

Powers of Attorney

Having a Power of Attorney in place means peace of mind in the event of illness or accident leaving you unable to deal with your own affairs, your attorneys have authority to deal with matters on your behalf.

We have seen cases where financial institutions, public authorities and the care professions refuse to accept instructions from family members of incapable adults where there is no Power of Attorney in place.

Without a Power of Attorney there is no legal basis for instructions to be given on behalf of someone who is incapable. Even a spouse may be unable to make decisions regarding the personal well-being of their partner. In the event of incapacity, it also means that finances can be frozen and a jointly owned home cannot be sold without going to court.

What is a Power of Attorney?

It is a document which sets out whom you want to deal with your affairs in the event of reduced or lost capacity. You can name a spouse, civil partner, partner, child(ren), friend, professional or a combination. The choice is yours to make.

As the name suggests, the Power of Attorney sets out the powers given to the attorney. A Continuing Power

of Attorney relates to financial and property affairs. It can either take effect immediately and continue in the event of loss of capacity; or it might instead take effect at a later date/event (to be specified in the document).

A Welfare Power of Attorney relates to personal welfare matters, such as personal care and health issues. A Welfare Power of Attorney only takes effect in the event of loss of capacity.

Once signed, the Power of Attorney is registered with the Office of the Public Guardian, which has a role in regulating attorneys.

What if there is no Power of Attorney?

We have helped in a number of cases where spouses and children have sought to deal with affairs where a loved one has lost capacity to deal with their financial affairs and/or personal well-being.

Where there is no Power of Attorney, financial institutions, public authorities

and others have required sight of a "guardianship order", which can only be obtained by a court order.

The court process can be complicated and lengthy, especially in the context of a difficult and sensitive family experience. Granting a Power of Attorney while you have capacity to do so avoids the need to involve a court.

"I'm too young for a Power of Attorney!"

Powers of Attorney are not just for older individuals. A person's capacity could be impaired suddenly as a result of an accident, for example. Younger people are affected by incapacity issues too.

The effects of frozen finances and inability to give instructions for care could be even more acute in such situations.

A Power of Attorney is a relatively straightforward and cost effective solution.

It is never too early to grant a Power of Attorney.

KEY CONTACTS

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