



Why make a Lasting Power of Attorney?

What is a Lasting Power of Attorney?

A Lasting Power of Attorney (LPA) is a document by which you grant someone (your Attorney) the power to make decisions on your behalf at a time when you may no longer be able to do so yourself, whether through illness, injury or any other condition which might affect your capacity.

Why make an LPA?

Making an LPA enables you to plan how your health, wellbeing and financial affairs will be looked after at a time when you can no longer make decisions yourself. It gives you the ability to choose:

- the **decisions** you want to be made on your behalf if you lose capacity to make them yourself;
- the **people** you want to make these decisions; and
- **how** you want those people to make these decisions.

If you do not have an LPA in place and you become unable to deal with your affairs yourself, then a relative or other appropriate representative would have to make an application to the Court of Protection to be appointed to make decisions on your behalf as your “Deputy”. This can be a costly and time-consuming process and means that you have no control over who is appointed to be your Deputy or what decisions he or she can make.

Types of LPA

There are two different types of LPA:

- 1. Financial:** This allows your Attorney to deal with your financial affairs and your property. This could include paying bills or selling your property or investments. This type of LPA can also be used whilst you still have capacity to handle your financial affairs and property if needed. An example would be if you were out of the country and needed someone to handle your affairs in your absence.
- 2. Health and Care:** Unlike a financial LPA, this can only be used once you have lost capacity to make your own decisions. Your Attorney under this type of LPA can make decisions on your behalf about your health and care if you are unable to do so yourself. Your Attorney could, for example, make decisions about your medical treatment, where you should live and your day-to-day care. Your Attorney can even make decisions about life sustaining treatment if you specifically permit this in the LPA.

You can make one or both types of LPA. Each one must be registered with the Office of the Public Guardian before it can be used by your Attorney.

People involved in making your LPA

There are a number of people who will be involved in the process of making an LPA:

Attorney(s)

You can choose who you would like to appoint as your Attorney(s). For example, you could appoint your spouse or partner, child, relative, friend or a professional, provided they are over 18. You can appoint more than one Attorney, and this is usually a good idea in case an Attorney is unable to act at the relevant time.

Where there are two or more Attorneys, you can decide whether they are to act:

- jointly, so that they must act together;
- jointly and severally, so that they may act either together or independently of each other (a more flexible option); or
- jointly in respect of some matters and jointly and severally in respect of others.

You can also name a replacement Attorney in the LPA to act if the original Attorney's appointment is terminated for whatever reason.

Named Person(s)

You can choose someone to be notified when an application is made to register your LPA. You may specify up to five "named persons" and should ideally name at least two. This is a safeguard to prevent against improper use of the LPA. These people will have the right to object to the registration of the LPA if they have concerns over it or over the identity of your Attorney(s).

Certificate Provider

You must select someone to act as a "certificate provider". This person will complete a certificate contained in the LPA confirming that you understand the LPA and are not under any pressure to make it. The certificate provider can either be someone other than a family member who you have known personally for at least two years or a professional person such as a healthcare professional, a lawyer, a social worker, etc.

Cancelling your LPA

If you change your mind about your LPA at some point in the future you can revoke it by signing a short document. If the LPA had been registered then the Office of the Public Guardian will also need to be notified.

The Private Client Team

Our specialist tax, trust and estate lawyers form one of London's longest established and most experienced private client teams.

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Wedlake Bell LLP's service is characterised by 'personal chemistry both within the firm and towards the client' and by its 'readiness to wrestle with the intractable problems and to reach wise and humane solutions'.

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