

# Rowlinsons

SOLICITORS



## What if...?



- You had an **accident** and ended up in hospital for a lengthy stay?
- You suffered a **stroke** and could no longer manage your own finances?
- You were diagnosed with **dementia**?

We all hope that we will remain fit and healthy for all of our lives. But an incapacitating illness or injury could turn our lives upside down at any moment.

Who would look after your affairs and help you to make important decisions?

## A Lasting Power of Attorney can help...

For further information please contact Rowlinsons on 01928 735 333 and ask to speak to Donna Eland or Nikki Barnes. Alternatively, please e-mail [reception@rowlinsons.co.uk](mailto:reception@rowlinsons.co.uk)



# What is a Lasting Power of Attorney (an 'LPA')?

An LPA is a document you can prepare which appoints one or more people to manage your affairs for you if you become unable to manage on your own. These people are known as your 'Attorneys'.

## Why do I need one?

Even if you are married or in a registered civil partnership, your next of kin have no automatic legal right to look after your affairs for you. If you have property, savings or investments in your own name then you are the only person legally able to deal with these.

If you suffer an unexpected illness or accident leaving you unable to manage your own affairs, you will need somebody you trust to help you.



## What if I do not have one?

If you lose the ability to manage your own affairs, and you do not have an LPA (or its predecessor – an Enduring Power of Attorney) in place then an application must be made to the Court of Protection for a 'Deputy' to be appointed to look after things for you. This may not be a person you would have chosen yourself. The application to court can take several weeks and is likely to cost much more than the preparation of an LPA.

# What types of LPA are there?

## There are two types of LPA you can make

### 1. Property and Financial Affairs LPA

A 'Property and Financial Affairs LPA' gives your chosen attorneys the power to operate your bank accounts, make investment decisions, sign tax returns and buy and sell property. The attorneys are not permitted to make gifts (other than those usually made by you), or sign your will.

If you own a business you may need to appoint someone to make decisions and keep the business running for you if you cannot do so for yourself. If you wish to appoint the same attorneys to deal with your business and your private finances, then you can deal with this in one LPA for Property and Financial Affairs. If, however, you want different attorneys dealing with your business and your personal finances then it is possible to set up two separate financial LPAs.

### 2. Health and Welfare LPA

A 'Health and Welfare LPA' gives your chosen attorneys the power to decide on issues such as where you will live, your care and your medical treatment. It can also authorise your attorneys to make decisions about life sustaining treatment on your behalf. Your attorneys cannot make decisions under a Health and Welfare LPA when you have the mental capacity to make decisions for yourself.

## How do I make an LPA?

LPAs are complex and very powerful documents and it is extremely important to take professional advice in preparing one. Rowlinsons have experienced solicitors who specialise in the preparation of LPAs and can advise you properly every step of the way.

## When should I make one?

The best time to make an LPA is whilst you are healthy and there can be no doubt as to your ability to fully understand the LPA.

The LPA contains a certificate which must be signed by an independent person, confirming that you fully understand the implications of the LPA.

Don't leave it too late, particularly if you are suffering with the early stages of an illness which is likely to get worse in the future.



## Who should I appoint?

You can appoint one or more attorneys, and you can choose whether they must all act together (i.e all sign every document) or whether they can act independently of each other which means that they do not all have to be involved in every decision or all sign every document. You can also appoint a replacement attorney who would only step in if your first choice of attorney dies or becomes permanently unable to act as your attorney.

You can choose family members, friends, or even a professional such as a solicitor to be your attorneys. The most important thing is to choose attorneys who you trust to deal with your affairs properly.



## **Does anyone check that my attorneys are dealing with my finances properly?**

LPAs must be registered with the Office of the Public Guardian (OPG) before they can be used, and the OPG also have powers to oversee the work of attorneys. They do not however directly supervise attorneys as a matter of course, which is why it is important to choose trustworthy individuals in the first place.

You could consider including an instruction within your financial LPA document that the attorneys must produce annual accounts which must be checked by an independent person (such as a solicitor or accountant) on a regular basis.

## **Can my attorneys take over my affairs whilst I am still able to manage by myself?**

A Health and Welfare LPA can only be used if you do not have the mental capacity to make a specific decision for yourself.

A Financial LPA can be used as soon as it has been registered, even whilst you still have mental capacity, unless you specifically state otherwise in the document.

This means that if you travel frequently, for example, you can authorise your attorneys to look after your affairs for you whilst you are out of the country. Alternatively if you are physically incapacitated your attorneys could help you to deal with the practical aspects of managing your financial affairs such as going to the bank for you. In both cases, your attorneys should not do anything on your behalf which you have not instructed them to do. They are required to consult with you and involve you in decision making if you are well enough to take part.

## What if I already have an Enduring Power of Attorney?

Enduring Powers of Attorney are the predecessors of LPAs. It is no longer possible to create new Enduring Powers of Attorney or to make changes to an existing EPA, although any that were made before October 2007 will still be valid as long as they are required.

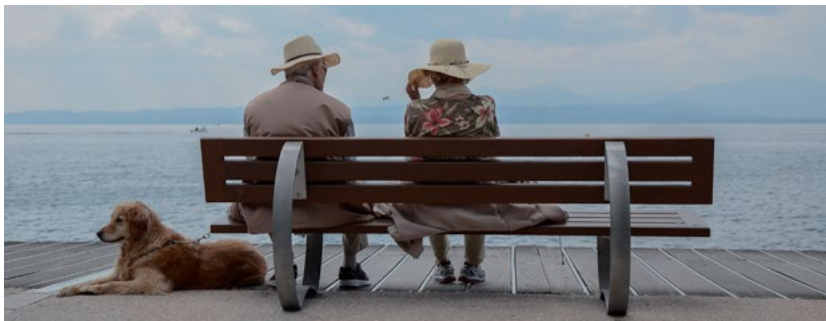
Remember that Enduring Powers of Attorney only relate to your financial affairs, and you can only appoint Health and Welfare attorneys under the new LPA system. You may therefore wish to consider making a Health and Welfare LPA even if you already have an Enduring Power of Attorney in place.

## Peace of Mind

Having an LPA in place gives you the peace of mind of knowing that if something does happen to you, your affairs will be looked after by someone you have chosen yourself and who you trust.

## Why leave it to chance?

Contact Rowlinsons Solicitors today for a no-obligation discussion about how an LPA could benefit you.





Expert legal advice isn't expensive  
**...it's priceless**

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