

Deputyship

If a person becomes incapable of handling their own affairs through some sort of incapacity, someone else has to take over.

If forethought has been applied and an attorney has been personally appointed under a Lasting Power of Attorney which has been registered with the Office of the Public Guardian, that attorney can immediately begin to handle the person's affairs in accordance with the powers given to them previously by that person.

By contrast, if no LPA had been set up prior to the onset of incapacity, a Deputy has to be appointed by the Court of Protection to manage the affairs of the person concerned.

Dealing with the Court can be time consuming and complex – and costly. Appointment of a Deputy can take many weeks or months, and the person eventually appointed may be someone not even known to the incapacitated person.

The Court will determine the powers that the Deputy will have when acting on the person's behalf and will (after due consideration) grant them responsibility for property and financial affairs including maintaining a bank account, paying bills, purchasing property, arranging finances generally. The Deputy will have to account to the Court on an annual basis. The Court will supervise the Deputy in their duties throughout the duration of the deputyship to the degree commensurate with the Court's view of their competence and experience.

Setting up an LPA also has its costs, including the cost of professional advice and Court fees.

However, appointing a Deputy will undoubtedly incur larger (and ongoing) fees.

The decision (eventually one which we all may face) is whether to incur the relatively low costs of setting up a Lasting Power of Attorney *before the possibility* of incapacity, or taking the risk that incapacity will not affect us before death. If we decide to set up an LPA the protracted, complex and higher costs of having the Court of Protection appoint a Deputy (with consequent distress and inconvenience to our family) will be avoided.

