

## **Article on Enduring Powers of Attorney**

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### **“ENDURING POWERS OF ATTORNEY – LAW CHANGE”**

**by Katherine Wilmott, Director**

I was pleased to see the Government agreed to change the law again in relation to Enduring Powers of Attorney to allow couples who appoint each other as their attorney to use lawyers of the same firm to witness both documents.

Enduring Powers of Attorney (EPA) allow another person to make decisions on your behalf if you no longer have the mental or physical capacity to do this yourself. There are two types of EPAs, personal care and welfare (your health and wellbeing), and property (actual signing of documents).



Unfortunately, a number of people abused these powers. Tragically, people's life savings were stolen with "mum" or "dad's" home being sold from under them. The Government decided it was time to tighten up the law to protect and look after our precious older people. Some positive changes included a duty to consult with family members, and requiring medical evidence of mental incapacity before using the document. However, the tightening up for many couples had tipped the balance resulting in more legal fees to have these documents drawn up.

Usually couples appoint each other as the attorney, using the same lawyer. When the Government tightened up the law, a lawyer of the same law firm could not witness the EPA for the husband, as well as the wife, requiring one party to obtain independent legal advice. Many people don't like paying legal fees at the best of times, but having to pay for independent legal advice to sign EPAs seemed a little unfair.

As from 7 July 2010, lawyers from the same firm can now witness both documents. This means couples can use the same firm and save on the expense of independent legal advice.

This new law change helps restore the balance of protecting our precious older people's rights with cost effectiveness.



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