

Legal Services

What is an LPA?

Lasting Powers of Attorney are legal documents that let you (the 'donor') select those that you trust ('attorneys') to make decisions on your behalf.

You need mental capacity in order to make a Lasting Power of Attorney.

Having Lasting Powers of Attorney give you peace of mind that you have personally selected those that you trust to make decisions on your behalf and in your best interest. Having Lasting Powers of Attorney can avoid conflict between family members and prepares you for an uncertain future.

There are two types of Lasting Powers of Attorney:

- Property and Financial Affairs.
- Health and Welfare.



Property and Financial Affairs

In brief, whoever you appoint as your attorney can make decisions about things like your:

- Bills
- Bank and building society accounts
- Property
- Investments
- Pensions, benefits and allowances

You can prepare this Lasting Power of Attorney on the basis that the attorneys can make decisions when you have mental capacity and when you have lost mental capacity.

Health and Welfare

In brief, whoever you appoint as your attorney can make decisions about things like your:

- Day-to-day matters such as what you wear or your diet
- Deciding what contact, if any, you have with certain people
- Life-sustaining treatment
- Where you live

Under this Lasting Power of Attorney, your attorneys can only make decisions when you do not have mental capacity to make decisions.

It is recommended that both types of Lasting Powers of Attorney are prepared to ensure all potential eventualities are covered in the event of any loss of mental capacity. Both Lasting Powers of Attorney must be registered with the Office of Public Guardian (OPG) before the attorneys can use them. You can cancel your Lasting Power of Attorney provided you have mental capacity to do so.

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What happens if you do not have a Lasting Power of Attorney?

If you do not have a Lasting Power of Attorney and you have lost mental capacity, an application will have to be made to the Court of Protection for a Deputyship Order under which a deputy is appointed.

A deputy is the individual who makes decisions on your behalf when you lack mental capacity to make decisions for yourself as appointed by the Court of Protection.

An application would need to be made because no one automatically has the power to manage your affairs – not even your spouse. Having to go down the deputyship route means you can't choose who your deputy is and you have no say in the scope of power granted to your deputy. The costs associated with a Court of Protection application are higher, there will also be costs to maintain the deputyship and the application process is lengthy. These are some of the reasons why you should plan ahead and have Lasting Powers of Attorney in place.

What if I already have an Enduring Power of Attorney?

You may have an Enduring Power of Attorney (EPA). If you have an EPA made before 1st October 2007, it can still be used. Since 1st October 2007, you can no longer make an EPA. The Property and Financial Affairs Lasting Power of Attorney has replaced the EPA.

EPA's only allowed attorneys to make decisions about property and financial matters on behalf of the donor. It did not cover health and welfare decisions.

Lasting Powers of Attorney provide additional options and more protection.

If you have an EPA and still have mental capacity, you can revoke the EPA and replace it with a Property and Financial Affairs Lasting Power of Attorney. Alternatively, you can keep the existing EPA. If you opt to keep the existing EPA, then you should consider having a Health and Welfare Lasting Power of Attorney.

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