

FACT SHEET ON LASTING POWER OF ATTORNEY (LPA'S)



WHAT IS A LASTING POWER OF ATTORNEY?

A Lasting Power of Attorney (LPA) is a legal document, enabling you (the Donor) to choose someone to make decisions relating to your finances, property and welfare on your behalf, if you become physically/mentally unable to do so yourself or just want someone else to have the authority to manage your affairs. That person is referred to as an “attorney”. An LPA differs from a normal power of attorney because it is still effective if the donor loses mental capacity.



ARE THERE DIFFERENT TYPES OF LPA'S?

Yes, there are two different types:

- **Property and Financial Affairs**

This allows your attorney to make decisions on your behalf about your property and affairs such as paying bills, collecting income/benefits, operating your bank account or selling your home subject to any restrictions or conditions you impose. This can be used whether or not you have lost capacity.

- **Personal Welfare**

This allows your attorney to make decisions on your personal welfare including whether to give or refuse consent to medical treatment on your behalf and deciding where you live. This can only be used when you have lost capacity to do so for yourself.



CAN YOU APPOINT MORE THAN ONE ATTORNEY?

Yes. But it is important to consider how you are appointing them. You will need to state whether they will act jointly or jointly and severally.

Acting jointly would mean all your attorneys would have to act in agreement. The disadvantage is that if one of your attorneys cannot act or refuses to act for whatever reason then the other attorneys cannot act on their own.

Acting jointly and severally means they can act on their own or together. This allows your attorneys the flexibility to act independently of one another when required to do so.



WHAT CAN MY ATTORNEYS DO?

The extent of your attorneys powers depend entirely upon you. You can tailor the amount of power you wish your attorneys to have by placing restrictions or conditions on them. In regards to your property or affairs for example you could restrict your attorneys from having the power to sell your property or in regard to your personal welfare, you could include a condition that they consult a medical professional when making a decision regarding your health and well being.

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DO I HAVE TO NOTIFY ANYONE ELSE THAT I AM MAKING AN LPA?

Yes and No. When making your LPA, you will need to decide who you want notified that registration of your LPA is taking place. You can choose between one to five people to be notified. Once notified, these chosen people can make representations to the Office of the Public Guardian (OPG) about any concerns they may have over the registration of the LPA. If you choose not to notify anyone you will need two Certificate Providers (see below) to confirm your capacity and willingness to make the LPA.

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MAKING AN LPA

Once you decide to have an LPA drafted, you will need to select a person to complete part of the form confirming that you understand the consequences of the LPA called a Certificate Provider (or two if you choose not to notify anyone). This person has to be either someone you have personally known for at least two years or a professional (i.e. solicitor, doctor, social worker etc.)

Having completed the form, you then have a choice as to whether or not you wish the LPA to be registered with the OPG. LPA's can only be used by attorneys once they have been registered. When sending the LPA for registration there is a statutory six week waiting period, during which time those who have been notified can contact the OPG to raise any concerns. Following this six week period, the OPG then registers the LPA and returns the registered LPA for use. The registration time varies between 6 – 14 weeks.

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CAN I REVOKE AN LPA?

Yes. For any reason should you wish to revoke an LPA once it has been registered so that it can no longer be used, provided you still are mentally capable of doing so, you can contact the OPG and have them revoke the LPA.

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COSTS

Our charges for preparing an LPA (and registering the same with the OPG) are £395 plus VAT for either a Property and Financial Affairs LPA or a Personal Welfare LPA. Should you require both the Property and Financial Affairs LPA and the Personal Welfare LPA we offer a discounted price of £695 plus VAT. (In addition you should note that the OPG charges a fee of £120 for registering each LPA.)

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NEXT STEPS

If you would like more information on LPA's or wish to have an LPA prepared, please get in touch.



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