

Managing Someone Else's Finances

Fact Sheet 28

(June 2020)

The purpose of this factsheet is to provide some information about the ways that another person can manage someone else's finances.

Normally we manage our own finances or ask someone else to help us with it. No one can manage another person's finances without their consent. However, there will be times where a person who previously managed their finances now lacks the mental ability to do so now. The purpose of this factsheet is to give some guidance as to what steps can be taken when this happens.

If a person knows that they are likely to lose the mental ability to manage their finances in the future the best thing that they can do is complete a document called a lasting power of attorney for property and finances. This document says who the person wants to manage their finances in the future. The UK Government has a website which gives further guidance about how to make a lasting power of attorney <https://www.gov.uk/government/collections/lasting-power-of-attorney-forms>

Appointeeship

If a person has not nominated someone else to manage their finances before they lose the mental ability to do so, then there are a couple of options that can be taken so that someone else can manage their monies. If the person does not have significant sums of money in the bank/building society/premium bonds etc, and all that is really needed is someone to manage their state pension/benefits (and in some circumstances their work pension) the Department of Work and Pensions is willing to allow someone to be appointee. The appointee merely collects and administers that person's benefits. However, it does not give that person the authority to manage all the of the other person's finances. For more information about appointeeship see <https://www.gov.uk/become-appointee-for-someone-claiming-benefits>

Deputyship for Property and Finances

If a person has enough monies in the bank/building society or premium bonds or property etc. and it is necessary for someone to have access to those monies and their income like benefits and pensions etc. then it may be possible to apply to a court (called the Court of Protection) for someone to be appointed Deputy to manage the other person's financial affairs. Like appointeeship above, a person can only be appointed Deputy for someone else's property if the person now lacks the mental ability to manage their financial and property affairs themselves. A deputy also cannot be appointed if a person has already made a valid lasting power of attorney, as described above, or an enduring power of attorney. It must also be considered in the person's best interest for an application for deputyship to be made.

If a person does not need to have continued involvement in a person's finances, for example the only asset that they have is a property and its needs to be sold, a deputyship application



might not be appropriate. In such circumstances it is possible to ask the Court of Protection for an order authorising the sale instead. The same would apply if someone need authority to terminate a tenancy.

Who should apply for Deputyship for Property and Finances?

The Court of Protection always prefers family members or friends to apply for Deputyship. Sometimes the idea of applying to the Court can be quite worrying. The first thing to say is that as family member or friend it is extremely unlikely that you will have to attend court. Most of these types of applications are made without you ever seeing a judge. There are some forms to complete to apply, and as a family member we appreciate that this can be time consuming and sometimes the forms are not that easy to complete. As a result, our social services audit and compliance team will help you complete the forms and make sure the right forms go into the court.

Another concern for families and friends is that there is court fee for making an application and it is quite a lot of money. The problem is that to access the person's bank account you need to be deputy, but you can't be deputy unless you pay the court fee. As a local authority we can offer help to families by making a loan available to pay for the court fee. The family member applying is loaned the money and only pays it back once the deputyship order is made or the family member decides not to pursue the application further, or where the local authority demands repayment. If the loan is not repaid within 30 days of becoming due the local authority will charge interest.

The local authority will only offer a loan if certain conditions are met:

1. The person who you want to manage their finances/ and or property lacks mental capacity to manage their own finances;
2. The person has not made a valid power of attorney giving someone else authority to manage their finances;
3. The person who can no longer manage their finances has enough money to justify an application for deputyship being made (the local authority will decide whether there is enough money);
4. The person who can no longer manage their finances and/or property must be receiving care and support from the local authority, through a care and support plan.
5. The local authority considers you appropriate to make an application for deputyship; for example, a local authority would not normally consider someone who has criminal convictions for theft as appropriate.
6. It is considered in the person's best interest for a deputyship application to be made.
7. There is enough evidence that you lack the financial resources to pay the court fee yourself without receiving a loan from the local authority.
8. You enter into a loan agreement with the local authority, a copy of which is available.

If you would like more details on how we can support you to apply for Deputyship please contact Tracey Lewis, Exchequer Manager, ☎01267 228850.

If you would like the leaflet in large print, Braille or on audio please

☎ 01267 228703



For more information on social care services log onto:
www.carmarthenshire.gov.wales/socialcare