

IN THE COURT OF PROTECTION
AND IN THE HIGH COURT OF JUSTICE



Case No. 10370284

IN THE MATTER OF THE MENTAL CAPACITY ACT 2005
AND IN THE MATTER OF THE INHERENT JURISDICTION

Before Mr Justice Peter Jackson

IN THE MATTER OF
ANN CLARKE

Order of 11 October 2016

Upon hearing Ms Angela Wilde and Mr Kevin Clarke in person, Mr Michael Clarke not having attended court despite being aware of the hearing;

And upon the Court further considering the application dated 21 March 2016 by Ms Wilde and Mr Kevin Clarke in which they seek orders that Mrs Ann Clarke be brought back to England so that she can be cared for here, and that they be given charge of Mrs Ann Clarke's Blackpool house to prevent its further deterioration and so that it can be let to provide Mrs Clarke with an income.

And upon the Court of Protection and the High Court having made orders on 22 February, 15 March, 11 April and 9 May 2016;

And upon reading further statements by Ms Angela Wilde and Mr Kevin Clarke and various documents from Mr Michael Clarke;

And upon the Court being concerned for the welfare of Mrs Ann Clarke and requiring further information in order to determine the present application;

And upon the Official Solicitor having filed a report on the question of the court's jurisdiction, accompanied by counsel's advice;

IT IS DECLARED in the interim that:



- a) there is reason to believe that Mrs Ann Clarke lacks capacity in relation to the matters raised by this application;
- (b) the High Court has jurisdiction in relation to the application concerning Mrs Clarke's welfare, whether or not the Court of Protection has such jurisdiction;
- (c) the Court of Protection has jurisdiction in relation to the application concerning Mrs Clarke's Blackpool property.

AND IT IS ORDERED THAT

1. The Official Solicitor is invited to continue with the *Harbin v Masterman* inquiry in relation to Mrs Ann Clarke, to comprise consideration of:
 - a. how to assess whether Mrs Ann Clarke lacks capacity to make a decision about the relevant issues relating to her personal welfare given that she is currently resident in Spain and living with Mr Michael Clarke;
 - b. how to secure the return of Mrs Ann Clarke to this jurisdiction if this is found to be in her best interests;
 - c. how to obtain Mrs Ann Clarke's true wishes and feelings in relation to the relevant matters;
 - d. Mrs Clarke's financial situation and how that can be protected;
 - e. Whether an application should be brought under the inherent jurisdiction in relation to the matters at issue in these proceedings.
2. The Official Solicitor shall file with the Court and serve on the parties his written report as soon as possible.
3. The orders made on 9 May 2016 in relation to the Official Solicitor's inquiry shall remain in effect.
4. The parties are at liberty to apply in writing for any interim orders in case of necessity.
5. A transcript of the judgment given today shall be prepared at public expense.



6. Costs reserved.

Order dated 11 October 2016

