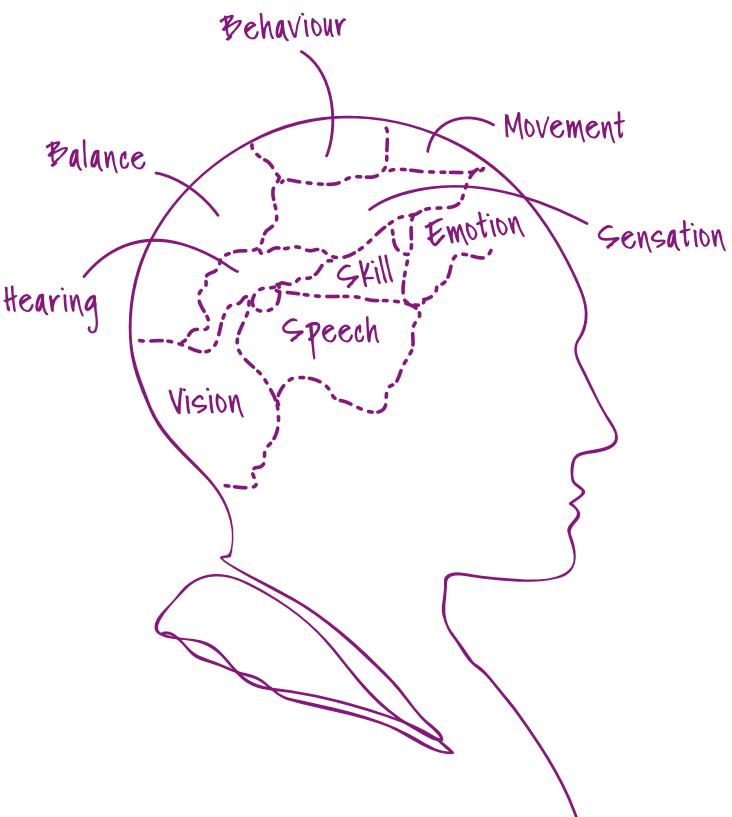


Our **Court of Protection** specialists ensure our client's affairs are safeguarded where they lack capacity to make decisions for themselves. We work in a considered, clear & supportive way, for the benefit of our client's long-term welfare.



Considered,  
clear &  
supportive

## **What is the Court of Protection?**

The Court of Protection is the Court that has the jurisdiction to make decisions on behalf of those who lack capacity to make decisions for themselves.

The Court of Protection can make decisions in respect of a person's property and affairs as well as a person's welfare.

## **Who is affected by the Court of Protection?**

Most people go about their daily lives making their own decisions for themselves.

The law provides a presumption of capacity, so that we are assumed to be able to make our own decisions. When a person lacks capacity to make decisions, the involvement of the Court of Protection is usually necessary, especially where there is property involved. The Court plays a vital role in ensuring that a person's affairs can be safeguarded and managed for that person's benefit. The Court of Protection will also accept jurisdiction in respect of a child's property and affairs if it is likely that the child will still lack capacity after reaching the age of 18.

## **What decisions can the Court make?**

The Court of Protection has very wide powers to make decisions in respect of welfare; however most cases relate to a person's property and affairs.

Where possible, the Court will not involve itself in day-to-day matters but provide a framework so that a person's affairs can be managed efficiently and sensitively in the best interests of the person concerned. The Court does this by appointing an individual, known as a Deputy, who has the Court's authority to act as the agent of the person who lacks capacity.

“Those involved in a person’s day-to-day care have the most difficult task, but the Deputy will aim to ensure that there is one less thing to worry about.”

## What is the role of the Deputy?

The Deputy will generally have a great deal of autonomy to carry out the vital role of dealing with a person’s property and affairs, so there is no need to keep going back to the Court on a regular basis. This role does, however, entail a great deal of responsibility.

A Deputy must:

- keep accounts and report each year to the Public Guardian
- make decisions in the best interests of the person concerned (but cannot make decisions which the person has capacity to make)
- deal with property issues, investments, paying carers and other outgoings
- deal with benefits and taxation matters
- work with the person concerned involving him or her as much as circumstances permit
- work with family, carers, case managers, social services and Court of Protection Visitors to support the person’s welfare. Where the person concerned has been the victim of medical negligence or a serious accident, the role of a Deputy is especially important. An experienced Deputy will work with the person concerned, as well as with family and carers, to ensure that a damages award or compensation payment is used effectively and that a balance is made between immediate and long-term needs.

The Deputy’s role may appear uneventful – paying bills, preparing accounts, completing tax returns and benefit claims – but it is a vital one and ensures that all the elements of a person’s life are taken care of. Sometimes a Deputy provides a reassuring hand when needed; at other times the Deputy may have a great deal more to do in ensuring that a care regime is set up and funded or dealing with the purchase and adaptation of a property.

**“first-class and friendly contact at all levels.”**

Client

## **How can we help?**

**The importance of the role of the Deputy is acknowledged by the Courts when awarding damages. While a relative can take on this role, this is rarely done and the Courts accept that it is an onerous task.**

We have experience of numerous cases where family members have been appointed to act and have subsequently had to relinquish the role with serious cost implications. It is not just that very large sums of money are involved. It is generally better for all those concerned – practically and emotionally – for an independent professional with the requisite skills and aptitude to take on this role. For this reason, the costs of a professional Deputy (and all other related expenses) are allowed as an item of special damage, so that the costs of the Deputy are covered by the claim. However, it goes without saying that the choice of Deputy is an important one and the right Deputy with the right skills, experience and support can make all the difference.

## **About us**

**Thomson Snell & Passmore is uniquely placed to provide the best possible service in this area of practice.**

It is not just about skills and technical ability but about the culture of the firm and the approach we bring to this area. Thomson Snell & Passmore has been advising families for generations, acting for clients throughout the South East and further afield providing a service that is professional, friendly and personal.

Unlike many other firms, we also have a specialist personal injury department and are experts in acting for people who have suffered catastrophic injuries. We fully appreciate the importance of dealing sensitively with injured parties as individuals as well as dealing with their families, carers and financial affairs.

“We are of a size that we can offer a dedicated Court of Protection team, something that very few firms can claim.”

## The Court of Protection team at Thomson Snell & Passmore

Our dedicated Court of Protection team offers a wide range of expertise in this complex area of legal practice.

Partners Eddie Fardell and Martin Terrell are acknowledged experts and act personally as Deputies. Both are on the panel of recognised Professional Deputies. They are supported by experienced lawyers and other assistants to ensure that work is carried out at the right level and dealt with efficiently and cost-effectively. Few firms are able to offer a team of over ten experienced practitioners in this field.

Not only do we act individually as Deputies, but we also act for:

- relatives and close friends who wish to take on the role of Deputy or require assistance in carrying out their responsibilities
- individuals with capacity who wish to delegate future decision-making powers through Lasting Powers of Attorney
- attorneys acting under Enduring Powers of Attorney and Lasting Powers of Attorney
- individuals who are involved in applications to the Court of Protection, including applications for gifts, settlements and wills
- parties involved in disputes and contested applications to the Court of Protection
- elderly and disabled clients who require assistance with their affairs
- clients with capacity who receive damages awards and have them held in trust
- trustees of settlements created for beneficiaries who are vulnerable or who lack capacity
- families and individuals making wills, setting up trusts or addressing tax issues whether for themselves or for relatives who lack capacity or who have special needs
- other firms of lawyers, providing expert witness statements and evidence relating to the involvement of the Court of Protection.

## Principal contacts

Our work is based around people: the people we act for and the people we are as individuals and lawyers.



The Department is headed by Eddie Fardell who joined the practice in 1976 and has been a partner since 1990. He is a very experienced professional Deputy and acts for well over one hundred individuals as a Deputy, the majority of whom have suffered a catastrophic injury. Email: [eddie.fardell@ts-p.co.uk](mailto:eddie.fardell@ts-p.co.uk)



Martin Terrell qualified in 1991 and joined the Department as a partner in 2008, bringing his own considerable experience and expertise to the firm. He writes and lectures extensively, contributing to the main publications in this field and is the author of the third edition of A Practitioner's Guide to the Court of Protection (Tottel, third edition). He is a Vice Chairman of Solicitors for the Elderly. Email: [martin.terrell@ts-p.co.uk](mailto:martin.terrell@ts-p.co.uk)

Both our partners are often called to give expert evidence on Court of Protection proceedings and related costs and are members of the Court of Protection User Group.

The Department also consists of several lawyers and assistants who offer an impressive range of expertise and experience.

Clients benefit from the support and collective experience of the firm. As well as Court of Protection, we offer a strong network of lawyers to provide a comprehensive legal service. We regularly publish information sheets covering all aspects of private client law and the Court of Protection. These information sheets and further contact details of our team with individual profiles are all available on our website at [www.ts-p.co.uk](http://www.ts-p.co.uk)

For further information on Court of Protection please contact Eddie Fardell or Martin Terrell direct.

Thomson Snell & Passmore is a law firm with a reputation for providing high quality, intelligent advice. We provide a comprehensive legal service and build long-term relationships by encouraging a culture of respect, understanding and excellence. **It's a common sense approach that's surprisingly uncommon.**

Member of the Society of Trust & Estate Practitioners

Member of the Court of Protection Professional Deputies Panel

Member of Solicitors for the Elderly

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