

The role of a Court of Protection Deputy

We often hear reports that we are all living longer. However, unfortunately this does not always mean that we enjoy the best of health in our latter years. One increasingly legal phenomenon is the appointment of a Court of Protection Deputy to manage Financial Affairs if an individual loses mental capacity. Below are some answers to some frequently asked questions about the Court of Protection and Deputy.

What is a Court of Protection Deputy?

This is a person appointed to make decisions for a person who is unable to make those decisions because they lack the mental capacity to do so and they have not already made an Enduring or Lasting Power of Attorney.

What is the difference between a Property and Affairs Deputy and a Health and Welfare Deputy?

A Property and Affairs Deputy can only make decisions about matters of a financial nature. A Health and Welfare Deputy can only make decisions about health and welfare issues, such as deciding where someone lives and the care and treatment that they receive. The appointment of a Health and Welfare Deputy is unusual.

Who can be a Court of Protection for Property and Affairs Deputy?

Anyone can act as a Deputy. It could be a family member or friend of the person unable to make decisions. It can also be a professional person such as a lawyer. In complex cases particularly those involving large awards of damages the Court may prefer to appoint a professional Deputy.

Does the Deputy have complete control over the person's affairs?

No the Deputy must abide by the Court's orders. They must also work within the rules set out in the Mental Capacity Act 2005 and the Code of Practice that accompanies the act.

Are Deputies supervised?

Yes. The Court of Protection sets the level of supervision, which may range from none to 'close supervision'. The Public Guardian then supervises the Deputy. The Deputy must also file a financial account with the Public Guardian on an annual basis.

How can I avoid a Deputy being appointed?

To avoid needing a Deputy an individual can make a Lasting Power of Attorney whilst the individual still has mental capacity.