

Lasting Powers of Attorney & Inheritance Tax – Putting you in control

Partner Michelle Collins of local solicitors Cozens-Hardy LLP explains all

Why do I need a Lasting Power of Attorney (LPA)?

An LPA allows you to choose someone, or more than one person, to make decisions on your behalf. They are incredibly useful if you lose capacity and are unable to look after matters yourself. There are two types of LPAs; the Property and Financial Affairs LPA is chiefly concerned with decisions about finances and property while the Health and Welfare LPA is associated with decisions about your care, where you live, your treatment and medication.

An LPA is advisable because, for various reasons, there may be a time that you are unable to manage your own affairs and need someone to do this for you. This may be due to an accident, stroke, head injury, dementia or simply reaching the stage where you can no longer manage your finances or decisions about your care. It may also just be easier for a family member or friend to collect your pension and to make trips to the bank when it becomes physically harder for you to do so.

Making an LPA while you are still fit and well means you can consider it properly and choose the right person to appoint. If you leave it too late and you are no longer able to sign the LPA documents (usually if you have lost the necessary

mental capacity), your family may have to make decisions for you that they were not prepared to take. What's more, they may have to apply to the Court of Protection for a Deputyship Order to manage your affairs. This is time consuming (it can take months for an order to be issued) and can be extremely expensive. Bear in mind that whilst waiting for the Deputyship order to be issued your family would still have decisions to make and care bills to pay, but with no access to funds to do so. As you can see, not having an LPA can make life very difficult.

LPAs replaced the old style Enduring Powers of Attorney (EPAs) in 2007. Whilst any EPA signed before the changeover is still valid, new EPAs cannot be created.

How do I choose someone to be my Attorney?

There needs to be utmost trust between you and your Attorney as LPA documents are very powerful. The Attorney can sign documents on your behalf in relation to your finances. When completing the LPA, the Attorney has to sign to say they will always act in your best interests.

If you want to have a choice about who deals with your finances and who makes decisions about you when you cannot, you need to make an LPA.

Restrictions can be put in the LPA stating the circumstances in which it can be used, so you know management of your affairs will not be taken from you unnecessarily.

After I die, will my family have to pay tax on what I've left them? And, if so, how can I reduce the value of my estate without it costing my family money?

Each person can make gifts up to the value of £3,000 without inheritance tax (IHT) becoming chargeable. This amount, or remainder, can be carried forward one year. You can make gifts to as many individuals as you like in any year, up to the value of £250 per person. If you use your income to make the gifts, not capital, the gift can be to any amount. You would need to show that after the gift was made you still have sufficient income to maintain your normal standard of living.

My son is getting married – can I help him financially?

You can give up to £5,000 to your children on or shortly before their marriage. You can give up to £2,500 to grandchildren and up to £1,000 for any other person.

But I want to give away more. Can I?

You can make much more substantial gifts out of capital, but these will only be IHT exempt provided you survive seven

years and you do not continue to benefit in anyway from the asset given away. There are potential tax charges if the gifts are made into certain types of trust. Finally, it will help your executors if you keep records of all gifts that you make.

Can I give it all to charity?

These are generally exempt and you can gift as much or as little as you wish.



Michelle Collins is a Partner at Cozens-Hardy LLP solicitors and head of the firm's private client department. Michelle specialises in capital tax planning, trusts, wills and probate work, partnerships and complex estates.

You can obtain more information about organising a Lasting Power of Attorney by contacting Michelle and her team at Cozens-Hardy LLP, Castle Chambers, Opie Street, Norwich, NR1 3DP. Tel 01603 625231 email lawyers@cozens-hardy.com www.cozens-hardy.com

SPECIAL OFFER

50% OFF THE COST OF PRODUCING A LASTING POWER OF ATTORNEY DURING JANUARY

CALL 01603 625231

or email lawyers@cozens-hardy.com to book your appointment. Please quote 'EDP January offer'

50% OFF