



## What is a Lasting Power of Attorney?

A Lasting Power of Attorney (known as an LPA) is a legal document which allows you to plan ahead by giving a person, or people, the authority to act on your behalf during your lifetime. These people are called the 'Attorneys'.

It is a completely separate document from a Will, but it is often put in place at the same time as part of future planning.

Creating an LPA will give you peace of mind that there is someone to assist you if required, or, take over in the event of you being unable to look after your own affairs. This can happen at any time, for example, in the event of an accident or you being out of the country and being temporarily unable to make decisions for yourself, or in the event of a medical condition such as stroke, dementia or Alzheimer's disease.

If a registered LPA is in place then your Attorneys can make decisions regarding your Health and Welfare, or can have immediate access to your finances. It is important that you chose Attorneys that you trust to act in your best interest at all times.

Please note that an Attorney's power will cease on your death. The executors under your Will then become responsible for managing your property and financial affairs.

## What happens if I don't have an LPA?

In the absence of an LPA, no-one has the legal authority to manage your affairs. In this situation, someone would need to apply to the Court of Protection for a 'Deputyship Order' and the Court would then decide who to appoint. This is a very lengthy process and can be expensive and distressing at an already difficult time for your loved ones.

It is a common misconception that your family will be allowed to act on your behalf, but this is generally not the case, particularly in relation to operating your bank and building society accounts.





## What are the types of Lasting Powers of Attorney?

There are two different types of LPA. One appoints people to deal with your **Health and Welfare**, and the other appoints people to deal with your **Property and Financial Affairs**.

If you want to appoint people to deal with both then you would need to create two LPAs.

### Health & Welfare LPA

A Health and Welfare LPA appoints people to make decisions on your behalf relating to matters such as:

- ✦ Your medical treatment,
- ✦ Healthcare,
- ✦ Living arrangements,
- ✦ Daily routine, such as washing, cleaning, eating etc.

You can also choose to give your Attorneys the authority to make decisions about life-sustaining treatments on your behalf, if you wish. This is, of course, an important decision and must be carefully considered before you decide whether to give the Attorneys this power.

The Health and Welfare LPA can **only** be used in the event of you lacking the capacity to make decisions for yourself.

This can be discussed in more detail in a face-to-face meeting.

### Property and Financial Affairs LPA

This document appoints people to make decisions on your behalf relating to:

- ✦ Buying and selling properties on your behalf and using your funds,
- ✦ Operating, opening and closing bank and building society accounts in your name,



- ✦ Collecting your pension and benefits,
- ✦ Paying bills,
- ✦ Dealing with your tax affairs.

Your Attorneys also have the power to make gifts on your behalf on 'customary occasions'. This includes things like Birthdays, Christmas and other religious festivals. You can chose to limit the power to make gifts if you wish.

The Property and Financial Affairs LPA can be used while you still have capacity as well as if you lose your mental capacity, unless you specify otherwise. Creating the document with no restrictions - so that it can be used while you still have mental capacity - means that your Attorneys would be able to deal with your property and affairs in the event of you being unable to act for yourself. For example, in the event of you being out of the country, or being physically frail or too unwell to act for yourself.

The document can also be used to give preferences and instructions for the Attorneys.

The advantages and disadvantages of this can be discussed in more detail during a face-to-face meeting if you wish.

**We hope that you have found this short guide helpful. If you would like to set up a Lasting Power of Attorney then our Wills & Probate Team will be very happy to arrange an appointment at your convenience.**

