

Guidance Note

Applications by existing deputies

Who should read this guidance?

This leaflet explains how deputies for property and affairs may apply to the Court of Protection to change their deputyship powers to make decisions that are not covered in the original order.

When to apply?

The order appointing you as deputy will set out what decisions you can make on behalf of the person who lacks capacity. The order may also list some decisions that you cannot make. For example, the order might say you cannot sell any property, or it may set a limit on how much money you can withdraw from the bank.

If your order does not allow you to make a decision, you can apply to court to change your deputyship, or to ask for a separate order allowing you to make a one-off decision.

Examples of when you should use the procedure set out in this guidance include applications to:

- sell property except where the property is owned jointly;
- purchase property on behalf of the person who lacks capacity;
- renew the deputyship, where the appointment is time-limited; and
- change the amount of the deputy's security.

The procedure set out in this guidance is not suitable for applications to:

- sell jointly owned property (see GN2 Guidance on the sale of jointly owned property);
- make a will or codicil on behalf of the person who lacks capacity (see GN8 Applications for statutory wills, codicils, gifts and other dealings with P's property or refer to the website www.gov.uk/court-of-protection);

- make gifts on behalf of the person who lacks capacity (see GN8 Applications for statutory wills, codicils, gifts and other dealings with P's property or refer to the website www.gov.uk/court-of-protection); and
- remove or replace you as deputy.

How to apply

The following forms must be completed and signed:

- COP1 Application form
- COP1E Annex E: Supporting information for an application by an existing deputy or attorney
- COP24 Witness statement

The COP24 Witness statement should include:

- a summary of the assets of the person who lacks capacity e.g. bank accounts and money held at the Court Funds Office
- details, including the value, of any real property (house or land) they own;
- their total annual income and expenditure;
- the value of the security bond set by the court; and
- copies of any previous orders made by the court, which should be attached to your statement.

To download the forms, visit the website: www.gov.uk/court-of-protection

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

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.

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.

What happens after I make the application?

For most applications made by an existing deputy, you do not need to tell anyone about your application. Sometimes the court will decide that you should tell other people about your application, and it will write to tell you how to do this.

The court will contact you after you send your application, and will either send you an order, or tell you what additional information it needs.

Disclaimer

Court of Protection staff cannot give legal advice. If you need legal advice, please contact a solicitor or your local Citizens Advice Bureau. 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