



Your guide to Lasting Powers of Attorney

How can we help you...?



Your guide to Lasting Powers of Attorney

A power of attorney is a legal document whereby a person gives another person or persons (the attorney(s)) 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 care 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.**

An attorney is someone whom you appoint to look after, either financial matters or health and welfare matters, so that they are empowered to make decisions on your behalf when you can no longer do so.

You can nominate one or more than one attorney to act for you. You can also appoint replacement attorneys.

Attorneys are often appointed as a safeguard to help you make decisions where there is a risk of illness (Stroke/Alzheimer's) or where, through old age, the ability to make decisions is curtailed.

It should be remembered that an attorney must always act in *your* best interests. This may conflict with their own interests so care in selection of your attorney is very important.

Your Attorney (Your Choice)

An LPA is an important document and you should take care whom you appoint as attorney(s) 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 jointly (all must act together) or jointly and severally (any can act). 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 replacement 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 registered with the Office of the Public Guardian.

Before registration the LPA must be signed by you and your attorney and certified by a person that understands the nature and scope of the LPA and has not been unduly pressured into making the power. The certificate provider will also need to confirm there has not been any fraud or another reason why you cannot make the power.

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 LPA can only be used if you lack mental capacity to make a welfare or medical decision.

Existing Enduring Powers of Attorney

Any Enduring Power of Attorney (EPA), validly made before 1 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 will 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, time consuming and bureaucratic. You will not be able to choose who makes your decisions.

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.

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Private Clients

A personal approach to legal advice

This is your life we're talking about - we just want to help you to make the most of it - whatever you choose to do and wherever you want to go.

And Humphries Kirk solicitors will be there, by your side, helping, guiding and reassuring you. Did we mention avoiding life's pitfalls whenever possible? That too!

We think this sort of service is no more than you deserve - and the very least you can expect when you ask us for help. *Talk to us about:*

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- **Care Is Our Concern**
(a service for the elderly or housebound)
- **Children** ■ **Cohabitation** ■ **Consumer Law**
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- **Domestic Violence** ■ **Financial Advice**
- **Inheritance Tax Advice** ■ **Judicial Separation**
- **Landlord and Tenant** ■ **Lasting Powers of Attorney**
- **Litigation** ■ **Living Wills** ■ **Mediation** ■ **Personal Injury**
- **Tax and Succession** ■ **Trusts** ■ **Wills and Probate**

For more detailed advice about **Lasting Powers of Attorney** and how they can affect you and your personal circumstances, please contact your nearest Humphries Kirk office.

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