

LPA

A brief guide to
> **Lasting Powers of Attorney**



The Key to Control of Decision-Making

According to the Alzheimer's Society, more than 800,000 people in the UK suffer with a form of dementia. Unfortunately, the forecasts are that this number will grow.

Sadly, not enough families have a strategy in place for dealing with a relative who has or is developing dementia. But there are steps you can take now, before there is a problem.

We are referring to a Lasting Power of Attorney (LPA).

What is a Lasting Power of Attorney?

An LPA is a legal document under which you appoint someone to handle your affairs either immediately or in the event you become unable to look after yourself. It allows you to name one or more person/s who will have control over decisions about your money, property, healthcare and general welfare.

You must make the LPA when you have mental capacity, and it will continue should there come a time when your mental capacity is lost or impaired.

What happened to Enduring Powers of Attorney?

LPAs replaced EPAs several years ago. However, so long as the EPA was written and signed before October 1, 2007, the document is valid and there is no need to change it to an LPA, although LPAs are more flexible and comprehensive.

The biggest difference between an LPA and an EPA is that the former has to be registered with the Office of The Public Guardian and can only be used once it is registered there. An EPA has to be registered only if you lose mental capacity.



Often the decisions about your personal welfare and your finances are bound together so it is prudent to have both types of LPA

How do I set up an LPA?

STEP 1.

Pick a person or persons you trust, who will act in accordance with your instructions and who you know will have your best interests at heart in the event you became incapacitated. This person, or persons, are your attorney/s.

STEP 2.

Decide which LPA you want. There are two types:

- A. A **Financial Decisions LPA** allows you to give someone the power to deal with your financial affairs, such as paying bills, dealing with your bank and dealing with decisions about your property.
- B. A **Health and Care Decisions LPA** allows you to give someone the power to deal with decisions that affect you, such as the type of medical treatment or other types of help you may need. It also gives formal instructions as to whether you desire life support on a permanent basis.

The Financial Decisions and Health and Care Decisions LPAs are separate documents and you can choose either or both. Often the decisions about your personal welfare and your finances are bound together, and it is prudent to have both.

STEP 3.

Fill out the forms, appointing a person/s who you are sure will have your best interests at heart. The person must be over 18 years old and not bankrupt. You can also appoint a replacement attorney/s should your first choice die or become incapacitated themselves. You can also decide, if you pick more than one attorney, whether they should make all decisions jointly or jointly and severally (ie whether one or both signatures are required).

STEP 4.

You will also need to appoint a 'certificate provider'. This is someone who speaks with you privately to ensure you know what powers you are giving your attorney/s, that there has been no fraud or pressure and certifies that you fully understand what you are doing. A certificate provider can be someone who has known you for two years or who has a professional skills, such as a doctor or solicitor. The certificate provider cannot be a family member. Normally, when we prepare the LPA we will be your certificate provider.

STEP 5.

The forms will then have to be registered at the Office of the Public Guardian in the UK and Wales, a process that can take up to 12 weeks.



What happens if I don't have an LPA?

If you become mentally incapacitated and you do not have an LPA, decisions about your personal and financial welfare may be passed to the Court of Protection, which provides protection for those who are incapable of handling their own affairs.

The Court of Protection appoints 'deputies' to make decisions on financial or personal welfare matters for the person who cannot make the decisions themselves.

Family members can apply to the Court of Protection to become a deputy but this can be a long and drawn-out process. Of course, this is often precisely the time when quick decisions are needed and delays are to be avoided.

For someone whose income is made up of benefits and/or state pension, the family member can apply to the Department for Work and Pensions to become an appointee who receives the benefits on behalf of the person who needs it. To register the LPAs at the Office of the Public Guardian costs £82 for each LPA.

**To arrange a conversation with our LPA experts Gary Coleman or Belinda Packer
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