

BOOK REVIEW

COURT OF PROTECTION PRACTICE 2016

General Editor and Contributor: Gordon R Ashton OBE

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THE DEFINITIVE WORK IN A DIFFICULT AREA OF
LAW:
NOW IN A NEW EDITION FOR 2016

An appreciation by Phillip Taylor MBE and Elizabeth Taylor
of Richmond Green Chambers

There is scarcely any other area of law that is as complicated
and sensitive as that pertaining to matters that must be
adjudicated in the Court of Protection.

With its beneficial fusion of scholarship, clarity and
compassion, this book from Jordan Publishing has become the
definitive guide to every conceivable aspect of Court of
Protection practice and procedure. Writing in the foreword,
Sir James Munby, President of the Court of Protection, has
pronounced it as essential for all those who work in, or appear
before the Court, notably every judge and practitioner.

Of course, no institution is perfect – and Sir James has pointed out a number of flaws that need to be addressed, while at the same time referring, for example, to the now ‘streamlined process for dealing with deprivation of liberty cases (which) is now up and running, facilitated by the welcome recruitment from the Tribunal judiciary of additional judicial assistance for such cases.’

Munby refers, moreover, to certain ongoing developments aimed, for example, at moving Court of Protection techniques in much the same direction as those that have proved successful in the Family Court.

Certainly the credibility of the Court of Protection is identified in General Editor Gordon Ashton’s introduction as one of several significant challenges facing our ‘mental capacity jurisdiction’ which as he refers to as a ‘valuable jurisdiction.’

What is particularly interesting about the book is that it reflects the radical attitudinal changes (for the better) toward those with mental and physical impairments that have emerged during the past quarter century. As the editors stress, ‘there is now a new social and legal climate that emphasizes personal autonomy, favours community care and disapproves of discrimination in any form’.

Bearing all this in mind it is no surprise that this highly regarded legal text is conspicuously client-centric. ‘We must never overlook the fact that it is for the benefit of that person, not the lawyers,’ says Ashton, ‘that this valuable jurisdiction exists.’

Also note the quote from Lord Woolf to the effect that ‘the litigant in person is regarded as a problem for judges and for the court system rather than a person for whom the system of civil justice exists.’

‘The aim of the judge,’ adds the commentary, ‘should be to ensure that the parties leave with the sense that they have been listened to and have had a fair hearing – whatever the outcome.’

This is a book of almost 3,000 pages, so it is fortunate that not only is it easy to use, it contains a veritable mine of references and resources for Court of Protection practitioners. The index at the back and the 17-page, minutely detailed table of contents make it easy to look things up.

Extensively footnoted with numbered paragraphs throughout, the book is divided into twelve parts, the twelfth being an almost 30-page list of directories for everything from carers and care homes to wills and probate – and on the inside back cover -- where you’ll also find an accompanying CD -- there’s a handy list of fixed costs in the Court of Protection.

Containing much new material in this new edition for 2016, this distinguished volume is a must-have purchase for all practitioners involved in this difficult area of law as the definitive work.

The editors have endeavoured to state the law as at 1st December 2015 with some later additions.