



Lasting Power of Attorney.

What is an LPA?

What would happen if you lost the ability to make decisions for yourself? It might not happen but it could. Who would look after your finances and make decisions about your welfare? By signing a legal document called a Lasting Power of Attorney (LPA) you can decide. You might choose a member of the family or a close friend or a professional person. But you need to appoint them now.

Who should make an LPA?

Everyone should make an LPA, not just the elderly. LPAs allow you to appoint someone that you trust (called an attorney) to look after your affairs if necessary. If you are caring for someone else you may wish to consider whether they could make an LPA.

Replacing Enduring Powers of Attorney

LPAs replaced what were known as Enduring Powers of Attorney (EPAs) from the beginning of October 2007. They were introduced to offer greater protection and flexibility to those wishing to appoint someone to look after their affairs. The basic difference between the two is that while an EPA only enables other people to act on your behalf in relation to financial and property matters, an LPA can also enable them to act in relation to health and welfare decisions. In addition LPAs must be registered before they can be used and this gives greater protection to anyone making one.

Existing EPAs

If you have already made an EPA then this remains valid during your lifetime unless you revoke it, but you can no longer make a new one. However, you may wish to consider making a Health and Welfare LPA to go alongside your existing EPA.

What do LPAs cover?

There are two types of LPA:

- a Property and Financial Affairs LPA; and
- a Health and Welfare LPA.

(Please turn over for further information)



Property And Financial Affairs **LPA**

A Property and Financial Affairs LPA gives your chosen attorney(s) authority to deal with your property and finances as you specify.

Health And Welfare **LPA**

A Health and Welfare LPA allows your chosen attorney(s) to make personal welfare and health care decisions on your behalf, only when you lack mental capacity to do so yourself. This could also extend, if you wish, to giving or refusing consent to the continuation of life-sustaining treatment.

Choosing **your attorney**

It is entirely up to you who you appoint as your attorney but most importantly it should be someone that you trust. This could be a partner, family member or friend or a professional person such as a solicitor. If you appoint more than one person you will need to decide whether they are to act 'jointly' or 'jointly and severally'. We can advise you further on this.

Making **decisions**

Making an LPA doesn't mean you can't carry on dealing with your affairs for as long as you feel able. The appointment of an attorney means that there is someone to take over if, and when, needed.

When does a **LPA become active?**

Your attorney(s) will only be able to act once the LPA has been signed and one or two other formalities have been complied with as well. It also needs to be registered with the Office of the Public Guardian. You can revoke or cancel an LPA at any time whilst you still have capacity to do so.

Responsibilities **of an attorney**

Any attorney you appoint is under a duty to act in your best interests and this is an important safeguard. They will have a number of powers to deal with your affairs. But an attorney cannot, without authority from the Court, make a Will for you. You should always ensure that you have an appropriate Will in place. There are also strict rules governing gifts by attorneys.

No **LPA or EPA?**

Without an LPA or EPA you have no certainty that your affairs will be dealt with by the person you would have chosen. If you lose the capacity to deal with your affairs and have not made an LPA or EPA then it may be possible for an application to be made to the Court of Protection to make decisions in your best interests and/or to appoint someone to act on your behalf.

However:

- this can be an expensive and lengthy process; and
- it requires someone to make this application.

So why leave things to chance? **Contact us for a FREE consultation.**

If you are caring for someone who has already lost their capacity to make an LPA and you are concerned about their affairs then you can seek advice from one of our specialist solicitors.

To find out more about LPAs or any other aspect of dealing with someone else's affairs please contact us using the details below:

Stephen McCann

t: 0161 234 8805

e: stephenmccann@georgedavies.co.uk

Caroline Pinney

t: 0161 234 8825

e: carolinepinney@georgedavies.co.uk