

Lasting Powers of Attorney

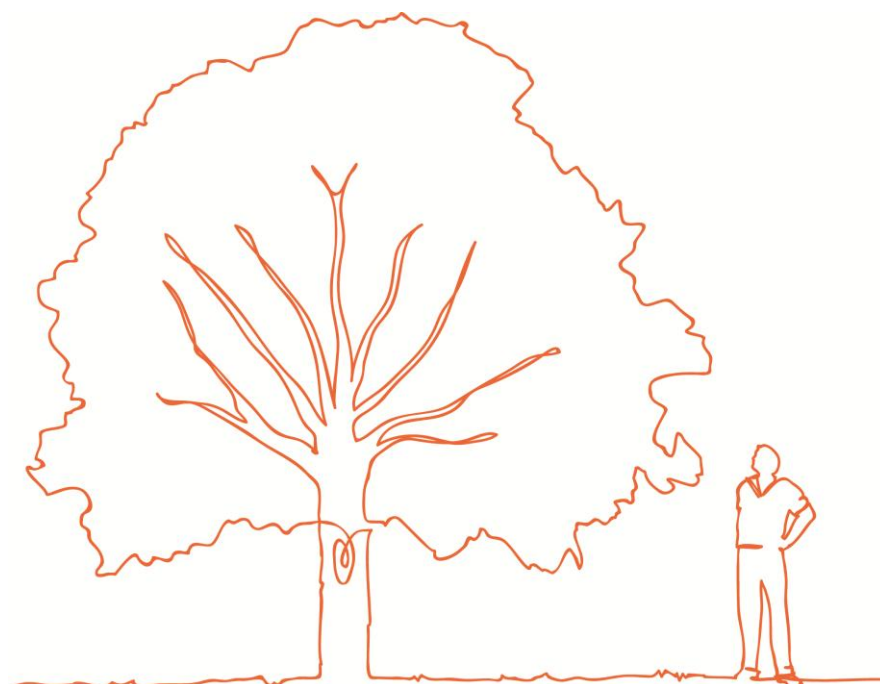
Information package

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Thomson Snell & Passmore's Lasting Powers of Attorney information package has been developed to make it easier for you to make a Lasting Power of Attorney, and to allow us to quote the fees shown in the accompanying Terms & Conditions.

If you would like to take advantage of this convenient way of making a Lasting Power of Attorney, or simply require additional information, please call us on 01892 510000 and ask to speak to an appropriate member of the Private Client team.



**We were looking for the best and
have never been disappointed.**

Client 

Lasting Powers of Attorney - Fees

1. Our fees for advice on and preparation of Lasting Powers of Attorney are as follows:

Preparation of Lasting Powers of Attorney:

- | | |
|---|------|
| • One type of Lasting Power of Attorney for you | £395 |
| • One type of Lasting Power of Attorney for you and also for your spouse or partner | £505 |
| • Both types of Lasting Power of Attorney for you | £615 |
| • Both types of Lasting Power of Attorney for you and also for your spouse or partner | £690 |

Acting as Certificate Provider:

- | | |
|---|------|
| • For one type of Lasting Power of Attorney for you | £85 |
| • For both types of Lasting Power of Attorney for you | £110 |
| • For one type of Lasting Power of Attorney for you and your spouse or partner | £135 |
| • For both types of Lasting Power of Attorney for you and your spouse or partner | £160 |
| • For arranging for your Doctor or other professional to act as your Certificate Provider | £110 |

Registration of Lasting Powers of Attorney (if registered at the time of preparation:

- | | |
|---|------|
| • Registration of one Lasting Power of Attorney for you | £210 |
| • Registration of two Lasting Power of Attorney for you <i>or</i> registration of one Lasting Power of Attorney for both you and your spouse or partner | £270 |
| • Registration of both types of Lasting Power of Attorney for you and also for your spouse or partner | £320 |

2. Fees quoted are valid for 30 days from receipt of the Lasting Powers of Attorney information package.
3. The fees for registration do not include any additional advice given and time spent in dealing with any objections raised on registration of the Lasting Powers of Attorney. This and any other advice not within the above will be charged on the basis of time spent at a specified hourly rate with your prior authorisation. An application fee of

£130 is payable to the Office of the Public Guardian for each Lasting Power of Attorney to be registered.

4. Fees do not include VAT, which will be charged at the standard rate.
5. Our full Terms of Business will be supplied on request or when confirming your instructions to proceed.

Your role as an attorney under a property and financial affairs Lasting Power of Attorney

Introduction

The role of an attorney is an important one, which carries with it a great deal of responsibility.

The Mental Capacity Act 2005 (the 'Act') which came in to force on 1 October 2007 allows a person (the 'donor') to make a power of attorney called a 'lasting power of attorney' or 'LPA' which remains effective even if the donor lacks capacity. There are two types of LPA; a property and financial affairs LPA and a health and welfare LPA. This information sheet is designed to give some general guidance and information about the role of an attorney appointed under a property and financial affairs LPA.

Registration of the LPA

An attorney will only be able to act when the LPA has been registered with the Public Guardian. Thus even if the LPA has been signed by the 'the donor and the attorneys, it cannot be used until it has been registered.

Registration is a simple procedure which allows an LPA to come into operation. The attorneys or the donor (who has capacity) can apply to register and the person applying to register must give notice to the person or persons named in the LPA document. The application is then lodged, with a fee, with the Office of the Public Guardian (OPG). The OPG notifies the attorneys if the application is made by the donor. If there are no valid objections, registration takes place six weeks after the OPG sends out notice.

Often an LPA is made by a donor who has capacity as a form of insurance, so that it can be used if in future the donor lacks

capacity. If however the LPA has not been registered and you consider that the donor may lack capacity then you should arrange to register the power as soon as possible.

For further details please refer to the information sheet "Registration of a Lasting power of attorney."

When can an attorney act under a property and financial affairs LPA?

An LPA can be used at any time once it has been registered (subject to any conditions in the power itself), whether or not the donor has capacity to make the decisions which the attorney is making. If the donor has capacity, then the attorney cannot ignore the donor's instructions and the donor can cancel the LPA at any time, (although the Public Guardian must be notified that the power has been revoked).

As an attorney you may find yourself dealing with one or more of the following situations:

- No action is required while the LPA remains dormant or in readiness;
- You are acting with the knowledge and consent of the donor;
- The donor lacks capacity and you are making decisions on behalf of the donor;
- The donor has capacity to make certain decisions for himself, while lacking capacity to make other decisions.

How should an attorney act under a property and affairs LPA?

A Lasting Power of Attorney is part of a wider statutory framework set out in the Act.

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The role of an attorney under a property and financial affairs Lasting Power of Attorney (continued)

As well as providing a formal structure for decisions to be made, the Act sets out clearly when decisions can be made for persons who lack capacity and how those decisions should be made. An attorney must therefore follow the principles set out in section 1 of the Act:

1. It should be assumed that everyone can make their own decisions unless it is proved otherwise.
2. A person should have all the help and support possible to make and communicate their own decision before anyone concludes that they lack capacity to make their own decision.
3. A person should not be treated as lacking capacity just because he makes an unwise decision.
4. Actions or decisions carried out on behalf of someone who lacks capacity must be in that person's best interests.
5. Actions or decisions carried out on behalf of someone who lacks capacity should limit their rights and freedom of action as little as possible.

Acting in the best interests of the donor

The requirement to act in a person's best interests is a fundamental requirement of the Act. An attorney (or any other person or body making a decision on behalf of another who lacks capacity to make that decision) is required by the Act to act in that person's best interests. In deciding whether or not you can make a decision, or in making a decision on behalf of the donor, you must:

- 1 Not make assumptions based on the donor's age, appearance or condition;
- 2 Consider whether the donor will regain capacity;
- 3 Encourage the donor to participate in any decision made or act carried out on behalf of the donor;
- 4 Consider the donor's past and present wishes and feelings, beliefs and values (and in particular any written statement); and
- 5 Where practical and appropriate consult with
 - a anyone caring for the donor
 - b close relatives and anyone else with an interest in the welfare of the donor
 - c any attorney appointed by the donor
 - d any deputy appointed by the Court of Protection

What can an attorney do under a property and financial affairs LPA?

As an attorney you can make most legal decisions that the donor could make in person. Some decisions, such as making gifts, are restricted by the Act, while others such as the making of a will or settlement are prohibited altogether. The LPA in this case relates only to a person's property and financial affairs and not to the making of any welfare decisions. However, a LPA should always be exercised to support the welfare of the donor. Thus you could not consent to a particular medical treatment but you can ensure that funds are made available to provide the best level of care.

The role of an attorney under a property and financial affairs Lasting Power of Attorney (continued)

So long as the donor has capacity, you are assumed to act with the knowledge and approval of the donor unless the LPA has been cancelled or you have notice of contradictory instructions. For instance you could not sell investments or buy a property if the donor expressly refused consent.

Can an attorney make gifts?

An attorney acting under a property and affairs LPA has very limited power to make gifts on behalf of the donor. Unless there is a restriction in the LPA, gifts can only be made:

- 1 to people who are related to, or connected with the donor (including attorneys) on specific occasions such as births or birthdays, weddings or wedding anniversaries, civil partnership ceremonies or anniversaries, or any other occasions when family, friends or associates usually give presents;
- 2 to charities where there is a history of regular payments, or even from time to time; and the gifts must be reasonable having regard to all the circumstances and in relation to your assets.

Where the donor lacks capacity the Court of Protection can – on a formal application by your attorney or other person – make larger gifts on behalf of the donor. If there is any doubt as to whether a particular gift can or should be made then an application should be made to the Court of Protection.

Legal obligations

As an attorney you have certain legal obligations when acting on behalf of a donor. When accepting the role of an

attorney and completing your part of the LPA form, you confirm as follows:

“I have read the section called ‘Information you must read’ on page 2 of this lasting power of attorney.

I understand my role and responsibilities under this lasting power of attorney, in particular:

- I have a duty to act based on the principles of the Mental Capacity Act 2005 and have regard to the Mental Capacity Act Code of Practice.
- I can make decisions and act only when this lasting power of attorney has been registered.
- I must make decisions and act in the best interests of the person who is giving this lasting power of attorney
- I can spend money to make gifts but only to charities or on customary occasions and for reasonable amounts.
- I have a duty to keep accounts and financial records and produce them to the Office of the Public Guardian and/or to the Court of Protection on request.”

As an attorney you also have obligations under the general law and must, in general:

- 1 not exceed the scope of your authority under the LPA or in law;
- 2 apply relevant standards of care and skill (duty of care) when making decisions;
- 3 carry out any express instructions (which the donor has capacity to provide);
- 4 not take advantage of your position and not benefit from acting as an attorney;

The role of an attorney under a property and financial affairs Lasting Power of Attorney (continued)

- 5 not delegate decisions, unless authorised to do so;
- 6 act in good faith;
- 7 respect confidentiality;
- 8 not give up the role without telling the donor (if capable) and the Public Guardian; and
- 9 keep the donor's money and property separate from your own money.

The Code of Practice

An attorney – or any person making decisions on behalf of another person who lacks capacity – must have regard to the Code of Practice issued under the Act. This is a useful, if lengthy, document which aims to provide help and guidance with illustrations of particular dilemmas faced by those having to make decisions. Copies are available from the Stationery Office or in PDF form from the Ministry of Justice website at:

<http://www.justice.gov.uk/downloads/guidance/protecting-the-vulnerable/mca>

Avoiding problems

Although the obligations of an attorney may appear daunting, they can be undertaken readily if they are acted on with common sense and integrity. Problems often arise where there is a lack of understanding over what an attorney may or may not do or over where one attorney fails to co-operate with the other attorney or to consult with other relatives. It is important to keep in mind at all times that your responsibilities are to the donor and if you have any queries

or concerns over your role, you should seek further advice.

Disclaimer

This information sheet is written as a general guide. As any course of action must depend on your individual circumstances, you are strongly recommended to obtain specific professional advice before you proceed. We do not accept any responsibility for action which may be taken as a result of having read this information sheet.

NOTE: The law is stated as at 2 January 2012.

At Thomson Snell & Passmore we have a great deal of experience in acting for attorneys and as attorneys as well as in all aspects of Court of Protection proceedings. If you require further information, please discuss with your usual contact in the firm or Edward Fardell, Martin Terrell, Mary Robinson or Heather West on 01892 510000 or by email at:

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martin.terrell@ts-p.co.uk

mary.robinson@ts-p.co.uk

heather.west@ts-p.co.uk

The role of an attorney under a Health and Welfare Lasting Power of Attorney

Introduction

The Mental Capacity Act 2005 came in to force on 1 October 2007. The Act allows you to make a power of attorney called a 'lasting power of attorney' or 'LPA'. There are two types of LPA; a property and financial affairs LPA and a health and welfare LPA. This information sheet is designed to give some general guidance and information about the role of an attorney, appointed under a health and welfare LPA. Please see our separate information sheets on the role of an attorney under a property and financial affairs LPA, and on LPAs generally.

When can an attorney act under a health and welfare LPA

An attorney can only act under a health and welfare Lasting Power of Attorney if:

- 1 the LPA has been registered with the Public Guardian;
- 2 the attorney reasonably believes that you have lost the mental capacity to make the particular decision at the time it needs to be made;
- 3 there is no later and inconsistent Advance Decision; and
- 4 in relation to life sustaining treatment, the LPA specifically allows the attorney to make this decision.

Acting in your best interests

The requirement to act in a person's best interests is a fundamental requirement of the Mental Capacity Act. An attorney (or any other person or body making a decision

on behalf of others) is required by the Act to act in your best interests, should you lack capacity. Your attorney, in deciding whether or not you can make a decision, or in making a decision on your behalf, must by law:

- 1 Not make assumptions based on your age, appearance or condition;
- 2 Consider whether you will regain capacity;
- 3 Encourage you to participate in any decision made or act carried out on your behalf;
- 4 Consider your past and present wishes and feelings, beliefs and values; and
- 5 Where practical and appropriate consult with:
 - a anyone caring for you
 - b close relatives and anyone else with an interest in your welfare
 - c any attorney appointed by you
 - d any deputy appointed by the Court of Protection

Where a decision being made under a health and welfare LPA relates to life-sustaining treatment, your attorney must not be motivated by a desire to bring about your death.

Legal obligations

An attorney also has certain legal obligations when acting on your behalf and must, in general:

- 1 not exceed the scope of his authority under the LPA or in law;

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The role of an attorney under a Health and Welfare Lasting Power of Attorney

(continued)

- | | |
|---|---|
| <ul style="list-style-type: none"> 2 apply relevant standards of care and skill (duty of care) when making decisions; 3 carry out any express instructions; 4 not take advantage of his or her position and not benefit from acting as an attorney; 5 not delegate decisions, unless authorised to do so; 6 act in good faith; 7 respect confidentiality; 8 comply with the directions of the Court of Protection and Public Guardian; 9 not give up the role without telling you and the Public Guardian; 10 keep accounts; and 11 keep your money and property separate from his or her own money. <p>An attorney – or any person making decisions on my behalf where you lack capacity – must also have regard to the Code of Practice. This is a useful if lengthy document which aims to provide help and guidance with illustrations of particular dilemmas faced by those having to make decisions. Copies are available from the Stationery Office or in PDF form from the Office of Public Guardian website at:</p> <p>http://www.publicguardian.gov.uk</p> <p>What can the attorney do under a health and welfare LPA?</p> <ul style="list-style-type: none"> 1 Unless the LPA contains a restriction, the attorney will be able to make | <p>decisions about your personal welfare and health care. Decisions could include:</p> <ul style="list-style-type: none"> 2 where you should live and who you should live with; 3 your day-to-day care, including diet and dress; 4 who you may have contact with; 5 consenting to or refusing medical examination and treatment; 6 making arrangements for medical, dental or optical treatment; 7 assessments for and provision of community care services; 8 whether you should take part in social activities, leisure activities, education or training; 9 your personal correspondence and papers; 10 rights of access to personal information about you, including your medical records, or; 11 complaints about your care or treatment; 12 There are also three further important limitations on what an attorney can do under a welfare power: <ul style="list-style-type: none"> a The attorney must act in your best interests; b There is no power to demand specific forms of treatment. The attorney can merely give or refuse authority or consent to someone else – such as |
|---|---|

The role of an attorney under a Health and Welfare Lasting Power of Attorney

(continued)

- doctor or carer – to carry out or withhold a particular treatment or act;
- c If you are detained under the Mental Health Act 1983, no decision can be made regarding treatment for a mental condition.

Statutory principles

A Lasting Power of Attorney is part of a wider statutory framework laid out in the Mental Capacity Act. As well as providing a formal structure for decisions to be made, the Act sets out clearly when decisions can be made for persons who lack capacity and how those decisions should be made.

An attorney must therefore follow the principles set out in section 1 of the Act:

1 Principle 1

It should be assumed that everyone can make their own decisions unless it is proved otherwise.

2 Principle 2

A person should have all the help and support possible to make and communicate their own decision before anyone concludes that they lack capacity to make their own decision.

3 Principle 3

A person should not be treated as lacking capacity just because they make an unwise decision.

4 Principle 4

Actions or decisions carried out on behalf of someone who lacks capacity must be in that person's best interests.

5 Principle 5

Actions or decisions carried out on behalf of someone who lacks capacity should limit their rights and freedom of action as little as possible.

Disclaimer

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NOTE: The law is stated as at 16 October 2009.

If you require further information, please discuss with your usual contact in the firm or Edward Fardell, Martin Terrell or Mary Robinson on 01892 510000 or by email at:

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Acting as a certificate provider on a Lasting Power of Attorney

Introduction

As an important safeguard against abuse, one of the requirements in making a Lasting Power of Attorney (LPA) is for the document to be countersigned by an independent person (the certificate provider) chosen by the donor to confirm that in his or her opinion:

- 1 The donor understands the purpose and contents of the document and the scope of the powers they are giving to the attorneys;
- 2 The donor is not under any undue pressure or duress to make the LPA or has not been tricked into making it; and
- 3 There is nothing else that would prevent the LPA being created.

Who can act as a certificate provider?

There are two types:

1 Category A

This is a knowledge based certificate provider who knows the donor personally and has done so for a minimum period of two years.

2 Category B

This is a skills based certificate provider. This is a person the donor believes has the relevant professional skills and expertise to provide the certification. A skills based certificate provider would normally make a charge for their services, and could be one of the following:

- a A registered healthcare professional such as a GP.
- b A registered Social Worker.
- c A Barrister, Solicitor or Advocate.
- d An Independent Mental Capacity Advocate.
- e Any other person who considers they have the relevant professional skills and expertise to be a certificate provider.

The responsibilities of the certificate provider

The certificate provider needs to assess the donor's capacity to understand the importance of the document they are signing and the extent of the powers given by it. If, for any reason, the LPA is challenged at the time when it is being registered, the certificate provider may be called on by the Court to justify their opinion.

The certificate provider needs to be satisfied that the donor understands the nature and effect of the document that they are making. It is advisable for the certificate provider to ask the donor open questions about the LPA, why they are making it and the choice of attorneys.

It would be wise for the certificate provider to record the questions asked and to keep a note of the responses given.

If the donor has not listed anyone to be told when the LPA is to be registered (Section 8 in a Property and Financial Affairs LPA and Section 9 in a Health and Welfare LPA) then it will be necessary to have a second certificate provider.

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Acting as a certificate provider on a Lasting Power of Attorney (continued)

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Information

Registration of a Lasting Power of Attorney

Introduction

Before either a Property and Financial Affairs Lasting Power of Attorney (LPA) or a Health and Welfare LPA can be used it must be registered with the Office of the Public Guardian (OPG). The registration process can take place any time after the LPA has been made. It can therefore be registered immediately once it has been completed. The advantage of this is that the LPA will be ready to be used by the attorneys when it is needed. The disadvantage is that if a subsequent LPA is made this too will need to be registered before it can be used. There is a registration fee on each occasion. It is important to note that changes cannot be made to any part of a registered LPA.

Registration of LPAs

The application to register an LPA may be made by either the donor or the attorneys. It is necessary to make separate applications to register Property and Financial Affairs LPAs and Health and Welfare LPAs. A fee is payable in respect of each registration.

Where an LPA is being registered by attorneys appointed jointly the attorney must also apply for registration together. If the attorneys are appointed jointly and severally, then any one of them may make the application. The OPG will give formal notification to the donor of the application as well as any other attorneys who have not applied to register.

The attorneys need to notify the people to be told listed in the LPA. Once all of the necessary documents have been lodged with the OPG a registration date is set. This will be six weeks from the date that the OPG gives notice to any persons who did not join in the application to register.

Information for donors applying to register an LPA

The donor does not have to give notice to the attorneys of the intention to register. Although it would be sensible to discuss the intention with them, the OPG formally notifies the attorneys of the application in any event. The donor also needs to notify the people to be told listed within the LPA.

Once the documents are lodged the OPG will set a registration date six weeks from the date that the OPG sends out notification to the attorneys.

It is important to remember that an unregistered LPA cannot be used to make decisions on the donor's behalf. If, therefore, an urgent decision needs to be made on behalf of the donor but the LPA has not yet been registered, it may be necessary to apply to the Court of Protection for an Order on that decision. This will entail the payment of a fee.

Disclaimer

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Registration of a Lasting Power of Attorney (continued)

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If you require further information, please discuss with your usual contact in the firm or Edward Fardell, Martin Terrell or Mary Robinson on 01892 510000 or by e-mail

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Lasting Power of Attorney instruction form

Property and Financial Affairs

This form will provide us with the information required to draft a Property and Financial Affairs Lasting Power of Attorney for an individual, or two such Lasting Powers of Attorney for a couple. It will also reveal whether special arrangements are advisable to meet your needs; in such circumstances it may be necessary to contact you to ask further questions.

In order to make a Lasting Power of Attorney, you must have the requisite mental capacity to do so. If there is some concern over whether you do, it may be necessary to contact your GP or another doctor for a medical opinion.

If you wish to appoint attorneys to act in respect of health and welfare issues then this must be done separately.

If this form is completed by anyone other than the donor of the Power, then we will need to contact the donor directly to confirm the instructions.

| 1. Personal details | | |
|---|----------------|----------------------------|
| | For you | Your spouse/partner |
| Full name (including title): | | |
| Any other names you are known by in financial documents or accounts: | | |
| Date of birth: | | |
| Postal address: | | |
| Email address: | | |
| Telephone numbers | | |
| Home: | | |
| Work: | | |
| Mobile: | | |

2. Your attorneys

It is important that you appoint individuals whom you trust. You can appoint one or more individuals to act as your attorneys and we do recommend that you appoint more than one attorney. With only one, the Power will be ineffective if that person is unable or unwilling to act as your attorney.

Professional persons such as solicitors can be appointed as attorneys. However, please bear in mind that if you wish to appoint someone from Thomson Snell & Passmore, we shall be unable to act as Certificate Provider if you come to sign the power. This is explained in more detail in the separate information sheet on Acting as a Certificate Provider.

| | For you | For your spouse/partner |
|-------------------------------------|---------|-------------------------|
| First attorney: | | |
| Full name (including title): | | |
| Date of birth: | | |
| Address: | | |
| Home telephone number: | | |
| Mobile: | | |
| Email address: | | |
| Relationship (if any): | | |
| Occupation: | | |
| Second attorney: | | |
| Full name: | | |
| Date of birth: | | |
| Address: | | |
| Home telephone number: | | |

| | | |
|-------------------------------|--|--|
| Mobile: | | |
| Email address: | | |
| Relationship (if any): | | |
| Occupation: | | |

For three or more attorneys, please continue on a separate sheet.

3. Replacement attorneys

You may wish to appoint replacement attorneys to act in place of one or more of your original attorneys, should anything happen to them. If so, please provide the following details:

| | For you | For your spouse/partner |
|-------------------------------------|---------|-------------------------|
| First replacement: | | |
| Full name (including title): | | |
| Date of birth: | | |
| Address: | | |
| Home telephone number: | | |
| Mobile: | | |
| Email address: | | |
| Relationship (if any): | | |
| Occupation: | | |
| Second replacement: | | |
| Full name (including title): | | |
| Date of birth: | | |

| | | |
|-------------------------------|--|--|
| Address: | | |
| Home telephone number: | | |
| Mobile: | | |
| Email address: | | |
| Relationship (if any): | | |
| Occupation: | | |

For three or more replacement attorneys, please continue on a separate sheet. Please note that it will be assumed that your replacements will fill vacancies as they arise, in the order named above, unless you specify otherwise.

4. Jointly or jointly and severally

If you choose to appoint more than one attorney, we will need to know whether you wish them to act jointly or jointly and severally. We normally recommend that multiple attorneys act jointly and severally, which is more flexible, and will ensure that the power remains valid if one attorney is unable to act for any reason. A brief explanation of each type of appointment is given below:

Jointly - If you appoint your attorneys jointly, not only do they both have to sign every significant document, but the Power will cease to be effective if one of the attorneys dies or becomes mentally incapable, unless you have appointed a replacement.

Jointly and Severally - If you appoint your attorneys to act jointly and severally, the Power will remain effective even if one of them is unable or unwilling to act. You can still appoint a replacement attorney in these circumstances if you wish.

| | For you | For your spouse/partner |
|---|--|--|
| If more than one attorney is to be appointed, please indicate here your particular wishes: | Jointly <input type="checkbox"/> | Jointly <input type="checkbox"/> |
| | Jointly and Severally <input type="checkbox"/> | Jointly and Severally <input type="checkbox"/> |
| If you wish your attorneys to act jointly in respect of some matters, and jointly and severally in respect of others, you will need to give specific details here. | | |

5. Restrictions

You may wish to impose restrictions or conditions on what your attorneys can do, although we usually recommend that you confer general authority in relation to all your property and affairs. For example, you may want to specify that:

- the Power is not to be used unless you actually lack mental capacity;
- the attorney(s) should consult with or report to other family members or an independent professional person; or
- the attorney(s)' authority to make gifts should be limited.

No restrictions or conditions will be included unless you complete the following box.

| | For you | For your spouse/partner |
|---|---------|-------------------------|
| Please detail any restrictions or conditions that you would like to include and we shall be happy to discuss them. | | |

6. Guidance For attorneys

| | For you | For your spouse/partner |
|---|---------|-------------------------|
| Please give details of any guidance that you would like your attorney(s) to consider when making decisions in your best interests. | | |

7. Payment For attorneys

Where a professional attorney is appointed to act, you need to include an express provision authorising payment of the fees of the attorney or his or her firm from your estate, for any work carried out for you. If you agree to such a provision being included, then please tick here

8. Notifications - people to be told

When your Power is to be registered with the Office of the Public Guardian, the person(s) registering it must inform those persons you have specified to receive notification in these circumstances. This is an important safeguard for you, ensuring that your interests are protected at the time of registration. You can name up to five People to be told, and they can be relatives and/or friends. You do not have to list anyone here, but if you do not, you will need two Certificate Providers when executing the Power. This is explained in the separate information sheet '[Acting as a Certificate Provider on a Lasting Power of Attorney](#)'.

| | | For you | For your spouse/partner |
|----|------------------------|---------|-------------------------|
| 1. | Full name (inc title): | | |
| | Address: | | |
| | Telephone number: | | |
| | Email address: | | |
| 2. | Full name (inc title): | | |
| | Address: | | |
| | Telephone number: | | |
| | Email address: | | |
| 3. | Full name (inc title): | | |
| | Address: | | |

| | | | |
|-----------|-------------------------------|--|--|
| | Telephone number: | | |
| | Email address: | | |
| 4. | Full name (inc title): | | |
| | Address: | | |
| | Telephone number: | | |
| | Email address: | | |
| | | | |
| 5. | Full name (inc title): | | |
| | Address: | | |
| | Telephone number: | | |
| | Email address: | | |
| | | | |

9. Certificate Provider

You must choose someone to be the Certificate Provider for your LPA. The Certificate Provider will need to confirm that you understand the purpose and content of the document and the scope of the powers given to the attorneys; you are not under any undue pressure or duress to make the LPA and have not been pressured into making it; and there is nothing else that would prevent the LPA being created.

Please note that the following people cannot act as Certificate Provider:

- individuals under 18 years of age;
- a member of either your or your attorney's family;
- a business partner or paid employee of you or your attorney(s);
- an attorney appointed in the proposed or another LPA or any EPA made by the donor; or
- the owner, director, manager or an employee of a care home in which you live (including care homes with nursing homes) or their family member or partner.

There are two types of Certificate Provider:

Category A

(knowledge based Certificate Provider who knows you personally and has done so for a minimum period of two years) and

Category B

(skills based Certificate Provider who you believe to have the relevant professional skills and expertise to provide the certificate. They would normally charge for their services and could be:

- a registered healthcare professional such as a GP;
- a registered Social Worker;
- a Barrister, Solicitor or Advocate;
- an Independent Mental Capacity Advocate; or
- any other person who considers they have relevant professional skills and expertise to be a Certificate Provider).

Please complete the details below for the individual you intend to act as Certificate Provider (please use a separate sheet if you require two Certificate Providers - refer to point 8 above).

| | For you | Your spouse/partner |
|-------------------------------------|--------------------------|--------------------------|
| Full name (including title): | | |
| Postal address: | | |
| Email address: | | |
| Home telephone: | | |
| Mobile: | | |
| Category A (knowledge) | <input type="checkbox"/> | <input type="checkbox"/> |
| Category B (skills) | <input type="checkbox"/> | <input type="checkbox"/> |

10. Fees

Our fees for the preparation of one LPA, or reciprocal LPAs for you and your spouse, will be discussed with you by the Solicitor acting on your behalf, when instructions are taken.

11. Wills

We recommend strongly that you consider reviewing your current Will, or putting a new Will in place if you have not yet done so.

| | |
|---|--------------------------|
| If you would like us to review your Will, or if you would like information on making a Will, please tick here | <input type="checkbox"/> |
| If you wish to make Lasting Power of Attorney in respect of your property and affairs, please tick here | <input type="checkbox"/> |

12. Signatures

Signed:

Date:

Signed (spouse/partner):

Date:

Please return this form to:

**Thomson Snell & Passmore
3 Lonsdale Gardens
Tunbridge Wells
Kent TN1 1NX.**

June 2011

Lasting Power of Attorney instruction form

Health & Welfare

This form will provide us with the information required to draft a Health and Welfare Lasting Power of Attorney for an individual, or two such Lasting Powers of Attorney for a couple. It will also reveal whether special arrangements are advisable to meet your needs; in such circumstances it may be necessary to contact you to ask further questions.

In order to make a Lasting Power of Attorney, you must have the requisite mental capacity to do so. If there is some concern over whether you do, it may be necessary to contact your GP or another doctor for a medical opinion.

If you wish to appoint attorneys to act in respect of property and financial affairs then this must be done separately.

If this form is completed by anyone other than the donor of the Power, then we will need to contact the donor directly to confirm the instructions.

| 1. Personal details | | |
|---|----------------|----------------------------|
| | For you | Your spouse/partner |
| Full name (including title): | | |
| Any other names you are known by in financial documents or accounts: | | |
| Date of birth: | | |
| Postal address: | | |
| Email address: | | |
| Telephone numbers | | |
| Home: | | |
| Work: | | |
| Mobile: | | |

2. Your attorneys

It is important that you appoint individuals whom you trust. You can appoint one or more individuals to act as your attorneys and we do recommend that you appoint more than one attorney. With only one, the Power will be ineffective if that person is unable or unwilling to act as your attorney.

Please note the Partners in Thomson Snell & Passmore are usually unable to act in this role.

| | For you | For your spouse/partner |
|-------------------------------------|---------|-------------------------|
| First attorney: | | |
| Full name (including title): | | |
| Date of birth: | | |
| Address: | | |
| Home telephone number: | | |
| Mobile: | | |
| Email address: | | |
| Relationship (if any): | | |
| Occupation: | | |
| Second attorney: | | |
| Full name: | | |
| Date of birth: | | |
| Address: | | |
| Home telephone number: | | |
| Mobile: | | |

| | | |
|-------------------------------|--|--|
| Email address: | | |
| Relationship (if any): | | |
| Occupation: | | |

For three or more attorneys, please continue on a separate sheet.

3. Replacement attorneys

You may wish to appoint replacement attorneys to act in place of one or more of your original attorneys, should anything happen to them. If so, please provide the following details:

| | | |
|--|----------------|--------------------------------|
| | For you | For your spouse/partner |
|--|----------------|--------------------------------|

First replacement:

| | | |
|-------------------------------------|--|--|
| Full name (including title): | | |
| Date of birth: | | |
| Address: | | |
| Home telephone number: | | |
| Mobile: | | |
| Email address: | | |
| Relationship (if any): | | |
| Occupation: | | |

Second replacement:

| | | |
|-------------------------------------|--|--|
| Full name (including title): | | |
| Date of birth: | | |
| Address: | | |

| | | |
|-------------------------------|--|--|
| Home telephone number: | | |
| Mobile: | | |
| Email address: | | |
| Relationship (if any): | | |
| Occupation: | | |

For three or more replacement attorneys, please continue on a separate sheet. Please note that it will be assumed that your replacements will fill vacancies as they arise, in the order named above, unless you specify otherwise.

4. Life-sustaining treatment

In your Lasting Power of Attorney you are giving your attorney(s) the authority to make any decisions about your personal welfare that you can make subject to any restrictions or conditions you place on them (see Part 6 of this Form). The law requires you to specifically choose whether you want your attorney(s) to have the authority to give or refuse consent to life-sustaining treatment.

| Please choose either Option A or Option B (not both) | For you | For your spouse/ partner |
|---|--------------------------|-------------------------------------|
| Option A - you are choosing to give your attorney(s) the authority to make decisions about life-sustaining treatment on your behalf. | <input type="checkbox"/> | <input type="checkbox"/> |
| Option B - you are choosing to withhold from your attorney the authority to make decisions about life-sustaining treatment on your behalf. | <input type="checkbox"/> | <input type="checkbox"/> |

5. Jointly or jointly and severally

If you choose to appoint more than one attorney, we will need to know whether you wish them to act jointly or jointly and severally. We normally recommend that multiple attorneys act jointly and severally, which is more flexible, and will ensure that the power remains valid if one attorney is unable to act for any reason. A brief explanation of each type of appointment is given below:

Jointly - If you appoint your attorneys jointly, not only do they both have to sign every significant document, but the Power will cease to be effective if one of the attorneys dies or becomes mentally incapable, unless you have appointed a replacement.

Jointly and Severally - If you appoint your attorneys to act jointly and severally, the Power will remain effective even if one of them is unable or unwilling to act. You can still appoint a replacement attorney in these circumstances if you wish.

| | For you | For your spouse/partner |
|--|--|--|
| If more than one attorney is to be appointed, please indicate here your particular wishes: | Jointly <input type="checkbox"/> | Jointly <input type="checkbox"/> |
| | Jointly and Severally <input type="checkbox"/> | Jointly and Severally <input type="checkbox"/> |
| If you wish your attorneys to act jointly in respect of some matters, and jointly and severally in respect of others, you will need to give specific details here. | | |

6. Restrictions

You may wish to impose restrictions or conditions on what your attorneys can do, although we usually recommend that you confer general authority in relation to all your property and financial affairs. For example, you may want to specify that the attorney(s) should consult with or report to other family members or an independent professional person.

No restrictions or conditions will be included unless you complete the following box.

| | For you | For your spouse/partner |
|--|---------|-------------------------|
| Please detail any restrictions or conditions that you would like to include and we shall be happy to discuss them. | | |

7. Guidance For attorneys

| | For you | For your spouse/partner |
|--|---------|-------------------------|
| Please give details of any guidance that you would like your attorney(s) to consider when making decisions in your best interests. | | |

8. Payment For attorneys

Where a professional attorney is appointed to act, you need to include an express provision authorising payment of the fees of the attorney or his or her firm from your estate, for any work carried out for you. If you agree to such a provision being included, then please tick here

9. Notifications - people to be told

When your Power is to be registered with the Office of the Public Guardian, the person(s) registering it must inform those persons you have specified to receive notification in these circumstances. This is an important safeguard for you, ensuring that your interests are protected at the time of registration. You can name up to five People to be told, and they can be relatives and/or friends. You do not have to list anyone here, but if you do not, you will need two Certificate Providers when executing the Power. This is explained in the separate information sheet '[Acting as a Certificate Provider on a Lasting Power of Attorney](#)'.

| | | For you | For your spouse/partner |
|----|------------------------|---------|-------------------------|
| 1. | Full name (inc title): | | |
| | Address: | | |
| | Telephone number: | | |
| | Email address: | | |
| 2. | Full name (inc title): | | |
| | Address: | | |
| | Telephone number: | | |
| | Email address: | | |
| 3. | Full name (inc title): | | |
| | Address: | | |

| | | | |
|-----------|-------------------------------|--|--|
| | Telephone number: | | |
| | Email address: | | |
| 4. | Full name (inc title): | | |
| | Address: | | |
| | Telephone number: | | |
| | Email address: | | |
| | | | |
| 5. | Full name (inc title): | | |
| | Address: | | |
| | Telephone number: | | |
| | Email address: | | |
| | | | |

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- individuals under 18 years of age;
- a member of either your or your attorney's family;
- a business partner or paid employee of you or your attorney(s);
- an attorney appointed in the proposed or another LPA or any EPA made by the donor; or
- the owner, director, manager or an employee of a care home in which you live (including care homes with nursing homes) or their family member or partner.

There are two types of Certificate Provider:

Category A

(knowledge based Certificate Provider who knows you personally and has done so for a minimum period of two years) and

Category B

(skills based Certificate Provider who you believe to have the relevant professional skills and expertise to provide the certificate. They would normally charge for their services and could be:

- a registered healthcare professional such as a GP;
- a registered Social Worker;
- a Barrister, Solicitor or Advocate;
- an Independent Mental Capacity Advocate; or
- any other person who considers they have relevant professional skills and expertise to be a Certificate Provider).

Please complete the details below for the individual you intend to act as Certificate Provider (please use a separate sheet if you require two Certificate Providers - refer to point 9 above).

| | For you | Your spouse/partner |
|-------------------------------------|--------------------------|--------------------------|
| Full name (including title): | | |
| Postal address: | | |
| Email address: | | |
| Home telephone: | | |
| Mobile: | | |
| Category A (knowledge) | <input type="checkbox"/> | <input type="checkbox"/> |
| Category B (skills) | <input type="checkbox"/> | <input type="checkbox"/> |

11. Fees

Our fees for the preparation of one LPA, or reciprocal LPAs for you and your spouse, will be discussed with you by the Solicitor acting on your behalf, when instructions are taken.

12. Wills

We recommend strongly that you consider reviewing your current Will, or putting a new Will in place if you have not yet done so.

| | |
|---|--------------------------|
| If you would like us to review your Will, or if you would like information on making a Will, please tick here | <input type="checkbox"/> |
| If you wish to make Lasting Power of Attorney in respect of your property and affairs, please tick here | <input type="checkbox"/> |

13. Signatures**Signed:****Date:****Signed (spouse/partner):****Date:****Please return this form to:**

**Thomson Snell & Passmore
3 Lonsdale Gardens
Tunbridge Wells
Kent TN1 1NX.**

June 2011