

Choosing who to manage your affairs if you get Alzheimer's

Q. I'm an elderly widow. My mother died with Alzheimer's and I fear that I'll also get it. Is there any legal document I can sign now directing who I want to have control over me and my finances should I get Alzheimer's?

A. Yes, there is such a document. This document is called an Enduring Power of Attorney.

This document is signed while you are in good health and are able to make the decisions as to who should look after your affairs and will only take effect if you lose your mental capacity in the future.

An Enduring Power of Attorney enables you to choose a person called "An Attorney" to manage your property and affairs in the event of you becoming mentally incapable of doing so.

The procedure for executing an Enduring Power of Attorney is complex and there are a number of safeguards to ensure that you understand what you are doing when creating an Enduring Power of Attorney and to protect you in the event of any undue influence.

You will have to attend your medical practitioner to discuss creating an Enduring Power of Attorney and your medical practitioner will have to furnish a statement verifying that in his/her opinion you have the mental capacity to understand the effect of executing the document. If at some stage in the future, the Enduring Power of Attorney needs to come in to affect, your medical practitioner will again have to issue a statement stating that at that time you no longer have the mental

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capacity to manage your own affairs.

Once you have decided who you wish to act as your Attorney /or Attorneys, you will also have to notify two family members that you are creating this Enduring Power of Attorney.

If, God forbid, you do get Alzheimer's and the Enduring Power of Attorney has to come into effect, then these two family members will again be notified.

They will need to be satisfied that you no longer have mental capacity to manage your own affairs and must ensure that your Attorney/s are not trying to control your affairs against your will. It is therefore an extremely protected procedure

There are two types of Enduring Power of Attorney.

One is a General Power of

Attorney which will allow your Attorney to make a wide range of decisions on your behalf in relation to your property, business and financial affairs.

The other Power of Attorney is limited to Personal Care Decisions only which means that your Attorney will make decisions in relation to where and with whom you shall live, or what training or rehabilitation you should get. If you wish, you can specifically exclude or limit the powers your Attorney may have.

If in the future your Attorney has reason to believe that you are becoming mentally incapable of managing your affairs, they must apply to have the Enduring Power of Attorney registered in the High Court. Before doing so they must give notice to you of their intention to do so and to

your two notice parties. You and your notice parties will be able to object if you or they disagree with the registration.

This Enduring Power of Attorney is an extremely important and beneficial document to have in place particularly if you have any property in your sole name or in the joint names of yourself and another person.

In the event of you becoming mentally incapable without having this document in place, your family will not be able to deal with your financial affairs or your property until you die or you are made a Ward of Court.

An application to be made Ward of Court is an extremely costly and time consuming process and could significantly eat into your assets.

The Enduring Power of Attorney may never need to be registered but it will give you enormous piece of mind to know that you have the safeguards in place to protect your family in circumstances which will already cause them huge upset and anxiety.

If you have any queries regarding this article please feel free to contact Jacquelyn Dunne Solicitor on (086) 1617418. Send your questions for next week's article to jacquelyn@dunnesolicitors.ie or by post to Dunne Solicitors, Ballyshonock, Kildorrery, Co. Cork

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