

# Lasting Powers of Attorney - UPDATE

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Nobody knows what the future holds and situations can arise, such as failing health or an unexpected accident where you are no longer able to take care of your own affairs. As people get older and are living the longer, the likelihood of some sort of incapacity, physical or mental, in later life, increases greatly. Failure to prepare by setting up a Lasting Power of Attorney can cause tremendous difficulty and unnecessary expense.

## **What is a Lasting Power of Attorney?**

A Lasting Power of Attorney (LPA) is a legal document that enables you to appoint one or more persons of your choice to handle your financial affairs and property, either now or in the future. You can also set up a separate LPA which appoints someone to deal with your health and welfare (i.e. where you live, dress, daily routine, the care you receive) and even to make decisions about the medical treatment that you receive should you lose your mental capacity.

## **Why do I need one?**

Unless you have prepared an LPA and formally nominated someone to manage your affairs, organisations will not allow an individual other than you to deal with them. Therefore, without an LPA in place, your assets can go into limbo as no one would be authorised to access them and this can, of course, create difficulties where there are bills to be paid. Similarly, if you lose your mental capacity, you may wish to nominate somebody to make decisions in relation to your welfare and/or health care to ensure your needs are properly looked after. If you do not nominate somebody and you lose your mental capacity, then these decisions may be made upon your behalf by social services.

Some common questions :-

## **Who can act as my Attorney?**

Anyone who is over 18 years old can be nominated. It needs to be someone you trust implicitly and who will put your needs first. It is quite normal to appoint a trustworthy and responsible member of your family, who lives close enough to you to be able to give the necessary assistance. In certain circumstances it can be helpful to appoint solicitors to act as your Attorney.

## **Can I have more than one Attorney?**

Yes, you can appoint more than one Attorney. If you appoint more than one person to act as your Attorney they can be appointed to act either 'jointly' or 'jointly and severally'. If they are appointed to act 'jointly', then this will mean that they all need to act unanimously at all times (for example all signing cheques). If they are appointed to act 'jointly and severally' then any of them can act separately or together.

## **Can I restrict the powers that I give to my Attorneys?**

Yes. If you wish, you can restrict their powers to specific acts such as managing your investments, selling your house or simply paying routine domestic bills. Alternatively, if you choose to give them wider powers, the Attorney(s) can do anything which you would have been able to do yourself. Registration at Court? Your appointed Attorney(s) cannot act upon your behalf until the LPA has been registered at the Office of the Public Guardian (whether or not you are mentally capable). Once registered, your Attorneys are permitted to act upon your behalf should this be desirable or indeed necessary.

## **What if I don't make an LPA?**

Your family would have to apply to the Court of Protection (which oversees the affairs of people who are not mentally capable of doing so themselves) for the appointment of a Deputy to look after your affairs. This is an inconvenient, long and costly business compared with the ease of thinking ahead and preparing an LPA now. If you do not have any family then social services may have to apply to Court to be appointed as your Deputy.

If you require more information, please contact James Rousell on [j.rousell@wjclaw.co.uk](mailto:j.rousell@wjclaw.co.uk) or call 01384 371622

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