

Guide to Form COP3

Property & Financial Affairs Deputyship



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1.

The Mental Capacity Act 2005 applies a time and function specific approach to the assessment of capacity and so does not assume that incapacity is an “all or nothing” concept. A person may have capacity to make some decisions but not all or may have fluctuating capacity so at times the individual may be able to make a decision, but at other times he or she may not. However, the legislation assumes that there will be some people who have on-going capacity in relation to types of decisions or connected decisions.

If a person is deemed to be incapable of managing their property and financial affairs then an application is made to the Court of Protection for someone to be appointed on that person’s behalf.

2.

The Court of Protection will consider whether the person to whom this application relates lacks mental capacity to manage their property and financial affairs on an on-going basis and it is a requirement that a COP3 is completed. The assessment should only focus on those decisions that he or she is unable to make.

3.

Please refer to Section 4 of Part A of the COP3 form, which details some information which you can use in your assessment.

4.

A person’s incapacity to manage his or her property and financial affairs depends on their ability to understand relevant information, which relates to the decision, whether he/she can retain that information and whether he/she can use it to make a decision.

5.

The relevant information includes:

- The extent of his/her property and financial affairs.
- The nature of his/her property and financial affairs and any complexity in managing these;
- His/her vulnerability to exploitation as an aspect of personality and behaviour which affects his/her ability to make a rational decision;
- The level of any support provided by others, such as family and friends to enable him or her to manage without the Court's input, in particular, the extent that he/she would seek, understand and act on appropriate advice;
- The likely consequences of not making this decision or making a different decision.

6.

You are required to give an example illustrating why you believe that the incapacity restricts him or her from making a decision which should be entered into box 7.2. All of the first three boxes should be completed as appropriate, for example you may feel that the person to whom this application relates can understand and retain the relevant information, but cannot weigh or use that information to make a decision.

7.

Boxes 7.5 to 7.7 apply directly to the person to whom this application relates' best interests. The Mental Capacity Act 2005 sets out factors to consider when deciding what is in his or her best interests and includes:

- Whether he/she is likely to regain capacity and when that is likely to be;
- The view of the person to whom this application relates; and
- The views of carers and people who are interested in his/her welfare, such as family members.

8.

Finally, if the person to whom this application relates has a view about the application then please do include this.

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