

Making an Enduring Power of Attorney allows you to choose the correct people to deal with your affairs in circumstances where you are no longer capable of doing so yourself.



What is an Enduring Power of Attorney?

An Enduring Power of Attorney is a signed and witnessed legal document that allows a client (Donor) to appoint an Attorney. The appointed Attorney will have authority to make decisions on behalf of that Donor in relation to their financial and personal affairs. The Attorney's authority may be subject to certain restrictions or stipulations dependent on the Donor's wishes at the time of granting the Enduring Power of Attorney. It is important to note that this authority only comes into force in the event of a Donor losing their mental capacity. An Enduring Power of Attorney may be revoked at any time before it is registered.

Who are the parties to an Enduring Power of Attorney?

The party granting the Enduring Power of Attorney is known as the Donor. The person who is appointed to make decisions on behalf of the Donor is known as the Attorney. The Donor may appoint one or two Attorneys. The Donor will also need to identify at least two Notice Parties who are written to explaining that the Donor has granted an Enduring Power of Attorney. A Doctor, in most instances the Donor's GP, will also need to certify that the Donor has the mental capacity to grant an Enduring Power of Attorney.

Why do you need an Enduring Power of Attorney Solicitor?

Our Enduring Power of Attorney Solicitors have experience in all aspects of drafting, preparing and registering Enduring Powers of Attorney. We will ensure that your Enduring Power of Attorney will enable your chosen Attorney to have the entitlement to manage your financial and personal affairs should you lose your mental capacity at some future date.

How can our Enduring Power of Attorney Solicitors help?

We have the knowledge and experience to advise you on all aspects of your Enduring Power of Attorney and will assist you with contacting your appointed Attorney, Doctor and Notice Parties. We will review the relevant legal documentation and move quickly to bring the process to a swift conclusion while keeping you up to date throughout. We strive to ensure your experience is stress free.

Our 5-stage process

1. Information Gathering

We will send you our initial letter of advice outlining the procedure required to draft your Enduring Power of Attorney and advise you of the information required from you which includes the names and addresses of your Attorney, Notice Parties and your Doctor. We will explain the merits of appointing one or two Attorneys or a Deputy Attorney. No two Enduring Power of Attorney documents are the same, each one is individual and requires careful consideration by you and our Enduring Power of Attorney Solicitors.

2. Drafting & Review

Once we have the required information from you, we will then draft and review your Enduring Power of Attorney along with the letters to your Doctor and Notice Parties.

3. Consultation

We will arrange a consultation with you to review and explain your Enduring Power of Attorney ensuring that you understand the nature of the process and the documentation involved in making your Enduring Power of Attorney. When you are satisfied with the content and effect of signing your Enduring Power of Attorney, it may then be signed by you.

4. Post-Consultation

Once you have signed your Enduring Power of Attorney you will then meet with your Doctor who must confirm and certify that you have the necessary mental capacity to grant an Enduring Power of Attorney. The next step will involve making the Notice Parties aware that you have signed the Enduring Power of Attorney which we will attend to for you.

5. Registration

Your Enduring Power of Attorney can only come into force when it has been registered. In order to register an Enduring Power of Attorney, the Attorney makes an application for registration to the Registrar of Wards of Court, once there is reason to believe that you are or are becoming mentally incapacitated. The Attorney must have medical certification from your treating Doctors confirming that you are no longer capable of managing your affairs.

In conclusion, if you do not have an Enduring Power of Attorney and you become mentally incapacitated then an application may have to be made to the High Court to have you admitted into Wardship under the supervision of Wards of Court office. This will come at considerable cost to your loved ones. In this scenario, the Court will have the power to make decisions on your behalf. An Enduring Power of Attorney avoids this scenario giving you the power to appoint your chosen Attorney while you have the cognitive ability to do so.

The above article is one of a series of legal articles drafted by Jennifer Murray, Solicitor at Conor McLaughlin & Associates. They do not constitute legal advice and should not be acted upon without seeking legal advice particular to your set of circumstances. Conor McLaughlin & Associates have their offices in Bundoran, County Donegal. For further information on the above or any other legal issues you may have, please contact us on TEL: 071 984 1322, Email: info@cmclassociates.com or at www.cmclassociates.com