

# **Legal advice – why you need a Power of Attorney**

**Stuart Miller an Associate with Gibson Kerr, Solicitors, explains what a power of attorney is and why it is so vital in the array of legal documents which you might consider.**

Gibson Kerr have offices in Dundas Street and India Street in the New Town.

**Why is Power of Attorney important and can I still do it during lockdown?**

Let's face it, a power of attorney isn't something we discuss over dinner every day. You may be wondering, why is it important to have one? Granting a power of attorney is still possible during lockdown and the coronavirus pandemic means having one in place is more important than ever.

**What is a power of attorney?**

A power of attorney is a deed in which you appoint another person (or people) to deal with your affairs on your behalf. You may be unable to deal with your own affairs as a result of illness, or an accident, or maybe as a result of the ageing process. A power of attorney can also be useful if you are in good health. For instance, if you are out of the country for an extended period, or unable to leave your home for any reason.

A power of attorney can cover financial matters such as paying bills and accessing your bank accounts. It can also cover welfare matters such as decisions about where you live and

certain medical treatments.

You can set up your power of attorney so that some of the powers can be used by your attorney even if you are capable of managing your own affairs, if you wish to do so.

### **Why is a power of attorney so important?**

Granting a power of attorney means there is someone you trust who can manage your affairs for you, if you are unable to or you want assistance. By granting one, your money and property can be preserved and used for your benefit.

If you become incapacitated and have not granted a power of attorney, no one has automatic rights to deal with your affairs. A court order for legal guardianship may have to be applied for, which can be a lengthy and costly process.

Attorneys must act in accordance with certain legal principles and any action they take should be for your benefit.

A power of attorney could be particularly helpful if restrictions remain in place for coronavirus longer term. Your attorney may be able to undertake transactions on your behalf. This may include visiting your bank, if you are unable to as a result of illness, or self-isolating, or being shielded.

### **How does lockdown change the process?**

Like other aspects of our daily lives, the process for putting a power of attorney in place is slightly different from normal. However, it is still possible despite lockdown restrictions.

Normally a power of attorney is signed in the presence of a solicitor or doctor. As face-to-face meetings are currently restricted, the [Law Society of Scotland](#) have confirmed that such meetings can be completed by way of a video call instead.

So, the first step is to instruct a solicitor by a telephone

or video call. Your solicitor will then prepare your power of attorney for you to approve. Once approved, you can sign the power of attorney by video call. If you are unable to attend a video call, we can discuss possible alternatives for signing your power of attorney.

*We offer fixed fee packages for basic powers of attorney. For further information about the costs or the process of putting a power of attorney in place, please contact [Stuart Millar](#), Associate in the Personal Law Department, 0131 226 9163.*



Stuart Millar, Personal Law Solicitor at Gibson Kerr