

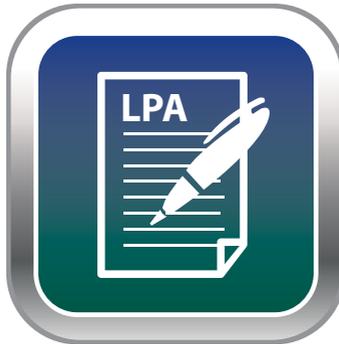


Buckingham Wills & Probate

Part of Bicester Wills Ltd

Getting Started as an Attorney

- **Lasting Power of Attorney for Health & Care Decisions**
- **Lasting Power of Attorney for Financial Decisions**



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You've been appointed as an Attorney under a Lasting Power of Attorney (LPA).

The person who made the LPA (the 'donor') trusts you to make decisions for them if they lose mental capacity. If they want, you can help them now.

'Mental capacity' is the ability to make a specific decision at the time that it needs to be made.

The law says you must always act honestly and in the donor's best interests.

Contents

- Getting started as a Health & Care Decisions Attorney
- Getting started as a Financial Decisions Attorney
- Helping the donor (For both types of LPA)
- Can't agree?



You are named as an Attorney on a Health & Care Decisions LPA

The Health & Care LPA covers decisions, such as:

- Where the donor lives.
- Their day-to-day routine.
- Personal care.
- Medical treatments.

What to do now

Talk to the donor about their likes and dislikes, for example:

- Any special diet (such as vegetarian).
- Where they want to live.
- What will happen if they can't care for their pets.
- How they like to dress and wear their hair.
- Hobbies and tastes in music, TV, radio or books.
- If they prefer being indoors or outdoors.
- Small things that cheer them up, such as a favourite film, a crossword, a glass of wine or a walk.



The more you know, the better you'll be able to decide on their behalf, if ever the donor can't.

Ask the donor if they've made care plans:

- An advance decision to refuse specific treatments (sometimes called a 'living will') that health and social care staff can follow.
- A statement of wishes and preferences about their care and treatment (this might be written or told to people).

Check if the donor chose you in the LPA to refuse or consent to treatment to keep them alive. If it's you, and they lose capacity:

- You can talk to the doctors as though you were the donor.
- The LPA may replace any advance decision to refuse a life-sustaining treatment.

Find out the donor's views on life-saving and other health and social care, including any restrictions or guidance in their LPA.



Ask the donor:

- For contact details (for example, their GP, dentist, optician).
- Where they keep the LPA document.

Informing Others

Let people know they must contact you if the donor can't make decisions. Tell:

- Family, carers, friends.
- The donor's GP and other healthcare staff.
- The donor's social worker and other social care staff, if they have them.
- Care home staff, sheltered housing wardens or other housing workers.



Staff may want to see proof of your identity and the original LPA or a certified copy – not a photocopy.

Describe the donor's choices

- Tell health and social care staff the donor's views on care and medical treatment.
- Give the GP and health and social care staff copies of any advance decision or written statement of wishes and preferences.
- Let care home workers, home helps and hospital staff know about the donor's likes and dislikes.

Other Attorneys

If there are other Attorneys, the LPA will say how you act together:

- **Jointly and severally** - you can decide with other Attorneys or by yourself
- **Jointly** – all attorneys must agree every decision.
- **Jointly for some decisions and jointly and severally for others** – you must agree decisions that are set out in the LPA with all the Attorneys. You can make others alone.

If you have to make a decision jointly and you don't all agree, it can't be made.



You are named as an Attorney on a Financial Decisions LPA

The Financial LPA covers the donor's property and money matters, such as:

- Using their bank and building society current and savings accounts.
- Claiming, receiving and using their benefits, pensions and allowances.
- Paying their household, care and other bills.
- Dealing with utility companies.
- Dealing with insurance companies.
- Buying or selling their home.
- Saving or making and selling investments.
- Dealing with their financial adviser.
- Dealing with their accountant.



What to do now

Talk to the donor about how they look after their finances. For example, do they:

- Give birthday gifts to children or other friends and family (how much)?
- Like spending on clothes, music or trips?
- Donate to particular charities (how much)?
- Want to sell or rent out their home if they move into a care home?
- Prefer to keep a minimum bank balance?

Ask the donor where they keep financial information:

- Benefits, pension and tax letters.
- Bills and bank or credit card statements
- The deeds of any property they own.
- The LPA document.

Managing Finances

Keep accounts by writing down income and bigger outgoings and gifts. Keep bills. It's easier to keep the donor's and your money and property separate, unless you already have joint accounts or own a home together.

Dealing with banks and other companies

Banks, building societies and utility companies need proof that you're the attorney. You may have to show them:

- The original LPA document or a certified copy, not a photocopy.
- Proof of who you are and where you live (such as a gas or electricity bill and passport or driving licence).



Making gifts

Gifts can only be made if they are in the donor's best interests.

Spending must not harm the donor's care or quality of life. Gifts must be affordable.

You can still give charitable donations or family birthday presents, but you can't spend a lot more or differently from the donor.

You can't make profits or benefit personally from acting for the donor – it's against the law.

Other Attorneys

If there are other Attorneys, the LPA will say how you act together:

- **Jointly and severally** - you can decide with other Attorneys or by yourself
- **Jointly** – all attorneys must agree every decision.
- **Jointly for some decisions and jointly and severally for others** – you must agree decisions that are set out in the LPA with all the Attorneys. You can make others alone.

If you have to make a decision jointly and you don't all agree, it can't be made.

Helping the donor (For both types of LPA)

As an Attorney, you must help the donor to reach their own decisions, if they can. You can't decide for the donor just because you think their decisions are odd or unwise.

The law says that you must assume that someone can make decisions, unless it's shown they can't.

Help the donor to make decisions:

- Check: can they make some decisions?
- Explain in different ways. Would using pictures, sign language or their native language help?
- If there are times when the donor can decide and the decision's not urgent, wait and try again later.

A lack of mental capacity is when a mind or brain problem stops a person making a specific decision when they need to.



If the donor doesn't have mental capacity:

- Follow any restrictions or conditions in the LPA.
- Try to follow guidance or requests mentioned in the LPA.
- Ask others what the donor would do.
- Don't make any assumptions based on the donor's age, behaviour, condition or appearance – think about what they as an individual would want.

Avoid decisions that restrict the donor's freedom

Look for an option with less of an impact.

Make decisions in the donor's best interests

Each decision must be in the best choice for the donor, not just one that suits other people.



Keep Records

If you make an important decision for the donor, make a note of it and why it was in their best interests. Write down decisions such as moving the donor to another home, choosing care services or refusing medical treatment.

Can't agree?

If you and other Attorneys can't agree, ask family and friends what the donor would want and what's in their best interests.

Use advocacy or mediation. Look online or ask at a library. If the donor is in a home or gets social care, ask staff for help. You can contact OPG - they may be able to advise.

BEFORE YOU ACT!

THINK – is this what the donor would want?

CHECK – can the donor be helped to make all or part of the decision?

REMEMBER – every decision must be in the donor's best interests.

If the LPA is destroyed or lost, the Office of the Public guardian (OPG) can make copies for £35 each.

Get certified copies of the LPA document. If the donor has capacity, they can make them. See www.gov.uk/power-of-attorney/certify.



Buckingham Wills & Probate

Part of Bicester Wills Ltd

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Buckingham Wills & Probate is part of Bicester Wills Ltd which was set up in 2010 by Gail Church, who was an Independent Financial Adviser for over 15 years. Gail now specialises in Will writing and estate planning from offices in Crown Walk, Bicester; Castle Street, Buckingham and covers the Brackley, Buckingham and Oxfordshire areas.

Buckingham Wills & Probate provides clients with an affordable Will writing and estate planning service, and can also offer Inheritance Tax planning advice, Lasting Powers of Attorney, Probate assistance and Trusts. All services are on a fixed fee basis.

"Gail made it a painless and thought provoking exercise...our wishes have been understood and will be acted upon.

We will have no hesitation in recommending your services to other members of our family as well as our friends and business associates."

Mr W of Witney

"You handled my situation in a professional, knowledgeable, yet friendly manner that far exceeded my expectations. Nothing ever seemed to be too much trouble."

Mrs K of Bicester

"Excellent service and nice people!"

Mrs F of Abingdon

"Very thorough and efficient with very reasonable fees."

Mr P of Chesterton

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