



## LASTING POWER OF ATTORNEY FACTSHEET

This Factsheet is effective as from 1st October 2007.

The Mental Capacity Act 2005, which came to force on the above date, has changed the way decisions are made for persons lacking mental capacity.

Any existing Enduring Power of Attorney still continues to be valid and can be used as previously. Similarly, as and when registration needs to take place this also can be done.

The following is in relation to those parties considering entering into a Power of Attorney from 1st October 2007, or considering revoking their existing Enduring Power of Attorney and replacing them with one of the following: -

A Lasting Power of Attorney can take two forms:

- (i) Administering of property and affairs
- (ii) Confirming welfare and health care decision making powers
- (iii) You can have both

An Attorney, who is the person that you wish to appoint, maybe a family friend, friend or professional person who must be an adult.

There are separate forms for each type of Lasting Power of Attorney. In brief the Attorney's powers are: -

- (i) Property and affairs – if no restrictions are made in the form the Attorney can have full decision making authority once the LPA is operative in relation to all your property and financial affairs
- (ii) Personal welfare – if there are no restrictions on the form the Attorney will have authority to make decisions in all aspects of your personal care including social well being i.e. where to live or with whom to have contact together with health care and medical treatment.

What is an important difference from the previous EPA's is that an LPA will not become operative until it has been registered with the Guardianship Office. The LPA property and affairs, if registered before the onset of incapacity, maybe used from that point onward unless there are restrictions on the same. However, no LPA personal welfare maybe used unless or until the donor has become incapacitated, whenever it is registered

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The new forms which are required to complete either one or both of the above LPS's are significantly longer and hence more detailed and complicated than the previous EPA.

At Carr & Co we can assist you with the decision as to whether to proceed with one of these Powers and also to assist you with the completion of the documentation and where appropriate registration of the same. Please contact Mrs. Sharon Smith on 01670-515182.

Please note that this fact sheet should only be used as a guide only. The advices given do not relate to specific circumstances and we strongly recommend that you make an appointment to speak to us.

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