



## Lasting Powers of Attorney Information

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### What are Lasting Powers of Attorney?

A Lasting Power of Attorney (LPA) enables you to appoint a person or several people to act on your behalf should you lose the capacity to make your own decisions. There are two types of LPA:

#### 1. Financial Decisions LPA

This can be used for running your bank and savings accounts, making and selling investments, paying your bills and buying or selling property.

This type of LPA can be used in two instances:

- you retain capacity but you wish for your attorney to assist you with day to day financial matters
- you lack capacity to make financial decisions because of a mental impairment either through illness or accident

#### 2. Health and Care Decisions LPA

This can be used for the type of health care and medical treatment you receive (including life-sustaining treatment), where you live and day-to-day matters such as your diet and daily routine.

This type of LPA can only be used when you lack capacity to make your own decisions because of a mental impairment either through illness or accident.

### Do I have to prepare both types of LPA?

The best way to view an LPA is to liken it to an insurance policy. It's far better to have it and not need it, than need it and not have it!

Without a Financial Decisions LPA, assets in your sole name may become inaccessible which may result in hardship that impacts both on yourself and possibly that of a loved one. It may also become difficult for a co-owner to deal with assets held in joint names.

Without a Health & Care Decisions LPA, should you require care - you may be removed from your own home and placed into residential or nursing care. Your next of kin may have no say as to where that placement is made. You may also receive medical treatment which you would not have consented to had you had the capacity to make the decision yourself.

### Who can I have as my Attorney(s)?

An LPA is an important document so you should take care when choosing your Attorney – they should be trustworthy and have the time and knowledge to act.

Attorneys must be over the age of eighteen and have mental capacity to make decisions on your behalf. They should not be bankrupt or subject to a debt relief order.

If you appoint more than one Attorney, you can appoint them to always act together (jointly) or together or separately (jointly and severally). You may even appoint Attorneys to act jointly for some things and jointly and severally for others, although this should only be done with advice, as it may cause problems when using the LPA.

You may also choose to appoint a successor to your Attorney, in case they die or otherwise cannot act for you.





### **What are the costs involved?**

At QualitySolicitors Parkinson Wright we charge a fixed-fee when preparing LPAs:

The cost for a single person preparing one LPA is £550 + VAT. Should that person wish to prepare the two types of LPA then the cost is £700 + VAT.

The cost for a couple each preparing one LPA is £750 + VAT. Should the couple wish to each prepare the two types of LPA then the cost is £900 + VAT.<sup>1</sup>

In addition to the legal costs associated with the preparation of the LPAs, there is a fee payable to the Office of the Public Guardian for registration of the LPA which is £110 per LPA.<sup>2</sup>

### **What happens if I don't make the LPA?**

In the event that you lose capacity and you have not put an LPA in place, it will be necessary for an application to be made to the Court of Protection.

The role of the Court of Protection is to help people who are mentally incapable of making their own decisions; it does this by making decisions for them in the form of the appointment of a Deputy.

A Deputy must:

- Have regard to the Mental Capacity Act 2005 and its Code of Practice
- Make decisions with a high standard of care
- Make decisions that are in the individual's best interests
- Only make a decision if the individual cannot make it for themselves
- Only make decisions that the Court has authorised

A Deputy is required to account to the Court of Protection on an annual basis about the decisions made and the reasoning for them.

### **I have an Enduring Power of Attorney already do I need to make an LPA?**

Enduring Powers of Attorney (EPA) remain valid provided that they were finalised by 31st September 2007. It is important to note that EPAs only cover aspects relating to your property and financial affairs so if you wish to cover yourself for Health and Care you should make an LPA.

It is not possible to amend or update an EPA so if you wished to make any changes, this would have to be done by way of preparing an LPA.

<sup>1</sup> Fees correct as at November 2015

<sup>2</sup> Costs correct as at November 2015

