

A Guide to Lasting Powers of Attorney



This document is produced as a brief guide for those wanting to make a Power of Attorney or those who have concerns for another person. It is not to be taken as a complete guide and we would suggest that you obtain professional legal assistance if you have any queries in relation to making a Power of Attorney.

What is a LPA?

A Lasting Power of Attorney (LPA) is a legal document which allows you to appoint someone else to manage your affairs on your behalf in the future, should you become mentally or physically unable to do so. Lasting Powers of Attorney became valid from 1st October 2007 and replace the old Enduring Powers of Attorney. Enduring Powers of Attorney created before the 1st October 2007 can still be used; provided they comply with all the legal formalities and were executed before 1st October 2007.

Are there different types of LPA?

There are now two separate types of LPA

1) A Property and Affairs LPA

Allows you to choose someone to make decisions about your finances, such as signing cheques, paying bills, and dealing with property. Once registered with the Office of Public Guardianship, the Property and Affairs LPA can be used immediately to manage finances, even where you may still retain sufficient capacity. This may be used, for example, if you are unable, physically to deal with your financial affairs. Alternatively, you may wish to restrict the Property and Affairs LPA so that your Attorney is only able to deal with your financial affairs if you have lost capacity to do so yourself.

2) A Personal Welfare LPA

Allows you to choose someone to make decisions about your health, accommodation, day to day care and medical treatment. The Personal Welfare LPA can only be used once registered at the Office of Public Guardianship and when it has been established that you have lost capacity at a particular time to make a decision.



Who to appoint as my attorney and can I appoint more than one?

You can appoint anyone over the age of 18 with mental capacity to act as your Attorney. Your Attorney should be someone that you trust and is able to perform their role to the standard required. You can appoint as many Attorneys as you like and you can specify if you would like them to act together or together and independently. If you appoint your Attorneys to act together, they must all agree before a particular decision maybe made. It therefore is important that you consider if your Attorneys are able to act collectively.

Can the LPA be used immediately?

Both a Property and Affairs LPA and Personal Welfare LPA cannot be used unless they have been registered with the Office of Public Guardianship.

Who can make a LPA?

Anyone over the age of 18 and with capacity can make an LPA. If you do not have the mental capacity to make an LPA your loved ones may need to apply to the Court of Protection to appoint a Deputy. This can be an expensive and time consuming process.

Only you may make an LPA and someone else can not make the LPA on your behalf. However, you can ask a Solicitor to help you create the LPA if you wish.

Further Information

Our expert legal team at Watkins and Gunn will be happy to assist you in making an LPA and answering any queries which you may have.

Please contact us on
01495 762244

or go to our website
www.watkinsandgunn.co.uk

This guide is intended for information purposes only and should not be relied upon without legal or other professional advice