

# Lasting Powers of Attorney

## An explanation and summary of the benefits

Having invested the time, effort and money to write your Will to protect your wishes after you have passed away it is wise to consider protecting yourself during your lifetime.

In this respect the Lasting Power of Attorney should be regarded as being complimentary to your Will. The Lasting Power of Attorney protects you during your lifetime whilst your Will ensures that your wishes are followed after you have passed away.

The Lasting Power of Attorney is specifically designed to protect you during your lifetime should you ever lose capacity due to accident, illness, infirmity or old age (or if you just can't be bothered with the hassle of managing your own affairs at some stage in the future). Unfortunately one of those is likely to happen to most people. A Lasting Power of Attorney should be seen simply as a piece of insurance providing protection that you may need at some stage in the future and something that protects your wishes.

A Lasting Power of Attorney is very important if you are a couple but is absolutely vital if you are single.

The Office of the Public Guardian is the body that deals with the affairs of people who are not able to look after themselves and it is the Office of the Public Guardian that deals with all matters concerning Lasting Powers of Attorney.

For your protection and peace of mind the Lasting Power of Attorney comes with built in **safeguards** to protect you, the donor, and prevent abuse: -

Firstly, the Lasting Power of Attorney can **only** be used following registration (via the Office of the Public Guardian).

Secondly, as a final safeguard you can nominate a person(s) in the Lasting Power of Attorney document that has to be notified as part of the registration process - a "Named Person". The role of the Named Person is to object if they think the Lasting Power of Attorney should **not** be registered i.e. you are capable of managing your own affairs and the Lasting Power of Attorney does not need to be registered.

There are 4 main reasons that you should have your Lasting Power of Attorney created now - cost, delay, choice of attorney(s), and ability to deal with property.

### 1. Cost:

If you do not have an LPA and need one you will need to employ a solicitor to:

- (i) Draw up the document (£300-£500).
- (ii) Pay an application fee to the Office of the Public Guardian (£400).
- (iii) Have the solicitor attend the Office of the Public Guardian in London and make a personal application on your behalf (£2,000-£3,000).

## 2. Delay

If an application is only made when it is needed there will be a substantial period of time (at least 2 to 3 months when no-one will be able to deal with your affairs - even simple things like paying bills and accessing bank accounts become a major problem).

## 3. Choice of attorney(s)

If an application is made to the Office of the Public Guardian they can appoint whoever they see fit to act as your deputy to look after your affairs. That person could be a solicitor or accountant who you don't know and who would charge you for every single thing they did - writing letters, paying bills, filing annual accounts and so on.

## 4. Dealing with property

If you own property jointly or as Tenants-in-Common then if either party (Mr A) loses capacity the other (Mrs A) cannot give good title on her own. This means she would not be able to sell the property should she need to do so, as the Law of Property Act prevents Mrs A from signing on her own behalf as well as on behalf of Mr A. This is sensible as it ensures that Mrs A cannot do something Mr A doesn't want her to do.

The principal **benefits** of Lasting Powers of Attorney are as follows: -

- ❖ Nominating attorneys of **your** choice and saying how and when they are to act.
- ❖ Choosing a person you trust to act as your Named Person.
- ❖ Avoiding the cost of obtaining an Lasting Power of Attorney only when it becomes necessary.
- ❖ Avoiding the delay of obtaining an Lasting Power of Attorney only when it becomes necessary.
- ❖ Avoiding problems that could arise if you own property and don't have a Lasting Power of Attorney.
- ❖ Assistance with registration of the Lasting Power of Attorney.

A Lasting Power of Attorney **costs** under £200 per person and they are heavily discounted should you have Wills and Will Trusts as part of your package.

By comparison a solicitor will normally charge between £300 and £500 per person and many will not act in the capacity of Certificate Provider for you. We will do that for you free of charge as part of our standard service.