

Financial and legal affairs

There are a number of financial and legal issues to consider after a diagnosis of dementia. For example, a person with dementia may be entitled to certain benefits and assistance to help manage their finances. There are also legal affairs that may need to be put in order. Some people choose to plan ahead for their future, by creating a power of attorney or writing a will for example. Many people find this empowering and reassuring. This factsheet outlines the various financial and legal issues that someone with dementia and their carer may want to consider, and explains how they can plan ahead. It also looks at sources of help and support. There is a separate section with additional information specifically for carers towards the end of the factsheet.

This factsheet is for people living in England and Wales, and isn't intended for those in Northern Ireland, where the laws are different. For information about the laws that relate to Northern Ireland, see factsheet NI467, Financial and legal tips.

Benefits

There are various benefits that a person with dementia may be eligible to receive. A full benefits check can ensure that they are getting everything that they are entitled to. The local Citizens Advice Bureau may be able to do this (see 'Where to go for help').

For more information see factsheet 413, Benefits.

Benefit payments

There are a number of ways to receive benefit payments:

- Benefits can be paid directly into a bank or building society account
- Post Office card accounts are specifically designed to receive benefits, state pensions and tax credits. No other kinds of income can be paid in.
- A second person can be nominated to have access to a Post Office card account. This nominated person is called a 'permanent agent'. They will only have access as long as the main account holder can consent. If the main account holder becomes unable to give this consent, the second person will no longer have access. This arrangement can be planned ahead; see 'Planning for the future'.
- If someone does not have a bank or Post Office card account, the office that pays their benefits will be able to look into other arrangements.

Managing finances

Various arrangements can help a person with dementia to manage their finances, some of which people may already have in place before a diagnosis.

Direct debits and standing orders

Many people find that using a direct debit or standing order is a good way of ensuring that regular bills are paid on time. It can be reassuring for someone to know that this happens automatically and they don't have to worry every month about paying utility bills, signing cheques or visiting the bank.

Either the bank or the company being paid can help set up a direct debit or standing order. Normally all that is required is the person's bank details and signature.

Chip and signature bank cards

For someone concerned about remembering their personal identification number (PIN) for their bank card, a chip and signature card may be helpful. This works like a normal bank card, but instead of having to put a PIN into a machine, the holder is asked to sign a receipt, and their signature is checked.

The bank can give information on getting a chip and signature card. They can also advise on any implications this might have. For example, not all chip and signature cards enable someone to access money from a cash machine, so the person will have to go into the bank for cash. Also, chip and signature cards are generally not accepted at self-service checkouts.

Joint accounts

Some people find that joint bank accounts can be helpful in the short term. They allow both the person and another account holder to access and manage the account. Often people have a joint bank account with their partner or a child. A joint bank account can give a person with dementia peace of mind that someone else is supporting them with organising bills and payments. It can also help people with mobility problems, as the second account holder can go to the branch if needed.

There are a number of things to consider before setting up a joint bank account:

- Most joint accounts are set up to work when both parties are able to manage the account. If there comes a time when the person with dementia is unable to manage the account, the bank may freeze it until someone who has a legal power to act for them (eg an attorney) is registered with the bank.
- It is essential that the person trusts the other account holder not to use more than their fair share of the money for themselves.

- If one account holder dies, the bank will regard the money in the account as belonging to the other account holder. It doesn't become part of the estate of the person who has died.
- When paying for care, it is advisable to separate finances. This means that the joint account is split into two, and two separate (individual) accounts are made: one for each account holder. This means that the amount that belongs to the person going into care, and the amount that belongs to the other party, are both clear. The local authority's financial assessment might need to consider how the finances are split, but ultimately only the person receiving care should pay. Separating a joint account ensures that the partner's assets are not touched.
- In some very rare cases having a joint account can affect how much tax someone pays. The bank can advise on this.

Third-party mandate

A third-party mandate enables an account holder to nominate someone to have access to their bank account. This can allow a person with dementia to get support with their account, or let the nominated person pay bills or visit the bank on their behalf. It's important that the account holder nominates someone they trust.

The bank can advise on setting up a third-party mandate. The account holder will often need to complete and sign a form. A third-party mandate can be stopped at any time, meaning the chosen person will no longer be able to access the account.

A third-party mandate is only valid when the account holder is able to consent to it. So if they die or there comes a time when they can no longer make the decision to have a third-party mandate, or choose who it is (and the bank become aware of this), the nominated person will no longer be able to access the account.

Planning for the future

There may come a time when a person with dementia is no longer able to make certain decisions for themselves. In England and Wales a law called the Mental Capacity Act 2005 sets out what should happen when someone is able to make these decisions for themselves (known as having 'mental capacity') and when they are not.

The Act also provides ways for someone to plan ahead for their future, should there come a time when they lose mental capacity. There are a number of ways to plan ahead for this eventuality; collectively these are referred to as 'advance care planning'. They include making decisions about future care and treatment, who could make decisions on their behalf, or who might manage their finances if they were unable to do this for themselves.

It can be reassuring for people to know that their preferences and wishes will be considered. This section outlines the different ways someone can plan ahead for their future, and make their wishes known and followed.

For more information about mental capacity see factsheet 460, Mental Capacity Act 2005.

Power of attorney

A person with dementia can choose someone to make decisions for them in the future, should there come a time when they cannot make these decisions themselves. This can be the power to make decisions about treatment and care, or to manage finances, or both.

For more information see factsheet 472, Lasting Power of Attorney.

Advance decisions and advance statements

Advance decisions and advance statements allow someone to make decisions about their future care and treatment, in case there comes a time when they can't make these decisions on their own. These

can be used to refuse certain treatments that they may not want in the future, or to make other care choices and state preferences, for example saying whether they prefer a bath to a shower, or who they wish to be consulted about their care.

For more information and a form to help someone draft an advance decision, see factsheet 463, Advance decisions and advance statements.

Wills

It is always advisable to make a will; it ensures that when someone dies, their money and possessions go to people they have chosen. Someone who has received a diagnosis of dementia may wish to make or change a will. They should seek legal advice from a solicitor as soon as possible.

A diagnosis of dementia doesn't necessarily mean that someone can't make a will. It depends whether they have 'testamentary capacity'. This is the legal capacity to make or change their will. The solicitor will make a decision about this, often after taking medical advice.

Trusts

Some people consider setting up a trust if they have financial assets such as property or savings. This ensures that the assets are managed in a way that the person chooses, now and in the future. There are a number of different kinds of trusts and ways of arranging them.

This can be complex; consulting a solicitor or qualified financial adviser may help. It is important that the trust is set up well ahead of a time when the person may need care in a care home. This is because the local authority needs to be sure that they have not set up a trust to deliberately avoid contributing towards the cost of their care.

Where to go for help

There are various places to go for help with managing legal and financial affairs. The following sources may be useful, as well as the organisations listed at the end of this factsheet.

Citizens Advice Bureau

The local Citizens Advice Bureau (CAB) offers a free, confidential and independent advice service. Trained CAB advisers offer information and advice on a range of issues including benefits, housing, debt and employment. They may be able to help to resolve problems, or they may provide details of other professionals or organisations.

Many CABs have a solicitor who is able to give free advice. Some also have an accountant, and can often provide information in a range of languages, or refer people to an interpreting service. Local opening times and arrangements vary: some offer appointments, while others run a drop-in service. Some CABs have telephone advice sessions too, but lines can be very busy. An increasing number of CABs provide an email service, and most accept queries by letter.

For details, see 'Other useful organisations' at the end of this factsheet.

Some local areas also have advice centres that provide advice on financial or other problems. The local library or town hall can advise on the services that exist in a particular area.

Financial advisers

Anyone managing savings or investments may need professional financial advice. An adviser attached to a bank or group of companies can advise on the range of products they provide. Alternatively, an independent adviser can advise on a wider range of products.

Independent financial advisers can be searched on the unbiased.co.uk website. It can be helpful to talk to several advisers on

the phone before making a decision. Some charge a fee and others a commission; some charge both.

Under the Financial Services Act 1986, all financial advisers must be authorised by a self-regulatory organisation or professional body. The Financial Conduct Authority can say whether an adviser is authorised, or help with any queries or complaints.

Solicitors

When completing legal documents, it is helpful to seek advice from a solicitor. This ensures that they are completed correctly and are legally valid. Solicitors can also advise on whether someone qualifies for any public funding to cover the costs of legal work undertaken.

Civil Legal Advice, Solicitors for the Elderly or the Law Society can provide details of solicitors, advice agencies and information providers in a particular area (see 'Other useful organisations').

Financial and legal affairs for carers

There are also legal and financial issues that someone caring for a person with dementia should think about, such as:

- **Benefits** – A carer may be entitled to receive benefits, so they may wish to get their own benefits check done. Organisations such as the Citizens Advice Bureau (see 'Where to go for help') can do this. For more details see factsheet 413, Benefits.
- **Carer's assessment** – A carer has the right to an assessment of their needs, enabling them to get their own support. This can range from additional support for the person being cared for to provide the carer with breaks, to services such as training or additional help around the home. A carer's assessment needs to be requested. For more information see factsheet 523, Carers: looking after yourself.
- **Managing benefits for the person being cared for** – If the person being cared for becomes unable to manage their own benefits and

they haven't arranged for someone to become an attorney, a carer may wish to handle their benefits. This can be done through an 'appointeeship' which is arranged through the Department for Work and Pensions.

- **Using a power of attorney** – If the person being cared for has granted a carer power of attorney and the time comes to use this, it must be registered. This is done through a form available from the Office of the Public Guardian (see 'Other useful organisations').
- **Making decisions on behalf of the person being cared for** – There may be times when the person being cared for isn't able to make decisions for themselves, and this responsibility may fall to the carer. When making decisions on their behalf, the carer will need to act in the person's best interests and choose the least restrictive option. For more information see factsheet 484, Making decisions and managing difficult situations.
- **Being consulted in decisions about the person being cared for** – Under the Mental Capacity Act 2005, when a decision is made on behalf of a person who can't make the decision for themselves, the decision must be made in that person's best interests. The Act states that this means consulting with carers and family, so carers have a right to be involved in decisions made for the person. For more information see factsheet 460, Mental Capacity Act 2005.

Other useful organisations

Age UK

Tavis House
1–6 Tavistock Square
London WC1H 9NA

T 0800 169 8787 (general enquiries)

0800 169 6565 (advice line)

E contact@ageuk.org.uk

W www.ageuk.org.uk

Wales – Age Cymru

T 0800 169 6565

E enquiries@agecymru.org.uk

W www.agecymru.org.uk

Northern Ireland – Age NI

T 0808 808 7575

E info@ageni.org

W www.ageuk.org.uk/northern-ireland

Provides information and advice for older people in the UK.

Citizens Advice Bureau (CAB)

Various locations

W www.citizensadvice.org.uk

www.adviceguide.org.uk

Your local CAB can provide information and advice in confidence or point you in the right direction. To find your nearest CAB look in the phone book, ask at your local library or look on the Citizens Advice website (above). Opening times vary.

Civil Legal Advice

T 08453 454 345 (9am–8pm weekdays, 9am–12.30pm Saturday)

Online enquiry form: <https://claonlineadvice.justice.gov.uk>

W www.gov.uk/civil-legal-advice

Provides free and confidential legal advice in England and Wales if you're eligible for legal aid.

Law Society

113 Chancery Lane
London WC2A 1PL

T 020 7242 1222 (general enquiries)
020 7320 5650 (for help finding a solicitor)
E findasolicitor@lawsociety.org.uk
W www.lawsociety.org.uk

The body representing solicitors in England and Wales. It provides details of law firms and solicitors practising in England and Wales, and useful information about legal specialities and fees, as well as tips about what to ask and what to expect from a solicitor.

Office of the Public Guardian

PO Box 16185
Birmingham B2 2WH

T 0300 456 0300 (9am–5pm weekdays)
E customerservices@publicguardian.gsi.gov.uk
W www.justice.gov.uk/about/opg

The OPG supports and promotes decision-making for those who lack capacity or would like to plan for their future, within the framework of the Mental Capacity Act 2005. It provides free booklets on Enduring and Lasting Powers of Attorney and Deputyship.

Solicitors for the Elderly

Suite 17
Conbar House
Mead Lane
Herts SG13 7AP

T 0844 567 6173
E admin@solicitorsfortheelderly.com
W www.solicitorsfortheelderly.com

Independent, national organisation of lawyers who provide legal advice to older people. They can also help you to find a solicitor.

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This factsheet has also been reviewed by people affected by dementia. A list of sources is available on request.



Alzheimer's Society National Dementia Helpline

England, Wales and Northern Ireland:
0300 222 1122

9am–5pm Monday–Friday
10am–4pm Saturday–Sunday

alzheimers.org.uk

Alzheimer's Society is the UK's leading support and research charity for people with dementia, their families and carers.



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