

A woman with long dark hair, wearing a vibrant red, long-sleeved, flowing dress, is captured in mid-air performing a backflip. Her arms are extended upwards, and her legs are bent at the knees, with her feet pointing towards the ground. The background is plain white.

FootAnstey

Actions speak louder.

WHO WOULD BE A DEPUTY?

INTRODUCTION

Foot Anstey Court of Protection Team

- 96 Deputyships
- Expertise in a variety of issues relating to Mental Capacity & Capacity
- Types of clients: Acquired Birth Injuries, Personal Injury cases, Learning Disabilities and the Elderly. Also Expert Witness Statements
- Over £32 million
- Lawyers with wide variety of backgrounds and specialisms
- OPG Panel Deputy



CASE STUDY : MRS GREEN

- 87 year old lady with dementia
- Fears going into a care home
- 3 daughters, Annabel (A), Barbara (B) and Carol (C)
- A & B – Attorneys for Property & Affairs and Health & Welfare
- Sibling rivalry –control?
- A & B discharged as Attorneys for Property and Affairs
- Local Authority appointed as Deputy
- “Granny-napped” by each daughter in turn
- Local Authority applied to be discharged
- Went to OPG for a Panel Deputy Appointment – Foot Anstey appointed.

THE PROPERTY

- Owned by Mrs Green & Mr Green - Mr Green died in 2009.



½: Mrs Green ½: Will Trust (A,B&C)

- Mrs Green resides with A. B “squatting” rent free & not paying any bills.
- Property is not in a habitable state for Mrs Green to return, although she wants to.
- Mr Green left his half share in Trust to A, B & C with life interest to Mrs Green
- A , B, C and Mrs Green are Trustees of the Will Trust – any sale will need all Trustees consent.

NEW DEPUTY APPOINTED

- Foot Anstey Trust Corporation appointed as Deputy last year.
- Mrs Green residing with A, quite happily.
- A & B still have Health & Welfare Lasting Power of Attorney but don't get along
- B wants Mrs Green to return home. Mrs Green occasionally asks to return.
- C complains she can't see her mother and wants her to live with her.
- Mrs Green has less than £8,000 in her Estate plus the half share of the property
- Mrs Green cannot afford to pay for renovations to move back home, nor upkeep of property or legal fees.
- Sisters cannot agree on shared care arrangements for home care
- What steps should the Deputy take?

HEALTH & WELFARE ISSUES

- Firstly need to decide where she should reside (best interests).
- Court Application for Health & Welfare (Local Authority).
 - Where Mrs Green should reside?
 - Revoke Lasting Power of Attorney?
 - Who should have contact and when
- Ongoing Court proceedings on this matter since September.
- Family unable to agree
- More “granny napping” and continual breach of Court orders by the family.

Property & Financial Issues: Deputy's Decisions

- Limited to Property and Financial Decisions, cannot get involved with Health and Welfare decisions
- Cost of renovations to Property inequitable to Mrs Green's Estate – the Court must take this into account
- Property – sell, let, keep?
- P must be at the centre of all this, what does she want? Capacity? Involve OS.
- The Court has to firstly decide where Mrs Green should live before the Deputy can make any decisions on the property
- Court has to also decide whether to return home Mrs Green home v financially viability?

Deputy's Decisions.....

- If the Court decides Mrs Green cannot return home:
 - Various Applications to:
 - a. Sell
 - b. Remove B from property
 - c. Deal with Trust issues so Mrs Green can have her half share
- Will not be done with agreement of parties so technical points of law have to be applied
- How does the Deputy get paid?

SOLUTION?

- Principles of MCA 2005
- Court may decide Mrs Green can go home, live with A or C – impractical!
- Court may agree Mrs Green cannot afford to live at home, despite her wishes, best interests, family conflict and that she needs to general some income for her care.
- Practical problems of selling, sorting, clearing, removing B from property
- Perhaps live independently in sheltered accommodation

Get on with your siblings! At a cost to their mother both financially and emotionally.



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THANK YOU