Day and Nightcare

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FULL HANDBOOK

Planning ahead

Lasting Power of Attorney, advance care planning, mental capacity, end-of-life planning and staying safe from scams.



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A short guide to this handbook, with the key points of each guide: **www.dayandnightcare.co.uk/leaflets/brochure-planning-ahead-short.pdf**

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LEGAL MATTERS AND PLANNING AHEAD

Lasting Power of Attorney: a guide for families

Last updated 30 October 2026; sources last checked 30 October 2026.

IN BRIEF

A Lasting Power of Attorney (LPA) is a legal document that lets you choose people you trust to make decisions for you if you cannot make them yourself. There are two types, one for property and financial affairs and one for health and welfare. You must make it while you still have mental capacity, and registering each one with the Office of the Public Guardian costs £92.



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What is a Lasting Power of Attorney?

A Lasting Power of Attorney, or LPA, is a legal document in which one person (the **donor**) appoints one or more people they trust (the **attorneys**) to make decisions on their behalf. It is made under the Mental Capacity Act 2005 and applies in England and Wales. Scotland and Northern Ireland have their own systems.

To make an LPA, you must be 18 or over and have the mental capacity to understand what you are signing. That is why timing matters so much.

The two types of LPA

There are two separate LPAs. You can make one or both, and you can choose the same or different attorneys for each.

- **Property and financial affairs.** Covers things like managing bank and building society accounts, paying bills, collecting a pension or benefits, and selling the home. Once registered, it can be used straight away with your permission, even while you can still manage, which many people find helpful if they are in hospital or less mobile.
- **Health and welfare.** Covers decisions about daily routine (washing, dressing, eating), medical care, moving into a care home and, if you specifically give this power, life-sustaining treatment. It can only be used when you cannot make the decision yourself.

Why it is worth making one early

Many people think of an LPA as something for later life or for dementia. In reality, capacity can be lost suddenly, through a stroke, a fall, an infection or an accident, at any age. If it happens and there is no LPA:

- no family member automatically has the right to manage the person's money or speak for them
- the bank may freeze access to a sole account
- paying for care, selling a house or dealing with benefits can stall
- the family may have to apply to the Court of Protection, which is slower, more expensive and more closely supervised

An LPA also gives you the chance to say, in your own words, what matters to you, through the preferences and instructions section.

Choosing your attorneys

Attorneys must be 18 or over. For a property and financial affairs LPA, they must not be bankrupt or subject to a debt relief order. Think about:

- whether they know you well and will respect your wishes, not just their own views
- whether they are organised, and live close enough to help
- how they will get on with each other

If you appoint more than one, you choose how they work together. The Office of the Public Guardian's guidance says most people choose **jointly and severally**, meaning attorneys can act together or on their own, because it is the most flexible. If attorneys must act **jointly** on every decision and one dies or stops acting, the whole LPA can stop working. You can also name **replacement attorneys** to step in if needed.

Information to gather before you start

- the donor's full name, any other names, date of birth, address and email
- for each attorney and replacement attorney: full name, date of birth and address
- the name and address of the certificate provider
- names and addresses of up to five people to notify (optional)
- how you want attorneys to act (jointly and severally, jointly, or a mix)
- for a health and welfare LPA, whether attorneys may decide about life-sustaining treatment
- any preferences or instructions, in your own words
- if applying for a reduced fee, evidence of the donor's income or benefits

How to make and register an LPA, step by step

You can make an LPA online or on paper. Online is usually quicker and helps avoid mistakes.

1. **Start the form.** Go to GOV.UK and search for "Make a lasting power of attorney", create an account and choose which type of LPA to make. On paper, download form LP1F (property and financial affairs) or LP1H (health and welfare) and the LP12 guide.

2. **Fill in each section.** Add the donor, attorneys, how they act, replacement attorneys, the life-sustaining treatment choice (health and welfare only), people to notify, preferences and instructions, and the certificate provider.

3. **Choose who will apply to register.** Either the donor or the attorneys can apply. Registering straight away is best, so any errors can be put right while the donor still has capacity.

4. **Pay.** Online, you pay by card at the end. On paper, pay by card (the OPG will contact you) or by cheque payable to "Office of the Public Guardian". To claim a reduced fee or exemption, complete form LPA120 and send proof of the donor's income or benefits.

5. **Print and sign in the right order.** Everyone signs the same original paper document; copies and electronic signatures are not accepted:

    - the donor signs first, in front of a witness
    - then the certificate provider
    - then each attorney, in front of a witness, ideally on the same day
    - then any replacement attorneys

    Witnesses must be 18 or over. Attorneys cannot witness the donor's signature, though they can witness each other's.

6. **Notify people.** If you named people to notify, send each of them form LP3 just before you post the LPA.

7. **Post the signed LPA** to: Office of the Public Guardian, PO Box 16185, Birmingham, B2 2WH.

8. **Wait for registration.** The law requires a four-week wait before the OPG can register, and people to notify have three weeks from being notified to object. The OPG says registration takes 8 to 10 weeks overall if there are no mistakes. It then stamps the original and posts it back: this is the official LPA.

9. **Put it to use.** Attorneys can use the GOV.UK "Use a lasting power of attorney" service to give banks, care providers and others an access code, instead of posting paper copies.

Fees. It costs **£92** to register each LPA (£184 for both). If the donor earns less than £12,000 a year, the fee may be halved to £46, and there may be no fee if they receive certain means-tested benefits. If the OPG returns an LPA because of a mistake, you may be able to correct it and reapply within three months for £46.

Help from the OPG. Phone 0300 456 0300 (Monday to Friday, 9am to 5pm; Wednesday 10am to 5pm), or email customerservices@publicguardian.gov.uk.

Checking whether someone already has an LPA. If you are unsure whether a relative has a registered LPA, EPA or deputy, you can ask the OPG to search its registers using form OPG100 on GOV.UK.

The Powers of Attorney Act 2023 allows the OPG to modernise how LPAs are made and checked, including a more digital process, so some steps may change. Check the current instructions on GOV.UK before you start.

The certificate provider

The certificate provider is an impartial person who confirms that you understand the LPA and that nobody is pressuring you into making it. They must be 18 or over and either:

- someone who has known you well for at least two years, such as a friend, neighbour or former colleague, or
- someone with relevant professional skills, such as your GP, another doctor, a solicitor or a social worker

They cannot be a family member (yours or an attorney's), an attorney or replacement attorney, a business partner or employee of you or your attorneys, or anyone who runs or works for a care home where you live.

What attorneys must do

Attorneys must follow the principles of the Mental Capacity Act. That means helping you make your own decisions wherever possible, acting in your best interests when you cannot, choosing the least restrictive option, and taking account of your wishes and feelings. Finance attorneys should keep your money separate from their own and keep records and receipts. Our guide to mental capacity and best interests explains these principles.

What happens if there is no LPA

If someone has lost capacity and has no LPA, a family member or friend can apply to the **Court of Protection** to be appointed as a **deputy**. Current fees on GOV.UK are:

- £432 to apply, plus £266 if the court decides a hearing is needed
- a £100 assessment fee for new deputies
- an annual supervision fee of £320 (or £35 for minimal supervision in some smaller property and affairs cases)

Deputies may also need to buy a security bond, and must send an annual report to the OPG. The process usually takes months. Health and welfare deputies are appointed much less often, because the court usually prefers individual decisions to be made in the person's best interests. For benefits alone, the Department for Work and Pensions can appoint an **appointee** to manage them.

Common mistakes to avoid

- Waiting until capacity is already in doubt.
- Signing in the wrong order, or using the wrong witness.
- Choosing "jointly" without understanding the consequences.
- Leaving the LPA unregistered in a drawer.
- Forgetting the life-sustaining treatment section on a health and welfare LPA.
- Not telling attorneys where the document is.

What to do next

1. Talk with the person about who they would trust, and whether they want one LPA or both.
2. Choose a certificate provider and check they are eligible.
3. Make the LPA online at GOV.UK or download the paper forms.
4. Sign in the correct order and register it with the OPG straight away.
5. Keep the registered LPA safe and set up the "Use a lasting power of attorney" service.

How we can help

We are a care provider, not solicitors, so we cannot give legal advice, but a registered LPA makes planning care much smoother, because an attorney can speak for the person and agree arrangements when they cannot. If you are thinking

about care at home, whether home care visits, night care or live-in care anywhere in England from £1,550 a week, our free initial assessment is a good time to bring your attorney or a family member into the conversation. Call us on 01865 715780.

Common questions

Can we make an LPA for a parent who has dementia?
Only your parent can make an LPA, and only if they have the mental capacity to do so at the time. A diagnosis of dementia does not automatically mean they cannot: many people in the earlier stages can understand what an LPA is and who they want to appoint. The certificate provider must be satisfied that they understand and are not under pressure. If your parent can no longer make an LPA, you would need to apply to the Court of Protection to become their deputy.

Does being next of kin give us the right to make decisions?
No. In England and Wales, being next of kin, a spouse or a child gives no legal authority to manage someone's money or make decisions about their care. Banks may restrict access to a sole account once they know the holder cannot manage it. Families are consulted about best interests decisions, but only an attorney under a registered LPA, or a deputy appointed by the court, can make decisions on someone's behalf.

How long does it take to register an LPA?
The Office of the Public Guardian says registration takes 8 to 10 weeks if there are no mistakes in the application, and is usually quicker if you make and pay online. The LPA cannot be used until it has been registered, so it is wise to register it straight away rather than waiting until it is needed. Mistakes can add weeks, so check the signing order and every section carefully before sending it.

Do we need a solicitor to make an LPA?
No. Many people make their own LPA using the GOV.UK online service or the paper forms, and pay only the registration fee. A solicitor can be helpful if your affairs are complicated, you own a business, there may be family disagreement, or there could be doubts about capacity. Solicitors charge for this, so ask for a fixed fee in writing. Some charities can also help you fill in the forms.

Can an attorney use the person's money for themselves?

No. Attorneys must act in the person's best interests, keep their money separate from their own, and keep records of what they spend. They can only make modest gifts on customary occasions, such as birthdays, in line with the person's means. They cannot benefit themselves beyond that. If you think an attorney is misusing their position, report it to the Office of the Public Guardian on 0300 456 0300.

Is an old enduring power of attorney still valid?

Yes. Enduring powers of attorney (EPAs) made before 1 October 2007 can still be used. An EPA covers property and financial affairs only, not health and welfare decisions. It can be used before registration while the person still has capacity, but once the attorney believes the person is losing or has lost mental capacity, it must be registered with the Office of the Public Guardian.

Sources and further information

- GOV.UK: Make, register or end a lasting power of attorney
- GOV.UK: Register a lasting power of attorney (fees)
- Office of the Public Guardian: LP12 Make and register your lasting power of attorney, a guide
- GOV.UK: Deputies, fees
- GOV.UK: Report a concern about an attorney, deputy or guardian
- legislation.gov.uk: Mental Capacity Act 2005

Read next

LEGAL MATTERS AND PLANNING AHEAD

Mental capacity and best interests: a guide for families

How the Mental Capacity Act 2005 works in England and Wales: the five principles, how capacity is assessed, best interests decisions, deprivation of liberty after the 2026 Supreme Court ruling, the position on LPS, and how to support someone to decide.

Read the guide →

LEGAL MATTERS AND PLANNING AHEAD

Advance care planning: making your wishes known

A gentle guide to advance care planning in England: advance statements, advance decisions to refuse treatment, ReSPECT forms and DNACPR decisions, choosing your preferred place of care, and how to start the conversation with family and professionals.

Read the guide →

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All guides in the information centre Check what help you could get

This page online: **www.dayandnightcare.co.uk/guides/lasting-power-of-attorney/**

Advance care planning: making your wishes known

Last updated 30 October 2026; sources last checked 30 October 2026.

IN BRIEF

Advance care planning means thinking ahead and recording what matters to you about your future care, so the people around you can follow your wishes if you become too unwell to tell them. It can include an advance statement of your wishes, a legally binding advance decision to refuse treatment, a ReSPECT form agreed with a clinician, and a Lasting Power of Attorney for health and welfare.



IN THIS GUIDE

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9. Questions to ask the GP or specialist nurse
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What is advance care planning?

Advance care planning is a series of conversations, and sometimes documents, about the care you would want in the future. It is for anyone, at any age, but it becomes especially important for people living with a long-term or progressive illness, frailty or dementia, and for anyone approaching the end of life.

NHS England's universal principles for advance care planning describe it as voluntary and person-centred: you choose whether to take part, what to talk about and who to involve. Plans can be changed at any time, and should be reviewed when your health or circumstances change.

Advance care planning can include several things, which work together:

- an **advance statement** of your wishes and preferences
- an **advance decision to refuse treatment**, which can be legally binding
- a **ReSPECT form** or other emergency care plan agreed with a clinician
- a decision about **resuscitation (DNACPR)**
- a Lasting Power of Attorney for health and welfare, so someone you trust can decide for you

Advance statements: what matters to you

An advance statement is a written record of your wishes, preferences, beliefs and values about future care. It can cover anything that matters to you, for example:

- where you would like to be cared for, and where you would prefer to die
- your daily routines: when you like to get up, what you like to eat, how you like to dress
- your faith, cultural practices or spiritual needs
- who you would like to be with you, and who you would like to be consulted
- practical matters, such as who will look after a pet

An advance statement is not legally binding, but anyone deciding in your best interests must take it into account. You do not have to sign it, though a signature and date show that it reflects your wishes.

An advance statement you can start today

There is no official form. You can write it on paper or type it, in your own words. This starter may help:

> **My advance statement**
>
> My name: … Date of birth: … NHS number: …

> **What matters most to me:** for example, being at home with my cat, being able to see the garden, having my family close.
>
> **Where I would like to be cared for:** for example, at home if at all possible, with help from carers; a hospice if my symptoms become hard to manage at home.
>
> **My daily routine and comforts:** for example, I like to get up late, have tea with milk and no sugar, listen to Radio 4 and have my hair brushed each morning.
>
> **My faith, beliefs and culture:** for example, I would like a visit from my priest, and I would like to be washed by women carers only.
>
> **People I would like to be consulted:** names, relationship and phone numbers.
>
> **Other wishes:** for example, who should look after my dog; music I would like played.
>
> Signed: … Date: …

Keep a copy, give copies to your GP and family, and update it whenever your wishes change.

Advance decisions to refuse treatment

An advance decision to refuse treatment (ADRT), sometimes called a living will, lets you refuse specific medical treatments in the future, in case you lose the capacity to decide. It is set out in sections 24 to 26 of the Mental Capacity Act 2005.

To make one, you must be 18 or over and have capacity at the time. It must say clearly which treatment you are refusing and in what circumstances. If you are refusing **life-sustaining treatment**, it must:

1. be in writing
2. be signed by you
3. be signed by a witness
4. include a statement that the decision applies even if your life is at risk

A valid advance decision that applies to the situation is legally binding. A few points are worth knowing:

- It can only **refuse** treatment. It cannot demand a particular treatment.
- It cannot refuse basic care, such as warmth, shelter, keeping you clean, or being offered food and drink by mouth.
- It cannot ask for anything illegal, such as help to end your life.
- A later health and welfare LPA that gives your attorney authority over the same treatment takes precedence.

What an advance decision usually includes:

- your full name, date of birth, address, NHS number and GP details
- a statement that you are making the decision while you have capacity, and that it applies if you later lose capacity to decide
- each treatment you are refusing, described clearly (for example, "artificial nutrition through a tube", "mechanical ventilation", "cardiopulmonary resuscitation")
- the circumstances in which each refusal applies (for example, "if I have advanced dementia and can no longer recognise my family")
- for life-sustaining treatment, the words: "I refuse this treatment even if my life is at risk as a result"
- your signature and the date, and a witness's signature and date
- the names of people who know about it, and where copies are kept

The charity Compassion in Dying offers a free form and guidance (0800 999 2434). Ask your GP to read it, to check it is clear, and to add it to your record.

ReSPECT forms

ReSPECT stands for the Recommended Summary Plan for Emergency Care and Treatment. It is a short form, completed with a doctor or nurse, that records what matters to you and the clinical recommendations for your care in a future emergency when you may not be able to say what you want. It usually includes a recommendation about CPR, alongside wider goals of care: for example, whether you would want to go to hospital for certain treatments, or be cared for at home.

ReSPECT is not legally binding, but it helps ambulance crews, out-of-hours doctors and hospital staff make quick decisions that fit your wishes. It is used in many parts of England. Keep the form where it can be found quickly at home, and make sure it travels with you if you go into hospital.

DNACPR decisions

Cardiopulmonary resuscitation (CPR) is an attempt to restart the heart and breathing, using chest compressions, electric shocks and help with breathing. It can save lives, but for people who are very frail or seriously ill it often does not work and can cause harm, such as broken ribs, and a death that is less peaceful than they would have wished.

A **DNACPR** decision means CPR will not be attempted. You can decide in advance that you do not want CPR. A doctor can also decide that CPR would not work or would do more harm than good, and must explain this to you unless doing so would harm you. A DNACPR decision is about CPR only: all other care continues. The form itself is not legally binding; if you want a legally binding refusal of CPR, make an advance decision.

Choosing your preferred place of care

Many people, when asked, would like to be cared for at home towards the end of life. Others feel safer in a hospice or a care home. There is no right answer, and wishes can change. What matters is that the people caring for you know your preference, so they can plan around it. Tell your GP, so it can be recorded, and include it in your advance statement.

If home is your wish, it is worth knowing what makes it possible: district nurses, hospice at home services, just in case medicines and, for many families, a live-in carer who is there day and night.

How to start the conversation

Talking about the future can feel daunting, for the person and for their family. Some gentle ways in:

- Choose a calm, unhurried moment, perhaps prompted by a programme, a friend's illness or a hospital appointment.
- Start with what matters: "What makes a good day for you?" or "What would worry you most if you became ill?"
- Ask open questions and listen more than you speak.
- Accept that it may take several conversations.
- Write things down afterwards and check you have understood.

- Involve the GP, practice nurse or specialist nurse, who are used to these conversations.

Questions to ask the GP or specialist nurse

- What is likely to happen with my condition, and what changes should I plan for?
- Which treatments might I be offered in future, and what would they involve?
- Would CPR be likely to work for me? What would it mean if it did?
- Should we complete a ReSPECT form together?
- Can my wishes and preferred place of care be added to my record, so out-of-hours services can see them?
- Who should my family call at night or at weekends if I become unwell?

Where to keep your plans

- Give copies to your GP, your attorney and close family.
- Ask the GP to add your wishes to your medical record.
- Keep originals somewhere easy to find, and tell people where they are.
- Share them with any care provider, so your care plan reflects them.
- Review everything when your health changes, or at least every year or two.

What to do next

1. Think about what matters most to you, and who you would want to speak for you.
2. Write an advance statement, even a short one.
3. Talk to your GP about whether a ReSPECT form or an advance decision would help.
4. Make a Lasting Power of Attorney for health and welfare while you can.
5. Share copies, and review them when things change.

How we can help

When we plan care with you after a free initial assessment, we take time to understand your needs, your routines and what matters to you, so that your care can reflect your wishes. Live-in care, available anywhere in England from £1,550 a

week and including care towards the end of life, is at the heart of what we do, and across Oxfordshire we also offer home care visits, waking nights and sleep-ins. Call us on 01865 715780.

Common questions

Is an advance statement legally binding?
No, but it still carries real weight. Anyone making a decision in your best interests under the Mental Capacity Act must take your past wishes, feelings, beliefs and values into account, and an advance statement is clear evidence of them. It is the right place for preferences such as where you would like to be cared for, your routines, your faith and who you want with you. Only an advance decision to refuse treatment can be legally binding.

Does a DNACPR decision mean no other treatment?
No. A DNACPR (do not attempt cardiopulmonary resuscitation) decision is about CPR only. If your heart or breathing stops, healthcare staff will not try to restart it, but every other appropriate treatment and care continues, including antibiotics, pain relief, fluids and hospital care where that is right for you. If you are unsure what a form means for you, ask the doctor or nurse to explain it.

Can my family overrule my advance decision to refuse treatment?
No. If an advance decision is valid and applies to the situation, it is legally binding and your family cannot overrule it. It can stop being valid if you withdraw it, act in a way that clearly contradicts it, or later make a health and welfare Lasting Power of Attorney giving your attorney authority over the same treatment. That is why it helps to tell your family and attorney about it and review it from time to time.

Do I need a solicitor to make an advance decision?
No. You can write an advance decision yourself, and the charity Compassion in Dying offers free forms and support on 0800 999 2434. If you are refusing life-sustaining treatment, it must be in writing, signed by you and a witness, and include a clear statement that the decision applies even if your life is at risk. It is wise to discuss it with your GP, who can check it is clear and add it to your record.

Can a doctor make a DNACPR decision without asking us?

A doctor can make a DNACPR decision if they believe CPR would not work or would cause more harm than benefit, but they must tell the person and involve them unless that would cause them harm. If the person lacks capacity, the family or attorney should be consulted. Decisions must be made for each individual, never applied to groups of people. You cannot insist on CPR, but you can ask for an explanation, a second opinion and a review.

Sources and further information

- NHS: Advance statement about your wishes
- NHS: Advance decision to refuse treatment (living will)
- NHS: Do not attempt cardiopulmonary resuscitation (DNACPR) decisions
- Resuscitation Council UK: ReSPECT
- Compassion in Dying: Advance decision (living will)
- NHS England: Universal principles for advance care planning
- legislation.gov.uk: Mental Capacity Act 2005, sections 24 to 26

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LEGAL MATTERS AND PLANNING AHEAD

Lasting Power of Attorney: a guide for families

How Lasting Power of Attorney works in England and Wales: the two types, why to make one early, how to make and register it online or on paper, the £92 registration fee, the certificate provider, and what happens without one (deputyship and the Court of Protection).

Read the guide →

LEGAL MATTERS AND PLANNING AHEAD

Planning end of life care at home: a gentle guide

How to plan end of life care at home in England: choosing to die at home, the team around you (GP, district nurses, hospice at home, live-in carers), just in case medicines, NHS Continuing Healthcare Fast Track, preparing practically and emotionally, and what to do when someone dies.

Read the guide →

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This page online: **www.dayandnightcare.co.uk/guides/advance-care-planning/**

Mental capacity and best interests: a guide for families

Last updated 30 October 2026; sources last checked 30 October 2026.

IN BRIEF

Under the Mental Capacity Act 2005, everyone aged 16 or over is assumed able to make their own decisions unless it is shown that they cannot make a particular decision at a particular time, even with help. When someone lacks capacity for a decision, it must be made in their best interests, involving them and the people who know them, and choosing the option that restricts their freedom least.



IN THIS GUIDE

1. What the Mental Capacity Act does
2. The five principles
3. What lacking capacity means
4. How a capacity assessment works
5. Supporting someone to make their own decision
6. Best interests decisions
7. Preparing for a best interests meeting
8. Words you can use
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What the Mental Capacity Act does

The Mental Capacity Act 2005 applies in England and Wales to everyone aged 16 and over. It does two things at once. It protects people's right to make their own decisions, including decisions others disagree with. And it sets out how decisions

should be made for people who genuinely cannot make them, so that those decisions respect who they are.

The Act applies to everyday decisions, such as what to wear or eat, as well as big ones, such as medical treatment or where to live. Anyone caring for someone whose capacity may be affected, whether family, carers or professionals, needs to understand it.

The five principles

Section 1 of the Act sets out five principles. In plain words:

1. **Assume capacity.** Every adult is assumed to be able to make their own decisions unless it is shown that they cannot.
2. **Help first.** A person must not be treated as unable to decide until everything practicable has been done to help them decide.
3. **Unwise is not the same as unable.** Making a decision others think is unwise does not, by itself, mean a person lacks capacity.
4. **Best interests.** Anything done for someone who lacks capacity must be done in their best interests.
5. **Least restrictive option.** Before acting, consider whether the same purpose can be achieved in a way that restricts the person's rights and freedom less.

What lacking capacity means

Capacity is always about **a particular decision at a particular time**. Someone may have capacity to decide what to have for lunch but not to sell their house, or be able to decide in the morning but not late in the evening.

Under sections 2 and 3 of the Act, a person is unable to make a decision if they cannot do one or more of these things:

- **understand** the information relevant to the decision
- **retain** it for long enough to make the decision
- **use or weigh** it as part of making the decision
- **communicate** their decision, by any means

The inability must also be caused by an impairment of, or a disturbance in the functioning of, the mind or brain, such as dementia, a brain injury, a learning disability, delirium or the effects of medication. Assessors should look first at whether the person can make the decision, and then at whether any inability is because of such an impairment.

How a capacity assessment works

The person responsible for the decision carries out the assessment. A good assessment:

- focuses on one specific decision
- gives the person the relevant information in a way they can understand, including the realistic options and their consequences
- chooses a good time and place, when the person is most alert and comfortable
- involves people who know the person well, if the person agrees
- is recorded, with the reasons for the conclusion

Families can help enormously by explaining how the person usually communicates and when they are at their best.

Supporting someone to make their own decision

Before concluding someone lacks capacity, everyone involved must try to help them decide. Practical steps include:

- making sure they have their glasses, hearing aids and dentures
- choosing the time of day when they are most alert
- using simple words, short sentences, pictures or written notes
- breaking information into small pieces and giving time to think
- using an interpreter, or communication aids, where needed
- having a familiar, trusted person present
- treating any infection or pain first, if the decision can wait

Best interests decisions

When someone lacks capacity for a decision, section 4 of the Act sets out what the decision-maker must consider. They must:

- not make assumptions based on the person's age, appearance, condition or behaviour
- consider whether the person is likely to regain capacity, and whether the decision can wait
- encourage the person to take part as fully as possible
- consider the person's past and present wishes and feelings, especially anything written down, such as an advance statement
- consider the beliefs and values that would have influenced them
- consult others: anyone the person has named, family and carers, and any attorney or deputy

For life-sustaining treatment, the decision-maker must not be motivated by a desire to bring about the person's death.

If a registered Lasting Power of Attorney covers the decision, the attorney is the decision-maker. If there is serious disagreement that cannot be resolved, the Court of Protection can decide.

Preparing for a best interests meeting

For bigger decisions, such as where someone should live, professionals often hold a best interests meeting with the family. To make sure the person's voice is heard, bring:

- what the person has said, now or in the past, about this kind of decision
- any advance statement, advance decision or letter of wishes
- what a good day looks like for them, and what upsets them
- their beliefs, values and the things that have always mattered to them
- practical facts: who lives nearby, what support the family can realistically give
- a copy of any LPA or deputyship order

Ask for the options to be set out clearly, including the less restrictive ones, such as more care at home, before a move is considered. Ask for a copy of the written decision and the reasons.

Words you can use

Asking how a capacity decision was reached:

> "We understand a capacity assessment has been carried out for [name] about [decision]. Please could you tell us what information was given, how [name] was helped to understand it, and why it was concluded that they could not make this decision? We would like a copy of the record."

Asking to be consulted on a best interests decision:

> "As [name]'s daughter, I would like to be consulted before any decision is made about [decision]. I can tell you about [name]'s wishes, values and what has always mattered to them."

Asking about deprivation of liberty:

> "[Name] is now under close supervision and the doors are kept locked. Please could you confirm whether this has been considered as a possible deprivation of liberty, and whether authorisation has been sought?"

Restrictions and deprivation of liberty

Caring for someone who lacks capacity sometimes involves restricting what they can do, for example to stop them leaving the house alone at night. Section 6 of the Act allows restraint only when it is needed to prevent harm and is proportionate to the risk.

When restrictions go further and amount to a **deprivation of liberty**, legal authorisation is needed:

- **In care homes and hospitals:** through the Deprivation of Liberty Safeguards (DoLS), for adults aged 18 and over. The care home or hospital applies to the local council.
- **At home, in supported living or elsewhere:** through an application to the Court of Protection.

The 2026 Supreme Court ruling. On 2 June 2026, in a reference from the Attorney General for Northern Ireland ([2026] UKSC 16), the Supreme Court overruled its 2014 Cheshire West decision. Cheshire West had set an "acid test": a person lacking capacity was deprived of liberty if they were under continuous supervision and control and not free to leave. The court has now said the question needs a broader look at the person's real situation: the type, length, effect and purpose of the restrictions, and the normality of the setting, including living in one's own home. It also held that a person who lacks capacity under the Act may still give valid consent to their living arrangements, through their wishes and feelings, if they understand enough to be content with them. Where there is serious doubt about what they want, consent should not be assumed.

The change took effect immediately across the UK. Government guidance says many current DoLS authorisations will need review, that safeguards such as advocacy continue meanwhile, and that further interim guidance will follow.

Liberty Protection Safeguards (LPS). Parliament passed the LPS in 2019 to replace DoLS, but they have never been brought into force. The government said in October 2025 that it would consult on them in 2026; by October 2026 it had not yet set out its plans and was still considering the effect of the Supreme Court ruling. For now, DoLS and Court of Protection authorisations remain the law.

What this means for care at home

For most people receiving care at home, including live-in care, everyday support given in their best interests needs no special authorisation. Where someone is settled and content with their care, the 2026 ruling makes it less likely that their arrangements amount to a deprivation of liberty. Where they clearly object, try to leave or are distressed, or the restrictions are significant, the council or NHS body that funds the care should consider whether Court of Protection authorisation is needed. If care is privately arranged, the family, care provider and council should discuss it together.

Raising concerns or challenging a decision

- Ask the decision-maker how capacity was assessed and how the decision was reached, and ask for the record.
- Ask for a second opinion, or a fresh assessment if the person's condition has changed.

- Ask for an advocate, especially if the person has nobody else to speak for them.
- Use the complaints procedure of the NHS body, council or provider.
- Report concerns about an attorney or deputy to the Office of the Public Guardian on 0300 456 0300.
- In serious disputes, take advice about applying to the Court of Protection.

What to do next

1. Start from the assumption that the person can decide, and ask how you can help them do so.
2. Find out whether there is an LPA, deputyship order or advance decision.
3. Share what you know about the person's wishes, values and best times of day.
4. Ask for capacity assessments and best interests decisions to be recorded.
5. If restrictions are needed, ask whether they are the least restrictive option and whether authorisation is required.

How we can help

The care we provide, from home care visits, waking nights and sleep-ins across Oxfordshire to live-in care anywhere in England from £1,550 a week, is planned around the person, their needs and their choices. If you are caring for someone whose capacity is changing, perhaps because of dementia, our free initial assessment is a chance to talk through what support would help them stay at home safely. Call us on 01865 715780.

Common questions

Who decides whether someone has mental capacity?

The person who needs the decision to be made. For medical treatment, that is usually the doctor or nurse proposing it; for a move or a change in care, often a social worker; for everyday care, the carer helping at the time. Capacity is not a one-off verdict from a doctor: it is assessed for each decision, when it needs to be made. If you disagree with an assessment, ask how it was carried out and request a second opinion.

Can someone with dementia still make their own decisions?

Yes, very often. A diagnosis of dementia does not mean a person lacks capacity. Capacity is about a specific decision at a specific time, so someone may be able to choose what to wear or who to see, but not to manage complex finances. Capacity can also vary with the time of day, tiredness or infection. The law requires everyone to give people all practicable help to decide for themselves first.

Can family members make decisions for someone who lacks capacity?

Only if they hold the legal authority for that decision, through a registered Lasting Power of Attorney or a deputyship order from the Court of Protection. Otherwise, the decision-maker is the professional or carer responsible for that decision, who must consult the family about the person's wishes and best interests. Family views carry real weight, but being next of kin does not give anyone the power to decide.

What is an IMCA?

An Independent Mental Capacity Advocate (IMCA) is a trained, independent person who supports someone who lacks capacity when an important decision is being made and there is no family member or friend appropriate to consult. IMCAs must be involved for decisions about serious medical treatment or a long-term move into a hospital or care home, and may be involved in care reviews and safeguarding. The council or NHS body arranges the IMCA.

Does a live-in carer need legal authority to care for someone who lacks capacity?

Not for ordinary care given in the person's best interests. Section 5 of the Mental Capacity Act protects carers who reasonably believe the person lacks capacity for that care and act in their best interests, such as helping with washing or medicines. If the care involves significant restrictions the person objects to, such as locked doors or constant supervision, it may amount to a deprivation of liberty that needs authorisation from the Court of Protection.

Sources and further information

- legislation.gov.uk: Mental Capacity Act 2005
- GOV.UK: Mental Capacity Act code of practice
- GOV.UK: UK Supreme Court 2026 judgment on what constitutes a deprivation of liberty

- UK Supreme Court: press summary, Reference by the Attorney General for Northern Ireland [2026] UKSC 16
- NHS: Mental Capacity Act
- SCIE: Mental Capacity Act resources

Read next

LEGAL MATTERS AND PLANNING AHEAD

Lasting Power of Attorney: a guide for families

How Lasting Power of Attorney works in England and Wales: the two types, why to make one early, how to make and register it online or on paper, the £92 registration fee, the certificate provider, and what happens without one (deputyship and the Court of Protection).

Read the guide →

LEGAL MATTERS AND PLANNING AHEAD

Advance care planning: making your wishes known

A gentle guide to advance care planning in England: advance statements, advance decisions to refuse treatment, ReSPECT forms and DNACPR decisions, choosing your preferred place of care, and how to start the conversation with family and professionals.

Read the guide →

HEALTH CONDITIONS AND CARE AT HOME

Dementia care at home: a practical guide for families

How to support someone with dementia at home: the stages, communication, routines, eating and drinking, sundowning and nights, wandering and safety, Lasting Power of Attorney, support for carers and how care is funded, including NHS Continuing Healthcare and council tax.

Read the guide →

All guides in the information centre Check what help you could get

This page online: **www.dayandnightcare.co.uk/guides/mental-capacity-and-best-interests/**

Planning end of life care at home: a gentle guide

Last updated 30 October 2026; sources last checked 30 October 2026.

IN BRIEF

Many people would like to spend their last weeks at home, and with the right team around them it is often possible. The GP and district nurses lead the medical care, hospice and palliative care teams add specialist support, and carers, including live-in carers, help day and night. The NHS can fund care in full through the Continuing Healthcare Fast Track when someone's condition is rapidly deteriorating and may be entering a terminal phase.



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Choosing to be cared for at home

For many people, home is where they feel most themselves: their own bed, their own garden view, their family, their pets, their routines. With planning and the right team, dying at home is possible for many people, even with complex needs.

It helps to be honest about what it involves. Caring for someone at home towards the end of life can be physically and emotionally demanding, especially at night. Symptoms sometimes need specialist help. Having a plan B, such as a hospice bed if things become difficult, is sensible, not a sign of giving up. The aim is the right care in the right place, at each stage.

If the person can, ask them directly where they would like to be cared for and where they would prefer to die, and record it in an advance care plan. Tell the GP so it is on their record.

The team around you

Care at the end of life at home is shared by several people:

- **The GP** coordinates medical care, prescribes medicines and can complete the paperwork for funding and benefits.
- **District or community nurses** visit to manage symptoms, give injections, set up syringe pumps, care for skin and arrange equipment.
- **Specialist palliative care teams**, often based at a hospice, advise on difficult pain or other symptoms and support the family.
- **Hospice at home services**, in many areas, bring hospice nurses and care workers into the home, sometimes including overnight support. Hospice care is free.
- **Marie Curie nurses and other charity services** provide nursing care at home, including overnight, in many areas.
- **Occupational therapists** arrange equipment such as a hospital bed, pressure-relieving mattress and commode.
- **Carers**, whether visiting carers or a live-in carer, provide the day-to-day personal care and companionship.
- **Out-of-hours services**: make sure you know who to call at night and at weekends, usually through NHS 111 or a number given by the GP or hospice.

How live-in care helps at the end of life

A live-in carer can make a home death possible for families who could not otherwise manage. Having someone there through the day and night means:

- personal care, mouth care, gentle repositioning and comfort, at whatever hour it is needed

- someone to notice changes in pain, breathing or distress, and call the nurses promptly
- help with prescribed medicines, as set out in the care plan
- support with meals, drinks and the household, for as long as these matter
- family members can rest, and spend their time being a partner, son or daughter rather than a carer

Live-in carers work alongside district nurses and hospice teams; they do not replace them. Injections and syringe pumps remain the nurses' role. Read more about live-in care at the end of life.

Just in case medicines

Just in case medicines, also called anticipatory medicines, are prescribed in advance so they are ready at home if distressing symptoms come on suddenly, such as pain, sickness, agitation, breathlessness or noisy breathing caused by secretions. They are usually given by injection, which is useful when someone can no longer swallow tablets.

The GP or specialist prescribes them, and they are kept at home, often in a labelled box with the equipment and a chart, out of reach of children. When symptoms arise, phone the district nurses or out-of-hours service, who will come and give them. NICE guidance on caring for dying adults covers how these medicines should be prescribed and reviewed. If symptoms continue, the nurses may set up a syringe pump to give medicines steadily over 24 hours.

NHS Continuing Healthcare Fast Track

The Fast Track is the quickest way to get the NHS to pay for care in full at the end of life. Under the national framework:

- it is for people with a rapidly deteriorating condition that may be entering a terminal phase
- an "appropriate clinician", meaning a registered nurse or doctor involved in the person's care (including hospice clinicians), completes the Fast Track Pathway Tool
- there must be no strict time limit based on life expectancy: "may be entering a terminal phase" is not limited to situations where death is imminent

- the integrated care board (ICB) must accept a properly completed tool and act on it immediately, and the care package should usually be in place within 48 hours
- it can fund care in the person's own home, including live-in care where that is the right way to meet their needs, and should be used even if a care package is already in place but is being paid for privately or by the council

Funding may be reviewed later if the person's condition improves. Read more in our NHS Continuing Healthcare guide.

Words you can use with the GP, district nurse or hospice nurse:

> "[Name]'s condition is getting worse quickly and we would like to care for them at home. Please could you consider completing the NHS Continuing Healthcare Fast Track Pathway Tool, so that care can be arranged without delay? Could you also let us know who at the integrated care board will arrange the care, and when we can expect to hear?"

Other help with costs

- **Benefits under the special rules.** If a doctor or nurse thinks someone may have 12 months or less to live, they can complete form SR1. People over State Pension age then get the higher rate of Attendance Allowance (£114.60 a week in 2026/27) without the usual six-month wait, and someone else can make the claim for them. Similar fast-track rules apply to Personal Independence Payment.
- **Carer's Allowance** may be available to a family member providing at least 35 hours of care a week.
- **Council support**, after a care needs and financial assessment, if Fast Track funding does not apply.
- **Hospice and charity services**, which are free.

Preparing practically

- Ask for equipment early: a profiling bed, pressure mattress, commode, wheelchair.
- Keep a list of who to call, day and night, by the phone.

- Make sure any ReSPECT form or DNACPR decision is kept where an ambulance crew would find it.
- Check that the will and any Lasting Power of Attorney are in order.
- Talk about funeral wishes, if the person wants to.
- Plan for pets, post and the practical running of the house.
- Arrange rest for the main family carer: nobody can care around the clock alone.

A contacts sheet to keep by the phone

Copy this onto a sheet of paper and keep it somewhere everyone can see:

- **GP surgery (daytime):** number …
- **Out-of-hours GP:** NHS 111, or the number the surgery gives you
- **District nursing team (day and night):** number …
- **Hospice or palliative care team advice line:** number …
- **Care provider or live-in carer's office:** number …
- **Pharmacy (and its opening hours):** number …
- **Funeral director, if chosen:** number …
- **Family members to ring, in order:** names and numbers …
- **Where the just in case medicines, ReSPECT form and medicines chart are kept:** …
- **The person's NHS number:** …

Preparing emotionally

There is no right way to feel. Some people want to talk about dying; others prefer to focus on the day in front of them. Follow the person's lead. It can help to say the things that matter: thank you, I love you, I'm sorry, I forgive you. Spiritual or faith support can be a great comfort. Children can be included in ways that suit their age.

As death approaches, people usually sleep more, eat and drink less and their breathing may change. The nurses will explain what you may see, so it is less frightening. The Marie Curie Support Line (0800 090 2309) offers free practical and emotional support to anyone affected by terminal illness.

What to do when someone dies at home

When an expected death happens at home:

1. There is no need to call 999 or the police. Take a moment if you need it.
2. Phone the GP practice (or the out-of-hours number it gives you), NHS 111, or the district nursing or hospice team, so that a doctor or nurse can come to verify the death.
3. Spend time with the person if you wish. Follow any religious or cultural wishes.
4. Once the death has been verified, call a funeral director when you are ready. There is no need to rush.
5. A doctor completes the medical certificate of cause of death, which is reviewed by an independent medical examiner. The medical examiner's office will contact you.
6. Register the death within five days of being told you can, and use the Tell Us Once service to inform government departments.

If a death is sudden and unexpected, call 999.

Registering the death: what to have ready. Book an appointment with the register office for the area where the person died. Registrars usually ask for the person's full name (and any previous names), date and place of birth, date and place of death, last address, occupation, and the name and occupation of any spouse or civil partner, and whether they received a State Pension or other benefits. Bring their NHS number, and their birth and marriage certificates if you have them. The registrar gives you the certificate for burial or cremation (often called the green form) for the funeral director, and a reference number for Tell Us Once, which informs HMRC, the Department for Work and Pensions, the DVLA, the council and other bodies in one go. Use Tell Us Once within 28 days. Order several certified copies of the death certificate: banks, pension providers and insurers usually need one.

Typical timescales:

- **Fast Track care:** usually in place within 48 hours of the tool being received.
- **Benefits under the special rules:** dealt with much faster than ordinary claims.
- **Verification of an expected death:** as soon as a doctor or nurse can attend; there is no need to rush.
- **Medical examiner's call:** usually within a few days of the death.

- **Registering the death:** within five days of the medical examiner's office confirming you can register.
- **Tell Us Once:** within 28 days of getting the reference number.

What to do next

1. Talk with the person about where they want to be cared for, and record it.
2. Ask the GP to involve district nurses and the local hospice or palliative care team.
3. Ask whether the person should be put forward for the Continuing Healthcare Fast Track.
4. Ask the GP about just in case medicines and form SR1 for benefits.
5. Arrange the care and rest the family will need, day and night.

How we can help

We provide live-in care anywhere in England, from £1,550 a week, including care towards the end of life, and home care visits, waking nights and sleep-ins across Oxfordshire. Care can be funded privately, by the council or by NHS Continuing Healthcare, including the Fast Track. If you would like to talk about how we could support your family at home, our initial assessment is free, and you can call us on 01865 715780.

Common questions

Who pays for end of life care at home?

Often the NHS. If a doctor or nurse completes the NHS Continuing Healthcare Fast Track Pathway Tool, the NHS funds the person's care in full, including care at home. Hospice services are free. People nearing the end of life can also claim Attendance Allowance (if over State Pension age) or Personal Independence Payment under fast special rules, receiving the highest daily living rate without a waiting period. Otherwise, care may be funded by the council after a financial assessment, or privately.

How quickly can Fast Track funding be arranged?

Quickly. The national framework says the integrated care board (ICB) must accept and act immediately on a properly completed Fast Track Pathway Tool, and that the care package should usually be in place within 48 hours of the tool being received. In practice, timing also depends on a provider being available. Ask the GP, district nurse or hospice nurse to complete the tool as soon as it is appropriate, and ask the ICB who will provide the care.

What should we do if someone dies at home during the night?

If the death was expected, you do not need to call 999 or rush. Phone the GP practice, which will give an out-of-hours number, or NHS 111, or the district nursing or hospice team if they have given you a number to call. A doctor or nurse will come to verify the death. You can take time to sit with the person. Once the death has been verified, contact a funeral director when you are ready.

Can a live-in carer give end of life medicines?

A live-in carer can help with prescribed medicines set out in the care plan, such as tablets, liquids or patches, once trained to do so. Just in case medicines are usually injections, and these, along with syringe pumps, are given and managed by district nurses or doctors. In some areas, family carers can be trained by the nursing team to give certain injections. Your carer will call the nurses promptly when symptoms change.

Is it all right to change our minds about dying at home?

Yes, completely. Wishes can change as illness progresses, and sometimes symptoms or exhaustion mean a hospice or hospital is the better place. Changing the plan is not a failure; it is part of responding to what the person needs now. Talk to the GP, district nurses or hospice team about the options, including a hospice bed, so that everyone knows what to do if the situation changes.

Sources and further information

- GOV.UK: National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care
- Marie Curie: End of life care at home
- Marie Curie: Just in case or anticipatory medication
- Marie Curie: How a death is verified and certified

- Hospice UK: What is hospice care?
- GOV.UK: Attendance Allowance if you're nearing the end of life
- GOV.UK: What to do after someone dies
- NICE NG31: Care of dying adults in the last days of life

Read next

LEGAL MATTERS AND PLANNING AHEAD

Advance care planning: making your wishes known

A gentle guide to advance care planning in England: advance statements, advance decisions to refuse treatment, ReSPECT forms and DNACPR decisions, choosing your preferred place of care, and how to start the conversation with family and professionals.

Read the guide →

PAYING FOR CARE AND REDUCING THE COST

NHS Continuing Healthcare: a guide for families

A plain-English guide to NHS Continuing Healthcare in England: who qualifies, the Checklist, the Decision Support Tool and its 12 domains, Fast Track, care at home including live-in care, reviews, appeals with template letters, retrospective claims and how to prepare evidence.

Read the guide →

PAYING FOR CARE AND REDUCING THE COST

Attendance Allowance: rates, who qualifies and how to claim

Attendance Allowance pays £76.70 or £114.60 a week in 2026/27 to people over State Pension age who need help with personal care or supervision. Who qualifies, how to claim step by step, example wording for the form, end-of-life claims and a letter to challenge a decision.

Read the guide →

All guides in the information centre Check what help you could get

This page online: **www.dayandnightcare.co.uk/guides/planning-end-of-life-care-at-home/**

Safeguarding and scams: protecting older people

Last updated 30 October 2026; sources last checked 30 October 2026.

IN BRIEF

Abuse and neglect can happen anywhere, including at home and within families, and scams increasingly target older people by phone, post, email and at the door. If you are worried, raise a safeguarding concern with the local council's adult social care team, call 999 if someone is in immediate danger, and report fraud to Report Fraud on 0300 123 2040, the national service that replaced Action Fraud in December 2025.



IN THIS GUIDE

1. What safeguarding means
2. The types of abuse and neglect
3. Signs that something may be wrong
4. Financial abuse by people they know
5. Scams that target older people
6. Simple ways to protect against scams
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8. What to say when you raise a safeguarding concern
9. If you think a scam has happened: the first hour
10. If the person is reluctant
11. What a good care provider does
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What safeguarding means

Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. Under section 42 of the Care Act 2014, councils in England must make enquiries when they have reason to think an adult with care and support needs is

experiencing, or at risk of, abuse or neglect, and cannot protect themselves because of those needs.

Councils lead, but safeguarding is everyone's responsibility: family, neighbours, carers, GPs, banks and care providers all have a part to play. Good safeguarding is also personal. The person at risk should be at the centre, involved in decisions and supported to achieve the outcomes they want, an approach known as "making safeguarding personal".

The types of abuse and neglect

The statutory guidance describes ten types:

- **Physical abuse:** hitting, pushing, rough handling, misuse of medication or inappropriate restraint.
- **Domestic abuse:** controlling, coercive or violent behaviour by a partner or family member, including financial and emotional abuse.
- **Sexual abuse:** any sexual activity the person has not agreed to, or could not agree to.
- **Psychological abuse:** threats, humiliation, intimidation, isolation or being cut off from friends and services.
- **Financial or material abuse:** theft, fraud, scams, pressure over wills, property or inheritance, or misuse of money, possessions or benefits.
- **Modern slavery:** trafficking, forced labour or domestic servitude.
- **Discriminatory abuse:** harassment or unfair treatment because of race, sex, age, disability, religion or sexuality.
- **Organisational abuse:** neglect or poor practice within a care service, including care at home.
- **Neglect and acts of omission:** failing to provide food, heating, medication, personal care or access to health services.
- **Self-neglect:** a person not caring for their own hygiene, health or surroundings, including hoarding.

Signs that something may be wrong

No single sign proves abuse, but any of these deserves a closer look:

- unexplained bruises, burns or injuries, or reluctance to be examined

- weight loss, dehydration, poor hygiene or untreated health problems
- the person seeming frightened, withdrawn, anxious or unusually quiet around a particular person
- someone always insisting on being present, or preventing visitors
- unpaid bills, lack of food or heating, or unexplained shortages of money
- unusual withdrawals, new names on bank accounts, or missing documents
- sudden changes to a will, property or financial arrangements
- new “friends” taking a sudden interest in the person’s money

Financial abuse by people they know

Financial abuse is the type most often investigated by the Office of the Public Guardian, and it is frequently carried out by someone the person knows and trusts. It can be as simple as a relative “borrowing” money that is never repaid, or as serious as an attorney using a Lasting Power of Attorney for their own benefit.

Attorneys and deputies must act in the person’s best interests, keep their money separate and keep records. If you are worried about how an attorney or deputy is acting, contact the Office of the Public Guardian on 0300 456 0300 or use its online form. Our Lasting Power of Attorney guide explains what attorneys may and may not do.

Scams that target older people

Scams are a form of financial abuse, and criminals often target older people, particularly those living alone or with memory problems. Common examples:

- **Impersonation calls:** someone claiming to be from the bank, the police or a government department, saying an account is at risk and money must be moved to a “safe account”.
- **Courier fraud:** the caller sends someone to collect cash, cards or valuables.
- **Doorstep crime:** rogue traders offering unnecessary or overpriced repairs, often with pressure to pay at once.
- **Text and email scams:** messages about parcels, refunds, energy rebates or unpaid bills with a link to click.
- **Romance and friendship scams:** online or by phone, building trust over weeks before asking for money.

- **Investment and pension scams:** promises of high returns or "free pension reviews".
- **Lottery, prize and postal scams:** a fee is needed to release a prize that does not exist.

The warning signs are usually the same: unexpected contact, urgency, secrecy ("don't tell your family") and a request for money, bank details or a PIN.

Simple ways to protect against scams

- Agree a family rule: never give bank details, PINs or passwords to anyone who calls, texts or emails unexpectedly.
- Remember that banks and the police will never ask you to move money or hand over cards.
- If in doubt, hang up, wait, and call back on a number you trust, from a different phone if possible.
- Do not deal with cold callers at the door; ask for identification and check it independently.
- Consider a call blocker, and use a trusted family member as a second check for large payments.
- Forward suspicious emails to report@phishing.gov.uk and suspicious texts to 7726.

How to raise a concern

1. **If someone is in immediate danger, call 999.**
2. **Raise a safeguarding concern** with the local council's adult social care team. Most councils have a safeguarding page and phone line, with an out-of-hours number.
3. **Report a crime to the police** on 101, or 999 in an emergency.
4. **Report fraud or cyber crime** to Report Fraud at reportfraud.police.uk or on 0300 123 2040. Report Fraud replaced Action Fraud in December 2025 and covers England, Wales and Northern Ireland; in Scotland, call Police Scotland on 101.
5. **Call the bank** straight away if money has been lost; 159 connects you safely to most major banks.
6. **Report concerns about an attorney or deputy** to the Office of the Public Guardian.

7. **Tell the Care Quality Commission (CQC)** about concerns in a registered care service, as well as the council.

For confidential advice, the charity Hourglass runs a helpline for older people and families on 0808 808 8141, and the Age UK Advice Line is free on 0800 678 1602.

What to say when you raise a safeguarding concern

To find the right number, search for your council's name and "report adult abuse" or "adult safeguarding", or phone the council's main number and ask for adult social care. You do not need proof, only a genuine worry. You might say:

> "I would like to raise an adult safeguarding concern. It is about [name], who is [age] and lives at [address]. They have [care and support needs, for example dementia or frailty]. I am worried because [what you have seen or been told, with dates]. I think the risk is [what could happen]. [Name] does / does not know I am calling, and their view is [what they have said]. My name is [your name], I am their [relationship], and you can reach me on [number]."

Information to have ready:

- the person's name, date of birth, address and GP
- what happened, when and where, in as much detail as you can, in the order it happened
- who you are worried about, if anyone, and their relationship to the person
- whether the person is safe now, and whether they know you are reporting
- any evidence, such as bank statements, letters, messages or photographs
- any police or Report Fraud reference number

Ask for a reference number and the name of the person you spoke to, and write down the date and time of your call.

If you think a scam has happened: the first hour

1. **Stop all contact** with the caller or sender. Do not reply, call back on numbers they gave, or send more money.
2. **Call the bank** straight away on the number on the back of the card, or dial 159. Ask them to stop or recall any payments and protect the accounts.

3. **Change passwords and PINs** if any were shared, starting with email and online banking.
4. **Report it** to Report Fraud at reportfraud.police.uk or on 0300 123 2040, and keep the crime reference number. If someone is at the door or a crime is in progress, call 999.
5. **Keep everything:** texts, emails, letters, call times and the numbers used.
6. **Tell family or a trusted friend**, so the person is not left to deal with it alone, and watch for follow-up "recovery" scams offering to get the money back for a fee.
7. **Consider a safeguarding concern** if the person has care and support needs and is being repeatedly targeted.

If the person is reluctant

Many people who are being abused or scammed feel embarrassed, frightened or loyal to the person involved. Be patient and avoid blame. If they have the capacity to decide, their choices should be respected, but you can still keep in touch, offer information and seek advice. If they lack capacity, decisions must be made in their best interests.

What a good care provider does

When a care provider is supporting someone, it should help keep them safe. CQC-registered providers must protect people from abuse and must carry out checks, including criminal record (DBS) checks, on the staff they employ. In practice, look for a provider that:

- trains every carer to recognise abuse and to report concerns
- has clear safeguarding and whistleblowing policies, and a Registered Manager who acts on concerns
- keeps receipts and records for any shopping or money handled for the person
- does not allow carers to accept significant gifts, become involved in wills, or act as attorneys
- reports concerns to the council and notifies the CQC as the law requires
- tells families openly when something has gone wrong

See how to choose a care provider for more questions to ask.

What to do next

1. If someone is in danger, call 999.
2. Write down what you have seen or heard, with dates.
3. Raise a safeguarding concern with the council, and report crimes or fraud.
4. Contact the bank at once if money is involved.
5. Put simple protections in place: call blockers, a family rule on bank details, and an LPA.

How we can help

Day and Nightcare is registered with the Care Quality Commission and rated Good. If you are ever worried about the safety or care of someone we support, please tell our Registered Manager straight away on 01865 715780; you can also contact the council or the CQC directly. If you are thinking about care at home, from home care visits across Oxfordshire to live-in care anywhere in England from £1,550 a week, our initial assessment is free.

Common questions

What happens after I report a safeguarding concern to the council?
The council first checks whether the person has care and support needs, is experiencing or at risk of abuse or neglect, and cannot protect themselves because of those needs. If so, it must make enquiries, or ask others such as the police or NHS to do so, and decide what action is needed. The person's own wishes are central throughout. You may not be told every detail afterwards, because of confidentiality, but you can ask to be told that your concern has been looked at.

Can I report a concern without giving my name?
Usually, yes. Councils and the police will take anonymous reports, although giving your details helps them come back to you with questions. If you want to report a crime anonymously, you can contact the independent charity Crimestoppers on 0800 555 111. If you work in care and are worried about your own employer, you also have legal protection as a whistleblower when you raise concerns in the right way.

Will the bank refund money lost to a scam?

Often, yes, but act quickly. Since October 2024, UK banks have had to refund most victims of authorised push payment scams, where someone is tricked into sending money by bank transfer, unless the victim acted fraudulently or with gross negligence. Contact the bank immediately (you can call 159 to reach most major banks safely), then report the scam to Report Fraud. Card payments have their own protections, so tell the card provider too.

What if the person does not want me to report it?

If they have the mental capacity to make that decision, their wishes should normally be respected, and you can talk to them about the options and keep in touch. But you should still report it if others are at risk, if a crime has been committed, if they are being coerced, or if there is a serious risk to life. You can also ask the council for advice without giving names. If the person lacks capacity, act in their best interests.

How can we cut down scam calls and post?

Register the phone number with the free Telephone Preference Service and the address with the Mailing Preference Service, which reduce legitimate marketing, and ask the phone provider about call-blocking. Many families install a call blocker that only lets known numbers through. Scam post can be returned unopened. None of these stop every criminal, so the most important protection is the rule never to give personal or bank details to anyone who makes contact unexpectedly.

Sources and further information

- GOV.UK: Care and support statutory guidance, chapter 14 (safeguarding)
- SCIE: Types and indicators of abuse
- GOV.UK: Report Fraud, the new service from City of London Police
- GOV.UK: Report a concern about an attorney, deputy or guardian
- National Cyber Security Centre: Report a scam email
- Age UK: Scams advice
- CQC: Give feedback on care

Read next

LEGAL MATTERS AND PLANNING AHEAD

Mental capacity and best interests: a guide for families

How the Mental Capacity Act 2005 works in England and Wales: the five principles, how capacity is assessed, best interests decisions, deprivation of liberty after the 2026 Supreme Court ruling, the position on LPS, and how to support someone to decide.

Read the guide →

LEGAL MATTERS AND PLANNING AHEAD

Lasting Power of Attorney: a guide for families

How Lasting Power of Attorney works in England and Wales: the two types, why to make one early, how to make and register it online or on paper, the £92 registration fee, the certificate provider, and what happens without one (deputyship and the Court of Protection).

Read the guide →

CHOOSING LIVE-IN CARE

How to choose a care provider: checklist and questions to ask

A practical checklist for choosing a home care or live-in care provider in England: the questions to ask about training, continuity, out-of-hours support, care plans, reviews, complaints, prices and notice, the red flags to watch for, and how to use CQC reports and reviews.

Read the guide →

All guides in the information centre Check what help you could get

This page online: **www.dayandnightcare.co.uk/guides/safeguarding-and-scams/**

How to complain about care: providers, councils, NHS and CQC

Last updated 30 October 2026; sources last checked 30 October 2026.

IN BRIEF

Complain first to the organisation responsible, in writing, normally within 12 months of the problem or of you finding out about it. If you are not satisfied with its final response, social care complaints, including care people pay for themselves, go to the Local Government and Social Care Ombudsman, and NHS complaints go to the Public Service Ombudsman, the new name since 1 October 2026 for the Parliamentary and Health Service Ombudsman. Both are free; if anyone is at risk of harm, raise a safeguarding concern straight away.



IN THIS GUIDE

1. If someone is at risk, act first
2. Which route to use
3. Complaining to a care provider
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6. Time limits
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Most concerns about care are put right quickly once the right person knows. A complaint is simply a formal way of making sure that happens, and of getting a written answer. This guide covers England; Scotland, Wales and Northern Ireland have their own complaints rules and ombudsmen.

If someone is at risk, act first

A complaint is not the route for immediate danger. If you think someone is being abused or neglected, tell the council's adult social care team straight away. In Oxfordshire, use the "Reporting a safeguarding concern" form on the county council's website, or call 01865 519800 (Monday to Thursday 8.30am to 5pm, Friday 8.30am to 4pm); out of hours, call the Emergency Duty Team on 0800 833 408. Call 999 in an emergency, and the police if a crime may have happened. See safeguarding and scams.

Which route to use

Your complaint is about	Complain first to	If still unhappy
Home care or a care home you pay for yourself	The provider	Local Government and Social Care Ombudsman
Care arranged by the council	The provider or the council	Local Government and Social Care Ombudsman
A council decision: assessment, care plan, charges, direct payments	The council	Local Government and Social Care Ombudsman
NHS care: hospital, GP, district nurses, NHS Continuing Healthcare	The NHS provider or the integrated care board (ICB)	Public Service Ombudsman

If a complaint involves both the council and the NHS, for example a hospital discharge that went wrong, send it to either one: they have a duty to work together and give one coordinated response. The two ombudsmen run a joint team for complaints that cross health and social care. Complaints about care under the Mental Health Act go to CQC. Disagreements about whether someone is eligible for NHS Continuing Healthcare have their own review process: see NHS Continuing Healthcare.

Complaining to a care provider

Every CQC-registered care provider must run an accessible system for receiving, recording, investigating and responding to complaints, and must act on what it finds.

1. **Have a quiet word first** with the care coordinator or the Registered Manager. Many problems are fixed this way.
2. **Ask for the complaints procedure.** It should say who handles complaints, how quickly they respond and how to escalate.
3. **Put it in writing** if the problem continues or is serious, using the template below.
4. **Ask for a final response** in writing if you are not satisfied, so you can go to the ombudsman.

For disputes about a contract, such as fees, notice or refunds, the Citizens Advice consumer helpline can advise: 0808 223 1133, weekdays 9am to 5pm. See also care contracts: what to check.

Complaining to the council

Council adult social care complaints follow national regulations. The council must:

- acknowledge your complaint within 3 working days;
- offer to discuss how it will be handled and how long it is likely to take;
- investigate, and send a written response explaining its conclusions, any action it will take, and your right to go to the ombudsman;
- respond within 6 months, unless you agree a longer time before then.

Ask what timescale the council expects for your complaint. Councils accept complaints online, by email, by phone or by letter: look for “complaints” on the council’s website. If the council arranged the care, you can complain to the council or the provider, and the council should coordinate the response.

Complaining about NHS care

- **Choose one route:** complain to the NHS provider (the hospital trust, GP practice or community service) or to the body that commissions it, which is usually your local integrated care board. You cannot complain to both.

- **PALS:** most hospitals have a Patient Advice and Liaison Service that can help sort out problems informally, and quickly, especially while someone is still on the ward.
- **Free help:** every council funds an independent NHS complaints advocacy service, which can help you write letters and come to meetings. Ask PALS, the council or your local Healthwatch for the local provider. In Oxfordshire, Healthwatch Oxfordshire is on 01865 520520.
- **Timescales:** the same rules apply as for councils: acknowledgement within 3 working days and a written response, normally within 6 months.

Time limits

- **Councils and the NHS:** complain within 12 months of the event, or of when you found out about it. The organisation can accept a later complaint if you had good reason for the delay and it can still investigate fairly.
- **Local Government and Social Care Ombudsman:** normally within 12 months of first knowing about the problem. You can go to it if you have had the provider's or council's final response, or if you have had no response within a reasonable time, which it says is usually up to 16 weeks.
- **Public Service Ombudsman:** normally within 12 months of when you became aware of the problem, usually after a final response from the NHS organisation. There is some flexibility for later complaints.

Do not let the internal process run the ombudsman clock down: if things drag on, ask for a final response.

Taking it to an ombudsman

Both ombudsmen are free, independent and look at whether things went wrong and whether that caused an injustice.

Local Government and Social Care Ombudsman (councils, and all adult social care, including care people arrange and pay for privately):

- Online: the complaint form at lgo.org.uk, the quickest route.
- Phone: 0300 061 0614. Lines are open Monday, Tuesday, Thursday and Friday 10am to 1pm, and Wednesday 1pm to 4pm. Calls from withheld numbers are not accepted.

- Post: Local Government and Social Care Ombudsman, PO Box 4771, Coventry CV4 0EH, using its postal form. Send only the organisation's last letter at first.

Public Service Ombudsman (the NHS in England, including NHS Continuing Healthcare). On 1 October 2026 the Parliamentary and Health Service Ombudsman changed its name; its powers and service are unchanged.

- Online: the complaint checker and form at ombudsman.org.uk.
- Phone: 0345 015 4033, Monday to Thursday 9am to 4pm, Friday 8.30am to 12pm.

If an ombudsman upholds a complaint, it can recommend an apology, a payment to put things right, or changes to stop the same thing happening again.

Telling CQC

CQC regulates care providers but cannot investigate individual complaints. It does want to hear about poor care, because it uses what people share to decide when and where to inspect. Use the Give feedback on care form on the CQC website, or call 03000 616161 (Monday to Friday, 8.30am to 5.30pm). Do this as well as, not instead of, complaining. See CQC ratings explained.

Complaining for someone else

You can complain for a relative with their permission. If they lack capacity to complain, or have died, a representative can complain for them. If you hold a Lasting Power of Attorney, say so and enclose a copy.

Keep a record

Before and during a complaint, keep a simple log: dates, times, names, what happened, what was said, and the effect on the person. Keep copies of letters, emails, invoices and care notes. Photographs of injuries or conditions can help, taken with the person's agreement.

Template complaint letter

> **Subject:** Formal complaint about the care of [full name, date of birth]
>
> Dear [Registered Manager / Complaints Manager],

> I am writing to make a formal complaint about [the care provided to / the decision about] my [mother], [full name], of [address]. [She has asked me to complain on her behalf / I hold a Lasting Power of Attorney for her, a copy of which is enclosed.]
>
> **What happened:** On [dates], [describe the facts briefly, in date order].
>
> **The effect:** This has caused [harm, distress, cost, missed care].
>
> **What I would like:** [An explanation / an apology / a review of the care plan / a refund of £[amount] / changes to make sure this does not happen again].
>
> Please acknowledge this complaint, tell me who is handling it and when I can expect your written response. I am happy to meet to discuss it.
>
> Yours sincerely, [name, relationship, phone, email]

When you need a final response: "Please treat this as a request for your final response to my complaint of [date], so that I can refer it to the ombudsman if I remain unhappy."

What to do next

1. If anyone is at risk, contact the council's safeguarding team or call 999 first.
2. Raise the concern informally, then in writing using the template.
3. Keep a record and copies of everything.
4. Ask for a final response if you are still unhappy.
5. Go to the right ombudsman within 12 months, and tell CQC.

How we can help

Day and Nightcare is a CQC-registered home care provider, rated Good, and, like every registered provider, we have a complaints procedure that anyone can ask to see. If you have a concern about care we provide, please tell us early, and we will listen. If you are looking for a new provider after a difficult experience elsewhere, call us on 01865 715780 for a free initial assessment.

Common questions

Will complaining affect the care my relative receives?

It should not. Every CQC-registered provider must have an accessible complaints system, investigate complaints and act on what it finds. Complaining is a right, and good providers welcome it because it helps them improve. If you are worried about reprisals, say so in your complaint, and tell CQC and the council. If you believe someone is being treated badly because a complaint was made, raise it as a safeguarding concern with the council.

Can I complain on behalf of my mum or dad?

Yes, with their permission, which it helps to put in writing. If they lack the mental capacity to complain, or have died, a relative or other representative can usually complain for them. The Local Government and Social Care Ombudsman also accepts complaints from someone with a legal right to act for the person, such as an attorney. Include your relationship and, if you have it, their signed consent.

What can an ombudsman actually do?

An ombudsman investigates independently and can recommend how things are put right. That might be an apology, a payment for the injustice caused or money lost, a fresh assessment, a refund of charges, or changes so the same thing does not happen to others. Ombudsmen are not courts: claims for negligence or personal injury are for the courts. They usually only investigate once the organisation's own complaints process is finished.

Is there an appeal against a council care decision?

For most adult social care decisions, such as the outcome of a needs assessment, the size of a personal budget or a charge, there is no separate appeal tribunal. The council's complaints procedure is the route, followed by the Local Government and Social Care Ombudsman. In some cases, a solicitor may advise a judicial review, which has strict and short time limits. Decisions about NHS Continuing Healthcare have their own review process.

Should I tell CQC about a complaint?

Yes, it is worth it. CQC cannot take up individual complaints for you, but it uses what people tell it to decide when, where and what to inspect. Use its online Give feedback on care form, or call 03000 616161 (Monday to Friday, 8.30am to 5.30pm). Telling CQC does not replace complaining to the provider, the council or the NHS.

Sources and further information

- Local Government and Social Care Ombudsman: How to complain
- Local Government and Social Care Ombudsman: Contact us
- Public Service Ombudsman: Our new name
- Public Service Ombudsman: Making a complaint about the NHS in England
- NHS England: Making a complaint
- legislation.gov.uk: Local Authority Social Services and NHS Complaints (England) Regulations 2009
- CQC: Complain about a service or provider

Read next

CHOOSING LIVE-IN CARE

Care contracts: what to check before you sign

What to look for in a home care or live-in care contract in England, based on consumer law and the CMA's guidance on care contracts: fees and increases, extra charges, deposits, notice, hospital stays, cancellation rights, liability and complaints.

Read the guide →

CHOOSING LIVE-IN CARE

CQC ratings explained: how to read a care provider's report

What the Care Quality Commission does, the five key questions, what outstanding, good, requires improvement and inadequate mean, how to read a home care report, CQC's assessment framework and the 2026 changes, what an older rating means, and other sources of reassurance.

Read the guide →

LEGAL MATTERS AND PLANNING AHEAD

Safeguarding and scams: protecting older people

How to recognise abuse, neglect and scams affecting older people in England, including financial abuse, what to do if you are worried, how to report to the council, the police and Report Fraud (which replaced Action Fraud), and what a good care provider does.

Read the guide →

All guides in the information centre **Check what help you could get**

This page online: **www.dayandnightcare.co.uk/guides/how-to-complain-about-care/**

Deprivation of liberty at home: what families should know

Last updated 30 October 2026; sources last checked 30 October 2026.

IN BRIEF

If someone who lacks mental capacity is cared for at home under restrictions they do not agree to, such as locked doors, constant control or being stopped from going out, the arrangement may be a deprivation of liberty that needs authorisation from the Court of Protection. Since the Supreme Court's judgment of 2 June 2026, fewer people cared for at home are likely to be in that position: the whole situation is now weighed up, and a person who is settled and content with their care can give valid consent through their wishes and feelings. If you are in doubt, ask the council to review it.



IN THIS GUIDE

1. What deprivation of liberty means
2. What changed on 2 June 2026
3. What the GOV.UK guidance says
4. Signs care at home may still need authorisation
5. What this means for live-in care
6. Who applies to the Court of Protection
7. If an authorisation is already in place
8. Questions to ask the council or care provider
9. Words you can use
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What deprivation of liberty means

Everyone has the right to liberty under Article 5 of the European Convention on Human Rights. The Mental Capacity Act 2005 lets carers give everyday care to someone who lacks capacity, in their best interests, without any special permission. It allows restraint only when it is needed to prevent harm and is proportionate to the risk.

A deprivation of liberty goes further: restrictions imposed on a person against their will, of a type and intensity well beyond ordinary care. When that happens, the law requires it to be authorised:

- **In care homes and hospitals:** by the council, under the Deprivation of Liberty Safeguards (DoLS).
- **In someone's own home, including with live-in care:** DoLS does not apply. Authorisation comes from the Court of Protection.

These rules apply in England and Wales; in Scotland and Northern Ireland the rules differ.

What changed on 2 June 2026

In 2014, the Supreme Court's Cheshire West judgment set an "acid test": a person who lacked capacity was deprived of liberty if they were under continuous supervision and control and not free to leave. Many people with round-the-clock care at home met that test, however content they were.

On 2 June 2026, in a reference from the Attorney General for Northern Ireland ([2026] UKSC 16), the Supreme Court unanimously overruled Cheshire West. It said:

- there is no single acid test; what matters is the person's concrete situation as a whole
- the difference between a restriction and a deprivation of liberty is one of degree or intensity
- the normality of the arrangements counts, including living in one's own home or in the community
- a person who lacks capacity in law can still give valid consent to their arrangements, through their wishes and feelings, if they have a basic awareness of whether they are happy or unhappy with them

- where there is serious doubt, consent should not be assumed

The change took effect immediately across the UK.

What the GOV.UK guidance says

The Department of Health and Social Care published guidance on GOV.UK on 15 June 2026, last updated on 22 September 2026. It lists the factors to weigh up:

- the type of restrictions, such as locked doors, physical control, supervision, sedating medication or social isolation
- how long they last, their effect on the person and how they are carried out
- whether the person objects
- how far the situation is from detention in a prison cell
- the relative normality of the arrangements, noting that greater restrictions would be needed at home for a deprivation of liberty to arise
- the purpose, for example care and protection rather than punishment or coercion

If someone's own condition is what limits them, for example a physical disability means they cannot leave and they cannot form any wish to leave, that is unlikely to be a deprivation of liberty.

The guidance expects authorisations to fall significantly in the long term, but asks for a cautious approach for now, with borderline cases referred for review. Where there is any doubt, including about consent, where restrictions are significant, or where a person moves between appearing content and appearing to object, councils, the NHS and care providers should still use the DoLS process or apply to the court. The department has said it will publish further interim guidance with practical case studies.

Signs care at home may still need authorisation

Objection points towards a deprivation of liberty. Talk to the council if the person:

- repeatedly tries to leave, or keeps asking to go "home" and is distressed when they cannot
- refuses care or physically pushes it away
- needs physical restraint, or one-to-one support to manage distress or behaviour

- is given medicine covertly when they object to it
- is given sedating medicine that affects their ability to object
- is kept from going out, or from seeing people, against their wishes

Compliance is not consent. Someone who goes along quietly may still be unhappy, frightened or not wanting to be a burden. The guidance asks assessors to consider what the person communicates in words and behaviour, their past wishes, and the views of family and carers, sometimes over several visits.

What this means for live-in care

Live-in care means someone is in the home day and night, which under the old acid test often counted as continuous supervision. Under the 2026 approach, a person living in their own home, with a carer they are settled with, who seems content with their care, is much less likely to be deprived of their liberty.

It is different when the carer has to stop the person leaving, keep doors locked that they want open, or override clear and repeated objections. Then the arrangement should be looked at properly.

Good practice for families and providers:

- record any restrictions in the care plan, with the reason and how the person responds
- choose the least restrictive option, such as a door sensor that alerts the carer rather than a locked door
- write down best interests decisions and who was consulted
- review restrictions when needs change, and reduce them where you can
- involve any attorney under a health and welfare Lasting Power of Attorney, or a court-appointed deputy

Who applies to the Court of Protection

When the council or NHS arranges or funds the care, it is responsible for considering whether authorisation is needed and for applying to the court. Straightforward cases can use a streamlined application (form COP DOL11). The court fee is £432, payable by whoever applies.

When care is arranged and paid for privately, do not assume the rules cannot apply. In Staffordshire County Council v SRK (2016), the Court of Appeal decided that a privately funded care package at home still needed authorisation because the state knew about the arrangements. If you are concerned, tell the council's adult social care team and ask for advice, and consider a solicitor who specialises in mental capacity law.

The person's views must be put before the court, and a family member or friend is often asked to act as their representative in the process. Orders are time-limited and reviewed, often once a year.

If an authorisation is already in place

The guidance expects many existing DoLS authorisations to fall outside the new definition. It says they should be reviewed as soon as practicable, that leaving one in place meanwhile does not make the care unlawful, and that restrictions can be reduced without a new authorisation when needs change. If your relative has a Court of Protection order for care at home, ask the council or NHS body that applied whether it still considers it necessary.

Questions to ask the council or care provider

- Has the person's capacity to decide about their care arrangements been assessed?
- What restrictions are in place, and why?
- How does the person respond to them, and where is that recorded?
- Has anyone considered whether this is a deprivation of liberty under the 2026 test?
- If an authorisation exists, when will it be reviewed?
- Is there a less restrictive way to keep them safe?

Words you can use

> "Following the Supreme Court judgment of June 2026, please could you review whether [name]'s care arrangements at home amount to a deprivation of liberty? [Name] lacks capacity to decide about their care and is supported by a live-in carer. [They are settled and content.] [Or: they try to leave most

> evenings and become distressed when the door is locked.] Please tell us who will review this and when, and how [name]'s wishes and our views will be taken into account."

What to do next

1. Write down any restrictions in place and how the person reacts to them.
2. Ask the care provider to record restrictions and best interests decisions in the care plan.
3. If the council or NHS funds the care, ask whether the arrangements have been reviewed under the 2026 test.
4. If care is private and restrictive, ask the council for advice and consider specialist legal advice.
5. Read our guide to mental capacity and best interests.

How we can help

We are a CQC-registered home care provider, rated Good, and we provide fully managed live-in care anywhere in England, from £1,550 a week, including live-in care for people living with dementia. If you are unsure how the 2026 changes affect someone's care at home, our free initial assessment is a good moment to talk it through. Call us on 01865 715780.

Common questions

Does everyone with dementia who has live-in care need Court of Protection authorisation?

No. Everyday care given in someone's best interests needs no authorisation. Since the June 2026 Supreme Court ruling, a person who lives in their own home, is settled with their carer and appears content with their care is unlikely to be deprived of their liberty. Authorisation is more likely to be needed where the person clearly and repeatedly objects, tries to leave, is restrained, or is given medicine covertly or to sedate them. If you are unsure, ask the council or the care provider to look at it.

Can a person who lacks capacity consent to their care?

Yes, for this purpose. The Supreme Court decided in June 2026 that someone who lacks capacity under the Mental Capacity Act can still give valid consent to their living and care arrangements through their wishes and feelings, if they have a basic awareness of whether they are happy or unhappy with them. Going along quietly is not the same as consenting, and where there is serious doubt about what the person wants, consent should not be assumed.

Is a locked front door a deprivation of liberty?

Not on its own. The courts now look at the whole picture: the type of restrictions, how long they last, their effect, how they are carried out, whether the person objects, the purpose and how normal the arrangements are. A locked door at night for someone who is content and settled is very different from keeping someone in who is distressed and trying to leave every day. Record why any restriction is used, and look for a less restrictive option, such as a door sensor.

What is the difference between DoLS and a Court of Protection order?

The Deprivation of Liberty Safeguards (DoLS) apply only in care homes and hospitals, for people aged 18 and over, and are authorised by the council. Anywhere else, including someone's own home and supported living, a deprivation of liberty has to be authorised by the Court of Protection instead. Both apply the same definition of deprivation of liberty, which changed with the Supreme Court judgment of 2 June 2026.

Who pays for a Court of Protection application for care at home?

Whoever applies pays the court fee, which is £432, plus their own legal costs. When the council or NHS arranges or funds the care, it is the body that should consider whether authorisation is needed and make the application. If care is private and you think an application may be needed, ask the council for advice first and take specialist legal advice about costs before applying yourself.

Sources and further information

- GOV.UK (DHSC): UK Supreme Court 2026 judgment on what constitutes a deprivation of liberty
- UK Supreme Court: press summary, Reference by the Attorney General for Northern Ireland [2026] UKSC 16

- GOV.UK: Deprivation of liberty orders (Court of Protection)
- legislation.gov.uk: Mental Capacity Act 2005

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LEGAL MATTERS AND PLANNING AHEAD

Mental capacity and best interests: a guide for families

How the Mental Capacity Act 2005 works in England and Wales: the five principles, how capacity is assessed, best interests decisions, deprivation of liberty after the 2026 Supreme Court ruling, the position on LPS, and how to support someone to decide.

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HEALTH CONDITIONS AND CARE AT HOME

Dementia care at home: a practical guide for families

How to support someone with dementia at home: the stages, communication, routines, eating and drinking, sundowning and nights, wandering and safety, Lasting Power of Attorney, support for carers and how care is funded, including NHS Continuing Healthcare and council tax.

Read the guide →

LEGAL MATTERS AND PLANNING AHEAD

Lasting Power of Attorney: a guide for families

How Lasting Power of Attorney works in England and Wales: the two types, why to make one early, how to make and register it online or on paper, the £92 registration fee, the certificate provider, and what happens without one (deputyship and the Court of Protection).

Read the guide →

All guides in the information centre Check what help you could get

This page online: **www.dayandnightcare.co.uk/guides/deprivation-of-liberty-at-home/**

Deputyship: when there is no Lasting Power of Attorney

Last updated 30 October 2026; sources last checked 30 October 2026.

IN BRIEF

If someone can no longer make their own decisions and never made a Lasting Power of Attorney, a relative or friend can apply to the Court of Protection to be appointed as their deputy. It costs much more and takes much longer than an LPA: £432 to apply, a £100 assessment fee, usually £320 a year in supervision fees and often a security bond, and property and affairs applications took a median of about 16 weeks in 2025. Check first whether a simpler route, such as becoming a DWP appointee, would be enough.



IN THIS GUIDE

1. When a deputy is needed
2. When you may not need a deputy
3. The two types of deputy
4. How to apply: property and financial affairs
5. What deputyship costs, compared with an LPA
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7. Managing while the application is going through
8. Common mistakes to avoid
9. What to do next
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When a deputy is needed

A deputy is someone the Court of Protection appoints to make decisions for a person who lacks the mental capacity to make them. You are likely to need one when:

- the person can no longer manage their money, property or pensions
- there is no registered Lasting Power of Attorney (LPA), and no enduring power of attorney (EPA), the older type made before October 2007
- bills, care fees or the sale of a home need someone with legal authority

Common triggers are paying for live-in care or a care home, dealing with a frozen bank account, or a council financial assessment that needs someone to provide information.

First, check nobody already has authority. You can ask the Office of the Public Guardian (OPG) to search its registers for an attorney or deputy. The search is free: email the form to opgregistersearches@publicguardian.gov.uk and OPG replies within 5 working days.

If the person may still have capacity, make an LPA instead. It is cheaper, quicker and lets them choose who acts for them.

When you may not need a deputy

- **Benefits only.** If the person's income is just benefits, such as State Pension, Pension Credit or Attendance Allowance, you can apply to the Department for Work and Pensions to become their appointee. There is no court process.
- **One decision.** For a single important decision, the Court of Protection can make a one-off order instead of appointing a deputy.
- **Care and health decisions.** These are usually made in the person's best interests by the professionals involved, with the family consulted. See mental capacity and best interests.

The two types of deputy

- **Property and financial affairs:** paying bills, managing bank accounts, pensions and investments, and, if the court allows, selling property. This is by far the most common type.
- **Personal welfare:** decisions about medical treatment and how the person is looked after. The court usually appoints one only if there is doubt about whether decisions will be made in the person's best interests, for example because the family disagree, or if decisions about a specific issue, such as where the person lives, will be needed over time.

You can apply for one type or both. Deputies must be 18 or over, and the court can appoint two or more, acting either together or separately. If no relative or friend can act, the court can appoint a professional deputy, such as a solicitor or a council officer.

How to apply: property and financial affairs

1. **Tell the person.** You or your representative must visit them, explain the application and give them form COP14PADep and form COP5. If they can, they should return the form within 14 days.
2. **Tell at least three people connected to them,** such as relatives, a social worker or a doctor. Send each of them COP15PADep and COP5; they have 14 days to reply. If you cannot find three people, explain why on a witness statement (COP24).
3. **Complete the forms within three months** of telling people, or you must start again: COP1A (supporting information), COP3 (an assessment of capacity, completed by a doctor or other professional), COP4 (your declaration as deputy) and any COP5 returned to you.
4. **Apply online,** paying by card, or **by post,** sending COP1 (the original and a copy) with the other forms and a cheque payable to "HM Courts and Tribunals Service" to: Court of Protection, PO Box 70185, First Avenue House, 42-49 High Holborn, London WC1A 9JA.
5. **Wait for the decision.** There is usually no hearing. The court may ask for more information, such as a social services report, or ask you to set up a security bond before you are appointed.

Personal welfare applications use paper forms (COP1, COP1B, COP3 and COP4), and people are notified after the court issues the application. Court of Protection enquiries: 0300 456 4600, Monday to Friday, 9am to 5pm. For help with forms if you are not online, the We Are Group helpline is 03300 160 051.

What deputyship costs, compared with an LPA

Cost	Lasting Power of Attorney	Deputyship
To set up	£92 to register each LPA	£432 to apply (for each type)

Cost	Lasting Power of Attorney	Deputyship
Hearing	none	£266, only if the court holds one
On appointment	none	£100 assessment fee, plus a security bond if required
Every year	none	£320 supervision, or £35 for minimal supervision
Typical time	8 to 10 weeks to register	a median of about 16 weeks in 2025

Minimal supervision applies to some property and affairs deputies managing less than £21,000. The security bond is an insurance policy that protects the person's money; its cost depends on the value of the estate. If you use a solicitor, their fees are on top.

What a deputy must do

- act only within the powers in the court order
- make decisions in the person's best interests, involving them as much as possible
- keep the person's money separate from your own, with clear records and receipts
- send an annual report to the OPG explaining the decisions you have made
- accept supervision, including visits from the OPG
- make gifts only if the court order allows them, keep them reasonable, and apply to the court for anything larger

Family deputies can claim expenses such as phone calls, postage and travel needed for the role, but not for their time or for social visits.

Managing while the application is going through

- Tell the care provider and the council that a deputyship application is under way; most will work with you.
- Become a DWP appointee if benefits need managing in the meantime.
- Keep a record of bills paid and money spent on the person's behalf.

- In an emergency, for example where a care placement or home is at risk, ask the court whether an urgent application is possible.

Common mistakes to avoid

- **Waiting for a crisis.** The process takes months, and care fees keep arriving.
- **Assuming next of kin can decide.** Being a relative gives no legal authority over money.
- **Missing the three-month deadline** after notifying people, which means starting again.
- **Not checking for an old EPA** in the person's papers before you apply.
- **Mixing money,** even briefly, between your account and theirs.

What to do next

1. Search the OPG registers to check for an existing LPA, EPA or deputy.
2. Ask whether the person could still make an LPA, and act quickly if so.
3. If only benefits need managing, apply to become an appointee.
4. Otherwise, start the deputyship application: notify the person and three others, and book the capacity assessment.
5. Keep the care provider and council informed while you wait.

How we can help

Arranging care while a deputyship application is under way can feel like a lot to hold at once. We provide fully managed live-in care anywhere in England, from £1,550 a week, and home care across Oxfordshire, with a written quote after a free initial assessment that you can share with the council or other family members. Call us on 01865 715780.

Common questions

Can I just use my parent's bank account if they have lost capacity?

No. Without a registered Lasting Power of Attorney, an enduring power of attorney or a deputyship order, you have no legal authority to manage someone else's money, even as their child or spouse, and a bank may freeze a sole account once it knows the holder lacks capacity. Joint accounts are handled differently by different banks, so ask yours. If only benefits need managing, you can apply to the Department for Work and Pensions to become an appointee instead.

How long does it take to become a deputy?

Several months. Ministry of Justice figures for 2025 show property and affairs deputyship applications took a median of 15.6 weeks, and a mean of 23.9 weeks, from receipt to final order. Before that, you need time to notify people and get a capacity assessment, and delays are longer if forms are incomplete or someone objects. Registering a Lasting Power of Attorney, by comparison, takes 8 to 10 weeks if there are no mistakes.

Who pays the deputyship fees?

For a property and affairs deputyship, you can claim the £432 application fee back from the person's own money, and the security bond can be paid from their money or repaid to you from it once you have access. Help is available: you may not have to pay the application fee, depending on the person's finances for a property and affairs application or yours for a personal welfare one, and supervision fees can be reduced or waived if the person receives certain benefits or has an income below £12,000.

Do I need a deputy to make decisions about care?

Usually not. Day-to-day care and health decisions for someone who lacks capacity are normally made in their best interests by the professionals involved, who must consult the family. The court appoints a personal welfare deputy only in limited situations, for example where the family disagree about care, or where decisions about something like where the person lives will be needed over time. A property and affairs deputyship is far more common, because money cannot be managed without legal authority.

Can the person still make a Lasting Power of Attorney instead?
Possibly. Capacity is decision-specific and can vary, so someone with early dementia may still have the capacity to make an LPA even if they struggle with complex finances. The certificate provider must be satisfied that they understand what they are signing. If there is a chance, act quickly: an LPA costs £92 to register, takes about 8 to 10 weeks and lets the person choose who acts for them.

Sources and further information

- GOV.UK: Become a deputy
- GOV.UK: Deputy fees
- GOV.UK: Apply to be a property and financial affairs deputy
- GOV.UK: Apply to be a personal welfare deputy
- GOV.UK: Register a lasting power of attorney
- GOV.UK: Find out if someone has an attorney, deputy or guardian
- UK Parliament: written answer on Court of Protection deputyship waiting times (1 June 2026)
- GOV.UK: Become an appointee for someone claiming benefits

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PAYING FOR CARE AND REDUCING THE COST

Paying for care from savings and property: a family guide

How self-funding care works in England in 2026/27: planning a care budget, how the home is treated for care at home versus a care home, deferred payment agreements, equity release and care annuities, gifts and deprivation of assets, and where to find regulated advice.

Read the guide →

All guides in the information centre **Check what help you could get**

This page online: **www.dayandnightcare.co.uk/guides/deputyship-when-there-is-no-lpa/**

LEGAL MATTERS AND PLANNING AHEAD

What to do when someone dies: a practical guide for families

Last updated 30 October 2026; sources last checked 30 October 2026.

IN BRIEF

When someone dies there is usually no need to rush: if the death was expected, call the GP practice, the out-of-hours service or the nursing team rather than 999, and if it was sudden or unexpected, call 999. A medical examiner checks the cause of death, then you register the death within five days of being told you can, and the registrar gives you a reference number to tell most government departments at once through Tell Us Once. Care services, equipment, benefits and contracts need to be told too, and this guide lists them.



IN THIS GUIDE

1. In the first hours
2. The medical examiner
3. Registering the death
4. Tell Us Once
5. Ending care, equipment and benefits
6. Banks, bills and the estate
7. The funeral
8. Looking after yourself
9. A checklist for the first two weeks
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In the first hours

There is usually no need to hurry. Take the time you need to sit with the person, say goodbye and follow any religious or cultural wishes.

If the death was expected and happened at home, there is no need to call 999. Phone the GP practice, or its out-of-hours number, or the district nursing or hospice team if they were involved. A doctor or nurse will come to confirm the death. Once that is done, contact a funeral director when you feel ready; most offer a 24-hour service.

If the death was sudden or unexpected, call 999. The police usually attend an unexpected death as a matter of routine, and the death may be reported to a coroner. This does not mean anyone has done anything wrong.

If the person died in hospital or a hospice, staff will explain what happens next. Many hospitals have a bereavement office that will contact you about collecting belongings and the next steps. The person stays in the hospital's care until the funeral director collects them.

If care workers or a live-in carer were there, they can help with these first steps and let their office know. If they were not there, tell the care provider as soon as you can, so visits stop.

The medical examiner

Since 9 September 2024, deaths in England and Wales that are not investigated by a coroner are reviewed by a medical examiner: a senior doctor who was not involved in the person's care. The person's own doctor first confirms the death and contacts the medical examiner, which can take a few days.

The medical examiner's office will then contact you to explain the cause of death and answer any questions about it or the care given. You do not have to speak to them, but many families find it helpful. Then they confirm that you can register the death.

If the death is reported to a coroner, the process is different and may take longer. The Coroners' Courts Support Service gives free help on 0300 111 2141 (Monday to Friday, 9am to 7pm; Saturday, 9am to 2pm).

Registering the death

You must register the death **within 5 days** of the medical examiner's office confirming you can, including weekends and bank holidays. If you need longer, tell the register office straight away.

Contact a register office to book. You can use any register office in England and Wales, but the one for the area where the person died is usually quicker.

Information the registrar will ask for:

- the person's full name at the time of death, and any previous names
- their date and place of birth, and their last address
- their occupation
- the full name, date of birth and occupation of any surviving or late spouse or civil partner
- whether they got a State Pension or other benefits

Documents to take if you have them: birth certificate, marriage or civil partnership certificate, NHS card, passport, driving licence, Council Tax bill and proof of address. Ask the register office what to do if some are missing.

You will receive:

- the **certificate for burial or cremation** (the "green form"), which the funeral director needs before the funeral
- the chance to buy **death certificates** at £12.50 each
- a **Tell Us Once** reference number

Tell Us Once

Tell Us Once lets you report the death to most government organisations in one go, online or by phone, using the reference from the registrar. Use it **within 28 days**. It tells HMRC, the Department for Work and Pensions (DWP), HM Passport Office, the DVLA, the local council (Council Tax, Blue Badge, Housing Benefit and the electoral register), Veterans UK and some public sector pension schemes.

Have ready: the person's National Insurance number, passport and driving licence numbers, details of benefits and pensions, and the name and contact details of the executor. Get permission from anyone else whose details you give, such as a surviving partner.

Ending care, equipment and benefits

- [ ] **The care provider:** confirm the date care ended and ask in writing how the final invoice is worked out. Our guide to care contracts explains what is fair.
- [ ] **The council's adult social care team,** if it arranged or funded care. Any assessed charges owed up to the date of death are usually recovered from the estate. If the person had **direct payments**, unspent money usually has to be returned.
- [ ] **The integrated care board (ICB),** if care was funded by NHS Continuing Healthcare.
- [ ] **The equipment loan service,** to collect hospital beds, hoists, commodes and other loaned equipment. The number is usually on a label.
- [ ] **The pharmacy:** return unused medicines rather than throwing them away.
- [ ] **The GP surgery and hospitals:** cancel any appointments.
- [ ] **The personal alarm or telecare provider.**
- [ ] **The DWP Bereavement Service** (0800 151 2012, Monday to Friday, 8am to 6pm), if you did not use Tell Us Once.
- [ ] **The Office of the Public Guardian** (0300 456 0300), if there was a Lasting Power of Attorney or deputyship.

If you were the main carer, Carer's Allowance can usually continue for up to eight weeks after the death, if you still meet the other conditions. Universal Credit's carer element usually continues for the rest of that assessment period and the next two.

If a live-in carer was there, talk to the provider about when the carer will leave. If a surviving partner also needs support, ask whether care can continue for them; see live-in care for couples.

Banks, bills and the estate

- **Banks, building societies, pensions, insurers and utility companies** need telling. The free Death Notification Service lets you tell several banks at once.
- **Powers of attorney and deputyship end at death.** The executor named in the will, or an administrator if there is no will, now deals with the money and property.

- **Probate** (a "grant of representation") is often needed to deal with property, larger savings and investments. The fee is £526 if the estate is worth more than £5,000, and nothing if it is £5,000 or less. The grant usually arrives within 12 weeks of applying.
- **A surviving partner under State Pension age** may get Bereavement Support Payment, if the person who died paid enough National Insurance: up to £3,500 plus 18 monthly payments of £350 for those getting Child Benefit or pregnant, otherwise up to £2,500 plus 18 payments of £100 for married couples and civil partners. Claim within 3 months of the death to receive the full amount.

The funeral

You can use a funeral director or arrange the funeral yourself. Funeral directors must publish a price list for their standard services, so it is fine to compare. Check whether the person had a prepaid funeral plan or life insurance. Many banks will pay a funeral director's invoice directly from the person's account before probate, so ask. If nobody is able to arrange a funeral, the council will.

Looking after yourself

Grief can be overwhelming, and tiredness after months of caring can hit hard. Be gentle with yourself, and accept help with the practical tasks.

- **Cruse Bereavement Support:** 0808 808 1677 (Monday, Wednesday, Thursday and Friday, 9.30am to 5pm; Tuesday, 1pm to 8pm).
- **Marie Curie Support Line:** 0800 090 2309 (Monday to Friday, 8am to 6pm; weekends, 10am to 4pm).
- **Samaritans:** 116 123, any time.
- **Your GP,** if grief is affecting your sleep, health or ability to cope.

A checklist for the first two weeks

1. Have the death confirmed by a doctor or nurse.
2. Contact a funeral director when you are ready.
3. Wait for the medical examiner's office to confirm you can register.
4. Register the death within 5 days and buy several certificates.
5. Use Tell Us Once within 28 days.
6. Tell the care provider, council, equipment service and pharmacy.

7. Find the will and tell the executor.
8. Tell banks, pension providers and insurers.

How we can help

If someone in the family needs support after a bereavement, such as a surviving partner who now lives alone, we are here when you are ready. We provide live-in care anywhere in England, from £1,550 a week, and home care across Oxfordshire. You can call us on 01865 715780 for a no-obligation conversation and a free initial assessment.

Common questions

Who should register a death?

A relative should register the death if possible. If no relative can, it can be registered by someone who was there at the time of death, a hospital administrator if the person died in hospital, or the person arranging the funeral. You can contact any register office in England and Wales, but it is usually quicker to use the one for the area where the person died. The register office will tell you how to book and what to bring.

How many death certificates will I need?

Most families need several, because banks, building societies, pension providers, insurers and the probate service may each ask for a certified copy, and photocopies are usually not accepted. Certificates cost £12.50 each, whether you buy them when you register or order them later from the General Register Office (0300 123 1837). Buying a few at registration saves waiting while you sort out the person's affairs. Some organisations will return a certificate after checking it, so ask.

What happens to a Lasting Power of Attorney when someone dies?

It ends at the moment of death, and so does a deputyship. Attorneys and deputies can no longer use the person's accounts or make decisions for them. From then on, the estate is dealt with by the executor named in the will or, if there is no will, by an administrator. Let the Office of the Public Guardian (0300 456 0300) know, so that the LPA can be cancelled, and tell the bank that the attorney's authority has ended.

Do we have to pay care fees after someone has died?

You may have to pay for care already given, and for any notice period that the contract fairly requires, from the person's estate. Fees for care provided before the death are a debt of the estate. The Competition and Markets Authority has said that terms requiring care home fees to be paid for extended periods after a death are likely to be unfair. Read the contract, ask the provider in writing how the final invoice is worked out, and question anything that seems excessive.

Can we get help with funeral costs?

Yes, if you get certain benefits and are responsible for the funeral. A Funeral Expenses Payment can help with burial or cremation fees and other costs, including up to £1,000 for things like the funeral director's fees, if you or your partner get Universal Credit, Pension Credit, Housing Benefit or income-related ESA. Claim within 6 months of the funeral through the DWP Bereavement Service on 0800 151 2012. Any payment is deducted from money you later receive from the person's estate.

Sources and further information

- GOV.UK: What to do after someone dies
- GOV.UK: Register a death
- GOV.UK: Order a birth, death, marriage or civil partnership certificate
- GOV.UK: Get help with funeral costs (Funeral Expenses Payment)
- GOV.UK: Bereavement Support Payment
- GOV.UK: Applying for probate
- Carers UK: Carer's Allowance and breaks in care
- Cruse Bereavement Support: Helpline

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LEGAL MATTERS AND PLANNING AHEAD

Planning end of life care at home: a gentle guide

How to plan end of life care at home in England: choosing to die at home, the team around you (GP, district nurses, hospice at home, live-in carers), just in case medicines, NHS Continuing Healthcare Fast Track, preparing practically and emotionally, and what to do when someone dies.

Read the guide →

LEGAL MATTERS AND PLANNING AHEAD

Advance care planning: making your wishes known

A gentle guide to advance care planning in England: advance statements, advance decisions to refuse treatment, ReSPECT forms and DNACPR decisions, choosing your preferred place of care, and how to start the conversation with family and professionals.

Read the guide →

CHOOSING LIVE-IN CARE

Care contracts: what to check before you sign

What to look for in a home care or live-in care contract in England, based on consumer law and the CMA's guidance on care contracts: fees and increases, extra charges, deposits, notice, hospital stays, cancellation rights, liability and complaints.

Read the guide →

All guides in the information centre Check what help you could get

This page online: **www.dayandnightcare.co.uk/guides/what-to-do-when-someone-dies/**