

# Power of Attorney

Granting a Power of Attorney allows you to decide who should make decisions regarding your property and welfare if you are not able to make such decisions for yourself in the future.

## **What do Power of Attorneys cover?**

There are two separate Lasting Power of Attorneys available – ‘personal welfare’ and ‘property and affairs’. If you wish the powers granted to cover both areas, you must make two separate Power of Attorneys.

Personal welfare covers decisions such as medical treatment and housing. An attorney is not able to refuse life-sustaining treatment or go against wishes made clear by the grantor of the power before they lost capacity.

Property and affairs allows an attorney to make decisions over the grantor’s finances. However, they are only able to take action which they believe the grantor would have made themselves.

## **When do Power of Attorneys take effect?**

A Power of Attorney over personal welfare will take effect once the grantor no longer has the capacity to make such decisions for themselves. A Power of Attorney over property and finance can take effect either once capacity is lost, or immediately.

## **Who can be an attorney?**

The person who is granted powers is known as an attorney. Attorneys must comply with the following:

- Be over 18 years old
- Be an individual, not a company (except a trust corporation when related to property and affairs only)
- Not be bankrupt if related to property and affairs

If a spouse or civil partner is named as attorney, these powers will be revoked on divorce.

It is possible to name more than one person as attorney, and choose whether they must make decisions jointly or can make them independently.

## **How do I grant a Power of Attorney?**

For a Power of Attorney to be valid, it must be made in writing by a person with capacity. It will not become binding unless it complies with all requirements and is registered. Your legal advisor will be able to advise you further on how to ensure a Power of Attorney is legally binding.

## **How long does a Power of Attorney last?**

A Power of Attorney can be revoked at any time whilst the grantor still has capacity. Once the grantor lacks capacity to make such decisions, the Power remains valid until any of the following occur:

- Death of donor/sole attorney (or bankruptcy of property and affairs)
- Revocation by donor or Office of Public Guardian
- Disclaimer by attorney
- Mental incapacity of attorney