

GUIDE TO POWERS OF ATTORNEY

Many of us do not consider that we will ever stop being able to manage our lives, but there may come a time when you want or need that little bit of help from family or friends, whether it be to pay your bills on your behalf, make day-to-day decisions or perhaps some bigger decisions. We have created this short guide which will answer some of the most frequently asked questions about Lasting Powers of Attorney. Whether you decide to make a Lasting Power of Attorney with us or not, we aim to provide you with clear and impartial advice and all the information necessary to make a decision that is right for you.

WHAT IS A 'LASTING POWER OF ATTORNEY'?

There are two types of Lasting Power of Attorney ("LPA"):

1. Property and Financial Affairs, and
2. Health and Welfare

An LPA gives you the power to allow certain people (your Attorney(s)) to act on your behalf, either permanently or temporarily, should you ever reach a point in life where you don't want to or are unable to make certain decisions because you lack mental capacity. Whether you are in hospital for a week, or suffering from long-term illness, LPAs give you control over how decisions are to be made and who is to make those decisions.

DO I NEED A SOLICITOR TO MAKE AN LPA?

No, you can download the forms from <https://www.gov.uk/power-of-attorney/overview>. Having a solicitor make your LPA means that we can sign it to say that you were not pressured into making the LPA.

WHAT IS 'MENTAL CAPACITY'?

Having mental capacity is being able to make your own decisions. An example of when someone may lack mental capacity is when they suffer from advanced dementia or is unconscious after being involved in an accident. Basically, if someone cannot understand the information given to them, remember that information, use the information to make a decision, and tell someone that decision then they do not have mental capacity.

WHAT IS AN 'ATTORNEY'?

Someone given the legal authority to act on your behalf. You can choose one or more attorneys. Your Attorneys can be relatives, friends, your solicitor or your husband/wife or partner.

WHAT DOES AN LPA FOR PROPERTY AND FINANCIAL AFFAIRS DO?

This allows your Attorney(s) to make decisions regarding your money and property. For example, they can collect your pension, they can pay your bills or your mortgage, and they can speak to and deal with your bank or building society on your behalf. Most importantly, your Attorney(s) are given the power to make decisions regarding your house.

WHAT DOES AN LPA FOR HEALTH AND WELFARE DO?

This allows your Attorney(s) to make important decisions such as you moving into a care home, your medical care and even whether to continue life-sustaining treatment, but also gives them the power to make decisions about your daily routine, such as what you should eat and what activities you should be taking part in.

ARE MY ATTORNEYS GIVEN THE POWER TO MAKE DECISIONS IMMEDIATELY?

You have two options when making an LPA:

(1) The Attorney's powers do not come into effect until you lose the ability to make decisions (you lack 'mental capacity'). This option can cause some difficulties as it is not always easy to prove that someone lacks mental capacity.

(2) The power is given to your Attorney(s) immediately but decisions can only be made with your agreement. Think of this option as giving you the final say so on any decisions regarding either your health or your financial affairs but allowing you to let your Attorney(s) help you when you need it.

I WANT TO APPOINT MORE THAN ONE ATTORNEY. WHAT IF THEY CAN'T AGREE ON DECISIONS?

You have different options for how decisions are to be made. You can ask that decisions are to be made jointly so that all Attorneys must be in agreement before a decision is made. You can specify that decisions are to be made jointly and severally which means that Attorneys can make all decisions with each other or on their own. Or you can state that decisions regarding some specific issues are to be made jointly, whilst others can be made by Attorneys on their own.

WHAT IF THERE ARE CONCERNS ABOUT THE DECISIONS BEING MADE BY MY ATTORNEY(S)?

Your Attorney(s) have the responsibility to act in your best interests when they make decisions. Should there ever be any suspicion that your Attorney(s) are not acting in your best interests then this can be reported to the government body that deals with these matters, The Office of the Public Guardian.

WHAT ARE THE COSTS INVOLVED IN MAKING AN LPA?

There is currently a registration fee of £110 per LPA so £220 for both types of LPA. Please speak to one of our solicitors who will be able to give you a quote for our work in preparing your LPA(s)

DO YOU HAVE MORE QUESTIONS ABOUT MAKING AN LPA?

Please ask to speak to one of our solicitors, they will be more than happy to help.

Please also see our 'Guide to Wills and Probate'.