

POWERS OF ATTORNEY

Power of Attorney – what does it mean?

When you sign a power of attorney you are choosing someone to have the power to manage all your affairs, either property and financial, or personal welfare, or both. This is your “attorney”. Your attorney must be someone you trust absolutely. You can, if you wish, have one attorney to deal with property and finance and another to deal with your personal welfare.

You must have a clear understanding of the meaning of a power of attorney when you sign it, otherwise it is not valid. This means that only a person who is not suffering from a serious deterioration in their mental faculties can validly sign a power of attorney. But once you have signed a power of attorney, if you later become unable to understand or deal with your own affairs, the power of attorney remains effective and your attorney can act on your behalf.

A power of attorney concerning personal welfare can only be used when the person making it becomes unable to manage their own affairs – either physically or mentally. When you make a power of attorney concerning property and finance you can decide whether to make it immediately effective, or only if you become incapable of managing your own affairs.

The attorney has to manage the person’s affairs prudently and is subject to overall supervision by the [Office of the Public Guardian](#), but the supervision is not intrusive unless someone queries how the power is being used.

The attorney has a duty to act in the way the person granting it wishes, or would have wished if able to say.

Power of Attorney – why bother?

If you grant a power of attorney now, it can save the expense of having to apply to the court for a Guardianship Order at some point in the future. An application for Guardianship is likely to cost a great deal more than a Power of Attorney. In addition the level of regulation by the Office of the Public Guardian is much greater.

Many people complete Powers of Attorney purely as a safety precaution, in case they have an unfortunate event in the future and become unable to make decisions for themselves.

We would recommend you to make a power of attorney when you make your will. You may also consider at the same time whether to make an Advance Directive setting out how you wish to be treated if you become terminally ill and unable to indicate your own wishes at the time.

Power of Attorney or Guardianship - which should it be?

If a person can manage their own affairs they can appoint an attorney. But if they can’t manage their own affairs they can’t sign a power of attorney because they don’t have the mental capacity to understand what they are doing. In such cases it is necessary to have a guardian appointed – see our factsheet Guardianship.