

Lasting Powers of Attorney : Guide for Property & Financial Affairs Attorneys

As a Property and Financial affairs Attorney, you make (or help the donor make) decisions about things like: money, tax and bills bank and building society accounts property and investments pensions and benefits. You can use the donor's money to look after their home and buy anything they need day to day (for example, food).

Remember as an attorney, you cannot do what you like. You must follow the principles set out in the [Mental Capacity Act Code of Practice](#).

Looking after money and property

You must keep the donor's finances separate from your own, unless you've already got something in both of your names like a joint bank account or you own a home together.

Managing bank accounts

Before you can manage the donor's account, you must show the bank the original registered lasting power of attorney (LPA) or a solicitor certified copy of it which is a copy signed on every page by the donor, a solicitor or notary.

You'll also need to give proof of:

- your name your address the donor's name or address if they're not the same as on the bank account
- the bank will ask for ID to prove this such as a passport or driving licence.

Spending money on gifts or donations

Unless the LPA states otherwise, you can only gift/donate money in the following circumstances : gifts to a donor's friend, family member or acquaintance on occasions when you would normally give gifts (such as birthdays or anniversaries) donations to a charity that the donor wouldn't object to, for example a charity they've donated to before

You must apply to the Court of Protection for any other type of gift or donation, even if the donor has given them before.

Such gifts may include:

- paying someone's school or university fees, letting someone live in the donor's property without paying market rent (anything they pay below market rent counts as a gift), interest-free loans etc.

You must check that the donor can afford the gift or donation, even if they've spent money on these types of things before. For example, you can't donate their money if that would mean they couldn't afford their care costs.

Legal advice should always be sought before any gifts are made by an attorney.

Buying and selling property

You'll need to get legal advice if the sale is below the market value you want to buy the property yourself you're giving it to someone else.

Making a will

You can apply for a [statutory will](#) if the donor needs to make a will but does not have the capacity to make it themselves. You cannot change a donor's will without the formal authority of the Court of Protection.

If you need any further information or advice on your role as an Attorney, please contact either Susannah Griffiths, Christopher Hamlyn or James Rousell on 01384 371622.

28/07/21 Wall James Chappell - James Rousell <j.rousell@wjclaw.co.uk>