

# Going into a Care Home - Paying for Residential Care

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## Factsheet 1

### Mental Capacity and Financial Support

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The Mental Capacity Act (MCA) provides a legal framework for people who lack capacity to make some decisions for themselves or who have capacity and want to prepare for a time when they may lack capacity in the future. The MCA applies to a wide range of decisions, including personal welfare, healthcare and financial matters which are all relevant when someone goes into a care home.

People may have a condition or illness that affects their ability to make decisions. A lack of capacity may be temporary such as that caused by some illnesses or the influence of drugs or alcohol. Examples of conditions that may cause the person to experience difficulties with decision-making include:

- Dementia
- mental health problems
- acquired brain injury
- learning disability

A person's capacity may vary over time depending on the condition or illness that the person experiences and a Mental Capacity assessment may need to be undertaken when certain decisions need to be made.

## Power of Attorney

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Where a person has capacity but wants to plan for a time when they may not have capacity to be able to make their own decisions, they can register the person(s) they want to act as an attorney(s)

There are two kinds of Power of Attorney:

- Lasting Power of Attorney for Property and (financial) Affairs (LPA)
- Enduring Power of Attorney (EPA)

A property and financial affairs LPA can be used to appoint attorneys to make a range of decisions, including:

- the buying and selling of property
- operating a bank account
- dealing with tax affairs
- claiming benefits and pensions
- investing the donor's savings

A Power of Attorney can be appointed by registering your intentions at the Office of the Public Guardian.

A Power of Attorney application would be appropriate where a person is going into a care home and has savings, investments and/or property

## Appointeeship

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Where a person is deemed to lack capacity to manage their own finances a person can be appointed to manage a person's benefits. An Appointee cannot make decisions about anything other than benefits.

The Department for Work and Pensions will carry out an assessment to ascertain whether or not a person has capacity to manage their benefits and where a person lacks capacity will appoint a person to do this.

Most usually an appointee will be a member of the person's family, but it can be someone from an organisation who provides an appointee service such as the Local Authority.

## Court of Protection

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An application can be made to the court for a deputy appointment to manage a person's financial affairs where a person has lost capacity and decisions need to be made in respect of their savings, assets or property:

A Deputy may be:

- family members or friends
- a Professional deputy (mainly legal firms specialising in this area of law)
- the Local Authority acting as deputy (usually as a 'last resort' where nobody else can act)

The order of appointment will set out the scope of the deputy's authority and powers to act on the person's behalf. Any deputy appointed by the court has a responsibility to act in accordance with the MCA. A Deputy can only make decisions where the person is not able to do so themselves. More formal decisions will require an assessment of capacity by a professional.

## Advocacy

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Advocacy is a way of supporting an individual to say what they want, ensure their rights are upheld, or access services or other resources that they are entitled to. Paid professional advocates are independent of the local authority to ensure that they represent the person only, and to ensure there is no conflict of interest.

Financial advocacy is a specific service that supports individuals who are experiencing difficulties with managing their money, this would involve:

- Supporting the person to make decisions about their money.
- Check the person is getting the right benefits.
- Support the person to set a budget.
- Support the person with their banking arrangements.