Lasting Power of Attorney: Safeguarding your Future

When you are an active young and healthy adult making your way in life both professionally and personally, you are more likely to be planning your next night out or holiday than thinking about the future. But what would happen if you had an accident or an incapacitating illness or condition which negatively affects your whole life?

You are never too young to think about making a ‘[Lasting Power of Attorney’](https://pictons.com/private-client/wills-trusts-and-probate/lasting-powers-of-attorney/), which is a legal agreement that assigns a trusted family member or friend to manage your affairs if you become unable to handle them yourself. Whilst you might assume that an LPA is something just for old people or those who engage in dangerous sports, sadly, serious accidents can unexpectedly happen in so many everyday situations, whether that be playing sports, cycling to work or going on holiday.

The real problem occurs should you become [mentally incapacitated](http://www.ageuk.org.uk/money-matters/legal-issues/powers-of-attorney/mental-capacity/) as a result of an accident because you can only set up an LPA while you have the capacity to do so – once you have lost capacity, this is no longer an option.

In February this year, the Ministry of Justice launched a “planning for the future” campaign to raise public awareness of LPAs and to get the message across: “Make the choice. Don’t take the chance”. They said, “We want people to view LPAs as an important part of planning for their family’s future.” The focus of the campaign was to encourage younger people in their 20s and 30s to consider creating an LPA for themselves, especially if they play contact sports or go on adventure holidays.

# What is a Lasting Power of Attorney?

A Lasting Power of Attorney is a simple way to put in place a safeguard for your future and that of your family. It clarifies your position to the courts should the worst happen and you becoming mentally incapacitated.

**Interestingly, in the case of LPA’s, an attorney refers only to someone who is over 18 and has the mental capacity to make their own decisions. This is not to be confused with the term for a practicing lawyer in the United States of America.**

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Making a Lasting Power of Attorney is a simple precaution and common sense for every adult because life is so unpredictable. LPAs aren’t only appropriate for rally drivers, mountain climbers, or other extreme sports people, they are for everybody, but particularly those who take part in contact sports, no matter how minor.

# What does a Lasting Power of Attorney actually do for you?

A trusted family member or close friend is appointed by you as your Lasting Power of Attorney. They then have the legal right to manage things and take care of your financial affairs for you, as well as look after your overall wellbeing if you are no longer able to do that for yourself.

Without an LPA, no one has the legal authority to deal with your finances and although your relatives may be willing to assist you, they would not, by law, be allowed to do this on your behalf. This would not only leave you without the help you need, but your family may suffer also - there have been many cases where wives, partners, and their children have been unable to function financially because the person on whom they depended had not entrusted anyone with Lasting Powers of Attorney.

There are two types of LPAs: one deals with your property and financial affairs and another for your health and welfare. By making an LPA, you can choose your solicitors yourself and ensure that the people looking after you are those you trust.

If you become incapacitated and there is no LPA, your relatives could be forced to apply to the Court of Protection for a court order allowing them to manage your affairs. This can be a very long and costly process and can make things extremely stressful for people at what is already a difficult time.

As an adult, you probably already pay annually for some kind of insurance, whether that’s car, house, travel, mobile phone or similar. A Lasting Power of Attorney is actually just a one off payment that puts in place rock solid assurances that should anything untoward happen to you, then your family, affairs and perhaps most of all yourself will be properly taken care of by someone you trust.

# Setting one up

Firstly, it’s vital to do your homework before looking to set up a Lasting Power of Attorney. The seriousness of this cannot be understated, as, essentially, you are handing the control of your life away, should something happen that necessitates the need for an LPA.

The process of actually making a Lasting Power of Attorney isn’t too challenging, but the research and decision making can be. [The government has issued a 3-point guide](https://www.gov.uk/power-of-attorney/overview) to making an LPA: choose the attorney, fill out the necessary paperwork, and then register it with the Office of the Public Guardian.

Your solicitor will ensure it’s correctly drafted and covers your needs and instructions should you be incapacitated at any point in your life. Once all is agreed, the details will be formally registered at the Office of the Public Guardian.

Play sport?

As exhilarating as sport is, every athlete who takes part does so knowing the risks involved, no matter how negligible the chances of a serious injury might be. You can have all the protective equipment in the world and do everything completely by the book, but fortune is a fickle mistress. Infrequently as it might be, even professionals have [been the victim of chance](http://www.bbc.co.uk/sport/cricket/30219440) despite it being a totally normal day for them up until that moment.

Even professionals who have the money to afford the costliest medical treatments still require an LPA to make decisions on their behalf. As with the Michael Schumacher incident a few years ago, should he be left mentally incapacitated but still alive following his skiing accident, then any legal agreements he may have already made concerning his death would not have taken effect, should he not have an LPA in place prior to the incident. Anyone written into his will would receive nothing, as unless specified via an LPA, he would not have legally consented to anyone else touching his finances. Whilst we can’t know either way whether Schumacher did or did not have such a precaution in place, the point still stands that nobody is immune to sudden accidents.

Whilst it is true that of the two sports mentioned, one involves a fast-moving projectile and the other being a fast-moving projectile, any sport has risk due to the body being pushed to its limits. Even if you don’t know that you have a medical condition, in specific circumstances they can surface with [devastating consequences](https://www.theguardian.com/football/2012/mar/18/heart-disorder-hocum-fabrice-muamba). In regards to that case, Fabrice Muamba had the best health screening available in the sporting world and yet still nearly died completely unforeseen. There was no head trauma or even moderate contact, being a Premier League footballer we can assume he was a wealthy man and yet all that didn’t protect him from serious injury.

The point is, that accidents in sport fatal or otherwise are 9 times out of 10 totally spontaneous with zero warning. As obvious as the risk of injury is when it comes to combat and contact sports, you can never be too safe. Whilst an LPA cannot prevent accidents from occurring, they can deal with a lot of the fallout that occurs. For the sake of such a minimal fee, the risk/reward costs of having one in place is completely tilted in favour of making the outlay. You can’t cover every eventuality, but you can cover all your bases off the pitch, to protect yourself in one of those areas that matters the most.