

# **Text Transcript of Keep Control's video: 'Enduring Power of Attorney'**

## **[Conversation between Dad and Daughter in the garden]**

Dad: Did you hear that Joe is in a bad way with dementia?

Daughter: I heard that alright. They had to take his car off him to stop him from driving.

Dad: Gosh. It must be terrible to be like that.

Daughter: It makes you think though...I mean it could happen to any of us.

Dad: Aye, I suppose so... and there's nothing any of us can do about it.

Daughter: Oh I don't know about that... can't you make someone an enduring power of attorney to look after your money and things if you were to get so bad that weren't able to?

Dad: I'd hardly need that. Sure, you look after my money as it is.

Daughter: I'm not sure how that works if you were to get really ill. I mean if you got dementia or something I'm not sure how it affects things.

Dad: I don't think it would affect things, but I don't know really

Dad: I am concerned about getting dementia and losing my capacity to make decisions as a result. I have two options here: I can find out more about setting up an enduring power of attorney or I can leave things as they are without putting an enduring power of attorney in place.

## **Option 1 - Don't set up an enduring power of attorney**

### **[Follow up phone conversation between Dad and Daughter]**

Dad: Hi, listen... I've been thinking... I don't think I'll need that enduring power of attorney. You look after things as it is and that's good enough for me.

Daughter: I suppose but, I mean it's not just the bills and shopping you have to think about... there's other things too like... you've got the house, other accounts...

Dad: I know but you'll be able to look after those things for me surely. Anyway there's no sign of dementia catching up with me anytime soon... I don't think we'll have anything to worry about...

Daughter: I'm sure you're right but... it wouldn't hurt to just think about setting it up. I mean you just never know...

Dad: Well... we'll just see... ok, love you

Daughter: Love you too Dad

**[Son and Daughter in room with Dad. Dad is obviously not well, suffering from dementia.]**

Daughter: He's totally not with it today

Son: Yeah he's having a bad day alright. Did you see the solicitor?

Daughter: Yeah... apparently it's too late for him to make either of us attorneys. It can only be done when the person has decision-making capacity. The solicitor needs to know that the person understands what they are doing... its gone way beyond that point...

Son: Right, so what now?

Daughter: Well, it looks like we're going to have to put in an application to make him a ward of court and then what happens is, the courts are the ones who make all the decisions... they could appoint us to oversee things but there's no guarantee. And, the whole thing could take a fair bit of time as well, according to the solicitor...

Son: Great! Where are we going to find the money for the home care? Not to mention all the other bills that are stacking up.

Daughter: But there's still money in the account isn't there?

Son: What... the agency arrangement? No, that's all stopped... once someone loses decision-making capacity, that all stops... I can't withdraw a cent... that's what they told me yesterday.

Daughter: How come you couldn't have thought of that before and get him to sort it out? This is such a mess.

## **Option 2 - Set up an enduring power of attorney**

**[Dad on phone to solicitors office]**

Dad: Hello, I'd like to make an appointment to see one of the solicitors there please. Mr. McCarthy. That's great, ok, thanks.

**[Dad in solicitors office]**

Dad: I was thinking that it might be time for me to set up an enduring power of attorney

Solicitor: Ok well let's have a chat about that. First of all, I can't emphasise enough to you the importance of choosing somebody that you trust to become your attorney. I always recommend that my clients appoint two attorneys. This is an important safeguard for you as one can oversee the other. It's also useful if one attorney isn't around for whatever reason.

Dad: I see that makes a lot of sense. I hadn't thought of that now. I'll probably ask my son. He advised me before in the past and his advice has been solid. And I'd like my daughter as well. I get on very well with my daughter. She lives close by and they both get on quite well.

Solicitor: Well you don't have to decide straight away. This is a very important decision so you have to make sure you think about it and make sure you choose the right people. Remember, you don't necessarily have to choose family members. The important thing is that you choose somebody that you trust to follow your instructions. And also that they will agree to act as attorneys.

Dad: Ok. I'll have to check with them and make sure that it's ok with them and see if they're willing to do it.

Solicitor: Well there are two types of powers you can give your attorneys. You can give them either a general power or you can give them specific powers. In the general power, this means you are giving them control over all your financial affairs and your business affairs. With specific powers it means, you can limit or restrict their authority. So for example, if you were going to sell your house or certain possessions, if you were entering long term residential care but not have overall decision-making control over your finances. So these types of things.

Dad: Oh right. Well I'll have to have a think about that. I will have to talk to both of them as well.

Solicitor: The other thing worth thinking about is would you authorise your attorneys to make certain health care decisions on your behalf?

Dad: What would that include?

Solicitor: Well it means that they would be authorised to make decisions regarding your healthcare and giving consent or not for certain medical treatments.

Dad: Oh I see. Well that would be very important. Because I have certain decisions that I would want carried out in case I was seriously ill.

Solicitor: Well, you have a lot to think about there so I suggest you go away and consider all these options and have conversations with your chosen attorneys. The most important thing is that you choose the right people, that they will follow these instructions.

Dad: That makes sense. Will I talk to the receptionist on the way out and make an appointment for a second meeting?

Solicitor: Very good, so you have a lot decisions to make there now and things to think about. So I look forward to seeing you again at the next meeting.

Dad: I surely have. Thank you very much.

Solicitor: Thank you.

Dad: In option one, by not putting an enduring power of attorney in place, I put myself and my family in a vulnerable position. It is important for everyone to set up an enduring power of attorney as early as possible. In option two, by seeking independent legal advice I made sure that I am following the best practice in setting up an enduring power of attorney.