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Consequences of not Having a Property and Financial Affairs LPA in Place?

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The consequences of not having a Health and Welfare Lasting Power of Attorney (LPA) in place, but that's only one of the two types of LPA available. In this article, we'll look at the Property and Financial Affairs LPA, and what the consequences of not having one of those are.

What is a Lasting Power of Attorney?

A Lasting Power of Attorney (LPA) is a legal document which allows a person (otherwise known as the donor) to appoint someone they know and trust to make decisions on their behalf should they become unable to do so in the future. This person is called an attorney. Attorneys must always act in the best interest of the donor. It is important to add at this stage that you must have capacity in order to have an LPA put in place.

What decisions can be made by your attorneys on your behalf with a Property and Financial Affairs LPA?

Having this LPA in place will give your attorneys the authority to make the following decisions on your behalf:

- **Managing bank accounts**
- **Paying bills i.e. mortgage, rent and other household expenses**
- **Claim income and benefits for the donor**
- **Making decisions with regards to the home**
- **Buying or selling property**
- **Managing investments**
- **Insure, maintain or repair the donor's property**

When does it come into effect?

The donor can decide when they want the attorneys to be able to make decisions on their behalf which is either when the donor has lost capacity or alternatively, as soon as the LPA is registered.

What is the cost to register an LPA and what is the turnaround time?

A Property and Financial Affairs LPA can only be used once it has been registered with the Office of Public Guardian (OPG).

There will be a registration fee payable to the OPG when the LPA is submitted to them. The current cost is £82 per LPA. If you are on a low income or receive benefits, you may be eligible for fee remission. An additional form (Form LPA120) will need to be completed if you are applying for reduced fees.

Registering your LPA with the OPG can take up to 16 weeks or possibly longer depending on the volume of applications they receive so it is important you register your LPA as soon as possible.

What Happens if you don't have a Property and Financial Affairs LPA?

It is a common misconception that a Property and Financial Affairs LPA is only needed for those that are of an older age. The reality is that capacity could be lost at any time due to a serious accident, stroke or even a degenerative condition such as Alzheimer's.

If you should lose capacity and there is no Property and Financial Affairs LPA in place, your family and friends will not have automatic authority to make decisions on your behalf with regards to your property and financial affairs. Instead, others could make decisions for you and the decisions made, may not be what you would have wanted. This can cause disagreements between family members and professionals about what is best for you.

Here are just some things to consider:

Joint bank account - the bank has the ability to remove access and freeze the account without an LPA, even if you have your money in there

- **Bills cannot be paid unless a kind family member pays on your behalf - but they will not be able to compensate themselves**
- **Your bank accounts cannot be accessed or managed**
- **Benefits cannot be claimed on your behalf**
- **Your home cannot be sold if you need to move into care**
- **Your mortgage deal may expire, and you won't be able to re-mortgage your property**

Is there a way for someone to make decisions on my behalf after I have lost capacity if I do not have a Property and Financial Affairs LPA?

Yes. If capacity is lost and there is no LPA in place, a friend or family member can apply to the Court of Protection to be a Deputy for you and make decisions on your behalf. However, this is not only a long but very expensive process which can take 6 months or even more. Therefore, it is cheaper and more effective to have an LPA in place instead.



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