

What is a Lasting Power of Attorney (LPA)?

An LPA is a document that gives a person or people (the attorneys) power to make decisions on behalf of another person (the donor). An LPA is made when the donor has mental capacity, in preparation for if they lose their capacity. There are two different types of LPAs, the property and financial affairs LPA and the health and welfare LPA.

Property and Financial Affairs LPA

This covers decisions about the donor's financial affairs and their property. A Property and Affairs LPA can be used by attorneys whilst the donor still has capacity if they wish, which can be very useful if the donor has or develops any mobility issues. An attorney for a Property and Affairs LPA will be able to:

- Buy or sell property.
- Operate the donor's bank account and invest any savings.
- Claim welfare benefits or pensions and receive income for the donor.
- Deal with the donor's tax affairs.
- Pay the donor's mortgage, rent and household expenses.
- Insure, maintain or repair the donor's property

Health and Welfare LPA

This covers decisions about the donor's personal welfare and health. Unlike the Property and Affairs LPA, a Health and Welfare LPA can only come into effect once the donor has lost capacity. An attorney for a Health and Welfare LPA will be able to:

- Make decisions on where the donor is living and on their day to day care.
- Arrange any medical, dental or optical care for the donor.
- Allow access to any of the donor's personal information.
- Consent or refuse any medical treatment.
- Decide on the donor's diet and clothing.

It may also include a provision on whether the donor wishes to accept or refuse life sustaining treatment.

Why Make an LPA?

If a person loses mental capacity and there are no LPAs in place, their family and friends do not have an automatic authority to deal with their finances or health. In order to do so, they would need to apply to the Court of Protection to be a deputy for them. This is a long and expensive process and incurs regular fees (which LPAs do not).

By making LPAs, the donor gets to choose who can make decisions on their behalf. They can have a sole attorney, multiple attorneys and can also name replacement attorneys. They also get to choose what restrictions they want to put on the attorneys (if any). By not making LPAs, this decision is left to the Court of Protection. They may impose large amounts of restrictions on family or appoint family members who a person would not have chosen themselves.

LPAs and losing capacity are often considered as something only the elderly need to consider. Whilst conditions such as Alzheimer's or Dementia are more common amongst the elderly, this is not the only way that mental capacity could be lost. Mental capacity could be lost due an accident, such as through a traffic accident or through contact sports. Some mental illnesses could also lead to a temporary or complete loss of mental capacity.

For more information please get in touch.

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