

## Lasting Powers of Attorney

### What is a Lasting Power of Attorney?

A Lasting Power of Attorney ('LPA') is a document which allows you to appoint a person or persons (known as your "Attorneys") to act on your behalf in the event that you lose mental capacity and you are unable to make your own decisions. LPAs can only be put in place whilst you still have the requisite mental capacity.

An LPA cannot be used until it has been registered at the Office of the Public Guardian. Registration can take place immediately so you have everything in place, hopefully, well before it is required. Alternatively, registration can wait until you are no longer able to manage your own affairs. As it takes several weeks to register an LPA, we normally recommend that your LPA is registered immediately so that it is ready for use when needed.

There are two types of Lasting Power of Attorney:

#### *1. Lasting Power of Attorney for Property and Financial Affairs*

A Property and Financial Affairs LPA allows your Attorney(s) to take a wide range of actions in order to deal with your property and financial affairs. This could include, for example, selling your house; dealing with your investments; withdrawing monies from a bank or savings account; dealing with your tax affairs; paying bills on your behalf including care and nursing home fees; and, to a limited extent, making gifts on your behalf.

Although an LPA must be registered before it may be used, a Property and Financial Affairs LPA can be used with your consent before you lose mental capacity. This makes it a very useful document as you may wish to activate it if you are travelling abroad or perhaps unwell in hospital and unable to sign documents.

#### *2. Lasting Power of Attorney for Health and Welfare*

The LPA for Health and Welfare allows you to appoint an Attorney or Attorneys to make decisions regarding your health (including any medical treatment which you may receive) and regarding your general welfare, such as where you should live.

In addition, should you wish, you may also expressly give your Attorney(s) the right to give or refuse consent to life sustaining treatment on your behalf.

Unlike a Property and Financial Affairs LPA, even once registered, a Health and Welfare LPA can not be used until you are unable to make your own decisions (which must be confirmed by the appropriate medical practitioner).

### How does an LPA differ from an Enduring Power of Attorney?

It has not been possible to make a new Enduring Power of Attorney since 1 October 2007. It is now only possible to make an LPA. If you have an existing Enduring Power of Attorney it remains valid, but it cannot be registered until you are unable to make decisions for yourself; this may cause delays for your Attorney(s) before they are able to manage your affairs so some people may prefer to create a new LPA to replace their Enduring Power of Attorney.

### Why should I have an LPA?

LPAs should form part of a general estate planning exercise and should be put in place well before required. In just the same way that you would prepare a Will to deal with your affairs following your death, you should also be aware of the possibility of losing mental capacity and take steps to provide for your affairs to be managed on your behalf in this eventuality.

Mental capacity may be lost either gradually as a result of old age or illness or suddenly as a result of an accident. Once mental capacity is lost, it is too late to consider LPAs and it will become necessary for a family member or other interested party to apply to the Court of Protection to be appointed as a Deputy to act on your behalf. The process of appointing a Deputy is expensive and lengthy and means that you will not have been able to decide in advance how you would like your property and financial affairs and personal welfare to be dealt with.

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