

Lasting Powers of Attorney

Eight things you should know.

As a doctor you'll be aware of LPAs (Lasting Powers of Attorney) but how many of you have one in place?

If you don't, you're not alone. Just 1% of the population has one – largely because they're often thought of being a concern only for the elderly.

Realistically, however, an LPA is an essential safety net at any age. The indiscriminate nature of accidents leading to diminished capacity means it's incredibly important to have one in place – no matter how old you are.

You may already be well-informed about LPAs, but did you know...?

1. You need two types of LPA to be fully covered

One LPA covers property and finance; the other, health and welfare. Your property and finance LPA allows your attorneys to access all bank accounts immediately, to continue to manage bills and mortgage payments. A separate health and welfare LPA enables your attorneys – who can be different to your financial attorneys if you wish – to make health choices on your behalf, from resuscitation to the type of care you receive.

2. An Enduring Power of Attorney is still valid but outdated

Before LPAs were introduced, EPAs (Enduring Powers of Attorney) were in force. While EPAs are still valid, they do not cover health and welfare decisions – meaning that should you become incapacitated, your family would not be able to make decisions on these matters on your behalf.

3. An LPA is not useable unless it is registered

Once an LPA has been drafted, it needs to be registered with the OPG (Office of the Public Guardian). Until it's registered, your LPA cannot be used. This can take between eight and 10 weeks, so it's advisable to have one in place before the need arises.

4. Having a joint account is not a substitute for an LPA

It comes as a horrible shock to many that as soon as the bank finds out that one half of a couple has diminished capacity, they can shut down accounts and freeze assets. Even if the joint account isn't shut down, you still need to be careful about how you

spend that money – legally, it is not all yours. You also cannot access accounts in your partner’s sole name, such as ISAs.

5. ‘Next of kin’ does not exist

Many people believe that your ‘next of kin’ can make decisions on your behalf if you lack capacity to make them yourself. The only people who can make decisions on your behalf are those who have been authorised to. You can do this in your LPA.

6. Even your spouse or partner cannot make health decisions on your behalf

As surprising as it sounds, your spouse – or partner if you’re not married, regardless of how long you’ve been together – does not have any legal right to make health decisions on your behalf.

7. Having an LPA in place in advance can save you money

If you lose capacity without an LPA in place, your family will need to apply to the Court of Protection to be appointed as a ‘Deputy’ (a court-appointed attorney) to make decisions on your behalf. An application for a Deputy to be appointed after a person is deemed incapacitated can cost over £150,000 in solicitors’ fees; securing an LPA in advance can save many of these costs.

8. Dementia can decline faster than the time it takes to secure an LPA

Dementia can mean a person’s mental capacity declines very quickly. If this happens before you can prepare an LPA, it can take more than six months to be awarded a Deputy order, during which time your loved ones would not legally be able to make any decisions on your behalf.

Losing capacity isn’t nice to think about, but as the above points show, having an LPA in place can make things easier for you and your loved ones.

Expert legal advice

If you would like to put an LPA, Will or trust in place, BMA Law can help.

Our team of solicitors will guide you through the process, making it quick and straight forward. We offer a 20% discount if you write your Will and LPA at the same time, and if you’re a BMA member, you’ll receive a further discount on our rates.

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