

Powers Of Attorney

The Management of Client Affairs under a Power of Attorney has been given a major overhaul as a result of the Mental Capacity Act 2007. Consult our team of specialist lawyers now to discuss the implications for you - now and for the future.

A Power of Attorney is a legal document that authorises one or more persons (your attorneys) to act on your behalf in the management of your affairs. Buying and selling property, operating bank accounts, dealing with tax affairs and dealing with welfare issues are just some of the roles that an attorney can fill.

Mental Capacity Act 2005

Traditionally the Enduring Power of Attorney, or EPA, was used as this Power remains valid even if mental capacity is lost. In October 2007 the Lasting Power of Attorney, or LPA, was introduced and since then it has not been possible to prepare a new EPA. Any EPA signed by all parties before that date does, however, remain valid.

If you are preparing for the future you should consider making an LPA.

Why was the LPA introduced?

The principle reason behind the change was to create a system containing more safeguards and therefore more protection for the person authorising others to act on their behalf. A Power of Attorney is a powerful document and, unfortunately, exploitation of vulnerable people does occur.

The second significant facet of the new system is the introduction of a formal document that recognises welfare decisions, should mental capacity be lost in the future. A personal welfare LPA might authorise your attorneys to make decisions about where you live, consenting to or refusing medical treatment on your behalf and day-to-day care. As such the LPA is two separate documents with part one dealing with your property and affairs and part two dealing with personal welfare.

You may wish to prepare one type of LPA or both, **Butcher Andrews** can provide this service as one of a range of private client services at highly competitive rates.

Frequently Asked Questions

Does an LPA remove my ability to deal with my own affairs?

No. The LPA gives rights to your attorney but it does not remove your own ability to manage your own affairs.

If I make a Property and Affairs LPA can I restrict it in any way?

Yes. The Power can be restricted to apply to certain assets only e.g. bank accounts. The attorney would thus not have any power over the assets you owned. The LPA can also be restricted so that it cannot be used until you have lost capacity to manage yourself, if that event ever occurs.

Frequently Asked Questions Cont'd.

What would happen if I lost mental capacity and did not have an Enduring Power of Attorney or Lasting Power of Attorney in place?

An application would have to be made to the Court of Protection for receivership. The court would appoint a receiver, usually a close relative, friend or bank manager to manage your affairs. If there is no-one suitable a solicitor will be appointed or whoever the court considers fit. This can be a long, complicated and very expensive process.

Why not wait and see what happens?

It is true that a Power of Attorney may never be needed, but having an LPA in place can give added peace of mind and security for your future.

If you would like to discuss the management of your affairs please contact our team of specialists on 01328 863131 for a no-obligation consultation.



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