

Managing one's own property and finances in older age can be difficult for most, but when you add a medical condition on top it can be near impossible. **Chris Poxamatis**, Partner at **Gillhams Solicitors**, is one of only eleven members of the Office of Public Guardian Panel of Deputies across London. Here he explains what the Court of Protection is and how it works to protect individuals and their families and enable them to make critical decisions.

What is the Court of Protection?

The Court of Protection is a specialist court designed specifically to make decisions on behalf of those in society who have been assessed to lack capacity to make decisions themselves.

One of its powers is that it can appoint 'deputy's to make decisions on behalf of people who lack capacity.

What is a deputy and why are they needed?

Not all of life's decisions can be neatly summarised into boxes, but where possible, the court will separate issues between 'welfare' and 'property and finances'.

Managing one's own property and finances in older age can be tough for most people in general, but when you add a medical condition on top it can be near impossible. The court frequently appoints deputy's for people who, due to a medical condition such as Dementia or Alzheimer's, can no longer manage their own property and financial affairs.

Occasionally, some people already have a legal document such as a "Lasting Power of Attorney" in place as preparation for the future for when they lose the ability to make financial decisions for themselves.

However, we often see situations where someone has either had a brain injury or unfortunately received a diagnosis of Dementia and find themselves living in a care home or requiring supported living, but there is no Lasting Power of Attorney in place to make decisions on their behalf. These decisions can include:

- a. making a Will
- b. selling a property
- c. general management of bank accounts (as nobody except the account holder can access the account)
- d. payment of care fees or deciding if a care contract is fair and affordable

In this situation, it quickly becomes apparent that somebody needs to have legal authority to act on behalf of the person who now lacks capacity. This means that someone would need to act as deputy for the person who lacks capacity.

A deputy is someone who stands in the shoes of the person who can no longer make decisions for themselves. The deputy is required to act in the person's best interests and to keep in mind their wishes and feelings on decisions. Deputy's often deal with: paying care fees, applying for benefits, paying any historic liabilities, managing all assets and anything related to the person's property and finances.

Who can apply to the Court of Protection?

Very simply – anyone can. This includes: family members, advocates, professionals such as social workers or solicitors who have been instructed by any of the aforementioned.

Who can be a deputy?

As to who can be a deputy, again this could be anyone. It can be a family member, a friend, a professional deputy or a panel deputy.

However, it is not a light or easy decision to apply to become a deputy. Deputies have a big responsibility for those whom they act for, for example they must consider :

- a. If the issue at hand is in the person's best interests
- b. What were their wishes and feelings at a time when they had capacity
- c. What other professionals or family members think about a decision

They also need to keep in mind that the person must be assisted in understanding any decision which is made. All deputies are supervised by the Office of the Public Guardian ("OPG") and are required to provide financial reports and decision reports to the OPG every year. This is to ensure that the person's property and finances are not being taken advantage of and appropriate decisions are being made on their behalf.

It is also crucial to ensure that the deputy's money and the money for the person for whom they act for are kept separate. This can sometimes mean managing a number of bank accounts or investments. All deputies must make undertakings to the Court of Protection.

It is often for this reason that many individuals opt to appoint a professional deputy, someone who is familiar with this type of work and has the resources to manage someone's property and finances.

A professional deputy is often a solicitor but can also be someone like an accountant. They are considered usually when there is nobody willing or suitable to act as a deputy for the person. Even in circumstances where a family wishes to act as deputy, the court may not always agree to this due to the size of the person's estate (it may be very large and complex) or if there are complex family relationships. If another family member does not agree to other family members acting as deputy, the court will use its discretion to appoint a deputy from a panel of deputies so there is someone impartial and independent.

Ultimately, the court will make a decision on who they think is best to act as deputy for someone.

If you, or someone you know, needs advice or further information on the Court of Protection or about Deputy's please do not hesitate to contact [Gillhams Solicitors](#) on 0208 965 4266 / cp@gillhams.com and one of our team would be happy to assist.