

# Information and Advice

## Deciding to Create a Lasting Power of Attorney

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This information will help practitioners to discuss Lasting Powers of Attorney with people to whom this may be beneficial, or who are requesting such information or advice.

It gives pointers to help you have a skilled conversation.

### **What is a Lasting Power of Attorney**

A Lasting Power of Attorney (or LPA) is a person with legal powers to make specific decisions on your behalf at a time when you are no longer able to make them for yourself.

You decide who will be your LPA and what decisions you will authorise them to make.

These decisions can be about your;

- Health and welfare
- Property and Affairs
- Both of the above

### **Deciding whether to have a Property and Affairs Lasting Power of Attorney**

- The decision is about who manages your finances.
- This form is a legal document. Completing this form gives the person or people named as attorney the power to make your financial decisions. This includes how to spend your money and whether to sell your property. There are examples at 7.36 of the Code of Practice of the sorts of decisions covered.
- If you don't write anything extra on the form, they will be able to make all of your financial decisions. If you want to, you can tell them not to make certain decisions. You do this by writing the decisions you don't want them to make in Box 5.
- If you don't write anything about it on the form, they will be able to make a decision even if you can make it yourself. If you want to, you can say that they are only allowed to make a decision if you aren't able to make it. You do this by writing in Box 5 something along the lines of, 'You must only make a decision if I lack capacity to make it.'
- We are discussing this because your (for example) nephew thought it would be a good idea if he were your attorney. However, this is your decision. It is entirely up to you whether you want him to make your financial decisions. If you don't fill in this form, he won't be able to make your financial decisions. If you do fill in the

form, you can change your mind at any time if you still have the capacity to make that decision. You may wish to appoint someone else in their place.

- You should only complete this form if you trust the attorney(s) and think they will make good financial decisions. They might not make the decision you would have made, but they have to follow a checklist and decide in your best interests. You can write in Box 6 about what's really important to you; they will have to follow this unless there's a good reason not to – see written statements below.
- If you don't trust the proposed attorney, you could choose someone else, for example, a solicitor.
- If you don't complete the form and you have difficulty making financial decisions in future, someone will need to apply to Court to be your deputy. This may or may not be a concern to you.

### **Deciding whether to have a Health and Welfare Lasting Power of Attorney**

- Normally, if you can't make your own decision about care or treatment, the person providing the care or treatment will decide in your best interests. So, a nurse would decide whether you have a flu jab or a social worker might decide whether you move to a care home. There are examples in 7.21 of the Code of Practice of the sorts of decisions covered.
- A family member wouldn't be able to overrule a professional's decision.
- If you would prefer someone close to you to make this sort of decision instead of the professionals, you need to complete this form.
- This form is a legal document. Completing this form gives the person or people named as attorney the power to make each decision about your social care or healthcare that you can't make. If you can make your own decision, it is still yours to make and no one can make it for you.
- If you don't write anything about it on the form, they will be able to make each social care or healthcare decision you can't make. If you want to, you can tell them not to make certain decisions. You do this by writing the decisions you don't want them to make in Box 6.
- You have to decide whether you want your attorney(s) to decide on life or death treatment. If you tick, 'no', the doctor looking after you will make this decision.
- We are discussing this because your (for example) nephew thought it would be a good idea if he were your attorney. However, this is your decision. It is entirely up to you whether you want him to make the social care and healthcare decisions you can't make. If you don't fill in this form, he won't be able to make those decisions. If you do fill in the form, you can change your mind at any point.

- You should only complete this form if you trust the attorney(s) and think they will make good decisions. They might not make the decision you would have made but they have to follow a checklist and decide in your best interests. You can write in Box 7 about what's really important to you; they will have to follow this unless there's a good reason not to – see written statements below.
- If you don't trust the proposed attorney, do not complete this form.
- If you don't complete the form and you have difficulty making some of your social care or healthcare decisions in the future, whoever is caring for you will support you to make a decision and, if you can't make it, they will be able to make it in your best interests. This may not be a relative or next of kin.