



## What is a Lasting Power of Attorney?

A Lasting Power of Attorney is a legal document that you (the Donor) can make which allows you to choose someone **now** (the Attorney) that you trust to make decisions on your behalf about things such as your property and affairs or personal welfare at a time in the future when you no longer wish to make those decisions or you may lack the mental capacity to make those decisions yourself.

A Lasting Power of Attorney **can only be used** after it is registered with the Office of the Public Guardian.

The Lasting Power of Attorney replaces the old Enduring Power of Attorney. If you made an Enduring Power of Attorney prior to 1<sup>st</sup> October 2007 it will still be valid.

### Who can make a Lasting Power of Attorney?

Anyone aged 18 or over, with the capacity to do so, can make a Lasting Power of Attorney appointing one or more Attorneys to make decisions on their behalf. If a person does not have capacity it will be necessary to make an application to the Court of Protection to appoint somebody to act on their behalf.

### People involved in making an Lasting Power of Attorney

There are different people involved when you make a Lasting Power of Attorney. These are:

#### **Donor**

A Donor is someone who makes a Lasting Power of Attorney appointing an Attorney(s) to make decisions about his/her personal welfare, property and affairs or both.

## **The Attorney(s)**

An Attorney is the person(s) you choose to make decisions on your behalf about either your personal welfare or property and affairs or both. It is an important role and one that the person chosen has to agree to take on.

## **Named person(s)**

A named person is someone chosen by the Donor to be notified when an application is made to register their Lasting Power of Attorney. They have the right to object to the registration of the Lasting Power of Attorney if they have concerns about the registration. The named person(s) are specified in the Lasting Power of Attorney form. The Donor does not have to name a person to receive such notification but selecting people to be notified of an application to register the Lasting Power of Attorney is one of the key safeguards to protecting you. If the Donor chooses not to have a Named person the Donor must have two Certificate providers.

## **Certificate provider**

A certificate provider is a person the Donor must select to complete a Certificate in the Lasting Power of Attorney document. The certificate provider must confirm that the Donor understands the Lasting Power of Attorney and that the Donor is not under any pressure to make it. The certificate provider is another important safeguard. There are two different types of certificate provider, they can be either someone who has known the Donor personally for at least two years or someone who, because of their relevant professional skills and expertise, consider themselves able to provide the certificate. If you have a professional certificate provider it is likely that you will have to pay a fee for this service.

## **Witness**

A witness is someone who signs the Lasting Power of Attorney form to confirm that they witnessed the Donor signing and dating the form. A witness is also required to confirm that they witnessed the Attorneys signing and dating the form.

## **The types of Lasting Power of Attorney**

There are two different types of Lasting Power of Attorney:

- A Property and Affairs Lasting Power of Attorney
- A Personal Welfare Lasting Power of Attorney

## The Property and Affairs Lasting Power of Attorney

A Property and Affairs Lasting Power of Attorney (LPA) allows you to plan ahead by choosing one or more people (your Attorney(s)) to make decisions on your behalf regarding your property and financial affairs.

You can appoint a property and affairs Attorney to manage your finances and property whilst you still have capacity as well as when you lack capacity. For example, it may be easier for you to give someone the power to carry out tasks such as paying your bills or collecting your benefits or other income.

This might be easier for lots of reasons: you might find it difficult to get about or to talk on the telephone, or you might be out of the country for long periods of time.

The LPA cannot be used by your Attorneys until it has been registered with the Office of the Public Guardian.

You can decide to give your Attorney(s) the power to make decisions about any or all of your property and affairs matters. This could include paying your bills, collecting your benefits or selling your house.

This type of LPA does not allow your Attorney(s) to make decisions about your personal welfare. If you want someone to be able to make personal welfare decisions on your behalf you will need to make a Personal Welfare LPA.

## The Personal Welfare Lasting Power of Attorney

A Personal Welfare Lasting Power of Attorney (LPA) allows you to choose one or more people to make decisions on your behalf regarding your personal healthcare and welfare.

These personal welfare decisions can only be taken by somebody else when you lack the capacity to make them for yourself; for example if you are unconscious or because of the onset of a condition such as dementia.

The Attorney(s) you appoint to make personal welfare decisions will only be able to use this power once the LPA has been registered and provided that you cannot make the required decision for yourself. It is recommended that the LPA is registered at the time you make it to avoid any delays if it becomes necessary for your Attorneys to use it.

You can decide to give your Attorney the power to make decisions about any or all of your personal welfare matters, including healthcare matters. This could involve some significant decisions, such as giving or refusing consent to particular types of health care, including medical treatment decisions or whether you continue to live in your own home, perhaps with help and support from social services, or whether residential care would be more appropriate for you.

If you want your Attorney(s) to have the power to make decisions about 'life-sustaining treatment', you have to expressly give your chosen Attorney(s) the power to make such decisions by completing the relevant sections of the LPA form.

You can also give your Attorney(s) the power to make decisions about day-to-day aspects of your personal welfare, such as your diet, your dress, or your daily routine. It is up to you which of these decisions you want to allow your Attorney to make.

This type of LPA does not allow your Attorney(s) to make decisions about your property and affairs. If you would like someone to be able to make property and affairs decisions on your behalf you will need to make a Property and Affairs LPA.

## Bell Park Kerridge Fees

A Lasting Power of Attorney (LPA) costs £500.00 plus VAT. If you require a professional certificate provider from this firm, the fee will be £750.00 plus VAT. If you wish to make two Lasting Powers of Attorney, the fee will be £750.00 plus VAT and if you require a professional certificate provider from this firm the fee will be £1,000.00 plus VAT.

This fee includes attendance with you, preparing the LPA, registering the LPA with the Office of the Public Guardian and sending notification to the persons nominated by you that the LPA is being registered. The fees may vary if the LPA is not registered with the Office of the Public Guardian at the time you make it.

The fee charged by the Court of Protection for registering each Lasting Power of Attorney with the Office of the Public Guardian is £120.00, although in some cases there may be an exemption from paying this fee.

We strongly advise you to register the Lasting Power of Attorney at the same time that it is made. The registration process can take over six months. If you do not register your LPA and it becomes necessary for your Attorneys to use it, they will have to register the LPA first which could mean they will not be able to use it for over six months.

We realise that the cost of doing this is much more than with the previous type of power of attorney. Unfortunately there is now much more work involved in dealing with this type of Power of Attorney rather than the form it has replaced. This is largely due to a much longer form and also the fact that the power has been split between property and affairs and personal welfare requiring two forms if both aspects are to be covered. It is the view of the Court of Protection that the new procedure gives better protection to the person appointing the attorney.