

# Health & welfare LPAs

A health & welfare LPA is a document you (the donor) can make, authorising one or more people (attorneys) to make decisions on your behalf should you become unable to make them for yourself.



## HOW CAN WILLANS HELP?

Our knowledgeable team handles all aspects of wills, trusts and inheritance tax planning and Court of Protection applications. Our work is often for clients who have been with us for many years; in some instances we act for second or third generations of the same family.

Please telephone or email to arrange an appointment.

### What decisions can welfare attorney(s) make?

Attorneys can make decisions on all aspects of your personal welfare, for example where you are to live, people you are to have contact with and whether to give or refuse consent to medical treatment. You can restrict these powers within the LPA if you wish. This may be advisable if you have strong wishes about any particular aspect of your care. Your attorney(s) will be legally bound by whatever is in your best interests.

### When can a health & welfare LPA be used?

A health & welfare LPA can only come into force if and when you lack the mental capacity to make such decisions for yourself.

### Can welfare attorneys make decisions on 'life sustaining' treatment?

If you want your attorneys to be able to make such decisions, you must expressly give this power in the LPA, otherwise the decisions will be made by doctors or other health professionals.

You can tell your attorney(s) your own views and wishes regarding life sustaining treatment in advance or prepare a letter of wishes to assist them should they be required to make such decisions.

### How does an LPA differ from a 'living will'?

A 'living will', or advance directive, is a document that sets out specific circumstances in which you would not want your life to be prolonged.

By comparison, an LPA allows you (if you wish) to give your attorney(s) authority to make decisions based on whatever you have set out in the LPA or your letter of wishes. Unlike a 'living will', an LPA does not need to specify

particular circumstances so it provides for a greater number of eventualities. The two cannot run alongside each other as in one you are making the decision and, in the other, you have delegated it. However, you can express a wish to your attorneys to abide by it so far as they are able to. The usual position is that whichever was made later takes precedence.

### Who should I appoint?

When setting up a health & welfare LPA, the most important consideration is who to appoint as your attorney(s).

Any adult individual can be an attorney but you must have complete trust in the individual/s to make decisions that you would be happy with if you were able to make them for yourself.

### What questions do I need to consider before making a health and welfare LPA?

This is a checklist of things you might want to think about before your meeting with us:

- You will probably want to choose people that you trust to carry out your wishes. You may also want to bear in mind their age, and choose someone from a younger generation.
- Would you also like to appoint a replacement attorney in case the people you have chosen are, for any reason, unable to act?
- Do your attorneys get on with one another? This ensures that decisions can be taken as quickly and effectively as possible.
- Do you want to give your attorneys authority to make decisions about life sustaining treatment?
- Would you like anyone to be informed in the event that your LPA is registered? These individuals would have the opportunity to challenge the

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registration of the LPA if they thought it inappropriate or invalid.

- Would you like to restrict your attorney(s) as to what decisions they may or may not be able to make on your behalf or give them guidance on anything you have particular concerns about?
- Do you have any specific wishes or information that you would like your attorneys to have knowledge of?

### How can Willans help?

To arrange an appointment, please email us or telephone and ask to speak to one of our expert and helpful lawyers to arrange an appointment. We may arrange home or hospital visits if you are not able to travel to us.

Please note there are several steps leading into our buildings. If access is likely to be a problem, please let us know.



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