

## \* Property and Financial Affairs Lasting powers of attorney

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### What are they and why should you consider making one?

A Property and Financial Affairs LPA is a legal document that enables anyone aged 18 or over to choose people that they trust to make decisions on their behalf as to their finances if they become incapacitated. The person making the LPA is known as the donor and the persons appointed to act are called "attorney(s)".

### What powers can be granted under a Property and Financial Affairs LPA?

A Property and Financial Affairs LPA can grant your attorneys powers to deal with all matters related to your finances. Your attorney(s) would have the same powers to deal with your finances as you have while you have mental capacity. This includes day-to-day matters such as running your Bank account and paying bills and more important financial decisions such as how your money might be invested and whether your property should be sold. It does not, however, give your attorneys power to make decisions in relation to your health and personal welfare such as medical treatment and where you live. If you wish your attorneys to be able to make decisions relating to these matters, as well as your finances, then you will need to draw up a Health and Care LPA also.

### Does a Property and Financial Affairs LPA give my attorney(s) power to deal with my investment portfolio?

Yes. If you manage your investment portfolio yourself then your attorney(s) will have power to take all decisions relating to your investments, including whether they should be retained or changed. Many people nowadays delegate the running of their portfolio to an investment manager who acts on a discretionary basis making decisions about the investments without reference to the portfolio owner. If your investments are dealt with in this way you should be aware that your attorneys will be unable to continue with this arrangement unless specific power for them to do so is included in your Property and Financial Affairs LPA.

### How is a Property and Financial Affairs LPA created?

There are strict formalities around the creation of any LPA. They have to be created on the specified forms and someone known as a "certificate provider" is required to certify that you understand what you are doing and have the necessary mental capacity to enter into the LPA. Once the LPA has been created it must be registered with the Office of the Public Guardian, a process that takes some weeks.

### What happens if I do not have a Property and Financial Affairs LPA?

In those circumstances, if you no longer have mental capacity then it would be necessary for an application to be made to the Office of the Public Guardian for a Deputy to be appointed to deal with your financial affairs. If there is no-one able or willing within your family to take this on then a

professional Deputy will be appointed. The appointment of a Deputy is generally a much more complicated, expensive process than appointing an attorney to act for you.

For further information on this or on any other Private Capital matter you may have, please contact:



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