

Options for dealing with someone else's financial affairs

A person who is unwell may sometimes need someone else to help with their financial affairs. This may be because they are in hospital, cannot cope with their bills or paperwork, or are unable to control their spending.

There are a number of different ways that you, as their carer, could help them in relation to their finances. This factsheet explains the different options that are available.

We understand that someone you care for might not be a member of your family, however in this factsheet we have referred to the person you are caring for as 'your relative' and to you as 'their carer'



KEY POINTS

- You can only deal with someone else's financial affairs if you have their written permission or legal authority.
- If you are paying bills for your relative, there are some that are more important than others. You should always make sure priority payments are made (such as rent, mortgage, council tax, gas and electricity) before paying any non-priority payments (such as credit cards or unsecured loans).
- You can only speak to organisations on behalf of your relative if you have authority.
- A 'third party mandate' or signed letter of authority gives you permission to operate your relatives' bank account for them.
- If your relative needs help claiming or collecting benefits you could become their 'appointee'.
- A 'Lasting Power of Attorney' would allow you to make important decisions about your relatives' finances.
- If your relative lacks the capacity to give you Lasting Power of Attorney, you can apply to the Court of Protection to become their 'Deputy'.

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1. Which bills are most important?

There are some bills that have to be paid which are more important than others. If these payments are not made your relative is at risk of losing something that is important. For example, if rent isn't paid there is a risk of eviction, or if the electricity isn't paid there is a risk of disconnection.

| Example of priority debt | Consequence of non-payment |
|----------------------------------|---|
| Mortgage or secured loan arrears | Repossession of property |
| Rent arrears | Eviction from property |
| Council tax arrears | Imprisonment (if refusing or neglecting to pay) |
| Gas / electricity arrears | Disconnection |
| Magistrates court fines | Imprisonment |
| Child maintenance arrears | Imprisonment / disqualification from driving (if refusing or neglecting to pay) |
| Hire purchase arrears | Repossession of hire purchase goods |
| Television licence | Magistrates court fine (see above) |

Payments to credit cards, unsecured loans, catalogues, overdrafts and store cards are not as important. Missing payments to these can affect your relative's credit rating, which would make it harder to get credit in the future. However there is no immediate risk of losing something if these debts are not paid.

If you are dealing with your relative's affairs, it is important to make sure their priority bills are paid before paying any other debts. If your relative does not have enough money to pay their important bills or the minimum payments of their debts you will need to get advice from a money adviser.

You can find more information about finding a money adviser and dealing with debts in our **'How to deal with debt'** and **'Options for dealing with debts'** factsheets which you can download for free from www.rethink.org or call 0300 5000 927 and ask for a copy to be sent to you.

2. Can I act on behalf of my relative?

Organisations such as banks, electricity companies and debt collectors, will usually speak to 3rd parties on the telephone, as a one-off, if the account holder is with you and has given verbal permission. This will not normally allow you to make any changes to the account or contact the organisation on an ongoing basis, but can be useful if you are trying to gather information such as contact details or balances of an account.

If you need to speak more regularly to an organisation on your relatives' behalf or you need to operate their account, you can get written permission from your relative, this is known as a letter of authority. A sample letter of authority for your relative to use as a guide can be found at the end of this factsheet.

Some organisations have different policies for dealing with 3rd party authority and some may not accept a general letter of authority. If this is the case you should ask the organisation for a '3rd party mandate form'. A 3rd party mandate will allow you to operate your relatives account in the same way as a letter of authority.

As there are different policies for dealing with third parties it may be best to contact the organisation first to find out the best way to proceed.

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4. Can I claim benefits on behalf of my relative?

If your relative is finding it difficult to deal with the benefit system, you may be able to claim their benefits on their behalf. This is called being an 'appointee'.

If you want to become an appointee you need to notify your relatives local Department for Work and Pensions (DWP) office and fill in form BF56. The DWP may say they have to visit you and your relative before deciding if you can be an appointee.

You can also contact the local authority with regard to housing benefit and/or council tax benefit claims. If the local authority has made you an appointee, you should be able to provide evidence of this to the DWP so they can also make you an appointee for other benefits, and vice versa.

You can also claim tax credits for your relative. There is a specific section on the tax credit application form which asks you to explain why your relative can't complete and sign the form.

Once you have become an appointee it is your job to:

- Find out which benefits your relative may be entitled to.
- Claim those benefits by filling out all the appropriate application forms for your relative (including housing benefit, personal

independence payment, employment and support allowance, tax credits, and child benefit).

- Decide whether the money will be paid to you or directly to your relative. If the money is paid to you, you must use it in the best interests of your relative.
- Notify the DWP, Her Majesty's Revenue & Customs (HMRC) or the local authority of any relevant changes of circumstances and co-operate with these organisations at all times.
- Make sure that any benefit overpayments are paid back.

If your relative does not co-operate with the application for you to become their appointee it can cause problems. It may help if you have written evidence from your relative's doctor, psychiatrist or community mental health worker. If you have any problems trying to become your relative's appointee you can complain to the DWP. You could also contact the Rethink Mental Illness Advice Service on 0300 5000 927 for further advice.

You can find more information about benefits in our '**Welfare benefit and mental illness**' factsheets which you can download for free from www.rethink.org or call 0300 5000 927 and ask for a copy to be sent to you.

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5. What is Lasting Power of Attorney?

If your relative is able to make decisions for themselves at the moment but is concerned that they may lack the ability in the future, they could grant you 'Lasting Power of Attorney' or LPA.

This could be useful if, for example, your relative has bipolar disorder and is concerned that when they become unwell they might go on a spending spree and spend more than they can afford.

Having a LPA in place means that if your relative loses the ability to make decisions you would have the authority to act on their behalf. You could be asked to make decisions about their financial affairs or their personal welfare. This information deals with an LPA for financial affairs. The relative that is giving you this authority is called a 'donor' and you would be an 'attorney'

LPAs have replaced the 'Enduring Power of Attorney' (EPA). If you already had EPA, this will still be valid but it must be registered with the Office of the Public Guardian (OPG) when you think your relative is beginning to become unwell or already lacks the ability to manage their own affairs.

To register an EPA you need to fill in form EP2PG which you can download from the Gov.uk website or you can call the Office of the Public Guardian on 0300 456 0300 and ask them to post you a copy.

www.gov.uk/government/publications/register-an-enduring-power-of-attorney

If your relative still has the capacity to make decisions they could cancel the old EPA and register a new LPA.

You must be at least 18 years old to have LPA and you cannot have LPA for your relative's financial affairs if you are bankrupt.

If your relative wants to make you an LPA, they have to fill in forms. These forms can be found on the Gov.uk website:

www.justice.gov.uk/forms/opg/lasting-power-of-attorney

Your relative could make an LPA to give you the right to deal with their financial affairs either when they lose capacity, or to make decisions while they currently have capacity *and* when they lose it.

They can specify which decisions they want you to make and also give guidance which you could follow when trying to work out what would be in their best interests.

Once completed the LPA has to be registered. This is also done through the Office of the Public Guardian. There is a fee of £110 to pay in order to register an LPA. Your relative could register the LPA when they still have capacity or you could apply to register the LPA at any time.

If the person who is registering the LPA is claiming certain benefits, is on a low income or paying the fee would cause hardship then they may be exempt or only have to pay part of the fee. You can find more information about the fees by downloading the following leaflet:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/245552/LPA120_Fees_exemptions_remissions.pdf

If you are made an attorney, you would be able to make decisions about your relative's financial affairs, for example:

- buying or selling property
- opening, closing or operating any bank, building society or other account
- claiming, receiving and using welfare benefits on your relative's behalf
- dealing with your relative's tax affairs
- complying with a contract on your relative's behalf
- paying your relative's essential bills and debts
- conducting legal proceedings on your relative's behalf
- applying for any entitlement to funding for NHS care and community care services
- give gifts (only in certain circumstances i.e. birthdays, weddings, anniversaries, any other occasion where families/friends would usually give presents)

Once the LPA has been registered and you are acting as your relative's attorney, you should follow the guidelines in the Mental Capacity Act

2005 Code of Practice. This can be found on the following website:

www.gov.uk/government/collections/mental-capacity-act-making-decisions

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6. What is a Court of Protection appointed Deputy?

If you think your relative does not have the ability to make financial decisions, you can apply to the Court of Protection to become their Deputy. This would give you the authority to make decisions on behalf of your relative. You have to be at least 18 years old to be a Deputy.

In addition, the Court of Protection can appoint someone, called a Deputy, to make decisions on behalf of another person. The Court and the Deputy can make decisions about the person's property, finances, health and personal welfare. The Court could appoint two or more Deputies to act. The person who the deputy is acting on behalf of is known as the donor.

Before 2007 this process used to be called appointing a 'receiver' to deal with someone else's affairs.

It costs £400 to apply to become a deputy and another £100 for an assessment if you are a new deputy. There may be further costs to pay if the court decides that there needs to be a hearing or that you need to be supervised.

If you are receiving certain benefits or are on a low income you may be exempt from paying the fee or you may only have to pay part of the fee. It is also possible to ask the court to not charge the fee if paying it would cause you hardship.

You can find more information about the fees associated with becoming a deputy on the Gov.uk website.

www.gov.uk/become-deputy/fees

The court may ask the deputy to provide security to cover any loss as a result of the deputy's behaviour in carrying out their role. This security will usually be in the form of a guarantee bond which is a type of insurance policy. This will protect the donor against any loss resulting from a deputy's negligent or irresponsible behaviour, the insurer will cover the donor for any loss and then seek to recover the loss from the deputy.

To apply to become a deputy you will have to fill in an application form and send it to the Court. There is also a form that a medical professional has to fill in after assessing your relative's capacity in relation to the specific decision.

There are a number of forms that you may have to fill in depending on whether you are applying to make decisions relating to property and finances or health and personal welfare and whether you need permission from the court or not. These forms can be found on the Gov.uk website:

<https://www.gov.uk/become-deputy/apply-deputy>

You can also contact the Court of Protection enquiry line on 0300 456 4600 and ask for the forms to be sent to you.

There is a useful guide to making an application to the Court of Protection called COP42. This can be found on the Government Court Services website:

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/cop042-eng.pdf>

Once the court has received your application, they should respond within 25 days. If they decide that no hearing is needed, they should make their decision within 21 weeks from receiving your application. If there does need to be a hearing it should be set within 15 weeks of receiving the application.

It is possible to make an urgent application or get a decision 'fast-tracked' for example if a house sale is going through and there is a risk your relative might lose the buyer, or funds need to be released to pay for critical care or maintenance. To make your urgent application or to get an application fast-tracked, you should contact the court on 0300 456 4600 and ask to speak to the 'Urgent Business Officer' or the 'Fast-track Business Officer'.

If the Court makes you a deputy, it will state exactly which decisions you can make. For example, you could be authorised to withdraw money from your relative's bank account in order to pay for essential goods and services, or you could be authorised to make decisions regarding the sale of your relative's home. You must always act in the best interests of your relative when making the decisions. You must also follow the guidance within the Mental Capacity Act 2005 Code of Practice. You can find this on the Gov.uk website:

www.gov.uk/government/collections/mental-capacity-act-making-decisions

If you are a deputy and need to have dealings with your relative's bank or building society, the bank will need to see proof of your position and are also likely to ask for proof of identification, such as a passport or driver's licence and also proof of address.

If at any point you believe your relative is in a position to deal with their own affairs again, you must inform the Court of Protection. If the Court is happy that your relative has regained capacity then your appointment as Deputy will end.

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FURTHER
READING

Rethink Mental Illness Factsheets:

How to deal with debt
Option for dealing with debt
Mental Capacity Act 2005
Welfare benefits and mental illness
Welfare benefits for carers

All of our factsheets are free and can be downloaded from www.rethink.org/factsheets or you can call us on 0121 522 7007 and we will post you a copy.

Information about the Court of Protection

<https://www.gov.uk/court-of-protection>

Information about Lasting Power of Attorney

www.gov.uk/government/publications/make-a-lasting-power-of-attorney

British Bankers Association leaflet 'Banking for people who lack capacity to make decisions'

<http://www.bba.org.uk/publication/leaflets/4162-2/>



USEFUL
CONTACTS

Find details of your nearest **Jobcentre Plus**

<http://los.direct.gov.uk/default.aspx?type=1&lang=en>

Court of Protection

Archway Tower
2 Junction
Road London
N19 5SZ

Telephone 0300 456 4600 – Monday to Friday, 9am to 5pm

Office of Public Guardian

PO Box 15118
Birmingham
B16 6GX

Telephone 0300 456 0300 - Monday to Friday, 9am to 5pm
(Except Wed 10am - 5pm)

Her Majesty's Revenue and Customs (HMRC)

Tax Credit Office
Preston
PR1 0SB

Tax Credit Helpline 0845 300 3900 – Monday to Friday 8am to 8pm,
Saturday 8am to 4pm

Website www.hmrc.gov.uk/taxcredits/



This sample letter can be used if the person you care for wants to give you authority to discuss matters with a financial organisation on their behalf – everything in brackets should be amended to show the relevant information.

(Account holder name)

(Account holder address)

(Date)

(Loan company name)

(Loan company address)

Dear Sir / Madam

Regarding (account number / reference number)

I am writing this letter to give authority for (insert carers full name here) to discuss matters regarding my account on my behalf. I give full consent for (insert creditors name here) to share information regarding the account with the above named person.

I have provided contact details of (insert carers name here) below for your records.

(Carers name)

(Carers full address)

Yours faithfully

(Account holders name)

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in large print.

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Rethink Mental Illness Advice Service

Phone 0300 5000 927

Monday to Friday, 10am to 2pm

Email advice@rethink.org

Did this help?

We'd love to know if this information helped you.

Drop us a line at: feedback@rethink.org

or write to us at Rethink Mental Illness:

Feedback

PO Box 68795

London SE1 4PN

or call us on 0300 5000 927.

We're open 10am to 2pm, Monday to Friday.



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affected by severe mental illness.

For further information
on Rethink Mental Illness
Phone 0121 522 7007
Email info@rethink.org



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www.rethink.org

Need more help?

Go to www.rethink.org for information on symptoms, treatments, money and benefits and your rights.

Don't have access to the web?

Call us on 0121 522 7007. We are open Monday to Friday, 9am to 5pm, and we will send you the information you need in the post.

Need to talk to an adviser?

If you need practical advice, call us on 0300 5000 927 between 10am and 2pm, Monday to Friday. Our specialist advisers can help you with queries like how to apply for benefits, get access to care or make a complaint.

Can you help us to keep going?

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