



Duncan Lewis
Solicitors



We give people a voice

Court of Protection

Our Services

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Duncan Lewis Solicitors serves corporate entities and private individuals in over 25 practice areas from offices throughout London and across England and Wales. Established in 1998, the firm has over 550 lawyers delivering legal services in over 60 languages. We have been recognised by independent legal directories, The Legal 500 and Chambers and Partners, as a top tier firm and described as a “diligent and professional team that is prepared to go the extra mile for its clients”.

Our head office is based in London, on Fenchurch Street, and we are the largest provider of publicly funded (legal aid) legal services in the country.

Our Services

The Court of Protection adjudicates and resolves disputes that concern adults who lack the mental capacity to make decisions. Disputes typically include whether the person has the capacity to make a decision and, what is in that person’s best interests.

Additionally, the Court of Protection authorises deprivations of liberty for adults as well as authorising decisions regarding incapacitated adults’ property and affairs.

Contentious disputes that the Court of Protection resolves typically relate to the wellbeing of a vulnerable adult. The court can also resolve disputes in relation to property and affairs.

We act for family members, advocates and attorneys, and are regularly instructed by the Official Solicitor in cases relating to the wellbeing of an individual who lacks capacity, including health and welfare, medical treatment, financial issues and mental capacity.

Our team provides sensitive and in-depth assistance in all Court of Protection matters, including:

- Adults who lack capacity to make decisions
- Deputyship applications
- Disputes relating to powers of attorney and deputyship applications
- International disputes regarding capacity and property
- Preparing powers of attorney
- The finances and property arrangements for an individual
- The health and welfare of an individual

What is 'Mental Capacity'?

Mental capacity is the ability to make your own decisions. Mental incapacity is when an individual is unable to one or more of the following:

- Understand information given to them
- Retain information long enough to make a decision
- Weigh up available information to make a decision
- Communicate their decisions by any possible means (including talking, sign language or even blinking or squeezing a hand)

Many disputes emerge regarding whether a person has the capacity to make a particular decision. The Court is the final arbiter of whether a person has or lacks capacity to make a particular decision. The Court of Protection can also decide what is in a person's best interests where the person is found to lack capacity.

What are 'Best Interests'?

Section 4 of the Mental Capacity Act outlines what someone needs to consider before taking an action or decision for someone who lacks capacity. These are a person's best interests and include:

- Considering the individual circumstances
- Considering the person's beliefs and values
- Considering the person's wishes, both current and those made prior to losing capacity
- The views of family, carers or those appointed to act for the individual
- Whether the incapacity is likely to short-term or long-term

Deprivation of Liberty

Sometimes, caring for someone with mental incapacity involves reducing their independence or restricting their free will for their wellbeing. The Deprivation of Liberty Safeguards (DoLS) are part of the Mental Capacity Act 2005. They aim to ensure that people lacking in mental capacity in care homes and hospitals are properly cared for in a way that does not unnecessarily deprive them of their liberty.

Lasting Power of Attorney

A lasting power of attorney (LPA) is a legal document in which someone (the donor) gives another person (the attorney) the right to help them make decisions, or take decisions on their behalf.

LPAs usually make decisions in regards to the health and welfare of the individual, and can also make decisions regarding finance and property.

Fees and Funding

As an essential element of our service we will advise you on the funding options available to you and your case.

Public Funding (Legal Aid)

Legal aid is the public funding of legal services, administered by the Legal Aid Agency to eligible individuals who cannot afford to pay for legal advice and representation. We will advise as to whether legal aid funding may apply in your case. When it does, we can assist you in making the necessary applications for funding and advise you of your financial obligations.

Private Funding

In all privately funded cases, our aim is to offer fair prices in exchange for the specialist services we provide. We offer competitive hourly rates and fixed fee packages to ensure we give your case the best possible chance of success.

At your first meeting with us, we will discuss with you how we calculate our charges. Where possible, this includes a detailed breakdown of the estimated costs.

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