

HEALTH & WELFARE

What is this and why should I make one?

A Lasting Power of Attorney (LPA) for health and welfare is a legal document that lets you (the donor) choose trusted people (attorneys) to make decisions relating to your health and wellbeing on your behalf, if there comes a time when you can no longer make decisions for yourself.

What powers will my attorney have under an LPA for health and welfare?

This gives your attorneys powers to deal with all matters related to your health and wellbeing for example, giving consent to treatment, moving into a care home and day to day living decisions such as clothing and diet. These decisions can only be made by your attorney once you no longer have mental capacity to do so yourself.

The health and welfare LPA has a specific section relating to life sustaining treatment where you can choose whether you wish for your attorneys to be able to make the decision to accept or refuse medical treatment to sustain your life or whether this should be for the medical professionals to decide.

This document does not give your attorneys power to make decisions in relation to your finances and property. If you wish to appoint your attorneys to make decisions relating to your property and finances then you would need to have a Lasting Power of Attorney for property and financial affairs drawn up also.

Who can be an attorney and what must they do?

Anyone aged 18 or over, they can be a spouse, civil partner, a family member, a close friend or a professional such as a solicitor. An attorney always has to act in the

donor's best interests and follow the Mental Capacity Act Code of Practice which sets out five basic principles that an attorney must follow when working out whether and how to act on the donor's behalf.

If I lose mental capacity and I do not have an LPA for health and welfare what would happen?

If you no longer have mental capacity and do not have a registered LPA for health and welfare, your next of kin do not have an automatic legal right to discuss your medical care or make decisions on your behalf. In this situation, the carers and medical staff looking after you will be able to make decisions which they deem to be in your best interests even if this differs from the wishes of your family.

Should your family disagree with the decisions being made by the medical professionals, it would be necessary for them to make an application to the Court of Protection for an emergency order, a one-off decision or, for more long term care, for a Deputy to be appointed. The application to the Court for the appointment of a Deputy is a much more complicated, time consuming and expensive process than appointing an attorney for you and is time consuming so is not an ideal situation.