[2026] EWCOP 7 (T2)

Case No: Case Number 20021221

IN THE COURT OF PROTECTION

Manchester Civil Justice Centre,
1, Bridge Street West,
MANCHESTER
M60 9DJ

Date: 10 February 2026

Before :

HIS HONOUR JUDGE BURROWS
Sitting as a nominated judge of the Court of Protection at Tier 2

- -

Between :

PA	**Applicant**
- and -	
(1) DA	**Respondents**
(2) AX	
(3) BX	
(4) CX	
(5) DX	
(6) AZ	
(7) BJ	
(8) A LOCAL AUTHORITY	
(9) CJ	

- -

Re: DA (Whether to replace a Single Joint Expert)

- -

Sam Karim, K.C., and Fay Collinson (instructed by **Ridley & Hall, Solicitors**) for the **Applicant**
Kerry Smith (instructed by **Southerns Solicitors**) for the 1st **Respondent**
Louis Browne, K.C., Rebecca Clark & Julie Case (instructed by **HM3 Legal) for Respondents 2-7**
Emily Price (instructed by **LA Solicitor) for the LA**

Hearing dates: 12th December 2025

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APPROVED JUDGMENT

[This judgment was originally circulated on 27 January 2026, but could only be handed down today after corrections and requests for clarification were made. It was handed down electronically.]

This judgment was delivered in public, and the proceedings are subject to the Transparency Order dated 2 September 2025. The anonymity of DA must be strictly preserved, and nothing must be published that would identify him, either directly or indirectly. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

HIS HONOUR JUDGE BURROWS:

INTRODUCTION & BACKGROUND

1. This judgment follows a hearing at the Civil Justice Centre in Manchester in December. A number of issues were considered, but this decision primarily concerns the Application by Respondents 2-7 for the replacement of the jointly instructed expert, Dr Parvez, with a new one, or, at the very least, for permission for them to instruct their own.

2. I was provided with very helpful skeleton arguments from all the parties, as well as oral submissions from leading counsel and counsel. Due to the nature of the application, I decided to take a little time to consider the application and my conclusions.

3. This case concerns a man in his 80s whose identity I will seek to protect by the use of the initials DA, that are not his. Other people involved in this case also have initials that are not their own. The local authority involved is also not named because to do so would increase the risk of DA being identified. The role of the local authority in this case is less central than usual in this court. In balancing the public interest for public authorities generally to be identified against the need to protect the identity of P, in this case I am satisfied the balance

falls squarely on the side of anonymising the public authority. This will, as with all these matters, be kept under review.

4. DA is a wealthy man. He built up a successful business which made him a great deal of money. He retired a number of years ago. More recently, he sold his share in the business for around £200 million. He spends his life between his extremely comfortable house in England, and a large Villa in Spain. His choice of residence at any given time is determined partly by the climate, and partly by tax efficiency.

5. At the outset of the hearing, I raised with leading and junior counsel whether the Court of Protection in England and Wales had jurisdiction over DA or his assets. Everyone was categorical that he is habitually resident in England and Wales. It certainly seems to me that he is not habitually resident in Spain.

6. I am certainly satisfied on the basis of the evidence before me, that DA spends much of his year in England. He is very much a part of his local community and regards this as his primary home. That being said, he also enjoys an expat-lifestyle in Spain, being part of the English diaspora in Spain.

7. This is an issue I will have to consider as and when any new evidence comes to light, but, at the moment, I am able to make declarations under the Mental Capacity Act 2005 (MCA) on a firm jurisdictional footing. For the avoidance of doubt, my present conclusion on jurisdiction is based on the evidence currently before the Court as to DA's habitual residence. It does not pre-empt a final determination should material new evidence emerge. Nothing in this case-management decision depends on making a final jurisdiction finding now.

8. At one time, DA also enjoyed spending time in United Arab Emirates (UAE), although he does not spend as much time there now due to his own declining health and the recent death of his wife of many years.

9. When he is in Spain, like many, DA enjoys watching the yachts and expensive motor cars at the marina. Unlike most, however, DA owns a number of yachts and, in the past, was a keen sailor, albeit with a professional crew, on day trips around the seas off the southern coast of Spain.

10. For about 15 years, DA has employed a husband and wife team, AX and BX, as housekeeper and driver/butler respectively. They assisted DA and his late wife when her health declined. According to DA, he is very close to AX, BX and her family. They have benefitted from gifts he has given them. They also stand to benefit from a will that was executed in 2023.

COURT OF PROTECTION PROCEEDINGS

11. PA is DA's daughter. She has become concerned at what she sees as her father's exploitation by the X family, and others. As well as the gifts and the will, there appears also to have been a serious fraud committed against DA around his ownership, or not, of yachts worth in the region of £20 million. She has taken a very close interest in what I will call the "yacht fraud". She is also concerned that her father is being physically and emotionally controlled by others, to his detriment.

12. It is important to add that PA has herself received considerable sums of money in the past from her father, including £10 million at one stage. She is a wealthy woman, in her own right.

13. Although the background story to this case is very interesting, I do not need to dwell on it any further at this stage. Suffice to say, however, PA made an application to the Court of Protection on 2 September 2025 seeking declarations that her father lacked the capacity to make decisions concerning his contact with the Xs, his care arrangements, his property and affairs more generally, and making a will. She sought the revocation of Lasting Powers of Attorney (LPA) for both welfare and property and affairs for AX and a solicitor, CJ.

14. On the same day, District Judge Ellington, sitting at First Avenue House, made orders suspending the LPAs and appointing the Irwin Mitchell Trust Corporation (IMTC) as interim property and affairs deputy for DA. The district judge made interim declarations that DA lacked the capacity to conduct this litigation, manage his property and affairs, revoke LPAs, make a will, decide care arrangements and decide on contact.

15. The application was transferred to me in Preston. On 11 September 2025, following a hearing, and with the agreement of the parties, the effect of DJ Ellington's property and affairs orders were left in place. Directions were made for disclosure as well as the appointment of a jointly instructed expert.

16. That expert, as agreed at the time by the parties, was Dr Parvez, a Consultant Psychiatrist with expertise in Older Age Psychiatry. He is a well known expert to this Court and is regularly instructed to carry out capacity assessments for the Court on a single joint instruction. He was instructed to assesses DA's capacity in the following areas:

a) Conduct these proceedings

b) Manage his property and financial affairs

c) Make and revoke a lasting power of attorney

d) Make a Will

e) Make decisions about his residence

f) Make decisions about his care

g) Make decisions about contact with others.

17. Lawyers had already been instructed in respect of the UAE litigation over the alleged yacht fraud**.** At a later stage, IMTC, as interim Deputy, took advice from specialist admiralty solicitors on the yacht fraud and instructed different lawyers. The advice they were given led them to seek permission from this Court to conduct the litigation recommended on DA's behalf. That permission was given, and the litigation has now commenced, as I understand it, in UAE. As a result, Dr Parvez was also additionally instructed to provide his assessment of DA's capacity to litigate in those proceedings.

THIS APPLICATION

18. Dr Parvez has provided the Court with a report dated 30 October 2025. Following additional questions put to him by the parties, he also provided answers on 11 November 2025. His conclusions are accurately summarised by Ms Smith in her Skeleton Argument, as follows:

> [16] Dr Parvez reports that [DA] presented with significant cognitive difficulties and particularly impairment in his short-term memory. In view of his presentation and cognitive screening result, Dr Parvez opined it is likely that [DA] has an undiagnosed dementia syndrome.
>
> [17] The conclusions of Dr Parvez on capacity are that [DA]:
>
> i) Has capacity to make decisions about residence,

ii) Lacks capacity to conduct proceedings, make decisions about his care and contact with AX and BX, manage his property and financial affairs, execute and revoke a LPA, and make a will.

[18] In response to questions from the parties, Dr Parvez identifies that there may be merit in revisiting with [DA] his capacity to make decisions about care and contact with others, in light of (i) changed arrangements for his care and (ii) the police disclosure, which may be relevant to decisions about contact. In respect of contact, Dr Parvez further suggests that, if parties want him to assess this in relation to a wider class of persons, a tabulated list of persons and relevant information for each would assist.

[19] Following receipt of Dr Parvez's original report, [DA]'s legal representatives had sought to ask Dr Parvez whether he could undertake a retrospective assessment of [DA]'s capacity to execute the LPAs in March 2024. This followed from Dr Parvez concluding [DA] lacked capacity to execute a LPA as at the date of his assessment. [PA] proposed asking Dr Parvez to retrospectively assess his capacity to make a will. Dr Parvez has indicated he could undertake a retrospective assessment if he were instructed to do so and had a further visit with [DA].

19. It is important to add at this stage that I was asked to meet DA remotely shortly before the hearing, which I did. He was in his home in Spain. He was accompanied remotely by those instructed by the Official Solicitor (who was not in Spain). It was clear there were people in the Villa, but there was no one with DA when I spoke to him. DA was able to converse with fluency. His recollection of the issues we discussed appeared reasonably clear. Regrettably, I caused him some distress when I raised the subject of his late wife.

20. The purpose of the meeting was not for me to carry out my own capacity assessment or to gather evidence. Rather, it was an opportunity for DA to speak to me and to ensure his wishes, feelings and beliefs were known to me.

21. What was clear was that he disagreed with Dr Parvez's assessment of him as lacking capacity in the areas he concluded he did. He was unhappy at the way the assessment was conducted. He felt he was treated unfairly in the assessment.

He also fervently disagrees with his daughter's allegations against Respondents 2-7, and finds it difficult to understand why it is she is doing what she is doing. He is also clear that the yacht fraud had been left in the control of his Spanish lawyer, and he is unhappy at the cost of the litigation commenced in UAE.

22. This application, by Respondents 2-7 is outlined in detail in writing and in the oral submissions of Mr Browne, KC and his team. They say there are "real, genuine and justified concerns" about Dr Parvez's report and his answers to the questions. Those concerns are particularised under two main headings. The first is that he has failed properly to discharge his duties to the Court, leaving him "irredeemably compromised" as an expert. Secondly, his report lacks the essential rigour needed where capacity is the foundational issue, particularly in a contested case in which the person concerned (DA) is adamant that he does not lack capacity and disputes the methodology of the expert.

23. The other parties oppose the application. They argue that any issues over Dr Parvez's evidence can be determined in the usual way, by cross-examination at a hearing. All the parties invite me to ensure that can happen as soon as possible. Mr Browne invites me either to instruct a new joint expert or, if the Court concludes that Dr Parvez can continue, that the Respondents 2-7 be permitted to instruct their own expert. That expert can then either satisfy them that Dr Parvez is right, or, if he is wrong, be submitted to be cross examined so the Court can decide on the basis of the evidence of both experts.

24. It is important that my approach to this application is clearly outlined, not just in the conclusion I reach, but also how I specify what it is I am being asked to

decide. I am not engaging in a summary assessment as to whether I am persuaded by Dr Parvez's conclusions.

25. The way Mr Browne puts his application is extremely helpful here.

26. First, I have to decide whether Dr Parvez's approach to the assessment has breached his duty to the Court to a degree that neither the Court nor Respondents 2-7 can have confidence in him as an expert.

27. Secondly, and notwithstanding my answer to the above, whether Dr Parvez's report is so obviously inadequate that I should disregard it now and instruct a new joint expert.

28. There is a third matter I need to consider. Since the purpose of an expert report is to assist the Court, given the circumstances of this case, am I minded for any other reason to allow there to be a new expert appointed by Respondents 2-7?

THE CRITICISMS OF DR PARVEZ & HIS REPORT

29. The first criticism of the expert is outlined in Mr Browne and his team's Position Statement at [27], when it is said (my emphasis):

> Without the knowledge or approval of the second to seventh respondents, it is clearly the case that Phillipa Curran has had a conversation with Dr Parvez. Indeed, he says in a communication not included in his report/replies to questions;
>
> > "*I think it would be beneficial to meet with [DA] to revisit the matter as I note in the email of 27 November 2025 with the police disclosure records which have further* ***relevant information with regards to historical information pertinent to contact with others****."*
>
> He goes on (emphasis added):

> "*I discussed the issue of relevant information with Phillipa Curran prior to the assessment for contact. We discussed the issue of assessment of contact with regards to specific individuals."*

30. It is important to record that Mr Browne explicitly stated in his submissions that there was no criticism of Mrs Curran's conduct here. It is accepted she did nothing wrong. That, I entirely understand. However, in argument I inquired of Mr Karim, K.C. and Ms Smith as to what was meant in this exchange by the term "relevant information" if it was not the "information relevant to the decision" referred to in s. 3 Mental Capacity Act 2025 (MCA)? If the purpose of Dr Parvez initiating a conversation with Mrs Curran was to discuss that matter, was that not something that should have been explicitly outlined in his report? A failure to do so could be seen as a failure of the expert's duty.

31. Furthermore, Respondents 2-7 also complain of the way the expert treated AX and BX in his report. This arises in relation to the issue of DA's capacity to make decisions as to contact, the person specificity of that test, and how an expert should approach such an issue when the evidence is heavily contested. Putting matters in very crude summary, there is a dispute as to whether AX and BX are DA's long term carers and, indeed, friends, or whether they have been exploiting him and controlling his behaviour and his wealth.

32. At the present time there is no finding on this by the Court. How should an expert approach the issue? DA expressly denied that AX and BX, or any other of the Respondents, have sought to exploit him for this wealth. Of course, it is highly likely if AX and BX have been controlling, exploiting, or otherwise defrauding DA that he would not know that, whether or not he had capacity as

to contact. Or put another way, a person with capacity, and very astute with his money, could still be defrauded or exploited by those in his trust if they are unscrupulous. The wicked skill of the confidence trickster usually lies in achieving the confidence of their victim rather than in the trick itself.

33. I have considered Dr Parvez's approach here both in his substantive report and in his responses to the questions. Within the confines of my task at this stage I do not consider it necessary or appropriate to evaluate whether his evidence is compelling, particularly since it has not been subjected to cross examination.

34. The criticism made by Mr Browne is that Dr Parvez has focused on AX and BX because they are alleged to be risks to DA by the Applicant (PA). Dr Parvez states at [690] that "[t]here is limited specific information available about any risks or benefits around contact with others". However, he then goes on in the next sentence to say: "[DA] was unable to appreciate both negative and positive aspects to contact with [AX] and [BX]". Then "[h]e had limited appreciation of how his impairments make him vulnerable". Those problems are identified earlier on in the report as "[h]is ability to appreciate his vulnerability was limited due to his memory problems and lack of insight into his condition and how it may affect him in the future. He could not recall or retain concerns around specific incidents which took place historically and concerns raised from professionals who cared for him in the past".

35. Dr Parvez was asked why he had focused on AX and BX when considering DA's capacity as to contact "with other people". The point made by those representing Respondents 2-7 being that although allegations have been made against AX and BX, nothing has yet been established as true either by their

admission or by the Court. Dr Parvez refers to the concerns that are raised in these proceedings as having been discussed with DA. He goes on (762):

> "None of these alleged concerns were presented as facts. When provided with the concerns [DA] refuted them. Even at the suggestion that the facts had not been established [DA] refuted that they were valid. He did go on to qualify that if he was exploited he would 'take them to Court'".

[The word "refute" here is used to mean deny, rather than to disprove.]

36. Of course, in any case where there are allegations of exploitation, particularly in the form alleged in this case, namely financial abuse by exploiting the trust the vulnerable person has in the alleged perpetrator, the victim is usually entirely ignorant of the abuse and will likely deny it. The trust and confidence persist. Perhaps an element of shame takes over and leads the victim to deny completely that the perpetrator would do such a thing. None of which is necessarily indicative of a lack of capacity. Even if the allegations against AX and BX are true, DA's response to Dr Parvez's questions will not, in themselves be evidence of his incapacity. The fact that a person becomes the victim of a confidence trickster does not mean he lacks capacity to understand that some people may pose a risk to him. It simply means that he was unable to protect himself against the trickster at the relevant time. What Dr Parvez appears to have been attempting is to evaluate whether DA was able to understand that he could be a victim of a confidence trick from someone he trusts.

37. I can understand why Dr Parvez took the approach he did. In any case where serious allegations are made against a person, and they are denied, measures will likely have to be taken on an interim basis to protect that person from harm in the event that the allegations are true.

38. It seems to me that Dr Parvez has approached the issue of capacity in a way that assumes the allegations may be true, so that he can evaluate whether DA understands that risk. That is a permissible approach. It does not prejudge the truthfulness of the allegations. It was not improper for him to approach the matter as he did.

39. There are other criticisms of Dr Parvez's report that go to his expertise. There is criticism of his analysis. There are criticisms of some of the questions he asked: for instance, DA failed to recognise that a kangaroo is a marsupial. I agree with the criticism here: this is primarily a test of knowledge rather than a test of the ability to retain information.

40. I note the criticism that parts of Dr Parvez's analysis appears to have placed the diagnostic element before the functional element contrary to *A Local Authority v JB* [2021] UKSC 52. For present case-management purposes, I am satisfied that he nevertheless articulated, for each decision under consideration (conducting these proceedings; property and affairs; LPA; will-making; residence; care; and contact), the decision-specific abilities under s.3 MCA 2005 and the causal nexus under s.2 between the identified impairment and any inability to decide.

41. There are criticisms of Dr Parvez's use of ACEIII in isolation, and his evaluation of the seriousness of DA's cognitive abilities in view of his presentation on other occasions, in particular when he met me.

THE LAW

42. I do not need to outline the provisions of the Court of Protection Rules 2017 as they relate to experts. They are contained in Part 15 and PD 15A. The expert must be "necessary to assist the court to resolve the proceedings" (15.3(1)). In this case, there is no doubt that capacity evidence is necessary from an expert. Capacity is in dispute, it is complex and it is foundational to the Court's jurisdiction.

43. Usually, in Court of Protection cases, there will be a single joint expert, instructed by the parties. In most cases, the expert's conclusion will not be disputed. In those cases where it is still disputed, the single joint expert will be asked to answer questions. If there is then still a dispute, the expert will be required to attend a hearing for cross examination by the parties and the Court. This is usually the case even where one of the parties has a serious disagreement with the expert's conclusions.

44. However, all that being said, the Court has power to allow parties to instruct experts in addition to, or instead of, the jointly instructed expert.

45. What should the Court expect from an expert witness? The best exposition of what the Court should expect from an expert is given by Mr Justice Poole in *AMDC v AG & CI* [2020] EWCOP 58 where he says at [28]:

> "When providing written reports to the court on P's capacity, it will benefit the court if the expert bears in mind the following:
>
> a. An expert report on capacity is not a clinical assessment but should seek to assist the court to determine certain identified issues. The expert should therefore pay close regard to (i) the terms of the Mental Capacity Act and Code of Practice, and (ii) the letter of instruction.
> b. The letter of instruction should, as it did in this case, identify the decisions under consideration, the relevant information for each decision, the need to consider the diagnostic and functional elements of

capacity, and the causal relationship between any impairment and the inability to decide. It will assist the court if the expert structures their report accordingly. If an expert witness is unsure what decisions they are being asked to consider, what the relevant information is in respect to those decisions, or any other matter relevant to the making of their report, they should ask for clarification.
c. It is important that the parties and the court can see from their reports that the expert has understood and applied the presumption of capacity and the other fundamental principles set out at section 1 of the MCA 2005.
d. In cases where the expert assesses capacity in relation to more than one decision,

> i. broad-brush conclusions are unlikely to be as helpful as specific conclusions as to the capacity to make each decision;
> ii. experts should ensure that their opinions in relation to each decision are consistent and coherent.

e. An expert report should not only state the expert's opinions, but also explain the basis of each opinion. The court is unlikely to give weight to an opinion unless it knows on what evidence it was based, and what reasoning led to it being formed.
f. If an expert changes their opinion on capacity following re-assessment or otherwise, they ought to provide a full explanation of why their conclusion has changed.
g. The interview with P need not be fully transcribed in the body of the report (although it might be provided in an appendix), but if the expert relies on a particular exchange or something said by P during interview, then at least an account of what was said should be included.
h. If on assessment P does not engage with the expert, then the expert is not required mechanically to ask P about each and every piece of relevant information if to do so would be obviously futile or even aggravating. However, the report should record what attempts were made to assist P to engage and what alternative strategies were used. If an expert hits a "brick wall" with P then they might want to liaise with others to formulate alternative strategies to engage P. The expert might consider what further bespoke education or support can be given to P to promote P's capacity *or* P's engagement in the decisions which may have to be taken on their behalf. Failure to take steps to assist P to engage and to support her in her decision making would be contrary to the fundamental principles of the Mental Capacity Act 2005 ss 1(3) and 3(2).

APPLICATION OF THE LAW

46. There are three matters I need to consider.

47. Firstly, I take the view that if Dr Parvez has acted in a way that is inconsistent with him being an expert witness, as alleged, then I ought to disregard his report and direct a new report from another expert. Taking the matters raised above into account, I do not conclude that he has acted improperly. I do not consider there to have been any impropriety in his contact with the blameless Mrs Curran. I do not consider that he has received any covert instructions that he has not divulged in his report. I will not end his instruction as a jointly instructed expert for that reason.

48. Secondly, however, there are criticisms of Dr Parvez's analysis in his report. It must never be forgotten that the expert's evidence is obtained to assist the Court on a point on which expert opinion is needed. Ultimately, the decision to be made is for the Court. Therefore, it seems to me at any stage in the proceedings before a decision is made on the issue in the case, the Court has a right and a duty to decide whether the expert evidence is helpful. If I consider that a report before me is poor and unhelpful, then I have a duty to rectify that, including by directing a new expert be instructed.

49. I do not consider the report to be poor and unhelpful on the face of it. Dr Parvez will likely have to attend to be questioned on his report, and I will reach a view having heard that. However, his report is not so poor that I should jettison it now and start again.

50. Thirdly, notwithstanding the first and second points above, is there a reason why the Respondents 2-7 should not be permitted to instruct an expert? I have been reminded of the cases decided in the early days of the Civil Procedure Rules. In

Daniels v Walker [2000] 1 WLR 1382, Lord Woolf, M.R at [1387] said (my emphasis):

> "…Where a party sensibly agrees to a joint report and the report is obtained as a result of joint instructions in the manner which I have indicated, the fact that a party has agreed to adopt that course does not prevent that party being allowed facilities to obtain a report from another expert or, if appropriate, to rely on the evidence of another expert.
>
> **In a substantial case such as this, the correct approach is to regard the instruction of an expert jointly by the parties as the first step in obtaining expert evidence on a particular issue.** It is to be hoped that in the majority of cases it will not only be the first step but the last step. If, having obtained a joint expert's report, a party, for reasons which are not fanciful, wishes to obtain further information before making a decision as to whether or not there is a particular part (or indeed the whole) of the expert's report which he or she may wish to challenge, then they should, subject to the discretion of the court, be permitted to obtain that evidence."

51. This was subsequently distilled by HHJ MacDuff, Q.C. (as he then was) in *Cosgrove v Pattison* [2001] CPRLR 177 into this:

> "Where a party requests a departure from the norm and makes what one can term a Daniels v Walker application, **all relevant circumstances are to be taken into account but principally the court must have its eye on the overall justice to the parties**. This includes what I have called the **balance of grievance test**. The application will only succeed in circumstances which are seen to be exceptional and to justify such a departure from the norm."

52. These cases were both cited by Mr Justice Eady in *Bulic v Harwoods & Ors* [2012] EWHC 3657 (QB) who considered further when it was proper to allow a party to instruct an expert. He said (at [16]) (my emphasis):

> "The importance of the overriding objective was often emphasised. Judge MacDuff, for example, referred to "overall justice to the parties". Moreover, Lord Woolf stressed the point in Daniels v Walker at p.1386H:

> "If, having agreed to a joint expert's report a party subsequently wishes to call evidence, and it would be unjust having regard to the overriding objective of the CPR not to allow that party to call that evidence, they must be allowed to call it."
>
> **What represents justice between the parties will very much depend upon the facts of each case**. For that reason, it can be distracting to focus too analytically on the reasoning in other cases, however authoritative, where the facts were not truly comparable. There are different factors to be taken into account and the importance of each is likely to vary according to the particular facts. For example, the saving of time and money is likely to assume greater significance in inverse proportion to the centrality of the issues. Where the court is concerned with a relatively "peripheral" issue, as in Kay, it is likely to be only in unusual circumstances that the services of a single joint expert will be dispensed with: see e.g. at [35]-[36]."

53. It seems to me in this case that the following factors are in play.

54. First, expert evidence in this case is foundational, not only to the jurisdiction of the Court, but also as to whether there has, or has not been exploitation or abuse.

55. Secondly, Respondents 2-7 are adamant that DA's presentation normally, including when he met with me, is different from the way he was portrayed in Dr Parvez's report, which is as being less intellectually able than he actually is.

56. Thirdly, DA himself is unhappy with Dr Parvez's conclusions, and the method he used to examine him. It must be made clear, this is DA's own view, not a point put forward by those acting on his behalf.

57. Fourthly, the evidence is of a technical nature, and it appears that assessing DA's capacity was not a straightforward issue for Dr Parvez.

58. There is ongoing litigation about transactions abroad over yachts that make the determination of capacity more urgent in this case.

59. There is a good chance there will be no extra delays if the expert chosen by Respondents 2-7 examines DA.

DECISION

60. In applying r.15.3(1) and PD 15A of the COPR 2017, I am satisfied that expert evidence is necessary to assist the Court to resolve these proceedings, and that permitting the Respondents 2-7 to obtain a further report is a proportionate departure from the single joint expert norm in this particular case. Capacity is foundational to jurisdiction and to the substantive welfare/property issues. DA himself disputes Dr Parvez's conclusions and method; the issues are technically complex; and the additional focused report can be obtained without material delay. I have considered the saving of time and cost but, given the centrality of the capacity issues, I am satisfied that overall justice between the parties justifies the limited departure from the usual approach, while retaining the current expert.

61. Since circulating the draft of this judgment, the Official Solicitor has sought to be involved in the instruction of the Respondents 2-7' chosen expert, and they have agreed. I have no objection to this and approve that approach.

62. I was also asked why I had not made an order enabling the other parties to instruct their own expert or a new jointly instructed expert, or, at least explain why I did not. The answer is simple. The other parties were happy with Dr Parvez. Dr Parvez can remain an expert, and the Court will consider his evidence in the light of further evidence for the other expert, should that not agree with him. Allowing the other parties to instruct their own expert, or to

instruct a different jointly instructed expert would likely increase cost and delay, and it is not necessary to ensure fairness to them in this case.

63. That is my judgment.