



Ministry of
JUSTICE

Lord Bach
Parliamentary Under
Secretary of State
102 Petty France
London SW1H 9AJ

T 020 3334 3626
F 020 3334 4455
E general.queries@justice.gsi.gov.uk

www.justice.gov.uk

The Lord Henley
House of Lords
London
SW1A 0PW

30 March 2010

Dear Olive,

Mental Capacity Act 2005 – Question for Short Debate

During yesterday's debate on the Mental Capacity Act 2005 you asked whether it was possible to estimate the number of Enduring Powers of Attorney (EPAs) currently in circulation.

In my answer I stated that an EPA can be used while a person *lacks* capacity without being registered. [*Official report, 29/03/10: Col GC524*] This is of course not the case and I should have said that an EPA can be used while a person *has* capacity without being registered.

It is only when a person begins to lack capacity that an EPA needs to be registered with the Office of the Public Guardian and it is for this reason that it is not possible to estimate the number of EPAs currently in existence.

I am grateful for this opportunity to correct the answer that was given in the House. I have copied this letter to Baroness Finlay, Baroness Barker and Lord Rix and a copy will be placed in the House library.

Your Gov,
Wills.

WILLY BACH

