

Managing a bank account for someone else - Isle of Man

In certain circumstances it is possible for a person other than the account holder to manage a bank or building society account on their behalf.

This guidance applies to the Isle of Man. Further information is available on the Isle of Man Courts of Justice website at

<https://www.courts.im/lib/docs/courtservice/Leaflets/epa01enduringpowerattorney.pdf>

It is sometimes necessary for a customer's account to be handled by another person. The ways this can be done and the documents you will need to show the bank or building society to be able to manage the account are set out below:-

If you are given the authority to manage another person's account you normally have the same power as the account holder, depending on the account's terms and conditions, security procedures and any requirements specified by the account holder (called the donor in the case of a power of attorney) when the arrangement was drawn up.

It is important for the account holder to think about how any specific requirements or arrangements may affect the running of their account. For example, an account holder specifying that both of their children should authorise withdrawals from their account would work well for a simple savings account but would not work if transactions needed to be carried out by phone or online.

Banks and building societies will always need to check specific documents before they can let you manage another person's account. They will need:

- proof of your name and address;
- evidence of your authority to act for the account holder; and
- proof of the account holder's name and address (if the bank or building society has not already had this).

The documents you need to provide to prove your name and address include the following.

- Proof of your name – your passport or driving licence.
- Proof of your address – a recent gas, electricity, water, landline phone or rates bill, a letter or a letter from an appropriate person (for example, the matron of a care home).

The bank or building society can give you full details of the documents they accept.

Managing someone else's bank account when they have mental capacity

A person has mental capacity if they have the ability to understand, remember and act upon appropriate information and so can reliably make decisions for themselves.

An account holder who has mental capacity can authorise someone else to have access to their account. This may be for convenience or because of the account holder's long periods of travel or physical disabilities.

If you have the right to manage the account of someone who has mental capacity, you have a 'third-party mandate'. A third-party mandate is not appropriate if the account holder is losing the ability to make relevant decisions themselves.

For more information about getting a third-party mandate to manage the account of someone who has mental capacity, you and the account holder should speak to the bank or building society.

Another way of banking on behalf of someone who has mental capacity is by having what is called an Enduring Power of Attorney (“EPA”). This enables you to make financial decisions on behalf of the account holder (known as the donor). An EPA continues to have legal authority if the donor loses mental capacity, but will need to be registered.

Enduring power of attorney

An EPA is when a person makes a decision, before they become incapacitated, to appoint somebody they trust (the attorney), to look after their finances or property. An EPA relates to property and financial affairs and enables a the donor to appoint the attorney or attorneys to make decisions about their finances and property if they become unable to make these decisions and, in some cases, while the donor still has mental capacity.

An EPA must be made by the donor. They can choose to give you, the attorney, authority immediately or only when the donor loses the ability to make decisions.

A general power of attorney gives the attorney the authority to deal with the donor’s financial affairs and property. A specific power allows the attorney to deal only with those aspects of the donor’s affairs which have been specified in the power.

The donor can place restrictions on how you can manage the account, and can also include guidance for you in the EPA or it may direct that the attorney is not to act until the power is registered. You will need to make sure that any restrictions, conditions or guidance do not prevent you from being able to manage the account.

A donor can make several powers appointing different attorneys to do different things.

If the donor has mental capacity, you can use the EPA without it having to be registered.

The bank or building society will need to see the following documents before you can start managing the donor’s account:-

- The filled-in and signed EPA. This can be unregistered if the donor still has mental capacity. If the donor has lost mental capacity, it must be registered (see below).
- Proof of your and the donor’s names and addresses (if the bank or building society does not already have them).

The EPA you give to the bank or building society must be:

- the original document; or
- a certified copy of the original document signed on every page by the donor, an advocate or a notary to confirm that it is a true copy of the original EPA.

Managing someone else's bank account when they do not have mental capacity

If you believe the donor has lost or is losing their mental capacity, the EPA is required to be registered, as soon as is practicable, at the Isle of Man Courts of Justice in order that the attorney may continue to act on the donor's behalf.

A person does not have mental capacity if they cannot understand, remember and act upon appropriate information and so cannot reliably make decisions for themselves.

An application to the judge for the registration of the EPA should be made at the Court Office.

The following documents are required in support of a registration:-

- the original enduring power of attorney form;
- Form 1 - Notice of intention to apply for registration;
- Form 2 - Application for registration;
- a letter from a medical practitioner supporting the belief of the applicant that the donor is or is becoming mentally incapable.

Notice of the application to register the enduring power of attorney must be given to the donor, to every relative who is entitled to receive notice and to the co-attorneys if there are any as set out in Schedule 1 of the Powers of Attorney Act 1987.

Once the EPA is registered with the Isle of Man Courts of Justice you will need to contact the donor's bank or building society so that they can set up appropriate arrangements to let you manage or continue to manage the account. The bank or building society will need to see the following things before you can start managing the donor's account.

- The filled-in and signed EPA. This can be unregistered if the donor still has mental capacity. If the donor has lost mental capacity, it must be registered.
- Proof of your and the donor's names and addresses (if the bank or building society does not already have them).

The EPA you give to the bank or building society must be:

- the original power of attorney which will have been signed by the Chief Registrar and stamped with the court seal; and
- a certified copy of the court order (or however many copies you requested) confirming registration

Mental Health Receivership

Court order or appointment of a Receiver

The Isle of Man Courts of Justice protects the rights of people who do not have mental capacity. When a person who does not have mental capacity has not made, or is not capable of making, a power of attorney, the Court can decide who can handle that person's affairs.

When a person becomes incapable, by reason of mental disorder, of managing his or her property and affairs, an application may be made to the court for the appointment of a Receiver. Usually a close friend, family member, an advocate or someone else who can be trusted applies to the Court for a court order to appoint a Receiver.

If you are appointed as a Receiver for a person who does not have mental capacity, you will need to contact their bank or building society so that they can set up appropriate arrangements. The bank or building society will need to see the following things before they will give you access to the account.

- The court order or a copy of it.
- Proof of your name and address and the name and address of the account holder (if the bank or building society does not already have them).

Joint bank account

A joint account allows two people to use an account either separately or together. Depending on the terms and conditions of the joint account, another person may be given access to a joint account on behalf of one of the account holders.

If one joint account holder loses mental capacity, banks and building societies can decide whether or not to temporarily restrict the use of the account to essential transactions only (for example, living expenses and medical or residential-care bills) until a deputy has been appointed or a power of attorney registered.

If a person has a joint account with someone who is losing mental capacity, they should talk to their bank or building society.

Attorneys acting on behalf of a joint account holder

If one joint account holder loses capacity to operate their account and a registered enduring power of attorney is in place, then the bank will allow the attorney and the account holder (with capacity) to operate the account independently of each other, unless the account holder (with capacity) objects. In such cases the bank will then usually only allow the account to continue to operate on a 'both-to-sign' basis.

Although the joint account holder with capacity will have been notified when the power of attorney was first registered with the bank, it is best practice for the bank to re-notify the customer at the point when the power of attorney is activated.

This page is for guidance only. If you are thinking about an enduring power of attorney or now need to make an application for registration you would be well advised to seek legal advice.

If you would like further information about making an EPA or applying for registration or an application to the Courts under the Mental Health Act please contact us by telephone on 01624 676868 or by email at mail@corlettbolton.com

Useful contacts

The Isle of Man Courts of Justice

Website: <https://www.courts.im/>

Deemsters Walk

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The Isle of Man Law Society

<http://www.iomlawsociety.co.im/advocates-database/>

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