



Key points for reviewing your existing Enduring Power of Attorney (EPA)



Mary Rimmer
Partner

01622 655296

maryrimmer@brachers.co.uk

Does your EPA appoint Professional Attorneys?

When you signed your EPA, you may have appointed a partner of Brachers to act which at that time was the only way of nominating professional attorneys. However, you may need to review your EPA now as that partner may have retired, died or left the business.

With LPAs, we are now able to offer more continuity by appointing Brachers Trust Corporation as your professional attorney; Brachers Trust Corporation is a company made up of directors who are current partners of Brachers LLP. This can provide peace of mind you will always have an attorney to help you with your property and financial affairs if and when the time comes.

Are your attorneys still appropriate and are they able to act?

Are you still in contact with and do you implicitly trust your existing attorneys to deal with your financial and property affairs or have your wishes changed? Are your attorneys still alive and willing and able to act?

Is your EPA restricted?

EPAs sometimes include various restrictions, such as stating it could be only used if you are mentally incapable. This means it would not be used if you were physically incapacitated, whether temporarily or permanently, and you would not receive help at the time you need it.

Do you want to avoid delay in the future when the document needs to be used?

An unregistered EPA (unless restricted to only be used in the event of mental incapacity) can be used at your direction until such time as your attorneys believe you are becoming mentally incapable of managing your financial affairs.

At this point your attorneys are under a duty to register the document which involves notifying at least three close relatives of your mental incapacity. Anybody notified can then object to the registration and the document cannot be used until it has been registered which can cause a delay of 6 – 8 weeks at a time when you require help with your finances.

A financial decisions LPA needs to be registered before any action can be taken using it. In practice this means the LPA is registered by the person making it immediately and notice does not need to be given to others. The registered LPA can then be kept until such time as it is needed and used immediately.

Would you like to give extra guidance to your attorneys?

Preferences and/or instructions can be added to an LPA to assist your attorneys when the time comes for them to use the document. You can include express authority for your attorneys to access your digital assets, for example.

This helps avoid potential barriers your attorneys may encounter when dealing with platforms, such as online banking, on your behalf.

Do you want to be included in decision making even if you were mentally incapacitated?

If you were to become mentally incapable of managing your finances and your attorneys register the EPA, you are considered as no longer capable of managing your own affairs. This means that your attorneys are fully responsible for your property and financial affairs and are accountable to the Office of the Public Guardian. In contrast, if you were to lose mental capacity and have an LPA in use, your attorneys need to involve you in all decision-making and give you the opportunity to make any decisions you are able to make.

Do you now wish to name attorneys for your medical and welfare decisions?

You may wish to sign an LPA dealing with medical and welfare decisions to sit alongside your financial power of attorney. A health and care LPA will only come into effect if and when you were to lose mental capacity to make that particular decision. It would enable your attorneys to be involved in your medical care, daily routines, deciding where you would live, as well as make decisions regarding lifesustaining treatment.

The information contained in this document provides background information only. The document may be misleading if relied upon as an exhaustive list of the legal issues involved. If any matter referred to in this document is sought to be relied upon, further information should be sought.

© Brachers LLP
Issue date: March 2025