

Disclaimer: Read the disclaimer at medimaps.co.uk/disclaimer  
References: 1. Alzheimer's society

Enduring power of attorney (EPA)

Lasting power of attorney (LPA)

Advance decision / Advance directive (Living will)

- This has been replaced by LPA.  
- If the EPA was registered before 1st Oct 2007 it is still valid.  
- EPA only covers Property and affairs. It does not deal with Health and welfare.  
- So you could have an old EPA, and make a new Health and welfare LPA if needed.

- To make an LPA the patient must:  
- >18y.  
AND  
- have capacity.

- If >18y but lost capacity, then they cannot make an LPA.  
- If family wish to make decisions on patients behalf they will have to apply for deputyship.

- Can be used as soon as it has been completed, signed and witnessed.  
- Covers refusals of medical treatment. It also only applies to the treatments and circumstances that you write about in the form. It won't apply if you're in a situation that isn't covered in your advance decision.  
- Free to do.  
- Form available at compassionindying.org.uk

what is LPA  
- Lasting powers of attorney (LPAs) let you choose a person (or people) you trust, to act for you.  
- This person is referred to as your 'attorney', and you can choose what decisions they are allowed to make for you.  
- There are two different types of LPA.  
- One of them covers decisions about your property and finances, and the other covers decisions about your health and welfare.  
- You can choose to make both types or just one.  
You can appoint the same person to be your attorney for both, or you can have different attorneys.

Property and affairs LPA

Health and welfare LPA

the attorney can

the attorney can decide about

- Collect income or benefits.  
- Pay bills.  
- Sell your house.

- Where you live.  
- What you wear.  
- What you eat.  
- Accepting or refusing life sustaining treatment.

- If you have already have an advance decision, and you grant your attorney power over acceptance or refusal of life sustaining treatment, it will overrule the advanced decision.  
- If you do not grant them this power in the LPA, then the advanced decision will remain unchanged.

Who can be an attorney

Who can be an attorney

- >18y.  
- You trust them.  
- Most people choose a relative or close friend for Health and welfare LPA.  
- You can also choose them for property and affairs LPA, but some people choose an accountant or solicitor.

- Must act in your best interests  
- Must consider your past and present wishes  
- Cannot take advantage of you to benefit themselves  
- Must keep all of your money separate from their own.  
- If they fail to follow these rules, the LPA could be cancelled.  
- If your attorney takes advantage of you, the OPG will investigate and the person could be prosecuted.

- You can also appoint a replacement attorney if you wish.  
- They take over if your first choice attorney is no longer able or willing to carry out their role.  
- This is more relevant if you are only appointing one person to act as your attorney.

- If you choose more than one attorney you must decide how they will act.  
- They can make decisions together ('jointly') or act separately ('severally'), or a combination of both.

jointly - All the attorneys must always act together, and therefore must agree all decisions and both sign documents.

severally - Attorneys can act together, but can also act on their own.

jointly and severally - For certain decisions all your attorneys must agree, but for other decisions they can act independently.  
- e.g. You might decide all of your attorneys must agree to selling property or decisions about medical treatment, but they can act on their own for day-to-day decisions such as diet or dress.

- >18y.  
- Cannot be bankrupt.  
- You trust them.  
- Most people choose a relative or close friend for Health and welfare LPA.  
- You can also choose them for property and affairs LPA, but some people choose an accountant or solicitor.

the rest of the process is the same as the Health and welfare LPA

Signature of a witness

- You will need to get someone to sign it to state that you have capacity to make an LPA.  
- They are called the 'certificate provider'.

they should only sign it if  
- You made the decision yourself.  
- You have the ability to make this decision.  
- You understand what an LPA is, what your options are, and the consequences of making it.

can be  
- Professional.  
OR  
- Someone you have known for 2 yr.

- GP.  
- Solicitor.  
- Social worker.

- But they must be independent.  
- i.e. They aren't a family member or an attorney  
AND  
- They will not benefit from the LPA.

Solicitor

- You do not need to use a solicitor to make an LPA.  
- Form available on .Gov website.  
- However, it is a powerful document so consider seeking legal adviser with experience in preparing forms.

Office of the Public Guardian

- 9-12/52 to be registered.  
- Fee to register (£82).  
- Can get help with fee if cannot pay.  
- Would have to pay a fee for both the Property and affairs LPA, and Health and welfare LPA.

When does it come into effect

- From the time it is registered with the OPA.  
- If you still have capacity, the attorney cannot carry out the actions of the LPA i.e. they have to wait for you to lose capacity.