

## Planning for your future

The benefits of making a will are widely recognised. In doing so, you make provision for the winding up of your affairs and can appoint executors to carry out your wishes. You are provided with peace of mind that your affairs will be dealt with by someone you trust. But what happens if you are unable to deal with your affairs during your lifetime, as a result of mental incapacity through accident or illness?

You can make a Lasting Power of Attorney appointing Attorneys to deal with your affairs. If you have not made a Lasting Power of Attorney (or its predecessor the Enduring Power of Attorney) and you have assets in your sole name no one will be able to deal with your affairs if you become mentally incapable without making an application to the Court of Protection to be appointed as your deputy. It is a lengthy and detailed application and you would have no say in who was appointed.

To avoid the application and to ensure that you appoint someone that you trust to deal with your affairs you should prepare a Lasting Power of Attorney.

There are two types of Lasting Power of Attorney, one which enables you to appoint Attorneys to make decisions concerning your property and financial affairs and the other one which allows you to appoint attorneys to make personal welfare decisions for you.

Neither type of Lasting Power of Attorney can be used until it is registered at the Court of Protection and the registration process can take at least a couple of months. We therefore advise that the Lasting Power of Attorney relating to your Property and Financial Affairs is registered with the Court as soon as it is made to ensure that your attorneys can act on your behalf as soon as you need their assistance. The Health and Welfare Lasting Power of Attorney cannot be registered or used until you lose or begin to lose mental capacity. The Court charges a registration fee of £120 per document.

The Cost for preparing a Lasting Power of Attorney is not inexpensive but it provides you and your family with security and ensures that your assets are available to be accessed by your Attorney as and when you need them.

If you have already made an Enduring Power of Attorney this document remains valid, although no new Enduring Powers of Attorney can now be made. The Enduring Power of Attorney differs from the Lasting Power of Attorney in that it does not have to be registered until you are or are becoming mentally incapable of dealing with your affairs but can be used by your attorneys without registration whilst you have mental capacity.

You are free to appoint anyone you choose to be your attorney as long as they are over eighteen and not bankrupt. You can appoint one or more attorney/s and have an opportunity to appoint a replacement attorney who can act if the original appointment fails for any reason.

You can appoint your attorneys to act 'jointly', which means that they must decisions act together at all times or 'jointly and severally' which means that they can make decisions and act together or independently. A third option is for them to act 'jointly' in respect of some matters and 'jointly and severally' in respect of others.

The preparation of a Lasting Power of Attorney is an important part of planning for your future. If you would like more information please do not hesitate to contact our Wills and Probate Department in either our Bradford or Ilkley office who will be happy to assist.

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