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LASTING POWERS OF ATTORNEY

From the 1 October 2007, Lasting Powers of Attorney have replaced Enduring Powers as the principal way of choosing a decision-maker to act in the event of loss of capacity.

The Lasting Powers of Attorney increases the range of different decisions that people can authorise others to make on their behalf. In addition to property and affairs, a person can delegate decisions affecting their personal welfare, including healthcare and medical treatment for a time when they lack capacity to make such decisions themselves.

A Lasting Power of Attorney enables a person aged 18 or over to appoint another person or persons to act on their behalf, if they subsequently lose capacity.

Things to consider when completing a Lasting Power of Attorney

- Decide who to appoint as your attorney(s) in the Lasting Power of Attorney
- Decide if you want to appoint a replacement attorney in case your attorney(s) cannot act for you
- Decide whether you want anyone to be notified when an application is made to register your Lasting Power of Attorney and, if you do, who you want to be notified. This can be up to 5 people. If you do not you will need 2 Certificate providers.
- Choose at least one independent person aged 18 or over to provide a certificate that the person making the lasting Power of Attorney in their opinion understands the purpose of the Lasting Power of Attorney, and that no fraud or undue pressure is being placed on the person making the Lasting Power of Attorney. The Certificate provider must fall within the category of acceptable certificate providers and includes a solicitor.

The Lasting Power of Attorney cannot be used until it has been registered with the Office of the Public Guardian. Once registered, a property and affairs Lasting Power of Attorney can be used while the person making it still has capacity, unless it specifies it can't, while a personal welfare Lasting Power of Attorney can only be used when the person making it no longer has capacity to make the particular decision affecting their healthcare or personal welfare.

The Office of the Public Guardian is responsible for maintaining a register of all Lasting Powers of Attorney. You should be aware that once your Lasting Power of Attorney is registered certain basic information about you Lasting Power of Attorney will be available to anyone who applies to search the register and pays a fee.