

Power of Attorney

What you need to know about attorneys, deputies, the Office of the Public Guardian and the Court of Protection



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Attorneys, Deputies, the Office of the Public Guardian and the Court of Protection

What are Attorneys and Deputies?

Attorneys and deputies are people who can help you to make important decisions about your property and your finances. They can also help you with important decisions about your health and welfare.

An attorney is someone you trust who agrees to help you to make important decisions. You can choose your own attorneys: relatives, friends or a professional. If they agree, they sign a legal form which is processed and then that person becomes your attorney. This is also called a Lasting Power of Attorney.

Attorneys can speak to organisations including your bank and the water and energy companies and sort out problems for you. However, they must make decisions that are in your best interest.

You can appoint an attorney at any time whilst you can make your own decisions. Sometimes, though, people are unable to make their own decisions. In these circumstances, the Court of Protection might appoint somebody to make these decisions for them; this person is called a Deputy.

Why would I need an Attorney?

As you get older, or become ill, you may find it harder to cope with your bank, bills, insurances, problems with your house and other affairs. An attorney can help with these things and look after your interests for you, making sure that bills are paid.

What is a Lasting Power of Attorney?

If you ask someone to help you to make decisions, they must sign a legal document called a Lasting Power of Attorney. There are two types of Lasting Powers of Attorney: one for property and affairs, which includes financial decisions, and one for health and welfare decisions. The Lasting Power of Attorney for property and affairs can be used as soon as its registered, with your permission, but the Lasting Power of Attorney for health and welfare can only be used when you are unable to make your own decisions. Lasting Powers of Attorney must be registered with the Office of the Public Guardian before they can be used.

What is the Office of the Public Guardian?

The Office of the Public Guardian is a government organisation that keeps a list of all registered attorneys and deputies in England and Wales. They are responsible for making sure that deputies carry out their duties properly. The Office of the Public Guardian will investigate any complaints about attorneys and deputies and act if they find a problem.

What is the Court of Protection?

The Court of Protection is a court that makes sure that attorneys and deputies do not break the law. It also helps to make sure that people are protected from abuse by an attorney or a deputy. The Court of Protection can also make decisions about what is best for someone who is not able to make their own decisions. It is the Court of Protection that appoints deputies for people who are unable to make their own decisions and who have no one to help them.

Can I be forced to have an Attorney or a Lasting Power of Attorney?

Your family and friends may not like your choices and may think that you are wasting your money. They may want you to make them your attorney so they can stop you making what they believe are bad decisions. However, they cannot force you to do this or set up a Lasting Power of Attorney without your permission, even if they think it is in your best interests.

Will my Attorney be able to force me to do things?

No. If you have the capacity to make your own decisions, attorneys can only advise you and make suggestions. They cannot tell you what to do. If you agree, they can do things for you, but they must still do what you want. However, if you can no longer make your own choices, then an attorney can decide for you, but they must always act in your best interests.

Will I still be able to make Decisions without asking my Attorney?

Yes. If you have the capacity to make decisions, you do not need to ask your attorney to help if you do not want to. However, if you can no longer make your own choices, an attorney can then decide for you, but they must always act in your best interests.

Can I change my mind after setting up a Lasting Power of Attorney?

Yes. You can change attorneys or cancel a Lasting Power of Attorney at any time if you have the mental capacity to make this decision. You need to contact the Office of the Public Guardian to do this.

Does a Lasting Power of Attorney become active immediately?

No. Attorneys cannot act until the Lasting Power of Attorney has been registered. You can register the Lasting Power of Attorney at any time while you still have the ability to make your own decisions. However, if you lose the mental capacity to do this, your attorneys can register it on your behalf.

Do I need to have a Solicitor to make a Lasting Power of Attorney?

If you use a solicitor to set up your Lasting Power of Attorney, they will be able to give you advice and make sure that you understand exactly what you are doing. However, you can set it up yourself using the online process at <https://www.gov.uk>.

How much does it cost to create a Lasting Power of Attorney?

There is a cost to registering each Lasting Power of Attorney, however you can apply for a reduction or exemption if you receive certain benefits or earn less than £12,000.

Who can I ask for help if I am worried about an Attorney?

If you have any questions about attorneys or deputies, you can call the Office of the Public Guardian for advice on 0300 456 0300. This is a free call.

Where can I find out more about Attorneys?

To find out more about attorneys and setting up a Lasting Power of Attorney, either

- Call the Office of the Public Guardian on 0300 456 0300. This is a free call
- Visit <https://www.gov.uk/power-of-attorney>

Example 1:

Mr. Smith's wife, Jane, died recently and he now lives alone. Jane used to look after the couple's money and deal with the bank and the bills. She did everything using the internet and mobile phone apps.

Although Mr Smith could make his decisions and choices, he was not confident using the internet or mobile phones. Although he tried to manage his own finances after his wife died, he struggled. As a result, he had many unpaid bills and his bank account was overdrawn.

Mr. Smith had two children who lived in another town. They tried to help, but the bank and other companies would not speak to them without talking to Mr. Smith first, each time.

Mr. Smith agreed to set up a Lasting Power of Attorney for his finances, with both of his children as attorneys. His children were then able to deal with his finances and bills for him. However, Mr. Smith could still make decisions about what his children should do with the bank and make decisions about anything else.

Example 2:

Miss. Shah was a teacher who lived alone but had close family nearby. Miss. Shah was diagnosed with early on-set dementia.

Miss. Shah was used to looking after her own finances and bills. However, she understood that as the condition progressed, she may find it harder to make decisions. She was worried that this may make it harder for her to manager her money, her bills and her other affairs.

After discussing it with them, her relatives agreed to become attorneys for Miss. Shah. They contacted a solicitor and set up a Lasting Power of Attorney. However, they decided not to register it until Miss. Shah's dementia progressed. This allowed Miss. Shah to keep full control of her affairs whilst she was still able to make her own decisions.

If her condition worsened, Miss. Shah and her relatives would be able to register the Lasting Power of Attorney so that they could help her to make decisions. However, until then, Miss. Shah would still be in full charge of all of her finances and bills.

Contact details and icons

To find out more about Attorneys, Deputies, the Office of the Public Guardian and the Court of Protection, contact First Response & Short-Term Intervention:

 Call: 01296 383204

 Email: ascfirstresponse@buckinghamshire.gov.uk



Use this space to write down things you need to remember to tell us

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How to contact us


Adult Care Services

To get more information about adult social care services you can:


-  Go online: buckinghamshire.gov.uk and click on 'Care for Adults'
-  Call: 01296 383204

Are you worried about somebody?



If you or someone you know is at risk of abuse or neglect:

-  Call: 0800 137915 (24 hours a day)

If you would like to give us feedback

-  Go online: Please complete the online form at buckinghamshire.gov.uk

If you prefer you can:

-  Call: 01296 387844
-  Email: complimentsandcomplaints@buckinghamshire.gov.uk