



2016 CHAPTER 18

PART 6

HIGH COURT POWERS: DECISIONS AND DEPUTIES

Decisions and deputies

The court's powers to make decisions and appoint deputies: general

113.—(1) This section applies if—

- (a) a person (“P”) lacks capacity in relation to a matter or matters concerning—
 - (i) P’s care, treatment or personal welfare, or
 - (ii) P’s property and affairs; and
- (b) P is 16 or over or section 115(3) applies.

(2) The court may—

- (a) by making an order, make on P’s behalf a decision or decisions that P lacks capacity to make in relation to the matter or matters; or
- (b) appoint a person (a “deputy”) to make decisions on P’s behalf in relation to the matter or matters (see further sections 116 and 117).

(3) The powers of the court under this section are subject to the provisions of this Act and, in particular, to sections 1, 2, 5 and 7 (principles, best interests).

(4) When deciding whether it would be in P’s best interests to appoint a deputy, the court must (in addition to complying with section 7) have regard to the principles that—

- (a) a decision by the court is to be preferred to the appointment of a deputy to make a decision; and
 - (b) the powers conferred on a deputy should be as limited in scope and duration as is practicable in the circumstances.
- (5) The court may—
 - (a) make such further orders,
 - (b) give such directions, and
 - (c) confer on a deputy such powers or impose on a deputy such duties,as it considers appropriate for giving effect to, or otherwise in connection with, an order or appointment made by it under subsection (2).
- (6) The court may make an order or appointment under any provision of this section, or give a direction under subsection (5), on such terms as it considers are in P's best interests (even where no application is before the court for an order, appointment or direction on those terms).
- (7) An order of the court may be varied or discharged by a subsequent order.
- (8) The court may, in particular, revoke the appointment of a deputy or vary the powers conferred on a deputy if it is satisfied that the deputy—
 - (a) has behaved, or is behaving, in a way that contravenes the authority conferred on the deputy by the court or is not in P's best interests; or
 - (b) proposes to behave in a way that would contravene that authority or would not be in P's best interests.