



9. Mental Capacity to Manage Finances

The Mental Capacity Act 2005¹ sets out your rights and what happens if you lose the capacity to manage or make decisions about your finances.

It also sets out how you can appoint someone to make decisions for you if you lose capacity in the future

Your financial assessment if you lack capacity to make decisions

If we arrange care and support for you we will carry out your financial assessment with your legally authorised representative(s).

This could be someone who has:

- your Lasting Power of Attorney (LPA) or Enduring Power of Attorney (EPA) or
- who has been appointed by the Court of Protection as your Deputy

If you don't have an Attorney or Deputy we will identify someone (a friend, relative or solicitor) who is willing and able to apply to become your legally appointed representative.

If no one is willing and able to become your legally appointed representative the Council will either apply to the Court of Protection to take on this responsibility, or ask the Court to choose a Panel Deputy (appointed by the Office of the Public Guardian).

If you are legally authorised to represent someone who lacks capacity

We will ask you to provide:

- Evidence that you have the legal authority to act on their behalf (a registered LPA/EPA or Court document confirming you can act as their Deputy)
- The information we need to complete their financial assessment for care and support

We will then:

- send you all correspondence addressed to the person you represent
- require you to sign any financial documents or contracts on behalf of the person you represent
- require you to settle any invoices for care charges raised in the name of the person you represent

¹ See www.gov.uk/government/publications/making-decisions-who-decides-when-you-cant

Becoming someone's legally appointed representative if they lack capacity to make decisions

We will ask you to confirm, in writing, the steps you are taking to become the person's legally-appointed financial representative.

Becoming an appointee for benefits

You must apply to the Department for Work and Pensions to become the person's appointee for benefits. This only gives you the legal authority to manage their state benefits and pension.

If the person has no other financial assets you won't need to do anything else.

See www.gov.uk/become-appointee-for-someone-claiming-benefits for details.

Becoming a deputy for financial and property affairs

If the person has other financial assets (private income, savings, investments, property) you must also apply to the Court of Protection to become their deputy for financial and property affairs.

See www.gov.uk/become-deputy for details.

While your Deputy application is in progress:

We will:

- give you information about any likely charges for their care and support services and the date these charges may start from and
- explain how we carry out financial assessments.

If we can complete a financial assessment for non-residential care & support

If we have, or you are able to provide, sufficient information about the person's financial situation we will complete a financial assessment.

We will send you invoices for any assessed non-residential care and support charges but allow for you to delay payment until you receive legal authority to access the necessary funds.

If we can't complete a full financial assessment for non-residential care & support

We may complete a provisional interim financial assessment based on state benefits received and defer the full financial assessment until you become the legally appointed representative and you can provide the full financial information we need.

We will backdate any assessed charges following the full assessment to the date we tried to carry out a financial assessment.

If the person is moving to a care home

We may work out an interim charge based on state benefits and send you invoices for this amount.

Once you have legal authority to access the person's financial information we will complete their full financial assessment. We will backdate the full assessment to the date services started and make any adjustments at that time.

Interim Funding Arrangement

If the person you are applying to represent:

- owns their home (or part of their home) and
- the value of this property takes their capital over the Upper Capital Limit² and
- their home isn't disregarded in a financial assessment (other than for the 12 week disregard period)

You may be able to apply for an 'Interim Funding Arrangement' - this is a short-term loan for people who would have been eligible to apply for a Deferred Payment Agreement but can't because they:

- lack mental capacity and cannot enter into a DPA themselves and
- do not yet have a financial representative with the legal authority to enter into a DPA on their behalf.

For more details see our [Interim Funding Policy](#)

Information and advice on managing someone's finances

Advice - Planning ahead:

- The Mental Capacity Act 2005 www.gov.uk/government/publications/making-decisions-who-decides-when-you-cant
- www.moneyadvice.service.gov.uk/en/articles/planning-ahead-for-when-you-cant-manage-your-money

Setting up and registering a Power of Attorney:

- Setting up and registering Lasting Power of Attorneys www.gov.uk/lasting-power-attorney-duties
- Registering an existing Enduring Power of Attorneys www.gov.uk/enduring-power-attorney-duties

Making decision on behalf of someone:

- Make decisions on behalf of someone www.gov.uk/make-decisions-for-someone
- Acting as an attorney www.gov.uk/lasting-power-attorney-duties
- Making decisions as a deputy www.gov.uk/become-deputy

Managing state pensions and benefits:

- Become an appointee for benefits administered by the Department for Work and Pensions (DWP) www.gov.uk/become-appointee-for-someone-claiming-benefits

Reading Services Guide:

You can also find information and advice services on the [Reading Services Guide](#) or by calling Adult Social Care on 0118 937 3747

Finding Independent Financial Advice

You don't have to get professional advice when choosing how to finance long-term care (for yourself or the person you represent) but in many cases it's crucial to do so – especially for self-funders who pay the full cost of their care.

See [Finding Independent Financial Information and Advice](#) for more details.

² See [Appendix A – Capital Limits Schedule](#) for the current Upper Capital Limit.