

Deputyship – making decisions for others

Deputyship is the process of getting authority to act on behalf of a vulnerable person in respect of their property and finance or welfare decisions on an ongoing basis. It is the alternative process available where an individual lacks mental capacity and does not have a valid power of attorney.

What is a deputy?

A deputy is an individual appointed by the Court of Protection to make decisions for someone else (the protected person) who lacks the mental capacity to do so themselves.

The Court of Protection can appoint a deputy to deal with a person's property and financial affairs and in some exceptional circumstances, a deputy to make decisions about a person's health and welfare.

A deputy for property and financial affairs has responsibilities including paying the protected person's bills, ensuring assets are secure and general financial management. A deputy for health and welfare would have responsibilities for decisions regarding the protected person's medical treatment and their day-to-day welfare.

You can apply to become someone's deputy if they do not have a power of attorney in place and they lack the mental capacity to decide for themselves at the time, for example due to ill health.

How do you become a deputy?

The application process to become someone's deputy for property and financial affairs includes:

- A form to the Court setting out the application you are making;
- A form providing the financial (or general) background of the protected person;
- A capacity report signed by a doctor or social worker confirming that the protected person lacks capacity to make the decisions in question; and
- A declaration signed by the proposed deputy (or deputies) to confirm that they are suitable to take on the role.

As part of the process, you will also be required to notify the protected person and other close relatives about the application being made. After submitting the application to the Court of Protection, it may take up to 12 months before a final order is made. Until an order is made by the Court, no one has the right to access the protected person's funds or pay for their care.

There is no guarantee that the Court of Protection will grant you the deputyship when you apply. For example, if the protection person's financial or family situation is complicated, the Court may consider appointing someone else for the role instead, such as a [professional deputy](#).

What happens after a deputy order is made?

Once a deputyship order is made, the deputy will be under very strict duties and restrictions about what they are allowed to do with the protected person's money and property, including what gifts, if any, they are allowed to make. All decisions made need to be in the protected person's best interests.

Deputies are actively supervised and have an obligation to report to the Office of the Public Guardian (OPG) on an annual basis to detail the funds that they have spent, and the decisions which they have made. The OPG will scrutinise the accounts and provide regular support and guidance to the deputy.

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