

UNIONLINE



Court of Protection

Why would I need to apply to the Court of Protection?

YOUR QUESTIONS... ANSWERED



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WHY WOULD I NEED TO APPLY TO THE COURT OF PROTECTION?

A Lasting Power of Attorney must be made while you have the mental capacity to make decisions about your future. Once you have passed this point, the only way for your friends and family to be able to make decisions for you is to make an application to the Court of Protection for a Court order giving them permission to make decisions for you. That person will then be appointed as your 'Deputy'.

WHAT IS THE APPLICATION PROCESS?

To make an application to the Court of Protection, your family must first obtain a written assessment of your mental capacity from your doctor. If your doctor agrees that you need help with making financial decisions, then they will complete and sign a form confirming this. Whoever is making the application will then need to complete forms with your financial information on as well as making declarations about their own finances. They will also need to give details of your other close family members as they will need to be notified of the fact that the application is to be made.



Once all the forms have been completed, they are sent off to the Court of Protection along with the court fee. This is currently £385 but if your income is less than £12,000 per year or if you are on certain benefits then you can get a reduction or an exemption from this fee.

Typically, it takes the Court about 9 months to process the application. In this time, your Deputy will not be able to make any decisions for you.

Once the order has been granted, the Court will charge you a Deputy assessment fee. This is so that they can meet with your Deputy to ensure that they are suitable and that they are aware of their obligations and responsibilities. You will also be required to pay a Bond fee. This is effectively an insurance policy so that in the event your Deputy does not comply with their responsibilities and you lose money as a result, you can be compensated. At the end of the first year, you will also have to pay a supervision fee. This is to pay for the Court officers to come out to meet with your Deputy and conduct an audit. Both the Bond and the supervision fees are payable annually for as long as the Court order remains in place.

WHAT DO MY DEPUTIES HAVE TO DO?

Your Deputy must agree to act in your best interest and to use your money for the things that you need. Unlike with a Lasting Power of Attorney, your Deputy must keep receipts and records of all money spent as they will need to produce these during the audit to justify how they have used your money. If your Deputy wants to deal with a company on your behalf, they will need to produce the original Court order. If your deputy wishes to sell property, they may need to make a further application to the Court of Protection unless they have been given this specific authority in the original order. They will also need a separate order in respect of any joint property you own.

I MAY NEVER LOSE THE CAPACITY TO MAKE MY OWN DECISIONS SO WHY SHOULDN'T I JUST WAIT AND SEE?

You can just wait and see but as demonstrated by the table below, it is cheaper, easier and less stressful for you and your family to make a Lasting Power of Attorney and not need it than it is to need a Lasting Power of Attorney and not have it.

	LASTING POWER OF ATTORNEY	COURT OF PROTECTION
Court Fee	£82	£385
Annual Supervision Fee*	n/a	£30-£320
Annual Bond Fee*	n/a	£50+
Deputy Assessment Fee	n/a	£100
Cost of medical evidence*	n/a	£200+
Requirement to keep records and receipts	n/a	Yes
Requirement to obtain medical evidence of capacity	n/a	Yes
Requirement to undergo regular audits	n/a	Yes
Average time for application to be processed	9 weeks	9 months

* Amount varies depending on individual circumstances and practitioner
Fees accurate as at September 2018



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**OTHER FACTSHEETS
AVAILABLE INCLUDE:**

- ✓ Wills
- ✓ Shareholder Agreements
- ✓ Property Ownership
- ✓ Personal Injury Trusts
- ✓ Partnership Agreements
- ✓ Life Interest
- ✓ Lasting Powers of Attorney
- ✓ Intestacy Chart
- ✓ Inheritance Tax
- ✓ Disabled Person Trusts
- ✓ Court of Protection
- ✓ Care Home Fees
- ✓ Probate



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