

Can an attorney make gifts?

If you're an attorney under a **Property and Financial Affairs Lasting Power of Attorney (LPA)**, you may be able to make some gifts using the donor's money — but your powers are limited.

The important thing to remember is that **being someone's attorney doesn't give you a free hand to give away their money or possessions.**

Here are some simple examples.

✓ Gifts you may be able to make

1 A birthday present

A reasonable birthday gift to the donor's child, grandchild, friend or another person connected to them.

2 A Christmas or other customary gift

A reasonable gift for an occasion the donor would normally celebrate, such as Christmas, Eid, Diwali, Hanukkah, Chinese New Year, a wedding or civil partnership.

3 A charitable donation

A reasonable donation to a charity the donor supported — or might have supported.

4 A gift similar to ones they made before

The donor's previous gifting habits can help you decide whether a proposed gift is reasonable, although you must still consider their circumstances now.

✕ Gifts you shouldn't make without further authority

1 A large gift of money

You can't simply give substantial sums to children, grandchildren or other family members because the donor has plenty of savings.

2 Gifts to reduce Inheritance Tax

Larger gifts made as part of Inheritance Tax planning will normally require permission from the **Court of Protection**.

3 Giving away a house or land

Giving away all or part of the donor's property is almost certainly outside an attorney's normal powers and is likely to require Court of Protection permission.

4 Loans or other financial benefits

You can't normally make loans from the donor's money — including interest-free loans — without Court of Protection authority. Allowing someone to live in the donor's property for less than the market rent can also count as a gift.

But there's an important condition...

A gift must be **reasonable and affordable**, taking into account the donor's circumstances and the size of their estate.

You should consider their current and future needs — particularly things such as care costs — and whether making the gift is in their **best interests**.

Before making a gift, ask yourself...

Would they normally have made a gift like this?

Is it reasonable given their finances today?

Will they still have enough for their own needs and future care?

Is it in their best interests?

And always check the LPA itself for any instructions or restrictions that may apply.

If you're unsure whether a gift falls within your authority, **don't make it first and ask questions later**. Consider taking legal advice or applying to the Court of Protection for permission.

It's also sensible to **keep a record of any gifts you make**, including what was given, to whom, when and why you considered it appropriate.



Important: This is a simple general guide to attorneys acting under a Property and Financial Affairs LPA in **England and Wales**. It does not cover every circumstance and isn't a substitute for legal advice. Scotland and Northern Ireland have different legal frameworks.