



LASTING POWER OF ATTORNEY (LPA) FACTSHEET

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Have you considered what would happen if you were no longer able to make decisions for yourself because of your health?

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Who would help you to make decisions about your long-term care and finances?

Fortunately, there is a way to make sure your wishes are met, and any decisions are made with your best interests at heart.

Get a Lasting Power of Attorney today.

1. Why do I need an LPA?

At any time during your lifetime, you could lose what is known as 'mental capacity' (a legal term meaning the ability to make decisions for yourself) for numerous reasons outside of your control. If you want someone to act for you in case you lose mental capacity, you should have a Lasting Power of Attorney (LPA) prepared. This will ensure that your wishes and decisions are fulfilled by the person of your choice should that need ever arise. The person you choose to appoint to fulfill this role will be known as your Attorney.

2. Who decides whether or not I have mental capacity?

You will need to obtain a medical report from your GP or a specialist called a 'certificate provider', to confirm that you have the capacity to understand what a LPA is and what it means. They will provide a certificate to confirm their findings.

3. What type of LPA's are there?

There are two types of LPA's.

Property and Financial Affairs LPA

The purpose of this type of LPA is to ensure that the person you appoint has the legal power to help you to make decisions regarding your financial circumstances, or to make decisions on your behalf. Examples of financial affairs decisions are:

- opening, closing and using a bank and building society accounts
- claiming, receiving and using benefits, pensions and allowances
- paying household, care and other bills
- making or selling investments
- buying or selling your home

The Attorney you choose needs to keep a proper record of your finances, including all money spent, returns on investments, dealings with any property issues and any other expenses incurred.

Health & Welfare LPA

The purpose of this type of LPA is to ensure that if you ever need help in making decisions regarding your health, your Attorney of choice has the legal power to help you make those decisions or to make them on your behalf.

- giving or refusing consent to health care and medical treatment
- staying in your own home and getting help and support from social services
- moving into residential care and finding a good care home
- day-to-day matters such as diet, dress or daily routine

If you were to permanently lose mental capacity, your Attorney can also be given the legal power to make advanced decisions such as moving you to a care home or switching off a life support machine, so long as this was found to be in your best interests.

4. How do I choose the right person to give power to?

In your LPA, you will be called the 'Donor' and the person acting for you will be called the 'Attorney'. Choosing an Attorney is a vital decision. You need to think carefully about who to give the power to. To help you consider it, some useful questions to think about include:

- Is the person(s) you wish to appoint willing to be appointed?
- Can you trust them to act in your best interests?
- Might there be disagreements or problems between friends or family?
- Would it be a good idea to talk to family and tell them what you plan and why?
- Do you want to consider more than one Attorney?
- Do you want to name a replacement Attorney to take over from the original Attorney (for example if the original Attorney dies or also loses mental capacity)?
- Do you want a different Attorney(s) appointed for different things?
- Do you wish to limit the Attorney's authority? You can give an Attorney a general authority in a LPA or can set out specific limitations within your LPA.
- Do you want to ask your Attorney(s) to provide you with details of expenditure and income? If you lose capacity, the accounts can be sent to your solicitor or member of your family.
- Do they handle their own money well?
- Do you think they understand your wishes and feelings about how you would spend your money?

5. What do I do with a signed LPA and what does it cost?

Once your LPA is prepared and signed, it must be registered with the Office of the Public Guardian (OPG) with the registration fee.

Make sure all required sections of the LPA application form are completed, if there are any errors, the OPG will reject the application. There is a repeat fee payable every time an LPA application is re-submitted to the OPG within 3 months of the registration application being sent back.

In certain circumstances, you may be exempt from paying the registration fee(s) or you may be able to apply for remission or postponement of the fee. You are exempt if you receive any of the following benefits:

- Income Support
- Income-based Employment and Support Allowance
- Income-related Jobseeker's Allowance
- Guarantee Credit element of Pension Credit
- Housing Benefit
- Council Tax Reduction/Support
- A combination of Working Tax Credit and at least one of: Child Tax Credit, Disability Element of Working Tax Credit, or Severe Disability Element of Working Tax Credit.

If you do not meet these requirements, you may qualify for a fee remission if you are on a low income. If your gross annual income is less than £12,000, you may be eligible for a 50% fee reduction. You may also qualify if you claim Universal Credit. You need to provide appropriate evidence to qualify for a fee reduction.

6. How long does my LPA last?

Until you either revoke it, or cancel it, or die.

7. Can I cancel a LPA?

You can revoke an LPA at any time provided you have mental capacity.

However, once registered with the OPG, an LPA cannot be cancelled without an order of the Court of Protection if you lose mental capacity to cancel it yourself. To cancel a registered LPA, you must:

- Sign a witnessed 'deed of revocation' and send it to the OPG; and
- Write to the Attorney(s) advising them the document has been revoked.

To have your LPA prepared by one of our LPA specialists, contact us now on 020 3588 3500.