

## Facts about...

### Lasting Powers of Attorney for Business Owners

Whether you are a sole trader, a director or a shareholder with voting rights it is important to consider who would deal with your business affairs, should you become incapacitated or unable to do so.

A Business Lasting Power of Attorney is a form of insurance which provides a trusted individual (your Attorney) with the authority to keep your business running, sign contracts, buy and sell property and access your bank accounts.

If you are a sole trader and become incapacitated and do not have an attorney appointed, it would not be possible for family members to enter business contracts or access business bank accounts without a valid Power of Attorney. This can often have a detrimental effect on business and lead to the inability to order stock or pay suppliers which could lead to the winding up of your business.

LPA's are easy to put in place and have a positive effect on the continuity of your business. LPA's only come in to force once needed and are not just limited to the loss of mental capacity; they can also be used during temporary periods when you do not have capacity, for example, a period of illness.

The key when appointing an Attorney to deal with business property and affairs is to appoint someone that you not only trust but is familiar with your business and has the ability to stand in your shoes and carry out your role.

## Deputyships

If you have not made a Lasting Power of Attorney and you are unfortunate enough to lose mental capacity either as a result of illness or accident it will be necessary for an application to be made to the Court of Protection for the appointment of someone to look after your financial and, if necessary, your welfare affairs.

This is a cumbersome process attracting Court fees which means it is more expensive than having a Lasting Power of Attorney in place. The Court will usually appoint the person applying on your behalf (this can be a family member, a friend or professional) to be your Deputy and this person will take control of your affairs subject to the overall supervision of the Court of Protection.

If the Deputy wishes to sell your house or deal with your investments an application to the Court, involving additional fees, will have to be made for the Court's permission before the Deputy can proceed. In addition the Deputy must submit an annual account to the Court detailing all financial transactions carried out on your behalf during the year.

For further help and assistance please contact our team.

### What are the responsibilities of Attorneys and Deputies?

The main responsibilities of an Attorney you appoint through a LPA, or a Deputy that the Court of Protection appoints are to deal with financial matters such as:

- Day to day running of the business
- Signing contracts
- Paying the wages of employees
- Buying & Selling property

## Our Team



David also advises on Wills, Trusts, Estates, Tax planning, and setting up trusts for family businesses.

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