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**The Friendly Trust**



**... helps people with their money.**



**Advice Sheet: Enduring Power of Attorney**

## What is an Enduring Power of Attorney?

**Enduring Power of Attorney (EPA)** is a legal document that allows somebody to appoint one or more people to deal with their financial affairs and property now or in the future.

The person giving the authority is the **Donor** and the appointed person is the **Attorney**.

Anybody who has the capacity to understand the meaning and powers of an **EPA** will be able to make one. You need to be able to understand that:

### Management Committee of the Friendly Trust

Susan Elsmore, Chair  
John Jevons, Vice Chair  
Steve Cox, Treasurer  
Norbert Flynn  
Roger Watkins  
Jim Pearson

### Other members of the committee

John Mulligan  
John Cushen

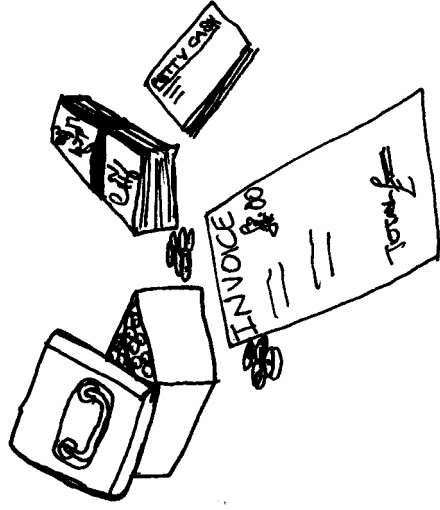
Co-ordinator  
Alison Brunt

## What are the Attorneys allowed to do?

- The Attorney will be able to take control over your affairs if you become mentally unable to manage them yourself.
- The Attorney will (unless you place restrictions on the EPA to limit their powers) be able to do anything with your property that you would have been able to do.
- The power will continue if you become mentally incapacitated.



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The Friendly Trust recommends that you check with a solicitor that this information is up to date at the time you need it - or that you contact the Friendly Trust .

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## Who can act as Attorney?

Anybody who is over eighteen and has not been bankrupt can act as an Attorney. It is important to choose Attorneys who will be able to cope with the necessary commitment.

Attorneys are expected to act in the **best interests** of the Donor and to consider the Donor's needs and wishes as far as possible.

Attorneys must keep the Donor's money and property separately from their own and keep accounts of any dealings that take place.

We hold EPAs for some people who do not need any support at the moment. This gives them the reassurance that if there comes a time when they are unable to manage their affairs The Friendly Trust will be able to support them in ways they have already discussed and agreed.

The Friendly Trust have also drawn up EPAs that enable us only to act in a very specific way. For instance one gentleman made us Attorneys so we could support him to apply for probate on his late brother's estate.

We can help family members to draw up EPAs. Planning ahead in this way can lessen the worry at a later date and is something that everyone should consider.

## The Friendly Trust and Enduring Power of Attorney

The Friendly Trust currently holds **Enduring Power of Attorney (EPA)** for some people. From the moment it is signed an EPA allows us to support the Donor to manage their finances. It can remain in effect if the Donor becomes incapacitated which means The Friendly Trust is still able to support them.

EPAs are recognised by banks so can be used by them to enable us to become signatories on people's accounts and help them to access their accounts if they are no longer able to sign.

## Having more than one attorney

It is often a good idea to appoint more than one Attorney.

If you appoint more than Attorney then you need to decide how they will act, **jointly** or **jointly and severally**.

If attorneys are appointed **jointly**, they must act together. If one of them dies or resigns, the EPA is no longer valid, and other arrangements will have to be made.

If the Attorneys are appointed to act **jointly** and **severally**, they can act both together and separately. This means that if an Attorney dies or resigns, the surviving Attorneys can still act..

## The Attorney's Authority

When an Enduring Power of Attorney (EPA) is drawn up it is advisable to specify the extent of the Attorneys' authority.

You can give **general** authority, which allows an Attorney to do anything with your finances and property that you could do. Or you can limit their powers by specifying it on the Enduring Power of Attorney.

For example you could say that the Attorneys are not to sell your house or that the Attorneys must present yearly accounts to an independent party.

## Registering an EPA

An EPA can be revoked by the Donor at any point unless it has been registered with the **Court of Protection**. This means the Donor has the freedom to change their mind about the arrangement.

If the donor becomes mentally incapable then the EPA needs to be registered with **Court of Protection**.

The attorneys have to inform the donor and their family that it is being registered and the Donor has the right to object.

Once the EPA is registered the Donor cannot change their mind about it without proving that they have "recovered".