As head of the Private Client and head of the Court of Protection team, this is a question I am often asked by clients and colleagues.

The distinction is actually quite simple:

A Power of Attorney is made by a person with mental capacity; In preparation for a time in the future that you might need help making decisions about your finances or health and care decisions. You choose who you trust to do this for you and appoint them under a Power of Attorney.

They are most commonly used to:

Access bank accounts;

Sell a property;

Set up savings accounts or investments;

Deal with utility companies and insurances;

Make decisions as to a person’s treatment and care provision and where they live.

The person you appoint is called your Attorney and you are called the Donor.

In contrast, a Court of Protection Order is an order made by a Judge when a person does not have mental capacity to make the appointment themselves through a Power of Attorney but it is certified that they need help. A Judge will give power to a person they deem suitable to make decisions in relation to finances or specific decisions about care and treatment. A person appointed by the court is called a Deputy.

The table below looks at some key differences.

**LPA**

**Court fee** £82 per registration fee per power

**Time frame** 3-4 months registration

**Supervision** None - Attorneys are not supervised

**Security** Security None - although attorneys can voluntarily take out a security bond

**Flexibility** You can appoint more than one attorney and appoint replacement attorneys. You  can change what instructions, restrictions or conditions you place on the power. The Power of Attorney can be used with your permission if you still have mental  capacity and if you lose mental capacity.

**Ability to change** You can revoke or partially revoke your Power of Attorney at any time and make a  new one if you have capacity to do so. Your attorney can disclaim their appointment if they become unable to act for you

**COP**

**Court fee** £365 per application

**Time frame** 5-9 months

**Supervision** Deputies are supervised by the Office of the Public Guardian (OPG). They have to  submit annual reports to the OPG and may be visited by a Court of Protection visitor.

**Security** Deputies must have a security bond in place before their appointment takes effect. The level  of security is set by the Court. The annual premium is paid for from your finances.

**Flexibility** The Court will appoint a sole deputy or more than one. It is very usual to have  replacement deputies and a new application would need to be made if your became  unable to act.  The Court decides on what powers to give the deputy and some actions, for example, selling property,  will be restricted without further authorisation from the Court.

**Ability to change** Only the Court can discharge a deputy and appoint a new person.

**Health and Welfare Decisions** It is rare for the court to appoint health and welfare deputies  and it will only do so in the most difficult cases.  If there is a dispute about a health and welfare decision the court will usually make the decision itself rather than appoint a deputy to make the decision.

You may also now wish to read our guide to the differences between an Enduring Power of Attorney and a Lasting Power of Attorney.

Acting for someone who has lost capacity, or perhaps challenging care or care home funding arrangements is complex, which is why you need an expert.

Talk to the experts – Wilson Browne Solicitors.  All the help you need.