



Lasting Power of Attorney



About

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Few of us want to consider the possibility that we may be unable to make decisions for ourselves, but the reality is that approximately 982,000 people in the UK are living with dementia*.

With forecasts predicting that this number will rise to over 1.4 million by 2040, it is becoming a reality for many.*

Mental capacity can be lost in many different ways but Acquired Brain Injuries (ABI) can also cause the loss of mental capacity. In 2019 -20 there were 356,699 UK admissions related to the cause into hospital – this is a 12% increase since 2005-6.**

No one knows what the future holds, but by planning ahead, you can ensure your wishes are carried out when you are unable to make key decisions and alleviate the burden on those close to you.

One way of doing this is to make a Lasting Power of Attorney (LPA), which would enable the people you trust to make decisions on your behalf if you are no longer able to do so yourself.

An LPA is, quite simply, a legal document which allows you to appoint one or more people (known as 'attorneys') to help you make decisions or to make decisions on your behalf.

To make an LPA you must be 18 or over and, crucially, have mental capacity (the ability to make your own decisions) when setting it up. For this reason, more people are choosing to set up their LPAs earlier in life.

LPAs were introduced in October 2007 and replaced the Enduring Power of Attorney (EPA). An EPA created before October 2007 still remains valid.

There are two types of LPAs: Health and Welfare, or Property and Financial Affairs. You can choose to make one type or both.

*** Alzheimer's Society**

**** headway.org**

Health and Welfare

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Your health and welfare LPA makes (or helps you make) decisions about things like:

- Daily routine, for example washing, dressing and eating
- Medical care
- Where you live

They might need to spend your money on things that maintain or improve your quality of life. This can include:

- New clothes or hairdressing
- Decorating your home or room in a care home
- Paying for extra support so you can go out more, for example to visit friends or relatives or to go on holiday

Your attorney must ask for permission from the person in charge of the donor's funds.

They can also make decisions on life sustaining treatment. This type of LPA would only start when you lose mental capacity.

We would describe this as giving you a 'voice if you don't have a voice' as the people you know, trust and love would be able to make the decisions that you would make if you were able. Although deputies can be appointed by the court, often the applications get declined as this is more subjective.

Property and Financial Affairs

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Your property and financial affairs LPA can make (or help you make) decisions about things like:

- Money, tax and bills
- Bank and building society accounts
- Property and investments
- Pensions and benefits

They can use your money to look after your home and buy anything they need day to day (for example, food).

This type of LPA can start (with your permission) before you lose mental capacity and may take the worry of dealing with your finances away. Without this document in place, your finances will freeze until the Court can appoint a deputy which is costly and can take many months.

Choosing your attorney

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We recommend that you choose your attorney(s) carefully – it could be a relative, friend, spouse, partner or someone acting in a professional capacity but essentially it should be someone you trust, who would always have your best interests at heart.

When you have made your decision, you should give that person time to think about their role as it carries great responsibility and it is very important that you discuss your thoughts on important decisions with your attorney(s).

If you decide to appoint more than one attorney, another decision you need to make is whether you want them to always act 'jointly'. This means any decisions cannot be made without the agreement of all parties or whether you would prefer an arrangement where they would act '**jointly and severally**' meaning that for some decisions they would decide jointly but each would have the ability to make some decisions alone.

There may be special instructions or preferences that you would like to be included in your documents and we will discuss this with you at our meeting.

Heritage Estate Planning provide advice and guidance on your own situation and because we have a full and thorough discussion with you, we are usually happy to act as your 'Certificate Provider'.

This is someone who confirms that you understand what making an LPA means, you are not being coerced and that you have the mental capacity to make this decision.

The process

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Once completed, your LPA must be registered with the Office of the Public Guardian (OPG) for it to be valid.

For each LPA you register the OPG charges a fee of £82 currently.

Registration usually takes approximately 12 weeks. If you are on a low income, you may be entitled to a reduction on the registration fee. Please talk to us if you think this may apply to you. Our legal team is always happy to discuss your options in more detail together, with the pros and cons of each course of action.

Please contact us if you would like to arrange an appointment to make a will and/or Lasting Powers of Attorney.

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Heritage Estate Planning

*For peace of mind that you've
planned for the future*

