

MITCHELLS ROBERTON PRIVATE CLIENT DEPARTMENT

CONSIDERED GRANTING A CONTINUING POWER OF ATTORNEY?

When you are reviewing your Will or indeed at any time after reaching retirement age, you should consider signing a Continuing or "Enduring" Power of Attorney. If you lose the mental or physical capacity to manage your affairs (which of course can happen suddenly and unexpectedly) and you do not have a Power of Attorney, it would be necessary to petition the Sheriff Court for the appointment of a guardian, which is a cumbersome and expensive process.

Granting a Power of Attorney does not take away any of your powers. You can remain in control of your affairs. The choice of attorney or attorneys, what powers you give them and when the Power of Attorney takes effect are entirely at your discretion. The powers can include decisions about your personal care and welfare.

You can stipulate that the deed only takes effect if and when you lose mental capacity (in the opinion of a suitably qualified doctor). If it takes effect before then, you can continue to deal with some of your affairs (thus acting in tandem with your attorney) and you are free to revoke the Power of Attorney at any time. If you have more than one attorney in mind, they can either act jointly or one can be the substitute for the other if your first choice subsequently resigns as attorney or dies. With joint attorneys, usually each can act alone to deal with routine matters, while major decisions require to be made jointly, or you can stipulate that the decision of one particular attorney is to prevail.

A Continuing Power of Attorney requires to be signed by a solicitor or GP (immediately after your signature) as confirmation that you are compos mentis and that you have not been coerced into signing the deed. This protects your position.

Signing a Continuing Power of Attorney is a sensible precaution against the problems of old age and ill health and the arrangements allow you to remain in control of your affairs for as long as you are willing and able to do so. If you decide to grant a Power of Attorney or you wish to consider the matter further, please speak to your usual contact in the firm.

Mitchells Robertson

Your life made easier