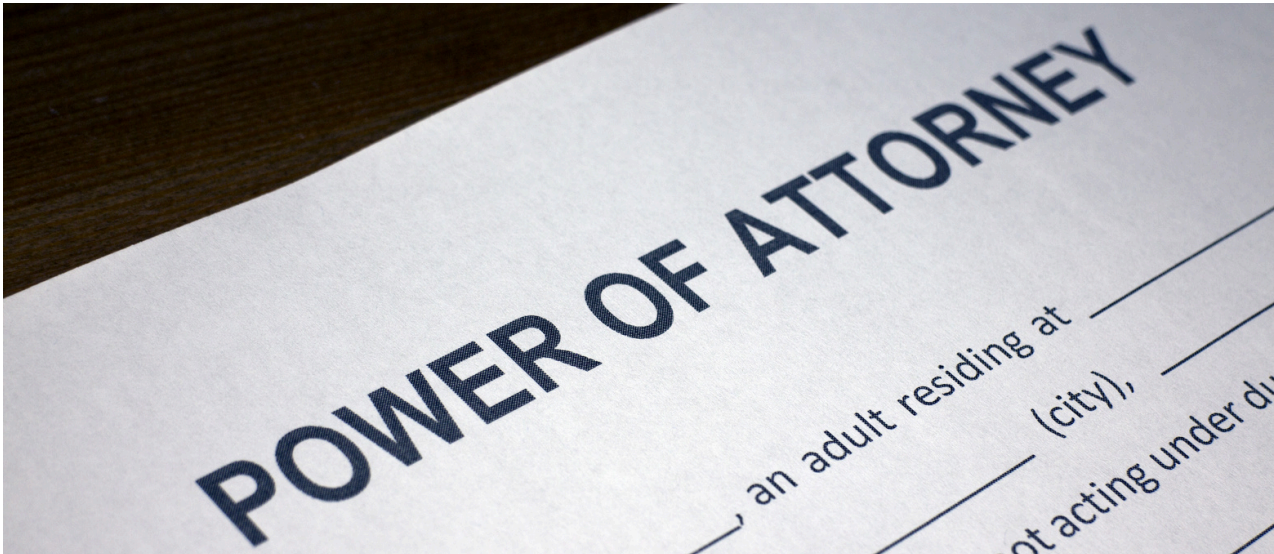




VESTED ESTATES  
LTD

# MAKING AN LPA: KEY CONSIDERATIONS



## What is a Lasting Power of Attorney, and Do I really need one?

Creating a Lasting Power of Attorney (LPA) is the only way to ensure that your decisions are made by the people of your choosing in the event that you are unable to make them for yourself, be that through accident, illness or any other incapacity.

If capacity is lost without LPA's in place, an application to the Court of Protection to appoint a "Deputy" is required in order for anyone to be able to make these decisions on your behalf.

This process is more time consuming and costly than making provision through an LPA, and the decision-making powers of a Deputy are restricted and supervised by the OPG.

Deputy's are Court appointed and may well be a professional, which incurs further cost. They also have annual reporting obligations.

Since 2007 there are 2 types of LPA:

Health and Welfare  
&  
Property and Affairs

**Property and Affairs decisions include:**

- Running your bank and savings accounts
- Making or selling investments
- Paying your bills
- Buying or selling your house

**Health and Welfare decisions include:**

- Your daily routine, for example washing, dressing, eating
- Medical care
- Moving into a care home
- Life-sustaining treatment

These are all very important decisions that should be made by the appropriate people of our choosing. The effect of these decisions could be life changing.

Topic in Brief:

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Why make an LPA?

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What is an LPA?

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The Office of the Public Guardian

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Without an LPA

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Revocation

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Case Study

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## The Office of The Public Guardian

An LPA is not effective unless it has been registered by the Office of the Public Guardian (OPG).

Applications for each power must be completed and sent to the OPG for registration. This process takes around 16 weeks, but can be protracted if further administration is required.

When completing the application there are two very important decisions that must be considered:

### **When your Attorney's can act on your behalf:**

Attorney's can be appointed to act immediately on registration, or only when mental capacity is lost.

### **How your Attorneys must make decisions:**

Jointly: Unanimously - they must all sign off on each and every decision.

Jointly and Severally: Any of your chosen Attorneys can make a decision on your behalf, however you can still elect for some specific decisions to be unanimous.



## Without an LPA

The implications of not having an LPA impact you and your family:

- Family being excluded from making important decisions
- Increased costs involved for a professional deputy
- Delays in appointing a deputy
- Court decides on the powers of the deputy
- Deputy may not understand your wishes



## Revocation of LPA's

An LPA can be revoked at any time whilst you still have mental capacity

### **This must be done by a Deed of Revocation.**

A deed of Revocation can be full, in that it strikes out the entire LPA, or it can be partial. A partial revocation can remove an Attorney from their position, to reflect changes to relationships, but it cannot appoint another Attorney in their place. For this reason it is never advisable to appoint a sole Attorney.



## Kate Garraway and Derek Draper: A very public example of the hardship that can be caused by not making an LPA

During the Covid 19 pandemic, we saw the story of TV presenter Kate Garraway and her husband, Derek Draper, on television and in the news.

The importance of the issue meant that a documentary, "Kate Garraway: Finding Derek", was made to tell the story of their struggles since Mr Draper was admitted to hospital with Covid-19 in March 2020.

The documentary showed that the heart-breaking story of Derek's year-long battle with Coronavirus, has been further complicated by the fact that the couple had very little legal protection in place. For example, Kate was unable to access funds to manage Derek's medical care and unable to refinance her mortgage. She didn't even have the legal right to see his medical notes, owing to data protection.

Derek Draper is in his mid fifties and, pre-Covid was in good health so the couple likely did not think they needed to consider such things as urgent. Indeed, none of us like to think about what might happen if we become ill or injured.

In a statement Kate said:

"We had a whole conversation and Derek said we have to appoint power of attorney in case anything happens. So I know we've had that conversation"

All too often we put off making these vital legal arrangements, but doing so can cause huge distress if the unexpected were to happen.

The truth is that we never know what's round the corner so by making your LPA's today you can have peace of mind for the future.

*Thank you for reading!*

VESTED ESTATES LTD	01992 443585
<a href="http://www.vestedestates.co.uk">www.vestedestates.co.uk</a>	1 Tower House, Hoddesdon, Herts, EN11 8UR