



Quick Guide to Lasting Powers of Attorney

16% of the population are aged 65 years and over and there is a rise in the number of people suffering from age-related illnesses such as Alzheimer's and dementia. Managing your affairs in later life is becoming a real concern for many people, particularly families. But there is an answer - by making a Lasting Power of Attorney you can plan ahead by appointing a family member or trusted friend to look after your affairs should the time come when you become mentally or physically incapacitated in such a way that you could not communicate your wishes.

What is a Lasting Power of Attorney?

A Lasting Power of Attorney (LPA) is a document that enables you to appoint someone you trust to deal with your affairs (the Attorney), should you become unable to manage them yourself. The document can give the person(s) you choose restrictions, conditions or guidance on the way you want the power used. The LPA comes into play either when you choose or when your mental health declines.

There are two types of LPA, one dealing with your property and financial affairs and the second dealing with your welfare and health.

They are most commonly used if you become mentally incapable and are no longer able to make decisions for yourself. If for example you are unfortunate enough to develop Alzheimer's, dementia or another aged related mental illness, your trusted Attorneys can act on your behalf. You can give directions to your Attorneys to act on your behalf in relation to your property affairs, but the health and welfare power can only be used when you have lost mental capacity.

An LPA can also be used if you are spending a long time abroad or if you have a short term illness, and simply want someone else to keep an eye on things in your absence.

What happens if I don't make an LPA?

If you haven't made an LPA and you subsequently become of unsound mind, then the only option available to your family is to apply to the Court of Protection for a Deputyship order. This process can take between 6 to 12 months, is often very stressful for your family and is very expensive. And remember that your spouse, next of kin or other family members do not have an automatic right to manage your affairs and anybody can apply to the Court of Protection for this type of order.

Why should I make an LPA?

No one can predict the future, so if you want to be absolutely sure that the people you choose as your Attorney, the persons authorised to manage your affairs (and not somebody appointed by the Court of Protection), then we would advise you to make an LPA. It is better to make one sooner rather than



later, because you have to be of sound mind to make an LPA. Neither Lasting Power of Attorney can be used until it has been registered at the Court of Protection, which can take 12-16 weeks.

Who should I appoint as my Attorney?

Your Attorney can be anyone who is aged 18 years and over and you can appoint more than one person to act on your behalf. You can also appoint replacement Attorneys, in the event that the any Attorney dies in your lifetime or is unable or unwilling to act. In either case as the role always involves a great deal of responsibility, you may like consider the following criteria when thinking about whom to appoint as your Attorney:

- Are they someone you trust absolutely?
- Do they have the time to act on your behalf?
- Do they have the expertise to act?
- Are they willing to act?
- Will they be able to work with the other Attorney(s)?

What if I already have an Enduring Power of Attorney?

If you made an Enduring Power of Attorney (EPA) prior to 1st October 2007, it can still be used by your Attorneys to make decisions about your property and financial affairs and remains legally valid. However, it does not allow others to make decisions about your personal welfare and health and you may wish to consider making a Health and Welfare LPA to cover these circumstances.

What should I do next?

Don't leave your affairs to chance! Give Sheila or Ben a call and we will be pleased to advise you and your family members at our premises or we can visit you at home, within the Basingstoke area.

Contact us now if you would like any help with this or any other personal matter.

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Visit our website for lots more information at www.phillips-law.co.uk