

Have you ever thought what would happen if you were involved in an accident or suffered from an illness which resulted in you not having the mental capacity to look after your own affairs? How would you or your family cope?

Under the Powers of Attorney Act 1996 you can draw up a document called an **Enduring Power of Attorney**. This document is signed while you are in good health and are able to make the decisions as to who should look after your affairs and will then only take effect if you lose your mental capacity in the future. [Click here to learn more](#)

What is an Enduring Power of Attorney?

An Enduring Power of Attorney enables you to choose a person called "An Attorney" to manage your property and affairs in the event of your becoming mentally incapable of doing so.

The procedure for executing an Enduring Power of Attorney is complex and there are a number of safeguards to ensure that you understand what you are doing when creating an Enduring Power of Attorney and to protect you in the event of any abuse or any undue influence.

What do I need to do and how safe is it?

You will have to attend your medical practitioner to discuss creating an Enduring Power of Attorney and your medical practitioner will have to furnish a statement verifying that in his/her opinion you had the mental capacity when executing the document to understand its effect. If at some stage in the future the Enduring Power of Attorney needs to come in to effect your medical practitioner will again have to issue a statement stating that at that time you no longer had the mental capacity to manage your own affairs.

You yourself will also have to sign a statement confirming that you understood the effect of creating the Power of Attorney and your solicitor will have to sign a statement to state that he/she are satisfied that you understood the effect of creating Power of Attorney and that you were not acting under any undue influence.

It is therefore an extremely protected procedure and furthermore once you have decided who you wish to have to act as your Attorney /or Attorneys you will also have to notify two family members that you are creating this Enduring Power of Attorney and in the future if the Enduring Power of Attorney has to come into effect these two notified parties will again be notified so as to ensure that they are satisfied that you no longer have mental capacity and to ensure that again your Attorney or Attorneys are not trying to take over control of your affairs against your will.

Are there different types of Enduring Powers of Attorney and can I restrict the powers my attorney will have?

There are two types of Enduring Power of Attorney being a General Power of Attorney which will allow your Attorney to make a wide range of decisions on your behalf in relation to your property, business and financial affairs or you

can limit the Enduring Power of Attorney to Personal Care Decisions only which means that your Attorney will make decisions in relation to where and with whom you shall live, or what training or rehabilitation you should get. If you wish you can specifically exclude or limit the powers your Attorney may have.

How does it come in to effect?

If in the future your Attorney has reason to believe that you are becoming mentally incapable of managing your affairs they must apply to have the Enduring Power of Attorney registered in the High Court. Before doing so they must give notice to you of their intention to do so and to your two notice parties. You and your notice parties will be able to object if you or they disagree with the registration.

Peace of Mind for you and your Family.

This Enduring Power of Attorney is an extremely important and beneficial document to have in place particularly if you have any property in your sole name or in the joint names of yourself and another person. In the event of you becoming mentally incapable without having this document in place your family will not be able to deal with your financial affairs or your property until you die or you are made a Ward of Court. An application to be made Ward of Court is an extremely costly and time consuming process and could significantly eat into your assets.

The Enduring Power of Attorney may never need to be registered but it will give you enormous piece of mind to know that you have the safeguards in place to protect your family in circumstances which will already cause them huge upset and anxiety.

If you require any further information in relation to this matter please do not hesitate to get into contact with Celine Barrett or reception@bandonsolicitors.com.