

# LAPG Annual Conference 2021 Workshop

## Court of Protection Legal aid tips for practitioners

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# Covid 19 – Court of Protection

- Vice President's guidance
- Client visits
- Capacity assessments – remote or face to face?
- Attending hearings and risk assessments
- Electronic filing
- The future – hybrid hearings?

# S.16 welfare v s.21A DoLs

- S.16 cases are means tested
- Issues – capacity and best ints re residence, care, contact, sexual relations, marriage, contraception, out of the jurisdiction etc.
- And deprivation of liberty
- Serious Medical Treatment cases funding
- S.21A deprivation of liberty cases non means tested
- The two categories and unfairness

## s.21 A Deprivation of Liberty – legal aid

- What is in scope?
- Director of Legal Aid Casework v Briggs [2017] EWCA Civ 1169
- Re X cases – but no oral hearing
- S21A challenges – urgent and standard authorisation gaps
- Make clear the effect of a gap, seek costs

# Liberty Protection Safeguards

- Mental Capacity (Amendment) Act 2019
- ‘By April 2022’?
- A single Code of Practice – spring 2021?
- Scope – supported living, deprivation at home
- Non means tested?

# Accredited Legal Representatives

- The role of the ALR and the appointment scheme
- Funding for P's legal costs
  - Gathering evidence of means
  - Signing of legal aid forms where P lacks capacity
    - Application usually must be made by litigation friend
    - Director waiver (delegated power)
  - What about signing where Legal Help?
  - Other criteria for funding still need to be met

<https://www.lawsociety.org.uk/support-services/advice/practice-notes/accredited-legal-representatives-in-the-court-of-protection/>

# Practical challenges

- Costs limits and unnecessary admin
- Delays and escalation processes – civil claim fix
- Changes to means test – mortgage, CICA etc
- High Cost Case Plans - the next steps
- LAA Policy in High Profile Cases – be aware
- Urgent need for parity in detention cases