

What is a Deputy?

In my article last month I spoke about the Court of Protection.

As a brief recap, the Court of Protection is a specialist Court that makes decisions on financial or welfare matters for people who lack the mental capacity to make their own decisions. If the Court decides the person lacks capacity then they can appoint a Deputy.

So what is a Deputy?

There are actually two types of Deputy:

1. Property and Financial Affairs Deputy
2. Personal Welfare Deputy

A Personal Welfare Deputy would make decisions about medical treatment and how someone is looked after whereas a Property and Financial Affairs Deputy would pay the person's bills and manage investments.

You can apply to be one type of Deputy or both. Property and Financial Affairs Deputyships are more common.

If you are appointed as Deputy, you will receive a Court Order which sets out what you can and cannot do. The Deputy must make all decisions in the best interests of the person who lacks capacity.

Acting as a Deputy is a responsible position with considerable paperwork. For example, a Deputy must send an annual report to the Office of the Public Guardian each year explaining the decisions that they have made.

Can I be a Deputy?

You need to be 18 or over to be a Deputy. A Deputy is usually a close relative or friend of the person who lacks capacity. However, it is possible to have a Professional Deputy, for example a Solicitor. A Professional Deputy is often preferred in certain situations, for example where there is an ongoing or there has been a large personal injury claim.

Can you have more than one Deputy?

The Court can appoint more than one Deputy. You can have a joint deputyship which means all the deputies have to agree on the decision or you can have a joint and several deputyship which means deputies can make decisions on their own or with other deputies.

What fees do I need to pay?

As well as the application fee to become a Deputy, you would also need to pay a supervision fee every year after you have been appointed. This will be between £35-200. You will also need to pay a one off assessment fee of £100 when you become a Deputy. If you are appointed as Property and Financial Affairs Deputy, you will also need to pay a security bond. The bond is a bit like an insurance policy that protects the finances of the person you are deputy for. The Court will set the security sum and this will depend on the value of the estate of the person you are deputy for and how much of their estate you control.

If you apply to be both types of Deputy then you will need to pay the application fee twice.

You might be able to get help with the application and supervision fees.

This article was kindly provided by Charlene Hughes, Associate Solicitor, [Boyes Turner](http://www.snapcare.co.uk), for the Snap Care Newsletter www.snapcare.co.uk

What do I need to do once I am Deputy?

You will need to send others for example banks and the Department for Work and Pensions a copy of the Order to prove that you are now acting on behalf of the other person.

If you are a Property and Financial Affairs Deputy you should open a separate bank account as it is important that you keep your money completely separate from the money of the person you are Deputy for. All financial transactions must be recorded.

Deputies are supervised by the Office of the Public Guardian who will provide you with advice and support. They may also visit you.

Can I get paid for being a Deputy?

The answer is usually no. However, you may be able to claim expenses for things you must do to carry out your role for example postage and travel costs.

Only a Professional Deputy can charge for time spent carrying out their duties. Their fees are normally paid out of the finances of the person they are Deputy for.

How can we help?

If you have any queries or questions about the Court of Protection, deputyship or how to support someone to make their own decisions then please contact our specialist Court of Protection team by email on cop@boyesturner.com