



# Lasting Powers of Attorney

After a much-needed reform in the law, people in Jersey can now create Lasting Powers of Attorney (LPA) to record their decisions and intentions about their assets and care, so that if they lose mental capacity, their wishes will still be respected.

Similar legislation has existed in England & Wales for some time, but since the Capacity and Self Determination (Jersey) Law 2016 came into effect in October, there's now a legal mechanism in Jersey too.

The law provides a framework to make decisions in respect of assets, care and medical treatment, including making advance decisions to refuse treatment.

There are safeguards built into the law to protect both the people creating LPAs and the Attorneys that they empower to execute their decisions – although the process is straight-forward, you may still wish to take legal advice before entering into an LPA.

## 5 things to know about how Jersey LPAs work



The law gives people the opportunity, while they still have capacity, to make their own decisions regarding their financial and personal affairs and health and welfare, so that these decisions and choices will continue to take effect should they lose capacity.



A law has been passed in Jersey to enable people to validly execute legal documents, including LPAs, when they aren't physically capable of signing their name.



There are two types of LPAs – the first deals with health and welfare matters and can cover wishes in respect of medical treatment, care and life-sustaining treatment (including the refusal of such treatment).



The second type covers property and financial affairs and will give your Attorney power to pay debts, make provision for the payment of that person's, or their family's maintenance and benefit, or make financial gifts to charities or to people.



The Royal Court of Jersey can now also appoint a 'delegate' to make health and welfare or property and financial decisions where a person does not take the opportunity to draw up a LPA but who then loses mental capacity so is unable to do so.



You should obtain professional advice to ensure that the potential Attorney clearly understands what they can and cannot do under the scope of the LPA.



The LPAs can be drafted quite flexibly and can include clauses to outline the donor's preferences and instructions, so that there is some form of accountability to a third party, to limit powers to make gifts over a certain amount, and to notify a third party after the LPA is registered.



Anyone who is over the age of 18 and who has mental capacity can put an LPA in place.



Protection is offered by the law not only to individuals potentially lacking capacity, but also to those entrusted with the decisions of the individual, provided that any decisions made are made in the best interests of the donor and in line with the authority given in the LPA.



Like wills, LPAs may need to be updated where there is a significant change in your circumstances or assets.



Henry Wickham  
Partner

henry.wickham@ogier.com



Fiona Lilleyman  
Manager

fiona.lilleyman@ogier.com