

Lasting Power of Attorney



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Do I need a Lasting Power of Attorney?

Imagine a situation where, either suddenly or over a period, you lose your ability to make decisions for yourself. This situation is not as rare as you think. It could be caused by many things including, a stroke, an accident, Alzheimer's or dementia. If you found yourself in this situation who would deal with your bank account, who would be able to make decisions for you about finances or medical treatment? The answer is nobody until they have applied for a deputy order from the court of protection

Whilst medical treatment will be given it may not be what you would choose, however, it is often financial issues that cause the biggest problems. If, for example, a mortgage or utility bills are in your sole name and come out of your sole account, your spouse or partner cannot access the accounts or speak with the companies to re-arrange payments. It is also important to note that in accordance with guidance from the British Bankers' Association, it is common practice for high street banks to freeze withdrawals from a joint account if one of the account holders is mentally incapable. If your partner has lost mental capacity, you will not automatically be able to access the joint account unless you have a lasting power of attorney, enduring power of attorney or have been appointed as deputy by the Court of Protection.

That is why it is sensible to plan by putting in place a Lasting Power of Attorney. Without a power of attorney in place the only option, to access and look after your finances, is to seek help through the Court of Protection.

An application to the Court of Protection can often take a minimum of 6 months. The fees and costs for making the application are controlled by the Court. In addition, there are ongoing costs as the Court requires annual accounts to be submitted and insurance to be taken out. The cost of making the initial application is usually about £2500, plus the ongoing costs can be quite considerable compared with our fee of between £195 -£235 for a preparing a Lasting Power of Attorney

Who is affected?

- There are 850,000 people with dementia in the UK, with numbers set to rise to over 1 million by 2025. This will soar to 2 million by 2051.
- 225,000 will develop dementia this year, that's one every three minutes.
- 1 in 6 people over the age of 80 have dementia.
- 70 per cent of people in care homes have dementia or severe memory problems.
- There are over 40,000 people under 65 with dementia in the UK.
- More than 25,000 people from black, Asian and minority ethnic groups in the UK are affected.

*These figures are from Alzheimer's society

About Lasting Powers of Attorney

Lasting powers of attorney (LPAs) let you choose a person (or people) you trust to act for you. This person is referred to as your 'attorney', and you can choose what decisions they can make for you.

There are two different types of LPA. One of them covers decisions about your property and finances, and the other covers decisions about your health and welfare. You can appoint the same person to be your attorney for both, or you can have different attorneys.

An LPA can only be used after it has been registered at the Office of the Public Guardian (OPG). The OPG is responsible for the registration of LPAs (for more information see 'Office of the Public Guardian' below).

Property and affairs Lasting Power of Attorney

A property and affairs LPA cover decisions about your finances and property. If there comes a time when you can't manage your finances anymore, the person you appoint as your attorney will be able to do this for you. This can include paying your bills, collecting your income and benefits, or selling your house. However, if you want to, you can limit the decisions they can make, or place conditions on what they can do.

Once registered, a property and affairs LPA can be used even if you are still able to deal with these things yourself.

Health and welfare Lasting Power of Attorney

A health and welfare LPA allow the attorney to make decisions on your behalf about your health and welfare, if there comes a time when you are unable to make these decisions for yourself. A health and welfare attorney could make decisions about where you live, for example, or your day-to-day care, including your diet and what you wear.

You can also give your health and welfare attorney the power to accept or refuse life-sustaining treatment on your behalf. You will be asked whether you wish to do this or not on the form, and you will need to state your intention clearly.

As with a property and affairs LPA, a health and welfare LPA can only be used once it has been registered at the OPG. However, in contrast to the property and affairs LPA, it cannot be used while you still have the mental capacity to make decisions about your own welfare or treatment.

Member Associations:



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