



## ***CARERS FACT SHEET 7***

### **Legal Issues**

If someone close to you has a condition likely to deteriorate, it is only natural to be reluctant to discuss delicate matters such as wills and finances. You need to remember, though, that sorting things out sooner rather than later will lead to a far easier situation in the long run and allow the person you care for to have a full say in their future.

It is also important to talk about these matters with other members of your family so that everyone is clear what will happen in the future. Don't be afraid to tackle the issues outlined here, as you need to be sure that you are acting in everyone's best interest.

#### **Wills**

Your local Citizens Advice Bureau (you can find a list in Yellow Pages) can put you in touch with solicitors specialising in the making of wills, and you should make sure that the person you care for has made a will. If there is a will, then the likelihood of family disputes and difficult situations arising later is greatly reduced. It can also save you expensive legal bills.

You will need to consult a solicitor if you are concerned about any legal matters (they are listed in the Yellow Pages). If you or the person you are caring for is an older person, you may prefer to contact a Solicitor for the Elderly who specialises in legal matters for older people. For details of local members, contact 01992 471568 or email: [jcameron@solicitorsfortheelderly.com](mailto:jcameron@solicitorsfortheelderly.com) or [www.solicitorsfortheelderly.com](http://www.solicitorsfortheelderly.com)

#### **Enduring Power of Attorney**

A Power of Attorney applies when someone is nominated to handle the affairs of the person you care for ends when the person becomes mentally incapable. It is renewable annually. An Enduring Power of Attorney stays effective long term. The arrangements must be sorted out while the person is still mentally capable and there is a simple form available to complete and have witnessed.

You should discuss the implication with any other close relatives and there is also form to record their compliance and a third form to register the Enduring Power when it becomes necessary. The Public Trust Office can help with this or you can download the forms from the Internet or obtain them from Carers Together.



## **Court of Protection**

The Court of Protection looks after the financial affairs of the property of people who do not have the mental capacity to do this for themselves. Its main function is to appoint receivers who carry out the day-to-day management of the person's affairs.

The Court of Protection is only used when a person becomes mentally incapable and has not previously assigned someone to act on his/her behalf. The Public Trustee is responsible for the supervision of receivers appointed by the Court of Protection. It is able to appoint the Court as receiver in those matters if there is no one willing or suitable to act for someone. Ask the Public Trust Office for advice about this.

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## **Guardianship**

Guardianship is legislation which enables people to receive care and medical treatment outside of hospital but with close supervision and control. Guardianship empowers the guardian (usually the social care department) to require a person to live at a specified address, attend medical treatment or an activity and be seen by a doctor or approved social worker.

## **Living Wills**

Living Wills at present only have power in Common Law\* but many of the wishes expressed can be taken into account by medical staff if you or the person you care for becomes incapable of making decisions or making sure your wishes are known. A draft living will form is available on request.

\*This situation will be changing in April 2007