

Court of Protection

Commonly asked questions



Laura Redding
Associate Partner - Wills & Probate

Q: I have been told I need to make an application to the Court of Protection for my mother but I don't know why?

A: An application to the Court of Protection is necessary if an individual has not made an Enduring or Lasting Power of Attorney and can no longer make their own decisions for reasons including mental or degenerative illness.

The Court of Protection will make decisions on behalf of a person who is mentally incapable of making their own. The Court can give these powers to someone else if there is a need for decisions to be made on an on-going basis and this person is known as a Deputy.

Q: Can I be a Deputy and what does it involve?

A: Deputies are usually friends or relatives of the person who needs help in making their decisions. The role of Deputy can be considerable and time consuming. It is important that you give thought as to whether or not you have the time and ability to act. Some individuals find the prospect of acting daunting and if this is the case, it is possible for a solicitor to be appointed to act.

The Court of Protection also has approved Deputies who could be appointed. Jean Newton of QualitySolicitors Parkinson Wright acts as a Professional Deputy for several clients who are unable to manage their affairs.

As a Deputy you must:

Have regard to the Mental Capacity Act 2005 and its Code of Practice.

Make your decisions with a high standard of care.

Make decisions that are in the individual's best interests.

Only make a decision if the individual cannot make it for themselves.

Only make decisions that the Court has said you can.

As Deputy you will also be required to report to the Court of Protection on an annual basis about the decisions you have made.

Q: Can I make the application to the Court of Protection myself or do I need to instruct a solicitor?

A: It is possible for you to make an application to the Court of Protection without the assistance of a legal professional. There are several forms that will need to be completed and it is very important that these forms are filled in correctly or the Court may reject the application. It can be quite time consuming. You will need to include in the application a request for all the powers you are going to need in the future; wording the application can be difficult.

At QualitySolicitors Parkinson Wright we are extremely experienced in handling Court of Protection matters and we will make sure that the application process runs as smoothly as possible for you.

Q: Aside from any legal fees which I will have to pay, are there any other costs involved?

A: There are a number of disbursements (payments to third parties) which may be payable in addition to any legal fees:

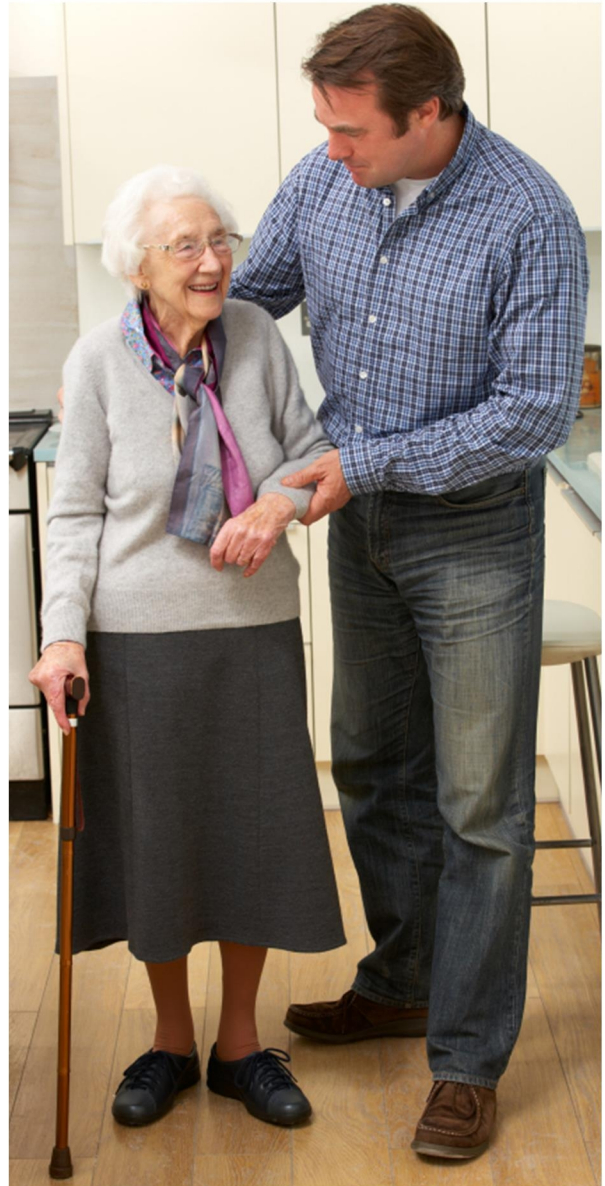
Medical Practitioner fee for carrying out an assessment of capacity. This may be from £50 - £300.

A Court application fee of £400.00 (In some cases there may be an exemption from payment of fees).

An Appointment of Deputy fee of £100. This is a one-off fee imposed by the Court for placing your details on the Deputies register and carrying out a risk assessment to determine the appropriate Deputy Supervision regime.

A Security Bond costs approximately £80. This is required by the Court and is an insurance policy, providing cover in the event that the Deputy abuses their powers. This is payable annually, the first payment is due as soon as the Court Order appoints you as Deputy.

A Supervision fee of between £0 and £800. This is paid annually in arrears on the 31st March. The result of the Court of Protection's risk assessment will determine how much needs to be paid annually.



**For more information
Please contact Laura Redding on
01386 761176**

lpr@parkinsonwright.co.uk
qualitysolicitors.com/parkinsonwright



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Parkinson Wright**