

## **What is an Enduring Power of Attorney and do you need one now?**

More and more clients are asking us to draft an Enduring Power of Attorney for them at the same time as instructing us to draft their Will.

An Enduring Power of Attorney is a Legal document which covers and nominates a person to manage your financial affairs in certain circumstances, in particular, if you become incapacitated. It is important because even though you may have chosen an executor for a will, the will has no effect until you pass away, whereas the Enduring Power of Attorney allows for management of your affairs by your chosen person while you are still alive.

In most cases the Power of Attorney lies dormant until such times as a person becomes incapable of managing their own affairs and at that time the nominated person applies to Court to have the Power registered thereby enabling the Attorney to act.

It is also possible for the Power of Attorney to be worded in a way to allow the nominated Attorney to act with immediate effect. This is particularly useful if the person giving the Power is still mentally capable but perhaps has difficulty with mobility and needs someone to deal with matters at the Bank or Post Office for example. A Power of Attorney such as this could still be used after a person becomes mentally incapable through the same registration process mentioned earlier.

You should be aware that safeguards can be put in place to prevent abuse of Powers of Attorney. If an application is made to register a Power then other close relatives must receive notification of the process in case they wish to lodge an objection.

If you do not have an Enduring Power of Attorney and become incapacitated then your relatives may have to make a direct application to Court to be appointed Controller of your affairs. This is a more complex and potentially more expensive process, and further highlights the benefits of the Enduring Power of Attorney. Additionally families often disagree as to who should manage things for an incapacitated relative and the Enduring Power of Attorney helps to clarify matters and avoid dispute. In many cases, having an Enduring Power of Attorney setting out a procedure avoids stress, uncertainty and cost which would arise at a time of crisis in a person's life. Glover & King will be happy to advise you in relation to these and many other legal matters.