

WILLS, PROBATE & TRUSTS

## Lasting Powers of Attorney: *A Brief Guide*

A Lasting Power of Attorney (LPA) is a powerful document which allows you to choose someone (the Attorney) to make decisions about your affairs if you are not able to do this yourself. There are two types of LPA; one covering property and financial affairs, the other dealing with health and welfare matters.

An Attorney for property and financial affairs will be able to collect your income and benefits, operate your bank accounts and investments, make small gifts from your money, pay your bills and sell your property. An Attorney for health and welfare can decide where you live, which GP you attend and even whether to consent to or refuse life sustaining treatment.

Should you become unable to deal with your affairs and not have an LPA in place, your assets may be frozen and an application may need to be made to the Court of Protection for the appointment of a Deputy, which is very expensive, complex and time-consuming.

### The Attorney

This is an important role and an important decision for you. Unless the power is restricted, the Attorney can make any decisions regarding your finances and property even while you still have capacity (although your Attorney must consult you). An Attorney dealing with your health and welfare matters can only act for you when you can no longer make decisions for yourself. The Attorney must act in your best interests at all times.

It is important to choose someone you know well, that you trust to make decisions in your best interests and who is able and willing to take on the role. It could be your spouse, other family member, a friend or a solicitor or other professional.

You can also choose replacement Attorneys to act in place of an Attorney who cannot or does not wish to act e.g. appoint your spouse and then your children as replacement Attorneys. Replacement Attorneys cannot act unless they are needed to replace your original Attorneys.

### Terms of the LPA

You may include guidance for, or place restrictions on your Attorney. However, you must take care that these do not prevent your Attorneys carrying out their role.

### People to be Notified

You may name up to 5 people to be notified when the LPA is registered. This is an important safeguard and these people should know you well enough to raise any concerns they may have.

### Certificate Provider

You must choose a person to provide a certificate to confirm that you have understood the LPA and the effect of it and that you are not under any pressure to make it. This is a vital part of the LPA and an important safeguard. To be able to give the certificate, the Certificate Provider must have sufficient knowledge of you, your family and financial circumstances. This is a service we can offer.

### Registration of the LPA

The LPA must be registered before it can be used. This can be done at any time after you, the Certificate Provider and the Attorney have signed. The registration fee is currently £110.

## About us

Established in 1948, Mincoffs Solicitors is one of the North East's oldest commercial law firms. Our long-standing reputation for offering high quality, no nonsense legal advice has led to our recognition as a leading practice. Today we are backed by a dedicated team of professionals who are both passionate about their business and the people they represent to ensure that we continue to provide a proactive approach, both now and into the future.

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