

GUIDE TO LEGAL TERMS & PROCEDURES

DONOR: The person who appoints another person (or people) to assist them with their affairs.

ATTORNEY: The person appointed to act on their behalf.

ENDURING POWER OF ATTORNEY (EPA): A document which allows a person (the Donor) to appoint one or more people (the Attorneys) to assist them with the management of their financial affairs. These can no longer be made due to a change in the law, although documents that were completed before October 2007 remain valid.

LASTING POWER OF ATTORNEY (LPA): Came into effect in October 2007 and is similar to an EPA but it is divided into two types – Property & Financial Affairs and Health & Welfare. The Property & Affairs LPA deals with financial issues while the Health & Welfare LPA addresses care needs and medical treatment. Both have to be registered with the Office of the Public Guardian (OPG) before they can be used.

CERTIFICATE PROVIDER: A Power of Attorney must also be accompanied by a certificate, from an authorised professional person, such as a GP or Solicitor, or someone who has known the Donor for at least 2 years, to confirm that there was no fraud or undue pressure and that the Donor was capable of understanding the document when it was made. If there are any doubts about the mental capacity of the Donor then it is advisable to use a suitably qualified Certificate Provider, such as a Geriatrician.

DEPUTYSHIP: An LPA can only be created if the Donor has the mental capacity to understand the nature and effect of the document. If the Donor does not have capacity, then the alternative is to apply to the Court of Protection for a Deputyship Order (this used to be called a Receivership Order). The result is similar to an LPA, but the application is more in-depth and expensive.

OFFICE OF THE PUBLIC GUARDIAN (OPG): This is the body that regulates the registration of EPAs and LPAs. The OPG is also responsible for supervising Court-appointed Deputies, and will give guidance to Attorneys where necessary.

WILL: Is a document which controls what happens to your estate after your death and ensures that those who depend upon you are provided for.

EXECUTOR: An executor is appointed by a Will, and can only act following the death of the person who appointed them. Not to be confused with an Attorney or Deputy whose role ceases immediately on the death of the person for whom they are appointed.



PROBATE: Probate is a term that is often used to describe the process of dealing with someone's estate after they have died.

GRANT OF PROBATE: Is a document issued by the Court that gives authority to the person (or people) named in a Will to deal with the estate of a person who has died.

TRUST: A trust is a vehicle which divides the responsibility for the management of an asset from the right to use or benefit from that asset: 'trustees' manage the assets, and 'beneficiaries' benefit from them.

TRUSTEES: Trustees make the decisions relating to a trust's administration and to the management of the assets within it: this will include, for example, making decisions about how monies are to be invested, and – depending on the terms of the trust – how assets should be used to support the beneficiaries.

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