

Lasting Powers of Attorney Factsheet

What is a Power of Attorney

A power of attorney is a legal document where a person gives another person or persons, known as Attorney(s), authority to make certain decisions on their behalf.

Types of LPA

There are two types of LPA:

- A Financial Decisions LPA, which gives your Attorney authority to deal with your property and finances.
- A Health and Care Decisions LPA, which allows your Attorney to make welfare and health decisions on your behalf, if you lack mental capacity to do so yourself. You can also give or refuse consent to the continuation of life sustaining treatment.

Existing Enduring Powers of Attorney (EPA)

Any EPA can still be used but only to deal with your property and financial affairs. If you wish to give authority over your health or welfare you will need to make a Health and Care Decisions LPA.

What happens if you have not made an LPA or an EPA?

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, such as appointing another person to make decisions on your behalf. This is both costly and time consuming.

It is extremely difficult to obtain an order from the Court of Protection regarding your care or medical treatment. If you do not have a Health and Care Decisions LPA, medical professionals are not obliged to consult with family members before making decisions on your behalf.

THINGS TO CONSIDER

Choice of attorney

- They must be over 18.
- You must trust them.
- You can appoint family members, friends or a professional adviser.
- How many people you would like to appoint. You can have more than one Attorney.
- If you appoint more than one Attorney, they should get on well with each other.
- If you only appoint one Attorney your LPA will not work if the Attorney can no longer act.
- Your Attorney should have the skills to manage your affairs as and when necessary. We will provide them with guidance on how to perform their role.
- Your Attorney must always act in your best interests.

How your Attorneys should act

- If you have more than one Attorney, you can appoint them to act “jointly and severally” which means each Attorney will be able to act without the consent of the other(s) or “jointly”, so all decisions must be made together. If jointly the LPA will no longer work if one of your Attorneys becomes unable or unwilling to act.
- If you appoint your spouse or civil partner, dissolution of the marriage or civil partnership automatically cancels the appointment of your spouse/civil partner, unless you have indicated otherwise.

Replacement Attorneys

- You can appoint a replacement to act if your original choice of Attorney cannot do so.
- If you are appointing only one Attorney or appointing two or more Attorneys to act jointly we would strongly recommend a replacement.

Guidance for your Attorneys

- You can include additional information in the LPA which will help your Attorney make decisions for you if you cannot do so yourself.
- We can discuss this in our meeting as everyone's wishes and requirements are different.

Notifying people of the registration of the LPA

You can choose to formally notify friends or relatives of the registration of the LPA. This is not a requirement and you may feel that it is unnecessary as you will tell them yourself. We will tell you in our meeting if we feel this is appropriate.

Certificate Provider

- You must choose a person to act as your Certificate Provider. They will be signing to say that you understand the document and have not been pressured into making it.
- We are usually able to act as Certificate Provider.

WHEN SHOULD THE LPA BE REGISTERED?

Delay registration	Register immediately
You don't pay the registration fee until the LPA needs to be used.	You pay the fee even if you do not need the LPA to be used immediately.
The LPA cannot be used until it is registered. The registration process takes up to 20 weeks. You cannot use the LPA during the registration process. If your Attorneys need to make decisions urgently, they will need to apply for a Court order. Obtaining a Court order can be expensive and time consuming.	As soon as the LPA needs to be used, your Attorneys can do so immediately.
You can change your mind and cancel the LPA without needing to notify the OPG.	If you change your mind and cancel the LPA you will need to notify the OPG. If you make another LPA, additional registration fees will need to be paid to the OPG.
You do not need to keep the OPG informed of any change of name/address.	You are encouraged to keep the OPG informed of any change of name/address.

TYPES OF DECISIONS THAT CAN BE MADE WITH A FINANCIAL DECISIONS LPA

- Buying or selling property.
- Opening, closing and operating bank accounts.
- Giving access to your financial information.
- Claiming, receiving and using benefits, pensions, allowances and rebates.
- Receiving any income, inheritance or other entitlement due to you.
- Dealing with your tax affairs.
- Paying your mortgage, rent and household expenses.
- Insuring, maintaining and repairing your property.
- Investing your savings.
- Making gifts, in certain circumstances.
- Paying for private medical and residential care or nursing home fees.
- Applying for any entitlement to funding for NHS care, social care or adaptations.
- Buying a vehicle or any equipment or other help you need.
- Repaying interest and capital on any loan you may have.

TYPES OF DECISIONS THAT CAN BE MADE WITH A HEALTH AND CARE DECISIONS LPA

- Where you should live and who you should live with.
- Your day-to-day care, including diet and dress.
- Consenting to or refusing medical examination and treatment.
- Arrangements needed for you to be given medical, dental or optical treatment.
- Assessments for and provision of community care services.
- Whether you should take part in social activities, leisure activities, education or training.
- Your personal correspondence and papers.
- Rights of access to personal information about you.
- Complaints about your care or treatment.

Offices at Brighton 01273 775533, Chichester 01243 836840, Crawley 01293 561965 Eastbourne 01323 730543, East Grinstead 01342 310600, Lewes 01273 477071, London 0800 8494101, Peacehaven 01273 582680, Seaford 01323 891412 and Storrington 01903 743201.

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