



Mental Capacity Act 2005

2005 CHAPTER 9

PART 2

THE COURT OF PROTECTION AND THE PUBLIC GUARDIAN

The Public Guardian

58 Functions of the Public Guardian

- (1) The Public Guardian has the following functions—
- (a) establishing and maintaining a register of lasting powers of attorney,
 - (b) establishing and maintaining a register of orders appointing deputies,
 - (c) supervising deputies appointed by the court,
 - (d) directing a Court of Protection Visitor to visit—
 - (i) a donee of a lasting power of attorney,
 - (ii) a deputy appointed by the court, or
 - (iii) the person granting the power of attorney or for whom the deputy is appointed (“P”),and to make a report to the Public Guardian on such matters as he may direct,
 - (e) receiving security which the court requires a person to give for the discharge of his functions,
 - (f) receiving reports from donees of lasting powers of attorney and deputies appointed by the court,
 - (g) reporting to the court on such matters relating to proceedings under this Act as the court requires,
 - (h) dealing with representations (including complaints) about the way in which a donee of a lasting power of attorney or a deputy appointed by the court is exercising his powers,
 - (i) publishing, in any manner the Public Guardian thinks appropriate, any information he thinks appropriate about the discharge of his functions.

Status: This is the original version (as it was originally enacted).

- (2) The functions conferred by subsection (1)(c) and (h) may be discharged in co-operation with any other person who has functions in relation to the care or treatment of P.
- (3) The Lord Chancellor may by regulations make provision—
 - (a) conferring on the Public Guardian other functions in connection with this Act;
 - (b) in connection with the discharge by the Public Guardian of his functions.
- (4) Regulations made under subsection (3)(b) may in particular make provision as to—
 - (a) the giving of security by deputies appointed by the court and the enforcement and discharge of security so given;
 - (b) the fees which may be charged by the Public Guardian;
 - (c) the way in which, and funds from which, such fees are to be paid;
 - (d) exemptions from and reductions in such fees;
 - (e) remission of such fees in whole or in part;
 - (f) the making of reports to the Public Guardian by deputies appointed by the court and others who are directed by the court to carry out any transaction for a person who lacks capacity.
- (5) For the purpose of enabling him to carry out his functions, the Public Guardian may, at all reasonable times, examine and take copies of—
 - (a) any health record,
 - (b) any record of, or held by, a local authority and compiled in connection with a social services function, and
 - (c) any record held by a person registered under Part 2 of the Care Standards Act 2000 (c. 14),
so far as the record relates to P.
- (6) The Public Guardian may also for that purpose interview P in private.