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Making a Personal Welfare Lasting Power of Attorney (Part 1)

What is a Personal Welfare Lasting Power of Attorney?

This document allows your Attorney to make decisions on your behalf about your personal welfare, including whether to give or refuse consent to medical treatment on your behalf and deciding where you live.

These decisions can only be taken on your behalf when you lack the capacity to make them yourself, for example, if you are ill, unconscious or because of the onset of a condition such as dementia. It does not allow your Attorney(s) to make decisions about your Property and Affairs. You would need to prepare a separate Lasting Power of Attorney to cover this aspect and this is called the Property and Affairs Lasting Power of Attorney.

What will a Personal Welfare Lasting Power of Attorney allow my Attorney to do on my behalf?

This person is called a "Personal Welfare Attorney(s)" and it will depend on the powers that you give them when making your Lasting Power of Attorney. The person will only be able to make decisions that are in your best interests and these may include significant decisions such as:

- Giving or refusing consent to particular types of health care, including medical treatment.
- You staying in your own home, perhaps with help and support from social services.
- You moving into residential housing and choosing the right care home for you.

Your Personal Welfare Attorney(s) might also make personal welfare decisions about more day-to-day issues, for example, about your diet, your dress or your daily routine. Please note these are only examples of the types of decisions they can make.

If you make an LPA that does not contain any restrictions or conditions, **once the LPA is registered** your Attorney(s) will be able to do **anything** that you can do now in relation to your personal welfare.

It is important when making your LPA, that you are satisfied that you have given your chosen Attorney(s) the right powers to enable them to make the decisions you want made about your personal welfare in the future, should you lack the capacity to make them yourself.

Who can I choose to be my Personal Welfare Attorney(s)?

Appointing an Attorney to make decisions on your behalf is a very important

decision. If you want them to, your Attorney(s) will be able to make any decision about your healthcare and welfare where you lack the capacity to do so yourself. Or you can limit the type of decisions that make for you by specifying this in your Lasting Power of Attorney.

It is important to choose someone you know well, someone you trust to make decisions in your best interests and someone who is happy to take on the role.

Can I appoint more than one Attorney?

You can appoint as many Attorney's as you wish, but it is important that you consider how you are appointing them. You will need to specify whether you want to appoint your Attorneys to act:

- Together; or
- Together and independently; or
- Together in some matters and together and independently in others.

You should ensure that you and they fully understand how they have been appointed to act and what that will mean in practice when they are making decisions for you.

What is the difference between appointing Attorneys together or appointing them together and independently?

Attorneys appointed together **must always** act together. They must **all agree** before doing anything on your behalf. If one Attorney does not agree with a proposed action, that decision cannot be made. Donors often use this as a safeguard to ensure that all those they trust to make decisions for them are in agreement. However, you must remember that this could delay decisions that may need to be taken at short notice.

Attorneys appointed together and independently can act on their own and they can act together. This means, for example, that **any one** of your Attorneys appointed together and independently can decide on a particular issue. This can be useful if one of your chosen Attorneys is not available all of the time to help make decisions on your behalf, for example, if they work abroad for long periods of time.

You can also appoint your Attorneys to act together in respect of some matters and together and independently in respect of others – for example, you could appoint your Attorneys to act together when deciding.

What restrictions or conditions can I include in the LPA?

You can include restrictions or conditions in your LPA which allow you to decide which decisions you want your Attorney(s) to make.

Please note, you should think carefully about how you word any restriction of conditions that you include. To ensure that health and social care staff and other professionals can follow them effectively in the future, they should be straightforward, easy to understand and capable of being put into practice.

If there are any conditions or restrictions that are considered to be too complicated or not practical it is possible that the Office of the Public Guardian will consider cancelling that condition or restriction.

What is a replacement Attorney and when might I need one?

Replacement Attorneys are people you can appoint to act in place of an Attorney who is no longer able to or does not wish to make decisions as your Attorney. For example, you may choose your spouse to be your Attorney, then choose your son/daughter as a replacement if your spouse should die or can no longer act on your behalf.

You can choose as many replacement attorneys as you want and they can act in place of any of your Attorneys but you must set out how they are to be appointed.

If you want to appoint a replacement Attorney, you do so at the time you make your LPA and your replacement Attorney has to sign up to taking on this role like any other Attorney. It is your decision whether to appoint a replacement and it is not a requirement of an LPA that you do so.

Why do I have to state people to be notified of the registration?

Selecting people to notify of an application to register an LPA is a key safeguard to the document. Listing people allows you to decide at the time you make your LPA who you would like to be notified that registration of your LPA is taking place. Once notified, if the people you choose have concerns about the registration of your LPA – for example they feel that you were put under pressure to make it – they can object to the registration.

Who should I choose to be notified?

You can select up to 5 people and it is up to you to select the people you want to be notified. However, it is important to remember that the person/people you choose should know you well enough to be able to raise any concerns they may have about an application to register your LPA.

It is very important to keep the addresses/contact details of your named persons up to date and keep this with your original LPA as once your LPA is completed and signed, you cannot make any amendments to it.

What happens if I do not have or want anyone to be notified?

We advise that you try to include named persons where possible. However, if you decide not to name anyone or if you do not have anyone suitable to name, then you must have 2 separate Certificate Providers.

What is a Certificate Provider?

A Certificate Provider is a person **that you must select** to complete a Part B Certificate of the LPA form, confirming that you understand the LPA and that you are not under any pressure to make it.

Why do I need this certificate?

The certificate is a vital part of the LPA document. Without it, the LPA is not valid and cannot be registered. For this reason, the certificate **must not** be detached from the LPA.

Who can I choose as a Certificate Provider?

Please see our separate information leaflet on this subject.

What is Life Sustaining Treatment?

Life sustaining treatment means any treatment that a doctor considers necessary to sustain your life and it will depend on the circumstances of a particular situation. This might include the following:

- A serious surgical operation e.g. a heart bypass;
- Receiving chemotherapy, radiotherapy or undergoing surgery to treat cancer; or
- An organ transplant.

Life sustaining treatment could also include more day-to-day procedures or treatments. Whether treatment is life sustaining or not will depend on the situation.

Will my Personal Welfare Attorney be able to decide where I live?

Yes, unless you include a restriction in your LPA removing that power from your Attorney(s).