

Lasting Powers of Attorney

A Guide

What is a Lasting Power of Attorney?

It is a legal document which allows you to choose someone (the "Attorney") you trust to make decisions about things such as your healthcare or finances on your behalf at a time in the future when you may lack the mental capacity to make those decisions yourself.

There are two types of Lasting Power of Attorney (LPA) - a Personal Welfare LPA or a Property and Affairs LPA.

What is a Personal Welfare LPA?

A Personal Welfare LPA allows your Attorney to make decisions on your behalf about your Personal Welfare, including whether to give or refuse consent to medical treatment on your behalf and deciding where you live. These decisions can only be taken on your behalf when you lack the capacity to make them yourself, for example if you are ill, unconscious or because of the onset of a condition such as dementia. It does not allow your Attorney(s) to make decisions about your property and affairs.

What the person you have chosen will be able to do on your behalf will very much depend on the powers that you have given them when making your Lasting Power of Attorney. This person will only be able to

make decisions that are in your best interest and these may include significant decisions such as giving or refusing consent to particular types of health care, staying in your own home, moving you into retirement housing and choosing the right care home for you.

Your Attorney might also make personal welfare decisions about more day to day issues, for example about your diet, your dress or your daily routine.

What is a Property & Affairs LPA?

A Property and Affairs LPA allows your Attorney to make decisions on your behalf about your property and affairs, including paying your bills, collecting your benefits or other income, or selling your house subject to any restrictions and conditions. It does not allow the person you have chosen to make decisions about your personal welfare.

What if I have already made an Enduring Power of Attorney?

This legal document is still valid if made before October 2007 but will only allow your Attorney to deal with your financial affairs. The document will need to be registered with the Public Guardianship office should you lose capacity in the future.

Special Considerations:

Who should be my Attorney?

A LPA is a very powerful legal document and it is important to remember that the person(s) you appoint as your Attorney(s), unless you have included restrictions in your LPA, will have the power to make decisions about your health care, welfare and property and affairs.

When choosing an Attorney, it is important that you are confident that they know what you want and that you are comfortable that they will be making decisions on your behalf. However, there are safeguards to protect you that are inbuilt into the LPA which includes the requirement that the LPA must be registered with the Office of the Public Guardian before it can be used; the requirement to identify someone to provide a certificate confirming, amongst other things, that you understand the purpose of the LPA and the scope of powers you are giving to your Attorney(s) (i.e. a Solicitor) and that certain persons chosen by you (i.e. named persons) are notified before registration of the LPA.

Can I appoint more than one Attorney?

You can appoint as many Attorneys as you wish, but it is important that you consider how you are appointing them.

You will need to specify whether you want to appoint your Attorneys to act together or together and independently or together in some matters and together and independently in others. However, appointing lots of Attorneys to all work together could mean it is difficult for them to act/make decisions or the LPA could be cancelled if they could not work together, or one of them dies or loses the capacity to make decisions as your Attorney.

What to do next

Before making an appointment to see us:

- Decide who to appoint as your Attorney(s) in the Lasting Power of Attorney.
- Decide if you want to appoint a replacement Attorney in case your Attorney(s) cannot act for you.
- Decide whether you want anyone to be notified when an application is made to register your Lasting Power of Attorney and, if you do, who you want to be notified.
- Choose at least one independent person to provide a certificate. We at Vance Harris can provide this and would be happy to discuss this with you.

Vance Harris LLP have been providing legal services for over 40 years. We pride ourselves in providing a fast and professional service.

If clients find it difficult to come and see us, we are more than happy to make Home Visits.

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We do not accept service by fax or e-mail