

'Expand Your Practice' part III: Alex Ruck Keene presents 'A Beginners Guide to the Court of Protection'

On 17 February 2021, MTYBA hosted the third part of its 'Expand Your Practice' series with Alex Ruck Keene of 39 Essex Street Chambers, delivering 'A Beginners Guide to the Court of Protection' to a cohort of young junior and budding practitioners.

Alex walked us through the basics of the Mental Capacity Act 2005 which created the Court of Protection under s.45, clarifying a common misconception that the Court of Protection is an offshoot of the Family Court. In all Court of Protection proceedings, the focus is on the best interests of the individual, referred to as P (person). A point of note was the prominent role of District Judges in the proceedings, whose powers are generally wider than would be in other courts. Junior practitioners in this area can commonly find themselves appearing in matters concerning the deprivation of liberty, for which they were referred to the deprivation of liberty safeguards.

The inquisitorial as opposed to adversarial nature of the Court was highlighted, and a plea made to those practising in the area to have in mind and be open to mediation at any stage in relevant proceedings. The principal goal of Court of protection work, it was emphasised, should not be to 'win the case', as it were, but to cooperate with all parties to the litigation to secure the best possible outcome in the interests of P. Practitioners in this area were reminded of the range of 'soft skills' also integral to a successful Court of Protection practice, as interaction with social workers, doctors, and vulnerable individuals will be frequent and the legal issues involved "fiendishly complicated".

Alex described the Court as "still finding its feet" and urged aspiring Court of Protection lawyers to seize the opportunity to get involved in this rapidly developing niche, pointing to the 'Court of Protection Handbook' as a good place to begin.