



Lasting Powers of Attorney



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“A very professional
and efficient service
provided in a very
kind and considerate
manner”

Client comment

Lasting Powers of Attorney (LPAs) appoint people known as attorneys to deal with your property and affairs or health and welfare during your lifetime, when you are unable to deal with things yourself because of mental incapacity.

There are two types of LPAs available: Property and financial affairs as well as health and welfare.

Property and financial affairs

This LPA allows your attorneys to make decisions on your behalf about your property and finances. This would include being able to sign a cheque on your behalf or sell your home, if needed. The LPA is effective whilst you still have capacity as well as if you lose mental capacity, so is still useful if you go abroad or if you are physically unable to manage your affairs yourself.

Health and welfare

This LPA allows your attorneys to make decisions on your behalf once you have lost capacity. This can include what clothes you wear, your diet, where you should live and whether or not to consent to life sustaining treatment.

Who can be my attorneys?

Your attorney(s) can be anyone over the age of 18 with full mental capacity so long as they are not subject to an interim or undischarged bankruptcy. Please note that if you appoint your spouse then the appointment ends on any divorce.

It is important to appoint someone you trust implicitly. You can also appoint someone to be a replacement attorney should anything happen to your original attorney(s) which means they cannot act.

If your family dynamics make it difficult to appoint someone to act then you could appoint Brachers Trust Corporation Ltd (BTC), a professional company set up specifically to fulfil this role. Whilst BTC would charge for their services, they are impartial, professional and fully regulated. If you would like more information about BTC, please ask a member of our team for a factsheet about this organisation.

How can my attorneys act?

You will need to consider how you would like your attorneys to act such as always together, sometimes together or separately. Please bear in mind that appointing your attorneys jointly means they must act together and if one of your attorneys dies, or loses capacity themselves, the LPA can no longer be used. The most common and practical way to appoint your attorneys is jointly and severally.

This means your attorneys can act together and also independently. This offers greater flexibility for your attorneys.

You can give your attorneys guidance about certain tasks, for example you might say that your attorneys should act together when selling your house.

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You can also restrict your attorneys, for example denying them permission to access a certain bank account.

Registration

LPAs have to be registered with the court before they become effective. The registration process can take two to three months. As such, we recommend that the LPAs are registered immediately to avoid any unnecessary delays if your attorneys need to make immediate decisions (now or in the future).

Certificate Provider

To safeguard against any abuse, the LPA must be signed by an independent person who confirms you understand the purpose and scope of the LPA and you are not being influenced or pressured into doing what you are doing. This is known as a certificate provider. As part of the process of drafting your LPA, as long as we are satisfied you have capacity, one of our team can act as your certificate provider.

What happens if you have no power of attorney in place?

If you lack capacity to make a financial decision, then it may be necessary for an application to be made to the Court of Protection for an appropriate order, authorising someone called a deputy, to make decisions on your behalf. This is both costly and time consuming.

Most healthcare and treatment decisions can be made on your behalf without the need for a court application. However, if you wish to avoid any potential disputes, you can give a person(s) authority to make those decisions on your behalf by making a health and welfare LPA. This person will be able to carry out any specific/strong views that you have in relation to your health and welfare.

The information contained in this document provides background information only. The document may be misleading if relied upon as an exhaustive list of the legal issues involved. If any matter referred to in this document is sought to be relied upon, further information should be sought.