

Should I put Lasting Powers of Attorney ('LPAs') in place?



Many of our clients come to us asking if they should put LPAs in place. Our answer is always 'yes' as they can prove to be very useful documents, both before and after a person loses the mental capacity to make their own decisions.

There are two types of LPA, one relating to financial decisions and the other to health and care decisions.

The financial decisions LPA allows your chosen attorneys to deal with your finances on your behalf whilst you have capacity (with your consent) and also if you were to lose capacity.

The health and care LPA allows your chosen attorneys to deal with a wide range of decisions relating to your health and care including medical decisions, the type of care you receive, what you eat, who visits you, etc. The health and care LPA can only be used if you have lost capacity to make those decisions for yourself.

LPAs are becoming more and more common and, increasingly, doctors and care homes will ask to see them before taking instructions or allowing you to become a resident in a nursing home.

What happens if you lose capacity without LPAs in place?

If you lose capacity without LPAs in place, your family members or other people who may wish to help you would need to apply to the Court of Protection for a deputyship order. Without the order, no one can do anything to manage your finances or make decisions about your care. The application to apply for a deputyship order usually takes several months and is a very costly process.



Once a deputyship order is obtained, the Court of Protection will determine which decisions the deputy can make. The deputy then needs to keep the Court informed of decisions which includes supplying yearly accounts to the Court and the payment of a bond (the amount of this will depend on the valuation of the person's estate and how much of their estate you control).

If you put LPAs in place whilst you have capacity they are like an insurance policy: you hope never to have to use them, but they are there if needed. This also allows you to have control over who you appoint as your attorneys and you can also discuss with them any wishes or feelings that you may have, allowing them to act in your best interest at all times.

How we can help

If you would like to discuss this further or to put LPAs in place, please contact Nicola Hillyer on 01892 506014 or at nicola.hillyer@cripps.co.uk.



[Nicola Hillyer](#)

Senior Paralegal