

A guide to professional deputies: what you need to know

Appointing a professional deputy to manage your family member's affairs can ease the stress on you to allow you to concentrate on providing the support and care your family member needs.

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TABLE OF CONTENTS

- 3 What is a professional deputy?
 - 4 What does a professional deputy do?
 - 5-6 Why should I choose a professional deputy?
 - 7 What to look for in a professional deputy
 - 8 How are professional deputies paid?
 - 9 What I do if I have concerns about my current deputy?
 - 10 About CFG Law
-
- 2 A guide to professional deputies



What is a professional deputy?

When someone loses mental capacity, either through injury, old age or another health condition, and can no longer make decisions for themselves, you must apply to the Court of Protection to appoint a deputy to make decisions on their behalf if there is not a valid Power of Attorney in place.

Often, it is a family member or close friend that applies to be a deputy, but a professional deputy can also be appointed to manage the person's property and financial affairs. Managing a family member's affairs can be stressful, so appointing a professional deputy can ease the strain on loved ones, leaving them to care and spend time with their family member instead.

A professional deputy is usually a solicitor with expertise in representing vulnerable clients and has specialist knowledge of the Court of Protection. A professional deputy will always act in the best interests of the person who lacks capacity and have a clear understanding of the Mental Capacity Act 2005.



What does a professional deputy do?

A professional deputy manages the property and financial affairs of someone who lacks mental capacity. They can ease the stress on family members who may otherwise have to manage these things, allowing them the time to concentrate on providing the support and care their family member needs.

If a professional deputy is appointed, they can help with many different areas, including:

- ◆ Managing financial affairs and dealing with administrative tasks such as paying invoices and bills
- ◆ Regularly preparing and reviewing income and expenditure budgets
- ◆ Dealing with the sale, purchase or adaptation of property
- ◆ Welfare benefits, including protecting and ensuring current and future entitlement
- ◆ Local authority and NHS funding for care
- ◆ Employing and liaising with case managers, therapists and treatment providers
- ◆ Managing investments
- ◆ Dealing with workplace pension schemes
- ◆ Producing annual accounts and reports for the Office of the Public Guardian

As well as the tasks above, a professional deputy can also provide support if someone does not have a Will and cannot make one themselves. A professional deputy will consider the impact of the intestacy rules on distributing the person's estate if they die and if appropriate, they can make an application to the Court of Protection for a Statutory Will to be executed.



Why should I choose a professional deputy?

When a person has received a large sum of money, such as through a personal injury claim, the Court of Protection generally prefers this money to be managed by a professional deputy rather than a lay deputy (such as a family member or friend).

Managing large sums of money can be complex, along with keeping clear and consistent records that need to be filed with the Office of the Public Guardian, and this can cause a lot of strain on family members who already have the stress of caring for and supporting their loved one with their recovery.

It is also important with personal injury claims that funds for future care do not run out over the person's lifetime, so managing affairs correctly will safeguard this.



Why should I choose a professional deputy?

Some of the complex areas a professional deputy will manage can include:

- ◆ Providing annual reports and accounts to the Office of the Public Guardian detailing all income and expenditure and listing all decisions that have been made
- ◆ Liaising with financial advisors about investment opportunities
- ◆ Completing yearly tax returns
- ◆ Purchasing and maintaining any property that the person occupies and arranging for works to be carried out
- ◆ Overseeing and arranging contracts for care
- ◆ Liaising with the Court of Protection and any Court appointed visitor
- ◆ Applying to the Court of Protection for approval of expenditure outside of the scope of their authority



What to look for in a professional deputy

When looking to appoint a professional deputy, it's important to build a relationship with the person and speak openly and honestly with each other. Usually, a deputy will be involved in a person's life for a long time, so it's important to appoint someone who understands the whole situation and family dynamics.

A professional deputy should always act in the best interests of the person who lacks capacity and regularly assess their capacity and involve them in all decisions made on their behalf. It's important that they consider the person's past and present wishes, feelings, values, and beliefs and obtain the views of other people who know them well and those involved in their care.

Before appointing a professional deputy, you should assess their expertise and ensure they have a full understanding of both the Mental Capacity Act 2005 and its associated Code of Practice. It is also useful to speak with a professional deputy about how they have represented vulnerable people in the past and how they would deal with different situations.

Need advice?

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How are professional deputies paid?

A professional deputy usually gets paid for the initial application to be appointed as a deputy and then an annual sum for managing the affairs. Most professional deputies charge in 6 minute units at an hourly rate set by the Court. At the end of each year, the professional deputy must send their file of papers for assessment by the Senior Courts Costs Office to determine whether or not the amount claimed is reasonable and proportionate.

Where a person's net assets are below a certain amount, there are rules about how much a professional deputy can be paid. These can be found in [Practice Direction B – Fixed Costs in the Court of Protection](#).

The costs associated with the appointment of a professional deputy and the ongoing management fees can be recoverable as part of a personal injury claim. As these costs could be incurred for the whole of the person's life, they can substantially contribute to any final settlement received.



What do I do if I have concerns about my current deputy?

A professional deputy can be a huge part of someone's life, so it's important that this person is right for them and their circumstances. Building close relationships with the whole support network is vital for the relationship to work. Everyone needs to feel comfortable with the professional deputy and feel confident in the decisions they are making. Fall outs and disagreements will only add to the costs incurred.

If you have concerns with your current professional deputy, you should always raise these with them and try to resolve any issues you may be having. If after this time you're still unhappy, it is possible to change your professional deputy. You can find out more about changing a professional deputy [here](#).

About CFG Law

Our specialist Court of Protection solicitors are here to help you and your family, giving advice and guidance when you need it most. They can help you to apply to the Court of Protection for deputyship, as well as act as a professional deputy, easing the stress and strain of managing a family member's affairs should they lose capacity through injury or illness.

Taking the strain away from you can help you to concentrate on spending time with your family, and give them the support and care they need, helping them and you to achieve your best outcomes and lead a fulfilled life.



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10 A guide to professional deputies



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