

# Overview: The Court of Protection



shoosmiths

The Court of Protection is a specialist court for issues relating to those who lack the mental capacity to make their own decisions.

It exists to make decisions about the property, affairs, healthcare and personal welfare of adults (and in a few cases children).

The Court can also decide whether or not someone has the mental capacity to make a particular decision and can appoint Deputies to make decisions for those who lack capacity. In reaching any decision, the Court has to apply the statutory principles set out in the Mental Capacity Act 2005, and it must make sure its decision is in the best interests of the person who lacks capacity.

The Office of the Public Guardian supports the Court and has a range of functions and responsibilities, including the supervision of Court-appointed Deputies, keeping registers of Deputies, Lasting Powers of Attorney, Enduring Powers of Attorney, and investigating complaints about Deputies and Attorneys.

Further information is available at  
[www.publicguardian.gov.uk](http://www.publicguardian.gov.uk)

The Court of Protection has the same powers and authority in relation to mental capacity matters as the High Court and can set precedents (examples for others to follow in future cases).

Under the Mental Capacity Act 2005, the Court's powers include:

- deciding whether a person has mental capacity to make a particular decision for themselves
- making declarations, decisions or orders on financial or welfare matters for people who lack the capacity to make such decisions
- appointing people as Deputies to make decisions for others
- deciding whether a Lasting Power of Attorney or Enduring Power of Attorney is valid
- removing Deputies or Attorneys who fail to carry out their duties
- hearing cases concerning objections to the registration of Lasting Powers of Attorney or Enduring Powers of Attorney

The Court charges a fee for its services, although in some circumstances the fee may be waived. The day-to-day running of the Court is the responsibility of a senior judge.

Cases are heard in London and from time to time in other court buildings across England and Wales.

**Accurate as at January 2009**

For more information please contact:



Suzanne Evans  
*Solicitor*

**T** 08700 863340  
**E** [suzanne.evans@shoosmiths.co.uk](mailto:suzanne.evans@shoosmiths.co.uk)