

Enduring power of attorney

a guide to making an enduring
power of attorney or taking on
the role of attorney



INVESTOR IN PEOPLE



public
guardianship
office



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Enduring power of attorney

This booklet is a guide to the enduring power of attorney (EPA). It is aimed at:

- anyone making an EPA; and
- anyone taking on the role of attorney.

To make it easier to use, we have divided the booklet into two sections.

Section 1 is for the person making the EPA (the ‘donor’). It describes how to make an EPA and explains the powers you are handing over. It also answers questions such as ‘Can I change my mind?’ If you are thinking of making an EPA, it offers a practical guide to the issues you will come across and the steps you need to take.

Section 2 is for the person who accepts the power (the ‘attorney’). It covers the role and duties of an attorney, how to register the EPA, and how we deal with objections and complaints. If you are taking on this responsibility, this information will help you prepare for the role. We recommend, however, that donors also read section 2 and that attorneys read section 1. This way you will get a full picture of the issues involved.

If you are thinking of making an EPA, you may be particularly interested in how the power is registered and used if you are no longer mentally able to manage your affairs. This is dealt with in section 2. If you are thinking of taking on the role of attorney, you may want to read section 1, which defines an EPA and deals with the range of powers donors can hand over.

The Public Guardianship Office

We are here to help look after the financial affairs of people who are not mentally capable of doing so themselves. We are part of the Department for Constitutional Affairs, and act as the administrative arm of the Court of Protection.

Our role in the enduring power of attorney (EPA)

If someone is setting up an EPA, we will provide advice on how to go about it. But we do not give legal advice, so we recommend you get legal advice from a solicitor, a Legal Advice Centre or a Citizens’ Advice Bureau.

We become involved when a person has lost or is losing their mental capacity to manage their own financial affairs. At this point, an attorney must register the EPA with the Court of Protection.

Once the EPA is registered, we will answer questions and investigate if someone is not happy with the way the EPA is being used. There are more details on our role in this booklet.

Note: If you want to make an EPA, you can get the relevant form from Customer Services, our website, and stationers who supply legal documents. Solicitors and other professional advisors can also prepare their own forms.

Section 1

Making an enduring power of attorney

What is an enduring power of attorney (EPA)?

It is a legal process in which you hand over to someone else the power to decide what is done with your financial affairs and property. The person you appoint as your legal representative is known as the 'attorney'. They can use the power straight away if that is what you want. Or you can make clear that the EPA is only to be used if you become mentally unable to manage your affairs in the future.

In this way, an EPA allows you to decide who should deal with your affairs if you become mentally unable to manage them yourself.

How is it different from an ordinary power of attorney?

An ordinary power of attorney is not valid once you are mentally not able to manage your affairs. But an EPA can be used in this situation, as long as the attorney applies to the Court of Protection to have the EPA registered.

Is it safe to make an EPA?

EPAs are very powerful documents. You need to remember that the person you appoint as your attorney may have complete power over your money, savings, investments and property. If you become mentally incapable, you are unlikely to be able to check what they are doing. When choosing an attorney, consider how well they handle their own money, whether you can trust them to act in your best interests and if they will use your money to provide for your needs.

You can, as a safeguard, appoint more than one attorney. You can also consider appointing them jointly so they have to act together. You can also add conditions to the EPA when you make it, for example, requiring the attorney to provide accounts for (report) each year to someone independent such as a solicitor or accountant.

Do I need to see a solicitor or doctor?

You don't have to see a solicitor, but you may find this helpful if you have a lot of money or property. Many solicitors are experienced with EPAs and can offer you practical support. They can also help you to fill in the form.

If an EPA is being drawn up for someone who is already beginning to lose their mental ability, it is wise to take advice from a doctor and solicitor on whether the power will be valid.

Who can make an EPA?

Anyone can make an EPA, as long as they can understand how to do so and what it does. The legal test is to ask whether you can understand that:

- the attorney can take complete power over your affairs if you become mentally unable to manage them yourself;
- the attorney will, in general, be able to do anything with your property that you could have done; and
- the power will continue if you are, or become, mentally incapable and it can only be ended by the Court of Protection.

If you can understand these points, you can make an EPA. But if you are in any doubt, you should get medical or legal advice.

How do I make an EPA?

You must use a special form, which you can get from Customer Services, our website and stationers who supply legal documents. Solicitors and other professional advisors can also prepare their own forms.

The form should be in three parts - A, B and C. When you send it in, it must have all three parts. Please **do not** detach the notes in Part A.

How do I fill in the form?

First of all, you must consider carefully what powers you want to give to your attorney. You should read all of part A or have it read to you (and explained if necessary). You must then fill in part B or have someone fill it in for you.

You need to read all the notes in the margin, which explain your choices. These notes are part of the form and must be there. There are also phrases known as 'statutory declarations' which you must not cross out. Do not cross out the words 'to be my attorney for the purposes of the Enduring Power of Attorney Act 1985'.

Who can be an attorney?

Your attorney can be almost anyone you choose who is willing to act for you. They must be at least 18 and must not be bankrupt when they sign the form or at any time in the future. Some trust companies (often parts of banks) can also act as attorneys. But someone who holds office (for example, a Director of Social Services) cannot be an attorney.

What can an attorney do?

If you decide to give the attorney general authority, they will be able to do everything you could do - for example, signing cheques, paying bills, dealing in shares or buying and selling houses.

Can I restrict what the attorney does?

You can say that they can only deal with the parts of your affairs which you list on the form.

You can also add any restrictions or conditions you want. For example, you can:

- prevent them from selling your house;
- require them to get written medical evidence before they use the EPA;
- prevent them from using the EPA until it is registered with the Court of Protection;
- require them to answer every year to a professional or family member.

You need to write these conditions or restrictions on the EPA form in the space provided.

When do the powers of the attorney begin?

It depends what you want. You can, for example, say that the attorney cannot act until the power is registered, or until they believe you are becoming mentally incapable. If you don't set any restrictions, the attorney can act straight away using an unregistered power.

When does the attorney have to register the EPA?

When the attorney believes you are or are becoming mentally incapable.

Can I make more than one EPA?

Some people make several EPAs appointing different people to do different things, or different people to do the same things at a different time. For example, you may want your husband, wife or civil partner to be the main attorney, but with your children becoming your attorneys if your husband, wife or civil partner can no longer deal with your affairs. In this case, you could set up two EPAs - one appointing your husband, wife or civil partner, and one appointing your children if your husband, wife or civil partner is no longer able to manage.

There is no limit to the number of EPAs you can make, but it may not be practical to have too many attorneys.

What is the difference between appointing attorneys jointly, or appointing attorneys jointly and severally?

If you appoint attorneys jointly, they have to act together (for example, all their signatures will be required on cheques). A disadvantage of this is that if one attorney cannot act for some reason, the power will fail.

If you choose to appoint attorneys jointly and severally, any of them can act separately or together. It's up to them to decide who does what. This gives them more flexibility. You can do this and still put restrictions on them (for example, requiring them all to sign for transactions over £1,000).

Can two or more people make a joint EPA appointing the same attorney?

Each person must make their own EPA.

Can I choose another attorney?

This is possible, but it must be clear from the EPA which is to act. A better way may be to appoint attorneys to act jointly and severally. Another option is to make more than one EPA. In any case, it may be best to get a solicitor's advice.

Can I change my mind?

You can cancel or end the power at any time, as long as you are able to do this. However, once the EPA has been registered with the Court of Protection, it cannot end unless the Court says so. The Court will need doctor's evidence that you have recovered or are mentally able to end the EPA yourself.

How do I cancel or end the EPA?

The best way is to sign something known as a 'Deed of revocation'. If the EPA has been registered, you need to apply to the Court of Protection. In any case, it would be wise to get a solicitor's advice.

Can attorneys use my assets for themselves or others?

They can use your assets to meet the needs of people you might have been expected to provide for, unless a restriction in the EPA prevents this.

Can attorneys make gifts from my money?

They can make limited gifts, as long as there is no restriction in the EPA preventing this. They can make seasonal gifts (for example, Christmas presents), or gifts on anniversaries, births or marriages/civil partnership, to people who are related to or connected with you. But the value of the gift must be reasonable compared to everything you own.

Can attorneys deal with matters if I am a trustee?

Possibly, but this is a complicated area and you should get a solicitor's advice.

Can attorneys charge?

If you appoint a professional attorney (for example, a solicitor, accountant or bank) they are entitled to charge for their services. Non-professional attorneys would not be expected to charge, although they should not be left out of pocket either.

Do I have to live in England or Wales to make an EPA?

You do not have to live in England or Wales, but unless you have assets there, there may not be a need to appoint an attorney.

Do attorneys have to live in England or Wales?

This need not be the case, but if they live abroad permanently, they may have problems dealing with some matters.

Can attorneys leave their role?

If you are still mentally able to manage your affairs, your attorney must give you formal notice to do this. If the EPA has been registered, they must give formal notice to us. We might then have to consider how your affairs will be managed.

Signing the EPA

This section gives information for donors signing an EPA. You must sign the EPA form and have your signature witnessed by an independent person (not your attorney).

When do I sign the EPA?

You can sign the EPA whenever you want. Before you sign, make sure you:

- are happy with your attorney;
- have added any restrictions you want; and
- are mentally capable of understanding what you are doing.

You must have a witness present when you sign (not your attorney and preferably not your husband, wife or civil partner). The witness doesn't need to know what is in the EPA. They just need to sign and add their full name and address and the date. Get a doctor's advice if you are not sure whether somebody is mentally able to understand the EPA.

What if I cannot physically sign or can only make a mark?

If you have any problems signing, change the words in part B 'Signed by me as a deed and delivered' to explain how you actually approved the document.

You may also need to include a phrase which shows that:

- someone has read the EPA and all the information on the form to you; and
- you understand what you are doing.

If you have not signed because you are blind, that needs explaining too.

If you cannot make a mark because of an illness or physical disability, you can choose someone else to sign for you. That person must be independent (not an attorney or witness). Change the phrase in part B as described above. You will then need two witnesses. The person signing for you should write your name by their signature, full name and address.

Where the form says 'I have read or had read to me the notes in part A', do I have to cross one out?

There is no need to cross out any part of this.

Do I have to initial any things I cross out on the form?

This is not necessary.

This section gives information for attorneys signing an EPA.

When do I sign?

You must sign and date part C in front of a witness. You should do this any time after the donor signs, but before they become mentally incapable. The document does not come into force until you and any other attorneys have signed it.

If you haven't signed by the time the donor loses their mental capacity, the EPA may fail. So you should sign as soon as possible after the donor. However, if you believe the donor is already mentally incapable, you should not sign.

As an attorney, you cannot witness the signatures of other attorneys or the donor.

What if there is more than one attorney?

Each attorney needs to sign a separate part C. Each part C should have all the statutory declarations and margin notes. You can photocopy part C or get sheets for extra part Cs from legal stationers.

Section 2

Applying to register the EPA

When do I register the EPA?

If you have been appointed as attorney under an EPA, you must apply to register it when the donor is or is becoming mentally incapable of handling their own affairs. You can do this on form EP2, which is available from Customer Services and our website.

Should I wait until the donor is completely unable to manage their affairs?

You should contact us as soon as you believe the donor is becoming mentally incapable.

Do I have to provide medical evidence?

This is not necessary unless the EPA says you do. If you are in any doubt, it would be sensible to get a medical report from a doctor.

When I have applied to register the EPA, what powers do I have?

Once you have made the application, you have limited powers to maintain the donor and prevent any loss to their money and property. You will have full powers under the EPA once it is registered.

Do I have to tell anyone that I am registering the EPA?

Before you send us form EP2, you must tell the donor that you intend to register the EPA. You must also tell at least three of their relatives. You must do this on form EP1. The order of priority for telling relatives is:

1. the donor's husband, wife or civil partner;
2. the donor's children (including adopted children, but not stepchildren);
3. the donor's parents;
4. the donor's brother and sisters (including half brothers and sisters);
5. the widow or widower of the donor's child;
6. the donor's grandchildren;
7. the donor's nephews and nieces (children of the donor's brothers and sisters, including half brothers and sisters);

8. the donor's aunts and uncles (but not if they are only related by marriage or civil partnership); and
9. the donor's first cousins (children of the donor's aunts and uncles).

If there is more than one person in any of these classes of relatives, you must tell them all. You should give the donor notice yourself and leave it with them. You must send all notices to relatives by first-class post within 14 days.

What if giving notice will upset the donor?

If you believe that giving notice will harm or distress the donor, the Court of Protection may consider doing without it. You need to support your view with a letter from a doctor.

As attorney, must I give notice?

It should be you. But it can be someone else if it is more convenient. You must include the name and address of that person on registration form EP2.

What if I cannot track down a relative?

If you do not know the name or address of a relative and cannot reasonably find it, the relative is not entitled to notice. It is up to you to decide whether it is possible to get these details. If a relative is under 18, or mentally incapable, they are not entitled to notice.

If you do not want to send notice to a relative for a particular reason, you can apply to avoid the notice on form EP3 (available from our Customer Service Advice Unit). The Court must be satisfied that:

- there are special circumstances; or
- serving notice would be harmful to the donor, impractical or would serve no useful purpose.

Where do I get the forms?

You can get forms EP1, EP2 and EP3 from:

- our Customer Service Advice Unit;
- our website;
- stationers who sell legal forms; or
- solicitors or other advisers.

What if I am the attorney and also a relative?

In this case you can be counted as one of the three relatives who need to receive notice. For example, if you are the son of a donor who has no living husband, wife or civil partner but has three children, only the other two children need to receive notice.

However, remember that you need to give notice to the whole class of relatives as we group them above. So if a donor has:

- no husband, wife, civil partner or parents alive;
- two children who are both attorneys; but
- 10 brothers and sisters;
- you will need to give notice to all brothers and sisters.

What if there are fewer than three relatives entitled to notice?

Just say so in Part 12 of form EP2, or in a covering letter.

If attorneys are appointed to act jointly and severally, must they all give the notices and make the application?

All their names must appear on the notices (forms EP1). But if only one attorney wants to make the application, this will be accepted as long as every other attorney receives notice on form EP1. If the forms EP1 do not name all the attorneys, registration may be limited to the attorneys whose names are shown on the forms EP1 and form EP2.

What if attorneys are appointed to act jointly?

You must all apply together. If this is not possible, the EPA will not be registered.

After I have served all the notices, what do I do next?

You should then fill in the application for registration form (EP2).

How do I fill in the application?

Fill in all sections of form EP2 following the advice given on the form. If there is not enough space on the form to include all the details of attorneys or relatives, you can provide extra information separately.

You must make sure all the information on the form is correct. It is an offence under the Enduring Powers of Attorney Act 1985 for you to make statements which you know are false in an application. The penalties include prison, a fine, or both.

Where do I send the application?

Send it to the EPA Team at our office within 10 days of serving the last notice.

What should I include?

You should include:

- the original EPA;
- the application for registration form (EP2); and
- the application fee (cheques payable to 'the PGO').
- It is a good idea to make a copy of the EPA for your records.

What if the original EPA is missing?

If it is lost, we will consider registering a 'certified copy'. This means a copy which is signed on every page (including part A) to show that it is a true copy and has not been tampered with in any way. Usually solicitors make certified copies.

You will also need to send a sworn written statement explaining how the original was lost, and how and when the certified copy was made.

What if the donor or I cannot afford the application fee?

The fee is normally paid from the donor's assets. But if they cannot afford it, you can ask us to postpone or do without payment. We need your request in writing, with evidence to support it.

What happens when I make the application?

The EPA Team at the Court of Protection will check the EPA and your application form. If there are any problems, we will contact you or the solicitors handling the matter. If there are no problems, we will set a registration date and let you and any solicitors instructed know when it is. The date will be at least 35 days from the latest date on which you sent or gave the notices of intention to register (EP1). This is because everyone who is entitled to notice is also entitled to object to the application for registration.

Please note that if there are any problems or queries, it may not be possible to register the EPA after 35 days until these have been resolved.

Will I get the EPA back after it has been registered?

We will return the EPA with a Court of Protection stamp to say when it was registered. We will do this within five days of the registration date if there were no problems with, or objections to, the application.

If there are any problems, we will register and return the EPA as soon as these are resolved.

What if the EPA cannot be registered?

If the application or the EPA has mistakes which need to be corrected, you must do this before we can register the EPA. We will help you and give you advice on this when we can. But if for some reason the EPA cannot be registered, you may need to consider whether the donor is mentally able to make another EPA.

If this is not possible, you must decide whether to apply to appoint a receiver. (Please see our booklets 'Making an application' and 'Receivers handbook'. Both of these are available from Customer Services.)

Objections to registrations

What happens if someone objects to the registration?

We will send a copy of the letter of objection to you or any solicitors instructed for comments. If the reasons for objecting are not clear or valid, or there is little for you to comment on, we may ask for more information from objectors before we send these copies to you.

How do you approach an objection?

You are the donor's choice. We must respect the donor's wishes as shown in the EPA unless there is a good reason for refusing to register it. We have a duty to register the EPA unless we are convinced about an objection.

For what reasons can objections be made?

Someone may object to registering the EPA if they believe that:

- it is not valid;
- the donor has cancelled it;
- you have applied too soon;
- someone has committed fraud or put unnecessary pressure on the donor to make the EPA; or
- you are unsuitable as an attorney.

We will ask for medical evidence to support any objection based on the first three points.

What happens next?

Sometimes we will carry on copying letters between you and the person objecting until there is a full exchange of views. If we consider there is little or no evidence to support the objection, we may dismiss it and register the EPA.

But if there is clear evidence for an objection, we may refuse registration. We may then have to consider appointing a receiver to manage the donor's affairs.

If we cannot resolve the dispute by correspondence, we will pass it to the Court of Protection to consider arranging a hearing. This gives you and the objectors the chance to put your views in person. These hearings are fairly informal, but they are a Court all the same. You and those objecting may, if you want, ask a solicitor or barrister to represent you.

Can I continue to manage the donor's affairs while you are considering an objection?

You can usually continue to maintain a donor and prevent loss to their estate, but you should act with caution. Please ask our advice if you need to go further than this.

Can you or the Court appoint more attorneys?

We have no power to do this, or to transfer the power to anyone else.

What happens if the registration is refused?

The Court may have to appoint a receiver to manage the donor's financial affairs. We will supervise the receiver and check their accounts.

Are there any other reasons why registration might not take place?

If we hear from someone who is worried about your suitability as attorney, or about whether the EPA is valid, the Court can make enquiries before making a decision. If this happens, we will tell you and give you the chance to comment on the issues raised. If you are worried that somebody is financially abusing a donor, you should write to us with the details.

Using a registered enduring power of attorney

Much of the information in this section also applies to using an EPA before it needs to be registered. If the EPA is unregistered and does not yet need to be registered, you should consult the donor on many of the matters mentioned below.

We and the Court of Protection will only deal with registered EPAs. We cannot give advice on using an unregistered EPA unless it needs to be registered.

How does registration change the status of the EPA?

The law says the EPA must be registered once the donor has become or is becoming mentally incapable. This does not change your powers if you have been acting as attorney.

But it does bring about two important changes.

- You must now answer to the Court of Protection if anyone questions your actions.
- You and the donor cannot end the EPA without agreement from us or the Court.

What are my duties as an attorney?

- You must act in the best interests of the donor and consider their needs and wishes as far as possible.
- You must not take advantage of the donor's position to gain any benefit for yourself.
- You must keep the donor's money and property separate from your own and other people.

You do have very limited powers to make gifts to yourself or others. Remember, you are managing someone else's money and you have legal duties which you must respect.

Do I have to keep accounts?

You have a duty to keep accurate accounts of your dealings for the donor. And you must be ready to produce these at any time. The accounts should include an initial list of the donor's:

- property;
- bank and building society accounts; and
- other investments.

You should then keep a full record of all the donor's income and spending. And you must keep vouchers relating to each item, including bank statements. The donor's money and assets should remain in the donor's name.

The Court of Protection can call on you to produce accounts at any time. If you cannot produce satisfactory accounts, the Court may cancel the EPA. You may also have to account to any personal representatives or executors of the donor's estate after the donor's death.

How do I use the EPA?

You should tell everyone who needs to know about the EPA that it has been registered. This includes banks, the Benefits Agency, the Inland Revenue, pension schemes, nursing homes and so on. These organisations will, in turn, probably need to see a certified or office copy of the registered EPA, although some may want the original.

Can I sell the donor's house?

You can do this if you feel it is in the donor's best interests, and as long as there are no restrictions or conditions in the EPA which prevent it. You must be sure there is no reasonable chance that the donor will be able to return to live at home. You should explore other options, such as letting the property.

You do not need approval from us or the Court of Protection, but you must contact us if for any reason:

- the sale is below the market value;
- you want to buy the property yourself; or
- you want to give it to someone else.

If you do not contact us about this, the EPA may be cancelled.

Can I make gifts?

You have limited powers to make gifts to yourself or others. You can make seasonal gifts (for example, Christmas presents), or gifts on occasions such as anniversaries, births or marriage/civil partnership to people who are related to or connected with the donor (including yourself). You can also donate to any charity the donor supported or might have been expected to support. But the value of any gift must be reasonable, particularly in relation to the value of everything the donor owns.

Can I make larger gifts?

If you want to make larger gifts of money or property, perhaps as part of planning for Inheritance Tax, you must apply to the Court. The Court needs:

- Form EP3;
- a medical certificate which confirms that the donor is mentally incapable; and
- evidence, including sworn statements.

The Judicial Support Unit at the Court of Protection can give you details of what happens next. If you make a gift greater than the limits set without permission from us or the Court, you may have to pay it back.

Can I be paid or recover expenses?

Professional attorneys, such as solicitors or accountants, may charge. Other attorneys would not normally be paid but can recover reasonable expenses such as postage, stationery and the cost of phone calls. You can get advice on this from us or from a solicitor.

Can the donor make a will?

It is unlikely that most donors of registered EPAs could make a valid will or codicil (addition to a will) because of their mental status. However, if a doctor and a solicitor consider that the donor is mentally able to make a will, you do not need our permission for it to be drawn up and signed. Legal and medical advice is essential.

Can I make a will for the donor?

No. If the donor is not mentally able to make a will but one is needed, you can apply to the Court for a statutory will. You can get information on this from the Judicial Support Unit at the Court.

Do I have the right to know the contents of the donor's will?

You do not have this right because a will is confidential. However, you can apply to the Court if:

- you believe you need to see the will to help you carry out your duties; and
- the person or solicitor who holds the will refuses to show it to you.

What happens to property the donor has left to someone?

Your duty as an attorney is to consider the donor's interests over the interests of someone who might inherit something the donor owns. If you know the donor has left something in their will to someone else and you now want to sell it, you need to consider whether this can be done so as to respect the donor's wishes. You may need legal advice on what to do. Or you can consult Customer Services.

Can I stop acting as attorney?

Yes, you can stop at any time. This is known as 'disclaiming the power'. If the EPA is registered, you should write to us. Or solicitors can prepare for you a 'Deed of disclaimer'. It would be helpful if you could suggest how the donor's affairs should be managed in the future, and who would be willing to do this. If you are the only attorney, the usual alternative is for someone to apply to the Court to appoint a receiver. Customer Services can provide information on this.

What happens if there are joint attorneys?

If one of the attorneys wants to give up, the EPA can no longer be used. The donor's affairs will have to be managed in another way. We can give advice on this.

What happens if there are joint and several attorneys?

The remaining attorneys can usually continue to act under the EPA, but they should tell us about the change. We may need to limit registration to the remaining attorneys.

Can the donor make another EPA?

If the EPA has been registered, it is unlikely that the donor will be mentally able to make another one. But a few may, and they will need advice from a doctor and solicitor to make another.

Do you supervise how I manage the donor's affairs?

We do not usually supervise attorneys or tell them how they should manage donors' affairs. However, the Court of Protection can require attorneys to provide accounts (report) to us.

Will you give me advice?

If you need advice on practical, financial or legal matters, you should get help from solicitors or other professional or financial advisers. If these advisers suggest you consult us on particular matters, we will always do our best to help.

The Court of Protection has powers to intervene in running a registered EPA if anyone suspects you are not acting in the donor's best interests. It may also ask you to answer for your dealings, provide information and documents, or explain why you did certain things. The Court has the power to suspend or end your duties.

How do I get extra copies of the EPA?

The original EPA is an important document and you should keep it in a safe place. If you need extra copies to show banks or other organisations, ask a solicitor to produce certified copies. If you can't do this for any reason, we can provide office copies free of charge if you write to us.

Can the EPA be cancelled or ended?

The Court can cancel the registration or end (revoke) the EPA if a successful application for cancellation is made, and in certain other circumstances. A donor can also end a registered EPA if the Court agrees and is satisfied that the donor is mentally able to make this decision.

Can other attorneys be added?

No one can add extra attorneys to a registered EPA.

Can the donor still manage their affairs in any way?

Registering an EPA usually removes the donor's power to manage their own affairs. However, it is difficult to offer general advice on this point. You may want to speak to a solicitor.

Can I decide where the donor should live?

The EPA does not give you, as attorney, the legal right to decide where the donor should live. However, the financial dealings you have to carry out for the donor may mean you do have to consider the financial impact of where the donor lives.

What happens when the donor dies?

The EPA automatically comes to an end. You should send the original EPA and the death certificate to us as soon as possible. We cannot give advice on how to deal with the donor's estate. For this advice, contact a solicitor, a District Probate Registry or other advisors.

Section 3

Citizen's charter and complaints

Under the citizen's charter we aim to send the original EPA to you or your solicitor within five working days of the registration date. We will send it by recorded delivery, or by the document exchange system to solicitors if they use it.

If you have any reason to complain about the service we provide, please contact Customer Services.

If you are not happy with a decision made by the Court of Protection, you can ask the Court to review its decision under Rule 23 (1) of the Court of Protection (EPA) Rules 2001.

'Any person who is aggrieved by a decision of the Court that was made without an attended hearing may apply to the Court within fourteen days of the date on which the decision was given to have the decision reviewed by the Court.'

If you are not satisfied with the Court's decision, you can appeal to a judge under Rule 24 (1) of the Court of Protection (EPA) Rules 2001.

'Any person aggrieved by an order or decision of the Court made on an attended hearing, may, within fourteen days from the date of entry of the order or, as the case may be, from the date of the decision, appeal to a nominated judge.'

Please note that you may need to pay all or part of any costs relating to a review of the Court's decision, and an appeal to a Judge.

Contacts

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If you have speech or hearing difficulties, and you have access to a text phone, you can call the PGO text phone and a customer service operator will assist you.

Published December 2001
Reprint December 2005

1. The Public Guardianship Office (PGO) does not provide legal advice to receivers or any other persons, and recommends that you consider seeking your own independent legal advice.
2. While the information contained in this publication is believed to be correct at the time of printing, the Public Guardianship Office (PGO) does not accept liability for any error it may contain.

EPA v2.0 Dec 05

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