

Lasting Power of Attorney Introductory Guide

What happens when I can't make decisions for myself?

Many of us would like to plan for a time when we need help making decisions.

A stroke, a heart attack, Alzheimer's disease or a severe accident can leave us dependent upon other people to help make crucial choices in our lives.

Or we may need to give someone decision-making power for us if, say, we're going to be in hospital or abroad for a time and can't easily carry out decisions for ourselves.

Making a lasting power of attorney

One way to plan for the future is by creating what's called a lasting power of attorney (LPA).

An LPA is a simple way for you to choose someone you trust to make decisions for you. LPAs can be a lot less expensive than other ways for people to make decisions on your behalf and can make things much easier for other people in your life than the alternatives.

Who might need an LPA?

Anyone, potentially.

Common illnesses such as cancer or heart disease can leave us reliant on other people to make decisions happen. More than 800,000 people in the UK have dementia, and the Alzheimer's Society predicts this will rise to more than one million by 2025.

As for accidents, every 90 seconds someone is admitted to hospital in the UK with a brain injury – traffic or contact-sport accidents are examples of what can go wrong.

You don't need to be getting on in life for an LPA to be useful. Some parents create an LPA to make sure their children are looked after in the way they'd want in case they can no longer look after them by themselves.

How does an LPA work?

An LPA is a legal document that is created on a specific form. In your LPA, you name the people you'd like to make decisions for you when you don't want to or can't make some decisions yourself.

You can make an LPA for decisions about your money or about your health and welfare.

When does an LPA start working?

You can create an LPA to be used only if you can no longer make your own decisions – known as losing 'mental capacity'.

Or you can make an LPA to be used for certain decisions – financial ones – while you still have mental capacity.

Either way, once you've made an LPA, before it can be used it needs to be sent to the Office of the Public Guardian (OPG) to be registered. This process takes around 10 weeks.

What could happen if I don't create an LPA?

If you lose mental capacity, through illness or injury, and haven't created an LPA:

- you'll no longer be able to decide who makes decisions for you (you can only make your LPA while you still have mental capacity)
- people you don't know could end up making crucial decisions for you instead – such as whether to accept medical treatment to keep you alive, or about what you eat and wear and where you live
- your family or friends might have to go to court to make decisions on your behalf – which can be a lot more expensive (c. £1,000-2,000) and time-consuming (typically 6-12 months) than making an LPA

If you still have mental capacity, LPAs are a simple and legally robust way of giving someone you trust power to make decisions for you – temporarily or for a longer time.

Who can I choose to make decisions for me?

The people you choose to make decisions for you in an LPA are called 'attorneys'. You can have one attorney or several.

There are no special qualifications to be an attorney; anyone who's over 18 can be one, with a few exceptions.

Many people choose family members or close friends as their attorneys. Some people choose professionals such as a solicitor or accountant.

What sorts of decisions will my attorneys make?

That depends if you create an LPA for health and welfare or for financial decisions – or both.

Property and finances LPAs deal with decisions such as:

- looking after your bills
- making investments for you
- buying, selling or maintaining your property
- giving gifts on your behalf

Health and welfare LPAs cover things such as:

- whether you live at home or in a care home
- the leisure activities, diet and kinds of clothes you prefer
- what happens to your pets if you lose mental capacity
- whether to accept medical treatment to keep you alive beyond a certain point

Does an LPA mean someone has total control over me?

No. Most people want the option of help with decision-making while they still have mental capacity. If that's the case, your attorneys must act solely on your instructions and you can cancel your LPA at any time.

Even when you lose mental capacity, your attorneys must involve you as much as possible in decision-making.

You can also include instructions in your LPA about the kinds of financial or health and welfare decisions your attorneys can make on your behalf – and those they can't.

The law says attorneys must follow one rule above all: to make all decisions in your best interests, not their own or anyone else's.

What other safeguards are there?

Many people choose more than one trusted person as their attorney to guard against the possibility of abuse.

You can decide in your LPA how your attorneys will make decisions for you – for example, that they all have to agree on particularly important decisions (say, selling a property) but can make others independently.

Aren't LPAs only for people with complicated finances?

No. You can create an LPA to manage your money and property the way you'd like, no matter how big or complex your affairs are.

But you can also create an LPA for decisions that have nothing to do with money – including medical decisions and where you live.

Who can create an LPA?

Anyone aged over 18 who has mental capacity can make an LPA.

Do I need to pay my attorneys?

It's up to you. Most non-professional attorneys act without pay. However, you can arrange to pay your attorneys for their time, if you wish.

You will usually need to pay professional attorneys, such as lawyers or accountants.

How do I create an LPA?

You can make an LPA using the government's online service. It is straightforward and uses no complicated legal language. Many people save money and create a valid LPA without professional advice.

However, because an LPA is a very important document, some people do prefer expert help. Please see MR Wills LPA Service & Price List to understand how I can help.

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