

What is the difference between an Enduring Power of Attorney and a Lasting Power of Attorney?

If you are unsure of the difference between and EPA and an LPA the table below looks at the key differences.

	EPA	LPA
Legislation	Enduring Power of Attorney 1985	Mental Capacity Act 2005
Financial & Property Affairs	Yes	Yes
Health & Welfare	No	Yes
Valid	Yes – If signed before 1 st October 2007	Yes – If signed and registered at the Office of the Public Guardian (“OPG”)
Do I have to register at the OPG	An unregistered EPA can be used if the donor has capacity. When the donor is becoming or has become mentally incapable the attorney is under a duty to register at the OPG	Yes the LPA is not valid until it has been registered at the OPG
Registration Fee	£82	£82
Registration Time	3-4 months	3-4 months
Restrictions	It was possible to insert restrictions or conditions into an EPA	You can give your attorneys instructions – limiting or restricting the power or imposing conditions on when or how they do things
Preferences	It was not possible to write preferences into your EPA but many people wrote a Letter of Wishes.	You can write your preferences or guidance into your LPA to make your wishes clear to your attorneys.
Safeguards	There were no safeguards when setting up an EPA	To make an LPA you must have an independent certificate provider to certify: (a) You have capacity to enter into an LPA (b) Are not under duress (c) No other reasons the Lasting Power of Attorney should be entered into

Public Register	The OPG keep a register of all registered EPAs There is no Public Register of unregistered EPAs	The OPG keep a register of all registered LPAs The LPA must be registered before it can be used
Search of the Register	You can carry out a free search of the register using OPG 100	You can carry out a free search of the register using OPG 100
Can I make changes?	No, but you can make an LPA instead if you have capacity to do so	You can revoke the appointment of one or more attorneys by a Partial Deed of Revocation. Any new appointment or other changes need to be made by a new LPA
Can I revoke the document	Yes – if you have capacity to do so. You must enter into a Deed of Revocation and serve this on your attorneys and send it to the Office of the Public Guardian if it is registered.	Yes – if you have capacity to do so. You must enter into a Deed of Revocation and serve this on your attorneys and send it to the Office of the Public Guardian if it is registered.

Please note that if you have an EPA you don't need to change or upgrade this to an LPA unless your circumstances or wishes have changed.

Acting for someone who has lost capacity, or perhaps challenging care or care home funding arrangements is complex, which is why you need an expert.

Talk to the experts – Wilson Browne Solicitors. All the help you need.