



lasting powers of attorney, deputyship and wills

For parents, guardians and support staff of children with special educational needs.

Did you know?

Once your child turns 18, it is illegal for you as their parent/guardian to manage their money. This means that you cannot speak to the bank on their behalf, make any payments from their account or collect state benefits for them (unless you are a Department for Work and Pensions [DWP] Appointee).

Capacity

If your child has capacity, they can make a Lasting Power of Attorney (LPA). If your child lacks capacity, then a deputyship application will need to be made for them. If needed, a capacity assessment can be completed by a social worker or GP.

We're here to help

We understand that this area can feel like a minefield and there is always conflicting information about which route is best to go down. We have designed this leaflet as a quick, easy guide to empower you to tackle the financial transition from child to adult. Please get in touch.

Lasting Powers of Attorney

If your child has capacity, they can make an LPA when they turn 18.

Terminology:

- Donor - person who makes the LPA, must be 18 or over.
- Attorney - the donor appoints one or more attorneys who are people that they trust, they are required to act in the donor's best interests.
- Certificate provider - a GP, solicitor, or someone who has known the donor for over 2 years. Signs the LPA to confirm the donor understands what they are putting in place.

There are two types of LPAs that can be made. You can choose to put one or both in place:

- **Health and Welfare** - for decisions on where you live and with whom, the care you receive and more.
- **Property and Finances** - for running bank accounts, buying/selling property and managing investments,

Deputyship

If your child lacks capacity, a deputyship application will need to be made to the Court of Protection to appoint a deputy/deputies.

Key facts:

- Unlike LPAs, this is usually only granted for property and finances
- A deputy is similar to an attorney - they have authority to manage the persons finances and are required to act in their best interests.
- Making a deputyship application should be considered by the child's family/ local authority from around the time the child is 16, so that a deputy can be in place for when the child turns 18.
- This is a longer process than making LPAs, as it is not the child themselves making the choice of who they want to manage their finances.
- If your child lacks capacity and you need authority for a decision relating to their health and welfare, e.g. consenting to an operation, a one-off application can be made to the court for this specific decision.

Comparison with DWP Appointee

What is DWP appointee?

- If your child is unable to manage their benefits, you can apply to be their DWP appointee.
- You are then responsible for making their benefits claims and you can manage the benefits money.

When is LPA/Deputyship needed?

- If your child has, or is expected to have, income from anything other than benefits (e.g. investments, wages), a DWP appointee will not be able to manage or spend this.

Discretionary Trust Wills

If you are intending to leave money in your Will to your child and they receive state benefits, you should consider a discretionary trust. This will ensure your child's entitlement to benefits is not affected by their inheritance.

Scan the QR code or contact our Court of Protection team to find out more about how we can help:



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