



# Taylor *Bracewell*

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### Lasting Power of Attorney

Most of us will have had the unfortunate experience of seeing a relative or friend, through mental or physical illness, become incapable of dealing with their own affairs. When this happens, it is often extremely difficult for the family or those seeking to care for the individual, to pay outstanding bills or deal with that person's finances generally.

Have you ever thought about what would happen if you lost mental capacity? Who could help you if you were physically unable to deal with your own affairs?



Unfortunately, without any legal authority it is extremely difficult for anyone to look after your affairs, even if that is what you want and they are doing what is in your best interests. It is therefore essential to plan for your future and put all necessary documentaion in place to ensure, not only that you are protected, but also that the situation is made as easy as possible for everyone around you.

A Lasting Power of Attorney (LPA) is a document which gives a person you choose, known as an Attorney, the legal authority to act on your behalf. You can have more than one Attorney and can also

have replacement Attorneys who step in, if your original Attorney can no longer act for you.

There are two different types of LPAs:

- **Property & Financial Affairs LPA**

A Property & Financial Affairs LPA allows your Attorney to make decisions about your finances. This includes paying bills, collecting any income or benefits, selling your property etc, subject to any restricitons or conditions you may include in the LPA.

Generally, a Property & Financial Affairs LPA authorises your Attorney to act on your behalf at any time. This means that the LPA can be used by your Attorney regardless of your mental capacity. The advantage of this is that if you were mentally capable of dealing with your finances but were physically unable, then your Attorney can step in and do this for you. However, if you prefer, restrictions can be included to ensure your Attorney can only act when you are unable to do so.



A Property & Financial Affairs LPA does not take any authority away from you. You may continue dealing with your own financial affairs, with as much, or as little, assistance from your Attorney as you wish.

## • Health & Welfare LPA

A Health & Welfare LPA allows your Attorney to make decisions regarding your personal welfare – such as where you should live, the type of care you should receive, consent to medical treatment etc.

An Attorney can only make health and welfare decisions if you lack the mental capacity. So, for example, if you were ill, unconscious or unable to make decisions because of the onset of a condition, such as Dementia or Alzheimer's, then your Attorney can make them decisions for you. Whilst ever you have mental capacity your Attorney has no authority to act for you.

## Your Attorneys

Everyone hopes that they will always be able to manage their own affairs and make their own decisions. Unfortunately, this isn't always true. It is therefore essential to make an LPA, whilst you are still capable of deciding who you would want to make the decisions if you cannot.

If you do not make an LPA and you then lose mental capacity anyone can apply to the Court for an Order to give them authority to act on your behalf. Not only does this cost a significant amount of money and take a substantial amount of time, it may be that the person who applies is not the person you would choose to deal with your affairs. It is therefore essential that you act while you can, to ensure your wishes are implemented.

Your Attorney can be anyone over the age of 18, who is mentally competent. This may be your spouse or child, another family member, a friend or a professional.



Whilst your Attorney has a legal obligation to act in your best interests at all times, your choice of Attorney is still very important. Your Attorney needs to be someone you trust to make decisions for you and who is happy to act in this role.

## Registration

Before the LPA can be used by your Attorney it needs to be registered with The Office of the Public Guardian. This process can take several months. Many people choose to register their LPA straight away so that it is ready for use in the future when needed.

Taylor Bracewell Solicitors is a dynamic and forward-thinking legal firm with offices in Doncaster and Sheffield. We are passionate about providing individual service and connecting with our clients on a one to one basis. This enables us to fully understand our client's legal needs and deliver exceptional value in all our services.

If you would like more information about family law or would like to arrange an appointment to discuss matters further please contact us on 01302 341414 or 0114 272 1884.



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