

ADVERTISEMENT FEATURE

Lasting Powers of Attorney

YOU may have read articles in the press recently about changes to the way in which you can appoint someone to deal with your financial affairs or make decisions about your health and welfare.

Prior to October 2007, you could appoint an Attorney, or Attorneys, to act on your behalf in respect of your financial matters under an Enduring Power of Attorney (EPA). Since October however, EPAs have been replaced by Lasting Powers of Attorney (LPAs) - although if you made an EPA prior to October 2007 it will still be valid.

Whereas the old EPAs only allowed your Attorneys to deal with your financial matters, under the new system there are two types of LPA: one allowing your Attorneys to make decisions about your financial affairs and one allowing them to make decisions about your health and welfare.

There are also greater safeguards under the new system. Firstly, there is the requirement for

the LPA to be registered with the Office of the Public Guardian (OPG) before your Attorneys can act for you. Secondly, once the document has been registered, your Attorneys must consult you as far as possible before making any decision on your behalf.

Unfortunately, the requirement for registration before use has led to a backlog at the OPG of up to 13 weeks for LPAs to be registered. In addition, the more complex forms and legal guidance required under the new rules have inevitably increased the costs involved to put the document in place. Nevertheless, it is important to do an LPA for many reasons, notwithstanding the present delays with the new system.

As you get older you may become forgetful and ultimately lose the capacity to make decisions and deal with your financial affairs. It may become too much of a worry for you to deal with day-to-day bills and mounting paperwork and you may take the view that you would like

someone else to take over this role for you. Equally, there may be a situation where you become temporarily unable to manage your affairs because you are in hospital following illness or surgery.

More importantly, an LPA must be done whilst you still have capacity and regrettably, there are lots of people who leave it too late. Leaving matters until you are no longer capable of dealing with them for yourself will mean that your assets will be effectively 'frozen' and access to them only granted once an Order has been made by the Court authorising someone (known as a

'Deputy') to access your funds and deal with your finances on your behalf. In addition, the person appointed by the Court may not be the person you would have chosen had you made an LPA. This process is both lengthier and more expensive.

Acting now and arranging an LPA could save you valuable time in the future, and reduce the stress of having to think about your financial affairs should you find yourself in the unfortunate situation of being unable to deal with your affairs yourself.

An LPA does not need to be registered immediately and could be made in advance, with instructions for your Attorneys to register it and use the power only if you become unable to manage your affairs.

According to the OPG, extra resources have been brought in to speed up the registration process for LPAs and hopefully this will have some impact in the coming months.

In the meantime, if you or someone you know wishes to pass control of financial affairs to a loved one, acting now rather than leaving it until it is too late will mean you will have greater control in the process, and it will ensure that your loved one is able to act for you right away, should the need arise.

If you are already in a situation however where a loved one is unwell and requires assistance managing day-to-day finances and their affairs generally, we can help you make the necessary application to the OPG for Deputyship and guide you through the maze of forms and procedure that is required in order to get Court approval to help them.

If you would like any further advice or assistance with LPAs or making applications to Court for Deputyships, please contact Rachel J Smith.



Rachel J Smith F.Inst.L.Ex

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