

A Guide to Lasting Powers of Attorney

one in a series of comprehensive guides to assist you in managing your affairs

Wills, Trusts & Probate

For more information ask to speak to a member of the team at:

Newcastle: 0191 221 0898

Durham: 0191 384 0840

Darlington: 01325 466 794

Teesside: 01642 672 770

For more details visit our website at: www.bhplaw.co.uk

In October 2007 Enduring Powers of Attorney were replaced by Lasting Powers of Attorney. Although any Enduring Power of Attorney (EPA) completed before that date will continue to be valid it is no longer possible to have a new EPA drawn up.

The EPA has now been replaced by a Lasting Power of Attorney (LPA). This is a legal document under which one person (known as the Donor) chooses one or more persons (known as the Attorney) to make decisions about things such as their finances and property on their behalf at some point in the future if they are no longer able to make such decisions for themselves.

There are two types of LPA :

Property and Affairs LPA

This document allows your Attorney to make decisions on your behalf in relation to your property and affairs including paying your bills, dealing with your bank accounts, selling your house etc. This document does not allow your Attorney to make decisions about your personal welfare. You may appoint Attorneys under this document to manage your financial affairs whilst you still have capacity as well as when you lack capacity. However, it should be noted that the document can only be used once it has been registered with the Office of the Public Guardian so that it is advisable to register the document immediately after it has been made.

Personal Welfare LPA

This document allows your Attorney to make decisions on your behalf in relation to your personal welfare including whether to accept or refuse medical treatment, decide where you live etc. It should be noted that such decisions can only be taken on your behalf by your Attorney if you lack capacity to make them yourself, e.g. you may be unconscious. Again the document must be registered with the Office of the Public Guardian before it can be used.

Who can make an LPA?

Anyone who is aged 18 or over and who has capacity can make an LPA appointing one or more Attorneys to make decisions on their behalf. You cannot make an LPA jointly with another person, each person must make his or her own LPA.

An LPA is a very wide ranging and powerful legal document and when you are choosing an Attorney care should be taken to ensure that you choose somebody that you trust. You need to choose somebody you know will make decisions which are in your best interests. You can appoint a family member, friend or anyone willing to act so long as they are aged over 18. You may also appoint a professional person. There are some safeguards built into the document to protect the Donor including having to get an independent person to provide a certificate confirming that the Donor fully understands the nature and purpose of the LPA.

If you chose more than one Attorney they can be appointed to act together, together and independently, or you can appoint them to act together in respect of some matters and together and independently in respect of others. Under the LPA, it is also possible to appoint a replacement Attorney who can step in should your original Attorney become incapable of acting.

If you feel that you would like to make an LPA, please contact one of our Wills, Trusts and Probate Team.

Key Contacts

Helen Biglin (01325 466 794)

Laura Vipond (0191 221 0898)

Peter Leach (0191 384 0840)

Karen Pratt (01325 466 794)

James McMillan (01325 466 794)