

I would like to make a Lasting Power of Attorney/Advance Decision. What should I do next?

We recommend that you speak to one of our solicitors or legal executives about making a Lasting Power of Attorney or Advance Decision. Our professional advisers have several years experience of drafting powers of attorney/advance decisions and will be able to prepare documents which are "tailor made" to suit your needs.

We will:-

Meet with you to discuss your wishes (we can arrange home visits if you are unable to get to our office)
Explain how the documents work and how they can help you
Provide you with our written advice
Prepare the document(s) for you
Arrange to meet you again to sign the document(s) once you are completely satisfied
Arrange to have appropriate witnesses available when you sign the document(s)
If you wish, place the completed document(s) in our strongroom (free of charge) and let you have copies

Call us to discuss your requirements. We will not charge you for the initial telephone call and will be able to tell you what you need to do and approximately how much it will cost.

Please also visit our website at www.dfjlaw.co.uk where you will find further information about our people, the services that we offer and how to find us.

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**Who will look after my affairs
if I am unable to?**

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**PLEASE ASK IF YOU REQUIRE A LARGE
PRINT VERSION OF THIS LEAFLET**

Who will look after my affairs if I am unable to?

Many people are not aware of the difficulties their families would encounter if they became incapable of making decisions for themselves either through accident or illness. People generally assume that their spouse, partner or other close family members would be able to deal with their affairs for them. It can add to the distress for your family to find that they have limited legal authority.

Below are some common questions that people ask us, the answers to which are intended to give you an overview of the legal documents which are available to help your family in such circumstances.

What are the documents that I can make to ensure my affairs are looked after?

There are three types of document which allow someone else to make legal decisions for you.

- Lasting Powers of Attorney (Property and Affairs)
- Lasting Powers of Attorney (Personal Welfare)
- Advance Decisions (often known as Living Wills)

What is a Property and Affairs Lasting Power of Attorney?

A Property and Affairs Lasting Power of Attorney would allow your attorney(s) (i.e. the person or people you have chosen to look after your financial affairs for you) to deal with your property and finances in accordance with your wishes. For instance, they might be able to operate your bank accounts, deal with your investments, deal with your tax affairs, or buy and sell property for you. You can decide what you want them to do for you. You can choose one or more attorneys and you can decide whether they act together or independently. You can also decide on successor attorney(s) if your chosen attorney(s) could not act for you. Our legal advisors will explain in detail the options available to you.

What is a Personal Welfare Lasting Power of Attorney?

A Personal Welfare Lasting Power of Attorney would allow your attorney(s) to make welfare and health care decisions on your behalf. Your attorney(s) would only be able to make those decisions for you when you lack the mental capacity to do so yourself, and then, only to make those decisions you have authorised them to make on your behalf. Decisions they could take might include where and with whom you should live, arranging for medical, dental, or optical treatment for you, making decisions over your day to day care or consenting or refusing on your behalf to medical treatment. We can discuss with you when making the Lasting Power of Attorney what decisions you would want your attorneys to make for you and particularly, if there were any decisions you would not want them to make for you.

What is an Advance Decision?

You may not want to grant anyone in your family or any of your friends the power to make decisions for you regarding your welfare and medical care. You may prefer to make specific decisions in advance regarding your refusal of future medical treatment. To do so you would need to have an Advance Decision (sometimes known as a Living Will). Before October 2007 Advance Decisions or Living Wills were only "persuasive" (i.e. of guidance to medical practitioners but not legally binding). Now however, if correctly drafted, an Advance Decision will be legally binding upon anyone treating you. It is important that the document is specific and we strongly advise anyone wishing to make an Advance Decision to take legal advice to ensure that the document is valid.

When should I make some or all of the documents?

The documents are best prepared at a time when there can be no doubt that you understand their effect and the powers you are granting other people over your finances or welfare. Although it is possible for them to be prepared after you have fallen ill, it would depend on the nature and effect of your illness as to whether you are able to make them at that time.

What happens if I don't make a Property and Affairs Lasting Power of Attorney?

If you do not make a Property and Affairs Lasting Power of Attorney there may be no one who has legal authority to make decisions about your financial affairs on your behalf. If you were in hospital or abroad for any length of time or you lose your mental capacity, your bills may go unpaid and your finances become muddled. Your family or friends would need to apply to the Courts for legal authority to act for you. The Court will decide who will look after your financial affairs. The application is both costly and time consuming.

What happens if I don't make a Personal Welfare Lasting Power of Attorney?

If you are unable to make decisions about your personal or healthcare needs and if you do not have a Welfare Lasting Power of Attorney an "independent mental capacity advocate" may be appointed to represent your wishes. While he or she will try to ascertain your wishes they will probably not know anything about you and how you would wish to be treated. It would probably be the doctor/healthcare professional treating you who requests the appointment of the "independent mental capacity advocate". You would have no control over the appointment.

Can I cancel a Lasting Power of Attorney I have made?

As long as you have mental capacity to do so you can always cancel a Lasting Power of Attorney.

I made a "living will" before October 2007. Is it still valid?

Whether or not a living will made before October 2007 is valid will depend on how it is drafted. If you have any concerns or doubts about a living will made before October 2007, please speak to one of our legal advisors.