

Lasting Power of Attorney

Jersey's new Capacity and Self Determination Law (Jersey) 2016 (CSDL) came into effect on 1st October 2018.

What is a LPA?

Part of this law is concerned with future decision-making in the form of Lasting Powers of Attorney (LPA), a LPA being a legal document that enables you to give another person or persons the authority to make decisions on your behalf. An appointed decision maker is called an attorney, who will usually be a trusted member of your family or a friend. You can appoint more than one person to each of the two types of LPAs.

Two types of LPA

There are two separate types of LPAs, one for property and other financial matters, and the second type covers health and welfare decisions, including healthcare and medical treatment.

The health and welfare LPAs only become active if you lose capacity to make specific health and welfare decisions for yourself, whereas with the first type, attorneys can help you plan and make financial decisions before any loss of capacity.

This new law allows you to choose different people to be financial attorneys and others to be health and welfare attorneys if you so wish.

Both LPAs help you guard against foreseeable or unforeseen life-changing events that may leave you dependant on others, giving you reassurance that if you are unable to make decisions for yourself in the future the attorney that you have chosen to act on your behalf will make these decisions for you. The CSDL also makes provision for people who do not have LPAs and have lost capacity to action these. In this event the court will appoint 'delegates' to make decisions on a person's behalf. If there are relatives who are willing and able, and who meet the court's criteria, these relatives will usually be appointed to the role. If there are no such relatives the court will appoint other professionally qualified delegates.

(Note: Property and financial LPAs now replace 'curatorships' which only came into effect when a person lost capacity to manage their own financial affairs, with the person themselves not being able to choose their 'curator'. Prior to the CSDL, there was no legal provision in Jersey for a person to appoint others to make financial decisions for them if in the future they lost capacity to make their own decisions and curators could not make health and welfare decisions.)

How to set up LPAs

Both LPAs can be created at the same time or independently.

Information and forms for this are available online through the States website but if you are not able to do this online, help is available from the States Greffe.

The appropriate forms need to be filled in and signed by the person wishing to set up the LPA and the nominated attorney.

In situations where capacity might be questioned for any reason, you should ask your GP, or other specialist doctor, to confirm your capacity to appoint an attorney, and then you, with the proposed attorney and the GP should sign and date the forms. These then need to be sent to the States Greffe's office with the supporting paperwork and the appropriate fee.

Further Information

LPAs are only part of a much broader legal document. More information about LPAs and other parts of this law is available on the States website:

www.gov.je/lasting/power/of/attorney

or from:

*Judicial Greffe
Royal Court House
Royal Square
St Helier
JE1 1JG
Tel: 441300*

If you would like the chance to discuss any of these points with a member of our team at JAA please call Sian Wareing-Jones on 07797907753 or email her at sian@jerseyalzheimers.com.

