

CULLIMORE S O L I C I T O R S DUTTON

LASTING POWERS OF ATTORNEY

WHAT ARE LASTING POWERS OF ATTORNEY (LPAs)?

LPAs are documents which give a person or persons who are appointed by you the power and authority to make decisions on your behalf when you are unable to do so. There are two types of LPA:

1. A property and financial affairs LPA, which gives your Attorneys authority to deal with your property and finances;
2. A health and personal welfare LPA, which allows your Attorneys to make welfare and health care decisions on your behalf. This could also extend, if you wish, to giving or refusing consent to the continuation of life-sustaining treatment.

A separate individual will sign the LPA to confirm that you understand the nature and scope of the LPA and have not been unduly pressured into making the power. This person is called a Certificate Provider. It must then be registered with the Office of the Public Guardian. This is the Court which oversees the use of LPAs and can hold any Attorneys to account if they believe that they are not acting in your best interests.

YOUR ATTORNEYS

An LPA is an important document which gives your Attorneys considerable authority. Your Attorneys must therefore be trustworthy and have the appropriate skills to make the proposed decisions.

WHEN CAN YOUR ATTORNEYS ACT?

This depends on the type of LPA. The financial LPA can usually be used both when you have capacity to act, as well as if you lack mental capacity to make a financial decision. The welfare power can only be used if you lack mental capacity to make a welfare or medical decision. Both LPAs must be registered before use.

WHAT HAPPENS IF YOU HAVE NOT MADE AN LPA?

- If you have made a valid Enduring Power of Attorney before 1 October 2007, these remain valid and can be used by your Attorneys but only in respect of property and finances
- If you lack capacity, then it will be necessary to make an application to the Court of Protection for a Deputyship Order. This can be a long, stressful and particularly costly process for your loved ones and there is no guarantee over who the Court would appoint as your Deputy.

For more information regarding Lasting Powers of Attorney please contact a member of the Wills, Trusts & Estates Department at Cullimore Dutton Solicitors using the contact details below.

