

# Duties of an Attorney



An Attorney under a Lasting Power of Attorney has no powers until the Lasting Power of Attorney is registered with the Office of the Public Guardian (OPG). But once registered the Attorney has wide powers and the ability to make important decisions on your behalf.

There are two types of Power of Attorney:

## **Property and Financial Affairs**

The Attorney is responsible for managing or helping to manage your money and bills, bank and building society accounts, property and investments and pensions and benefits. The Attorney must manage your finances in your best interests. They must keep your finances separate from their own unless they already have a joint bank account with you or joint interest in property.

The Attorney must keep accounts of your assets, income, spending and outgoings and the OPG can ask to check these.

The Attorney can make gifts to persons on your behalf or charitable donations but these must be reasonable and must be made to persons/charities who normally receive gifts/donations from you and, in the case of gifts, must be made on suitable occasions such as weddings, birthdays or Christmas.

The Attorney can sell property on your behalf if it is in your best interests to do so, but the Attorney must have the approval of the OPG if the sale is below market value or the Attorney wants to buy the property.

The Attorney's should take appropriate professional advice in relation to investments.

This type of Power of Attorney can be used as soon as it is registered with the OPG even if you still have capacity unless you state otherwise.

## **Health and Welfare**

The Attorney can make decisions about your daily routine (eg washing, dressing, eating), your medical care, and your living arrangements including where you reside. But the Attorney cannot sell your property unless they are your Attorney for Property and Financial matters also.

Your Attorney can also make decisions about giving you treatment which will keep you alive if you have authorised him to do so.

This type of Power of Attorney can only be used when it is registered with the OPG and if you have lost capacity.

## **Ending the Power of Attorney**

The Attorney can disclaim attorneyship by giving notice. This will bring the Power of Attorney to an end if there are no other Attorneys named.

An Attorney can no longer act if he loses mental capacity.

An Attorney also has to stop acting under a Financial and Property Attorney if he becomes bankrupt or subject to a debt relief order.

## **Supervision**

The OPG has the power to investigate complaints of misconduct/incompetence against Attorneys and can apply to the Court of Protection for their removal in appropriate cases.

If Attorneys have misapplied property, they can be ordered to restore it by the Court of Protection.