



**Steeles Law**  
Solicitors



## **Preparation is key**

**What you need to know about Lasting Powers of Attorney**

**We all know that we should have a Will, but many of us do not think about making a Lasting Power of Attorney (LPA), which is equally as important as a Will. Like a Will, it is essential you make an LPA as early as possible, to prepare for every eventuality.**

An LPA is a legal document allowing you to appoint someone you trust (your Attorney) to make decisions on your behalf should you become mentally incapable of dealing with your own affairs. Many believe that they do not need an LPA until they are elderly. However this is not the case, you can become mentally incapable of dealing with your own affairs if you have an accident or through illness or mental confusion.

If you do not make an LPA and you become mentally incapable of managing your financial affairs, somebody (usually a close relative) must apply to the Court of Protection for a 'Deputy' to be appointed to manage your financial affairs. The application is lengthy and can take several months to process.

In addition there are many Court fees to consider, including an application fee, a fee on appointment of the Deputy, and an annual administration fee. There are additional fees for further directions e.g. sale of property.

**There are two types of LPA, and you can choose whether to make one or both types:**

### **Property and Affairs LPA**

This allows your Attorney to make decisions about your property and financial affairs. This may include paying your bills and potentially, selling your house. You can put restrictions and conditions on your Attorney's powers in the LPA if you wish.

**Kate Garraway speaks out about the financial difficulties she is faced when her husband, Derek Draper, fell into a Covid-19 related coma**

Kate Garraway's financial issues demonstrates the importance of Lasting Powers of Attorney and a timely reminder that they are not just for later life! Derek was diagnosed with Covid-19 back in March 2020 and was admitted to hospital.

Since Derek was taken ill, Kate has had to juggle looking after their two children and managing the family finances. She has made no secret of the challenges she has faced as she spoke out publicly on Good Morning Britain.

Kate faced practical difficulties in accessing their financial affairs as these are registered in Derek's sole name. This includes their bank accounts, insurance policies and their family car. Kate found she was unable to speak to anyone about them as she was not named on the accounts. Kate confirmed that she did not hold a Lasting Power of Attorney (LPA) for Derek which would have alleviated the problems she faces.

## Personal Welfare LPA

This allows your Attorney to make decisions about your personal welfare, which may include giving or refusing consent to medical treatment. Decisions under a Personal Welfare LPA can only be made on your behalf when you lack the capacity to make them yourself.

Many people also believe that their spouse, registered civil partner or 'next of kin' can automatically make these decisions, however this is not the case. You might ask them to do certain things, but if you become unable to give instructions, they will not have the authority to continue to handle your financial and personal affairs or to make important decisions. This even applies to joint accounts.

By making an LPA whilst you are mentally alert you have the knowledge that, should you become ill and cannot deal with your own affairs, your Attorney will be able to step in and look after everything for you until you recover.

We would recommend that you have your LPA drawn up by a professional legal practitioner. Just like a Will there are certain stipulations which need to be met to make an LPA valid.

Before making an LPA, consider who you want to appoint as your Attorney.

Once you have made an LPA it cannot be used until it has been registered with the Office of the Public Guardian (OPG). Your LPA can be registered at any time, but the benefit of registering it immediately after it is made is that your Attorney can use it as soon as the need arises, rather than having to wait for registration to be completed.

**At Steeles Law we would always recommend that you consider making an LPA. We are happy for you to ask us any questions and should you wish to make one please contact us.**

## Power of Attorney

Your Attorney can be anyone over 18 who is not bankrupt. It is vital that you have complete trust in your Attorney, as they will be able to make all decisions about your property and finances and/or personal welfare.

You can choose as many Attorneys as you wish as well as deciding on any restrictions, and whether they act together or independently of each other.

You can name replacements in case one of your Attorneys dies or is unable to act, and you can also name people to be notified when application is made to register your LPA. You can appoint different Attorneys in each LPA.

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