

Financial and legal tips

Northern Ireland
factsheet
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When you're diagnosed with dementia, there will come a time when you no longer have the ability (known as 'mental capacity') to make some decisions for yourself. This means it's a good idea to get your financial and legal affairs in order while you are still able to. This can make it easier for you to manage things as your dementia progresses. It also means you'll get to decide how your affairs will be managed in the future, and who will do this. As well as giving you peace of mind, this can make things easier for those close to you.

This factsheet gives tips and advice on handling your financial and legal matters, and suggests ways that you can find more information. This factsheet is for people living in Northern Ireland. In England and Wales different laws apply, so some of the arrangements there will be different.

The law in Northern Ireland in relation to mental capacity is set to change. However, at the time of publication it's not possible to say for certain when that will be. The changes will affect the law regarding Enduring powers of attorney, controllership and advance decisions, which are all dealt with in this factsheet.

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Financial and legal tips

Sorting out your paperwork

It can be a good idea to get all your financial and legal papers in order. Take time to ensure that all your important documents, including any saved electronically, can be found easily. This can also make it easier for someone who is helping you manage your affairs, or who might be managing them in the future if you no longer have the ability to do so.

Your paperwork might include:

- bank and building society statements
- records of mortgage or rent, insurance policies
- your will and Enduring power of attorney (if you have them)
- tax and pension details
- utility bills
- any guarantees.

You could ask someone you trust to help you do this. If you own your home, you should also make a note of where your title deeds are located. These are often held by your solicitor or by your mortgage lender even if you have paid off your mortgage.

Managing your money

There are a few things you can do now that can make managing your finances easier. These include sorting out your bank account and your benefits.

Bank accounts

You may have your own bank account, or you may have a joint bank account with someone else.

- **Joint accounts** – these allow two or more people (the ‘account holders’) to manage all aspects of the account, including paying bills. You might have a joint account with your partner, another family member or someone you have shared expenses with.

Some banks won’t allow a joint bank account to continue if one of the account holders loses the mental capacity to manage it. If this happens, the bank may stop or ‘freeze’ your account unless or until someone has the legal power to act on your behalf. This would usually be someone with an Enduring power of attorney or controllership – see pages 6 and 10 for more information about these.

- **Individual accounts** – it might be easier to have your own bank account. This means your pension, salary or benefits would be paid directly into your account. Your payments would also go out from this account.

Having your own bank account can also make it easier to manage your money when it comes to paying for care. This is because the local Health and Social Care (HSC) trust should only look at how much money the person who receives the care has, and not how much money their partner or anyone else has.

If you want to have your own bank account but you would like someone – like a close relative or friend – to help you manage it, ask your bank for a ‘third-party mandate’. This allows someone else to sign cheques and manage your account for you. Think carefully about who you ask to do this – it should be someone you know well and trust.

A third-party mandate is only valid while you are able or 'have the capacity' to manage your own account. If you lose that ability, the mandate will stop and the person will no longer be able to help you with your account. It would then be necessary for someone with an Enduring power of attorney or controllership to step in to manage the account on your behalf.

Your bank may also be able to advise you on ways to keep control of your cash and make paying for things easier. They may offer different payment options such as online banking and contactless. For more information see booklet 1501, **Managing your money**.

Benefits

You should make sure that you're getting all the benefits you're entitled to, as should anyone who cares for you.

For more information on what benefits are available see factsheet 413, **Benefits for people affected by dementia**. You can also check with the Benefit Enquiry Line, the nidirect government website or your local Citizens Advice. See 'Other useful organisations' on page 13.

For more information about the different ways that benefits can be paid and how to have someone help you manage them, see booklet 1501, **Managing your money**.

Planning ahead

There are different ways that you can plan for your future. These include appointing people to make decisions for you when you can no longer make them yourself, making a will, and making your wishes for your future care clear.

Enduring power of attorney

It can be a good idea to think about how your finances and other affairs will be managed if you can no longer manage them yourself. Creating an Enduring power of attorney (EPA) is a way to do this. It means you can give the legal power to one or more people, the 'attorneys', to manage your finances and property when you're no longer able to. You can choose whether you want your attorneys to act jointly or individually.

It can be reassuring to know that you have given power to someone you trust to do this for you. It can also make things easier for those close to you in the future.

An EPA can come into effect immediately. Your attorney(s) can start managing your affairs on your behalf right away, even if you're still able to do that yourself. You don't have to choose this option, but it can be a way of giving yourself some extra support. Alternatively, you can continue to manage things yourself while you can and then later, if you become unable to, your attorney(s) can take over.

For more information see factsheet NI472, **Enduring power of attorney and controllership**.

Trusts

If you have assets such as property or savings, you may be able to set up a trust. This is a legal arrangement that allows someone else to manage these assets for you, in line with your wishes. It will make sure your money is used how you want it to be. The trust could also include money used to pay for your care or where you live in the future.

There are several types of trust and different ways to arrange them. Setting up a trust can be complicated and expensive because there are specific rules attached to them. It isn't something everyone can do, so if you're thinking of setting one up you should talk to a solicitor. For more information see 'Finding a solicitor' on page 13.

Making a will

If you make an Enduring power of attorney, it will automatically come to an end when you die. If you want to plan what will happen to the things you own after you die, you need to make a will. If you already have a will, you may want to update it. For example, there may have been a change in your property, finances or family circumstances.

A will is a legal document that says who should receive the things you own when you die – such as your property, savings or valuables. It's a good idea to get help from a solicitor with this – for more information see 'Finding a solicitor' on page 13.

If you don't have a will then some legal rules – the 'intestacy rules' – will decide what will happen to the things you own after you die. This may not be what you want, so it's a good idea to make a will – to make sure your wishes are followed.

If you own anything jointly with someone else (for example, a property or a bank account), the whole of it will often automatically belong to the other person after you die. This will happen whatever your will or the intestacy rules say. You should get advice from a solicitor about what to do if you don't want that to happen.

You need to have the mental capacity to make or change a will. No one – including an attorney – can do this on your behalf. In some circumstances the High Court can make what is called a ‘statutory will’ for you if you lack mental capacity to make a will yourself. However, this is rare. Speak to a solicitor for more information about this.

Advance planning for your care and treatment

It isn’t possible to make an EPA that covers decisions about your care and treatment. However, there are some other things you can do to make your wishes clear in relation to your future care.

Advance decisions

An advance decision lets you state what forms of medical treatment you would not like to receive, in case you become unable to decide for yourself in the future. (It’s sometimes known as a ‘living will’ or ‘advance directive’.) An advance decision can be reassuring if you have particular views about your treatment. You may not want to rely entirely on medical professionals making treatment decisions in your best interests if you’re unable to make them yourself.

Whether or not medical professionals follow a person’s wishes on an advance decision depends on the circumstances. To try to make an advance decision effective, you should ensure that:

- it expresses your wishes as clearly as possible
- you understand what you’re doing when it is made – ideally this would be confirmed by a witness.

It’s best to discuss your advance decision with your GP before drafting it. They can help to explain certain treatments, as well as the advantages and disadvantages of certain choices.

You should then put your advance decision in writing. You should give copies to:

- people involved in your care and treatment (such as your GP or hospital team)
- a close relative or friend
- anyone to whom you have given Enduring power of attorney.

Advance statements

An advance statement is not as strong legally as an advance decision is. But it's a way of recording any wishes and preferences you have for your care in the future. This could include your favourite foods, hobbies and interests, music you like or your preferences about where you'd like to live in the future.

An advance statement also gives you a chance to cover more difficult topics. For example, you can state whether you'd prefer to die at home or in a hospital. This can be really helpful for those close to you and anyone caring for you because it tells them about your wishes. Anyone making a decision for you in the future should consider any advance statement you have made.

If you decide to complete an advance statement, discuss it with family members and friends who you trust. You should also tell all the people involved in your care where the statement is kept.

For more information and for a template advance statement see booklet 1510, **Planning ahead**.

What happens if you haven't planned ahead?

There are various processes that may be followed if you become unable to manage your affairs but haven't put plans in place.

Controllership

If you haven't made an EPA and you become unable to manage your financial affairs, the Office of Care and Protection (OCP) may need to appoint a 'controller'. This is someone who then has the power to manage your affairs on your behalf.

A close relative usually acts as a controller, but it could also be a friend or a professional such as a solicitor or accountant. They will be appointed by the OCP so, unlike with an EPA, they may not be someone you would have chosen yourself. If nobody suitable can be found, the OCP can appoint the Official Solicitor to act as a controller. For more information see factsheet NI472, **Enduring power of attorney and controllership**.

It's not always necessary for a controller to be appointed. If managing your financial affairs only involves managing your income from benefits, it may be done through appointeeship.

Appointeeship

You may eventually become unable to claim benefits or manage your income from benefits. If this happens, someone else may need to do these things on your behalf. This can be arranged by someone becoming an 'appointee'. Only one person can be an appointee at any one time.

If you've appointed someone as your attorney, or the OCP has appointed a controller in relation to your financial affairs, that person can manage your benefits. There is no need for an appointee as well. But an appointee can be useful if you don't have any property or other assets and your only income is from benefits.

The person prepared to act on your behalf should contact the Department for Communities (DfC) – see 'Other useful organisations' on page 13. They will need to fill out a form and will also be interviewed.

The appointee can be a friend or family member. They:

- must claim any benefits you are entitled to
- must report any change in your circumstances that may affect your benefit entitlement
- must spend the benefit in your best interests – although it is normally paid to them, the benefit is not theirs to spend on themselves
- are responsible for any overpayments.

The Department for Communities will check the appointment regularly to make sure it's still working for you.

An appointee can resign if they don't want to continue in the role. The DfC can also end the appointeeship if it has evidence that the appointee is not acting in your best interests.

Decisions about your care and treatment

Unless you've made a valid advance decision, decisions about your care and treatment will be made by the professionals looking after you (such as doctors or social workers). They should do this by looking at what is in your best interests. They should take account of anything you have said in any advance statement you have made. They should also involve those close to you as far as possible.

Where to go for help

There are various places where you can get help with legal and financial matters. Some of these are free but you will have to pay for some of them. This section looks at some of the options – for contact details see 'Other useful organisations' on page 13.

You can also get information, support and advice by calling Alzheimer's Society's support line on **0333 150 3456**.

Free independent advice

It can be good to get general advice on a range of issues relating to legal and financial matters.

Your local Citizens Advice can be a good starting point for advice. They offer free, confidential and independent advice on a range of legal and financial issues. They may be able to help you resolve your problems, or they may refer you to other professionals or organisations.

Law Centre NI offers free legal advice and support on social security, health and social care and employment.

Some local neighbourhood advice centres provide advice on legal and financial issues. To find out about the services in your area, ask at your library or town hall.

Financial advice

If you're managing savings or investments, or if you're thinking about how to pay for your care in the future, you may need professional financial advice.

All financial advisers must be authorised by the Financial Conduct Authority (FCA). To find out whether an adviser is authorised, or if you have any queries or complaints, ring the FCA consumer helpline.

The Money Advice Service has information about the different types of financial adviser and how to go about finding one. Bear in mind that some advisers can only advise on a restricted range of products. An independent adviser can advise you on a wider range of products that are on the market.

The Society of Later Life Advisers (SOLLA) may also be able to help.

You may need to talk to several advisers before making up your mind. Check before you make an appointment how you will be charged.

Finding a solicitor

If you are dealing with legal issues, such as making an EPA or a will, or controllership, it can be a good idea to talk to a solicitor.

The Law Society of Northern Ireland can help you find a solicitor, or you can contact Solicitors for the Elderly. Check how you will be charged before you make an appointment with a solicitor.

In relation to making a will, Alzheimer's Society can put you in touch with a solicitor through our Will to Remember scheme. For more information go to alzheimers.org.uk/willtoremember

Other useful organisations

Age NI

0808 808 7575 (advice line, 9am–5pm Monday–Friday)

advice@ageni.org

www.ageuk.org.uk/northern-ireland

Age NI provides information and advice for older people in Northern Ireland.

Benefit Enquiry Line (Northern Ireland)

0800 232 1271

(9am–5pm Monday–Wednesday and Friday, 10am–5pm Thursday)

Benefit Enquiry Line provides information and advice on benefits for people in Northern Ireland.

Citizens Advice

www.citizensadvice.org.uk/about-us/northernireland

Citizens Advice can provide information and advice about legal and financial issues, including benefits. It can also suggest ways to get more legal and financial advice. See website for local contact details.

Department for Communities

028 9082 9000

www.communities-ni.gov.uk

The Department for Communities deals with appointeeships and benefits, among other things.

Financial Conduct Authority

0800 111 6768 (8am–6pm Monday–Friday, 9am–1pm Saturday)

consumer.queries@fca.org.uk

www.fca.org.uk

The Financial Conduct Authority regulates financial advisers and provides information about what to do if you have a complaint.

Law Centre NI

028 9024 4401

admin@lawcentreni.org

www.lawcentreni.org

Law Centre NI offers free legal advice and support on social security, health and social care and employment.

Law Society of Northern Ireland

028 9023 1614 (9am–5pm Monday–Friday)

www.lawsoc-ni.org/solicitors

Law Society of Northern Ireland can help people who live in Northern Ireland find a solicitor.

Money Advice Service

0800 138 7777 (8am–6pm Monday–Friday)

enquiries@maps.org.uk

www.moneyadviceservice.org.uk

Money Advice Service is a government-funded service that can give you information about a range of financial issues.

nidirect

nidirect.gov.uk

nidirect is the official government website for Northern Ireland residents, providing access to information and services.

Society of Later Life Advisers (SOLLA)

0333 2020 454

admin@societyoflaterlifeadvisers.co.uk

www.societyoflaterlifeadvisers.co.uk

SOLLA can provide information on accredited financial advisers who specialise in later life matters.

Solicitors for the Elderly

0844 567 6173

admin@sfe.legal

www.sfe.legal

Solicitors for the Elderly is a national association of solicitors, barristers and legal executives who are committed to providing legal advice for older people, their families and carers.

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Our information is based on evidence and need, and is regularly updated using quality-controlled processes. It is reviewed by experts in health and social care and people affected by dementia.

Reviewed by: Brid McColgan, Associate Director, Cleaver Fulton Rankin Solicitors, Belfast; Edith Gowdy, Partner, King & Gowdy Solicitors, Belfast

This factsheet has also been reviewed by people affected by dementia.

To give feedback on this factsheet, or for a list of sources, please contact publications@alzheimers.org.uk

People affected by dementia need our support more than ever. With your help we can continue to provide the vital services, information and advice they need.

To make a single or monthly donation, please call us on **0330 333 0804** or go to alzheimers.org.uk/donate

Alzheimer's Society is the UK's leading dementia charity. We provide information and support, improve care, fund research, and create lasting change for people affected by dementia.

For support and advice, call us on **0333 150 3456** or visit alzheimers.org.uk



Alzheimer's Society operates in England, Wales and Northern Ireland. Registered charity number 296645.

