

# Mother in court battle over care of disabled daughter

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A close friend of Diana, Princess of Wales, is fighting a legal battle to give parents rights over the care and welfare of their disabled children once they reach adulthood.

Rosa Monckton, whose daughter Domenica, 24, has Down's syndrome, is one of a group of parents who want to change how the law on mental capacity is applied to make it easier for parents to continue to act on their children's behalf once they reach 16.

Ms Monckton, 65, from Brighton, was among the closest friends of Diana, who was godmother to Domenica, and is a longstanding campaigner for people with learning disabilities.

Under the Mental Capacity Act courts can take decisions on behalf of a person who lacks capacity to do so for themselves once they reach 16. It means that judges can overrule parents in deciding what is in the best interests of their child in adulthood.

Parents can apply to the Court of Protection to have themselves or another person authorised to make decisions on behalf of their disabled child from the age of 16 onwards if they lack the capacity to do so, by appointing them as a deputy.

Ms Monckton and her husband, Dominic Lawson, 62, the journalist and commentator, and two other families from London and Windsor, argue that the process is only granted in the most difficult cases and the grounds on which a decision is reached can be unclear.

They accept there will be cases where parents may not act in the best interests of a vulnerable adult but want the Court of Protection to look

**Rosa Monckton's daughter, Domenica. Diana was her godmother**

## How the courts decide

The Mental Capacity Act 2005 set up the Court of Protection to act for people unable to take decisions and to make rulings on their care and welfare. Parents with a child who lacks capacity can apply to the court to make decisions on their behalf beyond the age of 16. Usually the court will only appoint a personal welfare deputy if the family disagree over their care or if a specific decision must be taken such as where they will live. The deputy must send an annual report explaining decisions they have taken.

favourably on parents with a good record of acting in their child's interests. The families want the Court of Protection to amend the code of practice which governs interpretation of the act.

Ms Monckton wrote in the *Daily Express*: "Our children, now young adults, have learning disabilities and lack the mental capacity to make important life decisions for themselves.

"We find it unbelievable that now they have become adults we have lost that right. This is a hugely important issue and affects parents and vulnerable young people across the UK."

Alex Rook, a partner at Irwin Mitchell, who is representing the families, said: "The families have cared for the children since birth, understand their needs and have their best interests at heart. They believe that it continues to be in their children's best interests that they are appointed as their welfare deputies, and that this is what their children want." He said many families felt "on the fringes" of the decision-making process because of how the act and code was interpreted.

The Ministry of Justice would not comment while the case was continuing.

