



LASTING POWERS OF ATTORNEY



A power of attorney is a legal document under which a person gives another person or persons (the attorney) authority to make certain decisions on his or her behalf.

Types of Lasting Powers of Attorney (LPAs)

There are two types of LPAs:

- A property and financial affairs LPA, which allows your attorney authority to deal with your property and finances, as you specify
- A health and welfare LPA, which allows your attorney to make health and welfare decisions on your behalf, only when you lack mental capacity to do so yourself. This could also extend, if you wish, to giving or refusing consent to the continuation of life sustaining treatment

Your Attorney

As with any power of attorney, it is an important document and you should take care whom you appoint as they should be trustworthy and have appropriate skills to make the proposed decisions. If you appoint more than one attorney, you can appoint them to always act together (jointly) or together or separately (jointly and severally). You may even appoint them to act jointly for some things and jointly and severally for others, although this should only be done with advice, as it may cause problems when using the power.

You may also choose to appoint a successor to your attorney, in case they die or otherwise cannot act for you.

When can the Attorney act?

The attorney will only be able to act when the LPA has been signed by you and your attorney, certified by a person that you understand the nature and scope of the LPA and have not been unduly pressured into making the power.

The certificate will also need to confirm there has not been any fraud or another reason why you cannot make the power. It must then be registered with the Office of the Public Guardian before it can be used.

The property and financial affairs LPA can be used both when you have capacity to act, as well as if you lack mental capacity to make a financial decision.

The health and welfare power can only be used if you lack mental capacity to make a welfare or medical decision.

Existing Enduring Powers of Attorney

Any enduring power, validly made before 1st October 2007, can still be used but only in respect of your property and financial affairs. If you wish to give authority over your health or welfare you will need to make a health and welfare LPA.

What happens if you have not made a LPA or EPA?

If you lack capacity to make a financial decision, then it may be necessary for an application to be made to the Court of Protection for an appropriate order, such as appointing another person to make decisions on your behalf. This is both costly and time consuming.

Most care and treatment decisions can be made on your behalf without the need for a court application. However, if you wish to avoid potential disputes, you can give a person(s) authority to make those decisions on your behalf by making a health and welfare LPA.

**THE ABOVE IS A GUIDE ONLY AND IF YOU HAVE ANY FURTHER
QUESTIONS THEN PLEASE TELEPHONE SHARON LEWIS ON 01747 852377 OR
E-MAIL HER AT s.lewis@rutterslaw.co.uk**