

# Lasting Powers of Attorney

We all hope that we don't lose our health and independence before we die. Medical advancements are being made every day. Generally speaking, we are living longer. But what about the quality of that life? Who will ensure your wishes are carried out if you're still here, but unable to make decisions?

## WHAT HAPPENS WHEN I CAN'T MAKE DECISIONS MYSELF AND I NEED HELP?

Many people mistakenly believe that:

- If they're married, or in a Civil Partnership, their partner would be able to help them
- If they're divorced, or a widow(er), their children would be able to help them

Unfortunately, if you lose mental capacity to make decisions, and you didn't take action to protect yourself and your loved ones while you were well, you are leaving a very unsettling, time consuming and expensive problem for them to resolve.

This leaflet contains important information to help you get organised and put your mind at rest for the future.

**TFS**

THOMAS FLAVELL + SONS SOLICITORS

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## **LASTING POWERS OF ATTORNEY (LPAs)**

LPAs are documents which allow you to stay in control. You make them now, while you are well. In them, you appoint a person or people you trust to make decisions on your behalf.

You can have up to four Attorneys, and you can appoint replacement attorneys too.

There are two kinds of LPA available. You don't have to have both.

## **PROPERTY AND FINANCIAL LPA**

These LPAs allow you to appoint individual(s) you trust to deal with your financial affairs, including any property or land you own. Your Attorneys will be able to do anything you could do yourself, from paying your bills to selling your house.

If you are happy to, this document can be used when you still have mental capacity, but would like some help and support from your Attorney(s). This additional flexibility can be very useful if, for example, you experience a temporary problem with capacity, or, you had a physical problem (rather than a mental one).

Although it is possible to say your LPA can ONLY be used when you have lost capacity, this limits their usefulness. It could mean that each and every time your Attorney(s) wish to use the document, they are asked for medical evidence confirming that you're not mentally capable of making that particular decision. For this reason, we don't usually recommend people to restrict the document in this way.

## **HEALTH AND WELFARE LPA**

These LPAs enable your trusted person(s) to make decision regarding your more personal matters, from where you are living, to what medical treatment you have. It is even possible to give your Attorneys the ability to make decisions regarding life sustaining treatment.

Health and Welfare LPAs can only be used when you have lost your mental capacity.

## WHAT IF I DO NOTHING?

If you never lose your mental capacity, there may never be a problem. But if you do, and you haven't taken control while you were well, then someone would need to make an application to the Court of Protection to request permission to make decisions for you. That person would be called your Deputy.

Although we all hope that a loved one would step in and make the Deputyship application, by not making LPAs now while you're well, you lose control over who may be appointed to help you. Someone as remote as a creditor can apply to be a Deputy if no one else steps forward.

Whilst it's good to know there is a solution, the reality of a Deputyship application for your loved ones can be very stressful, time consuming and expensive. These applications can take many months to be concluded.

After a Deputyship Order is made, what your Attorney(s) can and can't do is very limited. When it comes to big decisions (such as the sale of property), your Deputy would have to make a further application for permission and authority to do this, which again involves more forms, more delays and further Court costs.

When a Deputyship Order has been made, your Deputy will have the added responsibility to provide accounts every year, detailing what your income and expenses have been. Again, the Court charge a fee for reviewing these accounts.

It is also important to remember the Court are usually very reluctant to appoint a Deputy for Health and Welfare. As a result, when the time comes, your care would be decided by medical professionals who don't know you. Whilst some people may be comfortable with this, many people are not.

## DO I REALLY NEED LPA(s)?

No-one knows what the future holds. If you have generally been in good health, you may be prepared to gamble on the possibility that you will never lose capacity. But is this a gamble you are willing to take? LPAs are often described as insurance, something you put in place 'just in case'.

## HELPING YOUR LOVED ONES TO HELP YOU

If you want to make sure things are as simple and straightforward as possible in the event you were to become unable to make decisions yourself, the very best advice is to take control now and make LPAs. Sadly, many people leave it too long.

## CHARGES

Our costs in connection with helping people making LPAs start from £375.00 plus Vat for a single person, and £500 plus Vat for a couple.

Please note that in order to be used, LPAs must be registered with the Court. The Court charges a registration fee which is payable in addition to our above referred to legal fees.

## CONTACTING US

Telephone enquiries are always welcome. Your enquiry will be dealt with professionally and efficiently by a member of our team. Alternatively you can contact us by email.

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