



GRANT SAW

SOLICITORS LLP

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Lasting Powers of Attorney



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What is an LPA?

A Lasting Power of Attorney (LPA) is a document which ensures that the people you trust will be able to make important decisions on your behalf during your lifetime if you become mentally or physically incapable of doing so for yourself.

While LPAs are most often used to deal with the affairs of the elderly, if they are prepared much earlier in life they will give the same protection in the event of incapacity as a result of illness or accident.

What do LPAs cover?

There are two types of LPA, one for Financial decisions and one for Health and Care decisions.

Lasting Power of Attorney - Financial Decisions

A Property and Financial Affairs LPA gives your chosen attorney(s) authority to deal with your property and finances as you specify. For example your home, investments and bank accounts.

Lasting Power of Attorney - Health and Care Decisions

A Health and Care LPA allows your chosen attorney(s) to make health and 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 life-sustaining treatment on your behalf.

Who takes responsibility?

Making an LPA does not mean you are handing over all control when it comes to managing your own affairs. Your attorneys can only act with your consent or in your best interests if capacity has been lost. You can revoke your LPA at any time, provided you have the capacity to do so.

The benefits of a LPA

From both a practical and financial point of view, it makes sense for everyone to consider appointing an attorney under an LPA before a problem arises. Once a person becomes unable to manage their affairs, it may be too late to make an LPA.

If you have already made a Will, then an LPA in addition to this will help to reassure both you and your family that you have made detailed plans for the future.

Why should I use Grant Saw?

Grant Saw has a specialist Private Client department, with a team of dedicated lawyers who will be pleased to assist you.

As a department, we pride ourselves on providing excellent client service, with a friendly and approachable manner and we are frequently instructed by new clients based on recommendations from our existing clients. We also hold the Law society accreditation for excellence in Wills and Probate, known as WIQS.

Choosing your Attorneys

You will need to choose people you trust completely and who are over the age of 18. An attorney under a Financial LPA cannot be bankrupt. People usually choose their spouse and often their children, and other relatives or close friends.

An alternative is to choose a professional person, such as a solicitor. We can act as your attorney if required.

If you appoint more than one person, you will need to decide whether they are to act 'jointly' or 'jointly and severally'.

Jointly

'Jointly' means that your attorney(s) must all agree on every decision at the relevant time. This can help to ensure that the right decisions are made, but may not always be practical depending on your choice of attorney(s).

Jointly and severally

'Jointly and severally' means that your attorney(s) can either act together or individually.

When does an LPA become active?

The LPA must be signed by you and your attorney(s). The LPA will also need to be certified by a suitable person, known as a Certificate Provider, to confirm that you have capacity to make an LPA and that you have not been pressured into making the LPA. We can often act as a Certificate Provider.

Your attorney(s) will only be able to act once your completed LPA has been registered with the Office of the Public Guardian. We can also register your completed LPA for you.

Limitations

An Attorney cannot, without authority from the Court of Protection, make a Will for you. You should ensure that you have an appropriate Will in place. We can also advise you on making or updating your Will if you wish.

There are also strict rules governing gifts to attorneys, which we can advise you on if relevant.

Replacing Enduring Powers of Attorney

LPAs replaced Enduring Powers of Attorney (EPAs) in October 2007. The basic difference between the two is that an EPA only enables other people to act on your behalf in relation to financial and property matters. However, there are two LPAs available, one allowing them to act in relation to your Financial decisions and the other for Health and Care decisions.

Existing EPAs

If you have an existing EPA then this remains valid during your lifetime unless you revoke it, but you can no longer make a new one. You may wish to consider making a Health and Care LPA to complement your existing EPA.

If someone has an EPA and they begin to lose, or have lost capacity, the attorney(s) need to apply to the Court to register it. This is something we can also assist with.

No LPA or EPA?

If you lose the capacity to make a financial decision, and have not made an LPA or EPA, it may be necessary for an application to be made to the Court of Protection for an appropriate order to enable someone to act on your behalf. This is usually called a Deputyship Order and it can be costly, time consuming and stressful for family members. However, we can assist with this if necessary.

Caring for others

If you know someone or find yourself caring for someone who appears to be becoming less able to deal with their own affairs, it would be sensible for that person to make an LPA as soon as possible and you should mention this to them.

Generally speaking it is worth planning ahead. When someone becomes incapable of managing their affairs, it can be a very difficult time, both for them and their family and friends. Only the person making the LPA can instruct us to prepare the LPA.

What should I do next?

You will need to consult with us to get advice so that we can prepare the documents for you. Please email privateclient@grantsaw.co.uk or call us on 020 8858 6971 and ask to speak to a Private Client specialist. Making an LPA through us means that you will receive expert guidance, together with the peace of mind that comes from knowing the LPA has been prepared correctly.

Contact:

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Legal services we can assist you with:

Lasting Powers of Attorney
Disputed Wills
Probate
Administration of Estates
Wills and Estate Planning
Trusts
Deputyship Orders
Court of Protection Matters
Charities
Divorce and financial settlements
Family Law

Residential Property
Leasehold Extensions and Enfranchisement
Property Development Advice
Commercial Property
Corporate
Dispute Resolution
Debt Recovery
Insolvency
Media, Libel and Privacy
Employment
Notary Public

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