

Lifetime Mortgages Understanding Lasting Power of Attorney

This is not a consumer advertisement. It is intended for professional Advisers only.

Introduction

At OneFamily, we appreciate that life isn't always predictable and circumstances can change quickly.

We understand it can be hard finding the time, and money, to think about the future and what might happen to your customer's finances or property. However, in the longer term they might save themselves a lot of worry if they sort legal and financial matters out in advance.

There may come a time when your customers are no longer able to manage their own affairs. Did you know that by preparing a Lasting Power of Attorney now, they keep control over who deals with their matters in the future.

What is a Lasting Power of Attorney?

A Lasting Power of Attorney (LPA) is a legal document where you can give another person the authority to make certain decisions on your customer's behalf. The person making the LPA is called the **donor** and the person being given the authority is the **attorney**.

What decisions can be made with a Lasting Power of Attorney?

The decisions someone can make for another person depends on the type of Lasting Power of Attorney (LPA) that has been set up.

There are **Property & Financial Affairs** LPAs and **Health & Welfare** LPAs.

Your customer can choose to prepare just one or both types. Please see overviews of the different LPAs opposite.



Property & Financial Affairs LPA

A Property & Financial Affairs LPA allows the attorney to deal with any decisions relating to your customer's property or financial affairs.

This can cover paying bills, dealing with the bank, collecting benefits, selling their house, or giving instructions to solicitors etc.



Health & Welfare LPA

A Health & Welfare LPA allows the attorney to make decisions about treatment, care, medication, where your customer lives, the care home they live in, and can even extend to whether they would like their attorney to make decisions relating to life sustaining treatment or not.

Who to appoint as an attorney?

The attorney is the person your customer chooses to make decisions on their behalf. They should be trustworthy, have appropriate skills to make decisions, and your customer should have full confidence that they will act in their best interests.

More than one attorney can be appointed and if more than one attorney is appointed, your customer can specify whether they want them to act together (jointly) or so that they can make decisions independently as well as together (jointly and severally). Your customer can even instruct them to make some decisions jointly and other decisions independently. This is in your customer's control when they set up an LPA.

When can decisions be made?

In order for a LPA to be valid it must be registered with the Office of the Public Guardian (OPG). Once registered, the LPA for Financial and Property Affairs can be used immediately, even if your customer still has the mental capacity to manage their affairs. The LPA for Health and Welfare, on the other hand, can only be used by your customer's attorney once they have lost the mental capacity to make their own decisions.

What happens if your customer doesn't have a Lasting Power of Attorney?

If your customer can no longer make their own decisions (this is often called losing capacity) then it may be necessary for an application to be made to the Court of Protection so they can appoint a suitable person to make decisions on your customer's behalf. This person is known as a Deputy.

How to set up a Lasting Power of Attorney

A Lasting Power of Attorney can be prepared without the help of a solicitor. Your customer will need to download the LPA forms from the OPG website at gov.uk/government/organisations/office-of-the-public-guardian. Alternatively, a solicitor can help set up your customer's LPAs.


How much does it cost?

Most solicitors will offer an initial consultation free of charge and then explain how much the whole process will cost.

If your customer is preparing the LPA themselves the Office of the Public Guardian (OPG) will charge for registering it. They may not have to pay the full cost if they have a low income or are exempt because they get certain benefits. See LPA fees, reductions and exemptions at gov.uk.

Contact us for more information

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* Lines open 9am - 5.30pm, Monday to Friday. We might record your call to help improve our training and for security purposes. Calls to 0800 or 0808 numbers are free from UK landlines and personal mobiles. With business mobiles the cost will depend on your phone provider. If you'd like to know more, please ask your provider.

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