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A Guide to Lasting Powers of Attorney

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A Guide to Lasting Powers of Attorney

What is a Lasting Power of Attorney?

A lasting power of attorney (“LPA”) is a legal document in which you give authority to a person/s (“Attorney”) to deal with your affairs on your behalf.

An ordinary power of attorney only lasts while the person who makes it retains mental capacity, whereas an LPA continues after the person loses mental capacity.

LPAs are to be used during your lifetime if you are unable to make decisions yourself due to a loss of mental capacity.

There are two types of LPA: Financial Affairs and Health.

Do I need LPAs if I have a Will?

LPAs only deal with decision making during your lifetime and ends on death. Wills deal with the disposition of your assets after your death and therefore the two do not cross over.



Which type of LPA should I make?

We advise clients to make both types of LPA.

The Financial Affairs LPA can be used out of convenience, for example, if you were away for a short period of time or physically incapacitated and unable to attend somewhere in person or sign documents.

The Health LPA can only be used if you are unable to make decisions about your medical treatment.

Some clients prefer to have different sets of people acting so that they can choose the most suitable attorney to make a particular decision.

What happens if I do not have an LPA?

If a person loses mental capacity and has not put into place a valid LPA, an application to the Court of Protection for a Deputyship Order will need to be made. A Deputy is similar to the role of the Attorney, but the appointment is by the Court.

Full financial disclosure, including income, expenditures, and current assets, will be required of the person who lacks mental capacity. Checks are also required on the intended Deputy to ensure they are suitable to act.

The Court of Protection usually only appoints one Deputy, whereas more than one can be appointed in an LPA. The process can take 2-3 times longer and cost 2- 3 times more than making an LPA.



What if I have appointed a next of kin?

A next of kin does not have any legal standing when it comes to making decisions about health. The medical profession tends to use this term for an emergency contact.

What is the process?

- **Step 1** We will send our LPA information pack.
- **Step 2** Then we will meet with you to discuss the structure of your LPAs and document issues around mental capacity and undue influence.
- **Step 3** We will draft your LPAs and send a copy for your approval.
- **Step 4** We will meet with you to sign your LPAs, act as witness and Certificate Provider (if applicable).
- **Step 5** Your LPAs will be circulated to your Attorneys for signing with note about their role.
- **Step 6** We will register your LPAs with the Office of the Public Guardian (please note that there is a statutory waiting period of 4 weeks).
- **Step 7** We will provide you with certified copies of your LPAs which will be ready for use.

What is the process?

Our fees for making LPAs vary:

- A single LPA will cost £800 plus VAT.
- A pair of LPAs will cost £1,200 plus VAT.
- Making both kinds of LPA for a couple will cost £1,800 plus VAT

Please note that your LPAs will need to be registered and that the Office of the Public Guardian charges a registration fee of £82 for each individual LPA.



You're in safe hands!

If you would like further information about how we can help you Lasting Powers of Attorney, or if you have any questions, please don't hesitate to contact a member of our **Private Client Team** today.

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