

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.

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.



BBC's The One Show highlights the importance of making an Lasting Power of Attorney

The One Show viewer Heather had to battle to control the family finances after an accident left her husband in a coma.

Despite having both written wills, they had never made a Power of Attorney in case they became mentally incapacitated - meaning The Court of Protection took control of her husband's assets and she had to apply to access his bank accounts.

The Court of Protection was established by the Mental Capacity Act 2005 to protect the assets of vulnerable people.

Having a Power of Attorney in place could have saved Heather and her family significant money and distress.

Only 135,000 people in England and Wales have put in place a Lasting Power of Attorney in the last two years. That's less than 1% of the population!

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.

Here are a few comments made by our clients and the profession

"We have always appreciated Steeles' attention to detail and clarity."

Mr & Mrs W, Client Questionnaire

"Unfailingly efficient, helpful, and sympathetic on every occasion on which I've needed advice...I'm very grateful."

Mr M, Client Questionnaire

"Thanks for your understanding, caring way you dealt with our Will. We are very pleased and happy with the way it has all been sorted out for us. Thank you."

Mr & Mrs M, Client Questionnaire

"Impressive, sensitive, efficient and proactive."

The Legal 500, a leading independent guide to the legal profession.

Email: probate@steeleslaw.co.uk

Tel: Norwich 01603 598000, Diss 01379 652141 or
London 020 7421 1720

www.steeleslaw.co.uk

Lawrence House,
5 St Andrews Hill,
Norwich NR2 1AD

St Nicholas House,
3 St Nicholas St,
Diss IP22 4LB

154 Bishopsgate,
London EC2M 4LN

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.