

Case Study

Power of Attorney

Situation

Our client was in his 50s and had a medium sized estate that included one rental property. His wife was appointed as his Attorney. He was sadly involved in a car accident, and as a result, was in a coma and therefore unable to communicate for a significant period.

What Chapmans did

When we were first advised of his accident, we were able to check our records and noted that his wife was appointed as his Attorney. This allowed us to immediately deal with her directly in relation to all property rental matters and she was able to authorise repairs, tenancy renewals and so forth while our client was unable to communicate with us.

Outcome

Although the circumstances were very sad, because there was a clearly appointed Attorney, the landlord's wishes were made clear and Chapmans had a contact with whom to liaise, report to, and accept instructions from at all times. Chapmans had the authority to continue managing repairs, renewals, maintenance etc in the absence of instructions from their client.

Brodies LLP's

Expert Commentary:

Without a Power of Attorney, Chapmans would have been unable to take instructions from the landlord's wife while he was in a coma. In order to make decisions on behalf of her husband, the landlord's wife would have had no option but to apply to the Sheriff Court for a Guardianship Order to allow her to act on her husband's behalf and instruct Chapmans in relation to the management of her husband's rental property. Guardianship orders are at the discretion of the Sheriff and applications can be stressful, time consuming and expensive. They can be avoided entirely by preparing a Power of Attorney