



Lasting Powers of Attorney and Deputyship Orders

22 November 2022

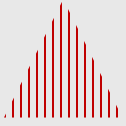


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Offices in Greenwich and Blackheath

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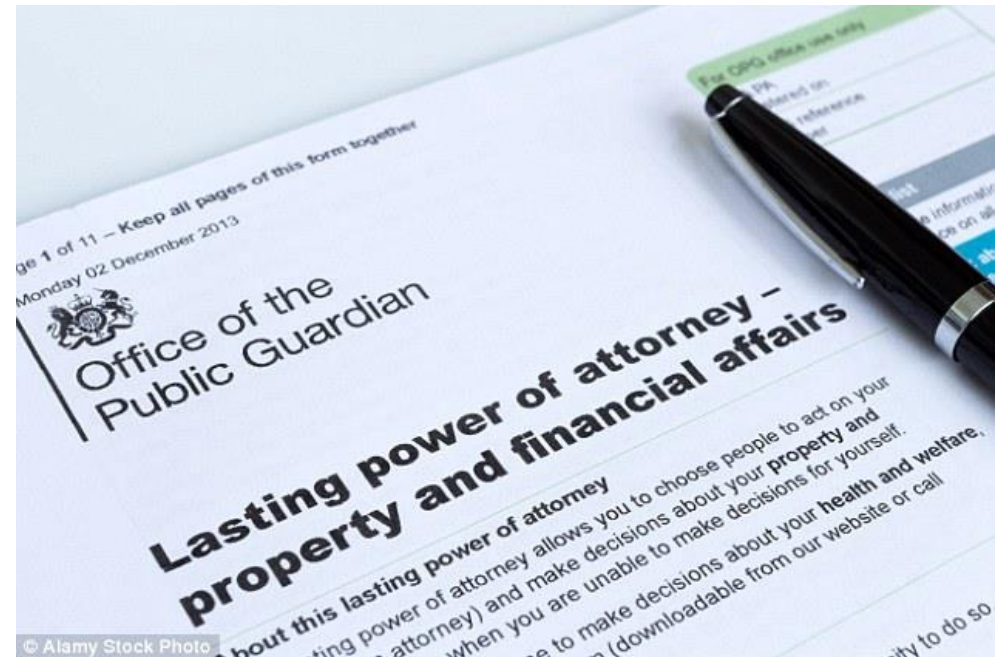
Lasting Powers of Attorney

- Must have capacity to make one, however
- Does not restrict a person's right to control their affairs for as long as they are able.
- LPA for Property and Financial Affairs and/ or Health and Welfare decisions
- An insurance policy if mental capacity lost
- Gives the same protection if incapacity or illness



LPA Property and Financial Affairs

- Attorneys can assist with sale of property
- Manage financial investments
- Deal with bank accounts
- Make changes to utility bills etc. and paying for care home fees
- Once registered Attorneys can assist immediately (lack of capacity not needed)



LPA Health and Welfare Decisions

- Attorneys can make decisions about where the person lives
- Make decisions regarding the person's diet
- Make decisions regarding medication
- Most important – decision regarding life sustaining treatment
- Once registered Attorneys can only step in when the person loses capacity



What is involved in making an LPA?

- Choose your Attorneys as potential for misuse/abuse of power
- Is the attorney trustworthy and suitable?
- Choose your Certificate Provider
- LPA forms
- Register your LPA
- The donor of a registered LPA can revoke their LPA, so long as they have mental capacity
- Can revoke appointment of one attorney where there are more than one (jointly and severally) leaving the remaining attorneys to act



Deputyship orders

- If a person has already lost capacity then all is not lost
- Apply to the Court of Protection for a Deputyship Order
- But this is more time consuming and expensive than putting an LPA into place



What is a Deputy?

- A deputy is an individual appointed by the Court of Protection to make decisions on behalf of an individual who lacks capacity to take the decisions themselves
- Health and Care Deputy (where the person should live and what care they should receive, consenting to or refusing medical treatment on their behalf, and day-to-day matters such as the person's diet, clothes and daily routine)
- Finance and Property affairs Deputy (operating bank and building society accounts, the buying and selling of the person's house and other assets, dealing with their tax affairs, claiming and receiving benefits and pension payments, and paying household, care and other bills)



Application to appoint a Deputy

- Application must be submitted to the Court of Protection
- Detailed information about the circumstances of the incapacitated individual
- Evidence of the person's incapacity and a declaration by the proposed deputy
- A fee of £365 is payable with the application although some people can get exemptions or reductions
- Several months from submitting the application to receiving a decision from the Court of Protection
- It is therefore important not to delay in submitting the application where a deputy is required to act urgently.



LPA's and Deputyships

Comparison of Attorney and Deputy Powers

Health and care powers (non-exhaustive list)	Attorneys	Deputies
To make decisions in relation to welfare matters over which the vulnerable person retains mental capacity	No	No
To decide where the vulnerable person is to live	Yes	Maybe
To make decisions about day-to-day care, including diet and dress	Yes	Maybe
To decide what contact, if any, the vulnerable person is to have with specified persons	Yes	No
To consent to or refuse medical examination and treatment on the vulnerable person's behalf	Yes	Maybe
To consent to or refuse treatment where the vulnerable person has made an advance decision to refuse the proposed treatment	Maybe (depending on when the advance decision was made)	No
To make arrangements necessary for the vulnerable person to be given medical, dental or optical treatment	Yes	Maybe
To make decisions in relation to assessments for and provision of community care services	Yes	Maybe
To decide whether the donor should take part in social activities, leisure activities, education or training	Yes	Maybe

LPA's and Deputyships

Comparison of Attorney and Deputy Powers

Health and care powers (non-exhaustive list)	Attorneys	Deputies
To make decisions about the donor's personal correspondence and papers	Yes	Maybe
To grant rights of access to personal information about the donor	Yes	Maybe
To make complaints about the donor's care or treatment	Yes	Maybe
To give or refuse consent for life sustaining treatment	Maybe (if there is an express authority in the LPA)	No
To direct that a person responsible for the vulnerable person's health care allows a different person to take over that responsibility	Yes	No
To demand specific forms of treatment that health care staff do not believe are appropriate or necessary for the vulnerable person's condition	No	No
To restrain the vulnerable person	No (except in very limited circumstances)	No (except in very limited circumstances)
To consent to marriage or civil partnership	No	No
To consent to sexual relationship	No	No
To consent to a decree of divorce being granted on the basis of two years' separation	No	No

LPAs and Deputyships

Comparison of Attorney and Deputy Powers

Health and care powers (non-exhaustive list)	Attorneys	Deputies
To make decisions in relation to financial matters over which the vulnerable person retains mental capacity	Yes	No
To sell property	Yes	Maybe
To exchange property	Yes	Maybe
To charge property	Yes	Maybe
To acquire property	Yes	Maybe
To open, close or operate any bank, building society or other account	Yes	Maybe
To give access to financial information	Yes	Maybe
To claim, receive and use all benefits, pensions, allowances and rebates (unless the Department for Work and Pensions has already appointed someone and all parties agree that this appointment should continue)	Yes	Maybe
To receive any income, inheritance or other entitlement	Yes	Maybe

LPAs and Deputyships

Comparison of Attorney and Deputy Powers

Health and care powers (non-exhaustive list)	Attorneys	Deputies
To deal with tax affairs	Yes	Maybe
To pay mortgage, rent and household expenses	Yes	Maybe
To insure, maintain and repair property	Yes	Maybe
To invest	Yes	Maybe
To make gifts	Yes	Maybe
To apply for any entitlement to funding for National Health Service care, social care or adaptations	Yes	Maybe
To use money to buy a vehicle or any equipment or other help the vulnerable person may need	Yes	Maybe
To repay interest or capital on a loan	Yes	Maybe
To carry on a profession, trade or business	Yes	Maybe

Contact us for help



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