



# Lasting Powers of Attorney

## Peace of mind during your lifetime

A Lasting Power of Attorney (LPA) is a legal document that allows anyone aged 18 or over (called a 'donor') to choose one or more trusted friends, advisers or family members (called 'attorneys') to make decisions on their behalf. The LPA allows the person or people you have chosen to help you when you are unable to make the decisions independently, for example through illness or accident.

### **What are the different types of lasting power of attorney?**

There are two different types of LPA; one for financial decisions and the other for health and care decisions. You can choose to put in place either one or both types of LPA. It is also possible to name different attorneys for different parts of your estate; say family members for personal assets and professionals for business assets.

### **Lasting power of attorney for financial decisions**

This enables your attorney(s) to make decisions about the management of your money and assets. With a power of attorney, they can act on your behalf and take care of the everyday tasks such as paying bills, managing bank accounts, collecting benefits and pensions. They can also manage more complex matters such as buying and selling investments and/or property. The financial power of attorney gives you the confidence that all your financial affairs will be managed according to your wishes.

This means that when you have mental capacity but need assistance to deal with affairs due to, for

example, hearing loss, which means you cannot make telephone calls easily or physical frailty which makes it difficult for you to visit your bank, the attorney(s) can action your instructions.

### **Lasting power of attorney for health and care decisions**

This enables decisions which impact upon your medical condition and personal welfare to be made, if you are unable to make these decisions. This can include where you live and how your day-to-day care is managed. If you so choose, it can also allow your attorney(s) to give or refuse consent to life-sustaining treatment on your behalf.

### **Why do I need a lasting power of attorney?**

If you lose the mental capacity to make your own decisions, or simply need help with managing your affairs, having an LPA in place means that those you have chosen can quickly manage your affairs and make decisions on your behalf.

Without an LPA, an application would need to be made to the Court of Protection for the Court to designate somebody to act as a deputy on your behalf. This is a very time-consuming and expensive process and means that you have no control over who is chosen to act for you.

Once registered, both the LPA for Property and Financial Affairs can be used at your direction. By contrast, the LPA for Health and Welfare can only be used when you have lost the mental capacity to make decisions for yourself.

## When should I create a lasting power of attorney?

LPAs can only be created when the donor still has mental capacity and should, therefore, be considered by people of all ages.

When completing your LPA, you will need a 'certificate provider'. This can be a professional (DMH Stallard can act in this capacity) or someone who has known you for at least two years. They are required to go through your LPA with you before you sign it to ensure that:

- you understand the document;
- you have the mental capacity required to complete it; and
- you are not being put under any pressure to complete it.

Your certificate provider then needs to sign your LPA as confirmation that this has been done.

LPAs need to be registered with the Office of the Public Guardian (OPG) before your chosen attorney(s) can act on your behalf. The registration process takes around 20 weeks.

## What powers does the lasting power of attorney give?

Unless you choose to restrict the powers granted to your attorney(s), they have full authority to act on your behalf and they can therefore do nearly everything that you would be able to do yourself.

You can choose for your LPA to contain non-legally or legally binding guidance and you can choose to name one or more replacement attorney(s) in your LPA.

If you choose to appoint more than one attorney, you will need to decide if you want them to act on:

- a joint basis (all of your attorneys must act together);
- a joint and several basis (any one or more of your attorneys can act at any one time); or
- a joint basis for some decisions and a joint and several basis for other decisions.

*"They [DMH Stallard] respond promptly. They are good at explaining the legal jargon and at pointing out possible complications."*

*Chambers & Partners 2021*

## When can a lasting power of attorney be revoked?

Donors can revoke their LPAs at any time, provided that they still have mental capacity. LPAs for financial decisions are automatically revoked if either the attorney(s) or the donor is made bankrupt.

If the donor has named a spouse or civil partner as an attorney and their marriage or civil partnership is dissolved, the appointment of that spouse or civil partner is automatically revoked.

## Working with DMH Stallard – you are in safe hands

Our teams have the experience to guide you through the legal process so that your lasting power of attorney meets your needs. We have the legal knowledge and expertise to help you consider all eventualities and plan for the unknown. We work closely with clients to help them achieve their long term goals and priorities.

*"DMH Stallard are first class. Nothing was ever too much trouble for them and all my queries etc were answered quickly and things I didn't understand were explained clearly. I have had dealings with other solicitors but DMH Stallard were far superior and efficient."*

*Legal 500 2022*

## Protecting your family's welfare and assets

For the complete care and protection of families and their assets, our private client team supports clients with sensitivity, precision and expertise.

## Contact us

For an informal discussion, or if you have any questions about how to make a lasting power of attorney, call one of our legal team on **03333 231580** or email us via **[enquiries@dmhstallard.com](mailto:enquiries@dmhstallard.com)**.

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