

## Powers of Attorney for Landlords

If you are a landlord who manages their own portfolio or engages an agent to do so on their behalf, then it is critical that you have the legal means in place to have your ongoing affairs managed by those you trust if you were to become physically or mentally unable to do so yourself, either on a temporary basis e.g. you're out of the country, say, have broken your arm and can't sign, or something worse that leaves incapable of expressing yourself.

You should be aware that your spouse or business partner does not have an automatic right to speak or sign for you even on a joint bank account. If you own property as Tenants in Common, BOTH signatures are required to do anything with the property including remortgaging it. Without either a simple business power of attorney limited to managing your properties, say, or a full lasting power of attorney that remains in effect even if you lose mental capacity, your family or business associates will have to apply to the Court of Protection (one of England's secret Courts) before they can do anything. The Court, via the Office of the Public Guardian, will eventually appoint a Deputy who is likely to be a civil servant or legal professional. Moreover, they will be slow to act, charge for their services, be entirely risk adverse, and have no intimate understanding of you or your affairs.

A Lasting Power of Attorney (LPA) is a legal document that allows you (the Donor) to officially nominate someone (your Attorney) to speak and act on your behalf if you become physically or mentally unable to do so yourself. It has to be 'completed' while you still have capacity, and it cannot be used before it has been registered with the Office of the Public Guardian (OPG).

A LPA for your Property and Financial affairs allows an Attorney to make decisions about paying bills, dealing with the bank, collecting benefits, selling your house, etc. In simple terms, an LPA allows you to plan in advance the decisions you want to be made on your behalf if or when you lose capacity to make them yourself, the people you want to make these decisions and how you want the people to make these decisions.

A Property and Financial LPA lets the people you choose make decisions about, for example:-

- buying and selling your property
- opening, closing, and operating bank/building society accounts
- claiming, receiving and using your benefits, pensions, and allowances

Having an LPA is a safe way of maintaining control over decisions made for you because:-

- it has to be registered with the OPG before it can be used (if someone else tries to register it you and your Attorney(s) will be able to make an objection)
- you choose someone to provide a 'certificate' confirming that you understand the significance and purpose of it
- you can choose 'people to be told' about your LPA when it is registered (so that they have an opportunity to raise concerns)
- from a legal perspective, your Attorney(s) must follow the Code of Practice of the Mental Capacity Act 2005 – if they don't always act in your best interests the OPG can step in, and your Attorney(s) may be held accountable