

# Lasting Power of Attorney

## Guide for Attorneys

(for LPAs for Property and Financial Affairs)

**ProTrust**   
Estate Planning

ProTrust Estate Planning  
25 North Row  
Marble Arch  
London W1K 6DJ  
0207 113 5760

[info@protrustestateplanning.co.uk](mailto:info@protrustestateplanning.co.uk)

[www.protrustestateplanning.co.uk](http://www.protrustestateplanning.co.uk)

## What it means to be an Attorney

Having a Lasting Power of Attorney (the 'LPA') enables you (the 'Attorney') to make decisions on behalf of the person who made the LPA (the 'Donor') in respect of their property and money matters such as:

- Using their bank and building society current and savings accounts;
- Claiming, receiving and using their benefits, pensions and allowances;
- Paying their household, care and other bills;
- Buying or selling their home;
- Saving or making and selling investments

The Donor will appoint you as an attorney under an LPA. In doing so they trust you to make decisions for them if they lose their mental capacity so are unable to make a specific decision at the time that it needs to be made. This is a position of trust so the law requires that you must always act honestly and, in the Donor's, best interest.

### Things to consider

You may need to speak to the Donor about how they look after their finances for example;

- their preference on spending;
- any regular gifts or donations to friends, family or a charity of choice;
- if they have a preference as to whether they would rent or sell their home if they moved into a care home;
- whether they like to have a minimum amount in their bank account.

You may need to ask the Donor where they keep their financial information for example;

- Any benefits, pension and tax letters;
- Any bills and bank or credit card statements;
- The Deeds to any property they may own;
- The original Lasting Power of Attorney document

It is recommended that the Donor obtains workable copies of the LPA. If the Donor has capacity, they can certify the copies. Alternatively, a solicitor or notary can make them for a fee.

## How you can help the Donor

**The Law states that a lack of mental capacity is when a mind or brain problem stops a person making a specific decision when they need to.**

### If the Donor Has Mental Capacity

The law says that you must assume that someone can make decisions unless it is shown that they cannot. You cannot make a decision for the Donor just because you do not agree with it. As an attorney you must help the Donor reach their own decision. You will need to check they are able to make some decisions. If need be, you can explain in different ways for example using pictures, sign language or using their native language. If the decision is not urgent and the Donor cannot decide then it can wait.

### If the Donor does not have mental capacity

- Follow guidance within the LPA and any restrictions and conditions therein
- Seek advice from those who know the Donor and ask them what the Donor would do
- Do not make assumptions based on their age, condition or appearance – carefully consider what they, as an individual would want
- Avoid any decisions that would restrict the freedom of the Donor ie. Look for an option with less of an impact
- Always make decisions based in the best interest of the Donor. Each decision must be the best choice for the Donor and not just one that suits others.
- Keep regular accounts of income and any outgoings. Keep any bills and receipts.
- Unless you have a joint account or own a home together, keep your money and property separate from the Donor's.
- If the Donor owns a property check whether it is registered at HM land Registry. If it is not you will need to register it.

### Other things to consider

- You will need to inform banks, building societies, utility companies and also the Department of Work and Pensions (DWP). All of these may ask to see the original LPA document or a certified copy. They will also require proof of your identity.
- When considering making gifts, they should only be made if they are in the Donor's best interest ie. they must not harm the Donor's care or quality of life and they must be within the means of the Donor. You can give gifts such as charitable donations or family birthday presents but you cannot spend much more or differently than the Donor.
- It is against the law to benefit personally or make profits from acting for the Donor.

## Other attorneys

If the donor has other attorneys named in the LPA the document will indicate how you act together:

- Jointly or severally – you can make a decision either by yourself or with the other attorneys
- Jointly - all named attorneys must agree to every decision
- Jointly for some decisions and jointly and severally for others – decisions that are set out in the LPA you must agree with all of the other attorneys. Other decisions not set out in the LPA you can make alone.
- If you and the other attorneys cannot agree on a decision it is advisable to seek advice from friends and family of the donor to ascertain what would be in their best interest. Alternatively, you could use advocacy or mediation. If the Donor is in a home or gets social care you can request help from the staff. You could contact the Office of the Public Guardian who may be able to advise or you may need to apply to the Court of Protection for a fee.

## Useful contacts

<b>Age UK</b>	0800 169 6565 <a href="http://www.ageuk.org.uk">www.ageuk.org.uk</a>
<b>Alzheimer's Society</b>	0300 222 1122 <a href="http://www.alzheimers.org.uk">www.alzheimers.org.uk</a>
<b>Citizens Advice</b>	<a href="http://www.adviceguide.org.uk">www.adviceguide.org.uk</a>
<b>Family Mediation Council</b>	<a href="http://www.familymediationcouncil.org.uk">www.familymediationcouncil.org.uk</a>
<b>Mind</b>	0300 123 3393 <a href="http://www.mind.org.uk">www.mind.org.uk</a>
<b>Money Advice Service</b>	0333 321 3434 <a href="http://www.moneyadviceservice.org.uk">www.moneyadviceservice.org.uk</a>
<b>Scope</b>	0808 800 3333 <a href="http://www.scope.org.uk">www.scope.org.uk</a>

## Contact Us

For more information and for an initial discussion for advice please contact us on:

Email: [info@protrustestateplanning.co.uk](mailto:info@protrustestateplanning.co.uk)

Telephone: 0207 113 5760