



## Applications to the Court of Protection

If someone loses mental capacity and has not already put in place an Enduring or Lasting Power of Attorney which authorises another to take over the management of that person's affairs, an application can be made to the Court of Protection for a Deputy to be appointed. A family member or close friend is usually best equipped for the role of Deputy as they will be familiar with that person's affairs and wishes. Alternatively, a professional Deputy such as a solicitor or accountant can be appointed.

The Court requires an assessment of capacity to be completed by a medical practitioner and also detailed information about the incapacitated person's personal and financial circumstances. The proposed Deputy must satisfy the Court that he is a suitable and trustworthy individual to take on this responsibility.

Firstly, family members and any other people likely to have an interest in the incapacitated person's welfare and affairs have to be informed that an application has been made for the appointment of a Deputy to deal with their relative's financial affairs and they then have an opportunity to raise any concerns within a given period. The person who has lost capacity also has to be told about the application unless the Court agrees this is inappropriate.

It is unnecessary for the proposed Deputy to attend Court in person unless there is a dispute about the suitability of that applicant. In an undisputed application, the Court would usually issue an Order appointing the Deputy some four to six months after the application was submitted. Before the final Order is produced, the Deputy is required to put into effect an insurance bond to provide protection in the event of a misuse of funds under the Deputy's control.

The Deputy must keep accurate financial records of the incapacitated person's income and all expenditure incurred on their behalf and each year is required to produce a report showing balanced accounts.

### Statutory Will

In the event that the individual who has lost capacity has not made a Will, or if their family circumstances have significantly changed since the date of their Will, an application can be made for a Statutory Will. This will ensure that appropriate provision is made for those closely connected to the incapacitated person.

### Wills & Trusts Services

- Wills & Estate Planning
- Lasting Powers of Attorney & Registration of Enduring Powers of Attorney
- Trusts
- Deeds of Variation
- Probate & Administration of Estates Service
- Court of Protection applications

For further information on our Wills & Trusts services please contact:

Rebecca Stringfellow

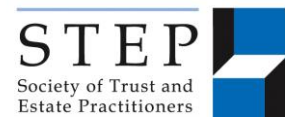
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Rebecca Stringfellow



**Dootsons**  
SOLICITORS



**Wills & Trusts**

## Applications to the Court of Protection continued

### Jointly Owned Property

If the individual who has lost capacity owns a property jointly with another person and a sale is planned, the sale cannot occur until steps have been taken to replace the incapacitated individual with another person and permission to do this has to be obtained from the Court of Protection.

### Health & Welfare

In unusual circumstances an application can be made for the Court to make a particular decision about your care and/or medical treatment.

Contact us if you need to take any of the steps outlined above on behalf of a relative. We can prepare the necessary documentation and guide you through the process.

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