

What happens if the Donor becomes mentally incapable?

As we register the LPAs immediately with the Office of the Public Guardian there is no delay once the Donor becomes incapable of acting for themselves. The Attorneys can therefore act straight away. However, only when the Health and Welfare LPA has been correctly registered and the Donor loses mental capacity can the Attorney begin to make decisions on behalf of the Donor.

The Donor can name people to be notified that an LPA is being registered. However, since July 2015 it is no longer a requirement to give notice.

Can the LPA be revoked?

The Donor can revoke the LPA at any time, providing he or she is mentally capable. The Attorneys must be notified. If the Donor does choose to revoke the LPA once it is registered, they must advise the Office of the Public Guardian. A signed and registered LPA cannot be amended.

How to get in touch?

Should you wish to prepare a Lasting Power of Attorney please call 0208 866 6464 or email info@sethi.co.uk

Please note: you will also need to provide proof of ID for such instructions. We provide a complete service including drafting and registration of the deed at the Office of the Public Guardian.

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LASTING POWERS OF ATTORNEY

A Power of Attorney is a document whereby a person/our client (the Donor) gives another person (the Attorney) power to act on the Donor's behalf with regard to his/her property and financial affairs, personal health and welfare, or both.

Lasting Powers of Attorneys (LPAs) are a special type of Power of Attorney which only becomes valid once they are registered. The LPA can therefore only be used when it has been registered with the Office of the Public Guardian.

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38 Meadow Way, Eastcote, Ruislip, Middlesex, HA4
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Our costs

	Property and financial affairs	Health and Welfare	Both deeds
One person	£500 + vat (£600)	£500 + vat (£600)	£800 + vat (£960)
A couple	£800 + vat (£960)	£800 + vat (£960)	£1600 + vat (£1,920)

Our charges are as follows all plus VAT and provided where more than one deed is being drafted the Attorneys are the same. Registration (Court Fee) per LPA: £82. Home visits are possible but you should be aware that a further charge will be made for these.

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How can an LPA be granted?

The rules governing LPAs are very strict and the LPA must be in the prescribed format. The Donor's solicitor must be satisfied that the Donor is making the LPA of his/her own free will, and that they understand the purpose of the LPA and the powers that are being conferred upon the Attorney(s). The solicitor can also act as the Certificate Provider who also confirms this. This will be discussed with you in more detail should you wish to proceed.

The form creating the Lasting Power of Attorney must be signed by both the Donor and the Attorney and witnessed by independent witnesses.

Types of Deed (LPA)

Property and Financial Affairs

A Property and Financial Affairs LPA allows the Attorney to make decisions which relate to the Donor's property and financial affairs, so this could be paying bills, collecting benefits or other income, or even selling the Donor's house (subject to conditions).

Health and Welfare

Your Attorney can make decisions on a Donor's behalf about his/her personal welfare. This could include making decisions about where the Donor resides, giving or refusing consent to medical treatment, together with more day to day decisions relating to diet, daily routine or dress. Decisions about life-sustaining treatment must be included in the form i.e. an organ transplant, major operation or cancer treatment. It could also include a course of medication. The determining factor is that the treatment is required to sustain the life of the Donor.

The Health and Welfare LPA must be registered and can only be used if and when the Donor loses mental capacity, unlike the Property and Financial Affairs LPA which can be used as soon as it is registered with the Donor's consent.

A Donor can include restrictions or conditions in both a Property and Financial Affairs LPA and a Health and Welfare LPA to ensure that the Attorney does or does not do something.

A Property and Financial Affairs LPA will NOT allow the Attorney to make decisions about the Donor's personal welfare. Likewise, a Health and Welfare LPA will NOT allow the Attorney to make decisions about the Donor's property and affairs.

Who can act as an Attorney?

An Attorney must be aged 18 and be fully confident, objective and impartial and is happy to take on the responsibilities involved.

However, a person cannot become a Property and Financial Affairs Attorney if he or she is bankrupt at the time of signing the LPA. If an Attorney becomes bankrupt after the LPA has been signed, the LPA may be revoked if it has been registered.

How many Attorneys can be appointed?

There is no maximum number of Attorneys that can be appointed. However we would recommend at least two. If the Donor chooses to appoint more than one Attorney, he/she must specify whether they are to act:-

- together; or
- together and independently; or
- together in relation to some matters and independently on others.

If Attorneys are appointed together, they must always act together and all agree before taking any action. Although this will ensure that all Attorneys are in agreement before a decision is made, it may delay action being taken if they all cannot reach a decision. Also, if one Attorney dies or lacks capacity, the LPA may be cancelled.

'Together and independently' means that any one or all of the Attorneys together can make decisions together and on their own. Generally this is the most suitable and practical option for most clients.

Finally, if Attorneys are appointed to act together on some matters and independently on others, this will mean that a Donor can express in the LPA what decisions should be made by which Attorney. Again, if one Attorney dies or lacks capacity, the LPA may be cancelled.