

What if there is no family to help?

Our Wills & Probate team can advise you how Timms can assist. We offer a full care of the elderly service and often take on the role of Attorney (or Deputy) to assist with the management of finances when our clients are unable to cope themselves.

What if I already have an Enduring Power of Attorney?

Although Enduring Powers of Attorney have been replaced by Lasting Powers of Attorney, existing Enduring Powers of Attorney are still valid and so it is important that you keep the document safe.

If your Attorney suspects that you are losing or have lost your mental capacity then they have a duty to register the Enduring Power of Attorney with the Office of the Public Guardian and this is something that we can assist with.

Our Wills & Probate team offer expert advice on:

- Wills
- Powers of Attorney
- Administration of Estates
- Obtaining Probate / Letters of Administration
- Intestacy
- Inheritance Tax
- Will Trusts



www.timms-law.com

Why use Timms?

With four offices across the East Midlands: Derby, Swadlincote, Burton upon Trent and Ashby de la Zouch, our breadth of experience and knowledge allows us to provide a diverse range of services from residential and commercial conveyancing, employment law, childcare law, family law and private client law to personal injury and clinical negligence.

We pride ourselves in our friendly, approachable manner whilst maintaining a professional practical relationship with our clients.

Ashby
01530 564 498
80 Market Street
Ashby de la Zouch
LE65 1AP

Derby
01332 364 436
5 Queen Street
Derby
DE1 3DL

Burton
01283 561 531
3 Anson Court
Horningslow Street
Burton Upon Trent
DE14 1NG

Swadlincote
01283 214 231
23 West Street
Swadlincote
DE11 9DG

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www.timms-law.com



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Lasting Powers of Attorney

A guide to making a Lasting Power of Attorney

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What is a Lasting Power of Attorney (LPA)?

An LPA is a legal document which allows you to give someone you trust the power to make decisions on your behalf should you become physically or mentally incapable of making those decisions yourself.

There are two separate types of LPA. One deals with property and financial affairs and the other deals with health and welfare issues. You can choose to have either or both types of LPA, depending on your wishes.

An LPA can only be used after it has been registered with the Office of the Public Guardian.

A health and welfare LPA can only be used if you no longer have the mental capacity to make your own decisions. Whereas a property and affairs power of attorney can be used in their best interests with the donor's consent, if they have capacity but just need some help, or without consent but still in their best interests, when they have lost capacity.

Who can make an LPA?

Anyone aged 18 or over can make an LPA, provided they have the mental capacity to do so. An LPA cannot be made jointly with another person, each person must make his or her own LPA.

What if I don't make an LPA?

If you have not made an LPA and you lose the mental capacity to make your own decisions then someone must apply to the Court of Protection for a 'Deputyship Order' so that they can make decisions for you. This process often takes over a year and can be very expensive.

Who should make a Lasting Power of Attorney?

Every adult should have one. Incapacity can strike at any stage in your life. No one knows what is round the corner.

It is natural to assume that if you become mentally incapacitated (through stroke, head injury or dementia for example) that your family will be able to 'sort things out' for you simply because they are next of kin but this is not true!

The standard institutional reaction to incapacity

Normally banks and building societies will 'freeze' accounts and investments held in the name of the affected person until someone is legally appointed to act for them.

Your family may be left in difficult circumstances unable to access funds to pay your bills or find out about pensions. They may be told that you need to sell your house but will have no authority to do so.

Lasting Power of Attorney (Property & Affairs)

The Property & Affairs Lasting Power of Attorney allows someone you trust to be able to take over your finances when you are unable to manage them yourself.

This may simply involve paying household bills or getting money from the bank for personal expenses. However, it may mean arranging the sale of a property and the ongoing payment of care home fees.

Lasting Power of Attorney (Health & Welfare)

The Health & Welfare Lasting Power of Attorney allows someone you trust to make decisions about your care and medical treatment.

This may include decisions about life sustaining treatment, whether you are cared for in your own home or in a nursing/residential care home and it even allows your Attorney access to your medical records should this be required.

When should you make an LPA?

You can only make an LPA whilst you have the mental capacity to do so. If you leave it too late then you run the very real risk of not being able to appoint someone to assist you just when you need help most.

Think of it as an insurance policy. It may never be needed but it is there to protect you should circumstances require it.