

Taking care of the future

A member of our Customer Relations Team had a few surprises when she made her will. She felt she should share her experiences with The Pensions Trust's members - here's her story.

We eventually got round to making our wills about eighteen months ago. Better late than never, we thought. In all honesty, making our wishes known was secondary to saving our families a whole lot of bother trying to sort things out if anything should happen to us.

Armed with a list of who might get what, favourite charities, how pets should be looked after and so on, we sat down with our adviser, a member of the Society of Will Writers, to 'put our affairs in order'. After a couple of hours we thought we were done - everything on the list was ticked off, several new issues which the adviser raised were sorted out, and we had talked about witnesses to sign the documents once they were ready in a week or two. We both felt a sense of relief - something that had been niggling away in the background for a few years would soon be put to bed, we were on the home straight. Or so we thought.

"Now, let's think about Powers of Attorney." Our adviser put our last wills and testaments to one side and looked at our blank faces. "What do we need that for? My mum is 68, and Granny is 102 and they don't have them!" I ventured somewhat defensively, anticipating an unsolicited sales pitch for an expensive luxury item.

Our adviser has heard it all before and took our questions in her stride. A Power of Attorney is a

document which gives people of our choosing the authority to take action or make decisions on our behalf, she explained. There are two kinds - money and property, and health and welfare. We usually associate them with elderly people who are no longer capable of looking after their affairs. However, she went on, we came in to make our wills because we might die prematurely - say in a car crash, or after a sudden illness - and we didn't want our relatives to have to negotiate a complex legal process before they could start to sort out our affairs.

"What if you were to survive the car crash or the sudden illness but you couldn't look after your affairs for a while - who would look after them for you?" she asked.

Well, that was easy - if one of us was affected, the other would take care of things. If we were both incapacitated then we'd nominated family members in our wills; they would sort things out for us. Not quite so easy, it transpired.

We were surprised to learn that a spouse has limited powers to deal with their other half's affairs. In fact, nobody has an automatic right to take actions on our behalf without legal authority. Without an appropriate Power of Attorney, family or friends would have to apply to the courts to be appointed to run our finances and take welfare decisions for us. A public body called the Office of the Public Guardian (OPG) supervises Deputies (England and Wales) or Guardians (Scotland).





With the Public Guardian's involvement comes a raft of regulations and directions and, in many cases, some hefty bills. The local authority's social work department oversees health and welfare guardians in Scotland. The situation in Northern Ireland is similar – the Office of Care and Protection oversees Powers of Attorney and the High Court can appoint or remove Attorneys. If there is no Enduring Power of Attorney in place, the Court can appoint a Controller to look after an individual's affairs.

Our hearts sank. Powers of Attorney sounded expensive but necessary – every bit as necessary as the insurance policies we have for buildings, contents, cars and pets. We hope we won't need them but we pay up, just in case. They sounded almost as necessary as the wills which had brought us to see our adviser in the first place.

We wanted some time to think about it, and when we got home we started looking on the internet. Within five minutes we found a heart-rending story of a woman whose husband spent years in a coma after a car accident. She was appointed his Receiver (the

pre-October 2007 name for a Deputy) and she explained how the OPG took great interest in her proposed spending on essential property repairs and their children's education. She wasn't allowed to write a cheque for more than £500 without the OPG's permission. Thousands of pounds were diverted from the family's finances to pay the various fees. She felt the OPG made no distinction between a wife trying to maintain normal family life and a complete stranger appointed where there are no family or friends to take on the role.

It didn't take much to convince us after reading this. We contacted our executors and asked if they were willing to act as our Attorneys if necessary. We and our doctor completed and signed the documents and our adviser checked through them before sending them off to the OPG registration.

Between the drafting, doctor's and registration fees it cost a little under £500 in total for both of us to set up our Powers of Attorney. This was less than I had initially feared, but at the time it was grudged because we hadn't budgeted for it. However, knowing they are in place gives us more peace of mind than drawing up our wills. After we've gone it doesn't really matter what happens to our property, though we have made our wishes known and that should make life easier for our executors. It's more important to us that people we know and trust will look after our affairs if we can't. They will be able to do this without the hassle and cost of going to court and then accounting for their every move to the OPG and the social work department.

If you haven't got round to drawing up a will and/or a Power of Attorney yet, please think about the implications for your friends and family if you leave it too late. Accidents and illness can happen to anyone, at any time. Your wishes count – isn't it better that they lie in a drawer for years than they never see the light of day?

Wherever you live, if your affairs are complex then it may be prudent to take legal advice before drawing up and registering a Power of Attorney of any description.

This article contains the personal views of a member of The Pensions Trust's staff and should not be interpreted as legal or financial advice.

The Citizens Advice Bureau, Help the Aged, Age Concern and similar charities can give you more information on Powers of Attorney. A solicitor will also be able to help. The Office of the Public Guardian's website details the position in England and Wales, and you can download the Power of Attorney forms – see www.publicguardian.gov.uk or telephone 0845 330 2900.

For Scottish residents the equivalent body is the Office of the Public Guardian (Scotland). Its website – www.publicguardian-scotland.gov.uk – includes sample documents and the forms required to register them or telephone 0845 603 1185.

In Northern Ireland the Office of Care and Protection can be contacted on 028 9072 4732. Limited information is available on their website www.courtsni.gov.uk.