

## **LASTING POWERS OF ATTORNEY**

Where an Irish resident individual owns English property or assets, consideration should be given to completing a Lasting Power of Attorney. In the absence of a Lasting Power of Attorney English situate property owned by a person who ceases to be mentally competent to manage his affairs would have to be managed by the Court of Protection, equivalent to the Irish Wards of Court Office.

A Lasting Power of Attorney permits allows an individual to nominate a person who will act in his personal and business affairs after in the event that he ceases to have mental capacity. As in Ireland, a standard Power of Attorney will cease to have effect once a person loses mental capacity. There is no mechanism other than by way of a Lasting Power of Attorney to give a person power at a future date over one's affairs after one loses mental capacity other than by way of a formal lasting power.

There are 2 different types of LPAs; one over property and affairs which relates to decisions about finances, such as selling the Donor's house or managing their bank account; and A personal welfare LPA is for decisions about both health and personal welfare, such as where to live, day-to-day care or having medical treatment.

More than one attorney may be appointed under a Lasting Power of Attorney. There may be appointed jointly or severally. In the case of an Irish resident individual the Attorney should be limited to English property.

A Lasting Power of Attorney must be completed in the prescribed format. It must state whom should be notified of any application for registration. This is a protection against the Power being registered unfairly. The Attorney must read and sign off that he understands the prescribed information. Two certificates must be signed as to the capacity of the individual.



The Lasting Power of Attorney will only come into effect when it is registered with the public guardian's office. The person granting the Attorney and certain other parties notified can object to the registration on various grounds. The Donor can register the LPA while they have capacity, or the Attorney can apply to register the LPA at any time

The Attorney is appointed to make decisions as if he was the Donor. An Attorney must act in the Donor's best interests and have regard to the Code of Practice publish by the Office of the Public Guardian.

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This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

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