



## KEY FEATURES AND BENEFITS 11

# Lasting Powers of Attorney (LPA):

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### WHO CAN ACT AS MY ATTORNEY? WHO CAN MAKE AN LPA?

Anyone aged 18 and over who has mental capacity and who is not bankrupt when they sign the form. You should appoint someone you trust such as a relative, or a professional. (Most professional Attorneys will only act for LPA Property & Financial Affairs).

Anyone aged 18 years or over who has mental capacity at the time of making it (England and Wales).

### You should also consider how you would like your Attorneys to act – You have three options.

#### Jointly

This option means that your Attorneys must make **ALL** decisions together. If one of your Attorneys disagrees, that decision cannot be made on your behalf.

You might choose this option if you want to be sure that your Attorneys are in agreement about every decision, but you should bear in mind that getting the agreement of all the Attorneys could take extra time and delay what otherwise would have been straightforward decisions.

It should be noted that, if one of the Attorneys is unable to act due to predeceasing the Donor, losing mental capacity, etc. the LPA will be rendered invalid. Any Replacement Attorney will take over from the remaining Attorneys and act as **SOLE** Attorney.

#### Jointly for some decisions and Jointly & Severally for others

This option means that your Attorneys can make some decisions independently, but for others they must all be in agreement.

You might choose this option if you want your Attorneys to be able to make day to day decisions such as paying care home fees independently but, be in agreement when making more significant decisions such as, selling your home.

**Please note that if you choose this option and the OPG deem it to be unworkable, it could render the LPA invalid and be rejected at the OPG Registration process.**

#### Jointly & Severally

This option means that your Attorneys can make all decisions either together or independently.

You might choose this option if, for example, one of your Attorneys is closely involved in your financial affairs and you trust them to make your decisions on their own, or one of your Attorneys is frequently unavailable (working abroad) or you simply want to ensure that your LPA continues to be workable if one of your Attorneys dies.

#### Guidance & Restrictions

You may also wish to give guidance to your Attorneys on how you want them to act, but this is **not legally binding**. Completing the guidance box gives the Donor the opportunity to provide broader information for their Attorneys to consider when making decisions on their behalf.

Completing the Restriction box **is binding** and allows the Donor to stipulate what practices and procedures they wish the Attorneys to follow, such as seeking professional financial advice before making any investments.

#### Who else needs to be involved in making an LPA?

**People who need to be told** - these are relatives or adults who know you well and who are given the opportunity to raise any concerns or objections about the LPA before registration.

Those that are not relatives and are independent of the Donor can also act as a Certificate Provider. You do not need to name any 'people who need to be told' but can have up to 5.

**Your Attorney(s) or Replacement Attorney(s)** - these **cannot** also act in the category of people who need to be told and also **cannot** act as a Certificate Provider.

**Certificate Provider** - You must have 1 Certificate Provider. They must have known you, the Donor, for at least 2 years or have the relevant professional skills to enable them to confirm that you understand the significance of your LPA, e.g. your GP. They will also need to certify that no undue pressure or fraud is involved in the making of the LPA.

## THE NEXT STEP

**Having to face the prospect of being unable to deal with your own affairs can be daunting for us all. So many people avoid this, but failing to act NOW and plan for this eventuality can only add to the burden facing your loved ones.**

Once you have made the decision to make your Lasting Power of Attorneys, we recommend that your LPAs are registered immediately with the Office of the Public Guardian (OPG). An LPA **can only be used** after it is registered with the OPG.

### Registering your Powers

Failure to register your LPA documents straight away may mean that the information it contains could be out of date. This may **invalidate the LPA** and the OPG could then later refuse to register the document. The charge for Registering an LPA is set by the OPG but can be reduced, or even waived entirely, depending on the Donor's annual gross income.

An estimated 700,000 people have dementia - including 1 in 5 over the age of 80. Brain injuries or mental health problems also render others incapable of making their own decisions, so it is important to put arrangements in place early, so if that day comes, someone we trust and who loves us can make those important decisions on our behalf.

(Source - Saga).

## KEEPING YOUR DOCUMENTS SAFE

Powers of Attorney are powerful documents. We strongly advise that once the Powers have been signed and registered, you do not keep these legal documents in the home environment, for the following reasons:

- ✔ **Storing your documents will ensure that, these Powers are NEVER used without your express knowledge and consent, while you have capacity.**
- ✔ **Prevent your documents being accidentally damaged, or destroyed.**
- ✔ **Ensure that your documents are never lost or stolen.**

**Why take such a risk?**, when for a small annual fee, you can elect to take advantage of our Secure Storage Facility, benefitting from the knowledge that your documents are lodged in a safe environment.

You can access the documents held in our Storage Facility free of charge at any time, upon written request and surrender of your Storage Certificate. When storing your documents with us, you will receive a Storage Certificate - The Certificate details all the documents we store on your behalf, along with our contact details. You should ensure that a copy of this Certificate is passed to your Attorneys. Also you will receive an office copy/certified copy of an LPA - When the Powers of Attorney need to be utilised, you will often find that your Attorneys are required to present the original documents to a variety of different institutions at the same time to enable them to deal with your affairs. This could mean lengthy delays for your Attorneys when required to send off these documents and then having to await their return. ALL institutions, including Banks and Building Societies will however, act on copies of Powers if correctly 'Certified' by a Solicitor. When storing with us, you are eligible for one complete set of LPAs certified by one of our Solicitors, free of charge, when the need arises.

### How we can help?

We understand that the process of dealing with the affairs of someone who has lost capacity can be very difficult. Our dedicated team of professionals has vast experience in dealing with both the Office of the Public Guardian and the Court of Protection and provide both a professional yet personal service throughout, while still offering our clients extremely competitive rates.

This sheet contains only general planning and is not to be construed as advice for any personal planning. Each strategy recommended is based on individual circumstances.