

Lasting Powers of Attorney

Do you need to consider making a Lasting Power of Attorney?

Have you ever considered what would happen if you became mentally or physically incapacitated? Unless you had made a Lasting Power of Attorney before the situation arose, then an application to a body called "*The Court of Protection*" might have to be made for the appointment of a Deputy, who would then deal with the day-to-day administration of your financial affairs and/or make decisions concerning your care, treatment and welfare on your behalf.

When Powers of Attorney are needed

People can become mentally or physically incapacitated for a number of reasons; injury, disability, ill health or simply old age. Unfortunately, it could happen to any of us. With people living longer, mental incapacity and dementia are increasingly becoming common problems for elderly people and their families.

Why LPAs?

There are several disadvantages if a Deputy is appointed. The Court retains ultimate control over the incapacitated person's finances. Major decisions regarding financial matters, (e.g. sales of investments and the sale of a property) generally have to be referred to the Court and often any substantial cash balances are held by the Court and not the Deputy. The Deputy will usually have to send annual accounts to the Court. The ability of the Deputy to make decisions about the incapacitated person's care and medical treatment can also be restricted.

Although the appointment of a Deputy is designed to offer maximum protection to the incapacitated person, the system

can be expensive and difficult for the Deputy to operate. It is also impossible for the person who is incapacitated to choose the person who is appointed as their Deputy as the appointment will be made for them by the Court of Protection. It is not necessary to make an application for the appointment of a Deputy if a valid Lasting Power of Attorney has been signed before mental or physical capacity is lost.

What are LPAs?

A Lasting Power of Attorney ("LPA") is a document appointing someone to deal with your affairs on your behalf if you lose mental or physical capacity. There are two kinds of LPA; a "Property and Financial Affairs LPA" and a "Health and Welfare LPA".

A Health and Welfare LPA enables your Attorney to make decisions about your health, welfare and care on your behalf if you become incapacitated. It is possible to give your Attorney power to refuse treatment that may prolong your life if you become terminally ill when they feel that this would merely prolong your suffering. You can choose whether or not to give your Attorney this power.

A Property and Financial Affairs LPA enables a person you trust such as a relative or close friend (your "Attorney") to manage your finances, property and investments on your behalf if you become incapacitated, and also to pay any bills, debts and costs that may become due such as expenses associated with care. Your Attorney could also use your money to preserve your assets, for example by repairing and maintaining your home, and apply on your behalf for any state benefits to which you may be entitled.

We strongly recommend that everyone considers making a Lasting Power of Attorney. It enables you to choose the person or persons who will handle your financial affairs should you ever be unable to do so yourself and they will be able to do this without the complication of a Court application, which will save your family and friends uncertainty, trouble and worry at a difficult time, not to mention considerable expense.

Please call any of our Partners or solicitors in our Private Client Department on 01233 625711 if you would like to talk about making a Lasting Power of Attorney or email them at rhr@hallettandco.co.uk