



# What is an LPA?

## Lasting Powers of Attorney

Since 1st October 2007, you are no longer able to make an Enduring Power of Attorney (EPA), but if you have signed one before then, it will continue to be legal until cancelled by you or your death.

The Mental Capacity Act 2005 came into force on the 1st October 2007 and now allows you to make a Lasting Power of Attorney (LPA). This is a much longer document than an EPA and contains more safeguards against misuse. It also allows you to give treatment directions and appoint a welfare attorney.

There are two types of LPAs:

### Property & Affairs Lasting Power of Attorney

Allows you to plan ahead by choosing one or more persons you trust (your Attorneys) to make decisions and take appropriate actions on your behalf regarding your property and financial affairs.

It is quite usual for professional advisers to be appointed as well as people close to you.

Your Attorney or Attorneys can manage your finances and property whilst you still have capacity as well as when you lack capacity. For example, it may be easier for you to give someone the power to carry out tasks such as paying your bills or collecting your benefits or other income.

### Personal Welfare Lasting Power of Attorney

Allows you to plan ahead with regard to your personal healthcare and welfare by choosing one or more people to make decisions on your behalf. These personal welfare decisions can only be taken by somebody else (a close friend or family member) when you lack the ability to make decisions regarding your treatment or other personal matters for yourself; for example if you are unconscious or because of the onset of a condition such as dementia.

A Lasting Power of Attorney can be created at any time. This does not mean that the donor immediately foregoes the right to carry on dealing with their own affairs. They can go on doing this for as long as they are able to, or wish to do so. The important thing is that the Lasting Power of Attorney is ready to use in the future, should the donor become mentally incapable or feel they can no longer cope with managing things themselves.

A mentally capable donor can cancel a Lasting Power of Attorney at any time.





A Lasting Power of Attorney must be registered with the Office of the Public Guardian (OPG) before it can be used. An unregistered Power will not give the Attorney any legal powers to make a decision on behalf of the Donor.

The Donor can register the Lasting Power of Attorney while they have capacity, or the Attorney can apply to register the LPA at any time. The current registration fee is £110 per each Lasting Power of Attorney being registered. If your gross income is below £12,000 or, if you are in receipt of any means tested benefits, you may be entitled to a discount on this fee. The registration process is around twelve weeks provided there are no objections or queries with your application.

The advantage of taking this precaution is that you can choose who looks after your finances in the event that you are no longer able to do so yourself.

If you do not have a Lasting Power of Attorney, then if for any reason you suddenly become unable to manage your own affairs - eg:

- » You suffer an accident and are confined to bed or hospitalised
- » You suffer a more serious accident which permanently incapacitates you
- » You become mentally incapacitated as a result of old age or for some other reason

In these cases, the only way that your financial affairs can be managed is by an application (by a relative or other person close to you) to the Court of Protection.

This lengthy process can take up to ten months and cost up to £1,000, during which time your finances could be seriously damaged, and the person authorised to handle your affairs on your behalf is not only unlikely to be who you would have chosen, but may even be a Court Official - who can (and will) charge every time he or she acts for you.

*The information contained in this factsheet is based on our understanding of the working of the Court of Protection and the Office of the Public Guardian. Any rates, costs or timescales outside of Gemini Estate Planning's in-house services (such as the cost or time required for registering a Lasting Power of Attorney) are estimates and are therefore subject to change.*

