



Powers of Attorney: The Basics



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A Power of Attorney is a form of agency document by which the “Donor” gives the “Attorney” the authority to make and implement decisions on his behalf.

There are various types of Powers of Attorney:

- Lasting Power of Attorney (“LPA”)
- Enduring Power of Attorney (“EPA”)
- General (or Ordinary) Power of Attorney

LPAs and EPAs survive the subsequent mental incapacity of the Donor. General and Ordinary Powers of Attorney cease upon the Donor’s mental incapacity; they can be useful for a single, specific or short-term exercise of power

EPAs were created in 1985 and could be made until 1st October 2007: those in place continue to be effective. LPAs were introduced on 1st October 2007.

There are 2 types of LPAs: the Property and Financial Affairs LPA (which deals with money matters, i.e. “the purse”) and the Health and Personal Welfare LPA (which deals with matters of medical care and treatment, daily care and other personal daily-living issues i.e. “the person”). There is only one type of EPA which can deal only with financial and property matters.

LPAs must be registered with the Office of the Public Guardian (“OPG”) before they can be effective. This is usually done soon after the LPA is completed so that they are ready to be used straight-away should

the need arise. The OPG is the administrative office of the Court of Protection. An EPA can be used without registration but once the Donor, in the opinion of the Attorney, “is or is becoming mentally incapable of managing their affairs” the Donor has a duty to register the EPA with the OPG; in the meantime EPA may only be used on a limited basis to protect the assets of the Donor pending registration.

If an individual loses mental capacity and has not made an EPA or LPA then an application to the Court of Protection for the appointment of a Deputy has to be made which is expensive, incurs annual fees and can take up to six months.

Powers of Attorney are powerful and important documents which need careful thought and attention. Professional advice is fundamental to ensure their maximum effectiveness and to tailor them to your specific requirements.

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If you require advice on this matter please contact Miranda on 01328 710210. If you require advice on any other legal matter please telephone our Wells office on 01328 710210 or email law@hayes-storr.com.

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