



**ADVISING, EMPOWERING AND PROTECTING
ALL GENERATIONS**

LASTING POWERS OF ATTORNEY



Please call or text 07905 941 460
or email: info@thewillswoman.co.uk

WHAT IS A LASTING POWER OF ATTORNEY AND WHY ARE THEY SO IMPORTANT?



It is not easy to think of the time when you may not be able to make your own decisions, but it can help to be prepared.

A Lasting Power of Attorney (LPA) is a legal document that allows someone you trust and nominate in advance, to make decisions for you, or act on your behalf, if you are no longer able to because of mental incapacity following illness or accident for example.

There are 2 types of LPA: one for Property & Financial decisions and another for Health & Welfare. LPAs are separate from your Will, which operates when you pass away. LPAs are used when you are alive but unable to make your own decisions, so some say they are more important than a Will.

You could be deemed incapable of making decisions in the eyes of the law if you have an accident or a stroke, dementia or other unforeseen illness or are hospitalised, in a coma, as a consequence of cancer or COVID for example.

If you are married or in a civil partnership, you may assume that your spouse will automatically be able to deal with your bank account and pensions, and make decisions about your health care. This is not always the case. Without an LPA, they will not necessarily have the authority and cannot legally use your cash card or even always access joint accounts which can be frozen in some instances.

Care homes report to us about the hardship of not having these in place and say it is 'like night and day' for families dealing with Social Services, banks and other authorities on behalf of their relatives. Without LPAs families face long, expensive legal battles when they least need them.

There are many sad stories relating to people without LPAs, which is why money saving expert Martin Lewis and TV presenter Kate Garraway campaign to raise awareness.

PROPERTY AND FINANCE POWERS OF ATTORNEY

Some examples of where your Property and Financial Attorneys could act are:

- ☐ **Opening, closing and using bank accounts**
- ☐ **Making decisions about claiming your benefits, pensions and allowances**
- ☐ **Paying household, care and other bills**
- ☐ **Dealing with loans, credit cards and other debts**
- ☐ **Dealing with Solicitors**
- ☐ **Handling and paying mortgages**
- ☐ **Dealing with investments**
- ☐ **Deciding on charity contributions**
- ☐ **Selling your home and related decisions**

You can choose whether this LPA comes into effect whilst you still have capacity so your Attorneys can act immediately with your permission, to help with everyday tasks should you require it, or to limit the LPA to only be used when you have lost mental capacity. The application form is lengthy, over 20 pages, but we are here to help at every step. It is impossible to predict the future and it is usually advisable to keep your Attorneys' options fairly open but some clients have strong feelings that they want officially recorded.

If you run your own firm, you can set up an additional Lasting Power of Attorney specific to your business decisions, nominating a suitable business associate or employee with relevant skills, to step into your shoes. They can help to fulfill your business obligations if you are not able to, and the cost of setting this up can be paid as a business expense.

HEALTH AND WELFARE POWERS OF ATTORNEY

With this Lasting Power of Attorney (LPA), your Attorneys only have the power to make decisions when you have lost mental capacity and not before. You are free to appoint different Attorneys to oversee your Health and Welfare decisions as opposed to your Finance LPA if you prefer.

They could help support you with decisions about:

- Giving or refusing consent to health care
- Getting a second medical opinion and having access to medical records
- Staying in your own home and getting help and support from Social Services
- Moving into residential care and finding a good care home
- Matters such as your diet, dress or daily routine
- End of life decisions

Why use a professional?

The overriding principle for nominated Attorneys is that they must act in the Donor's best interests. However, these are important legal documents and due consideration must be given when appointing Attorneys and also when completing the lengthy forms, which are over 20 pages each.

You are able to complete these forms yourself but, like your Will, there are some common pitfalls and important areas to consider which warrant professional advice. If you have investments for example, a specific form of words should be used to ensure that the correct authority is granted.

Processing applications can take as long as 6 months, and applications can be rejected when they are checked by the authorities, so it is best to get them right first time and the process under-way well before they are needed, especially as the Donor needs to be certified of sound mind.

The LPAs can be cancelled or changed at a later date, and there is no charge for removing an Attorney but there is a charge to add additional Attorneys.

Costs

My processing charge is much less than local solicitors fees, but there is a registration cost of £82 per LPA, with payment made directly to the Office of the Public Guardian which is the central processing office in Birmingham. This fee is halved if your income is less than £12,000 a year, or free if you currently claim benefits, but you must submit acceptable proof and an additional form which we supply to you for free.

Next Steps

This can be a complex area, but we are here to help at every stage and make sure your forms are completed correctly, processed smoothly and not rejected and therefore delayed.

When we take your details we will cover the pertinent questions and draft your forms accordingly, printing them and marking where the Donor, Attorneys and Witnesses need to sign. We will guide you with the order of signing and often act as Certificate Provider, confirming the Donor's mental capacity. We check the signed forms before sending them to be registered and offer additional value for money because, with your permission, we will trace the processing as much as possible and address any questions that may arise directly with the authorities.

We regularly hear sad stories of people, like the TV presenter Kate Garraway, who are suffering because they did not arrange these forms in time. Any adult can register Powers of Attorney and have this security for the rest of their life.

For more information and to book a free no-obligation consultation, please do not hesitate to contact us.



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