

Brethertons BIG FAQs Series

Powers of Attorney

A Power of Attorney is a legal document which allows someone to grant power to another person to act on their behalf or to represent their interests if for some reason they are unable to do so themselves, or they would struggle to manage without help.

Who may grant a Power of Attorney?

It is possible that anyone, at some point in their life, may need to grant a Power of Attorney (POA). It is of particular importance where someone is less able to manage their affairs without help. This can be for example because they are elderly and need additional support, or because they have had an injury which prevents them carrying out everyday tasks which may include things most of us take for granted, such as signing a form, or going to the bank to deal with a query.

You can only grant a POA if you have the mental capacity to make decisions, so they cannot be used for those people who are unlucky enough to have suffered a significant brain injury, or who have an underlying disability which means that they cannot give instructions on a legal matter. Litigation Friends and/or Deputies would be needed in those situations.

It is of course very important that you consider very carefully who to grant the POA to: They could be:

- a relative
- a friend
- a professional, for example a solicitor
- your husband, wife or partner

You must appoint someone who has the mental capacity to make their own decisions.

When choosing an attorney, think about:

- how well they look after their own affairs, for example their finances
- how well you know them
- if you trust them to make decisions in your best interests
- how happy they will be to make decisions for you

What is a Power of Attorney?

A Power of Attorney is the grant of power set out in a legal document allowing another person to deal with your affairs and make decisions on your behalf if you are unable to do so.

There are different types of power of attorney. An 'ordinary' Power of Attorney can only be used whilst the person granting it has the legal capacity to make decisions themselves. It is this type of POA which is most likely to be of use to someone who has had an accident and is in hospital for a period and needs help for example to sign documents or pay bills for them.

There are two different types of Lasting Power of Attorney one for property and financial affairs and one for health and welfare. The property and financial affairs LPA can be used for banking, paying bills, dealing with the benefits agency, or buying and selling a property. It can be used as soon as it is registered with the permission of the person granting it, or it would come into effect if the person granting the LPA could no longer make decisions for themselves.

The health and welfare LPA means that someone can make decisions about your medical or daily care, and about potentially lifesaving treatments, should that be necessary. The health and welfare LPA can only be used if you are no longer able to make decisions on your behalf, and as such tends to be used less often.

Why is a Power of Attorney important?

Granting a Power of Attorney is important as it means that someone else can help you carry out day to day administrative tasks which can take away many of the practical personal administrative difficulties a seriously injured person is likely to encounter. For example, if you have a high-level spinal cord injury, and you no longer have use of your arms and hands, you may need someone to sign forms on your behalf. Or you may be in hospital or a rehabilitation unit for an extended period and need someone who can help you to manage selling your home if you need to sell it and buy a single storey property to move into when you leave hospital.

Where can I read more?

For an ordinary power of attorney:

Ordinary powers of attorney | The Law Society

You can get more information about making an application for an LPA at the Office of the Public Guardian which is part of the government's website.

Office of the Public Guardian - GOV.UK (www.gov.uk)

Make, register or end a lasting power of attorney - GOV.UK (www.gov.uk)

When might a Power of Attorney be granted?

A POA will often be worth considering after a life changing injury and where you are unable to manage your own affairs or need help in managing them. For example, if you have suffered injuries which make it difficult for you to read or write, or to access businesses as you would normally. If you have a life changing injury and are going to be in hospital or a rehabilitation unit for an extended period it may be beneficial to apply for a power of attorney as soon as possible, so that someone else can help you to do whatever needs to be done and make your life easier so you can focus on your recovery.

How do I apply for a Power of Attorney?

You can apply for an LPA by completing forms which can be found on the website of the Office of the Public Guardian. Lasting and enduring powers of attorney forms - GOV.UK (www.gov.uk)

It is in theory possible to apply for an POA using these forms without seeking legal advice, but particularly applying for an LPA is not a straightforward process, and legal advice is recommended. Brethertons have a team who specialise in such matters who would be more than happy to assist you in making an application. If you require further advice about this, please do not hesitate to contact us.

If you would like any more information or have any questions, please contact:

Jon Rees - Partner - Life Changing Injuries

07772 081566

jonrees@brethertons.co.uk

Brethertons LLP Solicitors
Montague House
2 Clifton Road
Rugby, Warwickshire
CV21 3PX



'We help achieve financial security and enable independence after spinal cord injury'