



# Wanstall Consulting

## Wills & Estate Planning

### ***Enduring Powers of Attorney (EPAs)***

Many people have prepared EPAs, but are they still valid? Yes, but ...

### **What is an EPA?**

This is a document where someone (the donor) appoints one or more people as their attorney(s). The attorneys can look after the donor's financial affairs should the donor want them to, or if the donor has lost, or is losing, mental faculties.

EPAs were replaced by Lasting Powers of Attorney (LPAs) - Property and Financial Affairs and Health and Welfare - on 1 October 2007. Existing EPAs remain valid, but new ones cannot be prepared.

Attorneys of an EPA can only deal with the donor's financial affairs, not health or welfare.

### **Registration**

Unless the donor loses faculties, their attorneys can act for them. A third party just needs sight of the EPA to work with them.

If the donor has lost, or is losing, capacity, their EPA must be registered with the Office

of Public Guardian. Until registration is completed, the attorneys can no longer act.

However, LPAs must be registered before they can be used and not only if the donor has lost capacity. (Extra safeguards apply with Health LPAs).

### **Potential problems**

Some people have issues using unregistered EPAs where, for example, the donor has capacity but cannot go out. Certain third parties have refused to work with attorneys with unregistered EPAs even though this is wrong: LPAs need to be registered, not EPAs, unless the donor has lost capacity.

### **What to do?**

Some people with EPAs are preparing LPAs instead to obtain peace of mind, knowing that their attorneys should now be able to act for them if it ever became necessary.

If you would like to discuss EPAs, LPAs, or related matters, please contact me on [iain@wanstallconsulting.co.uk](mailto:iain@wanstallconsulting.co.uk) or **01296 415700**. You can also find more information on my website: [www.wanstallconsulting.co.uk](http://www.wanstallconsulting.co.uk).