

Who can make an LPA?

Anyone aged 18 years or over who has mental capacity at the time of making it (England and Wales).

Who can act as my Attorney?

Anyone aged 18 and over who has mental capacity and who is not a bankrupt when they sign the form. You should appoint someone you trust such as a relative, or a professional. (A professional body can only act as your Attorney for LPA Property & Financial Affairs).

You should also consider how you would like your Attorneys to act - you have three options

Together

This option means that your Attorneys must make ALL decisions together. If one of your Attorneys disagrees, that decision cannot be made on your behalf.

You might choose this option if you want to be sure that your Attorneys are in agreement about every decision, but you should bear in mind that getting the agreement of all the Attorneys could take extra time and delay what otherwise would have been straightforward decisions.

It should be noted that, if one of the Attorneys is unable to act due to predeceasing the Donor, losing mental capacity, etc. the LPA will be rendered invalid. Any replacement Attorney will take over from the remaining Attorneys and act as SOLE Attorney.

Together for some decisions & Independently for others

This option means that your Attorneys can make some decisions independently, but for others they must all be in agreement.

You might choose this option if you want your Attorneys to be able to make day to day decisions such as paying nursing home fees independently but, be in agreement when making more significant decisions such as, selling your home.

Please note that if you choose this option and the OPG deem it to be unworkable, it could render the LPA invalid and be rejected at the OPG Registration process.

Together & Independently

This option means that your Attorneys can make all decisions either together or independently.

You might choose this option if, for example, one of your attorneys is closely involved in your financial affairs and you trust them to make your decisions on their own, or one of your attorneys is frequently unavailable (working abroad) or you simply want to ensure that your LPA continues to be workable if one of your attorneys dies.

Guidance & Restrictions

You may also wish to give guidance to your Attorneys on how you want them to act, but this is not legally binding. Completing the guidance box gives the Donor the opportunity to provide broader information for their Attorneys to consider when making decisions on their behalf.

Completing the Restriction box **is binding** and allows the Donor to stipulate what practices and procedures they wish the Attorneys to follow, such as seeking professional financial advice before making any investments.

Who else needs to be involved in making an LPA?

People who need to be told - these are relatives or adults who know you well and who are given the opportunity to raise any concerns or objections about the LPA before registration. Those

that are not relatives and are independent of the donor can also act as a Certificate Provider.

Your Attorney(s) or replacement Attorney(s) - these cannot also act in the category of people who need to be told and also **cannot act as a Certificate Provider**.

Certificate Providers - You do not need to name any "people who need to be told" but can have up to 5. If you do not choose any, then you must have 2 Certificate Providers. A Certificate Provider is an independent person able to confirm that the Donor understands the significance of the LPA. You must have at least 1 Certificate Provider. They must have known you, the Donor, for at least 2 years or have the relevant professional skills to enable them to confirm that you understand the significance of your LPA, e.g your GP. They will also need to certify that no undue pressure or fraud is involved in the making of the LPA.

Having to face the prospect of being unable to deal with your own affairs can be daunting for us all. So many people avoid this, but failing to act NOW and plan for this eventuality can only add to the burden facing your loved ones.

The Next Step

Once you have made the decision to make your Lasting Power of Attorneys, we recommend that your LPAs are registered immediately with the Office of the Public Guardian (OPG). An LPA can only be used after it is registered with the OPG.

Registering your Powers

Failure to register your LPA documents straight away may mean that the information it contains could be out of date. This may invalidate the LPA and the OPG could then later refuse to register the document.

The charge for Registering an LPA is set by the OPG but can be reduced, or even waived entirely, depending on the Donor's annual gross income. Your Advisor will be able to provide advice on how much of the registration fee will be payable.

Keeping your documents safe

Powers of Attorney are very important documents and it is essential that once they have been prepared, signed and registered, they are protected by being stored in a safe place and where your Attorneys know to access them, as soon as the need arises. Our associates can provide a safe storage facility for a small annual fee and issues a Certificate detailing the documents held on your behalf.

How we can help?

We understand that the process of dealing with the affairs of someone who has lost capacity can be very difficult. Our dedicated team of professionals have vast experience in dealing with both the Office of the Public Guardian and the Court of Protection and provide both a professional yet personal service throughout, whilst still offering our clients extremely competitive rates.

An estimated 700,000 people have dementia - including 1 in 5 over the age of 80.

Brain injuries or mental health problems also render others incapable of making their own decisions, so it is important to put arrangements in place early, so if that day comes, someone we trust and who loves us can make those important decisions on our behalf. (Source - Saga)

This sheet contains only general planning and is not to be construed as advice for any personal planning. Each strategy recommended is based on individual circumstances.