

Fact Sheet on Lasting Powers of Attorney (LPA's)

What is a Lasting Power of Attorney?

A Lasting Power of Attorney ('LPA') is a legal document that enables you ('The Donor') to choose someone ('The Attorney') to make decisions on your behalf about such things as your finances, property and your personal welfare at a time in the future should you become physically or mentally incapable to deal with those affairs.

Are there different types of LPA?

Yes, there are two different types:

a) Property and Affairs:- this allows your Attorney to make decisions on your behalf about your property and affairs including paying your bills, collecting your income and benefits or selling your home subject to any restrictions or conditions.

b) Personal Welfare:- this allows your Attorney to make decisions on your behalf about your personal welfare, including whether to give or refuse consent to medical treatment on your behalf and deciding where you live.

Who can be make one?

Anyone can make an LPA as long as they are aged 18 or over, and have mental capacity to understand the meaning and the effects of the LPA.

Can I appoint more than one Attorney?

You can appoint as many Attorneys as you wish, but it is important that you consider how you are appointing them. You will need to specify whether you want to appoint your Attorneys to act jointly together which means that all your Attorneys have to sign relevant documents together. This acts a safeguard so all of your Attorneys must act in agreement. A disadvantage of this is that if one of the Attorneys cannot act or refuses to make a decision then the power fails. You can also appoint your Attorneys to act jointly

and separately. This means that they can act on their own or together. This is more flexible to allow your Attorneys to act on their own should the other Attorneys become unavailable or are unwilling to act in the future.

What can my Attorneys do?

You can give as much power to your Attorneys as you like. You decide how much power they may have in relation to your affairs. You can give your Attorneys general authority to manage all your property and affairs or make all decisions regarding your personal welfare.

For a Property and Affairs LPA, this means that they could sign cheques, pay bills, open and close accounts, make gifts and or even sell your home.

If you do not wish your Attorneys to have such wide powers then you can place restrictions/conditions on them. For example you can include a condition that your Attorneys must act in a certain way or cannot act until you have become mentally incapable. Restrictions can be placed on your Attorneys preventing them from specifically making certain decisions. One example is they cannot sell your house until you become mentally incapable.

For a Personal Welfare LPA, if you do not include any conditions or restrictions, your Attorneys will be able to do anything in relation to your personal welfare. This might include deciding where your permanent place of residence should be, deciding on your care needs and consenting to treatment. Again you can place conditions or restrictions on your Attorneys for instance they must consult a particular person before making a decision or a restriction as to what they can do.

If you want your Attorneys to have power to make a decision about life sustaining treatment, you have to expressly give your Attorneys power to make that decision. If you have not

given your Attorneys power to make such decisions then the decision will be made by health professionals.

What if my Attorneys are no longer able or unwilling to act?

You can appoint replacement Attorneys to make decisions on your behalf if your original Attorneys are no longer able or do not wish to make decisions on your behalf. For example, you may choose your spouse as your Attorney then choose your son/daughter as a replacement if your spouse should die or can no longer act on your behalf. You can choose as many replacements as you want. If you want to appoint a replacement Attorney, you do so at the time you make your LPA and a replacement Attorney has to sign up to taking on this role like any other Attorney.

Do I have to notify anyone else that I am making an LPA?

Yes, at the time you make your LPA you will need to decide who you would like to be notified that registration of your LPA is taking place. You are advised to name up to five people. Once notified if the person you have chosen have concerns about the registration of your LPA then they can make representations to the Office of the Public Guardian.

Does the LPA have to be signed by anyone else?

Yes, you must select a person to complete part of the LPA form, confirming that you understand the LPA and that you are not under any pressure to make it. This is called a Certificate Provider. This can be someone that you have known personally for at least 2 years or someone who has the relevant skills and expertise such as a Medical Professional, Solicitors or a registered Social Worker.

When does my LPA have to be registered?

Your LPA can be registered after you have made it and cannot be used until it has been registered. The LPA is made when it has been completed and signed by all of those required to sign the forms.

Can I still make decisions if my LPA is registered?

Yes, if you have the capacity to make a decision, your Attorney can act for you in your best interests and on your instruction. If you disagree with your Attorneys actions and still have the capacity to do so, you can revoke the LPA by notifying the Office of the Public Guardian.

Is there a Registration Fee?

Yes, at the time that you register your LPA you will have to pay a registration fee to the office of the Public Guardian. A separate registration fee is payable for a Property and Affairs LPA and a Personal Welfare LPA when each application for registration is made. To register one LPA the fee is £130.00.

Our Charges

If Parry Carver are preparing your LPA application forms then our fees for a LPA will be £375.00 plus VAT. There is a discount available if you make more than one LPA or make joint LPA's for husband and wife or civil partners. Please contact our office for details.

If you cannot make it to our offices, we can visit you at your home or in a care home or hospital. However, there are additional charges to take into account for travelling from work to your home. We normally charge an additional fee of £20.00 plus VAT for each visit. In addition to these charges, we charge mileage at a rate of 0.45p per mile.

Further Reading

Parry Carver suggest that should you require any further information then please do not hesitate to contact us at our Wellington office on 01952 641291 or our Shifnal office on 01952 460777. Alternatively you may wish to visit the Government Office of the Public Guardian website which is www.publicguardian.gov.uk