

FACTSHEET

Lasting power of attorney

What is a lasting power of attorney?

A lasting power of attorney is a legal document that appoints one or more people (your attorney/s) to make decisions for you (the donor).

There are two types of lasting power of attorney (LPA), one for financial decisions and one for health and care decisions. Here we will only cover the LPA for financial decisions.

Your LPA needs to be registered with the Office of the Public Guardian before it can be used and will continue to be valid even if you lose mental capacity.

Lasting powers of attorney replaced enduring powers of attorney in England and Wales from 1 October 2007.

By registering an LPA with us, you're letting us know you're happy for your attorney/s to carry out transactions on your M&S Bank account/s in accordance with your power of attorney document.

Could an LPA be right for me?

An LPA for financial decisions can cover things such as paying bills, investing money, buying or selling property. You can limit the decisions your attorney is able to make or you can allow them to make all the decisions on your behalf.

A LPA differs from a GPA as it will remain valid even when/if you lose mental capacity, so can be a good choice if you are looking to plan for the future.

Before deciding if an LPA is right for you, you might want to consider seeking legal advice or finding out more about the other options available to you.

What important information do I need to know?

Mental capacity

You must have mental capacity to create an LPA, however it will remain valid if, at any point in the future, you lose mental capacity.

Restrictions

Restrictions can be included if there are certain things you don't want your attorney to have control over. This may take longer to process if we need to get extra information from you.

Multiple attorneys

If you nominate multiple attorneys, you must specify on your LPA whether you want them to act jointly or individually. If you nominate two or more attorneys to act jointly they won't have access to Telephone Banking/Internet Banking/a debit card.

Fees and registering

There are no fees to register an LPA with us.

What access does an LPA give?

To see what powers an attorney would have over your account, see our 'What an attorney can do' table below.

How do I grant an LPA?

If you feel an LPA may be right for you, you can find information about how to apply, how much it costs and how to register it with the Office of the Public Guardian on the www.gov.uk website.

Registering an LPA with M&S Bank

Once you've made the decision to put a POA in place and have created your POA, registering it with us is very simple – just follow the steps below.

Step 1 – Get your documents together

- You'll need to send us either the original POA document or a certified copy of the document. Depending on the situation, you may be able to certify the document yourself. Please see 'Important information regarding your POA document' below for further details.
- We will also need to verify the identity and address details of all your attorneys. We may be able to do this electronically. Each attorney wishing to be registered with us should complete a POA information form (available online at marksandspencer.com/bank and navigate to the power of attorney section) for you to return with the POA document. If we're not able to verify any details electronically, we will contact you with a list of acceptable forms of ID and address verification.
- All attorneys will also need to provide a sample signature.

Step 2 – Send us your documents/Visit us in branch

- To make an appointment in branch, call our Customer Services team on 0345 900 0900.
- To send your documents to us by post:
 - M&S Bank
 - Kings Meadow
 - CH99 9ST

Step 3 – Next steps

- Our specialist team will check the documents sent in/given to us in branch and may ask for additional information if there are any restrictions/conditions in the POA document.
- Once we've updated our records and set up the POA on the account/accounts, we'll send out a confirmation letter to your 'main' attorney.

When will the LPA end?

As long as you have mental capacity, you can choose to cancel your LPA at any time – find out how on the www.gov.uk website.

There are also certain events (such as if you were to die) which would result in it being automatically revoked. You can find more information on the www.gov.uk website.

What an attorney can do

An attorney can help make decisions about someone's finances, or make decisions on their behalf.

The following table provides guidance on the services that we can provide under the different types of POA and indicates what the attorney/attorneys may do.

If the donor appoints more than one attorney to act together (ie 'jointly'), all attorneys have to act together. This means that any services restricted to sole access cannot be provided. This includes debit cards, Internet Banking and Telephone Banking.

If the POA document contains restrictions, we will need to comply with the restrictions which may mean that we cannot provide some of the services listed.

	General power of attorney	Enduring power of attorney	Lasting power of attorney	Continuing power of attorney	Court of Protection	Guardianship Order
Manage donor's account/s if mental capacity is lost		✓*	✓	✓	✓	✓
Hold a debit card**	✓	✓	✓	✓	✓	✓
Issue cheques/make payments (eg bills)/withdraw cash	✓	✓	✓	✓	✓	✓
Pay in cash/cheques	✓	✓	✓	✓	✓	✓
Order cheque book/paying-in book	✓	✓	✓	✓	✓	✓
Order a replacement debit card/PIN**	✓	✓	✓	✓	✓	✓
Order a statement	✓	✓	✓	✓	✓	✓
Set up/amend/cancel standing orders and Direct Debits	✓	✓	✓	✓	✓	✓
Access Telephone Banking**	✓	✓	✓	✓	✓	✓
Access Internet Banking***		✓	✓	✓	✓	✓
Change the donor's address	✓	✓	✓	✓	✓	✓
Apply for ISAs		✓	✓	✓	✓	✓
Open/Close accounts on behalf of the donor		✓	✓	✓	✓	✓
Obtain information regarding the donor's account/s	✓	✓	✓	✓	✓	✓
Arrange an overdraft						

*If the customer (donor) loses/is losing mental capacity, an enduring power of attorney must be sent to the Office of the Public Guardian (England and Wales) or Office of Care and Protection (Northern Ireland) for registration.

**If the POA appoints more than one attorney, they must be able to act separately as well as together (ie jointly and severally).

*** If the POA appoints more than one attorney, they must be able to act separately as well as together (ie jointly and severally). In addition, only one person can access a sole account through Internet Banking. Therefore, either one attorney or the individual they are acting for can have internet access, not both.

Important information regarding your power of attorney document

We will need to see a full copy of either the original POA document or a copy which has been certified on each page.

You (the donor) can certify the copy of the POA yourself or get it certified by a solicitor, a notary public, a member of the Council for Licensed Conveyancers or a member of the Chartered Institute of Legal Executives (CILEX). In addition to this, a stockbroker can certify the copy.

Alternatively, if the donor (you) is no longer mentally capable, the attorney/attorneys will need to get the POA certified by a solicitor, a notary public, a member of the Council for Licensed Conveyancers or a member of the Chartered Institute of Legal Executives (CILEX).

A final thought...

Even if you're married, or in a civil partnership, it's well worth considering a lasting power of attorney as without one your spouse or partner will not have the authority to manage your finances should you lose the ability to do so yourself.

It's best to register as soon as possible. This is because during the registration process the document will be checked for any mistakes – if you catch them while you can still manage your affairs you can correct them – if not, your power of attorney might be invalid.

Calls may be recorded for security, training and monitoring purposes.

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