

Powers of Attorney Factsheet

We hope you find this information helpful. If you need any more help or information please contact Tina Spencer on 01623 655111. She can arrange a meeting with a solicitor who can advise you on the best way to proceed.

What is a Power of Attorney?

A Lasting Power of Attorney ("LPA") is a way of giving someone you trust legal authority to make decisions for you, if you lack either the mental capacity (meaning you are no longer able to make decisions yourself) at some time in the future, or you no longer wish to make decisions for yourself.

What types are there and what situations can they cover?

There are two types of LPA:

(A) A Financial Decisions LPA (sometimes known as a Property and Financial Affairs LPA) which allows your Attorney (the person who makes the decisions for you) to make decisions about paying bills, including your mortgage, buying or selling your house, dealing with the bank and collecting benefits.

Your Attorneys can make financial decisions for you, as follows;

a) as soon as your LPA has been registered and also when you don't have mental capacity.

Most people choose this option because it is the most practical, while you still have capacity your Attorney can act only with your consent. If you later lose capacity, they can continue to act on your behalf for all decisions covered by your LPA.

This option is useful if you are able to make your own decisions but there is another reason you want your Attorney to help you for example, if you are away on holiday or you have a physical condition that makes it difficult to visit the bank, talk on the phone or sign documents.

b) Only when you don't have mental capacity.

Be careful if you chose this option, as it may make your LPA a lot less useful. Your Attorneys might be asked to prove you do not have mental capacity, each time they try and use your LPA.

(B) A Health and Care LPA (sometimes known as a Health and Welfare LPA) which allows your Attorney to make decisions about health care, as well as personal welfare and can only be used once you have lost mental capacity. An Attorney can generally make decisions about things such as treatment, care, your daily routine, life sustaining treatment, moving into a care home etc. This type of LPA can only be used when you are unable to make your own decisions.

Who can be an Attorney?

Anyone who is 18 or over can be an Attorney, must not be bankrupt at the time the LPA is made and must have mental capacity themselves. An Attorney can be, for example, a family member, friend or professional, spouse, partner or civil partner. You will need to let us have his/her title, full name, address with postcode, date of birth, occupation, e mail address and contact telephone number.

The LPA is only useable once it has been registered with the Office of the Public Guardian.

Your Attorney must act in your best interests in making decisions for you, when you are unable to make the decision yourself. This includes, if appropriate, consulting others who are interested in your welfare.

Can I cancel a Lasting Power of Attorney?

You can cancel the LPA at any time before or after it is registered, as long as you have the ability to decide to do so.



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Can I choose a replacement?

You can choose a replacement Attorney, if at some point your Attorney might not be able to make decisions for you. This could be because, for example, your Attorney has died, could lack mental capacity themselves or just decide they don't want to act for you anymore.

If I appoint more than one how are decisions made?

If you have appointed one or more Attorneys, you need to decide how you want them to act together, when making decisions for you. You can either decide to make all the decisions together (jointly) or for them to decide jointly and severally, so that all your Attorneys can act together or independently. Most people use this latter option.

A final option is for them to exercise some decisions jointly and some decisions jointly and severally. If you choose this option, you will need to list all the decisions that can be made jointly and jointly and severally.

Do I have to notify anybody else?

You also may choose who is to be told about your application to register your LPA to allow any concerns or objections to be raised. You will need to let us know their title, full name, address and postcode, occupation, e-mail address and contact number. You do not have to choose anyone but it is usually best to do so as it provides protection for you.

What about registration?

You must send all the relevant documents to the Office of the Public Guardian in Birmingham. We can do this for you. When your application is made to register your LPA, the people who are to be told are contacted and given three weeks from the date on which the notice is given to raise any concerns or objections.

Once registered the OPG returns the LPA to us registered. We keep the original safe and send you certified copies to be used when needed. We do not charge for storage unlike others.

How long does it take?

Registration currently takes around 6 weeks from when the application is received by the Office of the Public Guardian. This timescale varies from time to time largely dependent on the workload of the Public Guardian's office.

How much does it cost?

A fee of £110 is payable when you apply to register an LPA.

You are able to apply for one half remission of the Registration Fee if your gross annual income is less than £12,000 a year and you can provide appropriate documentary evidence.

We offer fixed fees to prepare the relevant paperwork and to apply to register each LPA. Please contact us to find out.

What happens if I am not able to visit your office?

Our Kirkby in Ashfield office is on the ground floor, has easy access and parking. Home visits can be arranged at a small additional fixed fee.

