

The Lasting Power of Attorney Manual: What is an LPA



If a parent suddenly suffers a stroke, a bad fall, or memory loss without an LPA in place, banks freeze accounts, utility companies refuse to speak with relatives, and local authorities can step in to make key care decisions.

Most families only discover how the legal system works when a crisis hits. Understanding what an LPA is and knowing how to apply for Lasting Power of Attorney before a health crisis hits is the single best way to protect your parent's autonomy and ensure choices about their home, money, and care remain firmly within your family.

Setting up legal protection isn't about taking away a parent's independence, it is about putting a safety net beneath it.

What is a Lasting Power of Attorney (LPA)?

Legal Definition: A Lasting Power of Attorney (LPA) is an official legal document registered with the Office of the Public Guardian (OPG) in England and Wales. It allows an individual (known as the 'donor') to appoint one or more trusted people (known as 'attorneys') to make decisions on their behalf if they lose mental capacity or want help managing their affairs.

There is a widespread myth in the UK that being someone's spouse or next-of-kin automatically gives you the legal authority to act for them if they fall ill. Under UK law, this is simply not true. Without a registered document, no one—not even a marriage partner of fifty years or an only child—has the automatic legal standing to access a relative's bank account or choose their care provider.

If you're wondering what is an LPA in practical terms, it helps to distinguish it from a Will:

- **A Will** determines what happens to your assets *after* you pass away.
- **An LPA** protects your wishes, assets, and daily comfort while you are *alive*.

Crucially, an LPA can only be set up while a person still has full mental capacity. Once a parent loses the ability to understand and weigh up information for themselves, it is too late to sign one.

Property and Financial Affairs vs. Health and Welfare: Understanding the two LPAs

In England and Wales, there are two distinct types of Lasting Power of Attorney. Because they govern completely different areas of life, most families choose to set up both at the same time.

The Property and Financial Affairs LPA

This document grants your appointed attorneys the legal authority to manage money and property. It covers everyday tasks such as:

- Accessing bank accounts to pay utility bills, council tax, or mortgages.
- Collecting pensions, benefits, or investment income.
- Managing or selling property to fund care needs or maintenance.

With the donor's explicit permission, a Property and Financial Affairs LPA can be used while the donor still has mental capacity (for example, if a parent has physical mobility issues and wants help going to the bank), as well as if they lose capacity in the future.

The Health and Welfare LPA

This document covers personal, medical, and lifestyle decisions. It grants attorneys the authority to make choices regarding:

- Daily routines, such as diet, clothing, and washing.
- Where the donor lives (for example, arranging visiting home care so they can stay in their own property).
- Medical treatments, nursing care, and hospital care.
- Giving or refusing life-sustaining treatment (if explicitly authorised on the form).

A Health and Welfare LPA can *only* be used if the donor has lost the mental capacity to make a specific decision for themselves.

How to set up an LPA with the modern digital LPA portal

The UK government offers an online digital portal via GOV.UK that allows families to complete the application forms online. While the portal simplifies the paperwork, the physical signing process remains strictly controlled by law.

Here is the step-by-step roadmap for how to apply for Lasting Power of Attorney:

Step 1: Create an online account

Visit the official GOV.UK Lasting Power of Attorney portal and set up an account. You can create both a Property and Financial Affairs LPA and a Health and Welfare LPA through the same account.

Step 2: Enter the details of the Donor and Attorneys

Input the full legal names, dates of birth, and addresses of:

- **The Donor:** The person making the LPA (e.g., your parent).
- **The Attorneys:** The people appointed to make decisions (e.g., adult children).
- **Replacement Attorneys:** Backup choices if a primary attorney passes away or can no longer act.

Step 3: Choose how attorneys will make decisions

If appointing more than one attorney, you must decide how they work together:

- **Jointly and Severally:** Attorneys can make decisions together OR individually. This is usually the most practical option for daily life, as one child can pay a bill without needing siblings to sign the cheque.
- **Jointly:** All attorneys must agree unanimously on every single decision. (Warning: This can cause severe practical delays if one attorney is away or unwell).

Step 4: Select a 'Certificate Provider'

A Certificate Provider is an independent person who confirms that the donor understands what the LPA is, is signing it voluntarily, and is not being pressured by anyone.

They must be either a qualified professional (such as a GP, solicitor, or social worker) or a trusted friend who has known the donor personally for at least two years.

Step 5: Print, sign, and witness in the exact legal order

Even when using the digital portal, the document must be printed out and signed by hand using black ink. The signing order is non-negotiable under UK law:

1. **The Donor** signs first (witnessed by an independent adult).
2. **The Certificate Provider** signs second.

3. **The Attorneys** sign third (witnessed by an independent adult).

Note: If these pages are signed out of order, or signed on the wrong dates, the application will be rejected.

Step 6: Submit to the OPG and pay the registration fee

Send the signed paper forms by post to the Office of the Public Guardian (OPG). The current statutory registration fee is £92 per LPA (so £184 for both documents).

If the donor receives certain means-tested benefits or has an income under £12,000, they may qualify for a 50% fee reduction or a full exemption.

What are the common mistakes that cause the Office of the Public Guardian to reject an LPA?

Because the OPG processes thousands of applications every month, their checking procedures are strict. Minor errors cause immediate rejections, meaning lost application fees and delays of 8 to 12 weeks while forms are resubmitted.

When submitting forms, watch out for these lasting power of attorney common mistakes:

- **Signing the pages in the wrong order:** The donor **MUST** sign before the certificate provider and attorneys. If an attorney signs on Tuesday and the donor signs on Wednesday, the OPG will void the document.
- **Using correction fluid (Tipp-Ex):** If you make a mistake on the paper form, draw a single line through it and initial the change. Never use white-out fluid.
- **Conflicting instructions and preferences:** The form distinguishes between 'Instructions' (legally binding rules, e.g., "*My attorneys MUST NOT sell my house*") and

'Preferences' (wishes, e.g., *"I prefer to eat vegetarian meals"*). Writing a binding rule in the preference section—or writing something impossible to enforce—will cause a rejection.

- **Missing full legal names:** Using nicknames (e.g., "Bob" instead of "Robert") or leaving out middle names that appear on official photo IDs.
- **Unclear attorney rules:** Choosing "Jointly" for routine financial matters, making it impossible for one child to handle a small errand without all siblings present.

Choosing your attorneys: Who should manage your family's legal decisions?

Choosing an attorney is not about picking a favourite child; it is about selecting someone who is organised, trustworthy, and capable of making calm decisions under emotional pressure.

You can appoint family members, trusted friends, or professional individuals (such as a solicitor). To prevent family conflict and ensure smooth operation:

- **Appoint 'Jointly and Severally':** This gives attorneys the flexibility to divide up responsibilities based on their strengths—for instance, one sibling handling bank statements while another manages healthcare calls.
- **Always name replacement attorneys:** Life is unpredictable. Naming a backup prevents the entire LPA from failing if a primary attorney falls ill.
- **Discuss wishes early:** Talk openly about money, care preferences, and end-of-life decisions long before the document ever needs to be used.

Avoiding lasting power of attorney common mistakes during the selection process ensures that attorneys can work together harmoniously when your parent needs support.

What happens if a parent loses mental capacity without an LPA in place?

If a parent loses mental capacity due to advanced dementia, a stroke, or a severe accident before an LPA is registered, their family loses the ability to sign one.

At that point, the only legal route left in England and Wales is applying to the Court of Protection to become a 'Deputy':

- **Extreme delays:** A Deputyship application typically takes between 6 and 12 months to be approved.
- **High financial costs:** Court fees, legal costs, and ongoing annual supervision fees can quickly run into thousands of pounds—paid out of the family's or parent's savings.
- **Frozen bank accounts:** During the months waiting for court approval, bank accounts remain locked, leaving families unable to access their parent's pension to pay for household expenses or private care.
- **Loss of family control:** If no family member steps forward or if the court deems a family dispute unmanageable, the Court of Protection may appoint an independent local authority officer as a Deputy, taking decision-making power out of family hands entirely.

Understanding what is an LPA highlights why setting up paperwork early is so crucial: it completely avoids the stress, expense, and delay of Court of Protection deputyship.

Would a legally secure LPA help you arrange independent home care more smoothly?

When health needs change, families often want to arrange visiting home care quickly so an older parent can stay comfortable and safe in their own familiar home. Having an LPA in place transforms this process:

- **Signing care agreements effortlessly:** A **Health and Welfare LPA** gives adult children the clear legal authority to sign care plans, liaise directly with home care managers, and discuss health details with GPs and district nurses.
- **Funding care directly:** A **Property and Financial Affairs LPA** allows attorneys to pay care invoices directly from the parent's bank account without bureaucracy or frozen funds.
- **Protecting personal choices:** Instead of a local council default placement in a residential facility, a legally valid LPA empowers families to advocate for their parent's explicit wish: remaining independent in their own home with tailored, visiting support.

By taking steps to learn how to apply for Lasting Power of Attorney now and steering clear of lasting power of attorney common mistakes, you protect your parent's voice, preserve their dignity, and ensure your family can arrange gentle, professional home care the moment it is needed.