

Your Legal Questions

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Q What are these new LPA's that I've heard about?

A Lasting Powers of Attorney were introduced by The Mental Capacity Act 2005.

The person making the LPA is known as a Donor and the person or people appointed are called Attorney(s).

To make an LPA the Donor must have appropriate understanding – known as capacity and a certificate to this effect is incorporated within the document.

LPA's provide the means for Donors to appoint Attorneys to act in their best interests and usually take effect when the Donor has lost capacity. They are, however, very flexible and can provide for differing circumstances.

There are two types of LPA's:

1. Property and Affairs

If you have assets in your sole name then this type of LPA is very important indeed. It enables you, whilst you have full understanding and knowledge of your affairs, to appoint whoever you choose to be your Attorney. The person appointed will be able to manage your finances and any property in your best interests.

2. Welfare Power

This type of LPA allows you to appoint an Attorney(s) to deal with more personal decisions regarding your future health and welfare. This may, for example, include consenting to or withholding medical treatment in accordance with your known wishes.

I regard LPA's rather like an insurance policy – you hope you will never need to rely upon them but the peace of mind they bring should the worst occur is invaluable. The Mental Capacity Act does provide important safeguards to protect the person making the LPA.

Although it has not been possible to create Enduring Powers of Attorney since the introduction of LPA's I would like to reassure those of you who made Enduring Powers of Attorney before 1st October 2007 that they remain valid.

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