

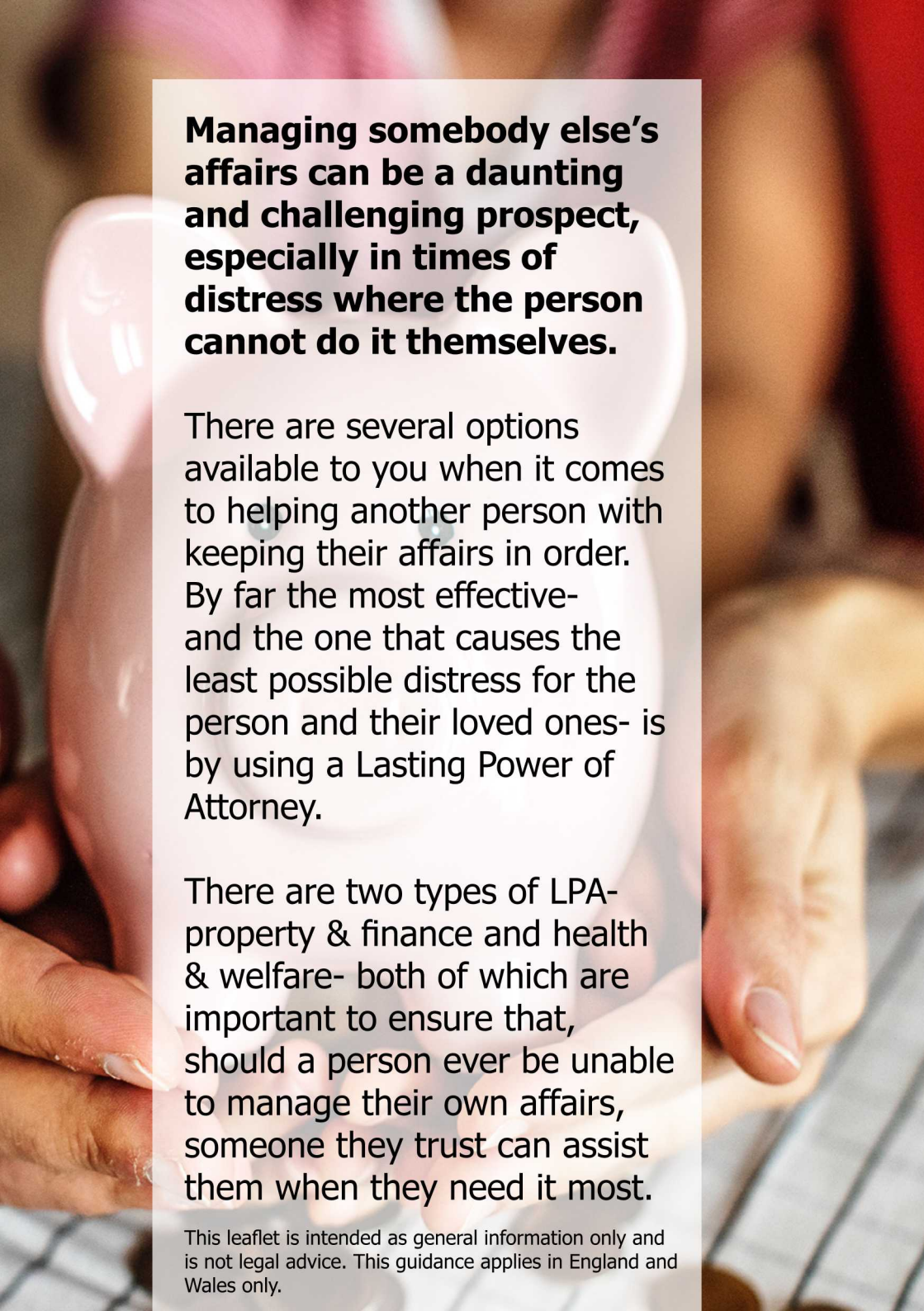
Managing somebody else's  
**property, affairs and  
well-being**



**esbs**



as individual as you

A background image showing a person's hands holding a pink piggy bank. The piggy bank is a classic shape with a coin slot on top. The hands are positioned on either side of the piggy bank, with fingers visible. The background is slightly blurred, focusing attention on the piggy bank and the hands.

**Managing somebody else's affairs can be a daunting and challenging prospect, especially in times of distress where the person cannot do it themselves.**

There are several options available to you when it comes to helping another person with keeping their affairs in order. By far the most effective- and the one that causes the least possible distress for the person and their loved ones- is by using a Lasting Power of Attorney.

There are two types of LPA- property & finance and health & welfare- both of which are important to ensure that, should a person ever be unable to manage their own affairs, someone they trust can assist them when they need it most.

This leaflet is intended as general information only and is not legal advice. This guidance applies in England and Wales only.

# Introduction

**We understand that sometimes it is necessary for someone else to look after the affairs of an individual that cannot do so themselves. There are several ways of doing this, some more straightforward than others.**

Normally, the person who is given the authority to manage another person's affairs will have the same powers as the individual themselves, but this does depend on the terms and conditions applicable to the situation, security procedures and any specific requests made by the individual.

Although the circumstances at the time might be difficult, when deciding who is best to manage the affairs on their behalf it is important for the individual to consider any relevant factors. For instance, if the potential representative does not live locally to the individual, will the attorney

be able to access accounts, speak with any relevant organisations and individuals and be able to respond to the needs of the individual effectively when required?

There may be requirements that must be fulfilled before the potential representative can begin to manage the affairs of an individual on their behalf. This will depend on the method used to manage the affairs, when preparations are made and what the representative will be responsible for. We can provide a full breakdown on identification requirements and steps to take.



# Managing an account for someone with “mental capacity”

**An individual who is considered to have mental capacity is able to authorise someone else to manage their financial affairs on their behalf. In the eyes of the law, a person has mental capacity if they are able to understand, remember and act upon information and can therefore make reliable decisions for themselves.**

## The options are:

### LASTING POWER OF ATTORNEY

Registered with the Office of the Public Guardian, this allows the individual to appoint an attorney to help and support them manage some or all of their affairs. This power continues once the individual is unable to make decisions for themselves. See over page for more information.

### THIRD PARTY MANDATE OR ORDINARY POWER OF ATTORNEY

Somebody needing to operate an account on behalf of an individual with mental capacity may be given a Third Party Mandate, which allows them to make financial transactions on an account.

A Third Party Mandate is applied for with the bank or building society involved. Alternatively, it may be appropriate to arrange an Ordinary Power of Attorney, which is a legal document obtainable through experienced legal advisers. These documents may be appropriate where the individual is away from home for an extended period, they may need short term help or because they have a physical disability.

Banks and building societies may sometimes check transactions if there is a cause for concern, such as large withdrawals or several withdrawals in a short space of time. These checks may mean the organisation refuses transactions or contacts the account holder about them.

# Managing an account for someone who does not have “mental capacity”

**An individual does not have mental capacity if they cannot understand, remember and act upon appropriate information and so cannot make reliable decisions for themselves.**

## Power of Attorney

### LASTING POWER OF ATTORNEY

There are two main types of Lasting Power of Attorney (LPA): Property & Finance and Health & Welfare.

#### PROPERTY & FINANCE

This type of LPA allows your attorney to look after your financial affairs, including those related to properties you own.

With this LPA, the attorney can pay bills, make purchases and open, close and operate bank and building society accounts. The attorney can also claim and receive benefits to be used in your best interests, such as to pay for care, utilities, expenses and other outgoing costs.

### HEALTH & WELFARE

This type of LPA allows your attorney to make decisions regarding your health. These may include choice of care home and giving consent to methods of treatment. They will also be able to decide aspects of your daily routine, such as diet, dress and activities.

#### BUSINESS LPA

There is a third type of LPA specifically for business owners. This LPA allows the business owner to nominate an attorney to look after their business affairs should they ever be unable to. This LPA helps to ensure your business runs smoothly in your absence.

# Creating and registering a Lasting Power of Attorney

**An LPA must be produced according to the wishes of the person making it. It must then be registered with the Office of the Public Guardian before it can be used.**

## CREATING THE LPA

It is a good idea to have an open discussion with your loved ones about what would happen in the event you are unable to look after your affairs. Once you have decided who your attorney(s) will be, you should meet with a trusted adviser to prepare the document.

## PREPARING THE DOCUMENT

The choice of Attorney is entirely up to you. As long as you are considered to have mental capacity, you are able to make an LPA.

Your chosen attorney(s) will need to confirm that they understand and agree to your decision to name them as your attorney(s).

You may also wish to select somebody to notify that you have created an LPA. This helps to reduce the chance of your LPA being disputed later on.

Once ready, you'll need to have your LPA signed and witnessed correctly. It is worth having your certificate provider present to oversee this process to ensure it is done properly.

## REGISTERING YOUR LPA

Your LPA will need to be registered with the Office of the Public Guardian before it can be used. There is a charge of £82 for this.

Once the LPA is registered, keep it safe and ensure your attorney(s) knows how to use it when necessary.

# Contact Us

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## **Further help and information**

You will find further information on making your Lasting Powers of Attorney at our estate planning partner's website, **[www.accordlegalservices.co.uk](http://www.accordlegalservices.co.uk)**.

The logo for esbs, featuring the lowercase letters 'esbs' in white on a blue rectangular background.The tagline 'as individual as you' in white text, preceded by a small square icon with red and blue diagonal stripes.

This guide was authored by  
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provider of estate planning services.

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