

AND IN THE MATTER OF AC

REPORT FILED ON BEHALF OF THE OFFICIAL SOLICITOR

1. By order dated 9 May 2016, Mr Justice Jackson invited the Official Solicitor to conduct a *Harbin v Masterman* inquiry in relation to AC to comprise consideration of:
 - a. How to assess whether AC lacks capacity to make a decision about the relevant issues relating to her personal welfare given that she is currently resident in Spain and living with MC;
 - b. How to secure the return of AC to this jurisdiction if this is found to be in her best interests;
 - c. How to obtain AC's true wishes and feelings in relation to the relevant matters;
 - d. AC's financial situation and how that can be protected;
 - e. Whether an application should be brought under the inherent jurisdiction in relation to the matters at issue in these proceedings.
2. The court directed that the Official Solicitor's costs of undertaking the *Harbin v Masterman* inquiry should be met from AC's estate and in the event that AC's liquid assets were insufficient to meet those costs, then a charge could be placed against AC's property in Blackpool. This has now happened.
3. To date, the Official Solicitor has been provided with the following court documents:
 - a. Judgments of Mr Justice Jackson dated 31 July 2012, 9 October 2012, 24 October 2012 and 22 February 2016
 - b. Orders of Mr Justice Jackson dated 15 March 2016, 11 April 2016 and 9 May 2016
 - c. COP9 application of Angela Wild and Kevin Clarke dated 17 March 2016
4. In July 2016, the Official Solicitor instructed external solicitors to advise him and assist in respect of the *Harbin v Masterman* inquiry. Upon instruction, initial contact was made with counsel due to concerns that there may be a jurisdictional matter which needed to be resolved by the court before AC's funds were spent on investigating the above matters and primarily matters (a) to (d).
5. A formal written advice was subsequently obtained from counsel addressing the question of the court's jurisdiction, including under the inherent jurisdiction. A copy of that advice is attached to this report, which addresses both the jurisdiction of the Court of Protection and the court's jurisdiction under the inherent jurisdiction. It therefore seeks to address paragraph 1(e) of the order of 9 May 2016; that is whether an application should be brought under the inherent jurisdiction in relation to the matters at issue in these proceedings.

6. In light of that advice, the Official Solicitor asks that the court determines whether it has jurisdiction to make declarations and orders in relation to AC and in the event that the court determines that it does have jurisdiction, the Official Solicitor would welcome confirmation that the Official Solicitor should continue with his *Harbin v Masterman* inquiry and prepare a report addressing paragraphs 1(a) to (d) of the order of 9 May 2016.
7. In addition, the Official Solicitor has been informed that MC intends to take AC to Thailand at the end of November until April 2017. In light of previous concerns that AC became unwell when she was in Thailand in early 2016 and that AC is recorded to have previously stated that she did not wish to go to Thailand, the court may wish to consider this matter and determine if any further steps are required at this stage and prior to the Official Solicitor providing any report.
8. This report and the appended counsel's advice have not been provided to any of the parties but the Official Solicitor does not object to these documents being disclosed, if the court sees fit.

Bindmans LLP
14 September 2016