



**WHAT IS THE DIFFERENCE
BETWEEN AN ATTORNEY
AND A DEPUTY?**



Lasting Powers of Attorney and Deputyship Orders are legal appointments which allow other people to deal with an Individual's affairs should they be in a position where they lack the mental capacity to do this themselves.

An Attorney

An Attorney is a person (one or more) that an Individual has chosen to help them manage their affairs. They must have the necessary capacity to appoint an Attorney and they can control who is appointed and the powers given to their Attorney.

A Property and Financial affairs Lasting Power of Attorney can be used whilst the Individual still has capacity. For example, they would be useful in circumstances where the Individual is in hospital and cannot get to the bank, then their Attorney can go instead. A Health and Welfare Lasting Power of Attorney can only be used if and when the Individual loses capacity.

The Attorneys will only be able to make decisions relating to an Individual's property and financial affairs and their health and welfare if both types of Lasting Powers of Attorney are in place. The powers the Attorneys have will be governed by both the Lasting Power of Attorney itself, which can include guidance and instructions from the Individual, and the provisions of the Mental Capacity Act 2005. If you would like more information on the duties and obligations of Attorneys, please have a look at our 'Lasting Powers of Attorney' and 'Acting as an Attorney' factsheets or speak to one of our experts.

Who can make decision?

Both can make decisions about an Individual's financial matters or their health and welfare, depending on the type of Lasting Power of Attorney in place or the Deputyship Order made by the Court.

"Catherine was very prompt and considerate in her replies, and very patient and informative with all my many questions!"

C.M



A Deputy

A Deputy is a person appointed by the Court of Protection who will be authorised to manage an Individual's affairs on their behalf. The Individual will not be able to choose their Deputy. A Deputy will only be appointed once you have lost capacity, and if you have more than £16,000 net in cash/investments, or property to be sold or purchased.

An Individual's family or friends can apply to be appointed as their Deputy but this can be a long and expensive process, taking up to 6 months. If at the time the Individual does not have any close family members willing to act as a Deputy then the Court may appoint the local authority or a professional deputy to act in these circumstances.

A Deputy is required to complete a lengthy annual report to the Office of the Public Guardian ('OPG') and must account for all expenditure made on the Individual's behalf. They must also pay an annual fee to the OPG towards the cost of their ongoing supervision. In addition, a Deputy must pay an annual security bond which is essentially a type of insurance to cover any financial loss that may be caused by the Deputy.

The types of decisions a Deputy can make will be specified in the Deputyship Order itself, as well as the provisions of the Mental Capacity Act 2005.

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.

OUR OFFICES

CALNE

The Strand, Calne
Wiltshire, SN11 0JU
Tel: 01249 812086

CHIPPENHAM HIGH STREET

Mill House, 1 New Road
Chippenham
Wiltshire, SN15 1EJ
Tel: 01249 444499

CHIPPENHAM, GREENWAYS

Unit 5,
Greenways Business Park
Bellinger Close, Chippenham
Wiltshire, SN15 1BN
Tel: 01249 475880

CORSHAM

23 Pickwick Road,
Corsham,
Wiltshire, SN13 9BH
Tel: 01249 712193

DEVIZES

Ramsbury House
30 Market Place, Devizes
Wiltshire, SN10 1JG
Tel: 01380 726913

MELKSHAM

5 Bath Road, Melksham
Wiltshire, SN12 6LN
Tel: 01225 703036

TROWBRIDGE

2 Fore Street, Trowbridge
Wiltshire, BA14 8HX
Tel: 01225 762683