

Lasting Powers of Attorney (LPA)

By making a LPA you decide what would happen if you could not make decisions for yourself or be physically frail and need support managing your affairs.

What is a Lasting Power of Attorney?

A LPA is a legal document that allows you to appoint another person or persons to make decisions on your behalf. (Your attorney(s))

There are two types of LPA:

- A Property and Financial Affairs LPA - this enables your attorneys to make decisions on your behalf in relation to your financial affairs and your property.
- A Health and Welfare LPA- this enables your attorneys to make decisions about social care issues and medical treatment, including life sustaining treatment. This type of power of attorney can only be used when you no longer have capacity to make those decisions for yourself.

You do not have to appoint the same people on both LPAs.

What does making a Lasting Power of attorney involve?

Step one

Once you have decided which power of attorney is appropriate for your needs you should choose your attorneys. It is important to choose someone you trust. It could be a family member, friend or a professional, such as your solicitor. If you choose more than one attorney they can be appointed to work together jointly on all matters or have the authority to act individually joint and severally). We can advise you on this.

Any attorney you appoint is under a duty to act in your best interests.

Step Two

You should consider whether you would like to impose any restrictions on what your attorney can do or to include any guidance for your attorneys. Examples of this may be restricting the assets your attorneys can deal with or specifying that your LPA can only be used once you have lost capacity, again we can advise you further on this.

Step Three

You can specify people who should be notified before your attorneys can register the Lasting Power of Attorney and use it. This adds a layer of protection.

Step Four

You will need a 'certificate provider' who will sign your LPA and state that they are satisfied that they believe you understand the document and that you are not under any under pressure to make a LPA. Where appropriate we can act as certificate provider. Alternatively, if your health is in question it may be wise to ask your doctor to give the certificate.

Step Five

An LPA cannot be used until it has been registered at the Office of the Public Guardian (OPG). We usually recommend applying to register the document immediately, even if you do not intend your attorneys to use it straight away. We can deal with the registration for you. There is a fee charged by the OPG. We will be happy to store your LPA free of charge until such time as you may need it.

You can revoke your LPA at any time whilst you still have capacity.

Is there an alternative?

If you lose the ability to make decisions for yourself and have no LPA in place then a deputy would need to be appointed by the Court of Protection to make decisions on your behalf. This may not be the person you would have chosen.

This can be an expensive procedure and it would require someone stepping forward on your behalf.

The best option is to plan ahead and choose for yourself.

If you want to find out more about making an LPA or discuss any other aspect about dealing with someone else's affairs please contact a member of our Wills and Probate Department who will be able to give you straightforward legal advice.

Instructions

If you wish to find out more information, please contact the Wills and Probate department at Burnley on 01282 426666 or email jflaherty@waddingtonandson.co.uk.