

# Appointing a Deputy | frequently asked questions



## What is a deputy?

A deputy is someone appointed by the Court of Protection to manage the affairs of a person who can't manage their own affairs because they lack mental capacity - maybe because of an injury or illness. A deputy can be appointed to look after a person's money and assets (known as Property and Affairs), or to make decisions about their care (known as Health and Welfare). A Property and Affairs deputy is the most common appointment.

The role of the deputy is to step into the shoes of the person who lacks capacity and to take decisions on their behalf. One of the key principles of being a deputy is that you must always act in the best interests of the person you're making a decision for, even if that goes against your personal views, preferences and prejudices.

## What is the Court of Protection?

The Court of Protection has jurisdiction over the property, financial affairs and personal welfare of people who lack capacity to make decisions for themselves.

## What is 'capacity'?

Capacity is the ability to make a decision for yourself about a particular matter. To have capacity a person must be able to:

- understand the information given to them about a particular decision
- retain that information long enough to be able to make the decision
- weigh up the available information to make the decision
- communicate their decision, whether by speech, sign language, or simple movements such as blinking or squeezing a hand

## How do I choose a deputy?

You can ask the Court of Protection to appoint either a professional deputy - such as a solicitor - or a lay deputy. A lay deputy is generally a family member who is comfortable with taking important decisions and has the time to devote to this important role. Often a family member may act as a lay deputy where an elderly parent requires support in managing their finances.

A professional Property and Affairs deputy is more often chosen where someone has an acquired brain injury because of their expertise in dealing with such cases. This is particularly relevant where someone may be making a claim for damages where there could be significant and quite complex financial matters to be managed.

## What can I expect from a professional deputy?

A professional deputy will take full responsibility for managing the individual's finances, involving the family in any decisions that are made. Practical support might involve some or all of the following:

- Ensuring funds are available to meet day-to-day needs
- Setting and monitoring budgets with family members and other professionals
- Dealing with the employment of carers and administering the payroll, contracts, PAYE, National Insurance, pension auto-enrolment and employment disputes
- Liaising with case managers and other professionals in respect of care teams, therapists and other needs
- Paying regular household bills
- Arranging the investment of any settlement or damages awarded
- Buying and / or adapting a property to meet the person's needs
- Dealing with benefits applications
- Looking into the availability of statutory funding to meet care needs
- Making applications to the Court of Protection
- Preparing an annual report and accounts for the Office of the Public Guardian and submitting tax returns

(This is not an exhaustive list.)

### **What does it cost to use a professional deputy?**

Costs depend on who you use and how much you want them to do, although costs are generally decided by the Court either through an assessment process or on a fixed cost basis.

### **If I act as a lay deputy, can I get help if I need it?**

You may be happy to act as a lay deputy in respect of day-to-day activities but would like some back-up for more complex tasks that you perhaps don't have the time or skill to deal with yourself. A Court of Protection professional will be more than happy to work alongside you.

### **Can I be paid for being a lay deputy?**

You can't be paid for your time as a lay deputy, but you can claim reasonable expenses for things that allow you to carry out your duties such as travel, phone calls, postage etc.; only professional deputies can be paid for the time they spend carrying out their duties.