

Lasting Power of Attorney

Information from Carers Bucks

A Lasting Power of Attorney (LPA) is a legal document that allows a person to appoint attorneys to act on their behalf and manage their affairs if they lose the capacity to do so. An LPA must be registered with the Office of the Public Guardian before it is legally recognised.

It is important to remember that an LPA must be set up while the person still has the mental capacity to choose who they would like to appoint as attorneys. Once they have lost mental capacity to make decisions because of, for example, dementia, an accident or serious mental illness, then a different process has to be followed and you as their carer would need to apply to the Court of Protection to become a 'deputy'. This is a time consuming and expensive process so it is advisable to plan ahead if you possibly can.

An LPA can be cancelled at any time, providing the person still has the mental capacity to do so.

There are two different types of LPA:

1. LPA for matters relating to property and affairs.

This allows the person to choose someone to make decisions about financial matters and the way property and affairs are managed. These decisions can be taken on their behalf whilst they still have capacity as well as when they lack capacity. As attorney you will be able to make decisions such as:

- * writing cheques and paying bills

Carers Bucks is an independent charity supporting family carers in Buckinghamshire. We work with a range of agencies and organisations to provide the best possible service to carers. Our funders include Bucks County Council. We work closely with our sister charity Carers Milton Keynes.

Contact Us

Our offices are open from 9am – 5pm Monday – Thursdays;
9am – 4.30pm Fridays.

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- * investing money
- * selling or renting property.

2. **LPA for matters relating to personal welfare.**

This allows the person to choose someone to make decisions about their healthcare and welfare. These decisions can only be taken on their behalf once they lack the capacity to do so themselves. If you are appointed attorney you may have to decide:

- * whether a care home or a nursing home is best for them and which one, or
- * whether the person can continue to live at home with help from social services.

You will also be able to decide if the person you are looking after should:

- * receive healthcare treatment; or
- * not receive a particular healthcare treatment, or
- * stop receiving a particular healthcare treatment.

It is usually better to appoint more than one person to act as attorney.

How to Apply

To apply for an LPA you must get an application pack from the Office of the Public Guardian (see contact details below). An LPA is a powerful and important legal document and you may wish to seek advice from a legal adviser with experience of preparing them. There are likely to be costs involved.

What are the problems if there is no LPA

If a person becomes incapable of making their own decisions and there is no LPA in place their finances could be frozen until the Court of Protection appoints a Deputy to manage their affairs. The person would have no control over who was appointed and family, carers and friends do not automatically have the right to take over their affairs.

Enduring Power of Attorney

LPAs replace Enduring Powers of Attorney but an EPA made before 1st October 2007 remains valid even if it was not registered. An EPA can be used, without being registered, if the person wants their attorneys to help them manage their affairs, as long as they still have capacity. If they do not have capacity the EPA must be registered with the OPG. Remember an EPA only relates to property and affairs. To give someone the authority to make decisions over healthcare and welfare a Personal Welfare LPA must be made.

Once signed an LPA should be stored safely (eg with other important documents such as wills) until it might be needed. An LPA can only be used once it has been registered with the OPG, but it is possible to do this immediately so that it can be used as soon as the need arises.

Further information

Office of the Public Guardian

PO Box 15118

Birmingham B16 6GX

Tel: 0300 456 0300 (Monday - Friday 9am - 5pm except

Wednesday 10am - 5pm)

www.publicguardian.gov.uk

Alzheimers Society (Bucks)

The Tower, 42 Wedgewood Street

Fairford Leys, Aylesbury HP19 7HL

Tel: 01296 331722

The Alzheimers Society have 2 factsheets: one on Enduring Power of Attorney and Lasting Powers of Attorney (472) and one on Mental Capacity (460). Copies are available from their website at www.alzheimers.org.uk or by contacting the local office – as above.