



## LASTING POWER OF ATTORNEY (LPA)

### Who would you want - to look after your affairs?

Have you considered what would happen to your financial affairs if you had an accident or became seriously ill? This could happen at any stage of your life. Everyday tasks involving managing your accounts, paying your bills and maintaining your property would become very difficult, if not impossible. It is therefore worth making a Lasting Power of Attorney (LPA) so that you can be sure that the person(s) you trust are able to manage your affairs and make decisions on your behalf.

A Lasting Power of Attorney (LPA) is a legal document which enables you to plan ahead and set out in advance what you would like to happen should you become incapable of managing your affairs in the future. In the LPA, you appoint one or more 'attorneys' who will be able to make decisions on your behalf. An attorney is anyone you choose and trust. He or she must consider your best interests when making a decision on your behalf.

There are two types of LPA:

#### **A property and financial affairs LPA**

This gives your attorney the authority to deal with your property and finances, as you specify

#### **A health and welfare LPA**

This allows your attorney to make health and 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

#### **The importance of taking action now**

You can only make an LPA whilst you have capacity to understand the nature and scope of the LPA. You must choose a person to certify within the LPA document that you have the capacity to make the LPA.

It is also important to discuss all these matters with family and friends, particularly those who you choose to appoint as your attorneys, whilst you are able to so that your attorneys are well aware of your wishes in the event that you do lose capacity.

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OR CALL 0844 567 6173

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## Choosing your attorneys

As with any power of attorney, it is an important document and you should take care who you appoint as they should be trustworthy and have appropriate skills to make the proposed decisions.

There are different ways you can ask your attorneys to act that are appropriate for you. You may also choose to appoint a successor to your attorney, in case he or she dies or otherwise cannot act for you. Your lawyer will be able to advise you about these things.

## When can the attorney act?

The attorney will only be able to act when the LPA has been signed by you and your attorney/s, certified by a person that you understand the nature and scope of the LPA and have not been unduly pressured into making the LPA. It must then be registered with the Office of Public Guardian before it can be used.

The property and financial affairs LPA can be used both when you have capacity to act, as well as if you lack mental capacity to make a financial decision.

The health and welfare LPA can only be used if you lack mental capacity to make a welfare or medical decisions for yourself.

## Existing enduring powers of attorney (EPA)

Any EPA, validly made before 1<sup>st</sup> October 2007, can still be used but only in respect of your property and financial affairs. If you wish to give authority over your health or welfare, you will need to make a health and welfare LPA.

## What happens if you have not made a LPA or EPA?

If you lose capacity and have not made an LPA (or have not made an EPA), then it may become necessary for a relative or friend to apply to the Court of Protection, where the Court will decide whether or not to appoint him or her to make decisions on your behalf.

Although the Court endeavours to appoint somebody who would act in your best interests, you could potentially have somebody managing your affairs who you would not have chosen had you had capacity. It could even be someone you don't know and not necessarily a family member.

Furthermore, an application to the Court is very time consuming and costly. It may be months before somebody is able to access your finances. This can be a very stressful time for your friends/relatives who may end up spending their own money trying to pay your bills whilst waiting for a Court Order. To avoid this, we suggest that you put in place an LPA as soon as you can.

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