



Sunderland Carers Centre Guide To: Lasting Power of Attorney

If the person you care for has an illness, such as dementia, it may be worth discussing and considering arranging a Lasting Power of Attorney while the person with dementia still has the mental capacity to grant permission. We hope this 'guide to' will help you and your family along the pathway

There may be a point when someone with dementia is unable to make decisions for themselves and this is known as 'lacking capacity'. If this happens it is often the carer or family members who will need to make decisions on their behalf.

What is a Lasting Power of Attorney?

A Lasting Power of Attorney (LPA) is a legal document which enables a person (the donor) to appoint another adult or adults to make decisions on their behalf (their attorney/s) when they are no longer able to do so. Once a person has lost mental capacity, they will not be able to appoint a LPA. A person must be 18 or over before they can make an LPA

A Lasting Power of Attorney or 'LPA' is a way of giving a trusted person or people the legal authority to act in your best interests. Making an LPA can start discussions with family and friends or others about what you want to happen in the future. There are 2 types of LPA – Property and Affairs (which deals with finances) and Health and Welfare

Who can be an Attorney?

It is important to think carefully about who to appoint as an attorney. It is advisable to think about who knows the person best and who that person trusts to make decisions. More than one attorney can be chosen. Most people choose relatives or close friend but you a professional such as an accountant or solicitor can act as attorney. All attorneys must be 18 or over and have the capacity to act on the persons behalf.

Property and Affairs LPA

This covers decisions about finances and property. When finances can't be managed any more the person or persons appointed as attorney/s will do this. This can include paying bills, collecting benefits and income or selling property. There can be limits placed upon decisions made when appointing an attorney. Once the LPA is registered with the Office of Public Guardian, a property and affairs LPA can be used even if the donor still has capacity. This is often done and can make the paying of bills and shopping much easier for the carer or family members.

Health and Welfare LPA

This allows the attorney/s to make decisions about health and welfare issues. The LPA needs to be registered, however unlike the property and affairs LPA, this can only become active once a person has lost the capacity to make these decisions for themselves. The attorney can make decisions about day to day care, diet and clothing, where someone lives and decisions about life sustaining treatment.

Do I need a solicitor?

Legal advice or a solicitor is not necessary in order to make an LPA. Many people find that they are able to complete the form without legal help. However, an LPA is an important legal document and it is advised to read the guidance notes first before reaching a decision as to whether legal advice is needed or not.

How much are registration and costs

It costs nothing to draw up a lasting power of attorney, unless you require help from a solicitor. In England you must register it before you can use it. There is a cost to register the LPA of £82 for each LPA unless the person gets a reduction or exemption due to income or certain benefits.

How do I set up a Power of Attorney?

The forms and guidance you need to create a lasting power of attorney can be found online at www.gov.uk/power-of-attorney

or you can contact the Office of Public Guardian direct if you need help:

Office of the Public Guardian

Customerservices@publicguardian.gsi.gov.uk

Telephone: 0300 456 0300

Textphone: 0115 934 2778

What happens if an LPA isn't made?

If an LPA is not made whilst the person has capacity things like paying bills, buying shopping or making decisions about care will be difficult. The only other option will then be to apply for deputyship through the Court of Protection. The Court will make the decision who can be a deputy and the deputy will act under the authorisation of the Court. The deputy will receive a court order informing the deputy what they can and can't do. Deputyship is far more complex than Lasting Power of Attorney so it is beneficial that LPA is considered as early as possible if someone receives a diagnosis of dementia or has other health issues that could mean that they could lose capacity.

Further information can be found at:

[Deputies: make decisions for someone who lacks capacity - GOV.UK \(www.gov.uk\)](http://www.gov.uk)