



Factsheet

Lasting Powers of Attorney

A lasting power of attorney (LPA) is a legal document that allows a person to give another person or persons, the attorney, authority to make certain decisions on their behalf.

LPAs effectively took over from enduring powers of attorney on the 1st October 2007.

There are two types of LPA

Property and affairs LPA

This gives your attorney authority to deal with your property and finances, subject to any conditions that you may specify. The property and affairs LPA can be used both when you have the capacity to make a financial decision as well as when you lack mental capacity to do so.

Health and welfare LPA

This allows your attorney to make health, welfare and care decisions on your behalf but only when you lack mental capacity to do so yourself. This could also extend, if you wish, to your attorneys being able to give or refuse consent to life-sustaining treatment on your behalf.

Your attorney

Lasting powers of attorney are important and powerful documents. You should take great care when deciding who to appoint as your attorney. They should be trustworthy and have appropriate skills to make the proposed decisions. If you appoint more than one attorney, you can appoint them so that they must always act together (jointly) or be able to act on their own if appropriate (jointly and severally). You may choose to appoint a successor(s) to your attorney, in case they die or otherwise cannot act for you.

When can the attorney act?

The attorney will only be able to act once:

- The LPA has been signed by you and your attorney
- The document has been certified by a third party, confirming that you understand the nature and

scope of the LPA and have not been pressured into making the power. The certificate provider will also need to confirm that there has not been any fraud or other reason why you cannot make the power of attorney; and

- The TPA has been registered with the Office of the Public Guardian (OPG). It may take over 4 months to complete all of this.

Existing enduring powers of attorney

Any enduring power of attorney (EPA) made before 1st October 2007 will continue to be valid but will only cover your property and affairs. If you wish to give authority over your health or welfare you will need to make a health and welfare LPA. As the law changed over 10 years ago, some financial institutions no longer accept Enduring Powers of Attorney which have not been registered or if it lacks the wording to delegate investment management decisions to attorneys.

What happens if you do not make an LPA and do not have an existing EPA?

If you lack capacity to make financial decisions, then it may become necessary for an application to be made to

the court of protection for an order to appoint somebody to act on your behalf. This is very costly and time consuming.

How do I get an LPA?

In order to draw up an LPA on your behalf we will need to ask you all the relevant information and discuss the options available. There is considerable scope for you to state your wishes on this document and we will advise you accordingly.

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