

MAKE A MENTAL NOTE TO CONSIDER THE BENEFITS OF AN EPA SAYS THE IPW

Dementia is a subject under the spotlight at present and a term describing a condition affecting an estimated 758,000 people in the UK. According to the Institute of Professional Willwriters (IPW), many of these people will not have made provision for their financial affairs prior to suffering their loss of brain function, which in 55% of cases will be caused by Alzheimer's disease.

The IPW is hoping that the publicity being given to this issue by the current storyline in Coronation Street will raise awareness of the need to create an Enduring Power of Attorney (EPA), which enables your financial affairs to be managed, on your behalf, should dementia strike. Mention has already been made, within the script, of this type of document, which is clearly now required by Street businessman, Mike Baldwin.

It makes sense to make an enduring power of attorney if you have property, savings, investments or any income apart from benefits. An EPA enables you to select one or more people to act for you now, if you wish, as well as in the future, if you become mentally incapable. It gives you the opportunity to have a say about your future and will also make it easier for carers to handle your affairs, on your behalf, at a future date.

Making an EPA is a legal process in which an individual becomes a donor who gives the legal right to their chosen attorney or attorneys to manage their affairs. An individual is able to set up an EPA as long as they know what is involved and can demonstrate that they fully understand the process. For this reason, an EPA cannot be established once a person has advanced dementia and planning for the future is therefore essential.

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The attorney or attorneys can be anyone over the age of 18 that is not bankrupt at the time of signing the document. They can then manage either part or all of the donor's financial affairs, or can simply assume responsibility if required to do so, at a later date.

Different attorneys can be appointed to handle different responsibilities, but they cannot dictate where the donor lives, or what medical treatment or care they receive, make a Will on their behalf, or make substantial or unusual gifts. They must not take advantage of the position to gain any benefit for themselves and must keep the donor's money and property apart from both their own and that of others. They can, however, dispose of property, sign cheques, withdraw money from bank accounts, sign documents for the donor, make purchases for them and make usual gifts to family, friends and charities.

If you become mentally incapable of managing your own affairs and have an EPA, your attorneys then apply to register that EPA with the public guardianship office.

Whilst the registration process is being completed, they can pay your regular bills and take care of day to day expenses for you, but cannot arrange any large transactions such as the sale of your house, which could only be done after the EPA has been registered. When registering an EPA, an attorney must tell at least three of the donor's close relatives what they intend to do and must pay the registration fee of £120.

An EPA has to be made on a specific form and should be drawn up by an expert, says the Institute of Professional Willwriters. There are many untrained people claiming to have skills to make an EPA on your behalf, but good advice is essential, according to IPW Chairman, Paul Sharpe. He is worried that the publicity being given to this issue might lead people to fall prey to the untrained element and has words of warning for the general public.

"An EPA is a legal document that needs to be drawn up in the correct manner, as there are risks attached to it and abuse needs to be prevented. It is a powerful document that needs to take into account the individual's wishes, making it clear exactly what they wish their attorney to be able to do, or not do, and ensuring that the EPA works in their benefit and is not used for fraudulent purposes.

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"The process needs to be fully explained to the person who wishes to draw up the EPA, so that they recognise the extent of the powers they are devolving to a third party. This advice is crucial in helping the individual decide who to choose as an attorney and ensuring that the EPA can operate effectively, particularly where more than one attorney is involved. Unfortunately, where the so-called expert has little or no experience, the process falls down and poor advice can be given."

Paul Sharpe stresses that every member of the IPW is fully trained in these issues. He points out that the IPW is the only body within the Willwriting and Enduring Power of Attorney market to fully regulate its members, insisting on the passing of exams, continuous personal development and professional indemnity cover. Even other bodies who claim to have controls in place do little to enforce them, as long as membership fees are paid, whilst nowadays it is not compulsory for a solicitor to study Willwriting.

"Many people now complete an EPA when they are reviewing their Will", says Paul Sharpe, "which is potentially worrying if they have already placed their Willwriting needs in untrained hands. A simple way to check on the credentials of a willwriter is to see if they have a logo with the two ticks of the Institute of Professional Willwriters on their letterhead. If this is the case, they are vetted, trained and continuously abreast of the latest developments in their field, whilst charging fees substantially lower than those charged by most solicitors and law firms. Consumers can also ring **08456 442042** or visit our site at www.ipw.org.uk for more information.

An EPA can be cancelled, but only whilst the donor still has the mental capacity to do so. Again, cancelling an EPA is a decision that can require good advice, as certain legal steps need to be taken.

In a world in which the incidence of dementia is predicted to double every 20 years and where it is estimated that by 2010 there will be 870,000 people in the UK with dementia, an Enduring Power of Attorney is likely to be a document that many more people need to consider. With one in 50 aged between 65-70 suffering, and one in twenty aged between 70-80, this is a highly relevant issue that cannot be ignored.

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Note to Editors:

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