an urgent update on the application. In a letter to the Court, dated the 4th September 2019, he emphasised that Mrs May's savings would only stretch to a further 4 months of her care costs. In his annual report sent to the Office of the Public Guardian, Mr Riddle also highlighted his concern. On the 14th February 2020, Mr Riddle, again, wrote to the Court asserting that the funds had now been depleted. On the 6th March 2020, Mr Riddle sent the latest residential care fees invoice which indicated that two months of care fees were outstanding.

20. At this point, the Covid-19 pandemic resulted in what has become known as, the first period of "lockdown". In that period, on the 2nd May 2020, Mrs May died. The papers do not record the cause of her death.

21. Throughout the period that Mrs May was living in the care home, Mr Riddle submits that the following work was undertaken:

> *"a. DOLS work required in looking to obtain authority to sell property. DOLS work now required by the CoP when looking to sell client's properties now results in the sale process taking substantially longer, due to the fact that we are required to obtain authority to sell the property, even though we request such authority within the initial application. This obviously results in significant further work, often taking up to a year or two to obtain the requisite authority.*
>
> *b. Instructing property management company to market/sell property*
>
> *c. Vacant property insurance put in place*
>
> *d. Monthly vacant property inspections*
>
> *e. Property Valuation Appraisal report commissioned*
>
> *f. Fencing works required on property to be undertaken. Sourcing of trade people, quotes etc*
>
> *g. Maintenance of property eg. gardening*
>
> *h. Dealing with utility companies, local authority, care homes*
>
> *i. Dealing with neighbours, family etc*
>
> *j. Handling offers put forward*
>
> *k. Organising clearance, clean of property*
>
> *l. Ensuring personal items retained for client and sent to them in care*
>
> *m. Having items of value auctioned"*

22. As I pointed out to Mr Riddle, in the course of his arguments, some of these have plainly been included in a way which require to be regarded as generic duties rather than pieces of work actually undertaken in this case. For example, it was not necessary, in the circumstances, to instruct a property management company to market/sell the property. Similarly, though there was some limited contact with neighbours, Mrs May did not have a family (thus (i.) above, cannot be entirely accurate; para 23). Mr Riddle readily agreed this. For the avoidance of doubt, I am entirely satisfied that he had accidentally conflated his general duties in a case of this kind with those in this particular case.

23. Mr Riddle also contended that in comparative cases, Judge Hilder had issued orders at Local Authority rates, with the option to have costs assessed by the SCCO. The comparator identified in the three examples alighted upon was entirely confined to the value of the estate. Whilst that will no doubt be a factor when evaluating the appropriate costs regime, it cannot sensibly be argued that, without more, it is determinative.

24. On the 26th October 2020, Mr Riddle applied to the Court for an amendment to paragraph 4 of the original deputyship order seeking for his costs to be assessed by the SCCO. The application was made by a COP24 statement. Judge Hilder considered the application on the 31st March 2021 and concluded that it was not *"appropriate for authority to be granted to Andrew James Riddle to seek SCCO assessment of his costs".* For the avoidance of doubt, the Court ordered:

> *"The order made on the 26th September 2018 stands. The application for authority to seek assessment of costs is refused"*

25. The Court order also identified that the application was made by way of reconsideration, as provided for by r.13.4(11) of the Court of Protection Rules 2017 and that *"no application may be made for reconsideration of this order".* It is necessary to set these out:

> ***Reconsideration of court orders***
>
> *Orders made without a hearing or without notice to any person*
>
> *13.4.—*
>
> *(1) This rule applies where the court makes an order—*
>
> *(a) without a hearing; or*
>
> *(b) without notice to any person who is affected by it.*
>
> *(2) Where this rule applies— 51*
>
> *(a) P;*
>
> *(b) any party to the proceedings; or*
>
> *(c) any other person affected by the order, may apply to the court for reconsideration of the order made.*
>
> *(3) An application under paragraph (2) must be made—*
>
> *(a) within 21 days of the order being served or such other period as the court may direct; and*
>
> *(b) in accordance with Part 10.*
>
> *(4) The court shall—*
>
> *(a) reconsider the order without directing a hearing; or*
>
> *(b) fix a date for the matter to be heard and notify all parties to the proceedings, and such other persons as the court may direct, of that date.*
>
> *(5) Where an application is made in accordance with this rule, the court may affirm, set aside or vary any order made.*

> *(6) An order made by a court officer authorised under rule 2.3 may be reconsidered by any judge.*
>
> *(7) An order made by a Tier 1 Judge may be reconsidered by any judge.*
>
> *(8) An order made by a Tier 2 Judge may be reconsidered by any Tier 2 Judge or by a Tier 3 Judge.*
>
> *(9) An order made by a Tier 3 Judge may be reconsidered by any Tier 3 Judge.*
>
> *(10) In any case to which paragraphs (7) to (9) apply the reconsideration may be carried out by the judge who made the order being reconsidered.*
>
> *(11) No application may be made seeking a reconsideration of—*
>
> > *(a) an order that has been made under paragraph (5); or*
> >
> > *(b) an order granting or refusing permission to appeal.*
>
> *(12) An appeal against an order made under paragraph (5) may be made in accordance with Part 20 (appeals).*
>
> *(13) Any order made without a hearing or without notice to any person, other than one made under paragraph (5) or one granting or refusing permission to appeal, must contain a statement of the right to apply for a reconsideration of the decision in accordance with this rule.*
>
> *(14) An application made under this rule may include a request that the court reconsider the matter at a hearing. (Rule 2.3(2)(c) provides that a court officer authorised under that rule may not deal with an application for the reconsideration of an order made by that court officer or another court officer.)*

26. It follows, therefore, that the order of 26th October 2020 is the order Mr Riddle seeks to appeal. The Court of Protection (Tier 3) received a COP35 notice, a COP37 skeleton argument and a COP24 statement. Each of these documents was dated the 2nd June 2021. There is a further undated document headed 'Grounds of Appeal'. Judge Hilder considered these documents in a written application for permission to appeal and declined it on 25th June 2021. The application was renewed before this Court.

27. The criteria for permission to appeal are contained within r.20.8 of the Court of Protection Rules 2017. These provide:

> ***"Matters to be taken into account when considering an application for permission***

20.8.

—(1) Permission to appeal shall be granted only where—

(a) the court considers that the appeal would have a real prospect of success; or

(b) there is some other compelling reason why the appeal should be heard.

(2) An order giving permission may—

(a) limit the issues to be heard; and

(b) be made subject to conditions.

(3) Paragraphs (1) and (2) do not apply to second appeals."

28. Rule 20.14(3) sets out the test on appeal:

> *"(3) The appeal judge shall allow an appeal where the decision of the first instance judge was—*
>
> *(a) wrong; or*
>
> *(b) unjust, because of a serious procedural or other irregularity in the proceedings before the first instance judge."*

29. The essence of Mr Riddle's argument is that the volume of work he undertook and what he refers to as the "size and complexity" of the estate, is not adequately met by the limited local authority rates. The work largely involved contracting for maintenance of the empty property and seeking to process the application for its sale. Even so, I can certainly see how the remuneration rates received may barely have covered Mr Riddle's costs. The mischief, however, does not lie in the costs regime but, in the rates set by the local authority. It does not follow, axiomatically, that costs which run close to or even exceed the fixed fees constraint establish a basis for an SCCO assessment.

30. In a recital to her order of the 25th June 2021, Judge Hilder records as follows:

> *"[9]. The Court invites the attention of Andrew James Riddle to:*
>
> *a. paragraph 4 of the order made on 31st March 2021, which records that the Court considered the statement by Andrew James Riddle filed in support of the application, and so confirms that his "evidence on the size and complexity of the estate" has been fully considered;*
>
> *b. paragraph 5 of the order made on 31st March, which explains the reason for refusal of the application, namely that the Court was "not satisfied that it is appropriate for*

> *authority to be granted to Andrew James Riddle to seek SCCO assessment of his costs."*

31. It is plain, therefore, that this highly experienced judge took into account Mr Riddle's central points and, in the exercise of her discretion, concluded that it did not justify revisiting her earlier order. Nothing that Mr Riddle has advanced before me has caused me to doubt that Judge Hilder's evaluation of the size and complexity of this estate was anything other than thorough and careful. Indeed, it strikes me, for the reasons I have analysed, that she was entirely correct.

32. The effective running of the Court of Protection, in the sphere of Property and Affairs cases, depends very much on professional deputies such as Mr Riddle. It is manifestly important that they are remunerated at a sustainable rate if they are to continue to assist the Court and the vulnerable people they serve. Those rates of remuneration, however, are not for the Court. As is evident from this judgment, I permitted Mr Riddle to advance his argument in full. The matters he has raised rarely come before Tier 3 judges, which is why I have taken the time to set out the legal framework and applicable case law in some detail.

33. Although I have permitted Mr Riddle a broad licence to present his case in full, on a strict construction the criteria in r.20.8 are not met. In any event, the argument and paper exhibits advanced do not, despite Mr Riddle's courteous efforts, reveal anything that might suggest the first instance judge was wrong or that there was any serious procedural or other irregularity which had any impact on her decision. For these reasons permission to appeal is declined.