

Third party access

Enduring power of attorney explained

What is an enduring power of attorney?

An enduring power of attorney is a legal document that lets a third party make decisions on your behalf. An enduring power of attorney is similar to a lasting power of attorney, but is only valid if granted prior to 1st October 2007.

While you still have mental capacity, an enduring power of attorney acts as an ordinary power of attorney and doesn't have to be registered to allow your attorney to make decisions about your property and financial affairs.

But if you lose mental capacity, your attorney must register the enduring power of attorney with the Office of the Public Guardian*¹ before they can use it. You can find more information on the Directgov website*¹.

Could an enduring power of attorney be right for me?

Unlike a third party mandate or an ordinary power of attorney, a registered enduring power of attorney can be used if you lose mental capacity. Please note, before deciding if an enduring power of attorney is right for you, you might want to consider seeking legal advice.

You'll find examples of when an enduring power of attorney may be suitable in our 'Choosing Third Party Access' table at www.hsbc.co.uk/thirdparty

What important information do I need to know?

Fees and registering

The process of registering an enduring power of attorney may take some time. There are no fees to lodge an enduring power of attorney with HSBC, but the Office of the Public Guardian will require a fee when an enduring power of attorney is registered. You can find details of these fees on the Directgov website*¹.

Resubmitting

Even if you have already lodged an unregistered enduring power of attorney with us, your attorney will have to register and resubmit it to HSBC if you lose mental capacity.

Restrictions

For security reasons, if you have included any restrictions on your enduring power of attorney, the attorney won't have access to Telephone Banking or Internet Banking.

Multiple third parties

If you'd like to nominate multiple third parties to act as your attorneys, you must specify on the enduring power of attorney whether you want them to act jointly or individually*³. For security reasons, if you nominate two or more parties to act jointly, they won't have access to Telephone Banking or Internet Banking.

What access does an enduring power of attorney give?

To see what powers an attorney would have over your account, see our 'Managing Third Party Access' table on page 3.

How do I grant an enduring power of attorney?

Please remember, an enduring power of attorney only needs to be registered if the individual that the attorney is acting for has lost mental capacity.

If you want to register an enduring power of attorney before lodging it with HSBC, you can do this at the Office of the Public Guardian. You can find out how much it costs and how long it takes to register at the Directgov website*¹.

Lodge an enduring power of attorney with HSBC in branch

You and/or your attorney should bring the enduring power of attorney to an HSBC branch.

There are some important things to know:

- ▶ You must ensure the enduring power of attorney is correctly and fully completed (and clearly stamped and perforated by the Office of the Public Guardian if registered)
- ▶ The attorney must supply suitable documents proving their identity and residential address (see examples below)
- ▶ We may ask the attorney to supply a sample signature in the branch

We will only accept the original power of attorney or an official copy certified by a solicitor*³.

What ID documents are acceptable?

Example identification documents

- ▶ Current passport
- ▶ Current National Identity Card
- ▶ Travel Documents (issued in the UK by the Home Office)

Example address documents

- ▶ Council tax bill (valid for current year)
- ▶ Utility bill (dated within last four months)
- ▶ Telephone bill (dated within last four months) – mobile phone bills are not acceptable

For a list of all the documents we accept, please see our proof of ID and address page.

When will third party access stop?

As long as you have mental capacity, you can choose to cancel an enduring power of attorney at any time—find out how on the Directgov website*¹. Certain events such as if you or the other party were to die would result in it being automatically revoked. For more examples of events which may affect your enduring power of attorney, see our 'Stopping Third Party Access' table on page 4.

You'll also find more information on the Directgov website*¹.

*¹ See our useful links page at www.hsbc.co.uk/thirdparty

*² See our Third Party Access pages for explanation of other types of access at www.hsbc.co.uk/thirdparty

*³ Refer to our Glossary. www.hsbc.co.uk/thirdparty

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Managing Third Party Access

Actions to be done on behalf of the account holder	Third Party Mandate* ²	Ordinary Power of Attorney* ²	Lasting / Enduring Power of Attorney* ²	Court of Protection Order (Deputyship)* ²	Department for Work and Pensions (DWP) Appointee* ² (Please note, the below applies only for the benefits received by the individual who has lost mental capacity)
Hold a debit card	—	✓	✓	✓	✓ ²
Obtain information about account holder's account(s) from bank	✓	✓	✓	✓	✓
Open/close accounts in the account holder's name	—	—	✓	✓	—
Issue cheques	✓	✓	✓	✓	—
Make payments (i.e. bills)	✓	✓	✓	✓	✓
Withdraw cash	✓ ¹	✓	✓	✓	✓ ²
Deposit cash/ cheques	✓	✓	✓	✓	✓
Retrieve items from safekeeping	✓	✓	✓	✓	—
Apply for ISAs	—	—	✓	✓	—
Access Internet banking	—	—	✓ ⁴	✓ ⁴	✓
Access Telephone banking	✓ ³	✓ ³	✓ ³	✓	✓
Hold a cheque/pay-in book	—	✓	✓	✓	✓ ²
Manage the account if account holder becomes mentally incapacitated	—	—	✓	✓	✓
Sign a mortgage loan agreement	—	✓	✓	✓	—
Arrange an overdraft	—	—	—	—	—

The information in the table above is for your guidance only. The powers we grant a third party over a customer's account may change from those listed above depending on the particular circumstances or changes to our procedures (and are subject always to our obligations under applicable laws and regulations). In particular, the power of attorney, court of protection order or third party mandate itself may contain restrictions on the third party's access to and powers over a customer's account(s). We will need to comply with any such restrictions which will override our general position set out in the table.

1 Third parties acting under a Third Party Mandate cannot hold a debit card. They can withdraw cash, provided that the third party mandate or power of attorney do not contain any relevant restrictions, by writing out a cheque to themselves. In an emergency, the third party may be able to visit a branch with suitable identification documents and request a withdrawal slip from the counter.

2 Appointees can have a Debit Card for the other person's account and use it to withdraw money from an ATM. Appointees can also hold a paying-in book.

3 Some third parties can have Telephone Banking access to the accounts of the individual they are acting for.

Irrespective of the type of third party authority held (third party mandate or power of attorney), we are only able to provide telephone access if both of the following are true:

- The third party access is unrestricted. This means that the third party has full authority to operate a sole account or has the same signing authority on a joint account as the individual they are acting for and there is no clause limiting their authority.

- There is only one named third party OR There are multiple third parties acting jointly and severally*³.

Deputies under a Court of Protection order and Department of Work and Pensions appointees can have Telephone Banking access as they will have their own accounts opened instead of being added as signatories to the account of the individual they are acting for.

4 Only certain types of third party access allow the third party to use Personal Internet Banking (PIB) to access the accounts of the individual they are acting for. Third party mandate holders and holders of ordinary powers of attorney cannot be set up for Internet Banking.

Some holders of lasting or enduring powers of attorney may be set up for Internet Banking access, provided that all of the following are true:

- The individual they are acting for has lost capacity OR if the individual retains capacity, he or she understands and agrees that only the attorney will have access to PIB. This is because only one person can access a sole account via PIB at a time; therefore, either the attorney or the individual they are acting for can have PIB access, not both.

- The Power is unrestricted. A power of attorney is unrestricted if the attorney has authority to operate a sole account or has the same signing authority on a joint account as the individual they are acting for and there is no clause limiting their authority.

- There is only one named attorney OR there are multiple attorneys acting jointly and severally*³ – in the latter case only one of the attorneys will have Internet access.

Deputies under a Court of Protection order and Department for Work and Pensions appointees can have Internet Banking access as they will have their own accounts opened instead of being added as signatories to the account of the individual they are acting for.

Stopping Third Party Access

	Third Party Mandate* ²	Ordinary Power of Attorney* ²	Lasting Power of Attorney* ²	Enduring Power of Attorney* ² <small>(only valid if written and signed before 1 October 2007)</small>	Court of Protection Order (Deputyship)* ² See note 5	Department for Work and Pensions Appointee Account* ²
Account holder dies	The Mandate is automatically revoked and the balance of the account will form part of the deceased's estate.	The power is automatically revoked and the balance of the account will form part of the deceased's estate.	The power is automatically revoked and the balance of the account will form part of the deceased's estate. See note 3	The power is automatically revoked and the balance of the account will form part of the deceased's estate. See note 3	The order is automatically revoked and the balance of the account will form part of the deceased's estate. See note 4	Authority of the appointee is cancelled and the balance of the account will form part of the deceased's estate.
Account holder loses mental capacity	The mandate is automatically revoked.	The power is automatically revoked.	No change – the power remains valid and the attorney retains full authority.	If the power is unregistered, it is temporarily suspended until registration is completed. A registered power will remain valid and the attorney regains full authority.	The Court of Protection order would only be used in case of mental incapacity.	The Appointee account would only be used in case of mental incapacity or severe physical disability.
Account holder wants to cancel	The mandate is revoked upon receipt of account holder's instruction.	The power is cancelled by Deed of Revocation* ³ .	Written evidence by either the Court of Protection confirming Deed of Revocation* ³ or by the Office of the Public Guardian advising cancellation of the power. See note 3	Written evidence by either the Court of Protection confirming Deed of Revocation* ³ or by the Office of the Public Guardian advising cancellation of the power. See note 3	Written evidence by Court of Protection needed to confirm Deed of Revocation* ³ . See note 4	See note 2
Third party dies	The mandate is automatically revoked.	The power is automatically revoked. See note 1	The power is automatically revoked. See note 1 and 3	The power is automatically revoked. See note 1 and 3	The order is automatically revoked. The Court needs to appoint new deputy. See note 4	The appointment is revoked and the appointee's authority is cancelled immediately.
Third party loses mental capacity	The mandate is automatically revoked.	The power is automatically revoked. See note 1	See note 3	See note 3	The order is automatically revoked. The Court needs to appoint new deputy. See note 4	See note 2
Third party wants to cancel	The mandate has to be revoked by the account holder.	The power is automatically revoked.	See note 3	See note 3	The order may be revoked upon application by deputy. The Court needs to appoint new deputy. See note 4	See note 2

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1 All powers of attorney (General, Lasting, and Enduring*²): These legal documents allow the individual granting a power of attorney to name multiple or replacement attorneys.

Subject to the text of the power of attorney, a replacement attorney may be able to take over in the event of bankruptcy, loss of capacity or death of an existing attorney.

If there are multiple attorneys appointed jointly and severally*³ and one of them cannot continue to act for some reason, the other attorney(s) may continue to act on behalf of the individual who granted the power of attorney.

2 See the Guide for Agents, Appointees and Attorneys on the webpage of the Department for Work and Pensions at <http://www.dwp.gov.uk> *¹

3 Find out more information under "Cancelling or ending a Lasting or Enduring Power of Attorney" on the DirectGov page at www.direct.gov.uk *¹

4 Find out more information under "Cancelling or ending a deputy's responsibilities" on the DirectGov page at www.direct.gov.uk *¹

5 A deputy's appointment can be revoked at any time by the Court of Protection.

*¹ See our useful links page at www.hsbc.co.uk/thirdparty

*² See our Third Party Access pages for explanation of other types of access at www.hsbc.co.uk/thirdparty

*³ Refer to our Glossary. www.hsbc.co.uk/thirdparty

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