



Lasting Powers of Attorney

We know what you are going through, and we are here to help.



What is a Lasting Power of Attorney?

A Lasting Power of Attorney (often referred to as an “LPA”) is a legal document which appoints one or more people as your attorneys who can make decisions on your behalf. Once the LPA has been registered it can last for the rest of your life, even if you lose mental capacity. There are **two types of LPA**. The two LPAs go cap in hand together as they can overlap one another, especially if care is required. You can prepare one or both:-

Property and Financial Affairs LPA

This type of LPA allows your attorneys to make decisions regarding your property and financial affairs (see examples below) and can be used immediately after registration with your consent.

- Buy or sell property.
- Open, close or operate your bank account, building society account and other investments.
- Access your financial information.
- Deal with any benefits, pensions, allowances and rebates.
- Receive income and inheritances.
- Handle your tax affairs.
- Pay any mortgage, rent, household expenses and other expenses or debts.
- Insure, maintain and repair your property.
- Make limited gifts to your family and friends on birthdays, weddings and any other appropriate occasions.
- Pay for medical or care home fees. However, please note that your attorneys will not be able to make specific decisions about your care but just deal with the financial aspects.
- Use your money to pay for any equipment, vehicle, etc. for you.
- Invest your savings.

Health and Welfare LPA

A Health and Welfare LPA allows your attorneys to make decisions about your medical treatment. This LPA can, if you wish, allow your attorneys to give or refuse consent to life sustaining treatment (see examples below). It is valid from registration but can only be used by your attorneys if you were to lose your mental capacity to make decisions yourself.

- Medical matters, such as giving or refusing consent to medical examination or treatment.
- Arrangements regarding your medical, dental or optical treatment.
- Where you will live and who with, including residential care.
- Decisions about your day to day care, including what to wear and what to eat.
- The assessment of any community care service.
- Accessing personal information regarding medical reports or legal records.
- Deciding whether any social, leisure or educational activities are required and going on holidays, or authorising someone else to do so.
- Maintaining personal paperwork and any correspondence received.
- Complaints regarding your care or treatment.

If you have any concerns regarding medical or life sustaining treatment whilst you retain capacity, we would recommend preparing a Living Will. If you require any information about Living Wills, please let us know.

How will my attorneys act?

You can appoint a sole attorney but we would recommend that where possible you do not appoint a sole attorney if you have other potential attorneys available, who you trust, and who would be able to work together. If you do appoint more than one attorney then you will need to consider how they will act. They can act together (known as jointly), jointly and separately (also known as severally), or jointly for some decisions and severally for others. These are described as follows:-

Joint and severally

Your attorneys can act together or separately, which can be useful if your attorneys live far apart, or if they became unable or unwilling to act, or for any other reason. However, careful consideration would need to be taken when determining this method, as one attorney may make decisions which your other attorney may not approve of and this can lead to disputes.

Jointly for all decisions

All decisions must be made together. This can cause delays, particularly if your attorneys live far apart or if they cannot agree on a decision. Furthermore, if any of your attorneys can no longer act (either by their own decision; due to illness or death; or if they became bankrupt) then your LPA will automatically be void.

Jointly for some decisions and severally for some decisions

You may decide for your attorneys to act jointly for some decisions and severally for others. In which case, you will need to set out very clear guidelines for your attorneys as to what decisions are to be made together and which can be made separately.

I have already appointed Executors in my Will, why do I need an LPA?

The Executors named in your will can only deal with your property and affairs after your death. Executors do not have any powers during your lifetime, even if you lose mental capacity. However, you can choose to appoint the same people as your Executors and your Attorneys. Having attorneys managing your affairs during your lifetime can sometimes help the estate administration run smoothly, as the attorneys, when they become executors (if they are the same people) are already familiar with your financial affairs

Registration of your LPA

Please note that your LPA must be registered with the Office of the Public Guardian (OPG) before your attorney(s) can use any of their powers. Once you have registered your LPA they will then be valid. Your attorneys can begin using their powers under your Property Financial Affairs LPA, but the Health and Welfare LPA can only be used if you lose your mental capacity.

How long will it take?

An LPA can only be used by your attorneys after it has been registered with the OPG. This process can take several weeks.

We encourage clients to consider making an LPA before it is needed. Mental capacity can be lost gradually (perhaps as a result of dementia) or instantly (perhaps as a result of an accident or stroke). Where there are doubts about a person's capacity it may be necessary to obtain a medical opinion which will add to the cost of the LPA and will delay the process.

What happens if I do not have an LPA?

If you do not have an LPA and you lose the mental capacity then an application may be required to the Court of Protection for one person to be appointed as your Deputy. This process can be time consuming and often takes several months. During this period your bank accounts and other assets may be inaccessible to you and your family.

Court of Protection applications can be very expensive – the Court Fee alone is £371.

How much will it cost?

Our legal fees for the preparation of your LPA are fixed fees. There are no hidden extra charges. We can provide you with the detailed breakdown of the fees involved for your specific circumstances.

There will also be the court fee for each application for registration of your LPA. However, if your current income is below £12,000 per year then we could apply for a remission of this fee and reduce this amount.

What if I am receiving benefits?

If you receive any means-testing benefits, then you could be exempt from paying the court fee altogether. Please let us know if you receive any of the following benefits:-

- Income Support
- Income-based Employment and Support Allowance
- Income-based Jobseekers Allowance
- Guarantee Credit element of State Pension Credit
- Housing Benefit
- Council Tax Reduction/Support
- Local Housing Allowance
- A combination of Working Tax Credit (and at least Child Tax Credit, Disability of Working Tax Credit or Severe Disability Element of Working Tax Credit. But **not** Disability Living Allowance, Invalidity Benefit or Personal Independent Payment.
- If you have been awarded more than £16,000 for personal injury damages which were ignored when they were assessed for one of the above benefits.

Why Choose Banner Jones?

- Fixed Fee Promise on Lasting Powers of Attorney
- Money saving packages when you write your LPA alongside a Will.
- Professional Attorney service available
- Wealth Management advice available
- Home and Hospital visits available
- Free digital storage of your LPAs
- Quick turnaround on LPAs
- **97%** of our clients would recommend us to a friend



We know that arranging LPAs or making a Will can often be seen as daunting for a lot of people but, here at Banner Jones, we'll take you through it step-by-step, ensuring that your Will and LPAs represent everything you want them to. Most of our clients say that it is such a relief to finally have them done as they usually have been putting it off for ages.

Talk to Banner Jones - We are ready to help you



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Disclaimer

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