



# UNDERSTANDING POWERS OF ATTORNEY

**Don't leave it until it's too late.**



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# Lasting Powers of Attorney

Unfortunately, some of the most important decisions in our lives may need to be made at a time when we are unable to do so. A Lasting Power of Attorney legally appoints one or more people you trust to step in to make lifetime decisions for you, from your finances and medical treatment to where you live. A precaution like this is not just for the elderly – accidents or illness can happen at any time in your life.

Separate to your Will, which only comes into effect when you pass away, a Lasting Power of Attorney is used during your lifetime. Without this document your partner or family do not automatically have the legal power to manage your affairs. A Lasting Power of Attorney is an additional cost to your Will, but it can save you money in the long term – think of it as an insurance policy. It may be that you never lose mental capacity but if you do then you are covered with a Lasting Power of Attorney.

If you do not have a valid LPA, an application to the Court of Protection will need to be made which is both costly and lengthy.

**There are two types of Lasting Powers of Attorney but you can choose both if applicable\***

## Health and welfare

This type of Lasting Power of Attorney relates to the decisions around daily routine, medical care, moving into a care home and life sustaining treatment. This can only be used when you are no longer able to make your own decisions. You can specify in this power of attorney what medical treatment you want or don't want and your view on life sustaining treatment.

- Your attorney will not be able to sell or buy property on your behalf unless they are also your property and financial affairs attorney.
- Attorneys cannot make decisions about giving you treatment to keep you alive, unless you give them permission within your Lasting Powers of Attorney.

## Property and financial affairs

This type of Lasting Power of Attorney relates to the decisions about your money and property, from managing a bank or building society account, paying bills, collecting benefits or a pension and selling your home. This can be used with your permission as soon as it is registered.

Your attorney has certain responsibilities.

- The attorney must keep all assets, income, spending and outgoings separate to their own personal account. The Office of the Public Guardian (OPG) and the Court of Protection can ask to check these at any time to protect your best interests.
- The attorney may be prosecuted if they misuse your property and financial affairs.

\*This only applies to England. Different processes apply in Scotland and Northern Ireland.

**Although time is precious, don't rush when choosing the right attorney to manage your Lasting Powers of Attorney. Make sure the appointed person(s) is someone you can trust.**



## **Who can be your attorney?**

Anyone of aged 18 or over, who has the mental capacity to make their own decisions, such as:

- Your husband, wife or partner
- Your children
- A relative
- A friend
- A professional, e.g. Solicitor

When you appoint your attorney it is important to understand the person(s) and know they are able to make the right decisions for you.

### **Top 5 things to consider when appointing someone:**

- How long and well do you know the person?
- How do they look after their own affairs? e.g. their finances, manage their home
- Would you trust them to make decisions in your best interests?
- Will they be happy to make decisions for you?
- Who will be your replacement attorney should something happen to your original attorney(s)?



## **Attorney decisions**

If you appoint more than one attorney, you can decide whether decisions are made separately or together.

### **What does this mean for you?**

**Jointly and severally** means that decisions can be made by one attorney alone or in consultation with the other attorneys. This provides the most flexibility.

**Jointly** means that all of the attorneys have to agree on a decision. If one of your attorneys die or is unable to act, then the other attorney(s) is then unable to act.

You may decide that some decisions are made better jointly and others severally. Contact us today to discuss your options in full.



## How much does it cost?

Type of LPA	Costs	OPG reg. fee
One LPA (e.g Property & Financial OR Health & Welfare)	£450 + VAT	£82
Both Property & Financial and Health & Welfare (2 LPAs)	£700 + VAT	£164
If you are a married couple and you each want both Property & Financial and Health & Welfare (4 LPAs)	£1000 + VAT	£328



## Why should I use a solicitor?

Making a mistake can be costly and could result in your application to register your LPA being rejected. While there is no requirement under UK law to use a solicitor to make your application, getting the right legal advice can help avoid serious consequences further down the line.

Solicitors are subject to strict professional standards and can provide a holistic understanding of how your decisions now may affect you later. As experts in Private Client matters, we can also advise if an LPA may not offer all the protection you need, such as if you have any interests in business, any assets are jointly owned, or if you have property abroad.

The advantage of using a qualified legal professional to draft your LPA is that you can be assured the document will be valid, we can prevent its validity being challenged, we can help to ensure your application to the Office of the Public Guardian is not rejected, and we will ensure those you intend to appoint understand the responsibilities they will assume.

**Contact us for more information about  
Lasting Powers of Attorney and give yourself peace of mind.**



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