

LASTING POWERS OF ATTORNEY 2024



22 The Village Square, Bramhall, Cheshire, SK7 1AW Tel: 0161 440 0131

226 Finney Lane, Heald Green, Cheshire, SK8 3QA Tel: 0161 283 6573

'til Feb: 95 High Street, Cheadle, Cheshire, SK8 1AA Tel: 0161 428 4909

From Feb: 57b High Street, Cheadle, Cheshire, SK8 1BJ Tel: 0161 428 4909

From Feb: London Road, Hazel Grove, Cheshire Tel: 0161

e-mail : info@mounteney.com Website : www.mounteney.com

I've been a solicitor all my working-life (I qualified in 1994) and have run my own firm since 2005. My vision is to meet the legal needs of local clients with the smartness and expertise of a city-centre law firm – at prices representing real value for money. We deliver with '10 Commitments' to quality and service outlined on the back of this brochure. I put my name on this firm as my personal guarantee of your satisfaction.



POWERS OF ATTORNEY

The word 'Attorney', in British usage, describes a person appointed to make decisions and sign documents on your behalf in certain circumstances. The British word should not to be confused with the common American term for a lawyer.

If, through accident, ill-health, infirmity or other debilitation, you were to become so mentally or physically unfit that you could not make decisions and sign documents on your own behalf, you would be described as having lost 'capacity' to act for yourself.

In English law a normal Power of Attorney would become invalid as soon as you 'lose capacity'.

Since it is precisely when you 'lose capacity' that you might need an Attorney to act on your behalf, the Lasting Powers of Attorney, "LPA", regime has been introduced to allow you to make an appointment of an Attorney (usually more than one) that:

- may only be effective from after you 'lose capacity', but
- will remain in force through your loss of capacity.

LPA's are formal legal documents that are subject to relatively complex technical requirements – it is for that reason that people commonly pay a solicitor to help them prepare and register their LPA's. An LPA cannot be used until it has been registered.

LPA's replaced 'Enduring Powers of Attorney' (EPAs) from 1 October 2007. If you already have an EPA it can remain valid and effective - but it cannot be changed now. If you need to change your EPA, then you will have to make LPA's to replace your EPA. Also, since your Attorney under an EPA can only deal with property and financial affairs, then even if you have an EPA you may still wish to make a 'Health and Welfare' LPA.

TYPES OF L.P.A.

There are two types of LPA, which cannot be combined together:

- **'Property and Financial Affairs' LPA's**

appoint an Attorney to manage your property and finances, including running your bank accounts and dealing with your property (but not normally making gifts, or drawing-up your Will).

You have the choice to specify in your LPA that your Property and Financial Affairs' Attorney may:

- act only after you lose capacity; or
- act straight away (which you might find convenient in some circumstances)

- **'Health and Welfare' LPAs**

appoint an Attorney to make decisions regarding your personal care and welfare, including decisions about where you live, who visits you, the type of care you receive, and decisions regarding your medical treatment (including life sustaining treatment).

Your Health and Welfare Attorney may only ever act after you lose capacity – never before then.

WHAT KIND OF PERSON MAKES AN L.P.A.?



Anybody thinking of:

- ✓ Planning for their future / putting their affairs in order
- ✓ Having concerns about failing health
- ✓ Wishing to get some help managing their affairs

WHY MAKE AN LPA?

To avoid the following consequences of loss of capacity without one: -

- ✗ Initially the State's medical and social authorities would become responsible for decisions about your health and welfare. Your property would pass into limbo - no-one could do anything with it.
- ✗ The position would continue until any application was granted by the Court of Protection for a 'Deputy' to be appointed:
 - Someone you may not have chosen may be appointed as your Deputy – this happens in about 80% of deputyship applications.
 - Your Deputy will act without much flexibility, under the close direction of the Court and will cause you to pay various significant annual fees relating to their appointment, an insurance bond required, and regular Court reporting fees.
 - The Deputy application is far more costly and time consuming than putting an LPA in place whilst you have capacity to do so (at a time likely to be stressful already).



THE FIXED FEE YOU WOULD PAY US TO HELP WITH YOUR LPA's

Some of the terms used are explained later in this brochure – so please read on if things seem unclear on first reading.

For taking the product described in this brochure as far as it can reasonably go at your direction our work will be charged at a fixed-fee:

<u>UNREGISTERED PRICE</u> <u>(Including VAT in each instance)</u>	<u>One person</u>	<u>Couple</u>
<u>One LPA</u> <u>(Property & Affairs or Health & Welfare)</u>	£240	£420
<u>Both LPA's</u> <u>(Property & Affairs and Health & Welfare)</u>	£420	£720

Our Fee for seeing to the registration of each LPA with the OPG is £180, plus in each instance we will need you to cover the Government Registration Fee (currently £82).

If you wish us to register your LPA's at the same time as making them this means our total charge (including the Registration Fees) for making and registered them would be:

<u>REGISTERED PRICE</u> <u>(Including VAT and OPG fees in each instance)</u>	<u>One person</u>	<u>Couple</u>
<u>One LPA (Property & Affairs or Health & Welfare)</u>	£500	£980
<u>Both LPA's (Property & Affairs and Health & Welfare)</u>	£980	£1,860

Our fees are fixed for our work described, regardless of how much work we actually do. In some cases this may mean we'll get relatively better paid for doing less work than in other cases, in which the fixed fee will barely cover our costs. This is simply the nature of the mutual 'gamble' between a solicitor and their client when they fix a fee.



A couple will often wish to make “mirror” LPA’s whose provisions reflect one-another.

You can cancel an LPA you have made at any time when you still have capacity (including after registration) but you will have to execute a formal deed of revocation.

WHY USE MOUNTENEY SOLICITORS TO HELP YOU MAKE YOUR LPA?

You deserve the assurance of your interests being in the best hands. No-one is better placed to protect you than Mounteney Solicitors; our team are professionals with extensive experience – not recently recruited, unqualified or low-paid staff working to scripts. You will always be able to speak to someone who knows the current state of affairs with any work we are doing for you and who will ensure you get up-to-date information. Please see our “Welcome to our Services” brochure for more team detail.

Any solicitor can boast of being better than the average, but we back our promise by our ten specific commitments outlined on the rear cover of this brochure.

SIGNING

Your LPA must be completed by being signed by all of the three different sets of people who need to sign it; some of the signatures also require witnesses:

(1) you (the Donor) (2) your Certificate Provider (3) your Attorneys.

REGISTRATION

An LPA cannot be used until it has been registered with the OPG. Registration with the OPG does not mean your LPA must be used; your LPA may be registered before you lose capacity and specify that it may only be used after you lose capacity. You don't have to register your LPA when it is made – you could alternatively store it somewhere safe and secure (such as our document vault), and register it later.

Accordingly you do have the choice either to: -

- Register your LPA with the OPG immediately, so it can be used as soon as needed; or
- Keeping your LPA unregistered, “waiting to see” whether it may ever be needed.
 - If you “wait and see” you may save money in some circumstances, e.g. if you die without ever losing capacity;
 - However, if you don't register and then your LPA is needed urgently (e.g. if loss of capacity occurred suddenly) your LPA would not be available to use until after the subsequent registration of it were to be completed, which would take time that may not be available in some circumstances.



It is as common to decide not to register an LPA at the time it is made (i.e. to “wait and see”) as it is to register as soon as the LPA is completed – the decision will depend on your assessment of your circumstances and likely future. In general our recommendation is to register an LPA at the time it is made – doing so is included in our fixed fee quoted.

OUR WORK FOR YOU

Our work for you will include:-

1. We will take your instructions and produce from them the draft LPA documents, for you to double-check before signing.
2. Once documents are in a satisfactory form we will guide you through the process of execution and acting as Certificate Provider, notice receiver, and witness where necessary.
3. After the LPA's have been executed, we will check that their execution appears to be legally compliant.
4. We will deal with all matters relating to the registration of your LPA's with the OPG.
5. If you wish, we can also securely store the original document for you, leaving you with a clear copy.



HOW LONG WILL IT TAKE?

The time our work takes will depend on precisely what we are asked to do, but we would normally expect to have produced your LPA's within a week of your instructions. Special despatch may be available where necessary (possibly at extra charge in some cases – please ask). The OPG commonly take 8 - 10 weeks to process the registration of and LPA.

SOME TECHNICAL WORDS EXPLAINED

Donor	The person who makes the LPA, and appoints Attorneys to act for them in the circumstances specified in the LPA.
-------	---

SOME TECHNICAL WORDS EXPLAINED

<p>Attorneys (also referred to as “donees”)</p>	<p>These are the people who would act in your place. You should choose people you trust. They don’t need any more legal knowledge than you have. You can place conditions or restrictions on their appointment or provide guidance to your Attorneys; you can even make provision to pay them! An Attorney must always act in your best interests and comply with any restrictions or conditions you specified in your LPA. Your spouse, children or other close relatives and friends can act (if over 18 years old). You could appoint a professional person (such as a solicitor) to be an attorney.</p> <p>You can appoint one or more Attorneys – but it can make it difficult in practice if you appoint too many. If you appoint more than one Attorney you need to say whether they act either “jointly” (i.e. they must all make the decisions for you together, and must all sign everything) or “jointly and severally” (any of your Attorneys could make decisions and sign on your behalf, acting independently of the others). You can authorise them on different bases for different decisions. You can appoint Replacement Attorneys in case of one of your main Attorneys not wishing to or being available to act.</p>
<p>OPG</p>	<p>The Office of the Public Guardian. The OPG is an agency of the Court of Protection.</p>

SOME TECHNICAL WORDS EXPLAINED

Notice	<p>Your LPA nominates persons who should be given notice, allowing them to raise any concerns or objections, as a safeguard for you and your Attorneys. We normally do this on your behalf as part of the registration process.</p>
Capacity	<p>Capacity means the mental and physical ability necessary to administer your affairs yourself. You might lose capacity if you were to have an accident, become ill, fall unconscious, or because of the onset of a long term medical condition, such as dementia.</p> <p>Your Attorneys have a duty to take all practical steps to help you make a decision if you have the capacity to do so, and must assume that you can make your own decisions unless they establish that you cannot do so.</p>
Certificate Provider	<p>A Certificate Provider must sign your LPA to certify that you understand what it is, what authority it gives the Attorneys, and that you are under no pressure to make it. A Certificate Provider can be a professional person (such as your solicitor, doctor or accountant), or anyone else who has known you for a period of two years or more, and who considers that they have sufficient skill and expertise to be such a Certificate Provider.</p> <p>If you instruct us to prepare your LPA, and we meet you, we will normally be prepared to be the Certificate Provider.</p>

SOME TECHNICAL WORDS EXPLAINED

Registration

Your Attorneys cannot start to act until after the registration of your completed LPA with the OPG has itself been completed. This involves an application to the OPG, notice to certain people you have nominated (Named Persons) and payment of an OPG fee (at time of printing, £82 per LPA) – registration normally takes a couple of months.

It is important that an LPA is registered to ensure there are no problems at registration. If it is left until after capacity has been lost then rejection at registration means the more formal expensive and time consuming route is the only option. Whilst this is relatively rare it does happen and the OPG can change the rules and how they operate unilaterally and without any warning.

Mounteney Solicitors

All solicitors should be professional, friendly and accessible.

Mounteney Solicitors' commitments over your normal expectations are:

1. our explanations are simple, clear and concise
2. our advice and services are unsurpassed in our sector
3. our fees are more economic than our local competitors
4. our charges are proportionate to the value we produce for clients
5. in all appropriate instances we quote and adhere to fixed-fee terms
6. we cause no unreasonable delay in pursuing our clients' interests
7. we are readily available during business hours
8. we adopt a smart approach
9. we are scrupulously polite
10. our principles are based on the Christian ethos

Mounteney Solicitors
is a trading name of Hargreaves Mounteney Limited

We are regulated by the Solicitor's Regulatory Authority

22 The Village Square, Bramhall Centre, Cheshire, SK7 1AW Telephone: 0161 440 0131
226 Finney Lane, Heald Green, Cheshire, SK8 3QA Telephone: 0161 283 6573
95 High Street, Cheadle, Cheshire, SK8 1AA Telephone: 0161 428 4909

Fax: 0161 439 1596 e-mail : info@mounteney.com