

What you need to know about: Lasting Powers of Attorney



A lasting power of attorney (LPA) can be extremely useful if there ever comes a time when you are incapable of managing your own property and financial affairs, or your personal welfare needs. Should you find yourself in the unfortunate position of not having the mental capacity to deal with such matters yourself, you will need someone to make these decisions for you.

There are many reasons for making an LPA, including:

- you have the choice of who is responsible for your best interests;
- having the ability to list multiple deputies;
- the assurance of the Court of Protection;
- certainty should a life changing event occur;
- a significant saving in comparison with the cost of applying for deputyship after incapacity has occurred.

An LPA is a legal document that lets you appoint as an “attorney” someone you trust to handle matters on your behalf. It can be drawn up at any time while you have mental capacity; however, it has no legal standing until it is registered with the Office of the Public Guardian. Once registered, an LPA can be used at any time, whether you have the mental ability to act for yourself or not.

There are two types of LPA:

a property and affairs LPA authorises your chosen attorney/s to make decisions on your behalf about your financial dealings as well as to manage your property matters;

a personal welfare LPA allows you to appoint someone who will preside over your health care and welfare decisions. He or she will be able to refuse or consent to treatment you may need and also decide where you live. These decisions can only be taken on your behalf once the LPA is registered and when you have lost the ability to make them on your own.

Choosing the right individual to take on an attorney’s responsibility is an important step in the preparation of an LPA. Obviously, once you have lost mental capacity, you will not be able to check whether your affairs are being conducted in your best interests. It is advisable, therefore, to appoint more than one person for each type of LPA, to help prevent any abuse of power.

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They need not be, but can be, the same people for both types. Of course, it goes without saying that you should trust implicitly those you choose to act on your behalf

The application to register an LPA can be made at any time after it has been completed. It can be registered by you whilst you are still of sound mind, or by your attorney when you are no longer able to do it for yourself.



Part of the completion process asks you to name those you wish to be advised that the application to register your LPA is being made. Those nominated will receive notification of the impending registration, thus adding a further level of protection against possible misuse of power.



Your relatives, however, will not be advised of the application, unless any of them is named as being entitled to be given notice. Anyone who has been notified can object to the LPA being registered.

Once the LPA is registered, it continues indefinitely.

You can cancel your LPA if you have the mental capacity to do so. If there is a dispute about whether your LPA has been cancelled, the Court of Protection has the authority to arbitrate.

A property and affairs LPA is revoked if you or your attorney becomes bankrupt, but this rule does not apply to the personal welfare LPA.

What next?

If you would like to discuss a lasting power of attorney and how it can help you and your family, please contact a member of our Private Client team on one of the numbers below.

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Why Roythornes?

We have one of the largest Private Client teams in the region and have considerable expertise in acting for landowners, large scale agriculture businesses and individuals across the whole country. We take a practical approach with dedicated teams spanning the full remit of Private Client work to include a specialist Court of Protection team. Working with some of the country's best agricultural lawyers means we are well placed to take a collaborative approach for our clients and advise on especially complex issues within our specialist sector.

'Clients regard Roythornes Solicitors as a 'market leader in the regions in which it operates'. Noted for its land and farming focus, the team specialises in estate administration involving agricultural and business assets as well as will preparation, capital tax planning, Court of Protection matters, Stamp Duty Land Tax advice and business succession. The elderly client sector is also a key strength, with the group possessing expert knowledge in managing incapacity.' (Legal 500)

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