

A GUIDE TO LASTING POWER OF ATTORNEY



This document is for guidance only and doesn't constitute advice (including financial or legal). You should seek appropriate legal advice to address any specific queries you may have.

IN A NUTSHELL

A Lasting Power of Attorney (LPA) is a legal document that appoints one or more people to help you make decisions, or to make decisions on your behalf.

In this leaflet you can learn more about the different types of LPAs, their benefits, and some practical guidance to help you put one in place.

This guide explains the different types of LPA available in England and Wales. The process and types of LPA are slightly different in Scotland and Northern Ireland. We've included links to useful sources of information about LPAs in these regions on the last page of this document.

DID YOU KNOW?

- A next of kin or spouse can't make decisions about medical care or finances unless an LPA is in place. This applies regardless of how long you've been together or if you have a joint bank account or mortgage.
- An LPA can be used on a temporary basis. For example, if you're in hospital or away on a long trip (Ordinary Power of Attorney only).
- You can't arrange an LPA once you've lost mental capacity or after getting ill and being unable to make your own decisions.
- It's not just for the older generation. An LPA could be needed at any time, for a variety of reasons.

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WHY SHOULD YOU GET AN LPA?

- 1 Your financial affairs and personal welfare can still be dealt with if you're unable to act for yourself, whether that be temporarily or long term.
- 2 It'll give you more control over what happens if you have an accident or get ill and you can't make your own decisions.
- 3 If you find yourself struggling to keep on top of everything you can hand over decision-making.
- 4 Should you need somebody to manage your affairs on your behalf, you can choose someone you trust. Someone who knows you and understands your wishes and lifestyle.

WHAT HAPPENS IF YOU DON'T HAVE AN LPA AND LOSE MENTAL CAPACITY?

Someone would need to apply for deputyship on your behalf. They'd need go to the Court of Protection, which can be expensive and time-consuming.

DIFFERENT TYPES

LASTING POWER OF ATTORNEY (LPA)

There are two types of LPA. One covers property and finances, the other covers health and welfare. If you get both, then you're covered for every eventuality.

PROPERTY AND FINANCIAL AFFAIRS LPA

This gives someone you trust the power to make decisions about your money and property.

Examples of these decisions would be:

- Paying bills
- Managing bank accounts
- Selling property
- Organising property repairs

HEALTH AND WELFARE LPA

This gives someone you trust the power to make decisions about your health and welfare.

Examples of these decisions would be:

- What you eat
- Medical care
- Where you live
- Who you have contact with

ORDINARY POWER OF ATTORNEY

If you only need a Power of Attorney set up temporarily (for example, to cover a hospital stay or holiday), you can create an Ordinary Power of Attorney. This only covers decisions about your financial affairs while you have mental capacity.

ENDURING POWER OF ATTORNEY (EPA)

The LPA replaced the Enduring Power of Attorney (EPA) in October 2007, though existing EPAs signed before this date are still valid.

What's the difference between an EPA and an LPA?

- The EPA only covers property and financial affairs. There are two different LPAs, one covers property and financial affairs, the other health and welfare.
- An EPA can only be registered by an attorney once the donor loses mental capacity, physical capacity or both (this would need to be stipulated in the EPA). However, LPAs can be registered immediately. An unregistered EPA can be used with the donor's consent if they still have mental capacity.

HOW TO ORGANISE AN LPA

There are a few options for you to consider:

1 ORGANISE IT DIRECTLY ON GOV.UK

You can go to the GOV.UK website, download the forms and fill them in yourself. Or you could complete them online.

Pros

- It's the cheapest option.
- You'll only pay the LPA registration fee. Other options can include additional fees.

Cons

- You'd need to do it all yourself.
- There's more margin for error.

2 USE A PROFESSIONAL

You can hire a professional to do it for you, such as a solicitor.

Pros

- They'll do all the work for you.
- They can provide legal advice if you need it.

Cons

- This tends to be the most expensive option.

3 USE AN LPA SUPPORT SERVICE

You can use one of the many LPA support services, which offer different levels of support.

Pros

- The cost tends to sit somewhere between options one and two.
- Depending on the company, it can speed things up for you. Many offer help with completing forms and you can benefit from expert checks.

Cons

- Not all LPA support services provide legal advice. If they don't, you may need to obtain legal advice elsewhere.

Just have partnered with APS Legal to provide a new LPA support service. See page 9 for more details.

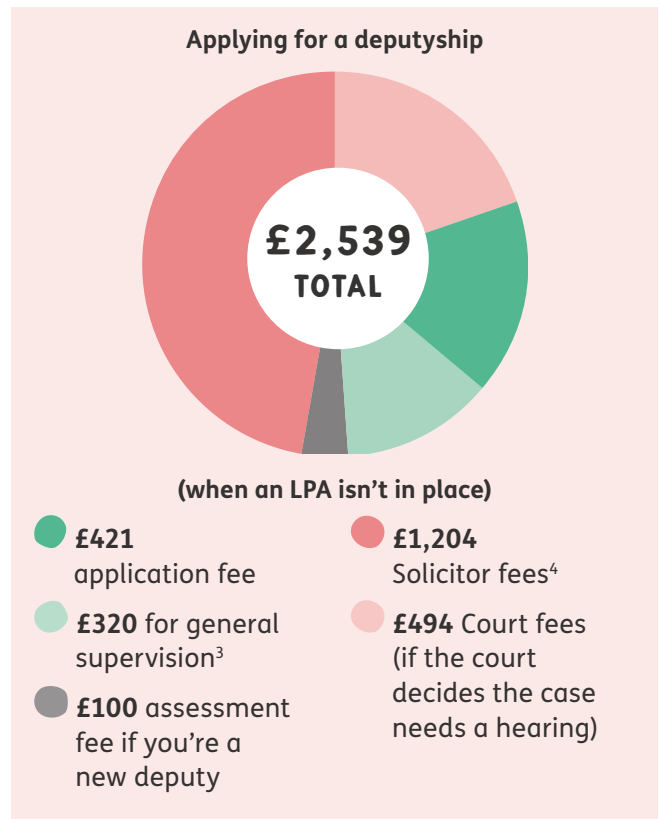
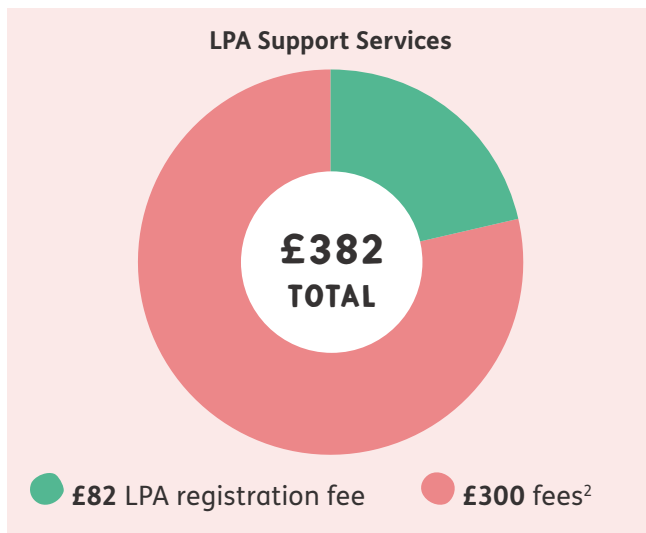
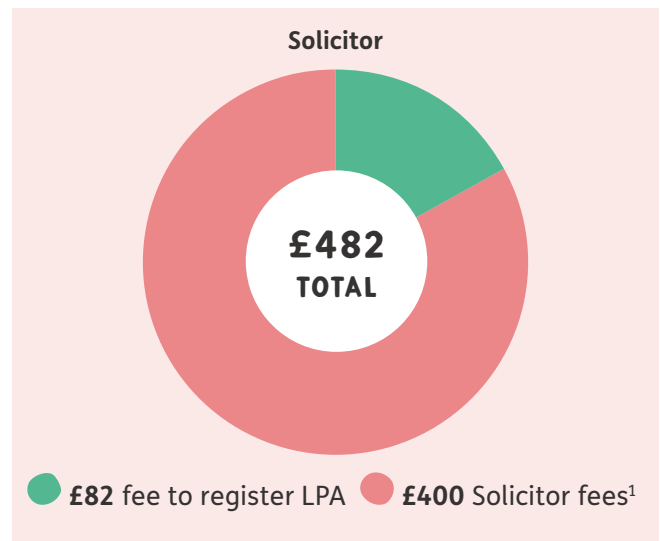
HOW MUCH IT COSTS

It might be cheaper than you think to register an LPA. It usually costs £82 for each type of LPA. So that means you'd pay £164 for both a Property and Financial Affairs LPA and a Health and Welfare LPA.

There are likely to be legal fees if you get a solicitor, which will vary. You may qualify for a 50% reduction on the cost of a registering an LPA if you're on a low income, or receive certain benefits.

Applying for a deputyship at the Court of Protection is a lot more expensive.

Costs compared



The amounts quoted include insurance fees (these will depend on the value of the estate of the person you're deputising for and how much of their estate you control). The amounts are examples and actual costs could vary.

¹ The cost of these fees may vary and won't apply if you complete the forms directly on the GOV.UK website without using a solicitor.

² Using APS Legal costs as an example. Other companies' costs may differ.

³ £35 for minimal supervision, this only applies if your assets are worth less than £21,000. The supervision fee is paid annually.

⁴ The cost of these fees may vary.

THINGS TO CONSIDER

So, you're thinking about applying for an LPA? Here's a checklist of things for you to consider:

WHO SHOULD YOU APPOINT AS YOUR ATTORNEY?

Your attorney's going to have control over some important areas of your life, so make sure you choose someone you completely trust. The other consideration is whether this person wants to take on the role, as it's a big responsibility. They should always be able to act quickly, so being local is useful.



A relative, friend, child, solicitor or your spouse/partner can be appointed. They need to be over 18 and can't be bankrupt. You'll need to be confident in the decisions your attorney will make about your own finances and welfare.

SHOULD MORE THAN ONE ATTORNEY BE APPOINTED?

There's no limit to the number of attorneys you can have. The Office of Public Guardian (OPG) even suggests thinking about having more than one. If you choose to do this then it's important that they can work together to make decisions in your best interests. You can include instructions on how the attorneys should come to a decision.



Replacement attorneys can be chosen in case an attorney either passes away or decides they don't want to do it anymore. This provides extra protection.

WHEN DO YOU WANT YOUR ATTORNEY TO START ACTING ON YOUR BEHALF?

If you want, you can allow your attorney to start making decisions straight away, even when you're still able to make your own decisions. Or you can wait until you're unable to make decisions yourself. Waiting can lead to challenges for the attorney, though, as firms may ask for proof that you've fully lost capacity.



WHAT POWERS DO YOU WANT TO GIVE YOUR ATTORNEY?

Think about both the short and long term when deciding on the powers the attorneys should have. They'll need to have sufficient powers to make all the decisions you'd like them to make.



APPLYING FOR AN LPA



CHOOSING ATTORNEY(S)

You need to ask someone you trust if they'd make decisions on your behalf.

Decide whether more than one person is needed.



FILL IN FORMS

Go to GOV.UK and either download the forms or complete them online.

They're quite long, but there's a guide to help.

Or you can go to a professional, such as a solicitor or an LPA support service, like APS Legal.



SIGN FORMS AND POST

Both you and your attorney(s) will need to sign the forms.

You'll need a witness to say you've done that.

You'll also need a 'certificate provider' to confirm you weren't under any pressure to take out an LPA.

Post these to OPG and include payment.



DECIDE ON THE DETAILS

Agree on the type of LPA:

- Finance and property
- Health and welfare
- Both of the above.

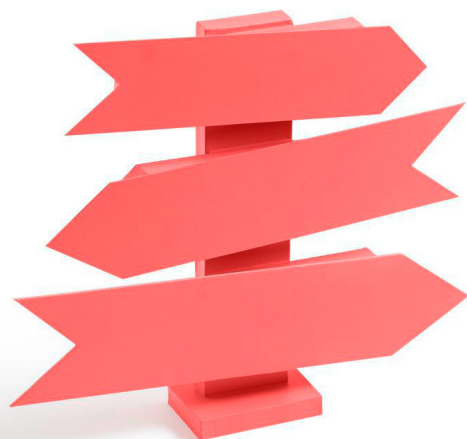
And what decisions you want your attorney(s) to make.



LPA IS REGISTERED

It takes up to 8 to 10 weeks to register an LPA if there are no mistakes in the application. You should then receive the documents back from the OPG.

Your attorney(s) can start making decisions from this point. They'll probably be asked for a copy of the LPA before they can act.



CIRCUMSTANCES WHERE WE WOULDN'T ACCEPT AN LPA

- For lifetime mortgage applications:
 - We received a copy of a document that wasn't certified by an acceptable professional, such as a solicitor.
 - Someone couldn't act as an attorney for you on a joint mortgage application if they're another one of the applicants. For example, if a husband and wife applied as joint applicants, and she had an LPA for him, she could sign for him if he's lost capacity, but couldn't sign for herself. She'd need to apply to appoint her own attorney, so that her attorney could sign on her behalf.
- An incomplete or unsigned LPA document where we couldn't use the OPG's online look-up service.
- If we've only received a health and welfare LPA. This doesn't allow your attorney to act in property and financial matters.
- If an LPA was yet to be registered.
- If an EPA was unregistered and you have lost capacity.
- If there was a restriction on the document that meant your attorney couldn't use it for the purpose they were requesting.
- If an EPA was dated after 30 September 2007 (except in Northern Ireland).
- A general POA where you've lost capacity.

ORGANISING AN LPA USING APS LEGAL

Just Group plc have partnered with APS Legal to provide a new LPA support service, with an exclusive discount to new and existing Just Group plc customers.

Using APS Legal to arrange LPA's can provide you with the following:

Peace of mind

A trustworthy, established organisation and part of the UK's leading support services business, Simply Biz.

Expert support

You'll be in expert hands, with face-to-face or virtual guidance throughout.

Middle ground on price

A higher price point than organising an LPA directly, but likely to be a cheaper alternative to using a solicitor.

Accuracy

Helps reduce margin for error when filling out the forms.

Costs

	Single	Per couple
One type of LPA*	£250	£325
Both types of LPA*	£325	£550

*Includes £82 Office of Public Guardian fee per LPA

Contact APS Legal to find out more

Call: **01909 776 311**

Email: **enquiries@aps-legal.co.uk**

Or visit: **aps-legal.com/consumers/aps-legal-and-associates-and-just**

FURTHER INFORMATION

Find out more about Power of Attorney:

GOV.UK website: gov.uk/government/organisations/office-of-the-public-guardian

Age UK website: ageuk.org.uk/information-advice/money-legal/legal-issues/power-of-attorney/

Power of Attorneys in Scotland: publicguardian-scotland.gov.uk/power-of-attorney

Power of Attorneys in Northern Ireland: nidirect.gov.uk/articles/managing-your-affairs-and-enduring-power-attorney

Download forms or complete online:

gov.uk/power-of-attorney/register

The application form will let you know whether you qualify for an exemption.


FOR MORE INFORMATION

Call: **01737 233 297**

Lines are open Monday to Friday, 8.30am to 5.30pm.

Calls may be monitored and recorded, and call charges may apply.

Email: support@wearejust.co.uk Or visit: wearejust.co.uk

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FT ADVISER

