

The Facts: Court of Protection

What is the Court of Protection?

If a person loses mental capacity, or is involved in an accident and can no longer make decisions about their money, property, health or welfare and does not have an appropriate power of attorney, an application will need to be made to the Court of Protection. The Court can then appoint a deputy to make decisions on that persons behalf on an ongoing basis.

For more information please contact:



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How do I apply to the Court of Protection?

To apply to the Court of Protection for a deputyship order you will need to detail what powers you want to apply for in the application papers. An assessment of capacity form completed by a medical practitioner will also need to be submitted confirming that the person the application relates to lacks the capacity to make decisions themselves.

Who can act as a deputy?

A relative normally applies to act as Deputy but if no relatives are willing or able to act, a friend, solicitor or other professional adviser may apply. Solicitors are also appointed if there are very complicated decisions to be made.

What are the duties of a deputy?

Being a deputy carries huge responsibility as you are making decisions about someone else's finances, property, health and welfare. When making these decisions It is important to

- make decisions in their best interests
- only make a decision if they cannot make it themselves
- only make decisions that the court has said you can.

What are the types of deputyship orders?

The property and affairs deputyship order gives the deputy the legal authority to manage the individual's entire financial affairs.

The personal welfare deputyship order gives the deputy the legal authority to make decisions about the individual's health needs and general welfare. These orders are very difficult to obtain.

People we have advised

- A young woman with severe autism reached 18 and her parents were no longer able to make decisions for her. We successfully obtained both property and affairs and personal welfare deputyship orders for the parents to continue to look after all aspects of their daughters life.
- A wife had lost mental capacity but the husband still had capacity and needed to sell the family home to fund both their care. A property and affairs deputyship order together with an order to enable the property to be sold were obtained so the husband and his children could make the best interest decisions for finances for his wife and sell the property.

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