

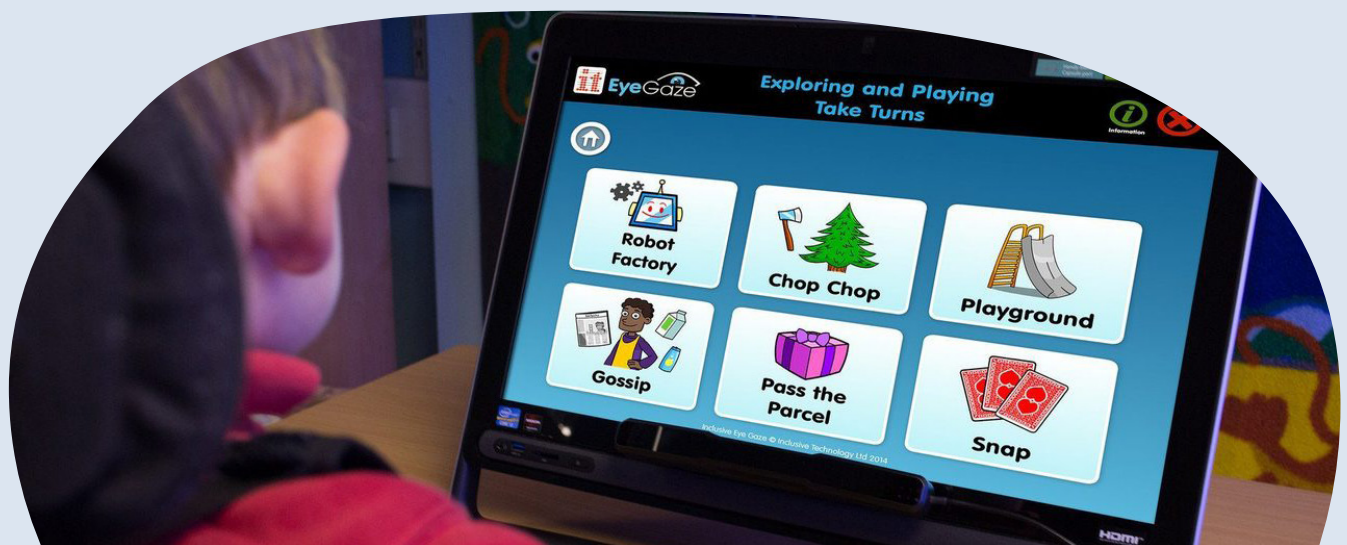


# Court of Protection Deputyship Services

**emgsolicitors**

Supporting Clients. Protecting Assets. **Changing Lives.**

*'Femma is very professional and is trusted by her clients who respond to her enthusiasm, sympathetic attitude and warm personality. Femma has successfully helped appeal various benefits and has added real value to her clients' lives that have to deal with challenging circumstances and special needs.'*



# At EMG Solicitors our dedicated Court of Protection team specialise in helping people who, for various reasons, lack the capacity to manage their own financial affairs or make informed decisions about their health and welfare.

We have one of the largest independent teams in the UK as well as some of the best court of protection lawyers in the country.

Our approach is simple. We work hard to develop strong relationships with our clients and we work closely with them, supporting them and their loved ones to ensure that their best interests are taken care of and that they have the right professional help in place to make important decisions about their finances and care.

We often support clients with complex financial affairs, generally where they have received a large sum of money due to injury compensation and we specialise in supporting clients with brain injury. Our deputies work with both children and adults and we support clients across the UK as well as internationally.

*'When I had my accident I didn't know where to turn, I didn't have anyone to talk too or anyone to help me with advice, until somebody pointed me in the direction of EMG Solicitors. They helped me to look after my money and pointed me in the right direction, to make the right choices I need in life. They are always there whenever I need them even if it's just to chat.'*

SH - current deputyship client

## Who can be a deputy ?

When someone becomes mentally incapable of handling their financial affairs or making personal welfare decisions, and they have not created a Lasting Power of Attorney prior to losing capacity, it is necessary to appoint a deputy to manage those affairs and make important decisions on their behalf.

Deputies must be over 18 and of sound character (therefore criminal convictions and bankruptcy may impede an application). It is also an expectation that the proposed deputy will have a close connection to the incapacitated party, or that they will be a qualified professional. The first port of call is to see if a close friend or relative of the person is able to act. This is often sensible in cases where limited decisions need to be made, where there is consensus amongst family members about treatment or financial decisions or where the person's assets are of a limited value and/or fairly straightforward in their management.

There are certain situations, for example where there are large amounts of money to handle and more complicated decisions to make, where it may be more appropriate for a professional deputy (usually a solicitor) to be appointed, instead of a family member and EMG Solicitors are specialists in providing professional deputyship services.

## What should a professional deputy do?

- Make decisions that are in their client's best interests
- Only make decisions that the client cannot make for themselves
- Only make the type of decisions that the Court gives them permission to make
- Work to the guidance in the Mental Capacity Act 2005 Code of Practice
- Make decisions with a high standard of care in mind
- Report to the Court on a regular basis about the decisions made and the reasons for them.

*I would have no hesitation in giving this firm 100% for level of service. They are professional and friendly whenever I contact them and the knowledge this firm has is excellent, they have always given accurate advice to whatever question I have asked or help I have needed, they know the processes within the Court of Protection and give excellent advice guiding me through these procedures. They know their business inside out. They work as a team, so whoever you speak to is able to help, you do not get passed about and each member of the team is very knowledgeable. I would rate them as excellent value for money.'* Mrs KM



## What makes EMG Solicitors different?

As well as the duties already listed, our deputies and their specialist teams work hard to get to know our clients. Everyone is treated as an individual and with respect. We like to think of ourselves as the scaffolding around our clients to support them and help them to live the most enhanced life they can.

We understand the type and size of expenses that clients with very complex needs require and might incur. Some of our clients have suffered a birth injury and have very complex physical needs and some of our clients have minimal physical needs but have challenging cognitive issues. We also have experience of dealing with addiction issues, very challenging behaviour and communication difficulties.

All issues are handled sensitively by the team, who are fully trained and understand how to work with clients with such difficulties.

Our culture is all about co-operation, professionalism and fairness. Our court of protection lawyers support the client's financial requirements including overseeing an investment portfolio as well as paying for the client's living, care and therapy costs.

All our clients are treated with honesty and respect and we do what we say we will, within agreed timeframes. We offer empathy, understanding and a collaborative approach. Our team provide the support our clients need, whether that be help to manage their current affairs or plan for the future.

### Our clients receive:

- A key contact who works closely with them and communicates in their preferred manner
- A legal team who undergo specialist training to work with vulnerable clients
- Support with daily financial management –anything from managing any state benefits and entitlements through to managing complex financial affairs and investments
- Support packages and therapies tailored to their specific needs (our team will recommend/liase with external case management and therapy professionals)

### What we do:

- Our culture is all about co-operation, professionalism and fairness
- We do what we say we will, within agreed timeframes, to earn our clients' trust and respect
- We have developed other specialist legal services to support our clients. These departments all understand the impact that capacity can have on specific issues (property, litigation, estate planning and family law)
- We communicate simply, take time to explain issues, and meet clients in person annually (or when needed subject to OPG/SCCO restrictions), and if we are ever in doubt about capacity we will liaise with our network of experts and support our clients as best we can
- We work closely with family members but always meet clients by themselves where required
- We are involved in many external organisations such as Headway, CoPPA, PDF and Beamish Museum to maximise our knowledge and give back to vulnerable communities

*'Great service and all staff are so friendly, Emma Gaudern is a trustee for my son and has been for many years, always available for me when I need joint decisions and very fair ...cannot fault the service I receive from this firm, and always someone at the end of the telephone...thank you guys.'*

## Buying, Adapting & Selling Property

Often we are involved where clients have received large sums of compensation due to an injury.

As a result, many of our clients need to buy, adapt or sell property to ensure that their living arrangements meet their needs. Buying or selling a property is often a major decision, especially for those who lack capacity and we are very experienced at guiding our clients through the process and managing things on their behalf.

We understand time pressures involved with conveyancing and work alongside our residential conveyancing team to make sure transactions proceed quickly and smoothly for our clients.

In many cases, our client will be joint owner of a property. In this situation they will be a trustee of that property and we take care of any separate applications necessary under the Trustee Act.

For many clients, adaptations are also necessary so that the property supports the client to lead their lives in the way they wish and we work side by side with clients to consider all aspects. We liaise closely with other professionals including architects, surveyors, occupational therapists and builders and are very experienced in handling property adaptation projects.

## Income, Investments & Gifts

As financial deputies, our role is to support our clients to manage their money, secure any specialist investment advice and to ensure their money meets any needs but also lasts throughout their future.

Often our clients will speak to us about investing their compensation and, if they are in receipt of means tested benefits, making sure their benefits are protected by making use of ring-fencing rules. We ensure we receive up to date benefits training and claim any income a client is entitled to. We also ensure continued receipt of regular income (whatever the source may be) and we support our clients to manage what they are able to, without taking over certain responsibilities unnecessarily (although we will need to have an oversight of the total finances to adhere to professional deputy standards).

We have a number of trusted relationships with financial advisers across the UK who are registered with the Financial Conduct Authority and offer a full range of advice depending on our clients circumstances, needs & wishes.

There are also times when our clients may wish to make significant gifts to family members or friends. For example, a desire to support a family member in purchasing a property, or perhaps give a gift for unique circumstances. We provide specialist advice in this area and can deal with all necessary permissions from the Court, given the ability to 'gift' is often not always included in the standard deputy's authority. We can also secure specialist tax advice where tax implications may be anticipated both in relation to gifts and investments (and the income and growth that may apply).

Our team provide tailored solutions to each and every client and will guide and empower our clients throughout our relationship as deputy.

We have experience of working with clients who have particularly complex needs and offer supported decision making, ensuring our clients can make their own decisions wherever possible. Where we need to make decisions on a client's behalf, we will always have their best interests at heart. We often work as part of a multi-disciplinary team and can and will take other views into consideration as part of any decision making process.

*'Jemma is not just a solicitor, to our family, she is the most professional and thoughtful adviser we could have chosen to assist ourselves in dealing with our Court of Protection affairs, we count on her as a good friend, she has guided us through some really upsetting times, in the most professional and caring manner, she has always been there to advise ourselves what is right legally, and sometimes we have had to call her or speak to her "out of office times" and this has never been a problem, she has always been genuine and caring, and nothing is too much for Jemma and her team at EMG.'*

## Care & Therapies and Specialist Equipment

Through the work we have done with clients who have often suffered an injury or have a diagnosed disability, we have vast experience in helping with a range of care and support packages designed to enhance our clients lives, both now and for the future.

Often when looking at these packages, we will work with clinical teams and specialist case managers to offer the very best support in the fields of Neuropsychology, Occupational Therapy, Physiotherapy and Speech and Language Therapy and we work well as part of a multi-disciplinary team to get the best outcomes for our clients. We are knowledgeable in both agency care arrangements and direct recruitment of carers and we manage and oversee various funding arrangements including private and statutory packages.

For many clients, rehabilitation plays an integral part of their future and a whole range of specialist equipment is available. Our team keep up to date with current technologies and we work with a variety of specialists who think creatively about how to utilise these alongside any practical considerations to support those with a range of disabilities.

## Health and Welfare Deputyship

It is possible to act as a deputy in relation to health and welfare matters. This means that rather than making decisions about a person's financial situation, the deputy has to consider matters such as where the client should live, what care they should receive and from whom, and what medical treatment should be provided to them. It is unusual to need a professional to carry out this position, but it is required from time to time, and we do hold health and welfare deputyship appointments for some clients where appropriate. We also advise, support and work with people who are lay health and welfare deputies for their friends and loved ones.

*'Their friendly and approachable manner means I pick up the phone without hesitation in the knowledge that I will receive excellent quality and totally correct advice. I would have no hesitation in recommending this firm..'*



## Statutory Wills

Most people will make a Will during their lifetime so that they can dictate how their estate ought to be divided upon their death. Anyone over the age of 18 can make a Will provided they have 'testamentary capacity'. Testamentary capacity essentially means that the person making the Will understands: the nature and effect of making a Will in the terms they have proposed; what they own and roughly what it is worth; and the claims of those who might expect to benefit from the Will, including those who are being excluded (if applicable).

If someone does not have the mental capacity to make a Will, or their financial/familial circumstances have significantly changed since a valid Will was last executed and they have since lost capacity, an application can be made to the Court of Protection for a Will to be made on their behalf. This needs to take place even if a deputy is already in place, as they have no authority to sign a Will on behalf of the person whose affairs they manage.

This type of Will is called a Statutory Will and our team, alongside our Wills, Trusts and Probate team, are specialists in advising on these applications and ensuring clients are well protected from a tax planning perspective.

## Changing Your Deputy

For those clients lacking capacity, the support of a dedicated deputy is vital. Where significant assets are involved then knowledge and experience are also important and the use of a professional deputy may be deemed a necessity by the Court.

Whilst in an ideal world, the deputy will support the client throughout their lifetime, deputyship services are built on human relationships and clients sometimes find that the person or company dealing with their affairs initially are not always best placed to manage their deputyship needs for life.

Relationships are key as well as the provision of a personal, tailored service.

Often clients are unaware that they can change their professional deputy, but this is the type of enquiry that we are encountering more and more. We have found that some clients feel they aren't working collaboratively with their deputy anymore and, as with any relationship, things change over time, some work and some do not.

When change is necessary, we are experienced at handling handovers and making the appropriate application to the Court. We deal with this in a non-combative, collaborative way to ensure the client and the outgoing deputy find the final few months manageable, pending the deputyship transition.

Our highly experienced Court of Protection team are always willing to make themselves available to talk to individuals affected by deputyship. If you feel you are having issues with your current deputy we can talk through any worries on a confidential basis and make some suggestions that may help you and your existing deputy work better together, without needing to move to someone new.

However, if a change should become necessary we can take care of all practical matters if you feel EMG Solicitors offers a better approach for you. We will talk you through the process as each stage progresses and we are willing to update you as required.

We also informally review our own clients' capacity regularly and if we feel that a client may have regained capacity we will raise this, recommend a formal assessment or period of financial support/education (should that be a more suitable starting point) and support them through the discharge application process.



# Charity & Community Work

EMG Solicitors care passionately about our community and enjoy many positive relationships with charities across the UK.

The sectors we specialise in mean that we see first-hand some of the fantastic work they do and we use our business skills and charitable giving to help a range of charities and voluntary organisations.

Our people tell us this is really important to them and in 2019 we set up our own EMG Charitable Fund to help support our local communities through charitable giving.

As much of the work we do at EMG Solicitors involves helping those clients who have suffered a brain injury, we are also strong allies of Headway – the brain injury association. Headway is a charity that works tirelessly to increase awareness and understanding of brain injury and supports people in their own lives and communities.

Each year, EMG Solicitors hosts ‘WonderLAN’ our charity ball which hosts over 400+ guests to raise money for the ‘Look Ahead in the North’ event which takes adults, children and their support workers to the Calvert Trust for an unforgettable weekend of outdoor activities. To date we have raised over £45,000 for this amazing cause.



## Our Professional Deputies

Emma Gaudern & Jemma Morland established EMG Solicitors in 2014 and as well as specialising in Court of Protection work the firm now offers a full range of legal services.

We have one of the largest independent Court of Protection teams in the North and are top tier ranked in The Legal 500 (a guide to the best UK law firms) and are referred to by them as 'one of the finest Court of Protection firms in the country'. Our Court of Protection team supports deputyship clients across the UK and are nationally recognised as leaders in this field.

### Emma Gaudern

Managing Director

Passionate about her work, Emma is a Court of Protection professional deputy and has specialised in Court of Protection work throughout her career. Emma is highlighted in the Legal 500 as a 'leading individual', being 'first class on court of protection matters' and for her "personable approach, her experience and for the confidence she commands from all quarters."

Emma is a member of the Society of Trust and Estate Practitioners (STEP) and a regular speaker at conferences, including those for the Association of Personal Injury Lawyers (APIL), Headway, NABIF and the Court of Protection Practitioners Association (CoPPA). Emma also regularly acts as a Court of Protection expert witness within personal injury litigation and as litigation friend to clients going through a Court process such as divorce or a personal injury claim, who do not have the capacity to give instructions.

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### Jemma Morland

Director & Head of Court of Protection

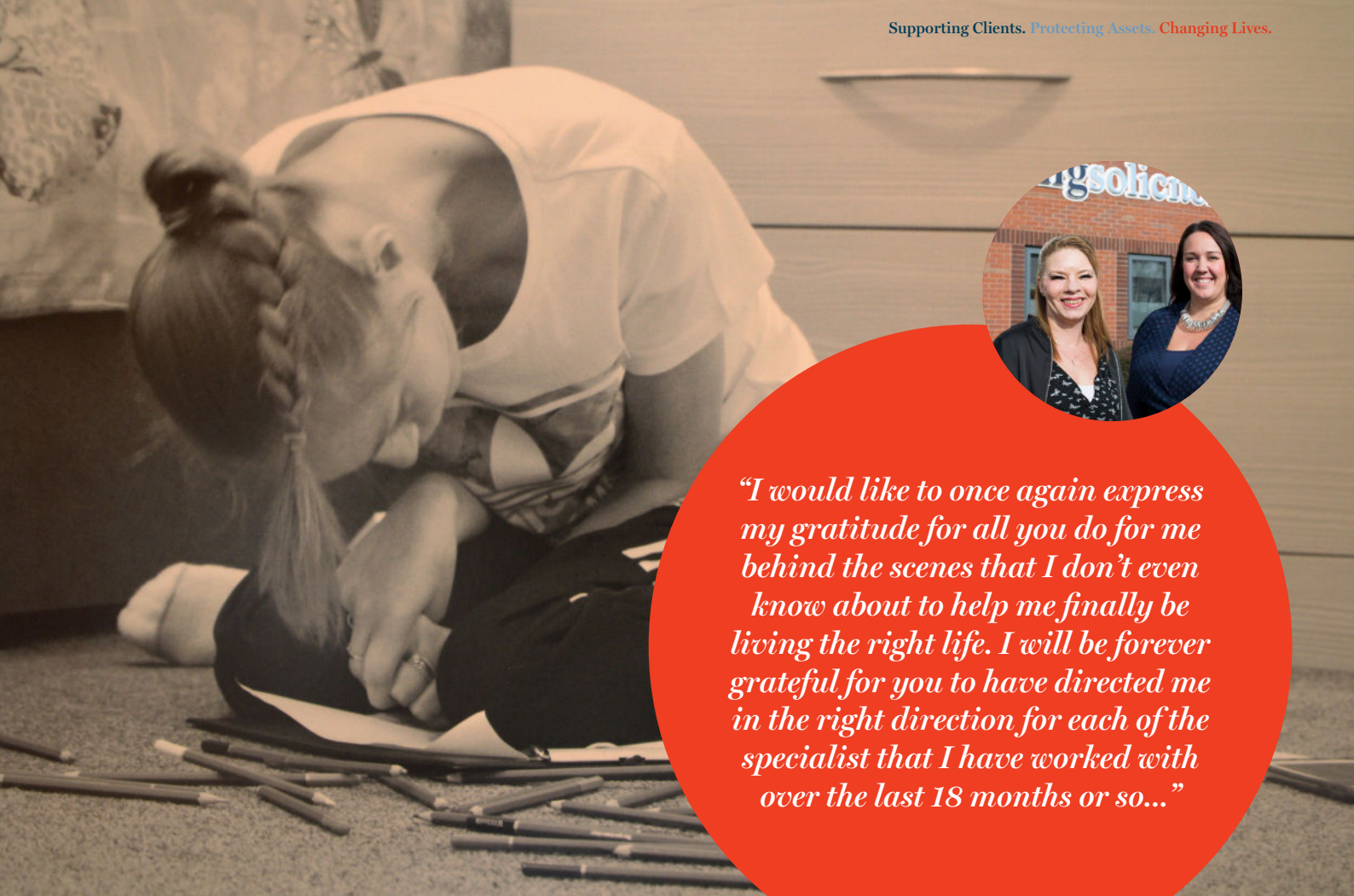
Jemma Morland is Head of Court of Protection at EMG Solicitors. She acts as both a professional trustee and deputy for her clients and is well respected and nationally recognised for her specialism.

Jemma is a leading individual in this specialist field and was co-founder of the firm. Jemma was one of the youngest Court appointed professional deputies in the UK at the time of her appointment. She also helped found and is treasurer for CoPPA North East (the Court of Protection Practitioners association). Jemma is also the treasurer for Headway Wearside, a group which supports those living with brain injury and on the Professional Deputies Forum (PDF) committee.

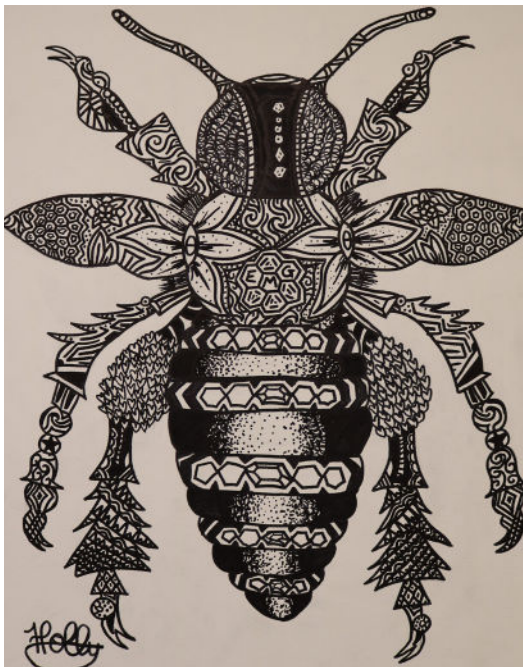
Recognised in the Legal 500 as a recommended private client lawyer and for her "niche expertise" in the financial aspects of the 2014 Care Act, Jemma has spoken at a number of conferences in relation to the Care Act, the Mental Capacity Act 2005, the role of a Deputy and Court of Protection matters generally. Jemma manages complex & challenging cases both as a Deputy and as a representative for interested parties.

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*“I would like to once again express my gratitude for all you do for me behind the scenes that I don’t even know about to help me finally be living the right life. I will be forever grateful for you to have directed me in the right direction for each of the specialist that I have worked with over the last 18 months or so...”*



*‘We were unhappy with the approach of our existing deputy (a much larger practice than EMG Solicitors) and had begun to feel like we were battling all the time for everything we wanted and needed for our son. We were introduced to EMG Solicitors and they were more engaged with us as a family right from the start and provided the human touch. They were easy to approach, they respected us more as parents not to be taking advantages and above all they were reasonable and made sure that things were justified and in our sons best interests. We enjoy a good relationship with the team, their level of respect and engagement is excellent and we feel everyone is working for what is best for our son. They are warm, open and honest, and are always working on solutions. We had a recent issue with a DLA claim and they came up with cost-effective and best solutions to resolve the issue quickly. I wouldn’t hesitate to recommend EMG Solicitors for their deputyship services.’*

*“I have been with EMG Solicitors for a long time and they are always there for you, no matter what time of day it is or if it’s the weekend. They help you with anything, even if your stuck with filling forms etc they will always help! And I’m glad I have them behind me.”*

CJ - current deputyship client

*'I first came across Emma Gaudern when I was trying to develop a brain injury support group in the area of Darlington. It was immediately apparent that she had legal expertise in the field of catastrophic injury, court of protection and deputyships. Something else stood out though, it was the determination to make things happen, to influence change and be integral to the changes taking place - all of this done with a positive, can do, philanthropic attitude.'*

*Mr A White*

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