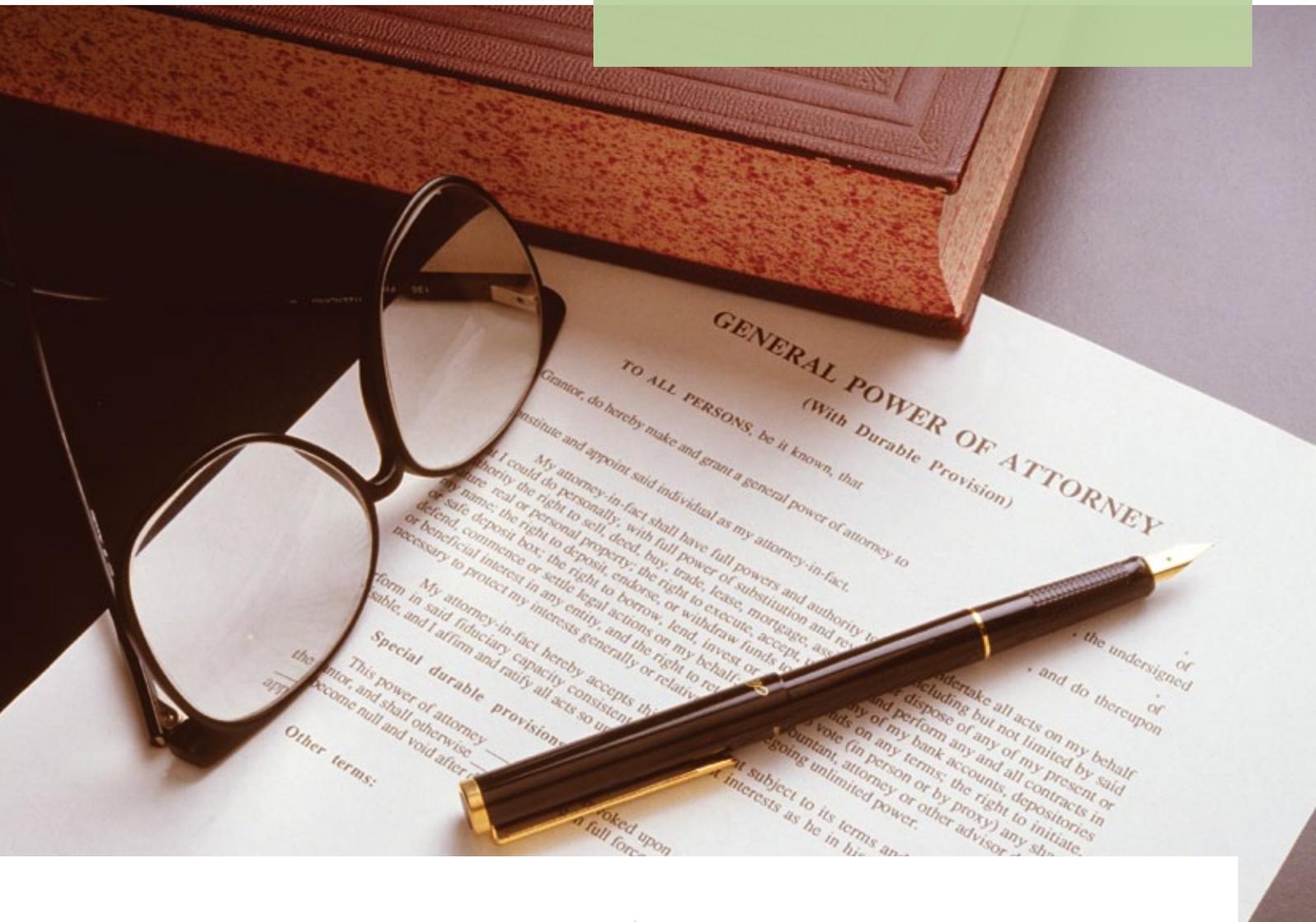




**BOWCOCK  
& PURSAILL**  
SOLICITORS

# LASTING POWERS OF ATTORNEY



## A dedicated team you can trust

Our specialist team has a broad range of knowledge and expertise which they use to advise their clients about matters related to lasting powers of attorney.

We understand the difficulties which can be caused by the need for a Lasting Power of Attorney (LPA) and handle each case with sensitivity and understanding. We provide a tailored service to clients who wish to appoint an attorney and discuss all matters pertaining to this to enable them to make an informed decision.

## What is a Lasting Power of Attorney?

An LPA allows someone to make decisions on your behalf, should there become a time when you lack mental capacity to do so yourself. However an LPA for Property and Financial Affairs can be used even if the donor does not lack mental capacity.

While a person has mental capacity it is possible to sign an LPA and appoint others (attorneys) to act on their behalf should they lose mental capacity. The person giving the power for the attorneys to act is known as the donor.

## There are two types of LPA:

**1 Property and Financial Affairs Power of Attorney.**  
The LPA for Property and Financial Affairs enables an attorney to look after a donor's cash, investments, shares and property.

**2 Health and Welfare Power of Attorney.**  
An LPA for Health and Welfare allows an attorney to make decisions regarding the donor's care and living arrangements. The donor may allow the attorney to consent to or refuse life sustaining treatment.

For an LPA for Health and Welfare to be utilised a donor must have lost mental capacity. However mental capacity does not need to have been lost for an LPA for Property and Financial Affairs to be utilised by an attorney. A donor can include a restriction as to when the attorney can make decisions e.g. confirmation from a doctor confirming a lack of mental capacity must be provided before an LPA may be utilised by an attorney.

## The Attorneys

A donor can choose up to four attorneys to make decisions on their behalf. The donor can indicate whether the attorneys are to act together on all decisions or allow each of them to make decisions independently of the other. A donor may also stipulate that some decisions can be made by the attorneys independently but certain decisions must be made collectively. It is advisable to consider appointing more than one attorney or a replacement attorney, should the sole attorney die. If this happens the LPA expires and can no longer be utilised.

The appointed attorneys must act in the donor's best interests and must not make decisions specifically in relation to LPAs for Property and Financial Affairs which would not be in the spirit of the wishes of the donor, i.e. such a decision would not have been made if the donor had mental capacity. The attorneys must follow the principles set out in the Mental Capacity Act 2005. Attorneys must take all practical steps to help a donor make decisions and must not automatically assume that a donor is unable to make decisions simply because a donor makes an unwise decision.

## Registration of an LPA

Once an LPA has been signed it is advisable to register it with the Office of the Public Guardian (OPG) so that it may be utilised immediately if and when needed. The OPG is the government body which supports and promotes decision making for individuals who lack mental capacity. The OPG charge a fee for registration of LPAs and this fee depends on the donor's gross income. In certain circumstances the fee can be reduced if the donor has a low income. A fee exemption can be obtained where a donor receives specific state benefits.



## What if I do not have an LPA?

Where someone does not have an LPA and then subsequently loses mental capacity an Order from the Court of Protection will be required, our team of solicitors can help you through this process.

There is an application fee to the Court as well as an annual fee payable each year following the Order. The Court may also ask that the person appointed to act, known as a Deputy, takes out a security bond similar to an insurance policy for which a premium is payable based on the assets that the Deputy is seeking control of. The Deputy must produce a report annually to the OPG, showing what decisions have been made in that twelve month period. This procedure is more expensive and administratively more involved than if there is an LPA.

## Get in touch

If you or a family member would like to find out more information about a Lasting Power of Attorney, please visit our website or contact our office.

[www.bowcockpursaill.co.uk](http://www.bowcockpursaill.co.uk)

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