



A GUIDE TO LASTING POWERS OF ATTORNEY

- PROPERTY AND FINANCIAL AFFAIRS
- HEALTH AND WELFARE

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A GUIDE TO LASTING POWERS OF ATTORNEY

A Lasting Power of Attorney (LPA) is becoming increasingly important as almost all of us will be affected by issues surrounding mental capacity in some way during our lifetimes, either personally or through a family member or friend. If you were to become incapable of managing your own finances and personal welfare, an LPA allows you to make provisions in advance of deterioration of health to ensure that your affairs are properly dealt with by someone you trust. The LPA provides you with security that you have chosen someone who is capable of making decisions on your behalf.

WHAT IS A LASTING POWER OF ATTORNEY?

An LPA is a legal document that lets you (the 'donor') appoint one or more people (known as 'attorneys') to help you make decisions or to make decisions on your behalf when you no longer have capacity to do so. This provides you with more control over what happens to things such as your finances or health if, for example you were to become unwell or have an accident at some point in the future and can't make decisions on your own behalf (you 'lack mental capacity').

There are two types of LPAs, a Property & Financial Affairs LPA and a Health & Welfare LPA:-

1. Property & Financial Affairs LPA

A property and Financial Affairs LPA allows your Attorney or Attorneys to make decisions on a range of financial matters and deal with property on your behalf, including:

- Day to day management of bank and other financial accounts
- Paying bills
- Collecting benefits or a pension
- Buying and selling property
- Making investments

If someone loses the capacity to make these type of decisions their financial assets will be frozen and will remain wholly inaccessible unless and until a Deputy is appointed by the Court of Protection unless the person has already appointed people to act on their behalf under an LPA.

Such an LPA allows you to appoint people who you trust and believe will have your best interests at heart and give them the ability to control all of your financial assets should you become incapacitated either permanently or temporarily. The powers that you grant can be very specific and indeed limited so as to maximize the protection for you as the individual granting the LPA.

2. Health & Welfare

People often mistakenly assume that their next of kin will be able to make decisions on their behalf and instruct medical professionals or carers as to how they should be treated, this is not the case. In the absence of a health and welfare LPA you are in the hands of those professionals and on occasions the local authority who may not understand your specific wishes. A Health and Welfare LPA gives your Attorneys the power to make decisions for you in a broad number of areas, such as:

- Your daily routine e.g. dressing, washing and eating
- Where you should live and who you should live with
- Medical care
- Consenting or refusing to life sustaining treatment

WHAT HAPPENS IF YOU LOSE CAPACITY AND DO NOT HAVE A POWER OF ATTORNEY IN PLACE?

In the absence of an LPA, if you were to lose capacity, then there is a different process to follow by which you can apply to the Court of Protection to be made a Deputy. The application is a Deputyship Order and the process can be both lengthy and costly, with the initial application costs along with annual fees being paid to the Court of Protection whilst the deputy is acting. The main problem can come when someone suddenly becomes incapacitated, with an LPA once registered it can be used instantly as opposed to the need to appoint a Deputy which can take considerable time. In a situation such as this there is often an acute need for financial support whether that be to pay for treatment or simply to continue to fund living costs but unfortunately without an attorney being appointed the banks will simply not release funds until a Deputy is appointed.

NEXT STEPS?

An LPA is an important part in planning for your future and it is therefore important that you seek professional guidance and legal advice from a solicitor when doing so. Our team of experts are able to take you through the process to guarantee you the service is tailored specifically to your needs. Please contact us on the details below to discuss further.

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