

GUIDE TO LASTING POWERS OF ATTORNEY

A Lasting Power of Attorney (LPA) is a legal document that allows you (the Donor), to choose trusted people (Attorneys) to make financial decisions or health and care decisions on your behalf at a time in the future when you either lack the mental capacity or no longer wish to make those decisions yourself. It therefore remains effective even if the Donor loses mental capacity to manage his or her financial affairs or health and welfare. There are two types of LPA, one is for Property and Financial Affairs and one is for Health and Welfare. The Health and Welfare LPA can only be used once the donor has lost capacity.



The **Property and Financial Affairs LPA** covers matters, such as:

- Day to day management of your bank or building society accounts
- collecting benefits or a pension
- investing money
- paying bills
- buying and selling property
- arranging repairs to property.

You can restrict the types of decisions your Attorney can make, or let them make all decisions on your behalf.

Your Attorney should keep accounts and make sure their money is kept separate from yours. You can ask for regular details of how much is spent and how much money you have.



The **Health and Welfare LPA** can only be used once you have lost mental capacity. An Attorney can generally make decisions about things such as:

- where you should live
- your medical care
- your daily routine, for example washing, dressing and eating
- who you should have contact with
- what kind of social activities you should take part in.

You can also give special permission for your Attorney to make decisions about life-saving treatment.

THE PROCESS

1. The LPA is drafted in accordance with the completed questionnaire or a Solicitor meets initially with the Donor to discuss the completion of the LPA, before it is drafted.
2. The Donor approves the draft LPA, or alterations are made.
3. The Donor, Certificate Provider (person who confirms the Donors mental capacity), Attorneys and witnesses all sign the LPA. Please note that the LPA can be sent to the Attorneys for signature and witnessing.
4. The LPA is registered. Please note that the LPA does not need to be registered straight away, however it is recommended that it is registered at this stage. It can then be stored for safekeeping until it is required in the future. The LPA cannot be used until it has been registered.
5. Once signed by all parties, the registration process takes approximately 10 weeks.

WHAT HAPPENS IF I LOSE MENTAL CAPACITY WITHOUT A VALID POWER OF ATTORNEY IN PLACE?

In the absence of a valid Power of Attorney, an application would need to be made to the Court of Protection for a Deputy to be appointed.

These applications are usually lengthy and costly, with further annual costs being required to be paid to the Court of Protection by way of supervision fees and extra insurance. A report is also required to be submitted to account for all financial transactions carried out by the Deputy, on an annual basis.

The difficulty with this course of action is that there is usually a pressing need at this time to be able to access finances for living costs and the provision of care. Unfortunately, banks and other financial institutions will not release funds until a Court Order appointing a Deputy has been issued.

In contrast, a Lasting Power of Attorney can be used straight away, as long as it has already been registered.