

Lasting Powers of Attorney.

A Guide.



LASTING POWERS OF ATTORNEY

YOUR FREE GUIDE



Compliments of New Approach Wills.

Lasting Power of attorney

A power of attorney is a legal document that allows someone to make decisions for you, or act on your behalf, if you're no longer able to or if you no longer want to make your own decisions.

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What is a power of attorney?

There are a number of reasons why you might need someone to make decisions for you or act on your behalf:

- This could just be a temporary situation: for example, if you're in hospital and need help with everyday tasks such as paying bills.
- You may need to make longer-term plans if, for example, you have been diagnosed with dementia and you may lose the mental capacity to make your own decisions in the future.

What is mental capacity?

Mental capacity means the ability to make or communicate specific decisions at the time they need to be made. To have mental capacity you must understand the decision you need to make, why you need to make it, and the likely outcome of your decision.

Some people will be able to make decisions about some things but not others. For example, they may be able to decide what to buy for dinner, but be unable to understand and arrange their home insurance. Alternatively, their ability to make decisions may change from day to day.

Needing more time to understand or communicate doesn't mean you lack mental capacity. For example, having dementia doesn't necessarily mean that someone is unable to make any decisions for themselves. Where someone is having difficulty communicating a decision, an attempt should always be made to overcome those difficulties and help the person decide for themselves.

Different types of power of attorney

Lasting power of attorney (LPA)

An LPA covers decisions about your financial affairs, or your health and care. It comes into effect if you lose mental capacity, or if you no longer want to make decisions for yourself. You would set up an LPA if you want to make sure you're covered in the future.

Enduring power of attorney (EPA)



EPAs were replaced by LPAs in October 2007. However, if you made and signed an EPA before 1 October 2007, it should still be valid. An EPA covers decisions about your property and financial affairs, and it comes into effect if you lose mental capacity, or if you want someone to act on your behalf.

More information on lasting powers of attorney

A lasting power of attorney (LPA) is a way of giving someone you trust, your attorney, the legal authority to make decisions on your behalf if you lose the mental capacity to do so in the future, or if you no longer want to make decisions for yourself.

There are two types of LPA:

- LPA for financial & property matters/decisions
- LPA for health and welfare decisions.

LPA for financial & Property decisions

An LPA for financial decisions can be used while you still have mental capacity or you can state that you only want it to come into force if you lose capacity.

An LPA for financial decisions can cover things such as:

- buying and selling property
- paying the mortgage
- investing money
- paying bills
- arranging repairs to property.

You can restrict the types of decisions your attorney can make, or let them make all decisions on your behalf.

If you're setting up an LPA for financial decisions, your attorney must keep accounts and make sure their money is kept separate from



yours. You can ask for regular details of how much is spent and how much money you have. These details can be sent to your solicitor or a family member if you lose mental capacity. This offers an extra layer of protection.

LPA for health and welfare decisions

This covers health and care decisions and can only be used once you have lost mental capacity. An attorney can generally make decisions about things such as:

- where you should live
- your medical care
- what you should eat
- who you should have contact with
- what kind of social activities you should take part in.

You can also give special permission for your attorney to make decisions about life-saving treatment.

Don't assume

If you're married or in a civil partnership, you may have assumed that your spouse would automatically be able to deal with your bank account and pensions, and make decisions about your healthcare, if you lose the ability to do so. This is not the case. Without an LPA, they will not have the authority.

How do I set up a power of attorney?

Setting up a lasting power of attorney

1. Your legal advisor will have access to specialist software that makes completing the forms simple and mistake free or you can contact the [Office of the Public Guardian](#) to get the relevant forms and an information pack. You can download the forms or fill them out online.

2. You can fill out the forms yourself, or with the help of a legal advisor. Taking professional advice can prevent problems later on, especially if you're unsure of the process or your affairs are complex.
 3. Have your LPA signed by a certificate provider. This is someone who confirms that you understand it and haven't been put under any pressure to sign it. The certificate provider must be someone you know well (over two years) or a professional person such as a doctor, social worker solicitor.
 4. The LPA must be registered with the Office of the Public Guardian before it can be used. There's a fee to register your LPA. If you're on a low income, you may be eligible for a 50% discount, and if you're receiving certain benefits you won't have to pay anything at all. You must register your LPA while you still have the mental capacity and it can't be used during the registration process which takes about 12 weeks. If you lose mental capacity but signed the LPA while you still had mental capacity, your attorney can register it for you.
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How much does it cost to set up a lasting power of attorney?

Your legal advisor will charge a fee for help and advice provided in relation to making and registering your LPA (See below for our charges).

You will need to register the LPA before you can use it. In England and Wales, the registration fee is £82 for each LPA – so it costs £164 to register both an LPA for property and financial affairs and an LPA for health and welfare.

You may be exempt from paying the fee if you're on a low income or you receive certain income-related benefits.

Do I need a solicitor/Legal Advisor?

You don't have to use a solicitor/legal advisor to create an LPA. The application forms from the Office of the Public Guardian (OPG) contain guidance to help you fill them out. Alternatively, you can fill them in online and phone the OPG helpline if you have any issues or concerns.

How do I make changes to my power of attorney?

In general, you can't make changes to an LPA after it's been registered. If you're unsure, contact the Office of the Public Guardian for advice. Telephone: 0300 456 0300 Monday to Friday, 9am to 5pm, except Wednesday, 10am to 5pm

What if I'm having problems with my attorney?

If you're unhappy with the decisions that are being taken, there are a number of ways you can make a complaint.

- If you think you're in immediate danger, contact your local police force or call 999 in an emergency.
- Raise your concerns with the [Office of the Public Guardian](#), which has responsibility for monitoring attorneys and deputies and can investigate allegations of mistreatment or fraud. It can report concerns to another agency, such as the police or social services, if appropriate.

Office of the Public Guardian
PO Box 16185
Birmingham
B2 2WH



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Lasting Power of Attorney

Lasting Powers of Attorney allow your attorney/s to act for you, to make decisions on your behalf, pay your bills or speak to doctors and other professionals.

There are two types of Lasting Power of Attorney;

Health & Welfare.

£249.00*

Property & Finance.

£249.00*

*An additional fee of c.£90 is payable to the Office of the Public Guardian to register each LPA.

Legal Document Storage

Includes free unlimited updates.

£50.00 pa.



Save time and money with our handy lasting power of attorney planner.

<p>(for Finance & Health LPAs) Your Name & Address & DOB</p>	
<p>Your Attorneys Names & Address & DOBs. (up to four)</p>	
<p>Replacement Attorneys: Name & Address & DOBs. (if any)</p>	



Certificate Provider: Name & Address.	
How should attorneys act	Jointly & Severally Jointly
When should attorneys act.	On registration When capacity lost
People to inform: Names & addresses (in any)	
Payment (Exemption if eligible)	

For Health & Welfare LPA (only)	
Life Sustaining treatment.	Yes No.

For Finance LPA (only)	
Instructions.	

Our handy guide to Signing Your Lasting Power of Attorney (LPA)

The LPA must be signed by the people involved and in the correct order. If they don't, the Office of the Public Guardian (OPG) won't register it and your attorney(s) will be unable to use it.

It is essential that the forms are signed in the following order:

1. Donor (you).

If you cannot sign the LPA documents yourself, you will be given an extra sheet that a representative can sign on your behalf.

- If, for any reason you cannot sign the document, you can appoint someone to sign it on your behalf. There will be an extra sheet with the LPA, continuation sheet A3, that someone must sign for you. You must be present and must tell the person to sign. Two witnesses must watch when continuation sheet A3 is signed.
- You must sign:
 - Section 9
 - Any continuation sheets (you may have one or more copies of either continuation sheet 1 or 2)
 - The statement about life-sustaining treatment on page 6, if it is a Health and Welfare LPA

2. Donor's (your) witness.

Your signatures must be made and witnessed on the same date.

3. Certificate provider.

The certificate provider should sign the LPA form, section 10, as soon as possible, this could be on the same day you sign and must be within a year.

4. Attorney(s) and replacement attorney(s).

They should sign the LPA form, section 11, as soon as possible, after the certificate provider, which can be on the same day you sign and must be within a year. They can sign in any order but their signatures must be

witnessed. You can't be a witness but your attorneys can be witnesses for each other.

5. Attorneys' witness(es).

Attorney and replacement attorney signatures must be made and witnessed on the same date.

Witnesses

Witnesses are impartial people aged at least 18 years who watch you and your attorneys (including any replacements) sign your LPA. Witnesses must then sign the LPA to confirm that they saw you and your attorneys sign it.

Your witnesses cannot be:

- One of your attorneys
- One of your replacement attorneys
- An employee of a trust corporation that you've named as an attorney or replacement attorney

The same person can witness both donor and attorney signatures, so long as they are not one of your attorneys. However, you don't have to use the same witness for all signatures.

Important - Once you have signed the LPA you cannot make any changes. If you do need to you will need to reprint the form and start again. If you send your LPA to the OPG with an incorrect signing order, you will have to complete some or all parts of it again and may incur additional fees.

People to Notify

Each person you would like to Notify needs to be sent their own LP3 form as found with your LPA document and these instructions. You will need enter the date you signed the LPA on this form and then send the form. On the form, there is explanation as to how the people you have chosen to notify can object to the LPA being registered, if they wish to. They have 3 weeks from the date they are notified to make known to the OPG these objections.

Check your LPA

You will find a checklist at the end of your LPA form which is very helpful. You should check that you have completed the LPA form before sending it to the OPG to register it.

The checklist will run through the following:

- The donor filled in sections 1 to 7



- The donor signed section 9 in the presence of a witness. The donor also signed any copies of continuation sheets 1 and 2 that were used, on the same date as signing section 9.
- The certificate provider signed section 10.
- All the attorneys and replacement attorneys signed section 11, in the presence of witness(es).
- Sections 9, 10 and 11 were signed in order. Section 9 must have been signed first, then section 10, then section 11. They can be dated the same day or different days. The donor or an attorney completed sections 12 to 15. If the attorneys are applying and were appointed 'jointly' (section 3), they have all signed section 15 of this form.
- You've paid the application fee or applied for a reduced fee. If you've applied for a reduced fee, you've included the required evidence and completed form LPA120A.
- If there were any people to notify in section 6, you've notified them using form LP3. You've not left out any of the pages of the LPA, even the ones where I didn't write anything or there were no boxes to fill in.

Registering your LPA

Once you are happy that your LPA has been signed correctly you must then send it, and where applicable, continuation sheets and LPA120 (reduce fee application form), to the OPG so that they can check and register it.

Send everything to:

**Office of the Public Guardian
PO Box 16185
Birmingham B2 2WH**

If you are applying to register the LPA, the OPG lets the attorneys know about the application. If an attorney is applying, the OPG tells you and any other attorneys. The OPG then processes the LPA and holds it for at least 4 weeks. The 4-week wait is set by law. It gives people time to raise concerns they have about the LPA: for example, if they think you're being forced into making it or that someone is committing fraud.

The OPG also uses the time to check that the LPA has been made correctly and there's nothing that would make it invalid or unworkable. If there is something that must be corrected before it can be registered the OPG will contact you.

The whole check and registering process take between 8 and 10 weeks (but can take longer if there are problems). The registered LPA document that OPG sends back to you is the same form that you filled in and sent to the OPG. However, it will have been officially stamped and now legally binding.

Why you should register your LPA now rather than later

You don't have to register your LPA once you've completed it, you can register it later, but it's a good idea to register it as soon as you can. Your attorneys can only use your



LPA to make decisions on your behalf after the OPG has registered it and sent it back to you officially stamped.

If you register your LPA as soon as it is signed, the OPG can spot mistakes while they can still be changed. If there are any errors, you may have to fill in all or part of the LPA again. You can only do that if you still have mental capacity.

If you no longer have mental capacity, your attorneys can apply to register your LPA – however, it won't be possible to correct any errors. If there are mistakes, the OPG can't register the LPA and the LPA can't be used. Your attorneys, or someone else, will have to apply to the Court of Protection to get the power to make decisions on your behalf or get a declaration that the LPA can be treated as valid. This can be a long process and can cost a lot more than an LPA.

New Approach Wills

Freephone 0800 702 2167.

info@newapproachwills.com



