‘In Whose Best Interests? Determining best interests in health and social care’

2nd July 2015 (09.30 - 16.30)
University of Worcester

Programme

Fee: £90 per delegate (to include lunch and refreshments)
To book a place, please go to:
https://secure.worc.ac.uk/cgi-bin/conference/care.pl
For any queries, please contact Esther Dobson at: e.dobson@worc.ac.uk
Please book early to avoid disappointment
09.00 – 09.30  Registration and coffee

09.30 – 09.40  Welcome to the University
Professor David Green

09.40 – 09.50  Overview of the day
Dr. Helen Taylor
Programme Lead/Senior Lecturer
University of Worcester

09.50 – 10.50  In Whose Interests?
Mr. Alex Ruck Keene
Barrister and Honorary Research Lecturer at the
University of Manchester

This lecture will address the question of how successfully the courts are navigating the tension between empowerment and protection within the MCA 2005. It will, in particular, examine whether and how the wishes of feelings of ‘P’ factor into the determination of best interests, and ask whether we are – or should – be moving to a presumption in favour of following P’s wishes and feelings (where such can be identified) absent compelling reasons to the contrary.

10.50 – 11.15  COFFEE BREAK

11.15 – 11.45  Best interests in health and social care practice: what does the research say?

Dr. Helen Taylor
Programme Lead/Senior Lecturer. University of Worcester

11.45 – 12.15  Dr George Theodoulou
Consultant Older Adult Psychiatrist | Inpatient and Malvern Community Services, Clinical Director for Older Adult Mental Health Services, Worcestershire Health and Care NHS Trust

Dr. Theodoulou will consider a range of anonymised cases, highlighting along the way the challenges of applying the law in clinical settings e.g. out patients’ clinics, primary care, family homes, care homes, general hospital and mental health hospital.
Panel discussion and questions
AR-K, HT, GT, PB

LUNCH

Is DOLS about best interests?

Professor Peter Bartlett
Nottinghamshire Healthcare NHS Trust
Professor of Mental Health Law
School of Law and Institute of Mental Health
University of Nottingham

The circumstances of the introduction of the DOLS in 2007 left its purpose and logic unclear: are they about ensuring the best care for P, or protecting P from over-intrusion by the state? Are they about protecting P, or are they instead about the dignity of risk? Using the statutory test of best interests as a framework, this paper discusses the doctrinal tensions within the DOLS: what are (and what should they) be for?

Maximising a person’s involvement when they are living with dementia

Members of the LINK group and Isabelle Latham
Senior Lecturer, Association for Dementia Studies. University of Worcester.

Ensuring that people are effectively and proactively involved in decisions about their lives and care is an essential principle of the MCA, one that is fundamental to ensuring that ‘best interests’ are determined with the person themselves at the forefront of decision-making. This presentation by people living with dementia and their carers (members of the Association for Dementia Studies Link Group) will explore the opinions and experiences of people living with dementia on how best to support and encourage their involvement in decision-making. It will present the best ways to empower people and discuss experiences and impact of disempowerment and exclusion.
15.00 – 15.30  Statutory wills: the limits of best interests?

Professor Rosie Harding.
University of Birmingham

Under the MCA 2005, statutory wills can be executed in the ‘best interests’ of P where P lacks testamentary capacity. But the whole idea of a statutory will pushes the boundaries of best interests away from the individual, and towards those who stand to benefit from their estate. This paper explores Court of Protection statutory wills cases to expose the tensions inherent in using ‘best interests’ as a decision making framework, and demonstrates the viability of the alternative ‘best interpretation of their will and preferences’ standard put forward in the UN Convention on the Rights of Persons with Disabilities.

15.30 – 15.50  COFFEE BREAK

15.50 – 16.20  “Best Interests Decision-Making: When should an application to the Court of Protection be made?”

Polly Sweeney,
Associate Solicitor, Public Law Department. Irwin Mitchell Solicitors.

Polly will consider the potentially challenging issue of when best interests decisions / disputes should be referred to the Court of Protection. She will present an overview of recent cases in which she acted, and where criticism was made of the delay in bringing best interests issues to court. Guidance will be given on matters such as when an application should be made, and who should make the application.

16.20 – 17.00  Panel discussion and questions

PB, AR-K,IL and LINK, RH, PS