

# ➤ power of attorney

November 2007

## What it is, and why you might consider appointing one.

A Power of Attorney is a legal document whereby a person appoints one or more people to look after their legal or financial affairs. As such, the Power of Attorney is a very powerful document and should only be granted to very trusted individuals after careful consideration.

## Why should you consider appointing someone as your attorney?

As a precaution in the event that you experience an illness (ie: stroke, Alzheimer's disease) or have an accident that incapacitates you and prevents you from being able to act on your own behalf.

A Power of Attorney takes effect the minute the document is signed. It is effective whether you are competent or not.

## What happens if you become incapacitated and you haven't appointed someone as your Attorney?

Without appointing someone with an Enduring Power of Attorney, no one has the legal right to act on your behalf (not even your spouse!). Unless your finances are all held jointly with someone else, your finances can not be used to pay your rent, utilities, or any other expense. If you have assets such as a home or a vehicle, they can not be sold even if you can no longer reside in the home or drive the vehicle. Of particular importance, a home or land held jointly by two or more individuals requires the signatures of all individuals to sell, mortgage, or otherwise deal with.

Once an individual has become incapacitated he/she can no longer appoint an attorney. In this instance the Public Trustee will administer his/her affairs. If a family member or friend would like to take control of a loved one's affairs, he/she must hire a lawyer and apply to the courts for legal appointment called 'Committeeship'. This is an expensive and lengthy process as opposed to giving a Power of Attorney. Furthermore, the person named as Committee will have to report to the public trustee as to what decisions they have made and how money has been spent. Most people find the obligations of a committee onerous and intrusive.

A Power of Attorney is a revocable document. If you decide that the person you have appointed is no longer suitable, you can cancel their appointment. A Power of Attorney ceases to be effective upon death as that is when your Last Will and Testament takes over.

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Power of Attorney is a critical component of your estate plan. Ensure your have covered off all of the bases and have left nothing to chance or speculation. Professional advice will help you determine your requirements and guide you in choosing the most appropriate plan for a secure future.

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At DundeeWealth we believe that having a financial plan forms the foundation necessary to grow, protect and transfer wealth from one generation to the next. We are committed to provide information on a variety of financial planning topics so our clients are able to make informed decisions.

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