

WALKER FOSTER

LASTING POWERS

OF ATTORNEY

WALKER FOSTER

27 Riddings Road, Ilkley, West Yorkshire LS29 9LX

Tel: 01943 609969

[www.walkerfoster.com](http://www.walkerfoster.com/)

**What is a Lasting Power of Attorney?**

A Lasting Power of Attorney (LPA) is a legal document which enables you to appoint one or more people to help you make decisions or to make decisions on your behalf. There are two types of LPA — one for Property and Financial Affairs and the other for Health and Welfare.

**Why should I have a Lasting Power of Attorney (LPA)?**

A LPA will ensure that someone is legally appointed to look after your property and financial affairs and/or your health and welfare, should decisions need to be made or if action needs to be taken.

Without an LPA, if you become incapacitated, then it will be necessary for someone to apply to the Court of Protection for authority to deal with matters on your behalf; this can be expensive and time consuming.

If you sign an LPA then you can choose who should act on your behalf and most of the expense of an application to the Court of Protection will be avoided.

**What if I do not want to appoint an Attorney yet?**

An LPA can only be used once it has been registered with the Office of the Public Guardian. You can make an LPA now and leave it unregistered. You can arrange for it to be registered when you want the LPA to be used, or the attorneys you appoint can apply for it to be registered if for example, a medical emergency arises and they believe it is in your best interests that it should be registered. However, you should remember that you cannot appoint an Attorney after you have become incapable of managing your affairs and it is therefore important to plan ahead and act now if you are worried by the awful prospect of losing your faculties!

Please note that Attorneys cannot act under a registered LPA for your health and welfare unless you have lost mental capacity. They can act under a registered LPA for your property and financial affairs if you still have capacity, but wish for them to act, i.e. for convenience.

**Should I appoint more than one Attorney?**

If more than one Attorney is appointed, the deed must state whether they are to act "jointly" or "jointly and severally". If Attorneys are appointed jointly, they must all act together in relation to all matters, and cannot act separately so that, for instance, all their signatures would be required on a cheque. Similarly, if Attorneys are appointed jointly, were any of them to die or be unwilling to act as your Attorney, or become incapable of managing their own affairs, then the whole appointment would be terminated.

If, on the other hand, Attorneys are appointed to act jointly and severally, this means that they can all act together but they can also act separately if they wish. Any of them could individually sign cheques on your behalf and if one of them were to die or become unwilling to act as your Attorney, the other or others could continue to operate the Power. This is a much more flexible arrangement and allows for situations where one Attorney may be unavailable due to holiday or other commitments.

**What authority may I confer on my Attorney?**

You are required to state whether your Attorney has general authority to act on your behalf or whether the authority is restricted in some way. You also have to say whether your Attorney can deal with all property and affairs, or all matters appertaining to your health and welfare, or only certain specific matters.

Unless any restrictions are incorporated in the LPA, your Attorneys have very wide powers to deal with all your property and affairs almost as if they were the owners of the property. This means that, for example, the Attorneys would be able to sign cheques and other documents on your behalf, even sell your house on your behalf and in certain circumstances, make gifts on your behalf. It would, however, be necessary for them to produce the LPA to purchasers, banks and registrars of companies, etc. before they could deal with property. If, on the other hand, only limited powers are given to the Attorneys then they can only act in accordance with those limitations.

**How and in what circumstances will an LPA be used?**

If you choose to register the LPA then it can used whenever you wish it to be used. If the LPA has not been registered and there is some crisis in your affairs such as a medical emergency, then your attorneys may decide to apply for it to be registered.

Before registration can take place, certain persons nominated by you in the LPA itself must be notified. If you yourself are not applying for registration, then you must also be notified. In certain circumstances, you and the persons who are notified will have the right to object to the registration.

If at any time you lack the mental capacity to carry out a particular task, whether it is something as simple as signing a cheque or something more complicated such as arranging the sale of a property, then provided your LPA has been registered, the attorneys that you have appointed will be able to carry out the transaction on your behalf. Before doing so, they should be satisfied that it is necessary (i.e. that you cannot carry out the task yourself) and that it is in your best interests.

**This is only a very brief description of the law on Lasting Powers of Attorney. If you have any queries about them or would like us to help draft one for you or register one on your behalf, then please contact us for further details.**

**If you require more information or wish to instruct us to prepare your Lasting Power of Attorney please contact Mrs Maxine Heppenstall at our Ilkley office on 01943 609969 or by email msh@walkerfoster.com Walker Foster has been established for almost 100 years and provides a comprehensive legal service.**

**Skipton office T: 01756 700200 E: br@walkerfoster.com**

**Silsden office T: 01535 656000 E: swr@walkerfoster.com**

**Barnoldswick T: 01282 812340 E: mb@walkerfoster.com**