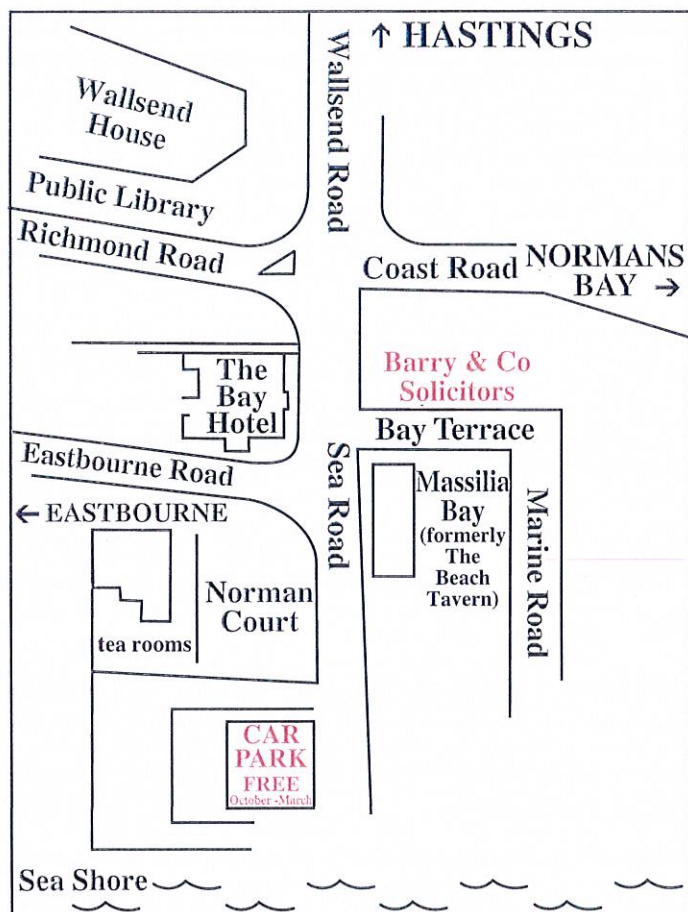


BARRY & CO.

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LASTING POWER OF ATTORNEY

BARRY & CO.
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9.00am - 1.00pm
2.00pm - 5.00pm
Home appointments can be arranged.

Email: info@barryandco.org



This brochure is not intended as an exhaustive statement of the Law, it is prepared as a guide only and professional legal advice should always be sought from a Solicitor on such matters and on the preparation of any document(s) intended to have legal effect.

(Wills - usual fee for a Will is £225 + VAT - separate Wills brochure available on request)

(Property & Financial Affairs)

WHAT IS A LASTING POWER OF ATTORNEY?

The purpose of a Lasting Power of Attorney document is to enable you to appoint an Attorney to look after your property and affairs even if you become mentally incapable (temporarily or permanently) for whatever reason e.g. serious illness, accident, disease, disability (an Ordinary Power of Attorney is revoked by mental incapacity).

If you have not appointed an Attorney and you lose mental capacity, The Office of the Public Guardian will appoint a Deputy to deal with your property and affairs, and this may not be the person you would have wished for, and furthermore, this may be both a lengthy and costly process.

WHAT IS AN ATTORNEY?

An Attorney is a person/persons you choose to act on your behalf to deal with some or all of your property and affairs. The Attorney you appoint will (if you decide it is appropriate) be able to do virtually all of the things that you do for yourself, e.g. organise suitable accommodation for you, collection of pension, pay your bills, manage all of your day to day affairs, (all of which have to be carried out in your best interests).

MAY I RESTRICT THE POWER GIVEN TO MY ATTORNEY IN THE LASTING POWER OF ATTORNEY DOCUMENT?

Yes, you may restrict the power of your Attorney to one specific assignment, or aspect of your affairs; several specific (although different) assignments/aspects, or if you prefer you may authorise your Attorney to deal with all of your property and affairs.

In addition as a safeguard, your Attorney will not be able to act on your behalf or in regard to any of your affairs by virtue of the Lasting Power of Attorney unless the document has been formally registered with the Office of the Public Guardian.

The necessity for the Lasting Power of Attorney to be registered to be effective was a safeguard that was introduced by the legislature in October 2007 because under the old regime an Enduring Power of Attorney could be used from the date of signing without the need for registration and there was concern that this system was open to abuse.

Clearly whatever powers you decide to repose in your Attorney(s) the person(s) you choose should be reliable and trustworthy.

CAN I STILL DEAL WITH ALL OF MY OWN PROPERTY AND AFFAIRS AFTER I HAVE MADE A LASTING POWER OF ATTORNEY AND APPOINTED AN ATTORNEY?

Yes, you may still deal with all of your property and affairs in exactly the same manner as before.

The Lasting Power of Attorney gives your Attorney (in addition to your ability to deal with your affairs whilst you remain mentally capable):-

- (1) the power to deal with your affairs as well (once the Lasting Power of Attorney has been registered with the Office of the Public Guardian) if you wish them to do so; and
- (2) the power to continue to deal with your affairs if you subsequently become mentally incapable of doing so.

COULD THE SAME PERSON(S) THAT I HAVE APPOINTED AS EXECUTOR(S) IN MY WILL ALSO BE APPOINTED AS MY ATTORNEY(S) IN A LASTING POWER OF ATTORNEY DOCUMENT?

Yes

WHAT IF MY CIRCUMSTANCES ALTER, OR IF I DECIDE THAT I DO NOT WISH TO HAVE A PARTICULAR PERSON AS MY ATTORNEY ANY LONGER, OR I SIMPLY DO NOT WISH TO HAVE A LASTING POWER OF ATTORNEY AT ALL?

You may revoke the Lasting Power of Attorney in its entirety; or alter it by changing your Attorney, or change the scope of the powers of the Attorney, in whatever manner you wish, whenever you wish; provided that you still have mental capacity, (even if the Lasting Power of Attorney has been registered with the Office of the Public Guardian).

WHY A LASTING POWER OF ATTORNEY AS OPPOSED TO AN ORDINARY POWER OF ATTORNEY?

An Ordinary Power of Attorney is revoked by subsequent mental incapacity, therefore the Office of the Public Guardian would need to appoint a Deputy to deal with your affairs, as if you had never appointed an Attorney at all, and the person appointed by the Office of the Public Guardian may not be the one that you would consider most suitable.

WHAT HAPPENS IN THE EVENT OF ME BECOMING MENTALLY INCAPABLE?

You would no longer be able to revoke the appointment of the Attorney(s) in the Lasting Power of Attorney whilst your mental incapacity continued, but your Attorney(s) would be able to continue to manage your affairs to the extent and in the manner that you had authorised in the Lasting Power of Attorney.

IS A LASTING POWER OF ATTORNEY A SUBSTITUTE FOR MAKING A WILL?

No, the provisions of a Lasting Power of Attorney will subsist only during your lifetime, (or until you revoke it), it is not a substitute for a Will. Ideally, the preparation of a Lasting Power of Attorney and a Will should go side by side.

HOW MUCH WILL IT COST TO PREPARE A LASTING POWER OF ATTORNEY?

The usual fee for the preparation of a Lasting Power of Attorney and the registration of the same with the Office of the Public Guardian is £470 + VAT plus a Court fee of £82.

In short a Lasting Power of Attorney is a document which enables you to appoint an Attorney(s) to deal with your affairs in the event that you might in the future lose your mental capacity, either temporarily or permanently, for whatever reason. Thus you may make provision for the proper handling of your business, property, money and affairs for the benefit of yourself and for the benefit of your family, to the extent that you may consider necessary and appropriate.

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