



# Advice to Attorneys of Lasting Powers of Attorney

Acting as an attorney should not be taken on lightly. You will have duties and responsibilities to the person who has appointed you ('the Donor') and to the Office of the Public Guardian ('OPG') who oversee Lasting Powers of Attorney ('LPA'). If you are under the age of 18, bankrupt or subject to a debt relief order you are not eligible to act as an attorney. If you are a replacement attorney and you need to act because the original attorney(s) can no longer act, then you must inform the OPG.

There is advice in the LPA which you should read carefully before you sign it, and we recommend that you re-read it from time to time to remind you of your duties once you start acting.

In essence, your duties are:

- To always act in the best interests of the Donor.
- To assist the Donor in making decisions even if that decision may seem to be unwise, although please bear in mind whether it would be detrimental to the Donor. If you are in any doubt, speak to the OPG.
- You have a duty to act based on the principles of the Mental Capacity Act 2005 and to have regard to its accompanying Code of Practice which are set out on the OPG's website.

If you are acting as an attorney on an LPA for Property and Affairs:

- You can only make gifts out of the Donor's funds on customary occasions, i.e. birthdays, Christmas and other celebratory events and only for reasonable amounts. Larger gifts can only be made with the consent of the Court of Protection, otherwise you will be in breach of the LPA and could be held liable for any loss.

- You must keep records and be able to produce them to the OPG on request, e.g. bank statements.
- If you are controlling significant assets, you should seek the advice of an independent financial adviser to ensure they are being well managed.

This list is not exhaustive but gives you a good indication of your duties. If you would like to know more, please contact the OPG or a member of the Private Client team at Woodfines.

## To contact the OPG:

**Telephone:** 0300 456 0300

**Email:** [customerservices@publicguardian.gov.uk](mailto:customerservices@publicguardian.gov.uk)

Or visit their website where there is helpful information on all aspects of LPAs: [www.gov.uk/government/organisations/office-of-the-publicguardian](http://www.gov.uk/government/organisations/office-of-the-publicguardian)

## To contact Woodfines:

**Email:** [mail@woodfines.co.uk](mailto:mail@woodfines.co.uk)

**Bedford:** 01234 270600

**Cambridge:** 01223 411421

**Milton Keynes:** 01908 202150

Woodfines Solicitors is authorised and regulated by the Solicitors Regulation Authority, SRA Number 439262. Woodfines registered office: 16 St Cuthberts Street, Bedford, MK40 3JG. Registered No. OC316334 Woodfines is a trading name of Woodfines LLP. Woodfines LLP is registered in England and Wales.