

What is a Lasting Power of Attorney?

A Lasting Power of Attorney (LPA) is a way of giving someone that you trust the legal authority to make decisions for you in the future, at a time when you no longer have the mental capacity to make decisions for yourself.

Property and Financial Affairs LPA

This gives someone you trust the authority to make decisions for you about specific financial and property matters, such as:

- Paying bills
- Claiming pensions or benefits
- Opening banks accounts
- Investing money
- Selling property

You can decide whether you want this to apply now, or only at a time when you are unable to make decisions yourself.

Personal Welfare LPA

This gives someone you trust the authority to make decisions about healthcare and personal welfare matters, such as:

- Your leisure activities
- Your diet and how you dress
- Who you have contact with
- What treatment you have
- Where you should live

This can only be used at a time in the future when you are unable to make decisions yourself.

Who could be my attorney?

You may want to ask your spouse, partner, or civil partner, family member or friend to be your attorney, or you may wish to ask a solicitor. Your attorney will have much control over your life, so think carefully about who you trust to make important decisions for you.

How do I set up a Lasting Power of Attorney?

To make an LPA you need to complete a form which you can get from the Office of the Public Guardian (OPG). You can ask for this to be sent to you or you can complete it on-line. The form must be completed whilst you have mental capacity to make this decision.

Telephone: 0300 456 0300

Email: customerservices@publicguardian.gsi.gov.uk

Website: www.justice.gov.uk/forms/opg

Contact the OPG for information about registration fees. If you have low income, you may be eligible for a 50% discount. If you are receiving certain benefits you then registration will be free.

Some people choose to ask a solicitor or a local advice agency to help them to set up an LPA and register it.

What if I have not planned ahead?

You can only apply for a Lasting Power of Attorney (LPA) if you have the mental capacity to decide that this is what you want. If you do not do this whilst you have the mental capacity to decide, then it is not possible for a friend or relative, or anyone else to apply on your behalf later.

If you have not planned ahead the Mental Capacity Act 2005 allows for carers and professionals to make decision in your best interests. However there may be circumstances when it is necessary for the Court of Protection to become involved.

The **Court of Protection** is a specialist court for all issues relating to people who lack mental capacity to make specific decisions.

The Court of Protection can:

- Make an order about your personal welfare or property and financial affairs. For example, if it is your best interests, the Court could make an order for your house to be sold or for an insurance policy to be cashed.
- Appoint a Deputy to make decisions on your behalf.

A **Deputy** is a person appointed by the Court of Protection to manage the ongoing affairs of someone who has lost mental capacity when they have not planned ahead. There are two types of a Deputy, one for Property and Affairs and one for Health and Welfare.

Someone, such as a friend or relative who wants to make such decisions on your behalf can apply to the Court to be appointed as Deputy. The Court will consider whether it is necessary for on-going decisions to be made on your behalf, and whether that person is suitable to be appointed to that role.

The Deputy has similar responsibilities to an Attorney. The Court will decide what decisions the Deputy can make in your best interests

You cannot choose your Deputy, the Court will decide. Setting up an LPA in advance is quicker, less costly and allows you more control over who is making decisions for you.

More information – Mental Capacity

The Office of the Public Guardian has a range of information leaflets To order a copy, telephone 0300 456 0300; to download them go to:

www.justice.gov.uk/protecting-the-vulnerable/mental-capacity-act