

DEPUTYSHIPS – WHAT ARE THEY?

You can apply to become someone’s Deputy if they “lack mental capacity” – this means that they cannot make a decision for themselves at a time it needs to be made.

In some circumstances it may be desirable for an individual to have their affairs looked after and managed by someone else. An individual may lack capacity as a result of a serious brain injury or illness, dementia or a severe learning disability. As a Deputy you will be authorised by the Court of Protection to make decisions on their behalf. There are two types of Deputyships:

- 1) Property and Financial Affairs (for example, to pay bills, organise pension, sell property and deal with finances) and
- 2) Personal Welfare (for example, to make decisions about medical treatment).

Some people are paid to act as Deputies. The Court of Protection can appoint a specialist Deputy called a “panel Deputy” from a list of approved law firms and charities if no one else is available.

WHO CAN APPLY TO BE A DEPUTY?

Deputies are usually close relatives or friends of the person who requires help in making decisions.

The Deputy should be 18 years or over and have the skills to be able to make financial and/or welfare decisions for someone else.

Two or more Deputies can be appointed, either jointly (all deputies should agree on the decision) or jointly and separately (deputies can make decisions on their own or with the other deputies).

RESPONSIBILITIES

As a Deputy you are responsible for helping someone make decisions or making those decisions on their behalf. The Order granted by the Court of Protection (COP) sets out the scope of your power. You must submit an annual report to the Office of the Public Guardian each year explaining decisions you have made and submit annual accounts.

When making a decision a Deputy must ensure (but not limited to):

- it is in the person’s best interests,
- consider what he/she may have done in the past,
- apply high standard of care (which may involve seeking advice from relatives and professionals i.e. doctors),
- do everything you can to help the other person understand the decision (pictures, sign language).
- you keep your own property and finances separate
 - you keep records of the finances you manage on behalf of the person

A Deputy should not (but not limited to):

- restrain the person (unless it is stop them from coming to harm),
- stop life-sustaining medical treatment,
- take advantage of the person’s situation (abuse or profit from a decision you have taken on their behalf,
- make a Will for the person or change their existing Will, (they can however apply to the Court for a statutory Will if their Will needs altering, perhaps for tax planning purposes)
- make gifts unless the Court Order says you can,
- hold any money or property in your own name on the person’s behalf.

FEES

On submission of each application for Deputyship a fee is required to be paid to the Court of Protection. If the Court of Protection decides there should be a hearing, you may have to pay a Court fee.

Once you have been appointed you may be required to pay a supervision fee for each and every year you have been appointed. The fee may vary depending on the level of supervision.

If the person you are Deputy for dies, you may only have to pay a part of the supervision fee.

You may be able to apply for exemption or a reduction of the fee depending on the financial circumstances of the person you are applying to be Deputy for.

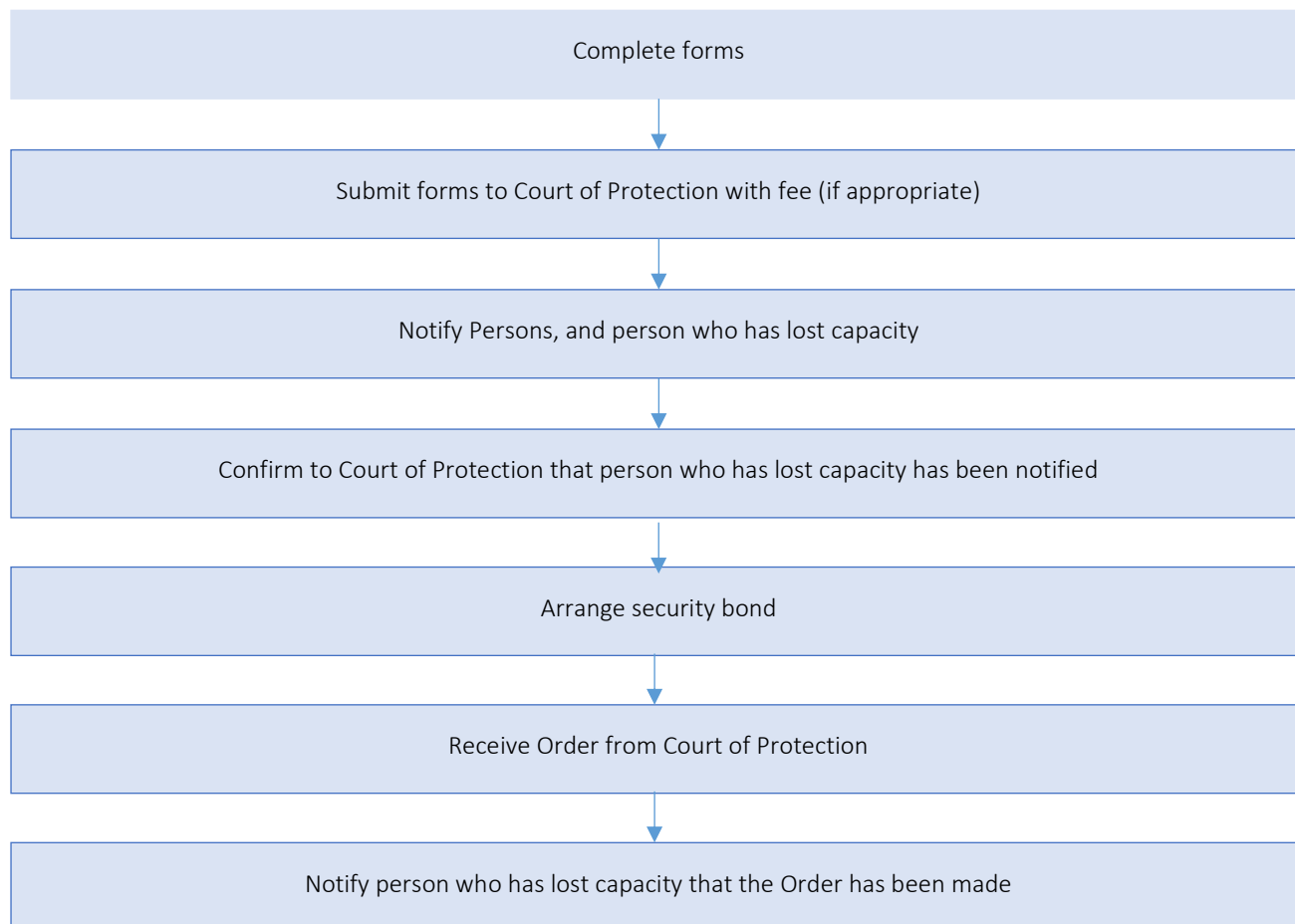
SECURITY BOND

Once the Court of Protection has approved your application(s) and made the Order(s) you will be required to pay a security bond (or equivalent) in order to protect the finances of the person you are Deputy for.

REPORTS

You will need to write a report each year explaining the decisions you have made. The Court of Protection will inform you of the level of supervision and what to include on the report.

Basic Deputyship Process



Please note that the above is a basic process.

Complications can arise in some case but our experienced lawyers will explain and advise you accordingly.

Timescales will depend on the level of complexity and how the Court deal with the application(s).

In some circumstances additional applications may be required, which incur additional legal fees.