

The Pitmans guide to Lasting Powers of Attorney



What is a Lasting Power of Attorney?

A Lasting Power of Attorney (an 'LPA') is a legal document that someone (the 'Donor') makes to allow someone else (the 'Attorney') to make decisions on their behalf at a time in the future when they either lack mental capacity, or no longer wish to make those decisions themselves. The decisions may be about a person's finances and property or their personal welfare, which without a registered LPA cannot be made without that person's instruction.

Anyone over the age of 18 with mental capacity can make an LPA and can appoint one or more Attorneys to make decisions on their behalf. An Attorney will have to act subject to any restrictions or conditions the Donor may specify in the LPA, and they must always act in the Donor's best interests.

An LPA cannot be made jointly with another person and so each person must make their own LPA, which when completed, must be registered with the Office of the Public Guardian (the 'OPG') to become effective.



Pitmans Law works for a range of private clients from HNWIs to entrepreneurs and corporate executives and has an uncompromising focus on achieving outstanding client outcomes.

"We found your advice to be clear, highly productive and the suggested plan very straightforward to implement."

"I have appreciated your personal approach in settling the estate. I can't thank you enough for all your hard work, diligence, guidance and professional advice during the long process. Your advice, leadership and friendly kind words of encouragement definitely aided the process."



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What types of LPA can be made?

There are currently two types of LPA, one for Property and Financial Affairs, and the other for Health and Welfare. The specific details of each type are as follows:

Property and Financial Affairs

A Property and Financial Affairs LPA will allow you to appoint an Attorney to manage your finances and property whilst you still have capacity to make decisions for yourself. For example, it may be easier for you to give someone the power to carry out tasks such as paying your bills or collecting benefits or other income.

Your LPA can also include provisions for dealing with your private business affairs to cater for your particular needs now and possibly in the future.

An Attorney under this type of LPA will not be able to make decisions about your personal welfare unless they have also been appointed as a Health and Welfare Attorney using a separate LPA.

As soon as a Property and Financial Affairs LPA has been registered, your Attorneys can begin to deal with the management of your property and financial affairs. You may therefore decide to proceed with registration of the LPA straight away so you know if your Attorneys did need to act for you in the future, then there would be no undue delay.

Health and Welfare

A Health and Welfare LPA will allow you to appoint an Attorney to make decisions on your behalf about your personal welfare. A Health and Welfare LPA can only be used if you lack the capacity to make these decisions for yourself. An Attorney will not be able to make decisions about your finances and property unless they have also been appointed as a Property and Financial Affairs Attorney (as above).

Please note that the Health and Welfare LPA does not come into effect until it has been registered and you are unable to make these decisions for yourself.

"They handled matters with an empathy and understanding that really made each process more bearable for me and my family. Their approach was very pragmatic and at the same time they explained everything thoroughly and really put us at ease."

"Thanks for your sustained efforts on this and for going the extra mile."

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When can an LPA be registered?

An LPA can be registered at any time after it is made.

Your Attorneys cannot act under the LPA until it has been registered and so it may be beneficial to register it straight away to prevent any future difficulties. In addition, if registration is delayed for some time until the LPA is needed, any details which are no longer correct at the date of applying to register the LPA may prevent the registration from taking place. If in the meantime the donor has lost mental capacity they will then be ineligible to make a new LPA and as such their affairs may not be taken care of in the intended manner.

A court fee of £82 is payable to the OPG for each LPA that is being registered, however a discount or fee waiver may be applied depending on the donor's financial status.

What happens next?

The OPG maintains a public register of LPAs with details of the Donor and Attorney(s). The OPG may release limited personal information in certain circumstances should the need arise (for example a doctor may want to find out whether the Donor has made a Health and Welfare LPA and who the Attorney(s) are).

As long as the contents of the registered LPA remain correct and in accordance with the Donor's wishes, then it can continue to be used for financial and property matters or for personal welfare when mental capacity is lost. If at any stage a registered LPA is not in accordance with the Donor's wishes, it can be revoked (even after registration), providing they have the mental capacity to do so. Revocation must be done in a formal, legal manner and it will normally be necessary to inform all the Attorneys (and the OPG if the LPA is registered) of the revocation.

When a Donor passes away, any LPA automatically ceases to be effective and should be returned to the OPG for cancellation and removal from the register.

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 Areas of expertise

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10
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Tier 1 Ranked
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With Pitmans Law you can be assured of the quality of advice and service you demand from a city law firm - but with a distinction. The courage to stand apart, to think and act personally, with an uncompromising focus on achieving outstanding client outcomes. We say what we mean, matching our behaviours to our words.

Established for over 150 years, Pitmans Law is headquartered in Reading with offices in London and Southampton. The lower overheads of a regional office ensure we can provide city quality legal advice at a competitive price to deliver exceptional value for our corporate and private clients locally, nationally and internationally.

Pitmans provides legal advice to address our clients' needs across a wide range of industry sectors and specialisms including particularly strong specialist teams in pensions advisory, real estate, dispute resolution as well as corporate and commercial law. Our clients draw confidence from the top tier recognition Pitmans achieves in the industry benchmarking directories, Legal 500 and Chambers UK.

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