

Lasting Power of Attorney (LPA)

Patient Information Leaflet

What is a lasting power of attorney (LPA)?

A lasting power of attorney is a legal means of giving another person(s) the authority to make certain decisions on your behalf.

An LPA can cover property and financial affairs. It can also be used to authorise a person(s) to make decisions about your health and welfare.

A lasting power of attorney form must be registered with the Office of the Public Guardian before it is valid. This can be done at any time.

When Bill was diagnosed with dementia at 82, he wanted to be sure that his daughter would be able to make decisions about his healthcare when he was no longer able to do so. Bill registered an LPA for health and welfare with the Office of the Public Guardian.

Your attorney

Attorneys must be at least 18 years old. For **property and affairs** the attorney may be either an individual or a trust corporation. If an attorney becomes bankrupt they will no longer be able to act on your behalf. However someone who is bankrupt can still act as an attorney for your **health and welfare**.

You can choose one attorney or several. Your attorneys will either work 'jointly' where they have to agree any decisions or 'severally' where they work independently of each – or both.

The LPA must make clear which attorney makes what decision, and if it is jointly or separately.

Health and welfare LPA

A health and welfare LPA may be used to give an attorney the power to make decisions about:

- Day to day care (eg washing, dressing, eating.)
- Consenting or refusing medical care.
- Moving into a care home, life-sustaining treatment, daily activities.

You can restrict the decisions that you want to give to your attorney, for example you may wish your attorney to make decisions about your social care, where you will live, but not about decisions to refuse life sustaining treatment.

An attorney can only consent to or refuse treatment if they are given specific authority to do this in the LPA.

If you have already made an advance decision to refuse treatment this will be overtaken by the LPA if it gives the attorney the authority to consent or to refuse treatment on your behalf.

A welfare LPA can only be used when you no longer have capacity to make the decisions agreed in the LPA for yourself. All decisions must be made in your best interests.

If healthcare staff disagree with your attorneys view of what is in your best interest they can discuss the case with other medical professionals.

If they cannot resolve their concerns then an application may be made to the Court of Protection to settle the disagreement.

Property and affairs LPA

Property and affairs attorneys may make decisions about your financial affairs even if you still have capacity to make these decisions for yourself.

For this to happen the LPA must be registered with the Office of the Public Guardian and authority given to make a decision(s) whether you have capacity or not.

An LPA can be made if you have fluctuating capacity, and sometimes lack the ability to make decisions for yourself. In these cases the attorney should make every effort to help you make decisions for yourself where this is possible.

Attorneys have a duty to follow the Mental Capacity Act 2005 statutory principles, to make decisions in the donor's best interests. An attorney has no authority to deprive a donor of their liberty. Any deprivation of liberty must be authorised.

How to make an LPA?

There are a series of forms that can be completed online or printed from the Office of the Public Guardian

Office of the Public:
customerservices@PublicGuardian.gsi.gov.uk

Telephone: 0300 456 0300
Textphone: 0115 934 2778

You should contact the Office of the Public Guardian if you need any help or have any questions about your LPA.

It will cost £110 to register an LPA, but you may be eligible for an exemption or remission based on your financial circumstances.

The Court of Protection has the authority to determine whether an LPA is valid and may remove an attorney in certain circumstances. The court may stop an LPA being registered if it is felt that the LPA was made as a result of pressure or fraud.

Date Published: June 2015

By Barnet, Enfield and Haringey Clinical Commissioning Groups.