

## **Powers Of Attorney**

### **What is a Power of Attorney?**

A Power of Attorney is the legal mechanism that allows you to appoint someone else to look after your financial affairs. If you are abroad when you need something done you can appoint whoever you trust to have the authority to act on your behalf while you are away. Depending on the powers granted this could allow the Attorney to sell your house or access your bank accounts. More recently the law was changed and we have been able to set up continuing and welfare Powers of Attorney which are concerned with looking after your affairs in the event that you become incapacitated.

### **Is a Continuing and Welfare Power of Attorney not the same thing?**

No. They are 2 separate appointments but are normally contained in one document and appoint the same person to the position of Attorney.

### **What is a Continuing Power of Attorney?**

A continuing Power of Attorney deals with the appointment of someone to look after your financial affairs only. It specifically says that the appointment is to continue if you lose capacity. If you do not appoint a continuing Attorney then the powers of an Attorney are by law at an end if you lose capacity.

### **What do you mean when you talk about me losing capacity?**

To be able to make decisions about yourself you need to be able to fully understand what you are doing. This requires the ability to remember decisions and understand the consequences of your actions. You need to have this legal capacity when you complete your Power of Attorney.

### **What if I do not have legal capacity?**

If you have lost capacity you cannot appoint someone else to be your Attorney. There is a mechanism for the court to appoint a Guardian with the same powers instead.

## **I have been diagnosed with dementia – have I lost capacity?**

Having dementia does not mean you have lost capacity. It depends on how much your illness is affecting your ability to understand and comprehend what you are doing. We may need to get confirmation from your Doctor if you can complete a Power of Attorney.

### **What is this about my Welfare?**

You can also appoint someone to be a Welfare Attorney giving them the powers to decide upon your welfare but only if you lose capacity. This will give them the power to decide where you should live and what medical treatment you should or should not receive as well as the ability to decide upon your social activities. No one can make decisions about your welfare when you are able to make decisions about yourself.

### **Is it a good idea to have a Continuing and Welfare Power of Attorney?**

Yes. Everyone should consider getting a Power of Attorney drawn up. We do not know what the future holds but if we were to become suddenly ill or involved in an accident we may not in law be able to make our own decision. The Power of Attorney gives us the peace of mind to know that our affairs can be looked after quickly and without expense when it is needed.

### **When do the Powers start?**

Depending on how you set up your Power of Attorney you can either appoint someone now to look after your finances or appoint them only when you are not able to make these decisions. Usually you state that the Powers are suspended until such time as a Doctor provides a letter stating that you have become incapacitated.

### **What if my Attorney dies before me or loses capacity?**

You can appoint joint or substitute attorneys so that someone can step in if something happens to the Attorney.

## Power of Attorney

### - a practical guide for clients

#### How much does this cost?

The current fee for registering a Power of Attorney is £73 per document. On top of this there are solicitors fees and VAT. However, if you do not have a Power of Attorney and you need to have a Guardian appointed by the court the costs are much higher and it takes far more time. Our fees are £215 plus VAT for an individual Power of Attorney and £375 plus VAT for 2 people making mirror documents. ( If there are 2 Powers of Attorney then there are 2 registration fees.) If we need to get a report from your GP then you will need to pay their fee.

#### How long does it take?

From instructing the Power of Attorney to signing the document should take no more that 4-6 weeks. Thereafter the Power of Attorney is registered with the Office of the Public Guardian and this can take up to 6 weeks depending on their work load.

#### What should I do now?

You should make an appointment to arrange a Continuing and Welfare Power of Attorney. You will need to decide who you want as your attorney and you should also decide if you want to give that person powers over your finances now or suspend those powers until they are needed. Speak to the person you want to be your Attorney to make sure they agree as you will need them to sign a form consenting to the appointment.



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