

Guide to a Lasting Power of Attorney For Property and Affairs

A Lasting Power of Attorney for Property and Affairs allows you to nominate individuals ("your Attorneys") to manage your financial affairs on your behalf, particularly in the event that you are unable to do so by reason of the onset of illness, infirmity or mental incapacity. An Ordinary Power of Attorney would terminate if you were to become mentally incapable but a Lasting Power of Attorney would continue to be effective.

When making a Lasting Power of Attorney you need to decide who to appoint as Attorney(s). They could be a member or members of your family (spouse, children) or a professional person such as a solicitor or accountant or indeed a combination of the two. Professional Attorneys are likely to charge for their services. The key element in the choice of Attorneys is that they must be absolutely trustworthy and have sufficient skills to manage your financial affairs. If your affairs are particularly complex or substantial, it may be advisable to consider appointing a professional Attorney.

If you decide to choose two or more Attorneys you can appoint them to act either "together" or "together and independently" or "together in respect of some matters and together and independently in respect of others". If Attorneys are appointed to act "together" they must all act together and cannot act separately and if one of the Attorneys dies, becomes bankrupt or becomes mentally incapable the whole Power of Attorney will be terminated.

Where the appointment is "together and independently" Attorneys can act together but they can also act separately if they wish. If one of the Attorneys dies, becomes bankrupt or mentally incapable the Lasting Power of Attorney will continue with the remaining Attorney(s) acting alone.

If you decide to appoint Attorneys together for some decisions and together and independently for other decisions you need to specify exactly which decisions are to be made jointly and which can be made jointly and separately. This would require very careful thought and if you decide to appoint your Attorneys in this manner you may need to discuss this with us in some depth.

You may appoint Replacement Attorney(s) so that if something happens to one of your appointed Attorneys rendering them unable to act a new Attorney can then step in. For example if you wished your spouse to act in the first instance with the children being available to take over if your spouse dies or is unable to act, then you could appoint your spouse as your Attorney and your children as Replacement Attorneys

You can place restrictions or conditions upon your Attorney(s). If you do not provide any restrictions or conditions then your Attorney(s) will have a general authority to manage all your property and financial affairs. You can restrict the Power so that the Attorney(s) will only have authority to deal with those assets you have named. If you decide to restrict the Power in this way, you will need to consider how those assets not covered by the Power of Attorney will be managed - it may be necessary for the Court of Protection to intervene and appoint a Deputy which can be a costly business and could defeat the whole object of making the Lasting Power of Attorney.

The Lasting Power of Attorney cannot be used and therefore your Attorney(s) cannot act on your behalf until the document has been registered with the Office of the Public Guardian. The Office of the Public Guardian is an agency of the Ministry of Justice and supports the Public Guardian in registering Lasting Powers of Attorney.

The Office of the Public Guardian recommends that you name as many people as possible up to a maximum of five people to be notified of the registration of your Lasting Power of Attorney. If any of these people have concerns about the registration they may then raise their concerns. It is a safeguard for you. The people named need to know you well enough to be able to raise any concerns they may have. The named persons can be family or friends, health or social care workers that know you.

You must also choose a Certificate Provider who will provide confirmation that you understand the Lasting Power of Attorney and that you are not under any pressure to make it. You may choose between a "Knowledge Certification" and a "Skills Certification". To provide a "Knowledge Certification" the person chosen must have known you personally for at least two years. A "Skills Certification" will be provided by someone who has the relevant professional skills and expertise to certify the Lasting Power of Attorney such as a solicitor or a medical practitioner. We are able to provide this service for you if you wish.

Once your Lasting Power of Attorney has been executed by you, your Certificate Provider and your Attorney(s) you will still retain the right to manage your affairs. It will be up to you to decide when you want your Attorneys to step in and act on your behalf. The Lasting Power of Attorney does technically come into operation when it has been registered with the Office of the Public Guardian, but you can restrict the Power so that it can only be used if the Attorney(s) believe that you have or are about to become mentally incapable. The problem with such a restriction is that it would mean the Power could not then be used in the event of an accident or physical illness.

However your Attorney(s) can decide to take over management of your affairs if they feel you are no longer able to do so. If we are holding your Registered Lasting Power of Attorney we would release copies of the Power when requested to do so by your Attorney(s) if it appeared in your best interests to do so, unless you leave instructions that you would not wish us to do so without a specific authority.


Subject to the terms of the Lasting Power of Attorney, and except for modest gifts such as birthday presents which you normally make, your Attorney(s) do not have authority to give away your money or effects without the consent of the Court of Protection. Also, your Attorneys cannot make a Will for you, or alter one you have already made, without the consent of the Court.

You can cancel your Lasting Power of Attorney at any time. If it has been registered with the Office of the Public Guardian then you would need to apply for it to be de-registered before it can be cancelled. Your death automatically cancels the Lasting Power of Attorney and the Executors named in your Will then take over the management of your affairs.

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