

Before Mr Justice Peter Jackson

IN THE MATTER OF
ANN CLARKE

Order No 1 of 9 May 2016

Upon the Court receiving an application dated 21 March 2016 by Ms Angela Wilde and Mr Kevin Clarke in which they seek orders that Mrs Ann Clarke be brought back to England so that she can be cared for here, and that they be given charge of Mrs Ann Clarke's Blackpool house to prevent its further deterioration and so that it can be let to provide Mrs Clarke with an income.

And upon the Court of Protection and the High Court having respectively made recent orders on 22 February, 15 March and 11 April 2016;

And upon reading statements by Ms Angela Wilde, Mr Kevin Clarke and Mr Michael Clarke;

And upon the Court being concerned for the welfare of Mrs Ann Clarke and requiring further information in order to determine the present application;

IT IS DECLARED in the interim and pursuant to s.48 of the Mental Capacity Act 2005 that:

- a) there is reason to believe that Mrs Ann Clarke lacks capacity in relation to the matter;
- (b) the matter is one to which its powers under this Act extend; and
- (c) it is in Mrs Ann Clarke's best interests to give the directions, without delay



AND IT IS ORDERED THAT

1. The Official Solicitor is invited to conduct a *Harbin v Masterman* inquiry in relation to Mrs Ann Clarke, to comprise consideration of:
 - a. how to assess whether Mrs Ann Clarke 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 Mr Michael Clarke;
 - b. how to secure the return of Mrs Ann Clarke to this jurisdiction if this is found to be in her best interests;
 - c. how to obtain Mrs Ann Clarke's true wishes and feelings in relation to the relevant matters;
 - d. Mrs Clarke'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. In the event that the Official Solicitor accepts the invitation to conduct a *Harbin v Masterman* inquiry in relation to Mrs Ann Clarke he will inform the Court within 7 days of his receipt of this order and subsequent provisions of this order will take effect.
3. The Official Solicitor shall file with the Court and serve on the parties a written report at his earliest convenience; the date by which this is to be done is to be notified to the Court and the parties at the point that it can be discerned and with reference to the advice of the solicitors and counsel instructed by him.
4. The costs of the Official Solicitor and of any solicitors and counsel instructed by him shall be borne in the first instance by the estate of Mrs Ann Clarke, subject only to possible different apportionment as between the parties at the Court's discretion. The Court has made a separate order on today's date which sets out detailed provisions relating to the costs of the Official Solicitor in this matter and which authorises the Official Solicitor to make enquiries in respect of Mrs Ann Clarke's financial affairs.



5. No person with notice of this order shall in any way prevent the Official Solicitor or his agents or employees or any professionals instructed or engaged on his behalf from undertaking any part of the inquiry set out in paragraph 1. In particular, all parties will comply with any instructions given by any such person in relation to who may be present in any place when the Official Solicitor's agents or employees or any professionals instructed or engaged on his behalf conducts any interview with Mrs Ann Clarke.
6. The case shall be listed for further directions, with a time estimate of 2 hours, at 10.30 am on the first available date 14 days after the date to be notified pursuant to paragraph 3 (above), to be heard by Mr Justice Peter Jackson.
7. Costs reserved.

Order dated 9 May 2016



Before Mr Justice Peter Jackson

IN THE MATTER OF
ANN CLARKE

Order No 2 of 9 May 2016

Upon the Court having made an order today inviting the Official Solicitor to conduct a *Harbin v Masterman* inquiry in relation to Mrs Ann Clarke's personal welfare and capacity to make the relevant decisions;

IT IS ORDERED THAT

1. The Official Solicitor to the Senior Courts is authorised to investigate the property and financial affairs of Mrs Ann Clarke for the purposes of ensuring that the costs of conducting the *Harbin v Masterman* inquiry are provided to the Official Solicitor in these proceedings.
2. Any third party holding information relating to Mrs Ann Clarke's finances is hereby directed and authorised to release to the Official Solicitor to the Senior Courts such information and documents as he may require on behalf of Mrs Ann Clarke in the course of his investigations within 7 days of any request.
3. The Official Solicitor is authorised to give any necessary notices of withdrawal (including establishing a standing order) to pay solicitors' costs from any amount standing to the credit of Mrs Ann Clarke with any bank or building society.
4. The Official Solicitor is authorised to apply for a restriction and the registrar is ordered to enter the restriction against the property known as 31 Cherry Tree Road, Blackpool and registered at HM Land Registry in Standard Form N.

5. No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the Official Solicitor to the Senior Courts.
6. Such consent is not to be unreasonably withheld and such restriction to be removed upon the registration of the legal charge, as detailed below, or the discharge of the costs of the Official Solicitor and his solicitors costs in full.
7. The Official Solicitor's costs shall be assessed at the conclusion of his involvement relating to the *Harbin v Masterman* inquiry.
8. If the liquid assets of Mrs Ann Clarke are insufficient to meet the aforementioned costs of the Official Solicitor and of his solicitors as they arise and fall due the Official Solicitor is authorised to place a legal charge against the above title. Such legal charge to be registered at HM Land Registry against the above title at the conclusion of the proceedings and following the assessment or agreement of the costs of the Official Solicitor and of his solicitor and in the sum equal to the amount outstanding at that time.

Order dated 9 May 2016