

Solicitors for you

Lasting Power of Attorney

How can JMW Solicitors LLP help?

- Your Lasting Power of Attorney shall be prepared by a qualified solicitor, giving you peace of mind.
- We will ensure that your Lasting Power of Attorney is appropriate to your circumstances and meets with your wishes.
- We can ensure that your attorneys act in your best interests by including appropriate preferences and instructions within the Lasting Power of Attorney document.
- We will answer any questions that you may have and ensure that you fully understand your Lasting Power of Attorney before we ask you to sign it.
- We will ensure that the document has been correctly signed by all parties and is valid. Our solicitors shall be happy to act as your Certificate Provider should it be appropriate and convenient to do so.
- We can assist with the registration of the document with the Office of the Public Guardian either at its creation or at a later date. We will ensure to advise you of the best time to register the document and the costs involved.
- We shall store the original Lasting Power of Attorney free of charge.

Contact us

Please feel free to contact one of our Private Client Solicitors to discuss making a Lasting Power of Attorney:



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Lasting Power of Attorney

What is a Lasting Power of Attorney?

A Lasting Power of Attorney is a legal document with which you can give to a person or persons of your choosing the authority to make decisions on your behalf. There are two forms of Lasting Power of Attorney; Property and Financial Affairs and Health and Welfare.

Who can make a Lasting Power of Attorney?

To make a Lasting Power of Attorney you must be over the age of 18 and have sufficient mental capacity to make the document. It is not possible to make a Lasting Power of Attorney on another person's behalf. If you have any queries regarding the law and mental capacity you should speak with one of our solicitors.

Who can I appoint as my attorney(s)?

You should only appoint people who you know are trustworthy and who you know will make all decisions in your best interests. It is possible to appoint your spouse and/or children should you wish to, and you are able to appoint replacement attorneys.

What is a Lasting Power of Attorney (Property and Financial Affairs)?

This type of Lasting Power of Attorney authorises your attorneys to manage any property that you own and to manage your financial affairs. This includes:

- buying, selling and renting your property;
- renovating or repairing your property if it is required;
- managing your bank accounts;
- managing your investments;
- paying your household bills;
- paying your nursing or residential care home fees;
- collecting your income (including pensions, state benefits and employment income);
- purchasing any necessary equipment or personal items that you may need;
- the ability to make small gifts on your behalf (for occasions such as a relatives birthday, weddings or for religious holidays).

When can a Lasting Power of Attorney (Property and Financial Affairs) be used by my Attorney(s)?

A Lasting Power of Attorney covering your Property and Financial Affairs can either be used at your direction (e.g. if you are out of the country or physically incapacitated) or at a time should you lack sufficient mental capacity to manage your affairs yourself.

Can I limit the authority that I give to my attorney(s)?

Yes, it is possible to place restrictions within the document to limit what your attorney(s) can do on your behalf. It is also possible to offer written guidance to your attorneys should you wish to.

What else should I consider before making a Lasting Power of Attorney?

Under the Mental Capacity Act 2005 there are certain safeguards in place for your protection:

- you must appoint a Certificate Provider. This person (who can be your solicitor, doctor or a person who you have known for two or more years) must sign to confirm that you have sufficient mental capacity, that you understand the powers you are giving, and that you are under no pressure to make the document;
- the Lasting Power of Attorney must be registered with the Office of the Public Guardian before it can be used by your attorneys;
- you may choose one or more people to receive notification of the registration of the document with the Office of the Public Guardian.

Am I able to cancel the Lasting Power of Attorney should I wish to?

Yes, provided that you have sufficient mental capacity to do so, you can cancel the Lasting Power of Attorney at any time.

Why is it important to make a Lasting Power of Attorney?

If you should lose your mental capacity without having made a Lasting Power of Attorney then

a relevant person (typically your spouse, children or a solicitor) will need to make an application to the Court of Protection for a Court Order to be appointed as your Deputy. This can be very expensive and a Court Order can take many months to obtain. It is advisable to ensure that you make a Lasting Power of Attorney sooner rather than later.

I already have an Enduring Power of Attorney; do I need to make a Lasting Power of Attorney as well?

From October 2007 Enduring Powers of Attorney could no longer be made and they were replaced with Lasting Powers of Attorney. Enduring Powers of Attorney that were made prior to this date are still valid and they are the equivalent to a Lasting Power of Attorney (Property and Financial Affairs). The authority under an Enduring Power of Attorney does not extend to your Health and Welfare. Please note, an Enduring Power of Attorney must be registered with the Office of the Public Guardian if it is deemed that the person who created the document has either lost or is losing their mental capacity.

Does making a Lasting Power of Attorney affect my Will?

No, the two documents are completely separate. A Lasting Power of Attorney is only effective during your lifetime. On your death the Lasting Power of Attorney shall cease and your Will shall take effect. It is important to ensure that you have made a Will.

What about a Lasting Power of Attorney for my Health and Welfare?

This is an entirely separate document. Under a Lasting Power of Attorney (Health and Welfare) you can authorise your attorney(s) to make decisions concerning your health (including decisions on medical treatment and on life sustaining treatment) and your welfare (including decisions on where to live). A Lasting Power of Attorney (Health and Welfare) can only be used if you lack sufficient mental capacity to make such decisions yourself.

Please see our leaflet entitled Lasting Power of Attorney - Health and Welfare for more information.