

# Money and people who lack capacity



**Information sheet C8**

**January 2020**

This information sheet explains how we will support someone who lacks capacity to manage their finances.

The Mental Capacity Act requires us to assume that people have capacity and can make decisions themselves, unless otherwise established.

A person will be given all possible help to make specific decisions before being assessed as lacking capacity to make their own decisions.

This includes what may be considered as an unwise or unusual decision, reflecting that everyone has their own values and beliefs and preferences, which may not be the same as those of other people.

If we think a person may lack capacity to make a decision, even after being offered practical support, a social worker or other suitably qualified person will carry out a capacity assessment in relation to the specific decision to be made.

Where it has been assessed that a person lacks capacity for a particular decision, decisions will be made in their best interest. Any restrictions as a result of this decision will be in the person's best interest and will be proportionate to the likelihood of the person suffering harm as a result of the decision.

Planning will always continue to involve the person as far as possible, taking account of their wishes, feelings, values and aspirations as well as their needs and wellbeing.

They may be supported and represented by family and friends. If this is not possible, an independent advocate will be appointed. This person will represent them, speak for them and challenge the Local Authority's decision if necessary.

## **Financial Assessments and charging**

We will still charge people who have eligible care needs but lack capacity. We will make sure they are fully represented and decisions are in their best interest.

We will find out if there is an appropriate person to represent them. This could be:

- Enduring Power of Attorney (EPA)
- Lasting Power of Attorney (LPA) for property and affairs
- Lasting Power of Attorney (LPA) for health and welfare
- Property and affairs deputyship under the Court of Protection (COP)
- Health and welfare deputyship under the COP
- Any other person dealing with their affairs (for example, someone who has been given appointeeship by the DWP for the purpose of benefit payments)

If none of these are in place, family members or their solicitor will be encouraged to apply for a Property and Affairs Deputyship through the COP.

If no suitable party can be found to administer the finances the Client Finances Team (CFT) of Somerset County Council will consider the most appropriate action, either becoming Corporate appointee or applying to the Court of Protection to become deputy in respect of property and affairs. Any referral to the CFT will need to be made by Adult Social Care.

Until there is an appropriate person appointed and full access to the person's financial affairs can be obtained, no financial assessment will take place.

If there is no access to the person's finances to make care and support payments, we can make these payments as a loan until an appointee / deputy is in place and a full financial assessment can be completed.

The following will apply:

- If capital is over £23,250 we will expect the full fee to be repaid
- If capital is less than £23,250 we will expect the assessed contribution to be repaid
- If benefits became available during the Corporate Appointee-ship application period, we will expect them to be repaid, back-dated to when they became available.
- If there is a top-up there must be a relative willing to pay.

## **Your opportunity to feedback**

We welcome your comments about the services you receive. If you would like to tell us what you think, please either:

Contact us by going to our website, [www.somerset.gov.uk](http://www.somerset.gov.uk), or

- Speak to your social care worker
- Phone Somerset Direct on 0300 123 2224, or
- Contact the Adults and Health Customer Experience Officer  
Floor B2 East  
County Hall  
Taunton  
TA1 4DY  
Email: [customerexperience@somerset.gov.uk](mailto:customerexperience@somerset.gov.uk)

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