



Lasting Power of Attorney Fact Sheet

What is a Lasting Power of Attorney?

A Lasting Power of Attorney ('LPA') is a legal document that enables you ('The Donor') to choose someone ('The Attorney') to make decisions on your behalf about such things as your finances, property and your personal welfare at a time in the future should you become physically or mentally incapable to deal with those affairs.

Are there different types of LPA?

Yes, there are two different types:

1. Property and Affairs (Personal & Business)

This allows your Attorney to make decisions on your behalf about your property and affairs including paying your bills, collecting your income and benefits or selling your home subject to any restrictions or conditions.

2. Health and Welfare

This allows your Attorney to make decisions on your behalf about your personal welfare, including whether to give or refuse consent to medical treatment on your behalf and deciding where you live if you need care.

Who can make one?

Anyone can make an LPA as long as they are aged 18 or over, and have mental capacity to understand the meaning and the effects of the LPA. Once you have lost capacity, it is too late to draft the document, so advanced planning is necessary.

Can I appoint more than one Attorney?

You can appoint as many Attorneys as you wish, but it is important that you consider how you appoint them. You will need to specify whether you want to appoint your Attorneys to act jointly together, which means that all your Attorneys have to sign relevant documents together. This acts as a safeguard so all of your Attorneys must act in agreement. A disadvantage of this is that if one of the Attorneys cannot act or refuses to make a decision, then the power fails.

You can also appoint your Attorneys to act jointly and separately. This means that they can act on their own, or together. This is more flexible as it allows your Attorneys to act on their own should the other Attorneys become unavailable or are unwilling to act in the future.

Can I choose the same people to act as my Attorneys for both types of LPA?

Yes, although you may wish to appoint different people depending on the type of LPA and their ability to carry out the role. For example, you may wish to appoint your daughters, who are healthcare professionals, to be your Attorneys for your Health and Welfare LPA. However, you may wish to appoint your sons to be the attorneys for your Property and financial LPA, if you feel that they will be more capable of taking care of your finances.

What can my Attorneys do?

You can give as much power to your Attorneys as you like. You decide how much power they may have in relation to your affairs. You can give your Attorneys general authority to manage all your property and affairs or make all decisions regarding your personal welfare.

For a Property and Affairs LPA, this means that they could sign cheques, pay bills, open and close accounts, make gifts and/or even sell your home. If you do not wish your Attorneys to have such wide powers, then you can place restrictions/conditions on them. For example; you can include a condition that your Attorneys must act in a certain way or cannot act until you have become mentally incapable.

Restrictions can be placed on your Attorneys preventing them from specifically making certain decisions. One example is they cannot sell your house until you become mentally incapable of dealing with it yourself. For a Health and Welfare LPA, if you do not include any conditions or restrictions, your Attorneys will be able to do anything in relation to your personal welfare. This might include deciding where your permanent place of residence should be, deciding on your care needs and consenting to treatment.

Again you can place conditions or restrictions on your Attorneys for instance they must consult a particular person before making a decision or a restriction as to what they can do. If you want your Attorneys to have power to make a decision about life sustaining treatment, you have to expressly give your Attorneys power to make that decision.

If you have not given your Attorneys power to make such decisions, then the decisions will be made by health professionals.

What if my Attorneys are no longer able or are unwilling to act?

You can appoint replacement Attorneys to make decisions on your behalf if your original Attorneys are no longer able or do not wish to make decisions on your behalf. For example, you may choose your spouse as your Attorney then choose your son/daughter as a replacement if your spouse should die or can no longer act on your behalf. You can choose as many replacements as you want.

If you want to appoint a replacement Attorney, you do so at the time you make your LPA and a replacement Attorney has to sign up to taking on this role like any other Attorney.

Do I have to notify anyone else that I am making an LPA?

Yes, at the time you make your LPA you will need to decide who you would like to be notified that registration of your LPA is taking place. You can name up to five people, but naming one person will suffice. Once notified, if the person you have chosen has concerns about the registration of your LPA, then they can make representations to the Office of the Public Guardian.

Does the LPA have to be signed by anyone else?

Yes, you must select a person to complete part of the LPA form, confirming that you understand the LPA and that you are not under any pressure to make it. This is called a Certificate Provider. This can be someone that you have known personally for at least 2 years or someone who has the relevant skills and expertise such as a Medical Professional, Solicitor or a registered Social Worker, or the Barrister Intermediary.

When does my LPA have to be registered?

Your LPA can be registered after you have made it and although there is no requirement to register them immediately, it cannot be used until it has been registered. The LPA is made when it has been completed and signed by all of those required to sign the forms.

Can I still make decisions if my LPA is registered?

Yes, if you have the capacity to make a decision, your Attorney can act for you in your best interests and on your instruction. If you disagree with your Attorneys actions and still have the capacity to do so, you can revoke the LPA by notifying the Office of the Public Guardian.

Is there a Registration Fee?

Yes, at the time that you register your LPA you will have to pay a registration fee to the office of the Public Guardian. A separate registration fee is payable for a Property and Affairs LPA and a Health & Welfare LPA when each application for registration is made. To register one LPA the current fee is £82.00.

Please contact **Sophie Vines**, our Legal Adviser, for further information or if you have any questions relating to this service.