

# LPAs: RESTRICTIONS & GUIDANCE

**Restrictions:** Procedures the attorney(s) **must** follow (for example: keeping and submitting annual accounts to an accountant or friend, or continuing to make charitable donations. Or advice they **must** seek, such as obtaining professional financial advice before making any investments.

An example of a useful restriction would be one which states that your LPA cannot be used by the attorney(s) after being registered until you lack mental capacity.

Bear in mind that any restrictions are legally binding – **your attorneys must follow them.**

**Guidance:** Giving guidance about how you want your attorney(s) to act **is not binding**. Filling in this box gives you the opportunity to provide broader information that you would like your attorney(s) to consider when making decisions on your behalf. For example, your views on ethical investment, minimum amounts you like to maintain in certain bank accounts, your preferences for tax returns and tax claims, how to deal with interest accrued, who you would like your attorney(s) to consult.

Guidance is anything that you feel will help your attorney(s) when making decisions in your best interests.

## What can my Attorneys do?

You can give as much power to your Attorneys as you like. You decide how much power they may have in relation to your affairs. You can give your Attorneys general authority to manage all your property and affairs or make all decisions regarding your personal welfare.

**For a Property and Affairs LPA** this means that the attorney(s) could sign cheques, pay bills, open and close accounts, make gifts and or even sell your home.

If you do not wish your Attorneys to have such wide powers then you can place restrictions on them. For example you can include a condition that your Attorneys must act in a certain way or cannot act until you have become mentally incapable. Restrictions can be placed on your Attorneys preventing them from specifically making certain decisions. One example is they cannot sell your house until you become mentally incapable.

**For a Personal Welfare LPA** this means the attorney(s) can make decisions on your behalf about your personal welfare, eg: where you live. You can if you wish include the power for the attorney to give or refuse consent to medical treatment. The form will give you an A or B choice regarding consent to medical treatment.

A personal welfare LPA can only be used once the form is registered at the OPG and you have become mentally incapable of making decisions about your own welfare.

## A Reminder of the Duties of an Attorney

There are five simple rules - You must:

- Act in the best interests of the donor by considering their needs and wishes regarding their health and personal welfare.
- Not take advantage of the donor's position to gain any benefit for yourself.
- Act in accordance with the Act's principles.
- Have regard to the guidance in the Code of Practice.
- Act only within the scope of your authority as Attorney.