

Setting up a Power of Attorney: A step by step guide



A Lasting Power of Attorney is an important document giving someone the authority to deal with your affairs, should you ever become unable to do so yourself.

There are two types of Lasting Power of Attorney (LPA), one that deals with property and financial affairs and one that deals with health and welfare. If you make a property and financial affairs LPA, you can register it for use at any time, should you wish to, so that your attorney can help you even if you still have the capacity to manage yourself. This can be useful if you want assistance, for example, by getting your attorney to go to the bank on your behalf. A health and welfare LPA can only be registered for use once someone has lost the ability to deal with their own affairs.

Choosing an attorney

You will need to decide whom you would like to act on your behalf, should it ever be necessary. You can choose one or more attorneys and give them consent to act independently or require them to act together. It is generally easier if attorneys are able to act independently.

You should choose someone whom you trust implicitly, and ideally someone who is younger than you, otherwise there is a risk that they may not be able to help you when the time comes.

Filling in the forms

Following completion of the LPA forms and they must be signed by someone who is able to certify that you have the mental capacity to understand what you are signing. You and your attorneys will also need to sign and you should list the names of people whom you wish to be told that you are intending to register an LPA. These people will be sent a form of notification. You can choose one or more people, but no more than five. This is a safeguard to ensure that you are not being unduly influenced

into signing the LPA. If you do not have people whom you would like to be told, then it is possible for a second professional to provide a certificate confirming that you have the mental capacity to make the LPA.

Registering the LPA

The LPA forms will then be sent to the Office of the Public Guardian for registration. They will register the forms and send you a stamped copy for your records. The LPA is only valid once it has been stamped.

Once this has been done, you can store your LPA until it is needed. It could be placed with your own important papers or passed to your attorney for safekeeping.

It is not essential to register the LPA as soon as it has been signed, however it does mean that if you do this, it will be ready for use as soon as it is needed. Otherwise, there could be a delay while your attorney waits for the Office of the Public Guardian to process the forms, which is, at present, taking three months or more.

It also means that any errors on the form can be dealt with in advance of the time when the LPA is needed. If errors arise after the person making the LPA has lost capacity, then potentially they may be without an LPA if the errors mean that it is invalid.

Advance registration also gives relatives or friends of the person making the LPA the opportunity to raise any objections and to have discussions with the donor to try and avoid disputes arising.

If you would like to speak to Helen Algar contact Suffolk Will Services today by email to info@suffolkwillservices.co.uk or by telephone 07415 135449 or 01473 808499.