

## Our team continues to grow.

A warm welcome to Sonal Lala who has recently joined our specialist Health and Community Care Team. Sonal's expertise in relation to health and welfare issues in the Court of Protection is a huge asset to us and our clients. Sonal has a wide range of experience dealing with health and social care disputes, including:

### Care Act 2014

- Challenging needs assessments with local authorities
- Deprivation of assets cases, financial disputes and 'top-ups'
- Representing family members where a loved one has been placed in a care home some distance away
- Contact issues, for example where visits to see a family member have been restricted

### Mental Capacity Act 2005

- Challenging mental capacity assessments
- Deprivation of Liberty Safeguarding (DOLS) authorisations
- 'Best interest' disputes with the local authority and NHS
- Applications regarding health and welfare issues to the Court of Protection



“We are delighted to have Sonal as part of the team. Her knowledge and expertise means that we can provide an all-encompassing service to clients who are struggling to navigate the nightmare that is the current health and social care system.”

Debbie Anderson, Head of the Health and Community Care Team.

For those of you who attend our seminars and legal updates, you will get a chance to meet Sonal later in the year. In the meantime if you have queries about any of the issues Sonal deals with, please do not hesitate to contact her!

### Sonal Lala

☎ 01926 491 181

✉ [SonalL@moore-tibbits.co.uk](mailto:SonalL@moore-tibbits.co.uk)

## One step closer to the new National Framework...



March saw the publication of the new National Framework for NHS continuing healthcare and NHS Funded Nursing Care. Coming into effect in October this year, it is more 'tweaking' than major overhaul, with the most obvious change being the order of the domains with the more contentious ones moved to later in the assessment! The new Framework is accompanied by revised Checklist and Decision Support Tool documents; we will be covering the changes in more detail in our legal updates and training sessions. The underlying issue though - that tricky divide between what is 'health' and what is 'social' care - remains. This grey area has led to big variations in who is found eligible between Clinical Commissioning Groups and the new Framework is supposed to bring greater consistency. Given that the NHS needs to make £821 million in savings in continuing healthcare and funded nursing care, we cannot imagine that the changes will make eligibility more straightforward.

## LEGAL UPDATE FOR CARE MANAGERS

Don't miss out on booking your place at our FREE seminar. In an ever changing legal landscape, find out more about the current issues affecting care contracts, continuing healthcare, care funding, safeguarding and much more...



A few places still available at three venues:

### 5 June 2018

Leamington and County Golf Club, Whitnash, Leamington Spa.

### 14 June 2018

Cotswolds Club, Southcombe, Chipping Norton

### 21 June 2018

Shirley Golf Club, Stratford Road, Monkspath, Solihull

Contact Esme Hill to book your place on [esmeh@moore-tibbits.co.uk](mailto:esmeh@moore-tibbits.co.uk). Places booking up fast!

**FREE SEMINAR  
BOOK NOW!**



To sign up to receive our free legal updates and newsletter, please email [esmeh@moore-tibbits.co.uk](mailto:esmeh@moore-tibbits.co.uk)

## In the News

### In the Court of Protection

You can't have missed the poisoning of Sergei Skripal and his daughter Yulia in Salisbury recently (and if you have, where have you been?) What is not so widely known is that they found themselves the subject of a Court of Protection case. The Court had to decide whether it was in their best interests for the Organisation for the Prohibition of Chemical Weapons to collect and analyse fresh blood samples, examine recent medical records and re-test existing samples. This needed urgent authorisation by the Court of Protection as both Mr Skripal and his daughter did not have mental capacity at that particular time to consent, being either unconscious or heavily sedated. This is a good example of the Mental Capacity Act 2005 in practice and permission was subsequently granted by the Court. Now that they are thankfully on the road to recovery, and have regained mental capacity, any further decisions are no longer under the jurisdiction of the Mental Capacity Act 2005 or the Court of Protection.



### Will the Equality and Human Rights Commission challenge potentially discriminatory continuing healthcare policies?

In March the Commission wrote to thirteen Clinical Commissioning Groups (including Coventry and Rugby, Warwickshire North and Redditch and Bromsgrove) about limits they had put in place on the amount they would pay for continuing healthcare packages at home.

The result of these limits could arguably force people into a care home, in breach of the National Framework, the Human Rights Act 1998 and the Public Sector Equality Duty. The CCG's should have responded to the Commission by early April, and we will be watching this case carefully on behalf of a number of our clients.

### Arbitrary funding caps are contrary to the Care Act 2014

Next time you, or someone you support, is offered a package of care based on a weekly amount, pause and ask 'is this meeting my needs?'

A recent decision by the Local Government and Social Care Ombudsman against Wiltshire Council served as a reminder that setting arbitrary funding bands or caps on the amount a council pays for care is contrary to the Care Act 2014. The Care Act 2014, supporting regulations and Statutory Guidance is clear: councils have a legal duty to meet all eligible needs 'regardless of the cost'. However, councils do also have to account for spending public money. While they have to meet all eligible needs they must use public funds wisely and can decide on how those needs are met. So, if there is a choice between two services that can meet the same needs and one is significantly cheaper, guess which one the council will prefer...

## Training Update

Did you know that we offer free training sessions for care professionals?

Short courses are offered at two levels:

- **Introductory:** for support staff and volunteers
- **Intermediate:** for senior managers and nurses

Courses include:

- Mental Capacity Act 2005 and best interests
- Mental Capacity Act 2005 and Deprivation of Liberty Safeguards
- Understanding the Care Act 2014
- Safeguarding
- NHS continuing healthcare funding and Funded Nursing Care



Follow us on Twitter



**@MandTCare**

to receive legal updates and news

**Moore & Tibbits**  
**Solicitors**

a member of  
**QualitySolicitors**

**Change the way you see lawyers**

**01926 491181** **email@moore-tibbits.co.uk** **www.qualitysolicitors.com/moore-tibbits**

34 High Street, Warwick, CV34 4BE