

## The Importance of a Lasting Power of Attorney



### What is an LPA?

An LPA is a document that lets someone, the 'Donor', give one or more people, known as the 'Attorney(s)', the legal authority to make decisions on their behalf. This would apply if the Donor ever lacks the physical or mental capacity to do so themselves or they choose not to make decisions for themselves for another reason. According to the Office of the Public Guardian, less than 1% of the adult UK population has an LPA.

In England and Wales, there are two types of LPA:

- **Health & welfare:** This can include things related to one's daily routine, medical care, decisions on moving to a care home or receiving life-sustaining treatments. This only applies when someone is unable to make their own decisions.
- **Property & finances:** This can include decisions related to managing one's bank account(s), paying bills, benefits or pension payments or selling one's home. This can apply as soon as it is registered, with the Donor's permission. To set up an LPA, you need to be at least 18 years old and have mental capacity (i.e. the ability to make your own decisions).

## What happens without an LPA?

If someone loses mental or physical capacity, it's often a significant emotional and psychological burden on their family. However, if a loved one doesn't have the legal authority to make decisions on their behalf, that burden intensifies.

For example, if someone has a joint bank account and they lose their mental capacity, a bank will likely freeze the account, blocking most transactions. They will only reinstate the account after the court has appointed someone, called a deputy, to handle financial responsibilities on the individual's behalf. This can be a long and expensive process, during which no money can leave the account to take care of bills or other family expenses.

Similarly, if decisions need to be made about medical treatment without an LPA in place, a family loses their authority to make those health-related decisions.

## LPAs and Estate Administration

An LPA can only be in effect while the Donor is alive. If the Donor passes away, the LPA is no longer in effect, meaning the Attorney(s) can no longer make decisions on behalf of the Donor nor control any assets. Upon death, the Will comes into effect and the Executor becomes responsible for administering the estate. If there is no Will, the rules of intestacy apply, and the appointed Administrator manages the estate.

The Attorney may or may not be the same person as the Executor, however, if there is no Will, the Attorney could apply to become the Administrator of the estate.

## WANT TO FIND OUT MORE?

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