



Mental Capacity Act 2005

2005 CHAPTER 9

PART 2

THE COURT OF PROTECTION AND THE PUBLIC GUARDIAN

Supplementary powers

49 Power to call for reports

- (1) This section applies where, in proceedings brought in respect of a person (“P”) under Part 1, 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 of Protection Visitor.
- (3) The court may require a local authority, or an NHS body, to arrange for a report to be made—
 - (a) by one of its officers or employees, or
 - (b) by such other person (other than the Public Guardian or a Court of Protection Visitor) as the authority, or the NHS body, considers appropriate.
- (4) The report must deal with such matters relating to P as the court may direct.
- (5) Court of Protection Rules 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.
- (7) In complying with a requirement, the Public Guardian or a Court of Protection Visitor may, at all reasonable times, examine and take copies of—
 - (a) any health record,
 - (b) any record of, or held by, a local authority and compiled in connection with a social services function, and

Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 49. (See end of Document for details)

- (c) any record held by a person registered under Part 2 of the Care Standards Act 2000 (c. 14) [F1, Chapter 2 of Part 1 of the Health and Social Care Act 2008 or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016], so far as the record relates to P.
- (8) If the Public Guardian or a Court of Protection Visitor is making a visit in the course of complying with a requirement, he may interview P in private.
- (9) If a Court of Protection Visitor who is a Special Visitor is making a visit in the course of complying with a requirement, he may if the court so directs carry out in private a medical, psychiatric or psychological examination of P's capacity and condition.
- (10) "NHS body" has the meaning given in section 148 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43).
- (11) "Requirement" means a requirement imposed under subsection (2) or (3).

Textual Amendments

- F1** Words in s. 49(7)(c) substituted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), **regs. 2(1)**, 30

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