

# A brief overview of Lasting Powers of Attorney

A Lasting Power of Attorney (LPA) is a legal process in which you, "the donor", give the legal right to one or more people, "the attorneys", to manage either your financial affairs and property or your welfare matters, or both.

Whichever LPA you wish to make there is one fundamental requirement and that is that the donor must have mental capacity to make the LPA and understand the implications of what they are doing.

## **LPA – Financial Affairs and Property**

An LPA made to cover your financial affairs and property can be in respect of all of your financial and property affairs generally or it can be limited to specific matters, ie, dealing with the Department of Works and Pensions on your behalf or in respect of a specific bank account.

You can choose one or more attorneys and also provide for a replacement attorney in the event that your chosen attorneys cannot act for whatever reason when the time comes.

In order for the LPA to become valid it must be registered at the Court of Protection and following registration your attorneys are able to act on your behalf in accordance with the terms of the LPA straight away. However, a lot of people choose to make the LPA and have it stored either in their own strong box or their solicitors' deeds storage until such time as they feel they do require their attorneys help in dealing with their affairs and only at that point will steps be taken to register the LPA to enable it to be used. The financial LPA can continue to be used whether or not the donor retains their mental capacity.

## **LPA – Welfare Matters**

This type of LPA can be made in respect of all of your welfare matters generally or limited to certain aspects of your welfare issues.

A welfare LPA can cover such issues as giving your attorney(s) the right to make decisions such as which care home to send you, nursing care and can also include authority to refuse or consent to life-sustaining treatment on your behalf (previously covered in a Living Will).

As with the financial LPA, the welfare LPA will only become valid once it has been registered with the Court of Protection. However, unlike the financial LPA it is important to register a welfare LPA immediately. The reason for this is that the registration process takes about 8 weeks and of course if someone suddenly loses their mental capacity or is unable to communicate their wishes, ie because they are in a coma, then of course the unregistered welfare LPA is of no use because until it is registered it is invalid.

An attorney appointed under a welfare LPA is never able to act on behalf of the donor in respect of a welfare issue whilst ever the donor retains the mental capacity to make a decision on that issue themselves.

If you would like any further advice then please call Simon Richardson – 01332 225 331 or Lesley Wilson – 01332 225 333 of our Wills & Inheritance Department for specialist advice.

Car parking is available at our offices and home visits (including visits to care homes, hospitals) are also available if required.

