

Making a Lasting Power of Attorney (LPA)

A Lasting Power of Attorney, or LPA, is a document by which the person making the LPA can appoint someone else to make decisions for on their behalf.

Why does this matter and why do I need one?

There are any number of reasons why a person might need to make an LPA, the future is hard to predict, but the most common reason is to safeguard against loss of capacity due to dementia or some other mental health condition... Having a Power of Attorney helps you to be supported to make decisions. In the context of a financial Lasting Power of Attorney, the person making the power (known as the donor) can choose for the LPA to be used even if they still have capacity to make decisions or they can choose for the LPA to only be used if they lack capacity to make decisions. Under health and welfare Lasting Powers of Attorney, attorneys can only make decisions for the donor where they lack capacity to make those decisions themselves.

How does It work?

The person making the LPA (the donor) must have the mental capacity to understand the nature and effect of the document and to make an informed decision about the choice of attorney. Your Attorney should be someone you trust who is capable of doing the job and who will understand the extent of their authority. For example, an LPA does not allow an attorney to make changes to the donor's Will; and an attorney should not benefit personally from their role. The attorney must follow the principles of the Mental Capacity Act 2005 and act in the best interests of the donor.

An LPA must be signed by the donor and the other parties to it and be registered with the Office of the Public Guardian before it can be used. It cannot be completed by a family member or other third party on the donor's behalf. There are two types of LPA; one for property and financial affairs and the other for health and welfare - they are separate documents. A financial LPA can be used even if the donor retains capacity if the donor wishes this to be the case. Alternatively, the donor can choose for the document to only be used if they lack capacity to make financial decisions themselves. A health and welfare LPA can only be used in relation to decisions that the donor does not have capacity to make themselves. Decisions an attorney could make include:

- for **LPA for property and financials affairs**: opening, closing or operating your bank account; buying or selling property or paying for residential or nursing care.

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- for **LPA for health and welfare**: giving or refusing consent to medical treatment and deciding upon whether you stay in your own home with help and support.

Do I need Legal Advice? How can Solicitors help?

You do not need legal advice to fill out an LPA, but we strongly recommend it to ensure a watertight document and peace of mind that someone you trust will be looking after your interests... and a potential cause of stress for your loved ones has been alleviated.

JE Bennett Law are a friendly local firm who specialise in vulnerable and elderly client law and are industry-recognised leaders in our field. We can guide you through the process ensuring your wishes are legally binding. We can act also as certificate providers (it's a requirement that someone certifies you have understood the agreement and have entered into it voluntarily).

How do I make an LPA with JE Bennett Law and how much will it cost?

We do offer fixed pricing for simple LPAs, but pricing will depend on individual circumstances so just pick up the phone and we'll talk you through the process and pricing.

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JE Bennett Law is a law firm that specialises in helping clients in vulnerable circumstances. We are industry-recognised leaders in our field with a proven track record of delivering timely, efficient and professional service for our clients.

