

WHY SHOULD I MAKE A POWER OF ATTORNEY?

Did you know that if you lose your capacity to make your own decisions, your family and friends cannot just step in to manage your affairs for you.

For example, a bank will not let anyone other than the account holder access bank accounts unless they have legal authorisation. A valid Lasting Power of Attorney (LPA) counts as legal authorisation.

There are many reasons why someone might lose their capacity to manage their own affairs, including:

- They are diagnosed with an illness, such as dementia which affects their mental capacity.
- They have an accident resulting in a brain injury that affects their mental capacity (either long term or short term. For example, someone in a coma will lack mental capacity, but if they wake up, they may regain mental capacity).
- They have an accident resulting in a physical injury that puts them in hospital or leaves them with temporary or permanent disabilities.
- They need to go into hospital for a while. For example, someone may struggle to make their own decisions while recovering from surgery.
- They are elderly – sometimes, older people simply need extra support to look after themselves.

WHAT IS MENTAL CAPACITY?

Mental capacity is the ability to make your own decisions, from small decisions such as what to have for breakfast, to big decisions such as whether to buy property or who to leave your money to in your Will.

Sometimes, a person may lose their mental capacity. This could be suddenly – for example, if they have a car accident which causes a brain injury – or gradually – for example, if they have a degenerative illness such as Alzheimer's.

Mental capacity loss can be temporary or permanent. For example, someone with a brain injury may recover over time, but someone with advanced dementia will probably never recover their capacity.



POWER OF ATTORNEY

However, mental capacity can also be fluctuating and change depending on the decision that needs to be made. For example, someone may be able to make a decision about their day-to-day routine, but may struggle with big decisions such as how to manage their pension.

It is important that people are enabled to make decisions for themselves as far as possible. However, where that is not possible, a Lasting Power of Attorney allows someone the person trusts to help them make decisions or take over the decision-making process on their behalf.

FIVE BENEFITS OF HAVING A LASTING POWER OF ATTORNEY

1. An LPA gives you more choices – we all want the freedom to make decisions for ourselves but if you become unable to think clearly then by having an LPA in place decisions can still be made on your behalf by someone you have chosen and trust.
2. You get to choose who looks after you – by preparing an LPA you get to make the decision on who to nominate to look after your best interests, it could be your partner, your children or a professional. It is also possible to appoint several attorney's.
3. Making it easier for your family – if you don't set up an LPA and you become unable to make decisions for yourself life for your loved ones can become very challenging. No one has the automatic authority to look after you and someone would have to go through the legal process of applying to be your deputy. This is through the Court and can be time-consuming and expensive. You will not have a choice as to who this person is so it may not be someone you would have wanted.
4. There are two different types of LPA and you don't have to have the same attorney's for each – a Health and Welfare LPA gives your attorney the power to make decisions on your healthcare, treatments and living arrangements. A Property and Financial Affairs LPA grants your attorney the authority to manage your finances, assets and property.
5. It's peace of mind for your family – although it's not something we like to think about illness and accidents do happen and by arranging an LPA when you are fit and well makes sure you will be looked after if the worst happens.

WHAT HAPPENS IF YOU DO NOT MAKE A LASTING POWER OF ATTORNEY?

If you lose your mental capacity, but do not leave an LPA, your relatives will instead have to apply to the Court of Protection.

This can be a long and stressful process, so it is worth taking steps to avoid this, even if you think the risk is low.

At Stephen Rimmer our team are specialist solicitors so you can be assured that we will always have you and your family's best interests in mind. Follow this link for a free initial 30-minute consultation or call us on 01323 434414 to see how we can help you.