



# Patient care and funding

Capsticks is a market-leading legal firm specialising in health and social care. Our team is here to work in partnership with you to provide timely, professional and cost-effective advice which will allow you to make decisions that are in the best interests of patients whilst complying with the law and reducing the risk of legal challenges.

Our clinical advisory team has been working with NHS commissioners for over 30 years, with offices in London, Birmingham and Leeds. Capsticks' longstanding relationship with the NHS means that we have complete immersion in the healthcare sector and regularly work with NHS commissioners across the country, including over a hundred Clinical Commissioning Groups and NHS England.

## What we can help you with

We have extensive experience supporting personalised commissioning teams, representing CCGs, advising and providing practical training on:

### Mental Capacity Act, Deprivation of Liberty and Court of Protection

- Avoiding legal proceeding wherever possible, identifying tricky cases and dealing with complaints early and efficiently
- Court of Protection proceedings: responding to applications, making applications where the CCG is required to do so
- Consideration of the options for care and treatment, including support with balance sheet analyses and advice on issues arising from limited resources, decision-making regarding funding and placements and avoidance of judicial review proceedings
- Making applications to the Court of Protection to authorise deprivation of liberty (drafting applications from scratch or completing "DOLS healthcheck" on drafts from CCG)
- Introduction of the new Liberty Protection Safeguards and how to manage this within the team
- Interaction with MHA, including on s117 funding, restrictions required to protect public and which legislative system to adopt

### NHS Continuing Healthcare / Children's Continuing Care

- Eligibility assessments, including disputes with other bodies and judicial reviews
- Suitability of brokerage schemes and Personal Health Budgets, their management and issues arising from them (including enforcing auditing responsibilities)
- Redress claims including for unassessed periods of care
- Care for overseas patients
- Challenges to the size of the package of care and related Choice & Equity policies and disputes with other public authorities.

### Individual Funding Requests

- Ensuring robust decision-making and recording
- Exceptionality and resource issues
- Judicial review proceedings, providing a secure defence to proceedings or settling as quickly as possible where required

### Safeguarding

- Working with police, local authorities and other bodies when concerns are raised, assisting with investigations into concerns including Safeguarding Adult Reviews and Serious Case Reviews

### Commissioning policies and service changes

- Judicial reviews arising from commissioning policies and proposed service changes.
- Reducing the risk of judicial review challenges based on equalities; unreasonableness or lack of public involvement and consultation.

### Inquests

- Involvement in inquests relating to commissioning decisions and involvement in serious case reviews, representation at Inquests including witness support and timely provision of all relevant information to Coroner
- Limiting the involvement of CCGs in inquests and removing them as interested parties wherever appropriate.

## Our benefits to you

### Full service support

Challenges in the NHS often require a joined-up solution and we work collaboratively with our colleagues in other departments to provide a seamless approach. We are a full service law firm for healthcare commissioners and can call on a wide variety of specialist lawyers nationally to support our clients with everything from human resources issues to clinical governance and corporate and commercial needs wherever required.

We regularly work on disputes as to the identity of the responsible commissioner and the substance of the care package. We frequently advise on resource issues under Choice & Equity policies and s.117 MHA after-care packages, defending judicial reviews challenges, with associated Equality Act and Human Rights Act claims.

## Supporting your team

Your staff work hard managing the care and wellbeing of hundreds of people. Balancing court-imposed deadlines on top of case management duties is not easy. We can work with you to find the best and most cost effective solution for your staff, support them throughout and provide any training you feel would be beneficial.

We pride ourselves on our approachability and responsiveness, and our 24/7 emergency advice line means that the help you need is available whenever you need it.

## Pre-selected for quality and value for money

Capsticks is a panel firm on all of the relevant NHS procurement hubs for legal services. This means that we are an approved supplier, and our services are already available to your CCG with no additional tendering process required.

## Harnessing technology

The current pandemic has seismically changed the way we all work, and creative use of technology is more important now than ever. We have adapted seamlessly to these changes, and our robust IT systems mean we are well equipped to manage documents online and hold meetings remotely via video conferencing while maintaining the quality of service and personal approach we pride ourselves on. Our courts are adapting too and we are fully prepared to meet the new opportunities and challenges this will bring.

## Contact



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