



Ask the experts

Money for nothing

I received a letter from my bank about an automatic upgrade to my credit card. The upgrade offered no tangible benefits over my current situation. What's more, in order to stop this unsolicited change I had to ring an 0870 number (not cheap). Is it legal to force me to spend money like this?
DUDLEY TOLKIEN, PLYMOUTH

It could be argued that this is a breach of the Banking Code, which sets minimum standards on how banks treat their customers. The code says that banks can immediately change the terms and conditions of your credit card as long as the change is not to your disadvantage and you are notified within 30 days. However, it also promises fair dealing and standards of good banking – which is clearly not the case here. Complain to your bank and inform the Banking Code Standards Board (0845 230 9694; www.bankingcode.org.uk). The board cannot mediate in a dispute but will examine whether there has been a breach of the code that needs to be followed up.



Dudley Tolkien asks about an unsolicited upgrade to his credit card

Healthy tuck

The secondary school I teach at has a tuck shop run by the school's catering company. We can no longer sell chocolate, sweets, crisps or fizzy drinks. What can we offer within the new government standards that is healthy but also interesting to the children?
KATE LEWIS, LONDON

The School Food Trust, an independent organisation funded by the Department for Education and Skills, has produced a guide to help implement the new standards. The aim is to ensure that the message about healthy eating that children receive in class is backed up by the food available. Suggestions for snacks include toasted sandwiches and panini, crumpets, tinned and dried fruit, plain popcorn and drinks made from any combination of fruit juice, water, yogurt or milk. See www.schoolfoodtrust.org.uk.

Lost emails

After I'd been with the internet service provider (ISP) Homechoice for four months its server went down and I lost all



How do you ensure your property or finances will be properly managed if you become physically or mentally incapable? The answer is by giving someone a power of attorney. Anyone who is 18 or over can make a power of attorney provided they are mentally capable. But doing so needs careful thought and it's crucial to get advice from a solicitor. Here we give basic information. For more help, ring the Public Guardianship Office on 0845 330 2900 or visit www.guardianship.gov.uk. We'll be looking at the subject in more detail next year.

NORTHERN IRELAND AND SCOTLAND

This article relates to England and Wales. Legislation in Northern Ireland is similar. Call the Office of Care and Protection on 028 9072 4733 or go to www.courtsni.gov.uk and click on 'Useful leaflets'. In Scotland you can already appoint an attorney for welfare matters. Contact the Office of the Public Guardian on 01324 678 300; www.publicguardian-scotland.gov.uk.

my emails. Many were on business and legal matters and I have been unable to recover them. Doesn't an ISP have a duty of care to keep information secure and have back-ups?

NICK GREENWOOD, CHISWICK, LONDON

Most ISPs, including Homechoice, state in their terms and conditions that they are not liable for the loss, corruption or deletion of any web-based email. Such emails won't be automatically saved to your computer so it's a good idea to back

up or print any that are important. Homechoice has told us that it experienced a system failure during a software upgrade and unfortunately some customers lost emails. It has now reviewed all its policies relating to its email service and changed its storage system.

Delayed departure

Our departure on holiday was delayed by a day due to a problem with the aircraft. On our return I contacted the tour operator for compensation and

Which?

Documents of power

What are ordinary power of attorney and enduring power of attorney?

They're documents that provide a legal way of giving someone else (an 'attorney') the power to manage your property or financial affairs.

Ordinary power of attorney (OPA) applies only while the person giving the power (the 'donor') is fully aware of what the arrangement means. If the donor becomes mentally incapable, the power ceases. Donors can cancel an OPA any time.

Enduring power of attorney (EPA) can also be used while a donor is still mentally capable. However, it remains in place if the donor loses mental capacity provided it has been

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David Pawsey
Money research assistant
Answers this month's queries



James Tallack
Services research assistant
Explains powers of attorney

focus on Powers of attorney

registered with the Public Guardianship Office (PGO). This guarantees your affairs will be managed by the person of your choice. Registered EPAs can be cancelled only by the PGO's Court of Protection.

The need to register an EPA

I've heard registration can cost up to £120. Does an attorney have to register an EPA?

Attorneys must register an EPA as soon as the donor becomes mentally incapable. Registration ensures that the actions of attorneys are overseen by the Court of Protection. It requires the consent of three of the donor's relatives. The donor's or a doctor's permission may also be required.

Look for the right qualities

Can anyone be an attorney?

Attorneys have to be at least 18 and can't be bankrupt. But choose someone you trust and who knows you well and who has the commitment and time the role demands.

Keep things simple

Do I get a say in how much control an attorney has?

Yes. You can choose to give your attorney full or limited authority, and can choose whether to grant powers straightaway or remain in charge of your affairs until you're no longer mentally capable of managing them. You can in addition appoint as many attorneys as

you want, and impose as many conditions as you want on their power, but it's best to keep things simple.

Greater choice in the future

Will EPA be withdrawn in April 2007, under the Mental Capacity Act?

Not completely. You won't be able to make a new EPA after this date but any EPAs made beforehand will remain valid, whether registered or not. EPA is being replaced by lasting power of attorney (LPA). LPAs will still enable donors to nominate people to manage their affairs but will also give them the choice of allowing the attorney to make decisions about their personal welfare, such as healthcare and consent to medical treatment.

it told me to contact the airline. Who is responsible and who should I claim against?

TA CADER, BY EMAIL

The EU Package Travel Directive states that the tour operator is ultimately responsible and should pay compensation if travel arrangements are changed. An exception to this is *force majeure* – the legal term for an unforeseen event. This can include terrorism, strikes and extreme weather conditions. See this month's 'Brief

cases' (p80) for more about your rights if you have problems with a flight you booked independently.

Unable to switch

We've had a number of massive price increases by Scottish Power and would like to switch to a cheaper supplier. But we've been



Alan and Margaret Carmichael
want to switch energy supplier

told we can't as our electric central heating is controlled by 'dynamic teleswitching' (DTS). Is this correct?

ALAN AND MARGARET CARMICHAEL, GLASGOW

DTS is a common way of providing power for storage heaters in Scotland. Radio signals are used to control a special electricity meter, so consumers benefit from cheap surplus electricity during the night. More than 220,000 Scottish Power customers (in the south) and Scottish Hydro customers (in the north) are on DTS. The consumer group Energywatch is concerned that the complexity of the technology is deterring other suppliers from competing, effectively trapping customers with their supplier.

Having a regular meter fitted would allow you to switch but it could cost up to £500. Some suppliers are now offering alternative DTS tariffs to certain customers. Regulator Ofgem expects others to follow suit. We'll continue to monitor the situation.

Your say

Share your stories with fellow members

Electricians

Sparks fly – but not to the rescue; praise for personal recommendation; plus the price of Part P qualification

What you told us

'The after-care service was truly awful. The recessed lighting in one room began to fail because the heat built up in the space between the ceiling and the floor above, causing the transformers to blow. It took weeks and weeks of calls to get them to come out. They were unable to resolve the problems and we gave up trying to get them back.'

IAN, BY EMAIL

'I asked four neighbours who they might recommend. Two came up with the same name. He was very busy but he turned up one evening and diagnosed the problem. He was highly efficient, extremely pleasant, has a constantly full order book and has never advertised his service.'

DAVID, BY EMAIL

'The work was done to a high and satisfactory standard and a certificate provided on time. I think that, overall, the price was fair in the current market, in which as a result of the new Part P regulations, those who are qualified can ask a premium. For your interest I back-calculated the hourly rate at around £30 plus VAT. The Part P-qualified central heating engineer I used, by contrast, charged over £100 an hour!'

MARTIN, WEYBRIDGE, SURREY

Next month

Tell us your experiences of hospital food

■ letters@which.co.uk
■ Letters, PO Box 44, Hertford X, SG14 1SH

SHARE YOUR QUESTIONS AND EXPERIENCES

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