

Key Considerations When Making a Court of Protection Application



Is There a Lasting or Enduring Power of Attorney?

Check whether the individual previously made a registered Lasting Power of Attorney or Enduring Power of Attorney covering the decisions now required. If an appropriate Power of Attorney is already in place, a Deputy may not normally be necessary.



What Decisions Need to Be Made?

Consider what practical issue has led you to seek advice. You may need access to bank accounts to pay bills, authority to manage investments, deal with a pension, sell property or make another significant financial decision.

Clearly identifying the decisions required can help determine whether a full Deputyship Order or a one-off Court application is more appropriate.



Evidence of Mental Capacity

A Court of Protection application will usually require evidence concerning the individual's capacity to make the relevant decisions. For Property and Financial Affairs Deputy applications, this ordinarily includes an assessment of capacity using form COP3.



The Individual's Financial Position

Prepare an outline of their property, savings, investments, income, pensions, debts and regular expenditure where available. This information helps the Court understand the person's circumstances and the financial responsibilities the proposed Deputy may need to manage.



Who Should Act as Deputy?

Consider who would be suitable to take responsibility for the individual's affairs. Deputies are often close relatives or friends, although the Court can appoint more than one Deputy and professional Deputies can be appointed where appropriate.

Other Family Members

Think about who else is closely involved in the individual's life and whether everyone is likely to agree about the proposed arrangements. Court applications involve notification requirements, and objections or disagreements can make the process more involved.

Property Ownership

If the person owns property, establish whether it is held solely or jointly with someone else and whether a sale is being considered. Additional Court authority can be required in some circumstances, particularly where jointly owned property needs to be sold.

Any Immediate Financial Issues

Tell your solicitor if bills, care fees, mortgage payments or other urgent liabilities cannot currently be dealt with because nobody has authority to access the person's finances. This can help establish whether any urgent or interim steps should be considered.

Existing Court Orders

If a Deputy has already been appointed, provide a copy of the existing Deputyship Order. The wording of the order determines what decisions the Deputy can make, and a further application may be required if new circumstances fall outside those powers.



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