

Lasting Power of Attorney

Have you thought what would happen if you couldn't manage your financial affairs?

If you find this thought worrying then you should seriously consider setting up a Lasting Power of Attorney (LPA).

People can become unable to manage their own affairs or make important decisions at any stage of life. An accident, physical ill health or mental illness may make the everyday routines of paying bills, managing a budget and making financial decisions difficult and stressful and in some cases impossible. Having an LPA in place allows someone else who you choose (usually a family member) to manage your affairs for you.

Different Types of LPA

There are two types of LPA

1. A **Property and Affairs LPA** (also known as Financial Decisions)- this gives your attorney authority to deal with your property and finances, as you specify.
2. A **Health & Welfare LPA** (also known as as Health & Care Decision) - this allows your attorney to make welfare and health care decisions on your behalf, only when you lack mental capacity to do so yourself. This could also extend, if you wish, to giving or refusing consent to the continuation of life sustaining treatment.

Who should I appoint as my Attorney?

You should take care whom you appoint as they should be trustworthy and have appropriate skills to make the proposed decisions. You can appoint more than one attorney if you wish.

When can my Attorney Act?

The attorney will only be able to act when the LPA has been signed by you and your attorney, and certified by a person confirming that you understand the nature and scope of the LPA and have not been unduly pressured into making the power. The certificate will also need to confirm there has not been any fraud or another reason why you cannot make the power. It must then be registered with the Office of Public Guardian before it can be used. The Property & Affairs LPA can be used both when you have capacity to act, as well as if you lack mental capacity to make a financial decision. The welfare LPA can only be used if you lack mental capacity to make a welfare or medical decision.

Please see overleaf for more information.

We hope you find this Information Guide helpful but it is only intended to give a brief outline of the topic and should not be relied on as a basis for action. We would be happy to give you more detailed advice based on your individual circumstances.

If you have an enquiry about LPAs, contact us today to find out how we can help.

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Who can make an LPA?

Anyone who is over 18 years of age and mentally competent. Although LPAs are usually made by people of advancing years, accidents and deterioration in mental health can occur at any time in life. For this reason, many people are now completing an LPA when they are making or reviewing their will. If you are physically incapacitated, you can still complete an LPA, no matter how great your incapacity.

What if I change my mind, and wish to cancel?

You can revoke or cancel the LPA at any time whilst you remain mentally capable.

Is my existing Enduring Power of Attorney still valid?

Any Enduring Power of Attorney, validly made before 1st October 2007, will continue to be able to be used but only in respect of your property and affairs.

If you wish to give authority over your health or welfare you will need to make a health & welfare LPA.

What happens if no LPA exists, and I lost my faculties?

This depends on how far your mental faculties have deteriorated.

If you are still able to manage simple matters then there is no reason why you cannot continue to do so. However, if you need someone else to deal with something more complicated, for example the sale of your home, then someone would have to apply to the Court of Protection for an order to allow them to act for you. An order may have to be sought each and every time you need someone else to make a decision on your behalf in respect of your finances. This could be both time consuming and costly.

If you are unable to manage your own affairs entirely then someone, not of your choosing, would have to make an application to the Court to be appointed as your representative. This person is known as your Deputy. They could then make decisions in respect of your finances on your behalf.

You could regard an LPA as an insurance policy against problems which may arise in the future. If it is never put to use, so much the better. However, once signed it can be stored and only ever used in the event of a loss of your faculties.

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We are happy to see clients at any of our offices.

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