

## SELF-DETERMINING ARRANGEMENTS FOR FUTURE INCAPACITY: CONTINUING POWERS OF ATTORNEY AND ADVANCE DIRECTIVES

Self-determination is about taking control of all aspects of your life and ensuring that the people who care for you have your best interests at heart, and that they act in accordance with your wishes. It of course covers decisions about property, money and personal welfare. It also includes so much more: for example making decisions about when to seek help on health care, and whether to accept particular medical treatments that might be offered, or arranging to visit the dentist, finding out about pensions and benefits, and claiming them, knowing when your rights are being infringed or denied and doing something about it.

For all of us there is a risk of being unable to do some or all of these things without support, or at all. At an extreme, a sudden illness or injury could put you into a coma, perhaps with permanent brain damage after that. More commonly, ageing conditions can reduce our ability to act and decide for ourselves. Mental illness can do the same. There can be other causes.

By setting up a “**continuing power of attorney**”, you can decide who should support you, and should act and decide for you. You can say what you would want them to do, and how you would want them to do it. Others must accept the acts and decisions of the person you have chosen, as if they were your own acts and decisions. There are two types of continuing power of attorney, under which you are the **granter** and the person whom you appoint is the **attorney**:

- **Continuing power of attorney in economic and financial matters.** Here you will want someone to help with your finances, or manage your property, either now or in the future. You might prefer to have your own choice of arrangements, and to choose who should operate them.
- **Continuing power of attorney in health, welfare and other personal matters.** Here you will want a trusted person to make arrangements and take decisions to cover these more personal matters, if you should become unable to deal with them yourself.

As well as appointing someone, you can give direct instructions in some matters. You might want to make a statement to apply in future situations where it might otherwise become difficult or impossible for other people to find out what you want. You might want to record your wishes and preferences. Or you might want to give binding instructions. All such arrangements are **advance directives**.

Safeguards are needed to fulfil the principle of self-determination under all such arrangements. Your own true will and preferences need to be respected. Changes in your will and preferences need to be provided for. Legal effectiveness needs to be ensured. You need to be protected from possible abuses of such arrangements. Much of the [Report on the review of follow-up action to Recommendation CM/Rec\(2009\)11](#) covers the developing ways in which such issues are being tackled. These developments are largely citizen-led. Subject to differing national cultures, they are all about choices. Many of them new choices. Choices for you.