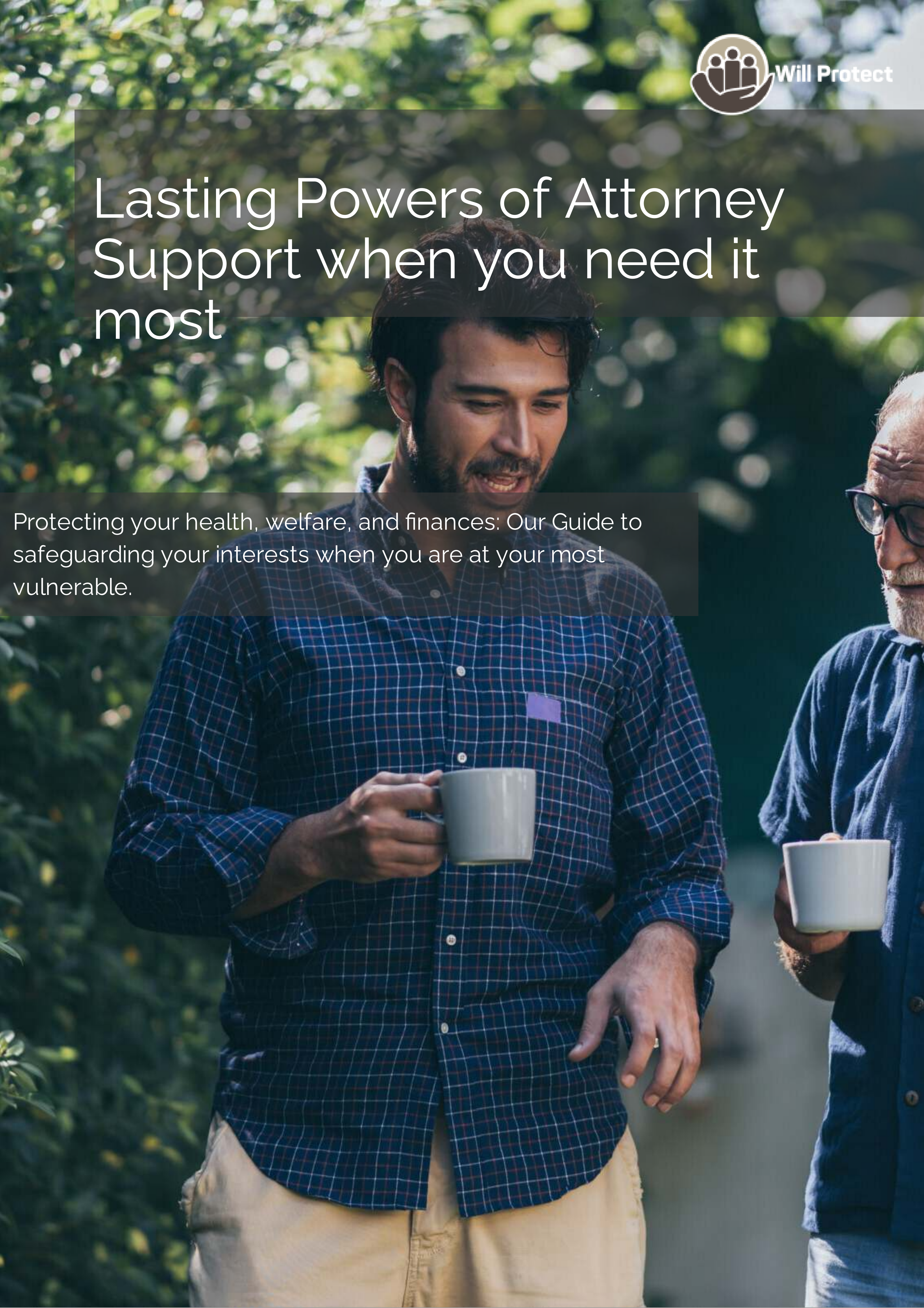
Will Protect

Lasting Powers of Attorney Support when you need it most

Protecting your health, welfare, and finances: Our Guide to safeguarding your interests when you are at your most vulnerable.



What is a Lasting Power of Attorney?

There are three different types:

✔Financial
✔Health and Welfare
✔Business

The former Enduring Power of Attorney was easy to administer but focussed mainly on finances and property rather than personal welfare and health.

The new Lasting Powers of Attorney resolved that weakness and separated out finances and health. Both are important and both work together to safeguard people when they need help and support to manage their life because they are no longer able to.

That might be towards the end of life, or for a temporary period. The law describes LPAs as a mechanism that has been designed to meet the needs of people who can see a time when they may lack the capacity to look after their own financial and personal affairs

At a time of life when people are vulnerable and need support to manage their health, a Lasting Power of Attorney ensures that they can call upon trusted people to take care of the difficult decisions that they may not have the capacity to take, whether that's critical illness, accident, or the ever increasing incidence of dementia in our aging population.

Key Points

Lasting Powers of Attorney are the best means for you to establish the structure that you need and to lay out clearly how you would want to be cared for, your finances managed and any business interests taken care of should you become incapacitated.

They are legally binding, and allow you to set out detailed instructions, appoint the people you want to be responsible for you, and protect you from interference.

Lasting Powers of Attorney are governed by the Office of the Public Guardian, and are subject to significant legislation and an arduous approval process to ensure that they are robust. Complaints are managed by the Court of Protection.
There are three LPAs: Health and Welfare, Finance and Property, and Business. All three work together to offer a complete package of protection

✔LPAs are governed by the Office of the Public Guardian and the Court of Protection

✔You make the choices for how you want to be cared for if you become incapacitated

✔There is a 5-step test to assess your mental capacity before an LPA can be implemented

✔You choose how your money is to be spent if you become incapacitated

✔You choose who is to administer your LPAs. An LPA is legally binding and cannot be ignored- even by local authorities

✔Your attorneys must follow your wishes for your care for as long as it is safe for you.

Lasting Power of Attorney: Health & Welfare

At a time when you are unable to make decisions about your healthcare, having the right LPA in place means that your 'attorneys' are able to carry out your instructions.

You may wish to continue living at home if you are elderly rather than being placed in a care home. Providing it is safe to do so, your wishes will be carried out.

Your attorneys ensure that your wishes are carried out, and your LPA is binding on medical professionals, social services and other statutory bodies. There are cases where local authorities have stepped in to take over the care of a loved one where an LPA hasn't been in place.

In this instance, a local authority can take control, and even sell your assets to pay for your care. Not so if your LPA is in place and has been set up correctly. A health and welfare LPA can include everything from where you live, who cares for you, and your wishes in the event that you need resuscitation.

Consider how you may want to be cared for, what your wishes would be for that care. For example, you may want to stay in your home for as long as possible. Think about how you can achieve that and who you would trust to carry out your wishes. Take some notes to get you started.

Lasting Power of Attorney: Finance & Property

One of the biggest threats that you will face if you require care is to your finances. If a local authority places you in a care home they will seek to dispose of your assets to fund your care.

Run through your finances and assets. Include your pension income in your calculations. If some investment were required to continue your care as you wish, is it reasonable and affordable? Keep some notes.

Remember that any joint assets like bank accounts may be frozen. That means that your spouse may not be able to access bank accounts to pay bills, buy groceries and so on.

A Finance and Property LPA works in the same way as the Health and Welfare LPA. As part of the process you appoint your attorneys to take responsibility for your money and assets and manage them according to your wishes.

These instructions are recorded in your LPA, and subject to stringent legal protections. So this type of LPA ensures that your money is spent on your care. And with a Health and Welfare LPA in place, you have already defined what that care is.

The added benefit here is that your assets will not be swallowed up by local authority care, so you can plan what to leave in your will to your loved ones as well.

Lasting Power of Attorney: Business

The third LPA deals with your business interests. It is particularly useful as part of your business continuity planning. Each LPA is designed to speak for you when you are unable to.

This LPA works in the same way, but also allows a business to continue operating as part of your business continuity plan.

Consider creating one for your business with your directors, and think about how your business will continue if you are unable to take part. Draw up a formal continuity plan that describes how it will deal with various scenarios.

If you are a business owner, or director in a company and you become incapacitated some vital business functions may be suspended. In particular, the ability of the business to make financial transactions could be affected. Are you a signatory to company bank accounts? Without you nothing can be signed.

The second serious issue is the contractual agreements your business may have with suppliers and clients. If you were the original signatory, any contract could become null and void.

So not only could the operations of a business be impacted, but its ability to fulfill contractual responsibilities. By including an LPA for key personnel in your business continuity planning you can avoid these issues and your business can continue to operate.

And depending on how your business is structured, you may still derive an income from it while you recover from an accident or illness. In practice, you appoint your preferred ‘attorneys’ in the same way as you would for other LPAs.

You can appoint anyone you choose as attorneys, but people with a knowledge of business are advisable. Giving someone responsibility for your business interests who may not have the right experience or knowledge could impact the operations and profitability of your business. Your attorneys can then carry out the wishes you have applied to your business to ensure continuity.

> Businesses should have a continuity plan. Consider creating one for your business with your directors, and think about how your business will continue if you are unable to take part. Draw up a formal continuity plan that describes how it will deal with various scenarios.

How Will Protect can help

Here at Will Protect we work alongside our clients to ensure that their wishes are well represented in their Lasting Powers of Attorney. That means that we will listen to what you wish to include, and ensure that your information is included clearly and unambiguously.

Not only that but we will help you navigate the complex paperwork and requirements to create a Lasting Power of Attorney to protect your health and welfare and finances in the event that you lose the mental capacity to look after those aspects of your life yourself.

We understand that these are difficult and sensitive matters, and we will support you with a sympathetic, understanding but professional hand so that your wishes are recorded accurately and effectively, so that your wishes and interests are always protected.

Contact Us

Estate planning support and services for you and your family. Helping you communicate your wishes is at the heart of what we do. Our aim is to help you express your wishes should you need additional support, and when you're gone

Contact Us