

# Power of Attorney and Court of Protection FAQs

<p><b>What is a power of attorney?</b></p>	<p>A power of attorney is a legal document that allows another person, called an attorney, to act on your behalf and to make decisions for you.</p> <p>Someone can choose an attorney to make and carry out certain decisions:</p> <ul style="list-style-type: none"> <li>• Temporarily – e.g. while they are on holiday and need somebody to represent them or;</li> <li>• In the future – e.g. if you have been diagnosed with dementia and may lose mental capacity to make your own decisions in the future.</li> </ul> <p>A person must have mental capacity when they choose an attorney for short-term or long-term help with decisions.</p>
<p><b>How do you set up a power of attorney?</b></p>	<ol style="list-style-type: none"> <li>1. You can set up a power of attorney online or using paper forms. If you would prefer to use paper forms, contact the Office of the Public Guardian to get the relevant forms and an information pack.</li> <li>2. You can get somebody else to help you set up a power of attorney, for example, a trusted family member, friend, or a solicitor. You can also seek advice from an advice agency if you are unsure.</li> <li>3. The forms need to be signed by you, the attorneys, a witness, and a certificate provider. <p>A certificate provider is a professional e.g. a doctor, solicitor, or a social worker, who confirms you are making the power of attorney by choice and that you have not been put under pressure to sign it.</p> <p>A witness must be over the age of 18. Attorneys can witness each other sign but they cannot witness you sign, or sign as the certificate provider.</p> </li> <li>4. You then need to send your application to the Office of Public Guardian to be registered. You cannot use the power of attorney while it is being registered.</li> </ol>

## Different types of power of attorney

There are different types of power of attorney depending on what you need.

<p><b>Ordinary power of attorney</b></p>	<p>This allows your attorney to make decision regarding your finances. This is only valid while you have mental capacity and is normally only used temporarily.</p>
<p><b>Lasting power of attorney (LPA)</b></p>	<p>This allows your attorney to make decisions regarding your finances or health and care. Lasting power of attorney comes into effect if you lose your mental capacity.</p>
<p><b>Enduring power of attorney (EPA)</b></p>	<p>An enduring power of attorney covers decisions about your property and financial affairs, and it comes into effect if you lose mental capacity, or if you want someone to act on your behalf.</p> <p>As of October 2007, lasting power of attorney replaced enduring power of attorney. If you signed an enduring power of attorney before October 2007, it should still be valid.</p>

<p><b>What is Court of Protection?</b></p>	<p>Court of Protection is a court that deals with decisions or actions taken under the Mental Capacity Act. They make decisions on financial or welfare matters for people who cannot make decisions at the time they need to be made.</p> <p>A Court of Protection order is a legal document from the Court of Protection that appoints a deputy to make decision on somebody's behalf. The Court will decide who to give the responsibility to and what they can do.</p>
<p><b>What is a deputy?</b></p>	<p>A deputy is a person the Court of Protection appoints to make decisions for you once you have lost capacity to make them yourself. Usually, the deputy is a close relative or a friend.</p> <p><b>There are two types of deputy:</b></p> <ul style="list-style-type: none"> <li>• Property and financial affairs deputy – they will do things like pay the person's bills or organise their pension.</li> <li>• Personal welfare deputy – they will make decisions about medical treatment and how someone is looked after.</li> </ul>
<p><b>How to apply to be a deputy?</b></p>	<p>You can apply online here by downloading and completing the forms. You will need to complete an application form, an assessment of capacity form, a deputy's declaration and an information form (the information form you need to complete will depend on what type of deputy you are applying to be).</p>
<p><b>What is the difference between power of attorney and Court of Protection?</b></p>	<p>A lasting power of attorney is made by the person before mental capacity is lost and they appoint whom they want to act on their behalf and the responsibilities the attorneys have. A Court of Protection order is issued after the person loses their mental capacity, if there is not a lasting power of attorney in place.</p>

<b>What is mental capacity?</b>	Mental capacity means the ability to make or communicate specific decisions at the time they need to be made. To have mental capacity you must understand the decision you need to make, why you need to make it, and the likely outcome of your decision.
<b>How much does it cost to set up a Lasting Power of Attorney?</b>	It cost £82 to register a lasting power of attorney, unless you are eligible for a reduction or exemption.
<b>How much does it cost to apply to be a deputy?</b>	There is a fee to apply to be a deputy, as well as a supervision fee every year after you have been appointed and a security bond if you are appointed as a property and affairs deputy. The costs can vary depending on the circumstances, and there may be discounts or exemptions.  For more information on the fees associated with a Court of Protection order, please click here.
<b>Do I need a solicitor?</b>	You can make the application on your own however many people chose to use a solicitor to help them to complete the application or to complete the application on their behalf.
<b>How do I make changes to my power of attorney?</b>	You can ask the Office of the Public Guardian (OPG) to change your lasting power of attorney if it's been registered and you still have mental capacity to make decisions.
<b>What if I'm having problems with my attorney?</b>	If you are unhappy with the decisions your attorney is making, you can make a complaint by: <ul style="list-style-type: none"> <li>• Contacting the Office of Public Guardian – they have a responsibility for monitoring attorneys and can investigate any allegations of mistreatment and fraud.</li> <li>• Contacting Action on Elder Abuse helpline - you can speak to someone confidentially about your concerns.</li> <li>• If you think you are in immediate danger, contact your local police force or call 999 if it is an emergency.</li> </ul>
<b>How do I register a power of attorney or Court of Protection order with the Newbury Building Society?</b>	To register a power of attorney or Court Protection order with us please bring the following into a branch or forward to us via post: <ul style="list-style-type: none"> <li>• Original or certified copy of power of attorney or Court of Protection order</li> <li>• Identification for the Attorneys or Deputies (you can find acceptable identification here)</li> <li>• Completed Change of Signatories form - this can be requested in branch or posted to you</li> <li>• Investment Passbooks for the accounts Attorneys or Deputies are being added to - if these have been lost then please contact us on <b>01635 555777</b> so we can talk you through the process to issue new passbooks.</li> </ul> <p>If you would like to book an appointment to register the power of attorney or Court of Protection order, please call your local branch on <b>01635 555777</b> and we would be happy to organise this for you.</p>

#### Help and advice

Listed below are details of organisations that can offer you additional health and support:

<b>Office of Public Guardian</b>	www.gov.uk or 0300 456 0300
<b>Court of Protection</b>	www.gov.uk or 0300 456 4600
<b>Citizens Advice</b>	www.citizensadvice.org.uk/ or 03444 111 444
<b>Age UK</b>	www.ageuk.org.uk or 0800 055 6112