PEACOCK & CO
Solicitors

Factsheet on Lasting Powers of Attorney

What is an LPA?

A Lasting Power of Attorney (LPA) allows you to choose someone to make decisions on your behalf about your property and affairs or personal welfare at a time in the future when, as a result of accident or ill health, you may no longer be in a position to make such decisions for yourself.

Different purposes of LPAs

LPAs replaced Enduring Powers of Attorney (EPAs) on 1st October 2007 following the introduction of the Mental Capacity Act 2005. EPAs signed before this date remain valid but no new EPAs can be created.

The two types of LPA that can be created are:

• **LPA - Property and Financial Affairs**, to authorise another person or persons to assist with property and financial affairs; and

• **LPA - Health and Welfare**, to authorise another person or persons to make decisions on your behalf concerning your personal healthcare, welfare and associated care. This type of LPA can be used alongside an Advance Declaration stating which medical treatments you wish to receive.

Who can make an LPA?

Anyone over the age of 18, with mental capacity to do so, can sign an LPA appointing attorneys to make and implement decisions on their behalf in connection with their personal and financial affairs.

Choosing an Attorney

You are able to appoint one or more attorneys. You may also name replacement attorneys should your chosen attorneys become unable to act for any reason.
You should ensure that any attorney you appoint is over the age of 18 and is not the subject of bankruptcy. Most importantly, you should be certain that the attorney you appoint is someone that you trust and that they will act in your best interests.

The Process

Once the necessary forms have been completed, they are sent to the Office of the Public Guardian (OPG) which will register the LPA with the Court of Protection. The LPA only becomes legally valid at this point. Currently, registration of LPAs has been taking 8-12 weeks. This delay makes it advisable to register the LPA immediately it is signed, even if it is not needed straightaway, so that it is ready and available for your attorneys, should it be needed.

An LPA Property and Financial Affairs can be used as soon as it is registered, regardless of your state of health; and continues to be effective if you lose mental capacity. Therefore, your attorneys can begin to help you even if you retain mental capacity. If you should lose mental capacity, then your attorneys take over your affairs entirely.

An LPA Health and Welfare comes into effect only at the point at which you have lost mental capacity.

Next steps

It is wise to plan for the future and ensure that you have the correct framework of support in place, in case it is needed at a time when you are most vulnerable. At Peacock & Co, we can assist you in creating the LPA and registering it with the OPG.

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These notes are for general guidance only. The legal position may alter from time to time. You should seek advice on your individual circumstances before making any decisions. We cannot take responsibility for action solely based on these guidelines.