

# Power of Attorney – an essential document

Many Scots are risking leaving their affairs in jeopardy if they become old and infirm – by not signing over sufficient authority in a Power of Attorney.

Edinburgh legal firm Gibson Kerr says that people who make a Power of Attorney but only appoint one attorney run the risk of leaving their families and loved ones in a financial mess if they become incapacitated – as they have no back-up plan in place to cover any future emergencies.

The firm says that many Scots currently recognise the importance of having a Power of Attorney, as it allows their relatives or close friends to take control of their affairs if they become incapacitated and unable to manage for themselves.

The documents are intended to avoid lengthy and expensive court proceedings which are sometimes required in order for the family to properly manage the person's money and property if they themselves are not able to.

However, despite the awareness over the documents, Gibson Kerr says that many Scots are still risking leaving their affairs in disorder – because they only appoint one attorney, rather than two or more.

Scott Rasmusen, partner with Gibson Kerr, said: “Although it's encouraging that there are many people choosing to grant Power of Attorney to their families or friends, there are still many people who only appoint one attorney.

“This means that they are actually leaving themselves – and their affairs – in danger, as they will not have a back-up Attorney in place in the event of something happening to their first one.

“We have seen a few cases where people have granted Power of Attorney to a relative, but then that relative has been involved in an accident and died unexpectedly. All of a sudden, these people find that they no longer have a Power of Attorney in place and have to identify and agree another one before it is too late.

“If, by then, they themselves are incapacitated, there is no attorney left to act and it is not possible for the person to appoint another one.

“In some cases where the individual was already incapacitated, their family have had to go through the lengthy and costly process of going to court and trying to get control over their assets – which is precisely the scenario that they were trying to avoid by granting the Power of Attorney in the first place.”

Scott recommends having at least two joint Attorneys in place, or one Attorney with a substitute, to ensure that your affairs are secured against any eventuality.

He added: “You can appoint as many Attorneys as you like, so don’t just make one appointment and leave it at that – otherwise you will have no insurance whatsoever if something happens to that person.

“Instead, you should appoint two or more people, or alternatively a substitute attorney, to ensure you are completely covered. Then, if something happens to your original Attorney, there will be another in place to take responsibility for your affairs and money.

“The whole point of a Power of Attorney is to safeguard your affairs and ensure that someone else can run them for you if you are unable to do so yourself. It also means that your money and affairs will be intact for your family to inherit when you die.

“Therefore you should take every measure to ensure you are adequately covered, and you should consult an experienced family solicitor for the best legal advice when it comes to Power of Attorney.”

Gibson Kerr has been established in Edinburgh for more than 100 years and has an excellent reputation for providing a comprehensive service. The firm is run by husband and wife team Scott and Fiona Rasmusen, who provide expert advice on family law issues including powers of attorney, executries and wills.