

# Lasting power of attorney



A lasting power of attorney (LPA) is a legal document that allows you to appoint one or more people to make decisions and/or act on your behalf. This can be at a time when you are incapacitated by illness or an accident, when you are suffering from a loss of mental capacity, or even while you are out of the country.

## At a glance

- A lasting power of attorney (LPA) enables one or more people to act on your behalf when you are unable to do so
- There are two types of LPA – one relates to property and finances, the other to health and welfare
- You should choose attorneys who you completely trust to act in your best interests
- Attorneys can only start acting on your behalf once the LPA has been registered with the Office of the Public Guardian (OPG)
- You can cancel an LPA at any time, as long as you have the capacity to do so

## There are two types of LPA:

- **Property and financial affairs** – this gives your attorney(s) the power to deal with matters such as your bank accounts, pensions, investments or the sale of your house. They can do this immediately, once the LPA has been registered with the Office of the Public Guardian (OPG) with your permission. If you wish your attorney(s) to act only after you have started losing or lost capacity, this needs to be stated under the restrictions section in the form.
- **Health and welfare** – this gives your attorney(s) the authority to make decisions such as what medical treatment you should receive, where you should live and whether or not you should receive life-sustaining treatment. The attorney(s) can only act once the LPA has been registered and when you have lost the capacity to make the decisions yourself.

## Why complete an LPA

If you fail to execute an LPA and lose mental capacity, the Court of Protection has the power to appoint someone to manage your financial affairs and your health and welfare on your behalf. This is a time-consuming and costly process and the court may not appoint the individual(s) you would have chosen

## What happens if I no longer want an LPA or I want to change my attorney(s)?

You can cancel an LPA at any time – provided you have capacity – regardless of whether or not it has been registered.

If you want to change the identity of your attorney(s), you will need to make a new LPA.

## Who can make an LPA?

Anyone over the age of 18 with the requisite mental capacity can create an LPA.

## Who can act as an attorney?

Anyone over the age of 18 who is not bankrupt and who you completely trust to act in your best interests. They can be a member of your family, a friend or a professional. You can appoint a minimum of one and a maximum of four people to act.

Organisations such as the Mills & Reeve trust corporation can be appointed as an attorney for your property and financial affairs. An individual has to be appointed for a health and welfare LPA.

## How do I put an LPA in place?

If you wish to instruct us, you will need to complete a questionnaire in order for us to draft the documents on your behalf, and we will also provide advice and assistance, including registering the LPA and preparing the relevant notices (if required). We can arrange a meeting in one of our offices or visit you in your own home to act as a witness to your signature or as a certificate provider.

## What is a certificate provider?

This is an independent third party such as a doctor, solicitor or friend who has known you for at least two years. The certificate provider must certify that you have the requisite mental capacity to execute the LPA and that you have not been unduly influenced by anyone else into executing the document. We cannot act as your certificate provider if we are appointed to act as your attorney.

## What is the notification process?

The notification process (which is not compulsory) is designed to give you added protection as it ensures that someone of your choosing is notified if the LPA is registered with the OPG. In particular, if the attorney decides to register and act prematurely against your wishes. Under the LPA you can, if you wish, nominate a minimum of one and a maximum of five people to be notified at the time the LPA is registered by you or your attorney(s).

## Existing enduring powers of attorney

Before 2007, the system was different and the powers of attorney available were known as enduring powers of attorney (EPA). EPAs properly executed before October 2007 will continue to be valid, but only in respect of property and finances.

If you are in any doubt about the validity of your power of attorney, please contact us for advice.

## Meet our experts

Our experienced team operates nationwide. For further advice, please get in touch with your local contact.



**John Grundy**  
Partner | Birmingham  
T +44(0)121 456 8212  
john.grundy@mills-reeve.com



**Andrew Playle**  
Partner | Leeds  
T +44(0)113 388 8470  
andrew.playle@mills-reeve.com



**Chris Belcher**  
Partner | Cambridge  
T +44(0)1223 222 618  
chris.belcher@mills-reeve.com



**Virginia Edgecombe**  
Partner | Norwich  
T +44(0)1603 693 293  
virginia.edgecombe@mills-reeve.com



**Sarah Cormack**  
Partner | London  
T +44(0)20 7648 9232  
sarah.cormack@mills-reeve.com



**Zahra Siddiqui**  
Partner | Manchester  
T: +44(0)161 234 8862  
E: zahra.siddiqui@mills-reeve.com

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