

# MR Wills

Will Writing | Lasting Powers of Attorney

## Creating a Lasting Power of Attorney – The Decisions You Need to Make

There are two types of lasting power of attorney – one for Financial Decisions and one for Health & Care Decisions. This document explains the decisions that you'll need to make as part of the process of creating a lasting power of attorney.

*For an overview of Lasting Powers of Attorney and the legislation that surrounds them, please read pages 2-6 of the "Guide to making and registering an LPA".*

### Who will you choose as your attorney/s?

These are the people who will make decisions on your behalf when you lack the mental capacity.

You might choose your spouse, your children and/or close friends.

It may be complex to have more than four attorneys. Two or three is the norm. Your attorney/s must be over 18 and must not be bankrupt if they are dealing with your finances.

*For more information on choosing your attorneys see pages 10-12 of the "Guide to making and registering an LPA"*

### How will your attorneys make their decisions?

If you choose more than one attorney, you have three options:

1. **Jointly and severally** - Attorneys can make decisions on their own or together. This is often the most practical option and the one that most people choose.
2. **Jointly** - they must agree unanimously on every decision. This can make decision making slow or impractical. If a joint attorney dies or is

unable to act, your LPA will fail, unless you've appointed reserves.

3. **Jointly for some decisions and severally for other decisions** – you can list the decisions that they must agree unanimously on (e.g. selling your house).

*For more information on deciding how your attorneys make decisions see pages 13-16 of the "Guide to making and registering an LPA"*

### Do you want to appoint any replacement attorneys?

If one or more of your attorneys is unable to act, would you want to appoint a replacement? Remember – if you appoint your attorneys jointly, then they will all be replaced by your reserve/s if one is unable to act.

*For more information on replacement attorneys see pages 17-22 of the "Guide to making and registering an LPA"*

### Do you have any preferences or instructions for your attorneys?

Your attorneys don't have to follow preferences, just keep them in mind.

They must follow instructions.

This section is often left blank, but you are free to state what you would like and I will help to ensure that the wording is workable and is accepted by the Office of the Public Guardian.

You could include things such as:

- I would like to always live close to my son...
- I would like my grandchildren to receive £x on their birthdays
- My attorneys must not make gifts to x charity

You could also create a letter of wishes to sit alongside your LPA. Your attorneys have a duty to have regard for any relevant statements you have made when they make decisions.

*For more information on preferences and instructions see pages 28-33 of the "Guide to making and registering an LPA"*

## Do you want to notify anyone that your LPA is being registered?

This decision is optional, but you can choose to notify people (that aren't your attorney/s) when the LPA is registered.

These people could raise concerns about the LPA – but only on certain grounds.

You should choose people who have your best interests at heart.

*For more information see pages 27 of the "Guide to making and registering an LPA"*

## Who Will Act as Your Certificate Provider?

Your Certificate Provider confirms to the Office of the Public Guardian that you have the mental capacity to make an LPA and you understand its purpose and the implications of making one.

They confirm that you are not being pressured into making the LPA and that it isn't being created fraudulently.

The person cannot be your attorney (or a member of their family) and they must have known you for at least two years.

If you use MR Wills to create your LPA, **I can act as your certificate provider** as someone with relevant professional skills and expertise.

*For more information see pages 38-39 of the "Guide to making and registering an LPA"*

## Financial Decisions LPA Only – When can it be used?

A Lasting Power of Attorney is to be used when you have lost mental capacity.

With a Financial Decisions LPA you can choose to let your attorneys act on your behalf as soon as it is registered.

For example if you were on holiday, unwell or had broken a leg, your attorneys could talk on the phone, visit the bank or sign documents on your behalf.

*For more information see pages 22-23 of the "Guide to making and registering an LPA"*

## Health & Care LPA Only – Life Sustaining Treatment

You can give your Attorneys the authority to give or refuse consent to life-sustaining treatment on your behalf.

If you do, your attorneys can speak to doctors on your behalf as if they were you.

If you don't give them authority, doctors will take account of the views of your attorneys and anyone else close to you where it is practical to do so.

"Life-sustaining treatment means care, surgery, medicine or other help from doctors that's needed to keep you alive, for example:

- a serious operation, such as a heart bypass or organ transplant
- cancer treatment
- artificial nutrition or hydration (food or water given other than by mouth)

Whether some treatments are life-sustaining depends on the situation. If you had pneumonia, a simple course of antibiotics could be life-sustaining.

Decisions about life-sustaining treatment can be needed in unexpected circumstances, such as a routine operation that didn't go as planned."

*For more information see pages 24-26 of the "Guide to making and registering an LPA"*

## For More Information Contact:

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