

# **Looking after someone else's money**

**Your guide to EPAs and being an  
Attorney**

## Some useful words

Attorney - a person who looks after someone else's money.

Donor – the person whose money is being looked after.

Enduring Power of Attorney (EPA) - the legal agreement giving the Attorney the power to look after the client's money.

Mentally able - when you can still look after things yourself and are not too confused or forgetful.

Mentally unable – when you are no longer able to look after things yourself because you have become very confused and forgetful

Property - the things you own, such as your house or car.

Solicitor - a type of lawyer who can help with EPAs.

### About us

This booklet was written by the Public Guardianship Office. We help people who are not mentally able to look after their own money.

We help them, and we also help the people who are looking after their money and property for them. We try to make sure they are doing things properly.

We can tell you about EPAs, but cannot give you advice about the law. For that you need to speak to a solicitor, a Legal Advice Bureau or the Citizen's Advice Bureau.

**If you have questions about EPAs you can call our EPA Helpline 0845 330 2963.**

The Helpline is open from Monday to Friday, 9am - 5pm.



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## What is this booklet about?

Sometimes, as people start to become very confused and forgetful they can no longer look after their money themselves. We say that they are '**mentally unable**' to look after their money themselves.



If they think they are going to become mentally unable to look after things themselves they can choose someone else to do it for them.



They can do this by making a legal agreement called an **EPA**.

This booklet is for the person looking after their money. We call this person their **Attorney**.

The person whose money is being looked after is called the **Donor**.

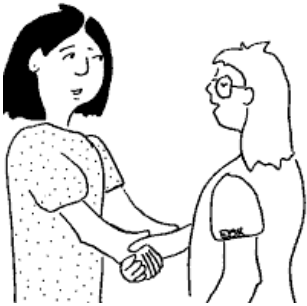
**EPA** stands for "Enduring Power of Attorney", but we will use "EPA" for the rest of this booklet.

# Part 1: About EPAs



## What is an EPA?

When someone makes an EPA they get someone else to look after their money for them.



The EPA is the legal agreement between them and this person.

An EPA must be made **before** they become mentally unable to handle things themselves.



Once they make an EPA naming you as their Attorney you can start looking after their money and property straight away. Or they might ask you to only take over when they cannot do it for themselves.



Everything you do with their money should be what you think is best for them.



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## Why do people make EPAs?

People make EPAs because:

- they think that one day they will become mentally unable to look after their money themselves
- by making an EPA **before** this happens, they get to say who will look after their money and property
- they can set some rules about what can and cannot be done with their money and property.

An EPA is different from an ordinary power of Attorney agreement. An ordinary agreement cannot be used once someone has become mentally unable of managing their own money and property.

## Who can make an EPA?

Anyone over 18 can make an EPA - but they have to be able to understand what they are doing.

An EPA can only be made **before** they become mentally unable to manage things themselves.

They have to be able to understand that:



- their Attorney can take complete power over their money when they cannot manage it themselves



- their Attorney will be able to do almost anything with their property that they could have done
- once they have become mentally unable to manage, they will not be able to change their mind about their Attorney or the EPA. (You will keep control of their money and can only be stopped by the Court of Protection).



They should go to a doctor or solicitor for help if they are not sure about making an EPA. This is especially important if they are already sometimes confused or forgetful.

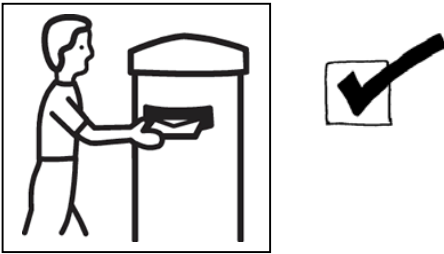
## What will happen after they make the EPA?

If the Donor wants, you can start looking after things straight away. Or they might ask you to only take over when they can no longer manage.



As long as they are still mentally able you do not have to tell us about the EPA. They can also change their mind and end the EPA if they want.

**But as soon as you think they are starting to become mentally unable you have to register the EPA with us.**



This means you have to send us the EPA, as well as some extra information. We tell you about this in Part 3 of this booklet.

**Once the EPA is registered with us, you have control over the Donor's money in the way they decided.**



**They cannot change their mind or end the EPA.**



The only way they can end the EPA is to go to the Court of Protection and prove they are still mentally able to look after things themselves. They would need a doctor to agree that they are no longer too confused or forgetful to look after things themselves.



Once the EPA is registered, the Court of Protection can check on you to make sure you are doing a good job of looking after the Donor's money.



## What will I be able to do?

The person making the EPA decides how much power to give their Attorney.



If they give you "general authority" you can do all the things they could do themselves with their money.



As long as it is the best thing for them, you can use their money to:

- pay their bills
- buy anything they need
- buy small presents for their friends and family
- look after people they would have looked after (such as their wife, husband or children).



You can also:

- sign their cheques
- buy and sell shares
- buy and sell houses and other property.





But they can decide to give you less power.

For example, they could say that you have to show someone else (like a family member, accountant or solicitor) what you have been doing with their money. Or they could say that you are not allowed to sell their house. They might also decide to have more than one Attorney.

# What do I have to do to be a good Attorney?

As an Attorney you have to:

- always do what you think is best for the Donor
- listen to what they want as much as possible
- not use the Donor's money or property to make money for yourself
- keep their money separate from your own
- keep their money and property under their own name
- keep accounts showing what you have spent their money on
- keep all their papers safe (this includes bank statements, receipts, bills, important letters and so on).

Once the EPA is registered, you can be asked to show these accounts and papers to the Court at any time.

If the Court does not think you are doing a good job it can stop the EPA.





## What should I do with the Donor's house?

If the house is empty, you can try to rent it out. Or you can sell it if you think selling it is the best thing for the Donor. (Although some Donor's may choose to make an EPA stopping you from doing this).

You should only sell the house if you are quite sure the Donor will not return to live in it.

You **must** tell us if:



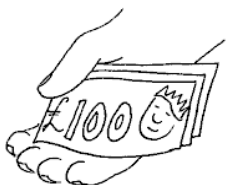
- you are selling the house for less than it should be worth
- you want to buy the house yourself
- you want to give it to someone else.

## What if I want to give presents?

You can use the Donor's money to buy presents for people they would normally have given gifts to (this includes yourself). You would normally only give presents for things like Christmas, birthdays, weddings or the birth of a baby. The presents should not cost too much.



You can also give money to charities that the Donor usually supports.



If you want to give away large amounts of money you will probably need permission from the Court. Call the EPA Helpline **0845 330 2963**.



### **Can I be paid?**

Some people ask an accountant or solicitor to be their Attorney. They pay them for doing the job. But most Attorneys do not get paid for looking after the money of a friend or family member. However, you can get back money you have spent (on phone calls, postage and so on). Call the EPA Helpline **0845 330 2963** if you need to find out more about this.



### **Can I live overseas?**

You can live overseas and still be an Attorney. But if you know you will be living overseas you should think carefully before agreeing to be an Attorney as it can make it harder to do the job properly.



### **Can I get extra copies of the EPA?**

You must keep the EPA in a safe place as it is a very important document. If you need extra copies (to show the bank, for example) ask a solicitor to make a “certified copy” for you. If you cannot do this, ask us to send you copies.

### **Can I stop being an Attorney?**

You can stop whenever you want. If the EPA is not registered you need to give the Donor warning in writing. They might be able to make another EPA choosing a new Attorney. But if the EPA is registered you need to write to us. We will probably need to get the Court to choose someone to look after their money. If you think you want to stop being an Attorney, you should call the EPA Helpline for help **0845 330 2963**.



### **Can the EPA be cancelled or ended?**

The Court can end the EPA if it thinks it should be cancelled. The Donor can also end the EPA, but only if they can prove to the Court that they are now able to manage their own money.



### **What happens when the Donor dies?**

The EPA ends when the Donor dies. You should send us the original EPA and the Donor's death certificate as soon as you can.



**Remember:** If you have any questions or need help you can call the EPA Helpline

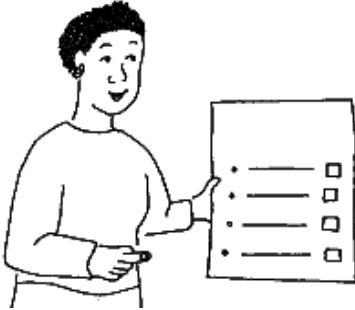
**0845 330 2963**

The Helpline is open from Monday to Friday 9am-5pm, and calls cost the same as a local call.

# Part 2: Making and signing an EPA

## How do you make an EPA?

The Donor needs to fill in a special form to make an EPA.



They can get the form from:

- our customer services **0845 330 2900**
- our website **[www.guardianship.gov.uk](http://www.guardianship.gov.uk)**
- stationery shops that sell legal documents
- a solicitor

They don't have to see a solicitor to make an EPA, but it is a good idea if they have a lot of money or if they are not sure what to do. If they are already starting to get confused or forgetful they should see a solicitor and a doctor first.

This is because an EPA must be made **before** they become mentally unable to handle things themselves.



## Signing the EPA

You must sign and date Part C in front of a witness. If there are other Attorneys they must all sign as well.

You can do this any time after the Donor signs – but it must be before they become mentally unable. It is best to sign it as soon as possible after they have signed.



## Part 3: Registering an EPA

### What do I do when I think the Donor is no longer mentally able?



Do not wait until they are completely unable to manage. You should register the EPA as soon as you think they are **starting** to become mentally unable. If you are not sure if they are still mentally able you should ask a doctor for advice.

As soon as you think the person is becoming mentally unable you should:



- tell them that you are going to register the EPA
- contact Customer Services 0845 330 2900 and ask for the forms EP1 and EP2
- use form EP1 to tell their family what is happening
- let the Donor know using the form EP1 – this must be given to them in person either by you or someone who looks after them

(You can also get these forms from our website)



## Who do I need to tell?

You need to tell the Donor and the Donor's family what is happening. This is called "giving notice". You have to tell at least 3 family members. **But if you tell one person in a group, you have to tell the others.** (For example, if you tell **one** of the Donor's children you have to tell all the other children as well.)



Look for people to tell in this order:

1. The person's wife or husband
2. Their children (including adopted children but not stepchildren)
3. Their parents
4. Their brothers and sisters (including half brothers and sisters)
5. Any widows or widowers of their children
6. Their grandchildren
7. Their nephews and nieces
8. Their parents' brothers and sisters (in other words, their aunts and uncles)
9. Their first cousins (any children of their aunts and uncles).

You only have to tell people who are over 18 and mentally able.



You should do your best to find out the names and addresses of family members. But if you cannot find them they do not have to be told. If the Donor has less than 3 family members you can write this in Part 12 of form EP2.

If you are a family member you can count as one of the people given notice. (But remember, you have to tell all the other people in the same group so if you are the Donor's child you will have to give notice to all your brothers and sisters.)



Send the forms to the family members by first class post within 2 weeks of telling the Donor.

It is best to do this yourself, but you can get someone else to do it if you need to. In that case you should add that person's name and address on form EP2.



If you think that telling the family will really upset or hurt the Donor, the Court of Protection may agree you don't have to do it. You would need to send a letter from a doctor agreeing it would be harmful.

If for some reason you do not want to get in touch with a family member, you can give your reasons on form EP3. There would have to be very good reasons for the Court to agree that this person should not be told.



### **What if there is more than one Attorney?**

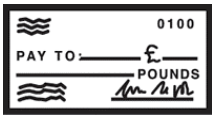
If there is more than one Attorney you should write all their names on form EP1.

They must apply together if the EPA says the Attorneys are to be appointed “jointly” (which means they **all** have to sign **all** cheques and documents).

If they are to be appointed “jointly and severally” (which means they can each sign cheques and other documents on their own) only one Attorney needs to make the application. All the others will have to be given notice on form EP1.

## How do I register the EPA?

Once you have told the family, you can register the EPA. You have to do this within 10 days of telling the last family member.



To register the EPA you have to:

- send us the EPA itself
- fill in and send us Form EP2
- send the application fee.

It is a good idea to make a copy of the EPA before you send it.

Make sure you fill in the form truthfully. Lying on the form is a crime which can result in a fine or prison term.



If you have lost the EPA call us for help on **0845 330 2963**.

If the Donor does not have enough money to pay the fee please tell us in a letter, or call **0845 330 2963** for help.

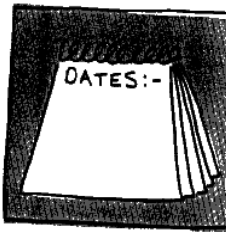


## What happens after I send in the forms?



After you send in the forms:

- we will check them and tell you if there are any problems
- if there are no problems we will register the EPA and send it back to you (and you can start looking after the Donor's money)
- it will be at least 35 days before you get it back because we need to give people time to say if they disagree with the EPA
- it will take longer if there are problems
- if the problems are so bad that the EPA cannot be registered, the EPA team will tell you what to do next.



## What if someone disagrees with the EPA?

If someone disagrees with the EPA or with you being the Attorney we say they “object” to the EPA.



People can object to the EPA if they think:

- it is not valid (is a fake)
- the Donor had already changed his mind and decided not to go ahead with the EPA
- you are applying too soon (while the Donor is still able to manage things themselves)
- someone is lying about the EPA or has forced the Donor to make the EPA
- you would not make a good Attorney.

If anyone does object to the EPA we will listen to what they say. We may need to get the Court of Protection to decide what to do.



But the Donor chose **you** to look after your money. There would have to be very good reasons and a lot of proof before we went against their wishes.



### **Remember:**

**when the Donor starts to become too confused or forgetful to manage you have to:**

1. Tell them you are going to register the EPA
2. Get forms EP1 and EP2
3. Tell family members and the Donor using form EP1
4. Send us the EPA, form EP2 and the registration fee.



### **Need more help?**

We cannot give you legal advice, but we can answer your questions about how to make an EPA.

**Call our helpline 0845 330 2963**

The Helpline is open from Monday to Friday 9am to 5pm. Calls only cost the same as a local call.

To ask for forms and booklets, call customer services **0845 330 2900** (Monday to Friday, 9am to 6pm).

## Contacting us



Public Guardianship Office  
Archway Tower  
2 Junction Road  
London N19 5SZ

**0845 330 2900**

(Calls cost only the same as a local call. You can call between 9am and 6pm Monday to Friday)



Fax 020 7664 7705

textphone 020 7664 7755



email [custserv@guardianship.gov.uk](mailto:custserv@guardianship.gov.uk)

Our website is [www.guardianship.gov.uk](http://www.guardianship.gov.uk)

If you need advice on an Enduring Power of Attorney agreement (EPA) you can call the EPA Helpline **0845 330 2963**.

### What if you are unhappy with us?

Please contact Customer Services 0845 330 2900 if you are unhappy with us. We have a Customer Complaints team to help you.



If you are unhappy with a decision by the Court of Protection you can make an appeal. You will need to ask a solicitor for help.

The Public Guardianship Office does not provide legal advice.

We believe the information in this booklet was correct at the time of printing, but we do not accept liability for any mistakes it may contain.

Thank you to Change picture bank and Widgit for the pictures.