

What is a Power of Attorney?

A Power of Attorney is a document that appoints someone to act on your behalf for specific purposes. There are different types of Power of Attorney, which reflect the different reasons for appointing someone to act for you. For example, if you are going abroad or will not be available to deal with transactions or simply feel that you can no longer look after your own affairs, you may appoint someone to deal with specific matters or for a specified period. Attorneys can also be appointed to deal with welfare issues in the event of you becoming unable, due to mental health problems, to make such decisions yourself.

Why do I need a Power of Attorney?

Rather like taking out an insurance policy, putting a Power of Attorney in place is a way to plan for the future. You can be assured that your affairs will be taken care of by people you trust, should you be unable to take care of them yourself. You must be able to understand the nature and effect of the Power of Attorney at the time the Power is put in place. This is called 'legal capacity'. Once granted, the Power of Attorney can endure until your death, even if you becomes confused some time after you have granted the power (that is, you lose your legal capacity). The grant of a Power of Attorney does not remove any of your authority to continue to deal with your own affairs for as long as you are willing and able to do so, it just gives your attorneys authority at the same time. The Power is normally granted to family members and/or professional advisers and can be revoked at any time as long as you retain legal capacity.

Financial Power of Attorney

This will allow your appointed attorney to take care of day-to-day matters such as paying bills. You may wish to consider a financial Power of Attorney if you are abroad for a period of time or, if for example, your vision is impaired, or you are otherwise physically unable to deal with financial matters.

Welfare/

Welfare Power of Attorney

A welfare specific Power of Attorney allows the appointed person or persons to make decisions on your behalf regarding your personal welfare, such as consenting to medical treatment or arranging care. These powers can only take effect if you are unable to decide for yourself.

Combined and Continuing Power of Attorney

Combined Powers of Attorney encompass both welfare and financial powers. Continuing Powers of Attorney remain in place even if you subsequently become incapable of managing your own affairs.

Who should you appoint?

You can appoint up to four people to act as your Attorneys. Most importantly, you should appoint someone you trust; perhaps a family member, close friend or a professional person.

Guardianships

If no Power of Attorney is in place, and a family member or close friend is unable to deal with their own affairs as a result of a mental or physical incapacity, it is possible to have a Guardian appointed. This is done by application to the Sheriff Court. Guardians can be given the authority to take care of both financial and welfare matters. Alternatively, their appointment can be restricted to a one-off specific matter. Applying for Guardianship can often be a complicated and lengthy process. We can guide you through the process, offer you tailored advice and take care of the formalities making the procedure less stressful for you.

Are Attorneys and Guardians regulated?

There are safeguards in place to ensure that appointed Attorneys and Guardians act in accordance with their duty and they are regulated and overseen by the Office of the Public Guardian. We can advise on the best course of action for your individual circumstances, deal with the relevant Power of Attorney forms and other documentation, and liaise with the Office of the Public Guardian for you.

Although carefully prepared, this Fact Sheet is a guide only and is not intended to be comprehensive. Specific advice should be requested in all individual situations