



ACTING AS A DEPUTY

I have been appointed as a Deputy, what does this mean?

An Order from the Court of Protection appointing you as a Deputy for a family member or friend (the Individual) means that you will be able to make certain decisions on their behalf because they no longer have the capacity to manage their own affairs. This could be because they have special needs, have been injured in an accident or suffer from Dementia. The Court Order will tell you what decisions you can make.



What are my responsibilities as a Deputy?

You will need to act in accordance with the Mental Capacity Act 2005 Code of Practice which sets out that a Deputy must:-

- Always act in the best interests of the Individual;
- Act with due care and skill when acting for the Individual;
- Not profit or derive a personal benefit from their position;
- Not ask someone else to make decisions on the Individual's behalf;
- Keep the Individual's affairs confidential;
- Keep accounts (of both finances and the decisions they make on behalf of the Individual); and
- Keep the Individual's assets separate from their own (unless they have a joint bank account).

You also have a duty to submit an annual report to the Office of the Public Guardian. We have experience preparing these reports and we will be happy to advise you or even prepare the reports for you.

Remember, a person's capacity may change, for example, they may have the capacity to make a decision one day but not the next. It is therefore important that you consider the Individual's capacity every time you make a decision for the Individual.

Deputies are encouraged to seek advice from professionals, for example doctors, solicitors or accountants, before making their decisions.

What types of decisions will I be making as a Deputy?

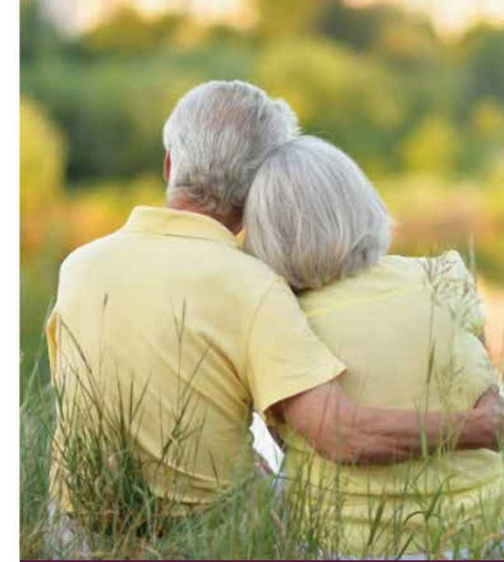
The decisions you can make will be governed by the Order made by the Court of Protection itself and will also depend on the type of Order. Decisions may include:-

- How to invest the Individual's money;
- Whether or not to sell their home;
- Contracting tradespeople; and
- Where the individual will live (welfare only).

What types of decisions can't I make?

There are some restrictions on the decisions you can make as a Deputy:-

- You cannot make a Will for the Individual;
- You cannot sell jointly owned property without a further order from the Court; and
- You cannot vote on behalf of the Individual.



What if a certain decision is too difficult for me to make?

You can obtain professional legal or financial advice as required. If a decision is outside the scope of your authority as a Deputy, or if you think it may be a controversial one, you can apply to the Court of Protection to provide you with assistance or make the decision for you.

If you are unsure about your appointment as a Deputy or making any decision, our Private Client team are happy to advise you.

Can I make gifts for the Individual?

The Order will describe your particular authority to make gifts though such Orders usually permit gifts only on occasions such as birthdays or anniversaries, or to charities that the Individual would have chosen to donate to. The amount gifted must of course be reasonable in all the circumstances and in relation to the size of the Individual's estate.

You cannot generally make gifts for inheritance tax planning purposes unless you have obtained approval from the Court of Protection. However, there are some exceptions so if you require advice in this regard please do ask one of our Private Client solicitors who have a great deal of experience in this area.

"Understanding, clear and honest advice. Transparent with regard to costs. Excellent".

Ms M, Melksham

WHAT OUR CLIENTS HAD TO SAY

"Friendly exact explanations on all legal aspects, helpful throughout and always with a smile" Mr & Mrs C, Westbury

*"Very understanding. I'd recommend Emma Taylor for all later life matters"
Mrs W, Chippenham*

*"We liked Phillip's quiet efficiency, his understanding and knowledge of the subject"
R & L Bunnett, Corsham*



HAVE YOU BEEN PUTTING OFF UPDATING YOUR WILL?

Get in touch today.



CREATING A TRUST ISN'T AS COMPLICATED AS YOU MIGHT THINK.

Speak to your lawyer for more information.

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