



Northern Ireland

Courts and Tribunals Service

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OFFICE OF CARE & PROTECTION

Managing a person's finances:

- 1) Enduring Power of Attorney**
- 2) Controllership**

What is an Enduring Power of Attorney (EPA)?

An Enduring Power of Attorney is a Power of Attorney, which subject to conditions and safeguards, continues in force even after the maker of the power (called “the Donor”) becomes mentally incapable of handling their affairs, provided that it is registered with the Office of Care & Protection (OCP).

What is the purpose of an EPA?

To enable people, while they are still mentally capable, to nominate someone (known as “Attorneys”) to deal with their financial affairs now and in the event they become mentally incapable.

Who can make an EPA?

Anyone over 18+ who is in sound mental health and who has finances that require management.

EPA Parties

Donor: the person who makes the EPA

**Attorney: the person appointed to act on behalf of the Donor.
An Attorney must be over 18 and not declared bankrupt and
the Donor can appoint more than 1 Attorney.**

What Authorities can an EPA have?

General authority:

The Attorney can carry out any financial transaction on the Donor's behalf, which the Donor is legally able to delegate to the Attorney.

Specific authority:

the Attorney can deal only with those aspects of the Donor's affairs which are specified in the EPA.

Restrictions and Conditions

An EPA with restrictions and conditions authorises the Attorney to deal with all the Donor's property and affairs with the exception of specified areas; for example, the Power may exclude the Attorneys right to sell the house in which the Donor resides; or it may direct that the Attorneys are not to act on behalf of the Donor until the power is registered.

Registration

An EPA must be registered with OCP once the Donor has become or is becoming mentally incapable of managing their finances.

Only once the EPA has been registered can the Attorney continue to act.

Controllership

In the absence of an EPA, and when a person has become mentally incapable of managing their own affairs, the Court can appoint a Controller.

- **The process usually begins when a Health Trust informs OCP that a person is no longer capable of managing their own affairs.**
- **It can also occur when family or friends advise OCP.**

In both circumstances medical evidence must be produced to confirm the person is incapable.

How is a Controller appointed?

- **The Court will invite relatives, friends or a professional person to manage the financial affairs of the Patient.**
- **The Applicant will have to fill in a number of forms to provide the Court with some personal details.**
- **The Applicant will need to provide character references and serve notice on others who may have an interest in the Patient's affairs.**
- **The Applicant may have to attend Court to be interviewed in regard to their application.**
- **The Master (Judicial Officer) will make Rulings in cases of dispute.**



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Controller Orders

If the Application is approved one of two Orders will be made:

Short Procedure Order (SPO): if the Patient's assets (& annual income) are less than £21,000.00

Full Controller Order (FCO): if assets (& annual income) are in excess of £21,000.00

SPO / FCO Orders

An Order will provide specific authority for the Controller to manage the Patient's funds and to operate bank accounts on their behalf.

The Controller will provide copies of the Order to banks and the Social Security Agency to prove they have authority to act on behalf of the Patient.

Like an EPA, a Controller must manage a Patient's funds in the way they believe the Patient would have if they had remained capable.

If a Controller is seeking power to do something not contained in the Order they must first seek the approval of the Court.

EPA –V- CONTROLLERSHIP

Enduring Power Of Attorney

- One registration fee - £151
- Very basic registration process.
- Manage finances as you feel appropriate.
- No court intervention unless there is a problem

Controller Order

- Initial fees of £412 then £327 or £457 every year thereafter
- Forms to complete, character references, details of assets, income expenditure etc.
- Court approval required to spend over £1000 and you must keep receipts, bank statements etc.
- Annual reviews by court

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Questions?