**HHJ Andrew Levey**

Designated Family Judge Hampshire and Isle of Wight

August 2022

We thought that it would be helpful to remind practitioners of the approach taken in Hampshire/IOW where requests are made for cognitive assessments and for permission to obtain an intermediary assessment, and to set out the procedure for intermediary assessments.

1. We do not require a C2 to be lodged for either a cognitive assessment or an intermediary assessment. However, we do expect practitioners to have made enquiries of the intermediary service in order to understand timescales, and of the psychologists in order that the assessment can be timetabled correctly.
2. For a cognitive assessment, we approve the direction below. We will expect this wording to be used in all cases unless specifically raised with the judge at the hearing

**The cognitive assessment shall answer the following questions:**

* 1. Please assess whether [name], has the capacity to provide proper instructions to their legal representatives in relation to these proceedings and any anticipated applications such as an application for a placement or adoption order in accordance with Section 3(1) of the Mental Capacity Act 2005.  Please provide a Certificate as to Capacity;
  2. Please carry out a full cognitive assessment of [name] and advise as to his/her overall level of functioning.
  3. In the event that you identify any cognitive difficulties, please comment on whether there are any particular steps that should be taken by professionals or those advising [name] to ensure that he/she understands and retains the information / advice given and to ensure that he/she is assessed fairly.
  4. Please also consider whether, for example, any parenting assessment ought to be completed using the PAMs model or something similar.
  5. Please assess and comment on what support and assistance should be offered to [name] by the local authority / any other professional(s);
  6. Is there any aspect of [name] cognitive functioning that would affect his/her ability to work with professionals?  If so, please comment on how this could be overcome.
  7. Please advise as to whether any participation directions (and if so what) are necessary, in particular if [name] is required to give oral evidence.

**Intermediaries**

1. There is now an HMCTS scheme under which intermediaries are selected. Bookings still need to be made through the court office as before. Whereas in the past we made directions leading to a ground rules hearing at IRH after an assessment in the morning, we now understand that Communicourt wish to assess in an earlier meeting at the office of the solicitor. In future, when a direction is made for an assessment by Communicourt, that assessment should take place as arranged between Communicourt and the party and not be on court premises. Communicourt will then produce a report as to the need for an intermediary and for special measures to be adopted. If parties agree the special measures a consent order should be lodged in order that they may be adopted. We anticipate that this will be the approach in most cases. Only if agreement is not reached should the court be asked to list a ground rules hearing.
2. The following form of wording should be used:

**Intermediary Assessment**

1. The court considers that it may be necessary to make participation directions in respect of XX.

1. The solicitor for XX must by 4.00pm on [date] ask an intermediary provider to provide a quotation for the supply of services in the form of a preliminary assessment to include necessary preparative work and, if required, intermediary services and necessary preparative work for the final hearing and the following directions apply:
   1. the quotation must be sent to HMCTS for the attention of the court manager by [date];
   2. HMCTS must confirm acceptance of the quotation and payment of intermediary services within 7 days of receipt of the quotation;
   3. the assessment report must be filed and served on all parties by 4pm on [date];
   4. the parties shall agree the ground rules within 7 days of receipt of the assessment report and lodge a consent order setting out agreed participation directions or, in default of agreement, the solicitor for XX must notify the Court and the matter shall be listed for a Ground Rules hearing.
   5. any default in compliance with these directions must be brought to the attention of the case management judge on 48 hours’ notice to all parties.

HHJ Levey

DFJ Hants/IOW