

## A GUIDE TO: **LASTING POWERS OF ATTORNEY**

A Lasting Power of Attorney (LPA) is a document allowing you to appoint individuals (attorneys) to act on your behalf, if you are no longer able to, or if you no longer want to make your own decisions.

Importantly, if you do not have LPAs in place, then the Court of Protection may appoint someone on your behalf, if you should lose the mental capacity to make your own decisions. This is known as a Deputyship application, which is a costly and inflexible process.

### **Types of Lasting Power of Attorney**

There are two types of Lasting Power of Attorney: one for Property and Financial Affairs, and another for Health and Welfare. These are separate documents. You do not have to prepare both types of LPA, though we advise all clients to do so.

### **Property and Financial Affairs**

This allows your appointed attorneys to make decisions about such things as:

- Controlling your bank accounts
- Paying bills
- Making investment decisions
- Buying or selling property
- Dealing with pensions

### **Health and Welfare**

This allows your appointed attorneys to make decisions about such things as:

- Medical treatment
- Where you live
- Life sustaining treatment
- Daily routine

### **Who should I appoint as my attorneys?**

Technically, you can appoint any number of attorneys, but we advise clients to consider between two and four. It is also not necessary for you to appoint the same attorneys under both documents.

You can also appoint replacement attorneys, who can step in if your primary attorneys are unable to act. You can decide how they are to act and when they are to act. We can tailor your LPA to record instructions and wishes for your attorneys to follow, or restrict certain powers.

It is important to appoint individuals you trust implicitly to act in your best interests. We understand that this can be difficult, and therefore it is possible to appoint a trusted professional adviser, such as solicitor or accountant to act upon your behalf.

You may also wish to consider appointing your spouse. If you are married or in a civil partnership, whilst your spouse or civil partner may be able to deal with some accounts you hold jointly, they will not be able to deal with sole named accounts, ISAs, pensions or property. An appropriately drafted LPA can give them the requisite authority.

### **When can my attorneys act?**

Your attorneys cannot act until the LPA document has been registered with the Office of the Public Guardian (OPG). Provided you still have the capacity to make your own decisions, you will always be allowed to do so, unless you decide to leave that decision to your attorney.

Your Attorneys could step in to act for a temporary situation, if for example, you are in hospital or abroad for a length of time, and need help paying bills or managing financial obligations. You may need to make longer-term plans if, you have been diagnosed with dementia and you may lose the mental capacity or ability to make your own decisions in the future.

Under the Property & Financial Affairs LPA your attorneys can act once the LPA is registered. However, you can restrict the power to only apply if you should lack the capacity to make decisions. Meanwhile, the Health and Welfare Attorneys can only use their powers if you are unable to make a decision yourself.

### **How We Can Help You**

Berensens are here to advise and guide you through the process of creating a valid Lasting Powers of Attorney.

This can include:

- Taking your detailed instructions to prepare a bespoke Lasting Power of Attorney to meet your requirements and help protect you when it is needed.
- Acting as a Certificate Provider. This is the person who can confirm that you understand the purpose of the LPA, and is required in every case.
- Guiding your appointed Attorneys in completing their paperwork, and of their duties going forwards.
- Registering your Lasting Power of Attorney with the Office of the Public Guardian.
- Listen to your wishes and concerns, guide you through any difficulties and answer any queries you have throughout the process.

Please contact us to arrange an appointment to discuss this further.