

Costs

Our costs for dealing with LPA's are as follows:-

One LPA will be £350 plus VAT

Two LPA's will be £500 plus VAT

Any additional LPA's will be charged at £100 plus VAT.

Therefore, if a husband and wife decide to create both Property and Financial Affairs LPA's and Health and Welfare LPA's (a total of four documents) then our total charges will be £700 plus VAT.

The document must be registered with the Office of the Public Guardian for which there is an £82 court fee per document. It may be possible to apply for an exemption of this court fee if you are in receipt of certain benefits and this will be discussed during your initial meeting.

If you want advice on this subject please contact one of our Wills, Probate and Trust Team on 01775 722261 or email us

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Should I make a Lasting Power of Attorney?



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What is a Lasting Power of Attorney?

A **Lasting Power of Attorney (LPA)** is a legal document that enables one person (the Donor) to appoint up to four others (the Attorneys) to act on their behalf when they require assistance.

There are two types of LPA available- one is a **Property and Financial Affairs LPA** and the other is a **Health and Welfare LPA**.



Property and Financial Affairs Lasting Power of Attorney

The position without an LPA

If you should become incapacitated at any time, for example from a stroke or other illness, then the current legal position is that it is not possible for anybody to deal with your financial affairs on your behalf, certainly so far as any matters requiring a signature or legally enforceable decisions are concerned. Your bank can actually go a step further and freeze any accounts where they suspect that the account holder has lost the capacity to deal with their own financial affairs. Joint accounts can also be frozen even where the joint holder has not lost their capacity to deal with financial transactions.

Direct debits cease to be paid where an account is frozen and it is not possible to access the cash from a frozen account. The account holder cannot assist if they are too unwell to do so and cannot create an LPA at that point if they no longer have the capacity to do so. The only route available to the family at that stage is to make an application to the Court of Protection to be appointed as the account holder's Deputy for Property and Financial Affairs which is both costly and time consuming.

The position with an LPA

If you create a Property and Financial Affairs LPA while you are still capable to do so then you choose who you would wish to manage your finances should something happen to you in the future. This can then cover a situation where you lose your mental capacity but also the situation if you become too physically unwell to manage your finances - imagine a long hospital stay. The document is created now, registered with the Office of the Public Guardian, and then simply placed in a safe place until such time as you may need it.

If the time comes where you require assistance then the attorney's need only take the registered document to your bank/building society and they will be able to pick up where you have left off. The document can also be registered with those organisations who insist that they speak to no-one but you on the telephone such as the DWP or utility companies. There is no break in you managing your finances and your attorneys managing your finances and no accounts will be frozen.

Health and Welfare Lasting Power of Attorney

This second type of LPA allows for you to appoint an attorney to make decisions on your behalf that affect your health and welfare. This can include decisions over your medical treatment or where you shall live and also end of life decisions.

The position without an LPA

As long as you have the capacity to make a decision regarding your health and welfare then you are the only person who is entitled to make this decision. The Health and Welfare LPA only comes into play where you have lost the capacity to deal with those decisions. Capacity is decision specific and is not a 'cut and dry' concept.

If you do not have a Health and Welfare LPA in place and are not able to make a decision regarding your health and welfare then someone will have to take what is known as a 'best interests' decision on your behalf. The person taking this decision may be a doctor if you are in hospital or nursing staff if you are in residential care.

If it is necessary to take a best interests decision for you then, if it is practical and appropriate to do so, the person taking this decision must take into consideration the views of:

- anyone named by the person as someone to be consulted on the matter in question or on matters of that kind
- anyone engaged in caring for the person or interested in his welfare
- any donee of a lasting power of attorney granted by the person, i.e. the attorney
- any deputy appointed for the person by the court

The decision will then be made on your behalf. You will see therefore that, in the case where there is no LPA they should still consult with any other person interested in that persons' welfare.

The position with an LPA

The position if you have made the LPA is basically the same as in the above scenario. The difference is that the attorneys can demonstrate that they are your chosen people to be informed and to make decisions and do not have to rely on the hospital or care home acknowledging them as a person who is interested in your welfare.