

Elderly Client Services

An elderly person whilst still having full mental capacity may require increasing assistance with the management of his or her day-to-day financial affairs.

A Lasting Power of Attorney (LPA) is a legal document in which a person (the Donor) gives another (the Attorney) the power to act on their behalf in relation to their property and financial affairs. LPAs were introduced officially on the 1st October 2007 under the Mental Capacity Act 2005 and replaced the existing Enduring Power of Attorney (EPA). In order for an LPA to be effective, it must be registered with the Office of the Public Guardian and only following registration is an Attorney permitted to act.

It is only possible to make an LPA provided the Donor has the requisite mental capacity to appoint an Attorney to act on his or her behalf. If following a medical assessment it is deemed that a person does not have sufficient mental capacity, then an application to the Court of Protection is required in order to appoint a Deputy to manage a person's finances on their behalf. This process is both highly expensive and also very protracted. It is therefore recommended that everybody should consider making an LPA and in particular the elderly as the risk of losing mental capacity increases with age.

Often people name relatives or trusted friends to act as their Attorney, although it is possible to name a solicitor as the appointed Attorney in an LPA. If a solicitor is appointed, as they are acting

in the course of a profession they must exercise a higher level of care, skill and diligence as would be expected of a reasonable person. As Attorney, the solicitor has a fiduciary duty to act in the best interests of the Donor, to fully respect rules of confidentiality and also to ensure that any money or other assets belonging to the donor are retained in separate accounts.

If appointed as an Attorney, the solicitor will be able to manage the day-to-day financial affairs of an elderly person thereby alleviating the burden and stress of one having to do this themselves and allowing the person in question to enjoy their retirement. The role carried out by the Attorney would include receiving any income or entitlement on the Donor's behalf and paying any bills as and when they fall due including residential or nursing home fees. The solicitor would also oversee any tax affairs, complete self assessment forms on the Donor's behalf and also apply for any rebates or allowances if appropriate in the circumstances.

The additional benefit of appointing a solicitor includes the fact that they will act independently and impartially, thereby removing any danger of any financial abuse which could potentially occur if unscrupulous relatives or friends are appointed.

If you wish to discuss this or any of the other elderly client services we provide please do not hesitate to contact a member of our Private Client team.



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