MAKE A LASTING POWER OF ATTORNEY (LPA) - THE DONOR AND ATTORNEYS

It is extremely important to give careful consideration to who to appoint as your "Attorney(s)" and how you would want them to act. They will be acting on your behalf during your lifetime when you are unable to decide on certain things for yourself. Be sure to discuss these matters with them.

The "Donor" (you, the person making the LPA) decides on who should be your "Attorney(s)", i.e. the person(s) you trust to make important decisions for you if you become "*unable to understand and to make a specific decision at the time it needs to be made*".
This is referred to as "mental capacity".

Only adults aged over 18 with the necessary "mental capacity" can make an LPA and only adults aged over 18 with the necessary "mental capacity" can be Attorneys.

Think very carefully about who you want to be your "Attorney" or "Attorneys" if appointing more than one.
For example,

- how well they know you and how far you trust them to act in your best interests
- if are they responsible (especially in financial matters)
- whether they will be willing to be an attorney when the time comes and how near or far away they live
- if you appoint more than one "Attorney", how likely they are to communicate and work well together

"Donors" cannot be bankrupt or subject to a debt relief order, or likely to become bankrupt or subject to such an order after the LPA is made or registered. In this case, the LPA will be cancelled.
Specialist legal advice must be sought if this is the case.

Similarly, an attorney who is or becomes bankrupt or subject to a debt relief order cannot act for you in your property and financial affairs although they may still act in your health and welfare affairs.

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To be valid, all LPAs must be registered with the Office of the Public Guardian. There is a separate fee for this and it is the same for both LPA types.

All LPAs must be signed, dated and the signatures witnessed. You, the “Donor”, and your “Attorneys” must all sign.

The person witnessing your (the “Donor’s”) signature must be over 18. No “Attorney” may witness your signature.

The person witnessing your “Attorney(s)’” signature(s) must also be over 18.

“Attorneys” may witness each other’s signatures but not the “Donor’s”. Likewise, the “Donor” must not witness any “Attorney’s” signature.

The “Certificate Provider” must also sign and date the relevant section identifying themself as such and can also witness all signatures.

This “Certificate Provider’s” primary role is to confirm you understand the LPA and have not been pressured into making it.

In property and financial matters you can choose to have your “Attorney(s)” make decisions as soon as the LPA is registered or only when you no longer have the “mental capacity” to decide matters for yourself.

“Attorneys” can only make decisions under a health and welfare LPA when you have lost the capacity to make these yourself.