



# Mental Capacity Act 2005

## 2005 CHAPTER 9

### PART 1

#### PERSONS WHO LACK CAPACITY

##### *General powers of the court and appointment of deputies*

#### **16 Powers to make decisions and appoint deputies: general**

- (1) This section applies if a person (“P”) lacks capacity in relation to a matter or matters concerning—
  - (a) P's personal welfare, or
  - (b) P's property and affairs.
- (2) The court may—
  - (a) by making an order, make the decision or decisions on P's behalf in relation to the matter or matters, or
  - (b) appoint a person (a “deputy”) to make decisions on P's behalf in relation to the matter or matters.
- (3) The powers of the court under this section are subject to the provisions of this Act and, in particular, to sections 1 (the principles) and 4 (best interests).
- (4) When deciding whether it is in P's best interests to appoint a deputy, the court must have regard (in addition to the matters mentioned in section 4) to the principles that—
  - (a) a decision by the court is to be preferred to the appointment of a deputy to make a decision, and
  - (b) the powers conferred on a deputy should be as limited in scope and duration as is reasonably practicable in the circumstances.
- (5) The court may make such further orders or give such directions, and confer on a deputy such powers or impose on him such duties, as it thinks necessary or expedient for giving effect to, or otherwise in connection with, an order or appointment made by it under subsection (2).

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*Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 16. (See end of Document for details)*

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- (6) Without prejudice to section 4, the court may make the order, give the directions or make the appointment on such terms as it considers are in P's best interests, even though no application is before the court for an order, directions or an appointment on those terms.
- (7) An order of the court may be varied or discharged by a subsequent order.
- (8) The court may, in particular, revoke the appointment of a deputy or vary the powers conferred on him if it is satisfied that the deputy—
  - (a) has behaved, or is behaving, in a way that contravenes the authority conferred on him by the court or is not in P's best interests, or
  - (b) proposes to behave in a way that would contravene that authority or would not be in P's best interests.

**Changes to legislation:**

There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 16.