What happens at a Court of Protection hearing?

Who attends a Court of Protection hearing?

Generally the parties to the proceedings will attend the hearing. The lawyers representing the parties to proceedings will be in attendance and they may have instructed barristers to attend too.

The person to whom the proceedings relate ("P") may also wish to attend the hearing and their litigation friend may also attend.

If a public body such as a local authority or Integrated Care Board is a party to the proceedings, it is likely that a another professional, such as a social worker will be at the hearing. Other witnesses might also be in attendance.

If the court has not ordered that the proceedings should take place in private, members of the general public may attend the hearing. If the hearing is being held in private, permission to attend the hearing must be sought from the judge in advance for anyone to attend who is not already a party to the proceedings.

In some cases, members of the press will attend a hearing in order to report on it afterwards. In open hearings, this is generally permitted as long as the press adheres to any transparency order in place, which may prohibit the publication of any information about the proceedings which identifies the identity or contact details of the parties.

When does the hearing take place and how long does it take?

In most cases, the court will have listed the hearing for a specific time and duration. The parties are usually required to attend court (in person or remotely via video link or telephone call) at least one hour prior to when the hearing is due to take place in order to participate in pre-hearing discussions. The pre-hearing discussions give the parties an opportunity to narrow the issues in the case.

The court will have allocated a set period of time for the hearing and the time estimate will usually be stated on the court order.

Where does the hearing take place?

The court order will specify whether the hearing will take place in person or remotely.

If the hearing is in person, the name of the court will be specified. When you arrive at court on the day of the hearing, you will need to locate the court room number. In most courts, listing sheets will be located near the entrance, which list all of the hearings taking place that day, the judge hearing them, and the court room number. It is a good idea to have a note of the case number to help you to locate the correct sheet. It is also often a good idea to speak to a court clerk at a check-in desk (where available), to make them aware that you have arrived.

If the hearing is remote, it may be that the hearing takes place via telephone, Microsoft Teams, Cloud Video Platform or other virtual platforms. If you are a party to the proceedings, you should receive a link to any virtual platform by email in advance of the hearing. It is a good idea to familiarise yourself with the instructions, and to be ready to log in 10-15 minutes before the hearing is due to start, in case you encounter any technical difficulties. There will

usually be a telephone number in the instructions, which you can call if you are unable to login.

Where should I sit in a physical courtroom?

The lawyer undertaking the advocacy for each party (either the barrister or a solicitor doing the speaking before the judge) will usually sit at the front of the courtroom with any litigants in person (parties without legal representation).

It is usual for the lawyers who have instructed the barrister and/or their clients (such as a social worker or lay parties) to sit behind them.

What happens at the beginning of the hearing?

The court clerk will take the names of the people in attendance and ensure that all parties are in attendance before letting the judge know that the hearing can commence.

If the hearing is in person, those in attendance will be asked to stand up as the judge enters the room. It is usual for the clerk to say “court rise” to indicate that it is necessary to stand up.

The clerk will read out the case number for the purpose of the recording of the hearing.

What will happen at the hearing?

The judge may check that everyone in attendance has been served with a copy of the transparency order.

Where any party has instructed a lawyer to represent them, the lawyer will usually speak to the judge on their behalf.

The judge will usually ask to hear from the applicant first. The applicant will usually introduce the parties and provide a brief summary of what the case is about. The applicant will then put forward their submissions in respect of what they are asking the judge to direct or to decide.

The judge will then hear from the other parties. Where there is disagreement between the parties the judge may ask questions of the parties or give them another chance to speak in response. The judge may also ask the parties to give closing submissions.

In some hearings there may be witnesses in attendance who are giving oral evidence. The parties or their lawyers will each ask questions of the witnesses. The judge may help a litigant in person question witnesses and the judge can also ask their own questions.

If it is a final hearing, the judge will be asked to make a final decision. In doing this, the judge may ask for a short period of time to review the parties’ submissions and consider their judgment before returning to confirm what their decision is. This may mean that the judgment is not given on the same day as the hearing. The judgment may be given in person or in writing.

If it is not a final hearing, the judge will be asked to make a court order which sets out what evidence is required to progress the case. The judge will confirm what directions and/or orders it is willing to make at the hearing. The draft order may have been prepared by the parties prior to the hearing to assist the judge. If not, the parties will draft an order following

the hearing which they will agree between themselves, and then send to the court for the judge's approval.

At the end of an in-person hearing the clerk will ask those in attendance to stand again whilst the judge leaves the courtroom.