

The Court of Protection is testing a new way of having hearings. For the time being, hearings will be in public, but no-one will be allowed to name the people involved. If you want your hearing to be in private instead, you can ask the judge. You will need to explain in writing why your case should be treated differently to the other cases.

This order means that if you say or write anything in public about the Court proceedings which uses people's real names, you could be in serious trouble.

This is when the next hearing will be, and what it will deal with

**IN THE COURT OF PROTECTION
CASE NO: -----**

**IN THE MATTER OF THE MENTAL CAPACITY
ACT 2005**

**IN THE MATTER OF X [THE ANONYMISED
REFERENCE TO P]**

BETWEEN

[PARTIES IN APPROPRIATELY ANONYMISED FORM]

IMPORTANT

If any person disobeys the order in paragraph (5) they may be found guilty of contempt of court and may be sent to prison, fined or have their assets seized. They have the right to ask the court to vary or discharge the order.

UPON READING the Court file

AND UPON HEARING -----

AND UPON IT APPEARING TO THE COURT that there should be an attended hearing to which the pilot provided for by *Practice Direction – Transparency Pilot* should apply

IT IS HEREBY ORDERED that:

- (1) This application be set down for an attended hearing on ----- with a time estimate of -----
--- at which the Court will consider the following issues:
 - (a) ---,
 - (b) ---

[DEFINE THE ISSUES]

- (2) Subject to further order of the Court that attended hearing and any further attended hearing of this application

When the court puts up a list saying which hearings are taking place each day, this is how your case will be described.

Everyone who goes to the court hearing, or is told about what happened at the hearing, has to do what this order says.

This is what you are NOT allowed to make public. Usually, it will include

- the name of the person who the case is about

- the names of their family

- the names of witnesses

- anything that might reveal the names of the people above, or where they live, or their contact details

Normally, you will be allowed to name the local authority, CCG or NHS Trust who is involved in the case

is to be in public PROVIDED ALWAYS THAT the court may exclude from the attended hearing any person (other than a party) who refuses a request to sign a document recording their attendance and that they are aware of the terms of this order

(3) The attended hearing is to be listed as follows:

[SET OUT A DESCRIPTION BY REFERENCE TO THE GENERAL DESCRIPTION LIST]

(4) Part 3 of Practice Direction 13A to the Court of Protection Rules 2007 (which relates to proceedings held in private) shall continue to apply to these proceedings.

(5) (A) The following persons (the Persons Bound by the Injunctive Order) are bound by this injunctive order:

(i) the parties and their representatives,

(ii) the witnesses,

(iii) all persons who attend all or any part of an attended hearing,

(iv) all persons who by any means obtain or are given an account or record of all or any part of an attended hearing or of any order or judgment made or given as a result of an attended hearing, and

(v) any body, authority or organisation (and their officers, employees, servants and agents) for whom any such person works or is giving evidence.

(B) The material and information (the Information) covered by this injunctive order is:

(i) any material or information that identifies or is likely to identify that

(a) [X] and members of X's family are respectively the subject (and so a P as defined in the Court of Protection Rules 2007) or members of the family of a subject of these proceedings, or that

(b) [--- ANONYMISED REFERENCE TO ANY OTHER PARTY --] is a party to these proceedings, or that

(c) [----- ANONYMISED PERSON WHOSE IDENTITY SHOULD NOT BE PUBLISHED -----] (who the Court has so identified to the parties in private) [-----
- has taken a part in / or been referred to in -----] these proceedings; and

(ii) any material or information that identifies or is likely to identify where any person listed above lives, or is being cared for, or their contact details.

This means you cannot publish the names of people in the case.

Also, you cannot do anything that means someone else publishes their names.

You can still talk about and write about people, for example on social media, but you cannot link them to the Court of Protection case.

If the judge gives a written decision in your case, this will not include the names of the people involved.

If you want the judge to use people's names, you can ask the judge to do this.

Every time you send a document to the court that you have written about what you want the court to do- for example a "position statement"- you must only use people's initials, not their full names.

If journalists come to your hearing, the court will give them copies of position statements if they want to see them.

The court will decide at the hearing whether any journalist or member of the public should be allowed to see other documents that are used in the case.

(C) Subject to further order of the Court and save as provided by sub-paragraph (D) the Persons Bound by this Injunctive Order shall not by any means directly or indirectly:

- (i) publish the Information or any part or parts of it, or
- (ii) cause, enable, assist in or encourage the publication of the Information or any part or parts of it.

(D) Subject to further order of the Court this injunctive order does not prevent the Persons Bound by this Injunctive Order from communicating information relating to these proceedings on the basis that Part 3 of Practice Direction 13A to the Court of Protection Rules 2007 (which relates to proceedings held in private) applies to these proceedings.

(6) Subject to further order of the Court any transcript of a hearing of and any judgment or order given in these proceedings shall be anonymised so that it shall contain no reference by name or address to the persons or bodies referred to in paragraph (5)(B) and shall refer to them by their descriptions therein.

(7) Subject to further order of the Court all position statements, statements of issues, chronologies and skeleton arguments prepared when the injunctive order in paragraph (5) is in force shall refer to the persons or bodies referred to in paragraph (5)(B) by their descriptions therein.

(8) Subject to further order or direction of the Court (including directions relating to payment, use, copying, return and the means by which a copy of a document may be provided):

(A) the documents prepared in accordance with paragraph (7) will if requested by them be provided to duly accredited representatives of news gathering and reporting organisations who attend the hearing referred to in paragraph (1) (and any later hearing), and

(B) at those attended hearings the Court shall give such further directions as it thinks fit concerning the provision of copies of documents put before the Court and the terms on which they are to be provided to any person who attends the hearing (and is not a person to whom the document can be provided under Part 3 of Practice Direction 13A to the Court of Protection Rules 2007).

(9) A record (the Record) of the Information shall be kept by the Court. The Record shall contain a list of the

The court may decide to tell journalists or other people who come to a hearing what the real names of the people involved are.

If someone wants to know the real names of the people in the case, they can ask the court to tell them – but they have to explain why they want to know.

Anyone involved in the case or who knows about the case is allowed to ask the judge to change this order in any way.

You can ask the court to give you permission to publish the real names of the people in the case.

names separately from the other parts of the Information. The Record or some of it may on request be made available to anyone who attends or has attended a hearing on such terms as the Court thinks fit.

(10) Application may be made to the Court by any person who has not been present at an attended hearing (and so become aware of or been able to request the Information) for a direction that they be provided with the Information or some of it on such terms as the Court thinks fit. Any such application must be accompanied by evidence setting out why such a direction is sought.

(11) The parties and any person affected by this order may apply to the Court for an order (and the Court may of its own motion make an order) that:

- (i) varies or discharges this order or any part or parts of it, or which
- (ii) permits the publication of any of the Information on the basis that it is lawfully in the public domain or for such other reason as the Court thinks fit.

(12) Subject to further order of the Court, any person who would have been entitled under the Legal Services Act 2007 to exercise rights of audience at the attended hearing if this order had not been made and it was held in private (and is not otherwise entitled to exercise such rights), shall be entitled to exercise equivalent rights of audience at that attended hearing and any further attended hearing of this application.

(13) Costs reserved.

Dated:-----