



LASTING POWERS OF ATTORNEY

FACT SHEET

A Lasting Power of Attorney (LPA) enables an adult (the donor) to appoint another person(s) (their attorney) to act on their behalf, following the principles of the Mental Capacity Act 2005. The Attorney will be able to act even if the Donor subsequently loses mental capacity. This has replaced the Enduring Power of Attorney (EPA) Unlike EPA's, a person can choose to delegate decisions affecting their personal welfare – including healthcare and medical treatment decisions – as well as decisions concerning their property and financial matters to their attorneys.

There are 2 separate documents, one for property and affairs and one for personal welfare. Both LPA forms must include prescribed information which must be read by the donor, certificate provider and attorney.

The LPA must be registered with the Office of the Public Guardian before it can be used. It can be registered anytime after it has been completed and signed by all the relevant parties. A property and affairs LPA can be used whilst the donor still has mental capacity, unless it contains a condition or restriction preventing this. Whilst the personal welfare LPA can only be used when the donor no longer has mental capacity to make the particular decision affecting his or her health or personal welfare.

A person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter, because of an impairment of, or the disturbance of, the mind or brain and so it is important to put LPAs in place like insurance so that if a person suffers from a stroke or is diagnosed with dementia or other similar illness the documents are available to be used. Once a person has lost capacity they can no longer put an LPA in place

It is important that when choosing an attorney/s that you choose someone who is trustworthy. The appointment of a sole attorney, whether this be for a property and affairs LPA or a personal welfare LPA, may provide greater opportunity for abuse and exploitation than appointing more than one attorney. It is possible to appoint professional attorneys to look after your affairs but would be subject to professional charges.

It is important to include named persons to be notified when the LPA is to be registered, this is to safeguard you because if you have lost mental capacity at the time of registration, you will be relying on these people to raise concerns, if necessary.

Once the LPA is registered, certain basic information such as yours and your attorney's addresses and dates of birth will be available to anyone who applies to search the register.

The Mental Capacity Act 2005 for England and Wales provides a framework to empower and protect people who may lack capacity to make some decisions for themselves. It makes it clear who can take decisions in which situations, and how they should go about this. It also allows people to plan ahead for a time when they may lack capacity and so part of your future planning should include putting LPAs in place in case they are ever needed in the future.

It will cover major decisions about someone's property and affairs, healthcare treatment and where the person lives, as well as everyday decisions about personal care (such as what the person eats), where the person lacks capacity to make those decisions themselves.

Key Principles

There are five key principles in the Act:

- Every adult has the right to make his or her own decisions and must be assumed to have capacity to make them unless it is proved otherwise.
- A person must be given all practicable help before anyone treats them as not being able to make their own decisions.
- Just because an individual makes what might be seen as an unwise decision, they should not be treated as lacking capacity to make that decision.
- Anything done or any decision made on behalf of a person who lacks capacity must be done in their best interests.
- Anything done for or on behalf of a person who lacks capacity should be the least restrictive of their basic rights and freedoms.

1. **Howard and Over's costs for preparing a Lasting Power of Attorney are likely to be in the region of £350 to £500 plus VAT (currently 20%) to include dealing with the registration process.**
2. **Where we are writing a Will for you at the same time as preparing an LPA a discount will apply to our overall fees. Please ask at the time of making an appointment .**
3. **In addition the Court of Protection may charge a fee of £41 or £82 for the registration of each LPA**