



**Atherton  
Godfrey**

S O L I C I T O R S

## **A guide to the Court of Protection**

The Court of Protection is a special court that deals with decisions or actions taken under the Mental Capacity Act.

The court acts only in cases where someone has already lost the capacity to make certain decisions. These decisions could be about their health, welfare, finances or property.

In an ideal world, the person who has lost capacity will already have a valid **lasting power of attorney** (LPA) in place that appoints chosen people to step into their shoes and manage their affairs when the need arises.

Unfortunately not everyone plans for this situation. They may not know about LPAs or they may have just left it too late, as the LPA must be made while you still have capacity to understand what you have authorised people to do.

If there is no LPA in place and you find yourself needing to take control of someone's affairs you will have to apply to the court to become their deputy. The court will need to be satisfied that the person has lost capacity and will ensure that the actions you plan to take are reasonable and in the persons best interests.

Managing someone's affairs is a responsible role and the court will want to see that you are capable of carrying out all the tasks involved. You will also be supervised by the court from time to time.

### **What can a property and financial affairs deputy do?**

As a property and financial affairs deputy you will be able to take control of the person's finances. This will include applying for benefits they are entitled to, paying off their debts or selling their home if the money is needed to fund residential care.

### **Court of protection fees**

There will be court costs when the application is lodged with the court and also after the deputy is appointed. To apply to become a deputy you will need to pay an application fee, currently £365, when the forms are sent to the court. Should the court decide that a hearing is needed, there will be an additional fee. An assessment fee of £100 for the court to assess the proposed deputy's suitability is also payable.

Ongoing fees include an annual supervision fee of between £35 and £320, plus the cost of an annual insurance bond.

In some circumstances, you will be able to claim to have the fees refunded.

## How we can help

If you know or care for someone who no longer has the mental capacity to make decisions about their property or finances we can guide you through the complex process of applying to the court so that you can make decisions for them.

### Court of protection solicitors

Our solicitors specialise in court of protection applications and can make applications for you or someone else to be appointed as a deputy for property and financial matters.

We can also act as a deputy ourselves, this may be appropriate if there are no suitable family members, there is disagreement within the family or the individual's financial affairs are particularly complex.

### Statutory wills

Other applications we can assist with include statutory wills. These are appropriate where an individual has lost the necessary mental capacity to sign a will but doesn't have a will or their will is out of date and it is necessary to ask the Court of Protection to approve a new will.

Finally, we can assist in the appointment of a new trustee, a situation which can arise when an individual who lacks capacity jointly owns land.

If you would like to know more about how we can help you deal with the court of protection, call and speak to our friendly team today. Telephone 01302 320621 or email [info@athertongodfrey.co.uk](mailto:info@athertongodfrey.co.uk)

**Lasting power of attorney** can be made at any time, so long as you still have the capacity to understand what this means. You can have LPAs that cover your finances and property and also your health and welfare.

If you would like to know more about making a lasting power of attorney call and speak to our friendly team today. There will be no obligation and we can even visit you at home if it's easier.

### Court of Protection contact details

Court of Protection  
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