

## Capacity Assessing case study

**\*This is based on a real case. Read the case situation then use the definition of capacity, as covered in the last video class, to consider the issues it raises\***

Andy is 30 years old and has an acquired brain injury following a fall from a ladder on to a concrete patio whilst mending his guttering. He has a loss of cognitive impairment, but does have a high level of residual capacity. Andy is currently living at home with the support of his brother, Paul.

After the injury, Paul was aware that Andy would need someone to manage things for him so contacted a solicitor to get power of attorney for Andy. The solicitor got a medical opinion which assessed Andy as incapable of managing his own affairs, so Paul was, ultimately, appointed as financial and welfare guardian.

After some months, Andy started telling his friends that he didn't want Paul to look after him anymore. Andy made similar comments regularly, so his friends suggested that he tell his social worker how he felt.

The social worker assessed Andy and thought Andy seemed capable and maybe could do a PoA. She spoke to the Local Authority legal department, but nothing was progressed – there was 2yrs of a guardianship left.

A few months later, the social worker was on a routine visit and learned that Andy had stopped going to the club. She thought Andy seemed different and much more withdrawn than when she had last met him. On speaking to Andy, he told her that Paul wouldn't let him eat what he wanted, because he was getting too fat, Andy didn't care. Andy wanted more money, Paul said he was spending it on rubbish so wouldn't let him have it. He said Paul had taken away his mobile phone because the bills were too high. Andy has stopped going to the club because Paul said his friends were bad people.

The social worker spoke to Paul, who said Andy was eating too much junk and was putting on too much weight, so he was regulating his food. Andy was being 'preyed on' by the people at the club and manipulated into giving them money, so he had limited Andy's cash and discouraged his attendance at the club. He had taken the phone because Andy was using it to go onto gambling sites and was spending too much. Money was a worry as his mortgage was in serious arrears and he was in danger of having his house repossessed, he hadn't told Andy this as he wouldn't understand.

**What are your thoughts on Andy's capacity?**

**What would your advice to Paul be?**