



Office of the  
Public Guardian



# OPG InTouch

The newsletter for deputies

## **In this edition of InTouch...**

**Next steps to  
improve deputy  
supervision and  
support**

**Annual report set to  
go digital**

**The Care Act 2014**

**...and much more**

## Next steps to improve deputy supervision and support – what it means to you

**The way we supervise and support deputies is developing. This article looks at the changes we are introducing over the coming months and what you can expect, depending on your deputyship type.**

We are carrying out the recommendations made within our supervision review, which we reported

to Parliament in December 2014. Some of these you may have already seen or experienced. Other changes will be introduced gradually, and we'll give you plenty of notice about any change that affects you.

From this September, we are no longer referring to “levels” of supervision – types 1, 2, 2A and 3. Instead, we talk

about general or minimal supervision.

A further change for all deputies will be new reporting forms, which we will introduce in stages over the next few months. We have developed and tested these with deputies. They will be clearer and easier to complete, and will include improved guidance.



## Lay deputies (for example, a spouse, relative, friend or neighbour)

1. New deputies are now getting a telephone call from us near the start of their deputyship, to talk through the deputyship order and answer any questions. We may organise a visitor to come and see you if we think it is needed. We will talk to you about keeping records and how you will report to us in future
2. **New** – from early 2016, if you are a new deputy, we will ask you to list the assets owned by the person whose affairs you manage and tell us about any significant decisions you are planning to make over the next year. We will contact you within the first six weeks of the start of your deputyship for this information. We can then monitor and advise you on any specific action you may need to take. In most cases, we will do this in the phone call at the start of your deputyship
3. About half way through your first year as a deputy we will contact you again to check how things are going and prepare you for completing your first report
4. **New** – if you are a deputy who has been appointed on or after 1 April 2015, we will do a full check of your first deputy report and ask you for supporting evidence such as bank statements. We will contact you if we have any questions
5. **New** – if you were appointed before 1 April 2015 but you have not had to fill in a report before because you were allocated type 3 supervision, you'll be asked to fill in a report in the future. We are phasing this in gradually over the next three years. We will talk to you individually and give you plenty of notice and support when the time comes to report
6. **New** – before April 2016, we hope to be able to open our online report form to all lay deputies. We are testing this with some of our deputies at the moment. See page 5 for more
7. **New** – our new report forms will ask you to tell us about significant decisions you are planning to make over the next year, for example, the sale of a property, gifts or investments. We can then advise you if we think you are planning to do anything that may be in breach of your deputyship order or duties

## Public authority deputies

1. In July, we published standards for public authority and professional deputies. See page 10 for more
2. We have a programme of assurance visits to public authority and professional deputies. Our visitors have all been trained in the standards and will be asking to see evidence that you are meeting the standards when they see you. We will give you feedback on the assurance visit afterwards
3. **New** – we will phase in reporting for formerly type 3 supervision cases over the course of the next two years. We are doing this by deputy, and will be in touch with you in advance of when you need to start reporting
4. **New** – from 2016, in new cases, we will ask you to complete a list of assets and an annual plan within the first four months of your deputyship, specifying key decisions you plan to make. For existing cases, this will be part of the new annual report form
5. **New** – from later this year, we will be asking you about the fees you charge your clients as part of your annual report

**Please note – points one to four (above) also apply to professional deputies.**



## Professional deputies

1. **New** – from later this year, we will start asking for estimates of the professional fees you will be charging your clients over the next 12 months. For new cases, you will be asked to supply this within the first four months of the deputyship. For existing deputyships, you will get an insert in your annual report to complete when it's due. We have been working with the Senior Courts Costs Office and will be publishing joint guidance and questions and answers that will help you with this. We will share this with your representative organisations for comments before finalising it
2. **New** – we will be fully checking the first reports from any new professional deputies appointed on or after 1 April 2015 who have not handled deputyship cases before

## New deputy report forms - all deputies

We will be introducing three types of report forms:

- A full report form helps us gather lots of relevant information about the case, including the assets being managed, the client's living arrangements, any investment decisions and what's likely to come up

in the next 12 months. We will be giving more of these reports a full review

- Many deputies will complete a standard form, which asks fewer questions and allows us to provide the right level of supervision in the case
- There will be a new report form for health and welfare deputies

## Key points – deputy reports

- From April this year, all new deputies will submit a deputy report on the anniversary of their deputyship order from the court

- All existing deputies who currently don't have to report every year will start submitting annual reports over the next three years
- Before asking you to submit a deputy report, we will call and write to you to explain the process and answer any questions
- We're improving the forms and guidance to make it easier for you to complete and submit your reports
- We're improving our IT systems and training our staff so they can help you more effectively during the change



# Annual report set to go digital

**Over the past 12 months we have been developing a service that will allow deputies to update their details and complete annual reports online.**

The online tool has been designed around feedback from deputies to ensure the system supports you in your deputyship.

At the start of the project we visited a small group of deputies to see whether they needed an online service, and to capture any concerns about the current service or about working online.

We started building the online service around these requirements, focusing on

what people want to do and see. For instance, deputies told us they wanted the service to be secure, to contain help and guidance, and they wanted to be able to save and return to information already recorded.

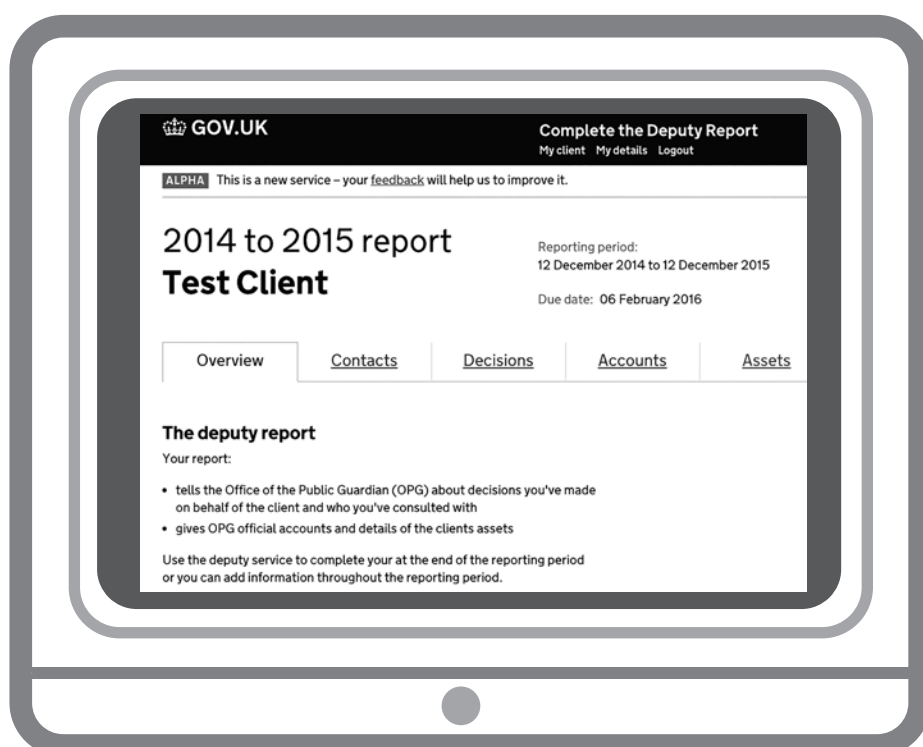
Throughout the prototype process we continued to talk and test with users and have so far spoken to nearly 100 deputies. Initial feedback has been positive with deputies commenting that the service is 'simple' and 'easier than filling in the paper form.'

One deputy found the process of completing an annual report less complicated with the online service, and said:

"I would be happy to do it online – it's less daunting than the form."

We have been piloting the service with 50 users throughout July and August who have been completing their reports and submitting them online. We will learn from their experiences to improve the service.

Following the pilot, we hope to share the service with a larger group of lay deputy users until we've completed all the actions we need to make the service live for all lay deputies to use to complete their report.



Annual report digital test site

# The Care Act 2014

**For many deputies providing or arranging care goes hand in hand with the role – whether you hold a property and finance or a health and welfare deputyship order.**

The introduction of the Care Act 2014 changes how you can access the care and support needed for you and your client.

The Act, which came into effect in April 2015, introduces a single and consistent way of accessing care and support.

The national changes are designed to put people at the centre of their care and support. Any decisions about them must consider the individual's wellbeing and what is important to them and their family.

Care and support refers to the help some adults need to live as well as they possibly can with any illness or disability. It can include help with things like:

- getting out of bed
- washing
- dressing
- cooking meals
- eating



- getting out and about
- keeping in touch with friends or family

The Care Act also sets out a clear legal framework for how local authorities and other parts of the health and social care system should protect adults at risk of abuse or neglect. This will include multi-agency Safeguarding Adult Boards to oversee regional safeguarding.

**Changes will come into effect in two stages. The first is already underway and includes:**

- a national level of care and support across all local authorities, which will mean consistency of care for all in England
- support for carers – using the new carer's assessment, carers can access practical support and advice to help them continue in their caring role
- the deferred payment scheme being extended across England
- local authorities having a duty to arrange care and support for self-funders who need it and are not living in a care home. There may be an arrangement fee for this service
- local authorities having a duty to provide advice and information on care options, including assisting people to access independent financial advice

In July 2015, the government announced delays in rolling out the second stage of the Care Act. Specifically, the introduction of a duty on local authorities to arrange care and support for self-funders living in care homes and the protection against unlimited care costs, known as the 'cap on care costs'. These changes are now expected to come into effect in 2020.

In Wales, similar changes will be introduced by the Social Services and Well-being (Wales) Act, which became law on 1 April 2014 and will be carried out from April 2016. More information can be found at [gov.wales/topics/health/socialcare/act/?lang=en](http://gov.wales/topics/health/socialcare/act/?lang=en)

For more information about the Care Act 2014 visit [gov.uk/government/publications/care-act-2014-part-1-factsheets](http://gov.uk/government/publications/care-act-2014-part-1-factsheets)

If you are a carer or someone being cared for and want to know more about your entitlement, go to your local authority website.

There is comprehensive statutory guidance to the Care Act which can be accessed at [gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation](http://gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation)





# Health and welfare case study

**At 45 years old, David Potter\*, of Northampton, couldn't have predicted he'd have to become a health and welfare deputy for two of his closest relatives.**

The former NHS nurse spends most of his time ensuring his wife's parents, who both suffer from Alzheimer's disease, are properly looked after.

Living close to his in-laws, Jim and Sandra Hill\*, the first signs that something wasn't right were apparent to David.

He explains: "Jim was trying to do his best to look after Sandra but she was running over to us saying there were strangers in the house. It was just that the TV had been left on. Then there were times Jim would leave a note for her saying he was nipping out but she didn't understand it and again would come running to us in distress and tears."

While Jim was caring for Sandra, his mental health started to deteriorate and he was no longer able to look after his wife.

Losing mental capacity isn't something most people want to think about. However, if and when the situation arises, relatives, friends or an alternative suitable person may find themselves applying to become a deputy through the Court of Protection.

For David and his wife Angela\*, 43, the process was lengthy but their court order has been helpful.

Six months before the health and welfare order was granted, Mr and Mrs Hill were moved into a care home. David and his wife felt that with assistance, his in-laws could return home.

He said: "We wanted them to be assessed for Continuing Health Care funding, so they could stay at home. However, without the order, we felt we had less authority to represent their wishes.

"With the order in place, we're involved in all healthcare decisions. The order has been invaluable in terms of their ongoing treatments.

"Life has become a bit easier now."

Mr and Mrs Hill are looked after in separate care facilities but the hope is that they will soon be able to live together again in a home of their own, with support from carers.

\* Please note, the names, ages and location in this article have been changed to protect the privacy of the people mentioned.





## Key facts

### What is a health and welfare deputyship order?

Health and welfare deputies are appointed by the Court of Protection to make decisions on behalf of someone who lacks mental capacity to manage their own affairs.

As a health and welfare deputy, you can make decisions about health and social care needs, such as:

- where the person lives
- who he or she should live with
- day-to-day care, including diet and dress
- consenting to medical and dental examinations and treatment
- making arrangements for the provision of care services
- whether they should take part in particular leisure or social activities
- complaints about care or treatment

### Do I need a health and welfare order to make decisions for a loved one?

Not everyone will need to apply to the court to become a health and welfare deputy. In most cases, the core principles of the Mental Capacity Act 2005 are enough to ensure that decisions about someone's health and welfare can be made in their best interests.

However, an application may be necessary where there are particularly difficult decisions to be made, disagreements that cannot be resolved any other way, or situations where a series of ongoing decisions may be needed.

Unlike financial deputies, the court's permission must be given to proceed with an application for a health and welfare deputyship. And the court must be persuaded that it is necessary for a deputy to be appointed.

### How can I apply for a health and welfare deputyship order?

To apply to become a deputy, you will need to submit an application to the Court of Protection. There are two stages to this process – first, an initial application asking the court for permission to become a deputy. If you are granted permission, you can then make an application to become a health and welfare deputy – providing the court with a detailed explanation behind your application. Once successful, you will receive a court order which sets out criteria under which you can act and confirms you can be involved in the decision making process.

**Forms can be found on [gov.uk/become-deputy](https://gov.uk/become-deputy)**

# Professional and public authority deputy standards – change for the better

**With the publication of new deputy standards in July, for the first time professionals and public authorities have clear guidelines to support them in their role as deputies.**

The approach aims to make sure that people get the level of support and supervision most appropriate to their individual case.

The standards have been developed in partnership with both professional and public authority deputies and their representative bodies.

They cover all aspects of managing clients' affairs, from ensuring property, finances and assets are well managed, to recording clients' wishes, beliefs and interests.

The standards clearly set out what is expected from deputies and provide an important checklist of actions and behaviours every deputy should follow.

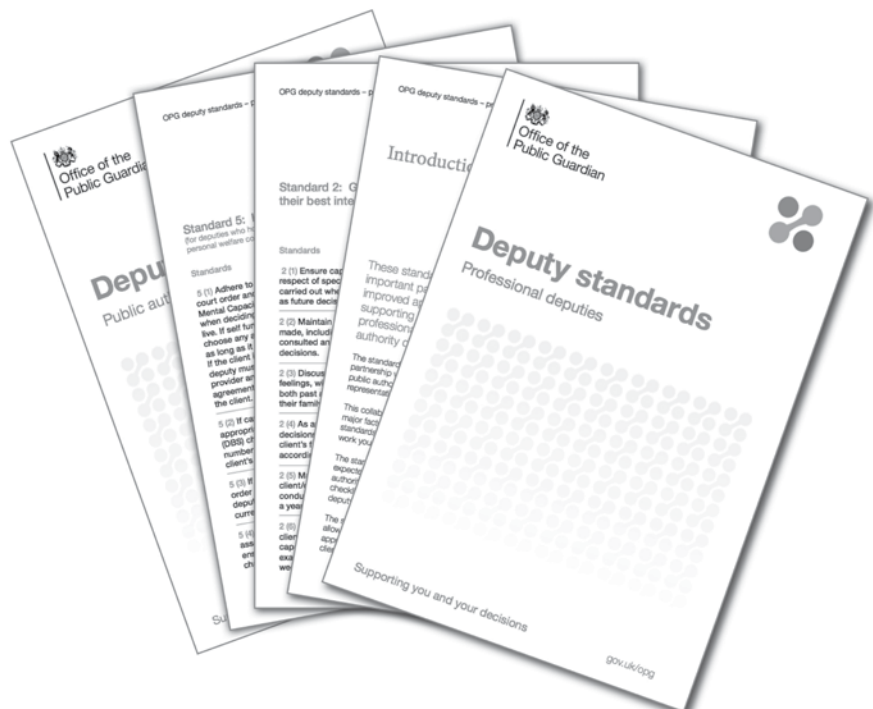
There are five main standards:

1. Secure the client's finance and assets
2. Gain insight to the client to make decisions in their best interests
3. Maintain effective internal office processes and organisation
4. Have the skills and knowledge to carry out duties as a deputy
5. Health and welfare standards

The standards fall into clear categories, according to the type of deputyship. Standards one to four cover property and financial affairs, while standards two to five are relevant to those with personal welfare orders.

The standards will now be included as part of assurance reviews, either face to face or over the phone, carried out by Court of Protection visitors and case managers respectively.

For a copy of the standards, visit [gov.uk/government/publications/office-of-the-public-guardian-deputy-standards](http://gov.uk/government/publications/office-of-the-public-guardian-deputy-standards)



# A day in the life of a visitor

**The last edition of InTouch looked at the topic of visits. Now we look a little closer at a typical day for a Court of Protection visitor.**

## *Fiona picks up her story.*

“After meeting my own visitor I realised I’d like to do it myself and as I had a background in managing social care budgets, I had some professional knowledge. I enjoy being a visitor, it’s brilliant.

“I give lots of practical support to help deputies comply with OPG’s requirements. As a deputy myself I’ve experienced the worry of submitting accounts. People can see I understand because I’ve been there,” she added.

“There’s no such thing as a typical day. Every day is different, which makes it so nice.”

Fiona carries out a maximum of three visits a day between Monday and Thursday. She spends Fridays doing administration and submitting visit reports to OPG, as well as preparing her diary.

“I do quite a lot of travelling. My visits are mostly in North Wales and the Wirral but I also cover parts of Cheshire.



“Everyone I visit is in a unique situation with its own challenges. I’m on hand to help with whatever it is, offer support and to make sure the person who lacks capacity is supported.”

Fiona visits all types of deputies, from lay people with no experience of the Mental Capacity Act to professional deputies who are legal experts at large law practices.

In all cases, visitors will check how a deputy is managing the affairs of the person they’re representing and how they make decisions on their behalf.

“I want to make sure the client is well supported, is being consulted and feels they’re still in control and able to make decisions where they can.”

If you are selected for a visit, you will be contacted to make the arrangements.

# Banking on better service

## **Deputyship orders and lasting powers of attorney (LPAs) give people the legal powers they need to help manage someone else's affairs.**

Unfortunately, too many deputies and attorneys still feel let down by the service they receive from banks and other financial organisations. That's why OPG has been working closely with the financial sector, from regulators down to individual banks and building societies, to help improve things for our customers.

OPG regularly meets with the Financial Ombudsman Service (FOS) and Financial Conduct Authority (FCA) to highlight areas of particular concern.

FCA has been highlighting how financial institutions can improve services for vulnerable people. OPG has been closely involved with

this initiative as well as FCA's wider work to make sure that banks' well-intentioned policies in this area convert into best practice on the frontline.

FOS recently ran a campaign highlighting the issues attorneys and deputies face when dealing with banks. It also issued new guidance giving practical tips for frontline staff in banks and building societies as well as for consumers who manage someone else's affairs.

We also have strong links with the British Bankers Association and the Building Societies Association. Our customer relationship management team is in regular contact with these industry bodies, feeding back your experiences and setting out how customer service could and should be improved. We are also working with banks and building societies on an individual basis.

We already have good working relationships with all major high street banks, but by the end of this year we hope to have strong links with all banks and even the smaller building societies.

It is clear that nobody wants to offer a poor service or cause unnecessary stress. Too often though corporate good intentions still fall by the wayside and frontline staff fail to understand the powers the law gives to deputies and attorneys.

That's why we are working hard to help improve the training for frontline staff. Working with partner organisations we have been busy developing e-learning to improve businesses' and services' understanding of deputyships and LPAs. The first of these, aimed at bank staff, will be launched later this year.

We know that banks and building societies are working hard to improve the service they offer deputies and attorneys, but there is still more to be done. Your experiences matter to us and we will continue to use your feedback to inform our work with regulators, representative bodies and individual banks and building societies to help make sure you get the service you deserve.





# Choice not Chance

**Back in February, we worked with the Ministry of Justice on a short campaign to encourage people to plan for the future. Called Choice not Chance, it encouraged people to set up a lasting power of attorney (LPA), take out a will and sign up to the organ donation register.**

Registering LPAs is an important part of OPG's role and there are now more than one and a half million on the register. This is great news but we want more people to benefit from having an LPA in place. That's why the campaign urged people to think about what would happen if they lost mental capacity and needed somebody to make decisions on their behalf.

As deputies, you know all too well the difficulties of not having an LPA in place when trying to care for a loved one. In fact, research\* shows that deputies are more likely to set up an LPA, having gone through the process of becoming a court appointed deputy.

Feedback so far has been positive and we hope that many more people will now give serious thought to planning ahead.

If you want to find out more about the campaign or have yet to set up an LPA, visit GOV.UK and search 'Choice not Chance'.



**Choice  
not  
Chance**

**You think it will never happen to you.**

A lasting power of attorney means your loved ones can step in and manage your affairs if you can't.

**Make a lasting power of attorney.**

[www.gov.uk/choicenotchance](http://www.gov.uk/choicenotchance)

**From 1 July, new, simpler and clearer LPA forms were introduced for both property and financial affairs and health and welfare. To find out more visit GOV.UK.**

## OPG partners with Alzheimer's Society

**Caring for a loved one with dementia can be difficult especially when trying to manage their day to day bills and personal affairs, such as organising repeat prescriptions, paying utility bills or claiming benefits on their behalf.**

We know all too well the obstacles faced by deputies when acting on their client's behalf. Too often organisations are unsure about the rights that people have under the Data Protection Act and because they are unsure, it may feel safer to refuse rather than allow a reasonable request.

That's why the Alzheimer's Society guidance - Accessing and Sharing Information - is such a valuable resource. Launched earlier this year, it dispels common myths about the Data Protection Act and clearly sets out people's rights. As well as making dealing with businesses and services easier, it also helps people demand an appropriate level of service.

The dementia friendly booklet is divided into sections relating to different situations that people may find themselves in:

- when you have legal power
- when you have permission but no legal power
- when you can't get permission and have no legal power
- if things go wrong.

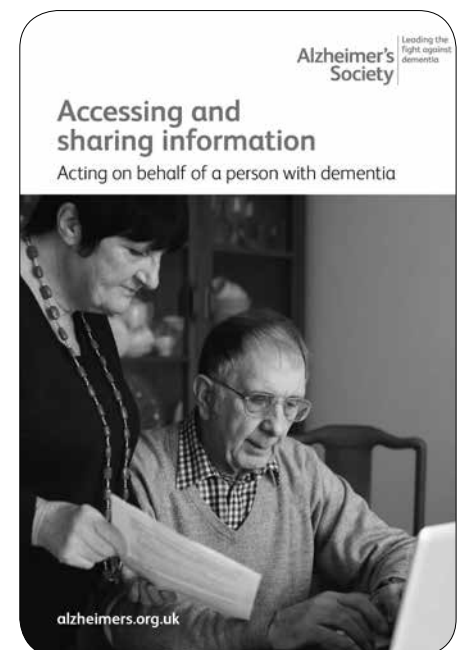
Following the Prime Minister's Challenge on Dementia launched in 2012, the Alzheimer's Society has been leading a group looking at the way personal information and data is used by and for people with dementia. As part of the group, we worked closely with the charity and a number of different organisations, including banks and utility providers, to produce this guidance booklet.

As a dementia friendly organisation, we're committed to improving care and support for people with dementia, and we'll continue our work with charities, businesses and

services across the board to secure better outcomes for our customers.

Accessing and Sharing Information is available to download from the Alzheimer's Society website at [alzheimers.org.uk/sharinginformation](http://alzheimers.org.uk/sharinginformation).

Hard copies are available from Alzheimer's Society on request.



# Useful contacts

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## Office of the Public Guardian (OPG)

OPG is responsible for registering lasting and enduring powers of attorney, so that people can choose who they want to make decisions for them. We maintain the public register of deputies and people who have been given lasting and enduring powers of attorney.

We also supervise and support deputies appointed by the Court of Protection and look into reports of abuse against registered attorneys or deputies.

**The Office of the Public Guardian**  
PO Box 16185  
Birmingham  
B2 2WH

[www.gov.uk/opg](http://www.gov.uk/opg)

## OPG Contact Centre

**Tel: 0300 456 0300**

**9am to 5pm - Monday to Friday**

**10am to 5pm - Wednesday**

**Calls are charged at no more than national call rate**

**Email: [customerservices@publicguardian.gsi.gov.uk](mailto:customerservices@publicguardian.gsi.gov.uk)**

If you have speech or hearing difficulties and you have access to a textphone you can use the **Textphone on 0115 934 2778**

**Fax: 0870 739 5780**

To download deputyship forms or guidance please visit: [www.gov.uk/become-deputy](http://www.gov.uk/become-deputy)

## OPG Visits team

**Email: [opgvisitorsoffice@publicguardian.gsi.gov.uk](mailto:opgvisitorsoffice@publicguardian.gsi.gov.uk)**

## Court of Protection

The Court of Protection (CoP) is a specialist court for all issues relating to people who lack capacity to make specific decisions. The court makes decisions and appoints deputies to make decisions in the best interests of those who lack capacity to do so.

**Court of Protection**  
**PO Box 70185**  
**First Avenue House**  
**42 - 49 High Holborn**  
**London**  
**WC1A 9JA**

**Tel: 0300 456 4600**

To download CoP forms visit: HMCTS Form Finder <http://hmctscourtfinder.justice.gov.uk/HMCTS/FormFinder.do>

To see information on Court of Protection decisions visit: [www.bailii.org/ew/cases/EWHC/COP](http://www.bailii.org/ew/cases/EWHC/COP)

## **Contact InTouch**

Office of the Public Guardian  
PO Box 16185, Birmingham, B2 2WH

**[intouch@publicguardian.gsi.gov.uk](mailto:intouch@publicguardian.gsi.gov.uk)**