

Can I make an LPA myself, without a Solicitor?

Yes, you can, but there are many risks associated with this:

- **Rejection by the Office of the Public Guardian (OPG)** – LPA documents are sent to the OPG to be registered. A Solicitor would ensure that the document is faultless before sending it off. There are many details that need to be executed correctly. Should you do this yourself, you risk missing out on certain details that are vital to ensure the documents are accepted by the OPG.
- **Delays** – documents take around 2-3 months to be registered by the OPG. Should your document be rejected, you will need to redraft the documents and wait another 2-3 months for the registration process.

- **Disputes if the document is unclear or challenged** – if the Court of Protection find that an LPA was not properly executed, they have the right to revoke it which is a lengthy and costly process.
- **Loss of control if the wrong powers are granted** – in the unfortunate event that you lose capacity without a valid LPA, the Court of Protection will have to appoint a Deputy to manage your affairs which could lead to lack of control over your personal choices.



What is an LPA?


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What is an LPA?

Overview

A Lasting Power of Attorney (LPA) is a legal document that allows you to appoint individuals (attorneys) to make decisions on your behalf regarding your property and financial affairs, and your health and welfare. While LPAs are mostly commonly used to deal with affairs of the elderly and vulnerable, it is beneficial to get them done as early as possible to ensure you are protected against any unforeseen accidents or illnesses that could incapacitate you in the future.

From both a practical and financial point of view it makes sense for everyone to consider appointing an Attorney under an LPA before a problem arises. Once a person becomes unable to manage, it may be too late to make an LPA. If you have already made a Will then an LPA will complement this and help to reassure both you and your family that you have made detailed plans for the future.

Who takes responsibility?

Making an LPA does not restrict your right to control 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, you cannot cope. At any time you may ask your Attorney to take responsibility for various aspects of your affairs.

What do LPAs cover?

There are two types of LPA, a Property and Financial Affairs LPA and a Health and Welfare LPA.

Lasting Power of Attorney – Property and Finance

A Property and Financial Affairs LPA gives your chosen Attorney(s) authority to deal with your property and finances as you specify. This includes, managing your bank accounts, making investments, paying bills, dealing with your pensions and even selling your house should it become necessary.

Health and Welfare

A Health and Welfare LPA allows your chosen Attorney(s) to make welfare and health care decisions on your behalf only if you lack mental capacity to make the decisions yourself. These decisions could include where you should live, day to day living arrangements and medical treatment. This could also extend, if you wish, to give or refuse consent to the continuation of life-sustaining treatment.

Enduring Powers of Attorney

Enduring Powers of Attorney (EPAs) were replaced by Lasting Powers of Attorney from the beginning of October 2007.

If you have an existing EPA then this remains valid during your lifetime unless you revoke it, but you can no longer make a new one. EPAs only cover your affairs in so far as they relate to property and financial affairs.

You may wish to consider making a Health and Welfare LPA to complement your existing EPA.

LPAs also offer the opportunity to have everything set up and ready to go in advance, whereas EPAs require formal registration at the point that a person has become or is becoming unable to make their own decisions. This could mean significant delay in being able to use the EPA at the very time it is needed.

Choosing your Attorneys

Who can be your attorney:

- You should choose people you trust
- They must be over the age of 18
- An Attorney under a Property and Financial Affairs LPA must not be bankrupt

People often choose their spouse and/or their children with some choosing to appoint other relatives or close friends. An alternative is to choose a professional person such as a solicitor.

When does an LPA become active?

Your Attorney(s) will only be able to act once the LPA has been signed by you and your Attorney(s), and certified by a suitable person (certificate provider) that you have not been pressured into making the LPA and you understand the power that you are giving your attorneys.

The LPA also has to be registered with the Office of the Public Guardian before it can be used, but you can register it as soon as you have made it so that everything is ready to go, should it be needed. Helpfully, you can authorise your Attorneys to help you with property and financial decisions whenever you wish, however, they will only be authorised to make health and welfare decisions for you if you have lost capacity to make those decisions for yourself.