

You may wish to seek your own legal advice from a solicitor who may be able to provide you with support in regards to the above matters

Once an authorisation is granted a renewal date will be set, most commonly, every 12 months. You can ask the Court to revisit the authorisation at any time if you believe the restrictions have increased, believe the order is not being adhered to or if you feel the authorisation is no longer required



Information Leaflet for Rule 1.2 Representatives (family members, friends or significant others)

For the purposes of this leaflet your friend or relative will be referred to as 'P' in accordance with The Mental Capacity Act 2005

When would a Rule 1.2 Representative be required?



- When a family member or friend is deemed to lack capacity and is receiving a package of care in the community which includes restrictive practices the package of care must be authorised by the Court of Protection
- This is referred to as a CoPDOL (Court of Protection Deprivation of Liberty). A Rule 1.2 Representative is appointed to ensure that the person's (usually known as 'P' in the Court of Protection) views are properly considered within this process

Once the application is complete (to include a witness statement completed by yourself) you will receive a final Order which authorises the agreed care and support plan. You are then required to regularly check that the package of care and support is being properly implemented and note if any changes have been made. For example, this may arise because P's condition or needs have changed. It would be your responsibility to raise this with the Local Authority or Clinical Commissioning Group.



Working in P's interest

Section 4(6) of the Mental Capacity Act 2005 states what you must consider when determining what is in P's best interest. This includes:

- a) The person's past and present wishes and feelings (and any relevant written statement made by him when he had capacity)
- b) The beliefs and values that would be likely to influence the decision if he had capacity, and
- c) The other factors that he would be likely to consider if he were able to do so

- If you agree with the proposed package of care and support and think the Court should make the order without a hearing, you would be responsible for discussing this with P (where possible). You would need to ascertain whether or not they would like to play a direct part in proceedings (e.g. by attending a hearing or liaising directly with the Judge). If P wants to do this you should raise this with the Local Authority or Clinical Commissioning Group and include it within your statement
- The Judge will consider all of the information that has been gathered and decide whether P's current care package is in their best interest and could not have been effectively achieved in a way that is less restrictive



Why have I been asked or been appointed as Rule 1.2 Representative?



- You have been asked to be a Rule 1.2 Representative due to the relationship and knowledge you have with P. You will have knowledge around them being deprived of their liberty and the care and support they receive
- You will assist the Court in reaching a decision by reviewing what the Local Authority (social services) or the Clinical Commissioning Group (CCG) have proposed. You will do this in P's best interest (rather than what you or others think)
- You will consider the pros and cons of P's care and support, compare options and ensure it is the least restrictive option available

What do I have to do within my role as Rule 1.2

Representative?



- As part of the application the Social Worker or health professional will complete an application form called a CoPDoL 11. You will be required to complete a small section of this application, referred to as the Annex C. An example of the CoPDoL 11 can be found here:
<https://www.gov.uk/government/publications/form-copdol11-application-to-authorise-a-deprivation-of-liberty-sections-4a3-and-162a-of-the-mental-capacity-act-2005>. The Annex C which you are required to complete is the last section of the CoPDoL 11 document
- Once your witness statement is complete it will be sent alongside your statement to the Court. Your statement should be made on a CoP24 form which can be downloaded from:
<https://www.gov.uk/government/publications/give-a-witness-statement-about-a-person-who-lacks-capacity-form-cop24>

The statement should generally include:

- An explanation of who you are in relation to P the matters covered in section 4(6), set out above
- If you do support the application, your reasons for doing so
- Whether an oral hearing may be required because P wishes to see the Judge or take a direct part in the hearing
- Whether an oral hearing is needed because matters are disputed, for example, you do not support the arrangements proposed or they are opposed by someone else. You'll need to set out the reasons for the dispute
- Any comments you wish to make on P's capacity to make decisions about P's care arrangements
- Any other comments you wish to make in particular and that are directly related to help the Court determine if the care and support is the least restrictive option and in P's best interest
- You should then sign your statement confirming its content including your name and the date

