

ESTATE PLANNING MADE EASY

*Kat's Wills and
Estate Planning*

Lasting Power of Attorney

WHY IS A LASTING POWER OF ATTORNEY
IMPORTANT?

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What is a Lasting Power of Attorney?



A Lasting Power of Attorney (LPA) is a legal document that allows a person who has been named to act on the behalf of another person's behalf in certain situations. There are two types of LPA known as LPA of Health & Welfare and LPA of Property & Financial Affairs. It is up to the individual if they wish to grant a LPA of one or both sets of affairs.

When Should an LPA Be Put In Place?



I often get asked why an LPA is important when talking to customers if they don't have any concerns about mental capacity at the time we are having our discussions. I explain to customers that it is important that LPA paperwork is completed and signed and witnessed as early as possible because if everyone waits until they have

mental capacity concerns, they will lose their right to make decisions about who they wish to gain control over their affairs. LPA paperwork allows a person to make the decision themselves about who can gain control and whether there are any limitations to the control they allow the attorneys to have.

Once the LPA paperwork has been filled out, signed and witnessed correctly the person giving LPA can make a decision about whether to file the paperwork immediately with the Office of Public Guardian or to hold onto the paperwork for it to be filed at a later date. Additionally, you can make a decision within the paperwork about when the people can act on your behalf. For example, you can decide if the LPA takes effect immediately when the people have your express permission or if they can only act on your behalf when you no longer have the mental capacity to deal with your affairs on yourself.

Presently it is taking approximately 28 weeks for the registration of an LPA process to be completed. It is important that these timescales are taken into consideration when determining the best time to register the paperwork for an LPA.

LPA of Health and Welfare



An LPA of Health & Welfare allows the named people to make decisions about your daily routine, medical care/treatment, whether you live independently or in a care home and if you receive life sustaining treatment. Completing the paperwork while you have a good level of mental capacity is important because it ensures you get to determine who will make these decisions on your behalf in the future. It also gives you time to ensure the person who will make the decisions can be made fully aware of your wishes for what takes place in the future. Provided you have picked someone who can be trusted to carry out your wishes within legal boundaries then you have the peace of mind that the correct decisions will be made on your behalf when it matters.

Once an LPA for Health & Welfare has been registered with the Office of Public Guardian it can only take effect once you no longer can make decisions for yourself. This means that the appointed people can only make decisions when you no longer have the mental capacity to make them yourself or if you are unable to make decisions for yourself due to being incapacitated due to a result of illness or injury.

LPA of Property & Financial Affairs



An LPA of Property & Financial Affairs allows the chosen person to make decisions about your property & financial affairs. You can choose whether the person you are giving the ability to act on your behalf can do so immediately when they have your permission or only in the event of you losing mental capacity to deal with your affairs yourself.

For example, you may decide to allow someone to act on your behalf immediately when they have your permission. This would allow someone to deal with your affairs once the LPA is registered and officially accepted with your permission if you were unable to due to being on holiday or maybe hospitalised etc. However, you need to ensure that you fully trust the person you are giving LPA too that they will only act with your permission and in your best interests.

Alternatively you may choose to allow the LPA to only take effect when you have lost mental capacity to deal with your own affairs.

There are pros and cons to each option which I will be willing to discuss in further detail with you during the process of making your LPA.

Costs of Creating a LPA



The costs involved in creating an LPA are made up of the fee charged for me to complete the paperwork and the fee charged by the Office of the Public Guardian for you to register the LPA.

The fee I charge is £230.00 per person this fee will cover the completion of one or both sets of forms on your behalf but it does not cover the fees payable to the Office of the Public Guardian (OPG) to register the LPA. If you require only one set of forms to be completed and later return to me for the second set of forms to be completed I will consider completing the second set of forms at a reduced fee for you. Please make sure you explain you are a returning customer.

The fee to register an LPA with the Office of the Public Guardian is currently set at £82.00 per LPA being registered. If you are registering for both Health & Welfare and Property and Finance the fee will be £164.00. This fee is in addition to the fees paid to myself to complete the paperwork and will be payable by yourself directly to the Office of the Public Guardian by either cheque or card payment.

There are exemptions and reductions to paying the Office of the Public Guardian fee in certain circumstances such as low income or when in receipt of certain benefits. I will discuss this with you in greater detail and complete the exemption or reduction in fee form to send off when registering your LPA if this is applicable to you.

Registering a LPA

To register an LPA you or one of the appointed people need to complete the registration section of the form and send the fully completed form off to the Office of the Public Guardian with the relevant fee unless you can apply for an exemption.

As previously mentioned the current timescale for registering an LPA is approximately 28 weeks.

It is entirely your decision whether you register the LPA immediately or hold onto the paperwork until a later date. However, any advice I supply regarding a valid application and registering a valid LPA will be based on the law at the time of completing the paperwork. If there are any changes in the law between me completing the paperwork and you deciding to register the paperwork I cannot be held liable if the paperwork completed is no longer valid or is rejected by the Office of the Public Guardian. Providing the law allows I will redo the paperwork for you at a reduced fee based on the fees I charge at that time. However, if you register the paperwork immediately and there are any issues with any of the paperwork then I will redo paperwork at no further costs to yourself.

What Happens After Registering an LPA

Once you have sent the paperwork to the Office of the Public Guardian there will be a waiting period of up to 28 weeks for the paperwork to be processed. If you pay by cheque there will be no contact unless they need to verify any information until they have made a decision about granting the LPA. If you are paying by card you will receive a phone call from them when they are ready to take the payment from you.

Once the LPA is successfully granted the certificate will be sent out to the person stated on the application. If you have any questions or concerned during this process please feel free to contact me to discuss further.