

*Court of Protection orders and court-appointed deputies*

2005, c 9  
SI 2007/1253

5.3.97 Under the Mental Capacity Act 2005 (and related Regulations), the Court of Protection will be able to make an order concerning a single decision in cases where a one-off decision is required regarding someone who lacks capacity. The Court can also appoint a deputy or deputies (previously referred to as receivers) where it is satisfied that a series of decisions needs to be made for a person who lacks capacity.

MLRs 28.10  
5.3.97A

When the Court of Protection (or equivalent in Scotland and Northern Ireland) appoints a deputy, such as a local authority/NHS trust or professional deputy (e.g. a firm of solicitors), that deputy is acting on behalf of the customer. Firms should verify the deputy's identity and their authority to act on the customer's behalf.

The deputy may nominate an authorised officer (such as a professional carer) to access or to close an account. A firm may, under its risk-based approach and as an anti-fraud check, take appropriate and proportionate measures to verify the identity of the authorised officer and to verify their authority to act. Firms should focus due diligence on the authorised officer in their professional capacity (e.g. business address should be recorded not residential address), rather than in their personal capacity, unless considered relevant.

Firms should take account of FCA guidance on achieving good outcomes for customers with characteristics of vulnerability.

5.3.98 Firms may accept the court documents appointing the deputy, or concerning a single act, as evidence of authority of the person appointed.

*Attorneys*

5.3.99 When a person deals with assets under a power of attorney, that person is also a customer of the firm. Consequently, the identity of holders of powers of attorney should be verified, in addition to that of the donor. In the case of a joint and several power of attorney, the identity of the person acting separately may be verified on its own, without the need to verify the identity of all persons when they are not acting jointly.

When a person holds a power of attorney in a professional capacity (such as a solicitor), firms should focus due diligence on that person in their professional capacity, rather than in their personal capacity, unless considered relevant.