

Advice for Carers

Helping to make decisions and manage money

This factsheet gives advice about how to help the people you care for manage money and make decisions.

Caring for someone

If you know or care for someone who is confused, forgetful or unable to make some decisions and needs help to manage their finances, you may need to ensure that their money and property are protected and their bills are paid.

This factsheet gives information about various arrangements that can be made and tells you where you can get more information. As every situation depends on individual circumstances, you should always seek legal advice.

When people are **capable of understanding and making choices and decisions in relation to their finances** they could:

- Ask someone they trust to act as their **agent** to collect the benefit on their behalf.
- If keeping their household finances in order is a problem, you or the agent could help set up direct debits to pay their rent and bills. .
- Give one or more people they trust legal authority to act for them and continue to act for them should they become mentally incapable, by creating a Lasting Power of Attorney (LPA).

The law regarding Powers of Attorney changed from 1st October 2007. Enduring Powers of Attorney (EPA) which were created before this date will continue to be valid as long as they are appropriately registered. The Mental Capacity Act has now replaced Enduring Powers of Attorney with two types of Lasting Power of Attorney.

- A **personal welfare** LPA is for decisions about both health and personal welfare.
- A **property and affairs** LPA is for decisions about finances.

Registration and Use of EPAs and LPAs

- An LPA can only be used *once it is registered* with the Office of the Public Guardian.
- EPAs created before 1st October 2007 need to be registered once the donor begins to lose capacity. While waiting processing of the registration, those with power of attorney can continue to make day-to-day decisions, but more significant decisions cannot be made under the EPA until it has been registered.

Hertfordshire County Council
Health and Community Services

www.hertsdirect.org/hcs
Telephone: 0300 123 4042



For further information, contact the Office of the Public Guardian.

Whether you are helping someone on an informal basis or are making arrangements on their behalf, you should consult them and give them choices for as long as possible. You should try as far as possible to keep people involved with making decisions that affect their lives.

When people are **incapable of understanding their finances or taking decisions in relation to them**, formal arrangements for managing their financial affairs should be made:

- Arrange an **Appointeeship** with the Department for Work and Pensions (DWP) so that their pensions and benefits are claimed and essentials paid for.
- An appointee is usually a close relative, but can also be a friend, neighbour or professional. The DWP will only appoint one person to handle a person's benefits. The appointee will take full responsibility for making and maintaining any benefit claims.
- Apply to the Court of Protection for legal authority to act on their behalf.

Making these arrangements

Agents

If the benefits are being paid into a bank or building society account contact them directly to see what arrangements are available. The claimant should **never** disclose their PIN (Personal Identification Number) to a third party in order for them to access their account.

If the benefits are being paid in to a post office card account and need to be collected by someone else, the claimant can authorise someone to have permanent access to their account. Contact the post office to ask about arranging this.

Cheque payments have been replaced by "Simple Payment" cards which enable people who don't have an account to collect their payments from a PayPal outlet. They will only be available in very limited circumstances. See www.gov.uk/simple-payment for more information on how these payments can be collected by another person.

Appointees

If you wish to act on someone's behalf for a DWP benefit, contact the office that pays the benefit.

As an appointee you are responsible for:

- Finding out what benefits or allowances the person is entitled to.
- Filling in and signing the claim forms for the person claiming benefits.
- Receiving payments of benefit but making sure the money is used for the welfare of the person you are helping.
- Letting the benefit office know straight away about any change in the person's circumstances including a return to being capable of managing their own affairs.
- Answering any questions the DWP ask or replying to any letters on their behalf.
- Carrying out all instructions you receive about benefits.
- Letting relevant offices know if there are changes to account details.
- Repaying overpaid benefits, if this happens.

The DWP will arrange to visit the person you want to help to assess whether they are incapable of managing their own affairs and therefore need an appointee. The DWP will also

interview you to make sure that you're suitable and willing to act as the appointee. You must be aged 18 or over.

Appointees for children and pension-age claimants will be reviewed every five years and appointees for working-age claimants every eight years.

If you have already been given the legal right to manage someone's affairs other than their benefit, and you now want to be responsible for their benefit, you should contact the office that makes the benefit payments.

The arrangement can be ended at any time by either person. To end the arrangement, you must write to the office that deals with the payments.

If the DWP appoint you to act for the claimant in relation to one benefit, that appointment can cover other social security benefits, including Tax Credits. However, a separate application for appointeeship must be made for Housing Benefit and Council Tax Support, contact the district or borough council that is making the payment.

If you are seeking appointeeship for Tax Credits, complete the appointee section on the Tax Credits claim form. For more information visit www.hmrc.gov.uk or phone the Tax Credit Office on 0345 300 3900.

Lasting Power of Attorney

For information about personal welfare Lasting Powers of Attorney please contact the Office of the Public Guardian.

Through making a property and affairs Lasting Power of Attorney people can decide, while they still have the mental capacity, who they want to deal with their financial affairs should they lose this capacity.

As this would give their attorney(s) legal access to their financial assets and property, anyone thinking of making a Lasting Power of Attorney should consider getting independent legal advice before going ahead.

To be valid, a Lasting Power of Attorney must:

- Be made while the person granting the order (the donor) is still capable of understanding what it is and how it may be used. The Mental Capacity Act establishes various requirements in relation to this.
- Be on the right legal form, which must be correctly completed and properly witnessed.
- Be registered with the Office of the Public Guardian.

For more information, contact the Office of the Public Guardian.

Court of Protection, Office of the Public Guardian

When people are incapable of managing their affairs and have income, capital or savings that cannot be handled through an Appointeeship, but have not made a Lasting Power of Attorney (or an Enduring Power of Attorney prior to October 2007), the Court of Protection can give someone legal authority to act on their behalf.

The Court of Protection, which is supported in its administrative functions by the Office of the Public Guardian, protects the property and financial affairs of people who are mentally incapable of managing their own affairs.

After considering medical evidence and details about the person's family and financial assets and liabilities, the Court may decide to appoint a Deputy to handle their financial affairs. This could be a close relative, a friend, a solicitor or a local authority. If there is no one suitable, the Court can appoint a Deputy from an approved panel.

For detailed guidance on the work of the Office of the Public Guardian or the Court of Protection, and the relevant application forms, contact:

Office of the Public Guardian Customer Services

Web: www.guardianship.gov.uk

Email: customerservices@publicguardian.gsi.gov.uk

Tel: 0300 456 0300

Mon - Fri from 9am - 5pm, (Except Wed 10am - 5pm)

PO Box 16185

Birmingham B2 2WH

Abuse Hurts: If you are worried that someone you know is at risk of harm, neglect or mistreatment please call us in confidence to report your concerns on 0300 123 4042.

This information can be made available on request in other formats, including large print, Braille, audio and other languages.