

Dickinson
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S o l i c i t o r s

THE MANAGEMENT OF YOUR FINANCIAL AFFAIRS AND WELFARE NEEDS

Everyone hopes to be able to manage their own financial affairs and be able to make decisions about their own welfare for the rest of their life. For many people this hope is a reality, but for others the onset of illness, whether sudden or gradual, or simply being away means that arrangements are necessary to deal with the financial and welfare issues.

Whilst you remain mentally capable of managing your own affairs then the decision as to how you will plan for your future needs is yours. The issues are technical and you should discuss your personal situation with a qualified lawyer, but in outline you can choose between the following:-

An Ordinary Power of Attorney

This is a document you might choose to make if you want temporary but not long term help with your financial affairs. For example if you are going away on a long holiday you may need someone at home who can deal with payment of bills from your bank account. Crucially it does not cover welfare needs nor will it last indefinitely. Generally it is a more appropriate approach for a younger person rather than someone who is reaching an age where long term help is becoming a reality.

A Lasting Power of Attorney

This is a creation of The Mental Capacity Act 2005 and is in two distinct parts – one for financial affairs and the other for welfare needs. LPAs replace Enduring Powers of Attorney, but not those which were made before the 1st October 2007, which remain effective. Preparing a Lasting Power of Attorney is individual to each persons situation and so the intricacies are beyond the scope of the factsheet. You should have a discussion with a qualified expert who will be able to advise in more detail.

A Court Appointed Deputy

This is essentially what used to be known as a Court of Protection Receivership and comes about when you have not made either an LPA or EPA and have then become incapable of managing your affairs. The Public Guardian becomes involved in overseeing the activities of a “Deputy” appointed by the court and your affairs are managed in that way. It is important to note that this necessarily involves ongoing Court and Legal fees which may be greater than those involved in an LPA.

To obtain advice and guidance generally please speak to a member of our Probate and Trust Department.

This fact sheet is one in a series of publications designed to provide practical guidance on matters of interest to clients. Copies of all our fact sheets may be obtained free of charge on request from any of our Partners or Staff.

We believe the information contained herein to be correct as at August 2007. Whilst all possible care is taken in the compilation and presentation of this fact sheet, no responsibility for loss, occasioned by any person acting or refraining from acting as a result of the material in this fact sheet, can be accepted by the firm or the author.

The information in this Fact Sheet is not designed to be a definitive text on this issue. On the contrary, it is designed to merely serve as a guide to supplement what we can advise you on directly. If you have any particular queries, especially where the circumstances of a matter make it unusual, you should seek further advice.

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