

Court of Protection (COP)

The Court of Protection can appoint a deputy to look after someone's financial affairs. This is normally because there is no Lasting Power of Attorney, no Enduring Power of Attorney and the person in need of support sometimes referred to as the patient does not have sufficient mental capacity to manage their own affairs.

What is a Deputy ?

A deputy is a person or persons, though usually one, who is appointed by the Court of Protection to manage the affairs of someone else. A deputy can be a family member or it can be a professional such as a solicitor.

The Court does not like to appoint a welfare deputy, instead they will address any issues of welfare on a case by case approach.

What does appointing a deputy involve?

Step one

Once you have decided who is the appropriate person to act as a deputy it is necessary to make an application to the Court. This will involve collecting information regarding the patient's finances, property and checking details of who is involved in their life such as GP's, social services etc. The Court will also want to know whether they have made a will or any Powers of Attorney.

Step Two

It will be necessary to obtain a doctors report for the purpose of giving an opinion as to the patient's capacity. It is the Court's role to make a judgement as to capacity based on the report provided by the doctor.

Step Three

The paper work is then sent to the Court who will check it, stamp it return it to you or your solicitor. The next stage of the application process involves notifying at least three members of the patient's next of kin. This will allow them to be a part of the process if they have any objections to the deputy being appointed. It is a form of protection for the patient as they may be unable to speak out for themselves.

Step Four

The Court is notified that all parties have been served, including the patient. The Court will then request that an insurance bond is put in place. The purpose of the bond is to protect the patient in the event of financial abuse. The insurance bond will be sufficient to put the patient back into the position they would have been in had a deputy not been appointed.

Step Five

The Deputy order and a number of copies will then be released to the deputy. Notice has to be served on the patient to let them know that the final order has been made. The Deputy Order has to be registered with all the patient's banks and investments etc. Your Solicitor will be able to advise you on this at the end of the matter.

Is there an alternative?

I would always start by looking at the needs of the patient, what do they have? How do they hold it and what will need to happen to manage those assets appropriately? It isn't always necessary to have a deputy but your solicitor will be able to advise you on the individual circumstances particular to your family. If there are savings, investments and property to deal with you will require an order to be able to act on the patient's behalf.

Contact us

If you want to find out more a Court of Protection Application or discuss any other aspect about dealing with someone else's affairs please contact our wills and probate department at Burnley on 01282 426666 or email jflaherty@waddingtonandson.co.uk.