

Your Legal Questions

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Q Why should I arrange a lasting power of attorney (LPA) for property and affairs now?

A Above all it ensures that your property and affairs can be managed for you by someone of your choosing should you become incapable of dealing with matters yourself. In order to make an LPA for property and affairs you must have sufficient understanding and appreciation of the nature of the document and the extent of the powers and authorities that you are giving to your attorney(s).

There are built in safeguards - an attorney cannot do whatever he or she likes but must follow the principles set out in the Mental Capacity Act and Code of Practice. In addition you must choose an independent person known as a Certificate Provider (a person, qualified by their calling or who knows you very well) whose role is to verify your understanding and that you are making the LPA of your free will.

An LPA property and affairs will enable the attorney to deal with your property and finances if you are no longer capable of managing your own affairs or, if you wish, whilst you are still capable.

An LPA property and affairs is also important because bank accounts are generally set up to operate on the condition that the person or people in whose name the account is held is capable of managing that bank account. For example, if an account is held in joint names but one of the account holders becomes unable to understand or manage the account, the bank could freeze all transactions and only release funds once someone produces an LPA for the person who has lost capacity. This means that the person with capacity is also unable to get access to the funds in the account.

The Court of Protection can remove attorneys who fail to carry out their duties.

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