

## **LASTING POWERS OF ATTORNEY**

Lasting Powers of Attorney (LPAs) were introduced by the Mental Capacity Act 2005. This Act introduced a whole new structure to protect people when they lose mental capacity and are no longer able to make decisions for themselves. LPAs replaced Enduring Powers of Attorney (EPAs) in October 2007 but EPAs made before October 2007 will still be valid.

### **Do I need an LPA?**

An LPA allows you to plan ahead and prepare for the possibility that at some point in the future you may be unable to make decisions for yourself due to lack of mental capacity. This could be due to an accident, physical ill-health, mental illness, or neuro-degenerative disease. Whatever the reason, an LPA allows you to do:

- Choose someone you trust to make decisions in your best interests should you no longer be able to make those decisions
- Give them either limited or unlimited power to deal with all or specific areas of your life

If you don't have an LPA in place and you do lose mental capacity, the Court of Protection will appoint a Deputy on your behalf. This is a lengthy process and involves initial and ongoing costs.

### **What does an LPA do?**

LPAs allow you, the "Donor", to appoint one or more persons of your choice to act as your Attorneys. You can decide what areas of your life and wellbeing these Attorneys can deal with. LPAs specifically deal with two areas:

- Property and Affairs - this type of LPA allows you to choose someone you trust to make decisions about how your money should be spent, and how your property and affairs are managed. This is quite similar to the old EPA. The LPA must be registered, but can be used even if you are still able to make decisions for yourself, provided you consent to its use.
- Personal Welfare – this type of LPA allows you to choose someone you trust to make decisions about your health and welfare. This includes things such as where you live, and, if appropriate, what medical treatment you do or do not receive. Such decisions can only be made if you lack the mental capacity to make them yourself, and your LPA has been registered.

### **Who can I appoint to be my Attorney?**

You can appoint any one you want to be your Attorney, provided they are over 18 and are of sound mind. You can appoint more than one Attorney, and the LPA allows you to choose whether they should make all decisions jointly ("together") or whether individual attorneys can make decisions on their own ("together and independently"). You may, if you wish, appoint just one Attorney.

Who you choose is likely to depend on whether you are making a Property and Affairs LPA or a Personal Welfare LPA, as you may trust different people to make the best decisions in different circumstances.

### What if I change my mind?

You can revoke your LPA at any time provided you still have mental capacity. Therefore, if you change your mind about whom you have appointed as your attorney you can cancel the LPA and they will no longer have authority to make decisions for you. If you appoint your spouse as attorney and you later divorce, this automatically revokes your spouse's power.

### Is making an LPA complicated?

The LPA form is quite lengthy but we can complete this for you in accordance with your instructions. If you want to make both a Property and Affairs LPA and a Personal Welfare LPA we will need to complete two separate forms.

For the attorneys to be able to exercise their power the LPA must be registered with the Office of the Public Guardian – again, we can complete the necessary forms for you and send the LPA to be registered. We will also notify anyone you have asked to be notified of the registration.

If you would like to make an LPA, find out more about them or discuss the interaction between Lasting Powers of Attorney and Advance Directives please contact a member of our Private Client team:

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