

RUSSELL-COOKE | SOLICITORS

**PRIVATE CLIENT
DEPARTMENT
WHAT IS A LASTING
POWER OF
ATTORNEY**

RUSSELL-COOKE LLP is a top 100, London based law firm with around 150 highly-regarded specialist solicitors, working in departmental teams. We advise a mix of commercial, not-for-profit, regulatory and individual clients.

LASTING POWERS OF ATTORNEY (LPA)

Lasting Powers of Attorney were introduced by the Mental Capacity Act 2005 which came into effect on the 1st October 2007. Lasting Powers of Attorney have replaced Enduring Powers of Attorney however, if you have an Enduring Power of Attorney dated before the 1st October 2007, as long as it is correctly signed and witnessed, it will still be valid.

WHAT IS A LASTING POWER OF ATTORNEY?

- It is a legal document that allows you ('the Donor') to choose someone ('your Attorney') to make decisions on your behalf relating to your finances and/or your welfare.
- The 'Lasting' element of these Powers means that you can appoint someone ('your Attorney') to make decisions on your behalf should you lose the mental capacity to make such decisions for yourself.

THERE ARE TWO TYPES OF LASTING POWERS OF ATTORNEY (LPA's):

■ Property & Affairs LPA

This allows your Attorneys to make decisions on your behalf regarding your property and finances. It will allow your Attorneys, for example, to buy or sell a property for you, manage your investments, access and use your bank accounts and obtain financial information about you.

■ Personal Welfare LPA

This allows your Attorney to make decisions on your behalf to include where you can live, your day to day care needs, consent or refusal of medical treatment and right of access to personal information about you.

WHEN WILL THE POWER OPERATE FROM?

A Property & Affairs LPA can operate as soon as it has been signed by all the parties and registered with the Office of the Public Guardian. Alternatively you can specify in the document that it should have no effect until you lose the mental ability to manage your own financial affairs.

However, a Personal Welfare LPA can only ever be able to be used when you ('the Donor') do not have the mental capacity to make decisions for yourself.

WHO CAN I APPOINT?

You can appoint more than one Attorney as long as they are over the age of 18, they have not been made bankrupt and you trust them to act in your best interests.

With regards to a Property & Affairs LPA, if you do not have anyone you can appoint, you can appoint a trust corporation, for example Russell-Cooke Trust Company, to act on your behalf.

HOW WILL MY ATTORNEY MAKE DECISIONS IF I APPOINT MORE THAN ONE PERSON?

You can specify in the LPA that your Attorneys can either act jointly which means that they always have to act together or you may prefer them to act jointly and severally which means that they can either act together or individually.

CAN I PLACE RESTRICTIONS ON MY ATTORNEYS?

Yes you can place restrictions on your Attorneys and specify the acts that they can do and those that they cannot do. However, if you did want to put restrictions on your Attorneys, it is sensible if you discuss these with us so that we can advise you accordingly.

WHAT ARE MY ATTORNEYS DUTIES?

They must always act in your best interest at all times and guided by the principles of the Mental Capacity Act 2005.

CAN I CANCEL OR CHANGE MY LPA ONCE IT HAS BEEN MADE?

Yes, you can change or revoke your LPA at any time, provided you have the mental capacity to do so.

WHY MAKE AN LPA?

- It allows you to specify in advance who you want to make decisions for you, should you ever lose the capacity to make those decisions yourself. In this way, you get to choose who makes those decisions for you, rather than having the Court or someone appointed by the Court making those decisions on your behalf.
- If you should lose the mental capacity to manage your finances and affairs, your family will not automatically have legal authority to step in and manage your affairs.

HOW CAN RUSSELL-COOKE SOLICITORS HELP?

- If you would like to create a Lasting Power of Attorney, we can discuss this with you and draft the necessary documents.
- If you are an Attorney under a Lasting Power of Attorney, or an Attorney under an Enduring Power of Attorney, we can advise you as to your duties and obligations and powers. We can also help you with any applications you are required to make to the Court of Protection.
- We can apply to the Court of Protection to register an Enduring Powers of Attorney or Lasting Powers of Attorney.
- Our usual charging rates will apply and fees will be charged in accordance with the amount of time spent dealing with your instructions.

If you require further information or advice please contact any of the following:



Rita Bhargava | Solicitor
020 8394 6224
Rita.Bhargava@russell-cooke.co.uk



Janine Guthrie | Private Client Executive
020 8394 6235
Janine.Guthrie@russell-cooke.co.uk

This article is intended to provide general information about Lasting Powers of Attorney. It is not intended to be comprehensive or to provide any specific legal advice and should not be acted or relied upon as doing so. Professional advice appropriate to a specific situation should always be obtained. © Russell-Cooke LLP March 2013.

RUSSELL-COOKE | SOLICITORS

8 Bedford Row, London WC1R 4BX
020 7405 6566

2 Putney Hill, Putney, London SW15 6AB
020 8789 9111

Bishop's Palace House, Kingston-upon-Thames, Surrey KT1 1QN
020 8546 6111

CONTACT

Rita Bhargava | Solicitor

020 8394 6224
Rita.Bhargava@russell-cooke.co.uk

Janine Guthrie | Private Client Executive

020 8394 6235
Janine.Guthrie@russell-cooke.co.uk