

Your Legal Questions

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Q I'm worried that one day I won't be able to manage my affairs - what can I do?

A This is a very important question that is frequently ignored or left too late. No person has an automatic right to deal with your assets - not even your spouse or closest relative. So if you have assets in your sole name such as a property, bank account or shares a problem will arise if one day you should become incapable.

If no prior arrangements have been made the only way that your assets can be accessed for your benefit would involve an application by an individual to the Court of Protection resulting in the appointment of a Deputy. This is the name given to the person appointed by the Court to act in your best interests. You will have no influence over the choice of the Deputy whose powers will be limited. The procedure is costly, time consuming and is generally best avoided.

To avoid this problem you must make a Lasting Power of Attorney. This will enable you to, whilst you have full understanding and knowledge of your affairs, to appoint a person or persons of your choosing who you would trust to deal with your affairs on your behalf - the person(s) appointed is known as an attorney(s).

A Lasting Power of Attorney is very flexible document which allows you to impose any conditions and guidance that you may consider appropriate or helpful. The attorney(s) will be required to follow guidance set out under the Mental Capacity Act 2005 which is designed to protect you and ensure your affairs are dealt with appropriately.

It is also possible to make a Power to cater for your future personal welfare for example medical treatment.

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