

Applications for the appointment of a deputy for property and financial affairs

What is a deputy?

A deputy is someone appointed by the court to deal with the property and financial affairs of a person who lacks the mental capacity to do so themselves.

They must use the assets under their control for the benefit of the person who lacks capacity and always act in the best interests of that person.

The powers of a deputy can include:

- Taking control of any cash accounts and investments
- Receiving any income (such as a private or occupational pension to which the person is entitled)
- Entering into, or terminating, tenancy agreements
- Obtaining a grant to an estate to which the person may be entitled (when there is no one able or willing to be appointed)
- Selling or letting a house or land.

A deputy may not deal with any jointly owned property or land. Please see the guidance note on selling jointly owned property for further information (Guidance Note COP GN2).

When should I apply to be a deputy for property and affairs?

If the person lacks capacity to make decisions about their property and financial affairs and has not made a valid enduring or lasting power of attorney.

If the person who lacks capacity has no savings and the only income is social security benefits, it will not usually be necessary to appoint a deputy. The Department of Work and Pensions can appoint someone called an 'appointee' to receive benefits on their behalf. For more information about appointees visit www.gov.uk and search 'becoming an appointee'.

Can more than one person be appointed as deputy?

Yes. The court can appoint one or more deputies to act either jointly (they must act together at all times) or jointly and severally (they can act together or independently of each other).

Will I have to appear in court?

In the vast majority of cases, the court will make a decision based on the papers submitted without the need for a hearing.

Security

The court requires all deputies for property and financial affairs to arrange a security bond with an insurer. Security is a type of insurance policy that protects the person who lacks mental capacity in the unlikely event that the deputy was to misuse their funds. The arrangement is a standard business practice and does not reflect on the deputy's personal integrity.

The court will calculate the level of security according to the value of the assets that will be under the control of the deputy.

The deputy must pay the premium on the bond before the court sends out the order appointing a deputy, and the deputy is responsible for paying the annual premiums.

How to apply

The following forms must be completed and signed:

- COP1 Application form
- COP1A Annex A: Supporting information for property and affairs applications
- COP3 Assessment of capacity
- COP4 Deputy's declaration

You can download the forms from the website: www.gov.uk/court-of-protection

It is important that you complete all the relevant sections of the form and provide all the information requested. If you do not provide all the information, the court may not be able to deal with your application straight away.

You should send **two copies of the COP1 but only one copy of the other forms**, together with the appropriate fee or an application for fee remission

Supporting documents to accompany the application

Where possible you should also provide:

- Copies of all previous orders made by the court;
- A copy of the will of the person to whom the application relates;
- A copy of any lasting or enduring power of attorney made by the person to whom the application relates;
- If there is an existing attorney who no longer wishes to act, a signed deed of disclaimer;
- If the application is to replace an existing deputy, and the deputy is not the applicant, a statement from the current deputy consenting to the application.

Urgent matters

If you need to do something straight away, before the appointment of a deputy, you can ask the court to make an interim order. For example, you may need to pay outstanding care home fees, or if you cannot obtain all the information, you need to complete Annex A: Supporting information for property and affairs (form COP1A), you may need to ask for an 'investigate and report' order to obtain the information from banks and building societies.

You can ask the court for an interim order at the same time as you apply for appointment as deputy by completing section 1.3 of form COP1; or if you need to do something after applying, by completing an Application notice (form COP9).

You should only apply for an interim order in cases of genuine urgency, and you must explain to the court why the situation is urgent.

Court Fees

An application fee is payable when you make an application. Cheques should be made payable to HM Courts & Tribunals Service (HMCTS). For applications concerning property and financial affairs, you can recover the fee from the assets of the person who lacks capacity after a deputy is appointed.

There are circumstances in which the court can waive all or part payment of the application fee depending on financial circumstances.

For further details, please see booklet COP44 - Court of Protection fees available from the website: www.gov.uk/court-of-protection.

Disclaimer

Court of Protection staff cannot give legal advice. If you need legal advice, please contact a solicitor or your local Citizens Advice. Information in this guidance is believed to be correct at the time of publication; however, we do not accept any liability for any error it may contain.

If you need further help with your application, please check the website: www.gov.uk/court-of-protection.