

PROPERTY & FINANCIAL AFFAIRS

What is this and why should I make one?

A Lasting Power of Attorney (LPA) for property and financial affairs is a legal document that lets you (the donor) choose trusted people (attorneys) to make financial decisions 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 property & financial affairs?

This gives your attorneys powers to deal with all matters related to your finances and property. They would have the same powers to deal with your finances as you have while you have mental capacity. This includes dealing with looking after your day-to-day matters such as running your bank accounts, how your money might be invested and selling your property. This document does not give your attorneys power to make decisions in relation to your health and welfare. If you wish to appoint your attorneys to make decisions relating to your health and welfare then you would need to have a Lasting Power of Attorney for Health and Welfare drawn up also.

Can an LPA for property and financial affairs give my attorney (s) power to deal with my investment portfolio?

If you manage your investment portfolio yourself then your attorney(s) will have power to make all decisions with regard to your investments. However, many people

delegate the running of their portfolio to an investment manager who acts on a discretionary basis where they make decisions without reference to the portfolio owner. If your investments are dealt with in this way then your attorneys would not be able to continue with this arrangement without a specific power being included in your LPA for property and financial affairs. We routinely include this provision in the LPAs we prepare.

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 undischarged bankrupt or a person subject to a debt relief order cannot be an attorney under an LPA for property and financial affairs. 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 property and financial affairs what would happen?

If you no longer have mental capacity then it would be necessary for an application to be made to the Court of Protection for a deputy to be appointed to deal with your financial affairs. If there is no-one able or willing to be appointed within your family, then a professional deputy will be appointed by the Court. 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.