

# Managing Your Affairs

## **Powers of Attorney**

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, the EPA, was prepared as this type of document remains in force even if you lose full mental capacity. However, since October 2007 it is no longer possible to prepare a new EPA, but all EPA's in place before that date will remain valid. If you preparing for the future you may wish to consider making a Lasting Power of Attorney, or 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 new LPA introduces much more stringent checks and balances, the most important part of which is that the court must register all new LPA's before they can be used.

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 has two separate documents with part one dealing with your property and affairs and part two dealing with personal welfare. You do not need to prepare both if you do not wish to.

*Lasting Power  
of  
Attorney*

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Solicitors

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## *Lasting Power of Attorney*

### **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.

### **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.

### **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.*

*Contact our team of specialists for a no-obligation consultation.*

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