

Taking Part in the Court of Protection

Introduction

People who are affected by decisions need to be a part of making the decision.



There is not much information about how people can take part in the Court of Protection.



The Court of Protection may decide how you can take part and so it helps to make it clear what support you would need.



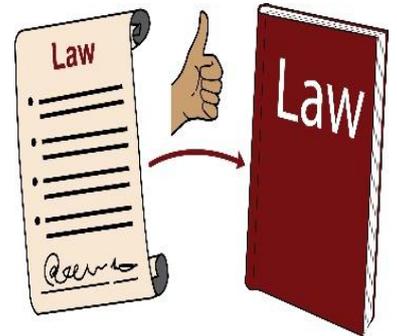
This document gives information about:

- The Court of Protection and what it does
- How you can take part in your case
- What can be done to help you take part



What is the Court of Protection?

The Court of Protection is the court that is used when people cannot agree about a person's **mental capacity**. This comes under the law called the Mental Capacity Act 2005. This is a law that sets out when a person can be found not to have the **mental capacity** to make a decision.



Mental Capacity: having mental capacity means a person can make decisions about their life. Not having mental capacity means that a person cannot make a decision on their own and that someone may need to make decisions for them.

Even if a person is found not to have mental capacity, they should still be supported to make their own decision, where possible.



The Court of Protection can decide whether a person has or does not have the mental capacity to make a decision. When a person is found not to have mental capacity to make a decision, the Court of Protection can make the decision for them.

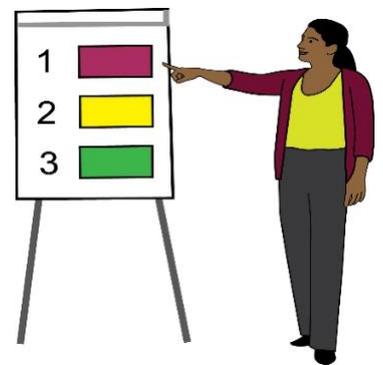


The Court must make the decision by looking at what is the best decision for that person.



There are many different types of cases that come to the Court of Protection, they include:

- Decisions about medical treatment
- Decisions about a person meeting a friend or family member
- Decisions about relationships
- Decisions about where to live
- Decisions about **property** and a person's money



Property: these are things that people own, it could be a house, a car or something smaller.

You might also be asked to take part in a **mediation** of your case. If this happens, you have a right to take part in a way that supports your needs.



Mediation: is a way of helping people agree something.

Why is it good for you to take part?

It is good because:

- The court will hear from you. This means that the decision is more likely to be the right decision for you.

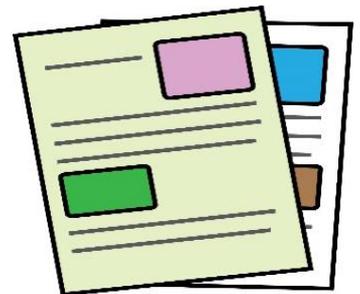


- Hearing from you can sometimes change the decision that the court makes.

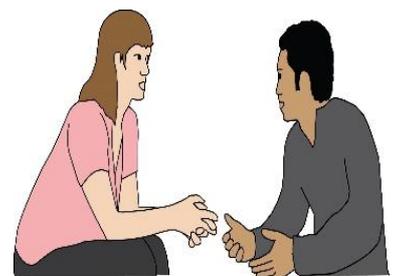


- If you can take part you are more likely to follow what the Court decides. Even if the decision is not what you want.

- Hearing from you will also give the Court more information that can be used to make the decision.



- To make the process fair, you must have the chance to have your voice heard.



You can take part in many ways

There are many different ways you can take part. At the moment because of coronavirus most cases are having **remote hearings**, so you are unlikely to go into court.



Remote hearings: this means a meeting of the court by telephone or using a computer, instead of being in the court room.

Some of the most common ways to take part are:

1. You can bring your own case to court.



2. You can have a **legal representative or litigation friend** to tell the court what your wishes are.



Legal representative: this means your lawyer or the person helping to prepare your legal case.

Litigation friend: this means a person who can help you to have your voice heard in the court case if you do not have mental capacity to run the case yourself.

3. You can have someone else tell the court about your wishes. This could be a social worker or family member.



4. You can go to court yourself and watch and listen.



5. You can give written information to the court.



6. You can go to the court to speak and give **evidence**.

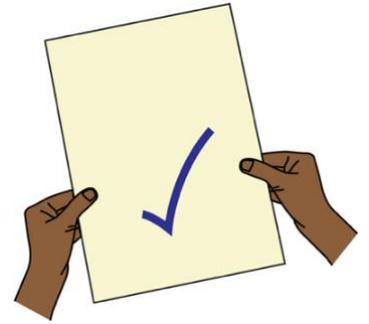


Evidence: this is something that can be used to prove a point or back up an opinion.

7. The judge could ask to meet you outside of court, such as at home or in a hospital. This is unlikely to happen at the moment because of the coronavirus.



There are ways to make sure that you can take part, if you want to. Your support needs should be met so that you can take part properly.



Speak to someone who you trust to support you to take part. This may include:



- Your legal representative or litigation friend
- A health or care professional
- An **advocate**
- A friend or family member
- Any other person that you trust



Advocate: this is a person who can speak up for another person and make sure they can use their rights.

Try to make your wishes clear that you would like to take part in the case and that you may need support to do this.



How can you be supported to take part?

Special measures can be used to make the experience of going to court and speaking, better. You can ask your lawyer or litigation friend to ask the court to use these to help you take part.



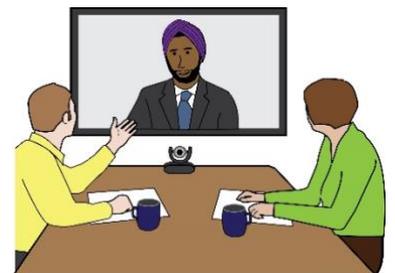
Special measures: these are changes that the court can make and support that people can get to meet their access needs.

Some examples are:

1. **Familiarisation visits**, this is when you go to court a few days before the court date, to get used to the place.



2. Giving **pre-recorded evidence**, this means that what you say is recorded before the day in court. This is so that you do not have to give evidence in the court room.



3. **Giving evidence by live link**, this means that you give evidence on video from another place. This is so that you don't have to be in the court room.



4. Using **intermediaries**, these are people who can help with communication needs and support you to give evidence.



5. You can ask for an **interpreter** if you need one to understand what is going on. An interpreter is someone who changes what someone is saying into another language.



Taking part in the Court of Protection is an important part of **justice**.

Justice: this means being treated by the law in a fair way and with respect. It also means being able to use the law in the same way as everyone else.

Remember: you can ask to take part in any way that you want.



People First	The images used in this document come from the People First (Self Advocacy) Picture Bank
	

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