

Lasting Powers of Attorney

A Lasting Power of Attorney (*LPA*) is an official legal document that appoints a trusted relative or friend to make decisions on your behalf, in case you become unable to do so – for instance, if you lose mental or physical capacity. An LPA might never be used – if you never lose capacity – but if the need arises and it is already in place, it can save a lot of time, money and anguish.

Types Of LPA

There are two separate types of LPA.

LPA for Property & Financial Affairs

This LPA allows you to appoint people to make decisions about spending your money and the way your property and affairs are managed. The LPA allows your attorneys to deal with your property and finances. For instance, it will allow them to pay your bills or collect your income, such as pension payments. It will also allow them to buy or sell property on your behalf and to run your bank accounts and your investments.

LPA for Health & Welfare

With this LPA you appoint people to look after your personal welfare and healthcare. It allows your attorneys to make decisions regarding your welfare and health care if you have lost mental capacity. It would allow them to decide on where you live, the type of healthcare and medical treatment that you would receive, including life-sustaining treatment. It would also cover day to day matters such as your diet and daily routine.



Why Should You Have An LPA?

If you don't have an LPA, and the point comes when you lack the capacity to make a decision about your health/welfare or finance/property matters, it can cause a lot of distress and extra work for your relatives or friends.

To get the authority to make decisions on your behalf, they would have to apply to the Court of Protection for a court order giving them authority to act on your behalf. This takes several months and can cost thousands of pounds. It can also lead to disagreements between family members, especially if they have different ideas about what is best for you, and you did not have conversations with them about this before you lost capacity.

When Can An LPA Be Used?

An LPA can be used in many circumstances. The typical scenario is where someone is suffering from illness or injury, for instance if they suffer from a form of dementia, MS or after an accident. They no longer have the mental or physical capacity to look after themselves, and so the attorney represents them and makes decisions for them.

However an LPA can also be used when someone is too busy to deal with certain matters, or is staying abroad or is otherwise away from home. This will apply to a property/finance LPA and business LPA.



Who Should Be Your Attorneys?

You can choose whoever you like to be your attorney/s, as long as they are over 18. Typically, attorneys will be your spouse, adult children and/or close friends. You can also appoint a solicitor or other professional. They should be people you trust to look after your interests.

An LPA is an extremely powerful document – it gives authority to someone else to make key decisions about your life, welfare and assets. So when choosing your attorneys, you need to think very carefully about the most responsible and trustworthy people who have the appropriate skills to make the decisions you set out in the LPA.

You can appoint a minimum of one and a maximum of four people to act as attorney. If you appoint more than one, you can appoint them to act together at all times, or to act together and independently in certain specified matters. Which of these to choose is best decided after taking professional advice, in order to avoid problems arising in the future when using a lasting power of attorney.

You can also choose a successor to your attorneys, in case an attorney dies or is otherwise unable to act for you. This ensures that the powers you put in place will last.

Can You Change Your Mind Once The LPA Is In Place?

After your LPA has been created, you can cancel it at any time, provided you have the capacity to do so. If you decide to change your attorneys, you will need to cancel your current LPA and make a new one.

An LPA will last until you die (unless cancelled). If you never lose capacity, the LPA may never need to be used.

When Can Your Attorney Make Decisions On Your Behalf?

There are two stages to completing an LPA to give your attorneys authority to make decisions on your behalf. First, the document has to be signed by you and by everyone who is to act as your attorney. Your signature must be certified by a suitably qualified or knowledgeable person, to confirm that you understand the nature and scope of the LPA and have not been unduly pressured into making it.

Second, the LPA must be validated by the Office of the Public Guardian before it can be used.

A property/finance LPA can be used while you still have capacity (as long as you agree with what the attorney decides or does), but this does not apply with the health/welfare LPA – that can be used only if you no longer have capacity.

Enduring Powers Of Attorney

LPAs replaced Enduring Powers of Attorney from 1 October 2007, although EPAs made before that date are still effective.



How We Can Help

This Guide is for reference purposes only, and does not provide advice for any particular set of circumstances.

For further information, and to discuss your situation with no obligation, please contact us:

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