

## Don't leave your decisions to chance - make a Lasting Power of Attorney



**“A power of attorney is a legal document which enables you to give another person or persons (the attorney(s)) authority to make certain decisions on your behalf. An important new type of power of attorney was introduced on 1 October 2007 - called a ‘lasting power of attorney’ (LPA).”**

### **Types of LPA**

There are two types of LPA:

- a property and affairs LPA, which allows your attorney authority to deal with your property and finances, as you specify
- a welfare LPA, which allows your attorney to make welfare and health care decisions on your behalf, but only when you lack mental capacity to do so yourself. This could also extend, if you wish, to giving or refusing consent to the continuation of life sustaining treatment

### **Your Attorney**

As with any power of attorney, it is an important document and you should take care whom you appoint as they should be trustworthy and have appropriate skills to make the proposed decisions. If you appoint more than one attorney, you can appoint them to always act together (jointly) or together and separately (jointly and severally). You may even appoint them to act jointly for some things and jointly and severally for others, although this should only be done with advice, as it may cause problems when using the power. You may also choose to appoint a successor to your attorney, in case they die or otherwise cannot act for you.

### **When can the Attorney act?**

The attorney will only be able to act when the LPA has been signed by you and your attorney, and certified, by a suitable person, that you understand the nature and scope of the LPA and have not been unduly pressured into

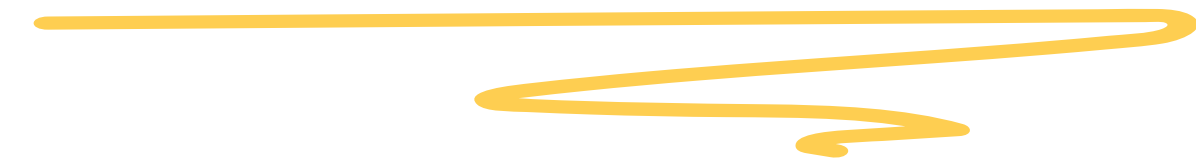
making the power. The certificate will also need to confirm there has not been any fraud or another reason why you cannot make the power. It must then be registered with the Office of the Public Guardian before it can be used. The financial LPA can be used straight away i.e. if you want your attorney to do things for you, and remains valid even if you lose mental capacity. The welfare power can only be used once you lose mental capacity to make a welfare or medical decision yourself.

## Existing Enduring Powers of Attorney

Any enduring power, validly made before 1 October 2007, will continue to be capable of use but only in respect of your property and affairs. If you wish to give authority over your health or welfare you will need to make a welfare LPA.

## What happens if you do not make an LPA or EPA?

If you lack capacity to make a financial decision, then it will be necessary for an application to be made to the Court of Protection for an appropriate order, such as appointing another person to make decisions on your behalf. This is both costly and time consuming. Most care and treatment decisions can be made on your behalf without the need for a court application. However, if you wish to avoid potential disputes, you can give a person(s) authority to make those decisions on your behalf by making a welfare LPA.



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