



WILLOW TREE
FINANCIAL SERVICES



*Understanding the Role of
a Lasting Power of Attorney*

“An Lasting Power of Attorney is not about giving up control. It is about choosing who would step in if you could not act for yourself. It is about protecting your wishes, your values and your dignity. It is about making life simpler for your family at a time when they need clarity, not complexity.”

The Role of a Lasting Power of Attorney

It is not dramatic. It is not pessimistic. It is practical. And yet so many people put it off because it feels like something for “later”, or “older people” or “someone else.”

I see clients of all ages and circumstances putting Lasting Powers of Attorney in place. Couples in their 30s with young children. Business owners wanting protection. Parents supporting adult children. Individuals planning for retirement. Widows and widowers reviewing their affairs.

Illness, accidents or unexpected diagnoses can happen at any stage of life. And when they do, the people we love are left trying to navigate decisions without clear authority, often during an already emotional time.

Getting organised is not about expecting the worst. It is about preparing wisely so that whatever happens, the right people can step in smoothly and respectfully.

Planning ahead is one of the kindest things you can do for the people you love.

This guide is designed to give you clarity and confidence, and if you have any questions, please get in touch.

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The Financial Conduct Authority does not regulate wills, trusts, estate planning, and lasting power of attorney.

What is a Lasting Power of Attorney (LPA)?

A Lasting Power of Attorney, is a legal document that allows you to appoint one or more people you trust to make decisions on your behalf if you are unable to make them yourself. It exists for one simple reason. Life is unpredictable. If illness, injury or a loss of mental capacity means you cannot make decisions, someone needs the legal authority to step in. Without an LPA, even close family members may not automatically have the right to act for you.

There are two types of LPA, and they cover different areas of your life:

Health and Welfare LPA

This allows your chosen Attorney to make decisions about your medical treatment, care arrangements, daily routine and, if you choose to include it, life-sustaining treatment. This type of LPA can only be used if you lose the mental capacity to make those decisions yourself.

Property and Financial Affairs LPA

This covers decisions about your money and assets. It can include managing bank accounts, paying bills, dealing with pensions and investments, selling property or handling tax matters. With your permission, this type of LPA can be used while you still have capacity, or it can be limited to only if you lose capacity.

An LPA must be created and registered while you still have mental capacity. You choose your Attorneys. You decide how they act. You can set instructions or guidance. It is your document and your protection.

There are also common misunderstandings. Many people believe their spouse or adult children can automatically act for them. That is not always the case. Others think LPAs are only for older people, but capacity can be lost at any age. Some worry they are “giving up control,” when in fact an LPA is about retaining control by deciding in advance who will act and how.

A Lasting Power of Attorney is about planning responsibly so that, if the unexpected happens, the right people can step in smoothly and legally.



Why having an LPA matters

If someone loses mental capacity without a Lasting Power of Attorney in place, their family cannot automatically step in and manage things. Instead, loved ones may need to apply to the Court of Protection to be appointed as a Deputy. This process can be costly, time consuming and stressful at an already difficult time. An LPA avoids that uncertainty.

It allows you to choose who will make decisions for you, rather than leaving it to the court. It ensures your wishes, values and preferences are known and respected. Whether that is how your money is managed, where you receive care, or who speaks to doctors on your behalf.

For families, the benefits are both practical and emotional. Bills can be paid without delay. Care decisions can be made without legal barriers. Your loved ones have confidence that they are acting as you would have wanted.

In real life, this can make a huge difference. From managing finances after a sudden stroke, to making care decisions following a dementia diagnosis, an LPA turns a complex situation into one that is structured and manageable. It is not just a legal document. It is reassurance for everyone involved.



Presuming capacity and supporting decisions

In everyday terms, 'presuming capacity' simply means we start by assuming someone can make their own decisions, unless it is clearly shown that they cannot. Age, illness, or making a decision others disagree with does not automatically mean someone lacks capacity.

Where possible, the goal is always to support someone to make their own choices. Often this just means explaining options clearly, giving them more time to think, or breaking a decision into smaller steps.

Capacity can also fluctuate. Someone may feel clearer and more confident at certain times of the day or during certain periods. Decisions should ideally be discussed when the person feels most able to take part.

Practical support might include:

- Explaining information in simpler terms
- Talking through options calmly
- Allowing time to reflect before deciding

The aim is not to take control too quickly, but to help someone stay involved in their own decisions for as long as possible, maintaining both independence and dignity.



Best interests – what this really means

If someone is no longer able to make a particular decision for themselves, the law says that any decision made on their behalf must be in their best interests.

In simple terms, this means the decision should focus on what is genuinely best for that person, not what is easiest or most convenient for others.

Making a best interests decision should involve a careful and thoughtful process. This usually includes looking at the person's past wishes, beliefs and values, and considering what they would likely have wanted if they were able to decide themselves.

It is also important to involve the right people wherever possible. This may include the person themselves, close family members, attorneys, carers or relevant professionals who understand their circumstances.

Best interests decisions are not about personal preference, convenience or control. They are about respecting the person's life, values and dignity, and making decisions that reflect what matters most to them.



The Care Act 2014 and how it affects attorneys

If you are acting as an attorney, your role does not sit in isolation. Many decisions must also align with the principles of the Care Act 2014.

At the heart of the Care Act is the concept of wellbeing. This means decisions should always consider the person's overall quality of life, including their dignity, independence, relationships, living environment and ability to take part in everyday life.

Attorneys are expected to support choice wherever possible, helping the person stay involved in decisions and ensuring that any action taken is the least restrictive option. The goal is to support independence, not remove it.

In practice, attorneys may also need to work alongside local authorities, social workers and care providers, particularly if care assessments or support services are involved.

There is also an important role around advocacy and safeguarding. Attorneys should speak up for the person's interests, ensure they are treated fairly, and help protect them from harm, neglect or financial abuse. Ultimately, the role of an attorney is about acting responsibly, ensuring decisions are thoughtful, lawful and centred on the person's wellbeing.

The Role and Responsibilities of a Lasting Power of Attorney

Being appointed as an attorney under a Lasting Power of Attorney is a position of trust.

It means someone has chosen you to help make decisions on their behalf if they are unable to do so themselves. While this can feel like a big responsibility, the role is ultimately about acting carefully, respectfully and always in the person's best interests.

As an attorney, you are expected to support the individual and make decisions that reflect their wishes, values and preferences wherever possible. This includes helping them stay involved in decisions for as long as they are able and considering what they would have wanted if they were able to decide themselves.

It is also important to act within the scope of the LPA. There are two types of LPA: Property and Financial Affairs, and Health and Welfare.

Your authority will depend on which type you have been appointed for, and you should only make decisions that fall within that area of responsibility.

In practice, attorneys often work alongside professionals such as GPs, social workers, care providers and financial institutions. Clear communication can help ensure decisions are well informed and the person receives the right support.

It is equally important to recognise that you are not expected to know everything. There may be times when decisions feel complex or uncertain, and seeking advice from legal, financial or healthcare professionals can help you act confidently and responsibly.

At its heart, the role of an attorney is about protecting the person's wellbeing, respecting their independence, and making thoughtful decisions on their behalf when they need support the most.



Accountability, Record-Keeping and Oversight

Acting as an attorney brings responsibility as well as trust. One of the most important parts of the role is keeping clear and accurate records of the decisions you make and the actions you take.

Good record-keeping helps demonstrate that you are acting in the person's best interests and within the authority of the LPA. It also provides transparency if questions ever arise about how decisions were made.

This might include keeping notes of important discussions, copies of financial transactions, bank statements, receipts, and records of major decisions such as care arrangements or property matters. Keeping everything organised can make the role much simpler over time.

Attorneys are overseen by the Office of the Public Guardian, which helps ensure LPAs are used properly and investigates concerns if they are raised. This protects the individual whose interests the attorney is acting for.

Most attorneys act with care and integrity, but clear records and thoughtful decisions help avoid common pitfalls and unintentional mistakes. When in doubt, taking advice from professionals can provide reassurance that you are acting appropriately.



How an LPA Works in Practice

A Lasting Power of Attorney is designed to provide support when it is needed, but how it works day to day will depend on the type of LPA and how it has been set up.

For Property and Financial Affairs, attorneys can usually begin helping as soon as the LPA is registered, if the person wishes them to.

For Health and Welfare, attorneys can only make decisions once the person is no longer able to make those decisions themselves.

Some LPAs appoint a single attorney, while others appoint several. When more than one attorney is involved, they may be asked to act jointly (making decisions together) or jointly and severally (where they can act together or individually). The wording within the Lasting Power of Attorney will explain how decisions should be made.

If attorneys disagree, the most important step is to return to the guiding principle of what is in the person's best interests. Open discussion and, where needed, advice from professionals can help resolve most situations.

Circumstances can also change over time. If an attorney can no longer act, or if the person's needs evolve, there may be ways to update arrangements or seek further guidance to ensure the right support remains in place.

Practical Checklists

Stepping into the role of an attorney can feel daunting at first, but having a few simple checklists can help you approach decisions with confidence and clarity.

Before you start acting as an Attorney

Before you begin acting as an attorney, make sure the LPA is registered and that you fully understand what decisions you are authorised to make. It can also help to familiarise yourself with the person's wishes, financial situation, and any important documents such as wills or care preferences.

Questions to ask before making a decision

Before making a decision, take a moment to ask:

Can the person make this decision themselves with support?

Do I understand their wishes and values?

Have I considered all available options?

Best interests decision checklist

When applying the best interests principle, think about what the person would likely want, who should be involved in the conversation, and whether the decision respects their dignity and independence.

Financial and care decision prompts

For financial or care decisions, consider the longer-term impact...

Will this support their wellbeing?

Are there professionals or family members who should be consulted?



Remember the small details that are often overlooked. Keeping good records, communicating openly with family, and reviewing decisions regularly can make the role of attorney much smoother and ensure the person remains at the centre of every decision.



The Emotional Side of Being an Attorney

Being an attorney is not just a legal responsibility. It can also carry an emotional weight, particularly when you are making decisions for someone you care deeply about.

Balancing responsibility with relationships

Many attorneys find themselves balancing practical responsibilities with personal relationships. It can sometimes feel difficult to separate the role of decision maker from the role of partner, child, sibling or close friend.

Managing guilt, conflict and pressure

Feelings of guilt, pressure or disagreement within families are not uncommon. Decisions about health, care or finances can be sensitive, and it is natural to want to do the right thing. Remember that your role is to act in the person's best interests, guided by their wishes and values as far as possible.

Looking after your own wellbeing

It is also important to look after your own wellbeing. You are not expected to carry the responsibility alone. Speaking with professionals, involving other family members and asking for advice when needed can make the role more manageable.

If the role ever begins to feel overwhelming, taking a step back and seeking support can help you move forward with greater confidence and reassurance.



When to Seek Professional Advice

Most decisions made under a Lasting Power of Attorney are straightforward, but there are times when seeking professional advice can be helpful and important.

Legal guidance may be needed if there is uncertainty about the scope of the LPA, disagreements between attorneys or family members, or if a significant financial or care decision needs to be made. In more complex situations, the Court of Protection may need to become involved to provide clarity or make a formal ruling.

If conflict arises, mediation and professional support can often help families find a balanced and respectful way forward.

Perhaps most importantly, many of these challenges can be avoided by having open conversations early. Talking about wishes, preferences and expectations while everyone is able to participate can make future decisions clearer and less stressful for everyone.



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