

# Applying to be a Health and Welfare Deputy



*'Everyone I spoke to was helpful, friendly and professional. Everything went smoothly and I was kept informed throughout the process.'*

Wills, Trusts and Probate Client

Our court of protection specialists can assist with the application process and offer practical advice around the decisions you may need to make as a welfare deputy.

Legal support for business, for you, **for life.**

 **Hegarty Solicitors**



*'Customer services is spot on and all transactions/services were dealt with in a timely manner. Couldn't recommend enough!'* Wills, Trusts and Probate Client

**Applications are very rare because most decisions can be made relying on the core principles of the Mental Capacity Act 2005. Some examples of when a Health & Welfare Deputy will be appointed are as follows:**

- Someone needs to make a series of linked welfare decisions over a period of time and it would not be beneficial or appropriate to require all of those decisions to be made by the Court, for example, a family or carer of a person with profound and multiple learning difficulties.
- The most appropriate way to act in the person's best interests is to have a Deputy who will consult with relevant people but have the final authority to make decisions.
- There is a disagreement that could have a detrimental effect on the person's future care, unless a Deputy is appointed to make the necessary decisions.
- The person who lacks capacity is felt to be at risk of serious harm if left in the care of the family members.

Excellent  

Health and Welfare Deputies are appointed by the Court of Protection to make decisions on behalf of someone who lacks the mental capacity to manage their own affairs. As a Health and Welfare Deputy, you will be making day to day decisions such as:

- Where the person lives.
- Who they should live with.
- Day to day care, including diet and dress.
- Consenting to medical and dental examinations and treatment.
- Making arrangements for the provision of care services.
- Whether they should take part in particular leisure or social activities.
- Complaints about care or treatment.

Not everyone will need to apply to be a deputy, the core principles of the Mental Capacity Act 2005 are enough to ensure that decisions can be made in someone's best interests. However, an application may be necessary where there are particularly difficult decisions to be made.

Unlike financial deputies, you must seek the permission of the Court to proceed with an application, and the Court will need to be persuaded that it is necessary for a Deputy to be appointed.



*'I received a friendly, efficient and professional service all very straight forward and in a timely manner.'*

Wills, Trusts and Probate Client



*'A very professional service provided, very helpful and considerate. I would highly recommend Hegarty's solicitors.'*

Wills, Trusts and Probate Client

## How to Apply?

To apply to become a Health and Welfare Deputy you will need to submit an application. There are two stages to this process - the first is an initial application asking the Court for permission. If granted, you can then submit your application to become a Health and Welfare Deputy. You must provide the Court with a detailed explanation for your application. If successful, the Court Order will set out the criteria under which you can act.

## Case Study

Mr and Mrs Smith both have Alzheimer's disease and their daughter, Sophie, noticed the first signs that something was not right. Mrs Smith would regularly become severely distressed with day to day activities, and would be easily confused and disorientated. Mr Smith was caring for Mrs Smith and when his mental health started to deteriorate, he was no longer able to look after his wife.

Mr and Mrs Smith were placed into a care home. Sophie felt that with assistance, her parents could return home. Without an Order for the Court of Protection, Sophie felt that she had less authority to represent her parent's wishes. Sophie obtained an Order from the Court and is now involved in all health care decisions. The Order has been invaluable in terms of their ongoing treatment.

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**Peterborough**

48 Broadway  
Peterborough, PE1  
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01733 346 333

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10 Ironmonger  
Street Stamford,  
PE9 1PL

01780 752 066

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66 South Street  
Oakham, LE15  
6BQ

01572 757 565

**Market Deeping**

27 Market Place  
Market Deeping,  
PE6 8EA

01778 230 120



[www.hegarty.co.uk](http://www.hegarty.co.uk) | [enquiries@hegarty.co.uk](mailto:enquiries@hegarty.co.uk)