

Every adult should consider the implications of becoming incapable of managing their own affairs, whether because of accident, ill-health or old age. By making arrangements to put in place a Lasting Power of Attorney, you can ensure that your best interests are looked after by someone you have chosen and trust.

What is a Lasting Power of Attorney (LPA)?

A Lasting Power of Attorney (LPA) is a legal document enabling you to appoint an Attorney/s who are people you trust to make decisions for you if you are incapable of doing so in the future.

There are two types of LPA's:

Property & Financial Affairs LPA

The LPA for Property & Financial Affairs allows your Attorney/s to manage your finances and it can be used whether you retain capacity or not. Whilst you have mental capacity to make your own decisions, your Attorney can only act on your behalf if you ask them to do so. Your Attorney will only be able to make decisions for you if you are no longer able to make those decisions yourself and must always act in your best interests taking into account your previous wishes and beliefs. If you should lose capacity in the future, your Attorney's will be able to take control of your property and finances on your behalf.

Health & Welfare LPA

The LPA for Health & Welfare can only be used should you lose mental capacity to make specific decisions in relation to your health and care and then your Attorney/s are able to make decisions for you (or help you make decisions). There is also the option to give your Attorney/s the authority to consent or refuse life sustaining treatment on your behalf.

What if there is no LPA in place?

If no LPA is in place and you lose capacity then it will be necessary for a relative, friend, social services or other professional to apply to the Court of Protection to be appointed as a Deputy to make decisions on your behalf.

Having an LPA in place takes away the stress, worry and anxiety not only for yourself but also for your family.

The process of applying for Deputyship is complicated, expensive and can take several months. During that time no one has legal authority to make decisions on your behalf.

There is no guarantee that the Court of Protection will appoint a friend or family member as your Deputy but instead a professional who you have had no dealings previously. For more information, please see the Mogers Drewett Guide to Deputyships.

Enduring Powers of Attorney (EPAS)

Since October 2007 it has not been possible for a person to create an EPA. However, existing EPAs, whether registered or not, continue to operate. If an Attorney has reason to believe that the Donor of an EPA is becoming mentally incapable of managing his or her own affairs it is necessary for the EPA to be registered with the Office of the Public Guardian. As EPA's only deal with financial decisions we recommend preparing Health & Welfare LPA to act alongside.