
Lasting Powers of Attorney

A Lasting Power of Attorney (LPA) lets you appoint someone to make decisions on your behalf. It is usually used when someone is unable to make their own decisions, and needs to be made long in advance of this happening.

Anyone over the age of 18 can make a Lasting Power of Attorney. They are very practical and useful documents. LPAs ensure that should you be unable to make decisions for yourself, there is always someone chosen by you who can step in.

If you don't make an LPA then no one can automatically assume this authority, and the matter could end up going to Court. It would then be the Court that decided who could act for you and this can be expensive and take a long time. This is the case, even if you have joint accounts with someone, such as your spouse.

There are 2 types of LPAs

- **Health & Care** which lets you choose 1 person or more to make decisions about things like your daily routine (e.g. what to eat and what to wear), medical care, moving into a care home, refusing life sustaining treatment;
- **Financial** lets you choose 1 person or more to make decisions about money and property for you. For example, paying bills, collecting your benefits, selling your home.

It is important to remember that a Health and Care power can only be used if you become unable to make your own decisions; a Financial Power can be used at any time upon your direction, unless you say otherwise.

This means that if you simply needed someone to make decisions for you because you were out of the country for a period of time for example, they could do so if you asked them to.

You can choose to make one or both of these powers and we can take you through the options available to you and the paperwork involved to make sure that you get it right.

Special Consideration for Business Clients

As well as being important for individuals, it is also essential for business owners to make LPAs to ensure the smooth running of the business in the event of the unexpected.

Business continuity is a key element in business planning and you must take steps to ensure that if you could not take care of the day-to-day running of the business, you have someone you trust, and who has the relevant skills, to assume this role.

Sole Trader or Partnership

If you are a sole trader or in a partnership, one Lasting Power of Attorney for finances may be adequate to appoint someone to manage your affairs if the need arose, unless you wished to appoint different people to manage your personal and business interests.

Limited Company

If you are a limited company, then because this is a distinct legal entity, special considerations need to be made.

The Articles to your company, which set out the basic management and administrative structure of the business, likely say that your appointment of director would come to an end if you were unable to act because of accident or illness.

Although it is not possible to delegate your functions as a *director* using a Lasting Power of Attorney, it is likely that you will also be a *shareholder* in the business. This being the case, you will need to give serious thought to appointing an Attorney in a Lasting Power of Attorney for finances, specifically drafted to cover business decisions, so that this person could vote on your behalf.

This power to vote would enable your Attorney to vote in relation to the appointment of a new director to replace you, if necessary, as well as in respect to other important business decisions.

A replacement Director in principle could even be your Attorney, if that enabled the business to be properly managed and there were no conflicts of interest. This keeps you in the driving seat as your Attorney will be familiar with your wishes and goals in relation to the business, and be able to act at all times in your best interest.

Registration

A Lasting Power of Attorney can only be used if it has been registered with the Office of the Public Guardian for which there is a fee.

It can take up to 8 weeks to register your Lasting Power of Attorney. You can cancel a Lasting Power of Attorney at any time, even if it has been registered, as long as you still have the capacity to do so.

The fee payable to the Office of the Public Guardian for registering each LPA is currently £82. In some cases, you may be entitled to a fee exemption or reduction, dependent on your financial circumstances.

You do not have to register the document straightaway but we strongly recommend that you do.

Our Charges

Our charges start from just £425 plus vat for a Lasting Power of Attorney.

There is also a small postage charge, as we send all of our LPA applications to the OPG by secure post for your peace of mind.

If you'd like more information call **01904 866139**
or email hello@rochelegal.co.uk



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