

Lasting powers of attorney

What you need to know

The wills and trusts specialists

Lasting powers of attorney (LPA) ensure that your loved ones can carry out your stated wishes if you lose mental capacity.

Although we hope you won't need it any time soon, no one knows what the future holds, so it's important to be ready should the unexpected happen.

In this article, read some expert insights from Slater and Gordon's associate lawyer, Rachael Gooding, about lasting powers of attorney...

What's a lasting power of attorney?

An LPA is a legal document which gives one or more people the power to make decisions on your behalf should you lose mental capacity through accident or illness.

There are two different types of LPA:

Property and financial affairs – this covers all property and assets, your finances, and any pensions. This can come into effect as soon as it's set up, but only with your express consent.

Health and wellbeing – this LPA can only come into effect once you're no longer able to make these decisions yourself, and covers the likes of medical care, decisions around life-sustaining treatment, and residential care.

Who can make an LPA?

Anyone aged 18 or over can make a lasting power of attorney, but the important thing is that it must be set up while you still have the mental capacity to make informed decisions.

Who can be an attorney?

Anyone aged 18 or over with the mental capacity to make decisions can be an attorney. This could be:

- + A relative
- + A friend
- + Your partner
- + A professional, such as a medical or legal professional

What happens next?

Your lawyer will be able to guide you through the process to make it as simple and hassle-free as possible. You'll need:

- + To fill in the form. Here you must consider whether you want your attorneys to act together or be able to act independently, whether you wish to appoint any substitutes and in what circumstances, and whether you have any preferences or instructions.
- + To sign the form with two independent witnesses. Your attorney(s) can't be your witnesses.
- + To get a certificate provider. This is the person who confirms your capacity at the time of making the LPA. Your lawyer can usually sign this section, otherwise it must be a medical professional, or a close friend who has known you more than two years and would be prepared to testify as to your capacity in court if required.
- + Your attorneys to sign the LPA before witnesses. All steps must be taken in a strict chronological order, or the LPA may be invalid.
- + To register the forms with the Office of the Public Guardian. Your attorney(s) can't act on your behalf before the LPA is registered.

What happens if you don't have a lasting power of attorney?

If you don't have a lasting power of attorney, then your family or health care provider will need to apply to a court to make a decision or appoint a deputy. This can result in delays and can become a distressing, expensive and laborious process for your loved ones.

When should you assign a lasting power of attorney?

It's never too early to set up your lasting power of attorney.

Our specialist wills and probate lawyers can provide high quality advice from the simple to the highly complex. To talk to our experts, **contact us on 0808 175 7978.**

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