

*Status: This version of this cross heading contains provisions that are prospective.*  
**Changes to legislation:** *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Ancillary powers of the court is up to date with all changes known to be in force on or before 08 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*



## 2016 CHAPTER 18

### PART 6

#### HIGH COURT POWERS: DECISIONS AND DEPUTIES

PROSPECTIVE

##### *Ancillary powers of the court*

##### **Interim orders and directions**

**119** The court may, pending the determination of an application to it in relation to a person (“P”), make an order or give directions in respect of any matter if—

- (a) there is reason to believe that P lacks capacity in relation to the matter;
- (b) the matter is one to which the court's powers under this Part extend; and
- (c) it is in P's best interests to make the order, or give the directions, without delay.

##### **Power to call for reports**

**120.**—(1) This section applies where, in proceedings brought in respect of a person (“P”) under this Part, the court is considering a question relating to P.

(2) The court may require a report to be made to it by the Public Guardian or by a Court Visitor.

(3) The court may require an HSC trust, [F1the Department] or RQIA to arrange for a report to be made—

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- (a) by one of its officers or employees; or
  - (b) by such other person (other than the Public Guardian or a Court Visitor) as that body considers appropriate.
- (4) The report must deal with such matters relating to P as the court may direct.
- (5) Rules of court may specify matters which, unless the court directs otherwise, must also be dealt with in the report.
- (6) The report may be made in writing or orally, as the court may direct.

#### Textual Amendments

- F1** Words in s. 120(3) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 252\(2\)](#); S.R. 2022/102, art. 2(b)

### **Powers of Public Guardian or Court Visitor in respect of reports under section 120(2)**

**121.**—(1) This section applies where, in proceedings brought in respect of a person (“P”) under this Part, the court imposes a requirement to make a report under section 120(2).

(2) If the Public Guardian or a Court Visitor is making a visit in the course of complying with the requirement, he or she may interview P in private.

(3) If a Court Visitor who is a Special Visitor is making a visit in the course of complying with the requirement, he or she may if the court so directs carry out in private a medical, psychiatric or psychological examination of P’s capacity and condition.

(4) For the purpose of complying with the requirement, the Public Guardian or a Court Visitor may at all reasonable times require the production of, examine and take copies of—

- (a) any health record (as defined by section 306),
- (b) any relevant record, or
- (c) any court record,

so far as the record relates to P.

(5) But if P has capacity in relation to whether the power under subsection (4) should be exercised, the power may be exercised only with P’s consent.

(6) In this section—

“court record” means documentation held by the court relating to the proceedings mentioned in subsection (1);

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“relevant record” means a record relating to P's care, treatment or personal welfare which is a record of or held by—

- (a) an HSC trust;
- (b) <sup>F2</sup> ...
- (c) RQIA;
- (d) a Northern Ireland department or its employees or agents;
- (e) the managing authority of an independent hospital; or
- (f) the managing authority of a care home.

#### Textual Amendments

- F2** Words in s. 121(6) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 252\(3\)](#); S.R. 2022/102, art. 2(b)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 285(2)(a)-(c) substituted for s. 285(2)(a)(b) by [2022 c. 18 \(N.I.\) Sch. 3 para. 77\(b\)](#)