

POWERS OF ATTORNEY

A Power of Attorney enables you to plan ahead in relation to the management of your affairs for yourself and your family.

Where you have the mental capacity to manage your own affairs it is important that you give consideration to taking out a Lasting Power of Attorney (LPA). This document enables you to appoint one or more people to act on your behalf in certain specified circumstances, for example when you no longer have the mental capacity to make your own decisions.

There are 2 forms of Lasting Power of Attorney:

- Property and financial affairs, and
- Personal welfare

An LPA is an extremely important document on which careful legal advice should be sought.

Whilst we all hope we will be able to manage our own affairs throughout our lifetime this is not always possible. It is not only certain health decisions associated with old age that may prevent this. Other medical conditions and also serious injuries caused by accidents may result in us losing the mental capacity to manage our own affairs at a young age. Once you have lost the mental capacity to manage your own affairs you have lost the ability to take out an LPA.

An LPA can save you and your family the sometimes significant costs that can be incurred when a Deputy has to be appointed by the Court of Protection to manage your affairs.

There are other forms of Power of Attorney that may be appropriate when you wish to appoint someone to make a specific decision for you. This could include signing urgent documents when you know you are going to be unable to do so yourself, perhaps when you are overseas.

It is very important you chose any Attorney to be appointed with care. This is a very important role. Occasionally Attorneys abuse this position. Where that happens, the Court of Protection can intervene. The following is an example of a client who was subject to financial abuse by her Attorney and who required the assistance of our experienced team to protect her interests:

B originally granted a Power of Attorney to C, a family member. Allegations were raised concerning financial abuse of B by C. There was a transfer of land owned by B in to the joint names of B and C. Issues were raised as to whether B had mental capacity at the time the transfer of land took place. Concerns were also raised as to whether B had capacity at the time she signed her Will.

Our experienced team are now dealing with this. As a result of applications to the Court of Protection Patricia Wass has now been appointed as Professional Deputy for B and the original Power of Attorney appointing C has been revoked. Consideration is being given to a professional negligence claim against the solicitor who acted for B in drafting her Will. An application will also be made to the Court for a Declaration to set aside the transfer of land and for a Statutory Will to be made.

Our specialist team can assist you with:

- Advising on all aspects of LPAs including the capacity required to make them and the options available
- Registering LPAs
- Assisting Attorneys appointed under an LPA
- Advising on disputes which may arise of the appointment of an Attorney or over the decisions they are making
- Assisting Attorneys with applications to the Court of Protection



CONTACT US – 0800 044 8488