



A GUIDE TO FINANCIAL PLANNING FOR ELDERLY CLIENTS

Managing your Future

Every adult has the right to manage his or her own money and affairs. Sometimes, however, our ability to do this decreases as we grow older. Whether this is caused by illness, disability or an accident, there are a number of practical steps you can take to prepare for this.

If this describes your situation, or that of someone close to you, you should consider getting legal advice. We can assist by helping you to get your affairs in order and make your wishes for the future known. This may involve anything from writing a Will to choosing someone to take power of attorney (legal authority to act for you) over your financial affairs, if this is necessary.

This can lighten the burden on relatives or carers who might otherwise find it difficult to make complicated decisions on your behalf.

Where there is not enough time to take these precautionary steps, or if a person is already “incapacitated” (unable to handle their own financial affairs) it is usually the relatives of the person who need advice. In these circumstances there are a number of options available. One of these options is to contact the Court of Protection, which can make arrangements for managing the person’s financial affairs. We can advise you on the best course of action in your case.

Information we will need

If you need advice for yourself then we will need to know:

- whether or not you have made a Will;
- who you would choose to handle your affairs, if this is necessary;
- what assets or income you have;
- any special wishes about how you want your property or assets to be handled; and
- whether you have a particular medical condition (if so, we will need permission to speak to your doctor)

If you are getting advice on behalf of an elderly person, we will first need to confirm with the elderly person that they want to instruct us and get the appropriate information. Once we have had a chance to consider the information, we can explain your options to you. These are as follows.

An Ordinary Power of Attorney

This is a legal way of giving someone else the power to manage your financial affairs when it is difficult for you to manage them yourself, perhaps because of a physical disability. Usually you appoint someone you trust, such as a close relative, friend or solicitor as your Attorney. Nobody can simply ‘take’ a power of attorney. You have to ‘donate’ it willingly. The donor decides who to appoint as Attorney, and can cancel the arrangements at any time.

Power of Attorney only applies if you are fully aware of the implications of the arrangement. The Power of Attorney will come to an end if you become mentally incapable of managing your financial affairs.

Lasting Power of Attorney

A Lasting Power of Attorney goes one step further than an Ordinary Power of Attorney, because it carries on, or ‘lasts’, even after you have become unable to manage your affairs – whether temporarily or permanently, or because of an illness, disability or accident.

For a Lasting Power of Attorney to be valid, you must fully understand the implications of the arrangement at the time of making it. A certificate provider will need to sign a certificate to say that you are aware of the implications and that nobody is pressuring you into making a Lasting Power of Attorney. Any Attorney(s) appointed under a Lasting Power must be at least 18 years old and must not be bankrupt if appointed to make decisions about your property and money. More than one Attorney can be appointed at the same time.

More information is available about Lasting Powers of Attorney in our more specific leaflets.

Personal and Welfare Decisions

A separate Lasting Power of Attorney can be made to give your Attorney(s) the right to make personal welfare and medical treatment decisions on your behalf if at some time in the future you are unable to make those decisions yourself.

It is important to make sure a Lasting Power of Attorney is properly set up and registered, and that it is in the best interests of the donor and we can advise you on this

The Court of Protection

If someone is mentally incapable of making a particular decision at a particular time, and they have not made a Lasting Power of Attorney, and the decision is not one that can be made on an informal basis, the matter can be referred to the Court of Protection. The Court can then choose someone else, known as a Deputy, to make the decision for them. We can help you make any necessary application as it is a complicated process.

Appointeeship

If a person is incapacitated and entitled to receive a retirement pension or other state benefits, the Department for Work and Pensions can choose an 'Appointee' to receive those benefits on that person's behalf. The Appointee can be a relative, friend or someone from the caring professions (such as the local authority social services department). They will be asked to produce some proof that the claimant is incapacitated, such as a doctor's certificate.

Other Financial Matters

We can also advise on a wide range of other legal matters affecting elderly people. For example:

- equity-release schemes, where you can unlock some of the capital tied up in your home;
- funding arrangements for long-term care;
- estate planning by making a Will or lifetime gifts; or
- where you suspect that an elderly person may be the victim of financial abuse

Costs

Charges vary depending on how much advice or help is needed. Seeing a solicitor provides valuable protection but it is important for clients to know how much the service is likely to cost. We will be happy to give you a written quotation and discuss any concerns with you.

All our offices have ground floor interview rooms and we are more than happy to arrange to see you in your own home if that is easier for you. We will always give you advice in a clear manner that is easy to understand and use plain English.

How to contact us

We welcome enquiries and consultations by telephone, letter and e-mail, or why not call in to one of our offices and ask for further information.



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