

LASTING POWERS OF ATTORNEY

A Power of Attorney is a legal document where a person gives another person or persons (the Attorneys) power to sign and conduct legal formalities and make other decisions on their behalf. From 1 October 2007 Lasting Powers of Attorney replaced Enduring Powers of Attorney. Both were designed so they continue being effective after the Donor loses mental capacity.

There are two types of Lasting Powers of Attorney.:-

Lasting Power of Attorney Property and Financial which allows your Attorney to have authority to deal with property and finances as you direct; and

Lasting Power of Attorney Health and Welfare which allows your Attorney to make welfare and healthcare decisions on your behalf when you no longer have the mental capacity to do so yourself. If you wish, this could include giving or refusing consent to life sustaining treatment in certain circumstances. For most people this is an unnecessary expense and a simple advance medical directive which we can prepare deals with the latter issue.

A Power of Attorney is an important document and you should take great care in choosing your Attorneys. They should be trustworthy and have applicable skills to make the decisions that you are entrusting to them. You can appoint more than one Attorney to act together or separately and can also choose a replacement Attorney if your first choice dies or otherwise cannot act for you. There are considerable formalities to the completion of a Lasting Power of Attorney and they must be signed by you and your Attorney and witnessed. In addition, someone else must certify that you understand the nature and scope of the Lasting Power of Attorney and have not been unduly pressured in to making the power (a Certificate Provider).

On both types of Lasting Power of Attorney you should name up to five people (at least two) who will be notified at the time your Lasting Power of Attorney is going to be registered. These people can be friends or family but must not be your attorneys. Should one of the people who receives a notice believe that there is a problem with the Lasting Power of Attorney they will be able to object to the registration.

The Lasting Power of Attorney must then be registered with the Office of the Public Guardian before it can be used. A Property and Financial Affairs Lasting Power of Attorney can be used before you lose the mental ability to deal with your own finances but also after you lack the capacity to make financial decisions yourself. A Welfare Lasting Power of Attorney can only be used if you lack mental capacity to make welfare or medical decisions.

Existing Enduring Powers of Attorney made before 1 October 2007 will continue to be valid but they only apply to your property and financial affairs. If you wish someone to have authority over your health or welfare, you will need to make a Health and Welfare Lasting Power of Attorney.

ACTION

If you have any queries regarding anything within this article or if you have any queries relating to Lasting Powers of Attorney, please do not hesitate to contact:

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