

WOODCOCK & THOMPSON SOLICITORS COSTS IN RELATION TO LASTING POWERS OF ATTORNEY (LPAS)

A Lasting Power of Attorney (“LPA”) is a legal document, which allows you to appoint another person, (an attorney) or more than one person (attorneys) to make decisions on your behalf in relation to any Property and Financial decisions, and/or Health and Welfare decisions during your lifetime. It gives your attorney the legal authority to make these decisions, should you no longer wish to do so, or you lose mental capacity in the future.

THERE ARE TWO DIFFERENT TYPES OF LPA:

Property & Financial Affairs:

This LPA gives your attorney the authority to make decisions such as:

- Day –to-Day Finances such as; managing bank/savings accounts, paying bills
- Claiming any benefits you are entitled to
- Dealing with your taxes
- Making gifts that you used to make (such as birthday presents).
- Buying or selling your house

Once registered, this LPA can be used immediately by your attorneys. They can step in to act alongside you with your consent, i.e. you still have capacity and are perhaps on holiday or unwell, your attorneys could assist you with financial matters.

You are able to place wording within the LPA to state that your attorneys are only to act when you lose capacity if you wish to do so.

This LPA cannot give your attorneys the power to draw up or amend your Will – you are the only person able to do this and should always ensure that your Will is up to date to reflect your wishes.

Health and Welfare:

A personal welfare LPA allows your attorneys to make decisions about your health and welfare.

For example:

- Giving or refusing consent to medical treatments. This can range from consent to standard medical treatments to bigger decisions such as 'Life Sustaining' treatments. The LPA must explicitly state that you authorise your attorneys to make these decisions on your behalf.
- Deciding whether you should reside in a residential care home or whether you should continue living at home. This would also involve a financial element and would likely coincide with a financial LPA.
- Making choices in relation to personal welfare such as clothing and diet
- Arranging day to day activities.

It is important to note that this LPA can only be used when you lack the mental capacity to do so. This does depend on circumstances as you may lack capacity to make complex decisions such as residential care but still be able to make day-to-day decisions such as clothing and diet.

WHY DO YOU NEED AN LPA?

Anyone can lose capacity, through illness or an accident. It ensures that someone you know and trust can help administer your affairs.

Making an LPA is a safeguard for the future. It cannot be assumed that your family will be able to make decisions regarding your health without this document in place and they certainly will not be able to assist with managing your finances.

DOES THIS MEAN SOMEONE HAS CONTROL OVER ME?

No, it does not.

The law states that attorneys must make all decisions in your best interests. You can also include instructions and preferences within your LPA, to direct your attorneys as to the decisions you would like them to make.

The Court of Protection and the Office of the Public Guardian can monitor LPAs and ensure that your attorneys are acting how they should and that you are not being taken advantage of.

WHO CAN BE MY ATTORNEY?

You can appoint anyone over the age of 18. An Attorney appointed under a Property & Financial Affairs LPA must not be bankrupt. There are some important things to consider when choosing your attorneys:

- Do you trust them to act in your best interest and follow any wishes you specify?
- Are they competent and willing to take on the role? Some decisions could be time-consuming. Attorneys are not paid unless you appoint a professional attorney and the LPA allows for payment to be made. (Some reasonable expenses can be reclaimed by personal attorneys)
- Age. An older attorney may be unable to continue to act on your behalf in the future, for example; they may pass away or lose capacity themselves.

You can appoint as many attorneys as you like, but it is important to consider whether it is practical for them to all work together. You can appoint them 'Jointly' meaning they must all act unanimously or 'Jointly & Severally' meaning that in appropriate circumstances one attorney can act without the others. This is something that we will discuss in more detail with you at an initial appointment if you proceed with us.

HOW DO I MAKE AN LPA?

The first step is to consider what decisions you would want your attorneys to be able to make and whether you wish to include any specific guidance or restrictions on their powers. It must always be taken into account that your needs may change in the future and any restrictions may hinder your attorneys ability to act in your best interest as your circumstances change.

The LPA must be prepared on the appropriate form from the Office of the Public Guardian (OPG). Once the forms are completed, they would then be sent directly to OPG to register. Either you or your attorneys can apply to register the LPA. The LPA must be registered before it can be used.

There are 3 main sections that you will need to complete before you can apply to register an LPA;

Donor Statement;

This is where the Donor (you) confirm who you want your attorneys to be and what powers they have.

Attorney Statement;

This is where attorneys confirm they understand their role and responsibilities

Certificate of Capacity;

This is where an independent person confirms that you have full understanding of what you are doing and are not acting under any influence or pressure. This person must have known you for at least two years or should be an appropriate professional i.e. a doctor or solicitor

PROFESSIONAL SERVICES AND FEES TO PREPARE LPA'S:

We recommend seeking the services of a professional to draft your LPA as this will provide you with;

- Advice and explanation on how attorneys can act – 'Jointly' or 'Jointly & Severally'
- Advice regarding any specific instructions being required within the LPA to meet your needs
- Reduced chances of errors resulting in the LPA being rejected by the OPG on registration

Our fees include;

- Initial meeting with you to take initial instructions
- Preparation of draft forms for review and discussion
- Finalisation of forms for your signature
- Provision of the certificate of capacity
- Obtain the signatures of your attorneys
- Liaising with the OPG to register the LPA
- Provide you with both the originals and certified copies of registered documents.

Please note, the court charge a separate fee for registering each LPA. The court fee is presently £82 per document.

Our Fees;

- One LPA £ 450 + VAT (Court fee £ 82 payable)
- Two LPA's £ 650 + VAT (Court fee £164 payable)
- Four LPA's £1,250 + VAT (Court fee £328 payable)

Generally such matters will take up to ten weeks to be prepared and registered