

POWER OF ATTORNEY

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This briefing is produced as part of the Building Community Capacity Project by AVDC's Lynne Maddocks. Contact on 01296 585364 or lmaddocks@aylesburyvaledc.gov.uk for more information.



A **Lasting Power of Attorney (POA)** is a legal document that lets you appoint someone to make decisions about your welfare, money or property. Attorneys can make decisions for you when you no longer wish to or when you lack the mental capacity to do so.

A Lasting Power of Attorney cannot be used until it is **registered** with the Office of the Public Guardian.

The current waiting time to register a Lasting Power of Attorney is 13 weeks, so although you can register it at any time it might be advisable to register it as soon as you have completed it. The current cost is £130 for each POA. An independent person has to talk you through it, to check that you are not being forced to do it and that you understand what you are doing.

Someone can **lack mental capacity** if they have an injury, disorder or condition that affects the way their mind works. This could mean they have difficulty making decisions all of the time or that it might take them a long time to make a decision.

The **benefits** of a Lasting Power of Attorney is that it can help you plan how your health, wellbeing and financial affairs will be looked after. It allows you to plan in advance:

- the decisions you want to be made on your behalf if you lose capacity to make them yourself
- the people you want to make these decisions
- how you want the people to make these decisions

It also gives you **protection** because your attorney must follow the Code of Practice of the Mental Capacity Act 2005 and act in your best interests.

There are **two different types** of Lasting Power of Attorney: (This is different from the Enduring POA which is the old system and used to only be applicable to financial affairs.)

1. Health and welfare Lasting Power of Attorney

A health and welfare Lasting Power of Attorney allows you to choose one or more people to make decisions for things such as medical treatment. A health and welfare Lasting Power of Attorney can only be used if you lack the ability to make decisions for yourself.

2. Property and financial Affairs Lasting Power of Attorney

A property and financial affairs Lasting Power of Attorney lets you choose one or more people to make property and financial affairs decisions for you. This could include decisions about paying bills or selling your home. You can appoint someone as an attorney to look after your property and financial affairs at any time.

You can also include a condition that means the attorney can only make decisions when you lose the ability to do so yourself. You can specify more than one attorney and state which decisions they have to agree on and where they can act alone.

If you do set up a POA it is important that you **let your executors and close family know** who your attorney is.

If you lose the ability to understand and have not made a POA then solicitors have to apply to the court of protection for a deputyship order. This can be expensive and slow. Constraints on the deputy are much tighter than on an attorney and you do not choose the deputy.

You do not normally need professional advice to make a Lasting Power of Attorney as the forms are designed to be easy to complete. However, depending on your situation, it may be a good idea to get advice from a solicitor before making a Lasting Power of Attorney particularly if you have complicated personal, property or financial affairs.

To get more information on the Power of Attorney see this website or contact a solicitor or

Citizens Advice Bureau	Aylesbury	0844 499 4714 or 01296 425469
	Buckingham	01280 816707
	Thame	0844 411 1444

http://www.direct.gov.uk/en/Governmentcitizensandrights/Mentalcapacityandthelaw/Mentalcapacityandplanningahead/DG_185921