

Lasting Power of Attorney: Information

Please read through pages 1-5 and complete the relevant questionnaire boxes on pages 7-8. It would be a good idea to use a pencil when you first go through the form, in case you change your mind. Take your time.

A Lasting Power of Attorney (LPA) is a legal document that lets someone (the donor) appoint one or more people (attorneys) to help them make decisions on their behalf. This gives the donor more control over what happens to you if, for example, you have an accident or an illness and can't make decisions at the time (you "lack mental capacity"). A loss of capacity can be temporary or permanent. As an example, if you are concussed for several hours following an car accident, you would be deemed to "lack mental capacity" and your Power of Attorney could make life saving decisions or carry out your wishes regarding what to do in that situation. If you then recovered without any significant brain damage, you would regain capacity.

The "donor" is the person who wants to appoint others to help them. The donor must be 18 and have mental capacity. Please provide the details of the donor in **box 1**.

There are 2 types of LPA, detailed below. You can choose to make either one, or both at the same time.

Property and Financial affairs LPA lets your attorney:

- ❖ manage your bank or building society account for you
- ❖ pay your bills and set up direct debits
- ❖ collect your benefits or pension on your behalf
- ❖ sell your home or any of your possessions

It can be used either as soon as it's registered - with your consent, or only for when you lose mental capacity.

Most donors choose "as soon as it's registered" as its considered more practical, but it is your choice.

If you want to make this LPA, please fill in **box 2**.

Health and Welfare LPA lets your attorney decide for you:

- ❖ your daily routine, e.g. washing, dressing, eating
- ❖ medical care and what medicines you should take
- ❖ moving into a care home or allowing home-carers
- ❖ life-sustaining treatment or continuing life-support

It can only be used when the donor lacks mental capacity.

If you want to make this LPA, please fill in **box 3**.

Your Attorney(s)

You can have one or more attorneys. Your attorney(s) can be anyone 18 or over, as long as they have mental capacity to make their own decisions. However, you can't choose someone who is subject to a Debt Relief Order or is bankrupt for a Property and Financial Affairs LPA.

Please complete **box 4** giving details of your attorney(s).

If you are appointing more than one person, you must decide how they'll make decisions. The three options are below. Choose the option you want to apply in **box 5**.

1) **Separately OR Together / "Jointly and Severally"** - means attorneys can make decisions on their own or with other attorneys if more are present.

2) **Together / "Jointly"** - no decision will be made and take effect unless all attorneys unanimously agree.

3) **SOME "Jointly"; & OTHERS "Jointly and Severally"** -

If you choose to have some decisions that must be agreed "jointly", and others that can be agreed "jointly and severally", please attach another sheet to this form explaining which decisions you want to be made jointly. Please be as clear as possible. Be aware though that you may not be able to register your LPA if this becomes too complicated to operate.

Concerns about Attorney(s)

The Office of the Public Guardian [OPG] does not supervise attorneys. However, if someone believes your attorneys are not acting in your best interests, they can raise concerns with OPG. The OPG or other organisations, such as the police or social services, may investigate.

Replacement Attorney(s)

You can nominate other person(s) who would step in to replace your original attorney(s), if your original attorney(s) become unable to act anymore. This isn't a requirement, but it is a very good idea to have one. Please provide details of any you want in **box 6**.

If you have more than one original attorney, when replacement attorney(s) can step in will depend on whether you chose the original attorneys to make decisions "Jointly and Severally" or "Jointly".

1) **"Jointly and Severally"** - you have a choice of three options about when your replacement attorneys will step in. Pick only one and indicate your choice in **box 7**:

- ❖ They all step in when ONE original attorney can't act;
- ❖ All step in, but when ALL original attorneys can't act;
- ❖ They step in using a certain order, or replace specific original attorneys, based on your instructions. If you

choose this, please explain what order you want on an additional sheet and be as clear as possible.

2) **"Jointly"** - Your replacement attorneys will step in to replace ALL the original attorneys if just ONE of your original attorneys can no longer act.

3) **SOME "Jointly"; OTHERS "Jointly and Severally"** - Your replacement attorneys will ALL step in when ONE of your attorneys can no longer act. For the decisions that you specified to be made jointly, from now on only the replacement attorneys will make these. But the decisions you said could be made jointly and severally, any of the remaining original or replacements attorneys can decide.

People to Notify

This is an extra, optional safeguard procedure. If you think there are other people who should know you are making an LPA who are not already involved, you can choose to 'notify' up to 5 people of your LPA. If you do, please tell us in box 8. They can object to the OPG, but they must object on certain applicable grounds.

Registering your LPA

An LPA must be registered for it to have legal effect. The donor or any attorney can register it - the donor will be told if an attorney does and you can object to the registration. It is recommended the donor registers the LPA, as this provides a simpler registration. It takes 8-10 weeks to register an LPA if there are no mistakes. We will apply online, which is by far the quickest way, although we still need to print off the form for everyone to sign and have it witnessed.

The donor, each attorney and replacement attorney must have their signature witnessed, similar to witnessing a deed. Anyone can be a witness as long as they are 18, apart from:

- Attorneys/replacement attorneys cannot witness a donor,
- A Donor cannot witness attorneys/replacement attorneys

In addition to a witness, the donor must get a **Certificated Provider** who can confirm that you understand your LPA and you are making it of your own free will. They must be 18 or over. It is recommended you use Ferns Solicitors as your Certified Provider. This is the simplest way to complete the requirement. However, those who can be your Certified Provider are detailed below.

You can choose either:

1) **A person who has known you WELL personally for at least 2 years and is NOT a person on the list below:**

Any of your attorneys or replacement attorneys for this or any other LPA or enduring power of attorney; Your/Attorney's business partner;
Your/Attorney's employee;

Members of your family or any Attorneys' families - including in-laws and step-relations; Anyone running/working for a care home where you live, or anyone in the care worker's family;

An unmarried partner of you or any of your attorneys; Anyone running or working for a trust corporation appointed as an attorney in this LPA

2) **A person with relevant professional skills and expertise, such as doctors and GPs, nurses, social workers, solicitors and barristers. This is why we highly recommend we act as your Certified Provider.**

If you do not want Ferns Solicitors to be your Certified Provider, please inform us who you want instead in **box 9**.

Cost

It costs £92 to register an LPA at the Office of the Public Guardian (OPG) unless you get a reduction or exemption. Therefore, if you are registering both LPAs at the same time, the fee payable is £184.

Ferns Solicitors fees in preparing your LPA and acting as Certified Provider is £250 plus VAT (£300) for each LPA, or £370 plus VAT (£444) for doing two.

If two people are jointly making both LPAs (i.e. two Property and Financial affairs LPAs and two Health and Welfare LPAs) at the same time and the attorneys are the same, we charge a reduced fee of £690 plus VAT (£828).

You can get a 50% reduction or exemptions on the OPG fee. Reductions only apply if the donor is registering.

If the donor receives certain means-tested benefits when the application is made, they can apply for an exemption. If the donor's gross annual income is less than £12,000 or receives Universal Credit, they may be eligible for a 50% reduction of the fee.

If you think you are eligible for a reduction or exemption, let us know and we can provide you with the LPA120 form for you to fill in and collate the relevant supporting documents. The form is self-explanatory.

If you want further advice from us on reductions or exemptions, or want us to assist you in completing the LPA120 form, we charge a further £45 plus VAT (£54) fee.

Copies of ID and Proof of Address

We will need to see an original and take a copy of either a passport or driving licence for the donor and all attorneys or replacement attorneys. We will also need to see a utility or Council tax bill or bank statement dated within the last three months (as proof of address) for the donor and all attorneys or replacement attorneys. If you receive these electronically, then you can email these to us.

Any Specific Instructions

You can leave specific instructions for your attorneys and replacement attorneys in certain situations e.g. turn off a life-sustaining machine if you need this to live. If you want to, please write these on another sheet.

The Original Form vs Copies

Once your LPA is registered, the donor can confirm that a copy of your LPA is genuine by 'certifying' it if you're still have mental capacity. Solicitors or Notaries can also certify copies if the donor is not able to. You or your attorney can use a certified copy to register your LPA if you don't have the original form. Your attorney can also use it in the same way as the original - to prove they've got permission to make decisions on your behalf, such as to manage your bank account.

Amending or Ending LPAs

You can end or change your LPA even if it's been registered, as long as you still have mental capacity. You must make a written statement called a 'deed of revocation' and send it to the OPG.

As well as choosing to end your LPA, it ends if you die. It may also end if your attorney(s) die, or if your attorney(s):

- loses mental capacity
- divorces you/ends your civil partnership if they're your partner
- is removed by the Court of Protection
- becomes bankrupt or subject to a Debt Relief Order (DRO) if property and financial affairs LPA.

This is dependent on how many attorneys and replacement attorneys you have and how you've chosen them to make decisions. Some examples below show what happens:

- You choose your attorneys to make all decisions 'jointly' with no replacement attorneys, and one dies before you. YOUR LPA ENDS
- You have one attorney and no replacement attorneys. That attorney dies before you. YOUR LPA ENDS
- You have two attorneys that decide 'jointly and severally'. One attorney is your partner. Subsequently you divorce and your partner stops being your attorney. The other attorney carries on and YOUR LPA CONTINUES.

- You choose your attorneys to make all decisions 'jointly', with replacement attorneys. One attorney dies, and all attorneys cease to act and are replaced by the replacement attorneys. YOUR LPA CONTINUES

Other

You should also consider having a Will in place so that you can make arrangements for your estate to be distributed according to your wishes. If you "lack mental capacity" you cannot make a will so it is important to get this done.

Signature..... **Date:** DD / MM / YY

TERMS

I HAVE READ, SIGNED AND DATED THE FOLLOWING FORM AND UNDERSTAND ALL THE INFORMATION CONTAINED WITHIN IT. I UNDERSTAND THAT BY CREATING A LASTING POWER OF ATTORNEY I GIVE ANY ATTORNEY OR REPLACEMENT ATTORNEY I APPOINT THE LEGAL POWER TO MAKE DECISIONS FOR ME IN ACCORDANCE WITH THE LEGAL POWERS AND STRUCTURES GIVEN TO THEM IN THE MENTAL CAPACITY ACT 2005, S9-14.

I INSTRUCT TO MAKE MY LASTING POWER OF ATTORNEY AND GIVE ALL MY ATTORNEYS AND REPLACEMENT ATTORNEYS THE LEGAL POWER GIVEN TO THEM IN THE MENTAL CAPACITY ACT 2005, S 9-14, SUBJECT TO AND IN ACCORDANCE WITH THE INSTRUCTIONS, STRUCTURES AND PROCESSES I HAVE INDICATED IN THE ATTACHED QUESTIONNAIRE WHICH I HAVE SIGNED AND DATED

I INSTRUCT FERNS SOLICITORS OF 112, CLAPHAM HIGH STREET, SW4 7UJ TO CREATE AND REGISTER MY LASTING POWER OF ATTORNEY FOR ME WITH THE OFFICE OF THE PUBLIC GUARDIAN USING THE FOLLOWING INSTRUCTIONS I HAVE INDICATED AND HAVING FULL KNOWLEDGE AND UNDERSTANDING OF THE FORM AND HOW A LASTING POWER OF ATTORNEY AFFECT MY RIGHTS, LIBERTIES AND FREEDOMS

I SIGN BELOW INDICATING I AGREE TO ALL THE ABOVE STATEMENTS AND THAT I MAKE THIS LASTING POWER OF ATTORNEY OF MY OWN FREE WILL, FREE FROM DURESS AND UNDUE INFLUENCE BY ANY PERSONS WHOEVER

SIGNATURE:

PRINTED NAME:

DATE: