



Court of Protection

If you have a relative or friend that no longer has the mental capacity to manage on their own in relation to their health and care and/or their property and financial matters, it is likely that they will need your help. A person may lose mental capacity due to illness, such as dementia, Alzheimer's disease or as a result of a stroke, an injury or a developmental condition.

If your loved one does not have a **Power of Attorney** i.e. they have not appointed someone to deal with these matters for them, it is likely an application will have to be made to the Court of Protection so that important decisions can be made on their behalf.

What is the Court of Protection and what does it do?

The Court of Protection is a specialist court which protects the rights and interests of people who have lost the mental capacity to make important decisions on their own and/or are not capable of dealing with their own affairs. They are referred to by the court as the **Protected Party or "P"**. In the majority of cases, "P" will pay the costs of the application to the Court.

The Court is responsible for:

- deciding whether someone has the mental capacity to make a particular decision for themselves
- appointing Deputies to make ongoing decisions for people who lack mental capacity
- giving people permission to make one-off decisions on behalf of someone else who lacks mental capacity

- handling urgent or emergency applications where a decision must be made on behalf of someone else without delay
- making decisions about a lasting power of attorney or enduring power of attorney and considering any objections to their registration
- considering applications to make statutory wills or gifts
- making decisions about when someone can be deprived of their liberty under the Mental Capacity Act

How can Leech & Co help?

Applying to the Court of Protection can be a complicated and difficult process. Often it comes at the time when your loved one needs your help the most, but you are unable to assist them because you do not have the legal standing to do so. We can help you with expert, straightforward advice and practical solutions. This will allow you to make the right decisions which will best meet the needs of your relative or friend.

These are some examples of the services we can provide at Leech & Co:

- **Application to the Court of Protection for a deputyship order** – This is an order appointing a person or persons to make decisions on behalf of “P”. There are two types; welfare or financial. Welfare deputies make decisions in relation to health and care issues. Financial deputies make decisions in relation to property and financial matters.
- **Preparation of Annual Returns for deputies** – If you have been appointed as a financial deputy, you will be required to submit a “return” to the **Office of the Public Guardian (OPG)** on a yearly basis. The OPG is a Government organisation that protects the private assets and supervises the financial affairs of people who lack the mental capacity for making decisions. It can sometimes be difficult and confusing to complete this process and at Leech & Co, we can complete this and submit the return to the OPG on your behalf.
- **If you disagree with someone else’s application** – You may have received documents from the Court of Protection about an application made by someone else. We can advise you about what to do next and make sure your views are taken in to consideration by the court.
- **Apply to the Court of Protection for a one off decision** – This could be in relation to a number of different things, for example having contact to a loved one or relative or for authority to sell a house. We can advise you as to the most appropriate course of action.
- **Application for a Statutory Will** – If your relative or friend is unable to make decisions for themselves and does not have a Will, it is unlikely that they will be able to make one. We can advise you in relation to making an application to the court to make a Will on their behalf.
- **If someone is acting inappropriately as attorney or deputy** – An attorney is somebody who has been appointed by a person to act on their behalf in relation to health and care and/or financial matters. A deputy is a person appointed by the Court of Protection. If you have concerns about how an attorney or a deputy is acting then we can advise you about the steps which can be taken.

- **Not sure about capacity?** – Capacity is assessed in relation to a specific decision at a specific time. If you are not sure whether your relative or friend has capacity we can advise you about this. We can usually confirm this from discussions with them and will advise you whether we feel a formal assessment is necessary.

How long will it take for the Court of Protection to make a decision on my application?

The Court of Protection can be quite slow in processing applications. All applications are made to the court in London and if matters are straightforward then the application will be considered by a Judge on the papers and an order made.

However, if an objection is made to the application, the matter will be referred to a regional court and may be listed for a hearing. This will of course delay things, but we will, of course, do everything we can to make sure your matter is dealt with as quickly as possible.

Full details about all of the above can be found on our website - www.leechandco.co.uk - or simply call us on 0161 749 9000. We're more than happy to talk things through with you and answer any of your questions.

Leech & Co Solicitors have prepared this factsheet to help you decide if an application to the Court of Protection is necessary. It contains general advice only. The content of this factsheet should not be used to make a decision or take an action without further legal advice.