**What happens if you become unable to manage your affairs?**

People can become unable to look after their own affairs as a result of an injury, as a result of illness, or as a result of old age, for example. If that happened to you, then unless you had taken steps in advance to properly authorise someone (by using what is called a Lasting Power of Attorney, or LPA) to deal with your affairs and assets for you, matters will be taken out of your hands and out of the hands of your family, and everything would be looked after instead by what is called the Court of Protection.

**The Court of Protection**

Your family would have to go to the trouble and expense of applying to the Court of Protection for a court order which would give them the authority to deal with your finances or your welfare. They would have to compile a host of information including full disclosure of your finances and your personal circumstances as part of that application. A medical report detailing your condition will also need to be obtained.

The Order that the Court of Protection would make where a family applies to it in this way - if it was satisfied that someone had to take over your affairs - is called a Deputyship Order. By that Order, the Court would appoint a Deputy to look after your affairs. The Court can appoint Deputies in relation to your property and finances, and also in relation to your health and welfare.

Although family members can apply to become your Deputy, it is not restricted to them alone. Any suitable person can make an application to the Court to become your Deputy - and it might not be who you would have chosen, for example the local authority. The Court of Protection's Order that appoints the Deputy will normally also give the Deputy flexibility to make decisions - but this flexibility is restricted. For example, if your house needed to be sold, your Deputy would normally have to make a separate application to the Court for an Order allowing this. Also, Welfare Deputies are not authorised by the Court to refuse life-sustaining treatment for you or to insist upon life-sustaining treatment being continued. The responsibilities of the Deputy include:

o preparing and submitting annual accounts to the Court of Protection

o managing your tax affairs

o ensuring all state benefits are maintained

o paying invoices and costs e.g. care home fees

The Court of Protection carries out a vital role, but dealings with it can be time-consuming and costly. As we have also seen above, the person who could be appointed to deal with your affairs and welfare may not be the person you would have chosen.

**Another way - a Lasting Power of Attorney**

You can avoid these costs and delays and this uncertainty fairly easily, by putting in place a Lasting Power of Attorney by which you give full authority to a named person of your choosing to deal with your property and finances and/or health and welfare. If you later lose capacity, they can immediately step in and deal with your affairs, assets, and welfare, without the need for Court intervention.

By a Lasting Power of Attorney, you authorise someone of your choice to make decisions on your behalf in relation to your assets, and/or in relation to your welfare. Your chosen person under a Lasting Power of Attorney for property and financial affairs can, even while you have full capacity, assist you with your finances now, if it suited you to have someone help you with those things. The other form of Lasting Power of Attorney, relating to your welfare and health, allows someone of your choice to influence and make decisions about your care and welfare (and about any medical treatment) if you do later lose the capacity to make decisions for yourself.

If you would like further advice about Deputyship applications, Lasting Powers of Attorney for Property and Financial Affairs and Health and Welfare and Wills, please contact Knights Professional Services.

*Knights Professional Services provides the Free Legal Helpline for ICAEW Members (terms and conditions apply). If you would like more information about the helpline or other services Knights can provide ICAEW members please visit* [*http://www.icaew.com/en/membership/offers-discounts-and-services/business-offers-discounts-services/business-support/knights-professional-services*](http://www.icaew.com/en/membership/offers-discounts-and-services/business-offers-discounts-services/business-support/knights-professional-services)

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