



# Legal Matters - including Power of Attorney - Bournemouth and Christchurch factsheet

## LEGAL ADVICE

The purpose of this factsheet is to ensure that the reader is informed and updated about the legal matters contained within the factsheet.

IT IS IMPORTANT TO GET THE CORRECT LEGAL ADVICE FOR ANY PROBLEMS OR ISSUES OF A LEGAL NATURE THAT YOU MAY CURRENTLY BE EXPERIENCING. THERE ARE A NUMBER OF DIFFERENT AGENCIES WHO MAY BE ABLE TO HELP YOU.

- Your Solicitor
- Bournemouth & District Law Society, Tel: 01202 587551, Email: [office@bournemouthlaw.com](mailto:office@bournemouthlaw.com) [www.bournemouthlaw.com](http://www.bournemouthlaw.com) – who can recommend a solicitor in your area if you do not have one.
- Local Citizens Advice Bureau (CAB) – many bureaux now have a short assessment interview to help decide how you will be best advised, appointments may be made following this assessment.
- Community Legal Advice – accessed via CAB, a solicitor, or a Community Legal Services advice provider funded by the Legal Services Commission.

### Free legal advice

Your local CAB is able to offer free “initial interview” legal advice, and advise you of your rights and decide how you can be best advised. You may then be asked to make an appointment. Otherwise an adviser should be available by phone though this may be for an introductory interview only. They are also able to direct you to other legal services that may be able to give you more in depth help. Local CAB offices are at the following locations and have links to the Community Legal Service:

#### CAB Bournemouth

West Wing  
Town Hall, Bourne Avenue  
Bournemouth  
Tel: 03444 111444  
Email: [bournemouthcabadvice@hotmail.com](mailto:bournemouthcabadvice@hotmail.com)

[www.bournemouthcab.co.uk](http://www.bournemouthcab.co.uk)

Customer Service, Drop-In, telephone advice, and specialist appointments from Monday – Friday available 9.30am – 2.30pm.

Outreach services (localised services and awareness events) available but for further information contact 03444 111444  
Fax: 01202 290975

#### CAB Kinson (North Bournemouth)

The Kinson Hub  
Wimborne Road  
Bournemouth  
BH11 9AW  
Tel: 03444 111444 - Contact for appointments only.  
Website: [www.adviceguide.org.uk](http://www.adviceguide.org.uk)

Drop-in service every Monday 10am – 1.30pm.

#### CAB West Howe (North Bournemouth)

West Howe Library  
Cunningham Crescent  
West Howe  
Bournemouth  
BH11 8DU

Drop-in service every Tuesday 10am – 3.30pm (closed for lunch 1pm – 2pm).

#### CAB Salvation Army BH1 Project

107 Palmerston Road  
Boscombe  
BH1 4HP

Drop-in service on alternate Thursdays 11am – 1.30pm

#### CAB Westbourne

Our Lady Immaculate Church Hall  
Seamoor Road  
Bournemouth  
BH4 9AE

Drop-in service alternate Thursdays 11am – 2.30pm

#### CAB Christchurch

2 Sopers Lane  
Christchurch  
BH23 1JG  
Telephone Advice Line: 01202 482023  
Existing clients only – 01202 488442

Fax: 01202 488441

Website: [www.adviceguide.org.uk](http://www.adviceguide.org.uk)

Opening hours are as follows:

Monday: 9am – 1pm – Reception and Appointments, 1pm – 5pm Appointments only

Tuesday: 10am – 4pm – Reception and call advice line for gateway assessment interview

Wednesday: 10am – 4pm – Reception from 9am, advice line from 10am for gateway assessment interview

Thursday: 10am – 1pm – Reception from 9am, advice line from 10am for gateway assessment interview

Friday: 9am – 1pm – Reception and Appointments, 1pm – 5pm - Appointments only.

Telephone advice: Tuesday: 10am – 1pm, Wednesday & Thursday 10am – 4pm.



## HELP & CARE CONTACT DETAILS

Help us to help you

As a charitable organisation Help & Care relies heavily on the donations and goodwill of the local community. However large or small, every gift makes a difference!

Please contact us using the contact details below if you would like information about:

- *How to make a one off donation or*
- *How to set up a regular monthly donation or*
- *How to remember us in your Will*

Help & Care contact details

Help & Care offer a range of services and factsheets to older people, carers, and disabled people across Dorset. If you would like to know more about our information and support services, Advocacy, and our Handiworks Plus services, or you would like a copy of this factsheet in your own language, large print, Braille, or on audio tape or compact disc please contact us on the details below.

By telephone: 0300 111 3303

By fax: 01202 432299

Opening hours are: Monday - Thursday 9am -5pm and Friday 10am - 4.30pm. Answering machine available outside these hours.

Textphone for hard of hearing: 01202 416047

Email: [contact@helpandcare.org.uk](mailto:contact@helpandcare.org.uk)

Website: [www.helpandcare.org.uk](http://www.helpandcare.org.uk)

Use the "Contact" form within the website to let us know how best we can help you.

Contact by post: Help & Care, The Pokesdown Centre, 896 Christchurch Road, Bournemouth, BH7 6DL

You can also make an appointment to call in and see us at The Pokesdown Centre, Bournemouth.

This information has been researched and produced by Help & Care and was believed to be correct at the time of production. Inclusion does not imply a recommendation by Help & Care.





## COMMUNITY LEGAL SERVICE

The Community Legal Service is a network of organisations and advice providers funded by the Legal Services Commission to provide and promote civil legal aid services. Civil law deals with disputes between individuals or organisations. Legal help is available to people who are experiencing problems in the areas of benefits, community care issues, debt, domestic violence, education, employment, housing, mental health, relationship breakdown via Community Legal Advice.

### Community Legal Advice (CLA)

CLA is a free and confidential advice service funded by legal aid which in turn is funded by The Legal Services Commission. If you are on a low income or benefits you may be able to get free specialist advice from qualified legal advisers via the CLA. Even if you are not eligible for legal aid, CLA can direct you to other services that can help you. You will be asked about your problem in order to find out what help you need, and will also be asked some questions about your finances to assess whether you are eligible for legal aid. For further information contact:

### Community Legal Advice

Legal Services Commission

4 Abbey Orchard Street

London, SW1P 2BS

Helpline: 0845 345 4 345

Opening Hours: Monday – Friday 9am – 8pm Saturday 9am – 12.30pm

Minicom: 0845 609 6677

Text: text "legalaid" and your name to 80010. The cost of your text will be at the standard rate for your operator.

Websites: [www.legalservices.gov.uk](http://www.legalservices.gov.uk) or [www.GOV.UK](http://www.GOV.UK)



## LEGAL AID

Legal aid is organised by the Legal Services Commission. If you need help with legal costs, you may be able to get legal aid. Whether you receive it will depend on:

- The type of legal problem you have.
- Your income (how much you earn) and how much capital (money, property and belongings) you have. This is called “financial eligibility”.
- Whether there is a reasonable chance of winning your case and whether it is worth the time and money needed to win.

Legal aid is available for civil legal cases where you are in dispute with a person, company or other organisation, government department or agency. These cases include disputes to do with your home, relationships (including if you are separating or divorcing), or your money (for example, if you have difficulty receiving benefits).

Legal aid is only available for certain types of help and certain types of case. There are different levels of legal aid, and you will receive the level you need based on an assessment of your application. The levels are:

- Legal Help – initial advice and help with your problem. You will be advised how the law applies in your particular circumstances and how to prevent or resolve disputes about legal rights and duties. This does not include issuing or conducting court proceedings on your behalf i.e. bringing a claim against another person, defending a claim made against you by someone else, representing you at court
- Help at Court – a solicitor or adviser to speak on your behalf (without formally representing you) at certain court hearings.
- Family Help – help with negotiation and obtaining court orders in family disputes. You can get help to resolve family disputes through negotiation or other means:
  1. Family help (lower): This provides greater assistance than you would get under ‘legal help’, and includes negotiation to resolve disputes.
  2. Family help (higher): This can include issuing proceedings (making a claim or applying for a court order against someone) for a range of purposes. This could include getting a consent order (which is a court order about an agreement reached between the people involved in the dispute). If proceedings have been issued against you (you are the respondent) you can get help to resolve a family dispute at an early stage.
- Family Mediation – mediation in family disputes, for example if you and your partner are separating or divorcing. This covers a first meeting with the mediator to find out whether mediation is the right option for you.
- Legal Representation – a barrister or solicitor to represent you in court if you are taking or defending court proceedings. This used to be known as civil legal aid and is available in two forms:
  1. Investigative help: funding is limited to investigating the strength of a claim, ascertaining whether you have a good chance of winning your case at court.
  2. Full representation: funding is provided to represent you in legal proceedings.

It is also possible to get both forms of funding on an emergency basis where the matter is urgent and meets claim criteria. Your legal adviser will explain the rules that apply in your case.

Information about all aspects of Legal Aid can be sought from your solicitor or your local CAB.

### Financial conditions for legal aid

To receive legal aid, in most cases, you must be “financially eligible”. This means that to decide whether you can receive legal aid the following criteria will be assessed:

- Your disposable income (money you have left after paying allowable expenses).
- Your disposable capital (money, investments or property that you could use or sell to pay for legal help).

Your partner's disposable income and capital will also be taken into account, unless your relationship has ended or your partner is the opponent in the case.

If you are receiving any one of the following benefits you are financially eligible for all types of legal aid:

- Income Support.
- Income-based Jobseeker's Allowance.
- Income-based Employment and Support Allowance.
- Guarantee Credit.

You will not be financially eligible if:

- Your gross monthly income (income before tax) was more than £2,657 in the last month. A higher gross income limit applies to families with more than four dependent children, allowing an extra £222 for the 5th and each additional child
- You have more than £8,000 disposable capital

If your income and capital is below both these limits, your finances will still be looked at, along with the type of case you have, before deciding whether you are financially eligible. If you are applying for an order to protect you from harm these upper limits may be disregarded. You can receive legal aid for some types of help regardless of how much money you have. These include getting a barrister or solicitor to represent you at a Mental Health Review Tribunal, or if the local council starts care proceedings in relation to your children.

### Will I have to pay anything?

If you are granted legal aid you will not receive money yourself to pay the legal bills. Your solicitor or adviser will be paid directly by the Legal Services Commission. You may still have to pay some costs, depending on your financial situation and your case. There are three ways you may have to pay:

- A lump sum, known as a “capital contribution”.
- Monthly instalments from your income until your case finishes, known as “income contribution”.
- Repaying costs if you receive (or keep hold of) money or property by winning your case. This is known as the “statutory charge”.

### Changes in circumstances

You must tell your advisor straight away if your financial circumstances change. Another financial assessment may need to be made if your earnings rise or fall or you receive money from selling your house. This may also change the amount you must pay towards your legal costs. Your legal aid may also be stopped if:

- You do not supply your legal advisor with all the information they need or ask for
- Your financial circumstances change so that you are no longer eligible for funding
- You don't keep up any monthly contribution you've agreed to pay towards your legal aid
- You have not supplied all the financial information needed.
- You are found not eligible for legal aid.

Your legal aid can be stopped in two ways:

- It can be “discharged”, which means your funding will stop from the point you are sent a notice to inform you this is going to happen. You may have to repay some or all of the money already spent on your case
- It can be “revoked” if it is found that you were wrongly granted legal aid, for example because you gave false information about your financial circumstances. In this case, you may have to repay all the money spent on your case.

What happens at the end of my case?

When your case ends your adviser will tell Legal Aid the result and give you a breakdown of their costs. Legal Aid will calculate whether any money is due to be refunded to you or whether you must pay the statutory charge.

What if my case is urgent?

If your case is urgent, for example if you need to make yourself safe from abuse, your solicitor can ask for Emergency Legal Representation (ELR). This can be granted straight away, but covers only limited urgent action, you must still apply for legal aid in the normal way. When you apply for ELR, you must agree to provide the information needed to assess you for legal aid, and to pay any contribution you are assessed as needing to pay. You must also agree to pay back the full costs of your help if it is later found that you are not financially eligible, or you refuse the amount of funding offered to you. Further information on all aspects of legal aid is available from your solicitor, CAB, or contact:

Community Legal Advice

Legal Services Commission

4 Abbey Orchard Street

London,

SW1P 2BS

Helpline: 0845 345 4 345

Opening Hours: Monday – Friday 9am – 8pm Saturday 9am – 12.30pm

Minicom: 0845 609 6677

Text: text “legalaid” and your name to 80010. The cost of your text will be at the standard rate for your operator.

Website: [www.legalservices.gov.uk](http://www.legalservices.gov.uk) or [www.GOV.UK](http://www.GOV.UK)



## MAKING A WILL

It is important for everyone to make arrangements for after their death, especially those who care for another person and those who are cared for.

A Will is simply a legal document by which you decide how your money, property, and possessions are to be distributed after you die. If you die without having making a Will it may be that your money and possessions will not be distributed the way you would have liked them to be. There are rules that dictate how the money and possessions of a person who has not made a Will should be allocated.

- If you and your partner are unmarried or have not registered a civil partnership you cannot inherit from each other unless there is a Will. The death of one partner may create serious financial problems for the remaining partner.
- If you have children, you will need to make arrangements for the children to be cared for if one or both parents die.
- If your circumstances have changed you may need to amend your current Will to reflect those changes. It may be that you and your partner have separated and your ex-partner now lives with someone else. If you are married or enter into a registered civil partnership, this will make any previous Will invalid.

If you die without having made a Will, your property will pass by law to your next of kin, or if there are no next of kin, to the Crown.

There are also complicated rules which may mean that if you die leaving a surviving husband or wife; the survivor might not receive your whole estate if you have children. The only way to ensure that your estate passes as you would wish is to make a Will.

Although it is possible to write your Will yourself, an unclear Will can cause a lot of difficulties and delay after your death. There are also special rules about the formality of signing and witnessing a Will which would invalidate a Will if they are not followed. Therefore it is best to get help from a solicitor.

For further information contact:

- Your Solicitor.
- Bournemouth & District Law Society, telephone: 01202 587551 Email: [office@bournemouthlaw.com](mailto:office@bournemouthlaw.com)  
[www.bournemouthlaw.com](http://www.bournemouthlaw.com) – who can recommend a Solicitor in your area if you do not have one.
- Local CAB.

Keeping your Will in a safe place

Your Will should be kept in a safe place with no other documents attached to it. There are a number places to safely keep your Will:

- In your own home.
- Lodged with a Solicitor.

- At a bank (safe deposit box)
- At the Principal Registry of the Family Division of the High Court, a District Registry or Probate Sub-Registry. If you wish to keep your Will in this way you should visit or write to:

The Probate Department

The Principal Registry of the Family Division  
First Avenue House  
42 – 49 High Holborn  
London, WC1V 6NP  
Helpline: 0845 3020900

Or visit the following websites for advice: [www.GOV.UK](http://www.GOV.UK) [www.justice.gov.uk](http://www.justice.gov.uk)

### Challenging a Will

There are strict time limits within which you are able to challenge a Will. You should seek legal advice from a solicitor as soon as possible. Your local CAB can give you a list of local solicitors. The reasons that people may wish to challenge a Will include:

- They believe the Will is invalid.
- They believe they have not been adequately provided for in the Will.

Copies of a Will are available from:

### Winchester District Probate Registry

4th Floor Cromwell House  
Andover Road  
Winchester  
Hampshire  
SO23 7EW  
Tel: 01962 897029  
Email: [WinchesterDPRenquiries@hmcts.gsi.gov.uk](mailto:WinchesterDPRenquiries@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk](http://www.justice.gov.uk)

### Obtaining Probate

Probate is the process of legally establishing the validity of a Will. Form PR48 available free from the CAB, solicitor, or other legal advisor explains how the Executor named in a Will can apply for the special legal certificate he or she needs to deal with the money, property and possessions left by the person who has died. It also explains who else can apply if there is no Will or if the named Executor is unable to apply. For further information contact:

- Your solicitor
- Bournemouth & District Law Society – tel: 01202 587551  
Email: [office@bournemouthlaw.com](mailto:office@bournemouthlaw.com) [www.bournemouthlaw.com](http://www.bournemouthlaw.com)
- Local CAB.



# POWER OF ATTORNEY AND COURT OF PROTECTION

## POWER OF ATTORNEY – CHANGES FOLLOWING THE MENTAL CAPACITY ACT 2005

The Mental Capacity Act 2005 for England and Wales came into force in October 2007. The Act will generally only affect people aged 16 or over and provides a statutory framework to empower and protect people who may lack capacity to make some decisions for themselves. Mental capacity means the ability to make decisions or take actions affecting daily life, for example, when to get up, what to wear, when to eat, or whether to go to the doctor when feeling unwell. It can also mean the ability to take major decisions such as accepting medical treatments and making end of life decisions, or how to manage large sums of money or property. Some people may have difficulty making these decisions, either all of the time or just at some specific occasions. This could be a result of for example:

- A learning disability.
- Dementia
- A mental health problem
- A brain injury or stroke

If a person is unable to make a specific decision at a specific time, they can be said to lack capacity to make that decision.

The Mental Capacity Act is now in force in England and Wales and provides a framework to empower and protect people over 16, who may lack capacity to make some decisions for themselves. It makes it clear who can take decisions in which situations, and how they should go about it. It also allows people to plan ahead for a time when they may lack capacity. The Act covers major decisions about someone's property and affairs, healthcare treatment and where a person lives, as well as everyday decisions about personal care (such as what a person eats), where the person lacks capacity to make decisions themselves. There are five key principles that underpin the whole Act set out in Section 1 of the Act:

- A presumption of capacity – every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise.
- Individuals being supported to make their own decisions – a person must be given all practicable help before anyone treats them as not being able to make their own decisions.
- Unwise decisions – just because an individual makes what might be seen as an unwise decision, they should not be treated as lacking capacity to make that decision.
- Best interests – an act done or decision made under the Act for or on behalf of a person who lacks capacity must be done in their best interests.
- Least restrictive option – anything done for or on behalf of a person who lacks capacity should be the least restrictive of their basic rights and freedoms.

What does the Act do?

The Act enshrines in law current best practice and common law principles concerning people who lack mental capacity and those who take decisions on their behalf. It replaces statutory schemes for Enduring Powers of Attorney (EPA) and Court of Protection receivers with reformed and updated schemes.

## **LASTING POWER OF ATTORNEY**

The Mental Capacity Act allows people aged 18 and over to choose and appoint someone to make their health, welfare and/or financial decisions if in the future they lack capacity to make these decisions for themselves. This person is called an attorney and is appointed by a formal document called a Lasting Power of Attorney (LPA). The person making the LPA is called the donor. LPA replaces the previous EPA documents.

There are two different types of LPA:

- A personal welfare LPA is for decisions about health and personal welfare, such as where to live, day to day care or having medical treatment.
- A property and affairs LPA is for decisions about finances, such as selling the donor's house or managing their bank account.

An attorney is appointed to make decisions as if they were the donor themselves. Attorneys must act in the donor's best interest and follow the Code of Practice.

The donor will be able to choose:

- The same person to be their personal welfare and property and affairs attorney
- Or different people for making different decisions relating to their personal welfare or finance
- Only a personal welfare attorney
- Or only property and affairs attorney

The donor will be able to specify whether their attorney can only make very specific decisions on their behalf. For instance, a donor might want their attorney to make welfare decisions about his care, but not medical decisions.

The most important thing is that the donor must be able to understand what it means to appoint an attorney and to be able to choose for themselves who they want to make decisions for them in the future. To appoint an attorney, the person will be able to get a special form from the Office of the Public Guardian (OPG) or stationers that provide legal packs. When completing the form, they will also be able to choose the individuals they want notified when the LPA is being registered. This does not have to be family members; it is up to the donor to choose. A certificate will also have to be signed by witnesses to say that the donor has understood what they were doing when signing the form and that there was no fraud or undue pressure placed upon them when the LPA was being created. LPA forms can also be obtained online via [www.GOV.UK](http://www.GOV.UK) and [www.justice.gov.uk](http://www.justice.gov.uk) or by contacting:

Office of the Public Guardian

PO Box 15118  
Birmingham  
B16 6GX  
Tel: 0300 456 0300  
Text phone: 0115 934 2778  
Fax: 0870 739 5780  
Email: [customerservices@publicguardian.gsi.gov.uk](mailto:customerservices@publicguardian.gsi.gov.uk)

Having An LPA is a safe way of maintaining control over decisions made for you because:

- It is registered with the Office of the Public Guardian before it can be used

- You choose someone to provide 'a certificate', which means they confirm that you understand the significance and purpose of what you're agreeing to
- You can choose who gets told about LPA when it is registered (so they have an opportunity to raise concerns)
- Your signature and the signatures of your chosen attorneys must be witnessed
- Your attorney(s) must follow the Code of Practice of the Mental Capacity Act 2005 and act in your best interests
- The Office of the Public Guardian provides helpful support and advice.

## **COURT OF PROTECTION**

If the person you care for no longer understands what it means to appoint an attorney, then you might need to consider applying to the Court of Protection in order to be granted permission to make decisions on their behalf as a deputy. The Court of Protection makes decisions for people who are unable to make their own decisions around issues concerning the person's property, financial affairs, health and personal welfare. The Court of Protection can:

- Decide whether a person is able ('has capacity') to make a particular decision for themselves
- Make decisions on financial or welfare matters on behalf of people who are unable to do so
- Appoint a deputy to act for someone who is unable to make their own decisions
- To remove deputies or attorneys who fail to carry out their duties
- Decide whether a LPA or EPA is valid
- Hear cases concerning objections to the registration of a LPA or EPA

The Court of Protection Charter tells you what kind of treatment you can expect if you have to make decisions for someone else, there are a number of reasons why you might need to apply to the Court of Protection:

- Ask the court to make a decision about someone's property and financial affairs or their health and welfare
- Apply to be made a deputy for someone else.
- Make a will on behalf of someone else
- Object to the registration of a power of attorney

For further information about applying to the Court of Protection contact:

Court of Protection

Archway Tower  
2 Junction Road  
London, N19 5SZ

Customer Enquiry Service: 0300 456 4600

Or visit [www.GOV.UK](http://www.GOV.UK) or [www.justice.gov.uk](http://www.justice.gov.uk) to download forms and documentation.

## Registering an LPA

Before an LPA can be used, it must be registered with the Office of the Public Guardian (OPG). The donor may choose to register it as soon as the forms have been completed, or the donor can leave the LPA unregistered until it is needed, at this point the attorney must register it. When the LPA is registered, people chosen by the donor and listed on the form must be notified. If the LPA is for health and welfare decisions, the donor may wish to consider early registration so it can be used if an emergency situation arises. There is a fee charged for registration.

Contact the OPG at:

Office of the Public Guardian

PO Box 15118  
Birmingham  
B16 6GX

Tel: 0300 456 0300

Text phone: 0115 934 2778

Fax: 0870 739 5780

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

Websites: [www.GOV.UK](http://www.GOV.UK) [www.justice.gov.uk](http://www.justice.gov.uk)

How and when can a LPA be used?

**Personal Welfare Attorney:** This type of LPA can only be used once it has been registered and only when the donor is unable to make particular health and welfare decisions themselves. The decisions the attorney is able to make will depend on any restrictions the donor has indicated on the LPA form. If the donor wishes the attorney to be able to make decisions about life-sustaining treatment they will need to specifically provide for this in the form. The Personal Welfare Attorney cannot make financial decisions unless they have also been appointed as a financial attorney.

**Property and Affairs Attorney:** This type of LPA can be used at any time after it is registered, unless the donor has stated that it must not be used whilst they have the capacity to make their own decisions. Some people find it easier to let their attorney take over the management of their financial affairs even though they can still be involved in the decision making. Others may only want their finance LPA used when they no longer have capacity to make decisions.

Unless the donor has placed restrictions on the form, then the attorney will be able to sign cheques, operate bank accounts, make investments and buy and sell property in the person's best interests. The attorney will have to keep the person's money separate from their own and be able to produce detailed accounts to the OPG. Attorneys cannot make any decisions about health and welfare unless they are also a welfare attorney.

## Existing Power of Attorney arrangements

Any existing EPA arrangements are still valid and can still be registered after the Mental Capacity Act came into force in October 2007. If an existing EPA has not been registered because the donor still has capacity, and is able to make decisions, then a donor now has the option to:

- Destroy the EPA and make a finance and property LPA
- Keep the EPA for finance decisions
- Make a separate LPA for welfare and health decisions

In cases where the Court of Protection has appointed receivers to deal with a person's property and affairs and/or deal with a person's health and welfare decisions receivers will now be known as Deputies. The Court will specify what powers a deputy

should have, and these powers will be as limited in scope and duration as possible.

The role of finance deputies will be much like the current receivers role. Welfare deputies are new and it is unlikely that they will be appointed by the court unless a series of linked health and welfare decisions need to be made. A deputy will be appointed by the Court of Protection if the person you care for has not appointed or is unable to appoint an attorney.

For further information about the Mental Capacity Act and LPA and how LPA may affect any benefits claimed by yourself or the person you care for please contact:

- Your solicitor

- Bournemouth & District Law Society, Tel: 01202 587551,

Email: [office@bournemouthlaw.com](mailto:office@bournemouthlaw.com) [www.bournemouthlaw.com](http://www.bournemouthlaw.com) – who can recommend a solicitor in your area if you do not have one

- Jobcentre Plus (for people aged under 60) – 0845 604 3719 (national)

- Pension Service – 0845 606 0265 (national)

- Freephone Benefit Enquiry Line – 0800 88 22 00 (national).

- Your local CAB

Further sources of help with Lasting Power of Attorney forms is available from:

SCA at <http://www.scagroup.co.uk/advocacy/lpoa/a-guide-to-filling-out-lasting-power-of-attorney-forms>



# ADVANCE STATEMENTS, ADVANCE DECISIONS, LIVING WILLS

An Advance Statement is a general statement enabling you to state your preferences and indicate what treatment or care you would like to receive should you, in the future, be unable to decide or communicate your wishes for yourself. It can state your medical wishes as well as non-medical wishes such as your food beliefs or preferences or whether you would prefer a bath to a shower. It can include your religious preferences and any other particular beliefs and preferences that you particularly value. It enables those involved in your care to know what is important to you. It must be considered by those providing your treatment when they determine what is in your best interests, but they are not legally bound to follow your wishes. Advance Statements can also inform the people treating you who you would like to be consulted at any time a decision has to be made, if you are unable to make that decision yourself.

If you create a LPA, you can record an advance statement in the LPA document. An LPA is needed if you wish to give someone else, or more than one person, the power to make decisions about your care, treatment, and welfare if you are unable to do so yourself. The people who you appoint as Attorney(s) must take your advance statement into account when deciding what is in your best interests.

An Advance Decision to refuse treatment is the only type of living will that is legally binding. Any adult who has mental capacity can refuse treatment for any reason, even if this might lead to their death. However no one is able to insist that a particular medical treatment is given if it conflicts with what the medical professionals conclude is in the patient's best interests. This is why an advance decision can only be a refusal of treatment. An advance decision can only be made by a person aged over 18 who has the mental capacity to make that decision. That person must be able to understand, weigh up and retain the relevant information needed to enable them to make the decision to refuse treatment; and then be able to communicate that decision.

When making Advance Statements or Advance Decisions it is advisable to consult your doctor and a solicitor as the process can be very complex to ensure that your views are taken into account especially when end of life decisions need to be made.



## OTHER SOURCES OF LEGAL HELP, AND HELP WITH POWER OF ATTORNEY

### Allied Services Trust

The Granary  
Newlands Manor Farm  
Everton  
Hampshire  
SO41 0JH  
Tel: 01590 644073  
Email: [enquiries@alliedservicetrust.org](mailto:enquiries@alliedservicetrust.org)  
Skype: alliedservicetrust  
[www.alliedservicetrust.org](http://www.alliedservicetrust.org)

Allied Services Trust is a Registered Charity with professionally trained experts in Lasting Power of Attorney. Help is available to help you understand and make your lasting Power of Attorney documents. Allied Services Trust can even act as your attorney if required. For further details and charges please contact the office on 01590 644073.

### Diverse Abilities

Unit C, Acorn Business Park  
Ling Road  
Poole  
BH12 4NZ  
Tel: 01202 718266 (Admin only)  
0300 330 5514 (information and appointment line)

And

Jewell Road  
Townsend  
Bournemouth  
BH8 0LT

Diverse Abilities offers assistance and support to disabled people, with the complicated issues around dealing with the forms and paperwork involved in applying for disability benefits, and legal matters involved in setting up Power of Attorney (LAP), deputyship, wills, and Advance Decisions and Living Wills, and transitions checklists. Diverse Abilities are also offering assistance with setting up Lasting Power of Attorney to older people, and people with memory problems so that documents can be set in place whilst they still have capacity to do so. Staff will be able to visit you at home to assist you with the forms, and will do their best to explain or avoid the use of unnecessary legal jargon. For further details and charges contact 0300 330 5514 Mon – Friday 9.30am – 1.30pm (information and appointment line).

Dorset Race Equality Council

4th Floor Richmond House  
33 Richmond Hill  
Bournemouth  
BH2 6EZ  
Tel: 01202 553003  
Fax: 01202 553066  
Enquires: [enquires@dorsetrec.org.uk](mailto:enquires@dorsetrec.org.uk)  
[www.dorsetrec.org.uk](http://www.dorsetrec.org.uk)

Dorset REC provides information, advice and support to people experiencing racial discrimination or harassment.

Law Centres – in some areas there are Law Centres that will give free legal advice. To find out the address of your nearest centre contact:

Law Centres Federation

Floor 1, Tavis House

1 -6 Tavistock Square

London

WC1H 9NA

Tel: 020 3637 1330

Email: (via website)

Website: <http://www.lawcentres.org.uk/>

Personal Support Unit

Bournemouth and Poole County Court  
Courts of Justice  
Deansleigh Road  
Bournemouth  
BH7 7DS  
Tel: 01202 417606  
Email: [bournemouth@thepsu.org.uk](mailto:bournemouth@thepsu.org.uk)  
[www.thepsu.org](http://www.thepsu.org)

The PSU are an independent charity who are able to support people going through the civil and family court process, and tribunals without legal representation. With the help of trained and experienced volunteers, including post-graduate students who are training to be Barristers or Solicitors, their aim is to help you manage your case yourself. The service is free, independent and confidential, and is offered to everyone who asks. The PSU can help by:

- Helping you work through court forms
- Helping you find your way around the court system and the court building itself
- Attending court with you for emotional support

- Help you organise your thoughts and court papers
- Refer you to other legal agencies or advocacy services able to help you, and go with you to court offices and counters
- Go to court with you and stay throughout your hearing
- Help you think through what your next steps may be.

PSU do not offer to:

- Give legal advice, or an advocacy service
- Act on your behalf or tell you what to write on your forms
- Look after your children or any vulnerable adult with you
- Act as a witness to investigations
- Share your confidential information with anyone else, unless they hear something that causes concern for yours or another person's safety.

For further information contact the office listed above.

#### Trade Unions

Trade Unions may provide free legal representation for a variety of problems to current and previous members.

#### Motoring organisations

Motoring organisations may offer a cheap or free legal advice to their members.

#### Legal expenses insurance

Legal expenses insurance is available via some insurance policies which cover the expenses of certain legal matters including consumer disputes, personal injuries, employment issues, and motoring offences.

#### Legal advice delivered online in British Sign Language

Deaf BSL users in England and Wales receiving benefits or living on a low income are able to obtain free and confidential legal advice through a webcam with a broadband connection. The caseworkers are fluent in BSL, and provide specialist advice about Welfare Benefits and Employment, Housing and Debt. For further information visit [www.radlegalservices.org.uk](http://www.radlegalservices.org.uk)

#### Purple Legal – a nationwide legal support scheme

##### PURPLE

Darby's Solicitors LLP  
52 New Inn Hall Street  
Oxford  
OX1 2DN  
Tel: 0845 567 5000  
Email: [purple@darbys.co.uk](mailto:purple@darbys.co.uk)

Website: [www.purplelegal.co.uk](http://www.purplelegal.co.uk)

Able to provide advice from specialist lawyers in the following areas of law:

- Personal Injury.
- Wills, Trusts, Tax Planning and Probate
- Buying and Selling Properties
- Family, Matrimonial and Child Law
- Motoring Offences and all Criminal Law
- Employment
- Planning
- Disputes
- Clinical and Medical Negligence
- Equine Law
- Immigration
- Bankruptcy
- Business and Commercial Law

Book a 'SolicitorSlot' for a time and date to suit you; you can put your legal enquiries to a specialist lawyer who will answer them – free of charge. You can book a SolicitorSlot online or by telephone. If actual legal work is then required, we will tell you what we would charge. You are then free to "shop around". You will never be liable to us for any legal fees unless we have given you a fee quote and you have agreed to it.

Victim Support Dorset

Unit A19 Arena Business Centre  
Holyrood Close  
Poole  
BH17 7FJ  
Tel: 01202 606200  
Fax: 01202 606201  
Email: [vsdorset@victimsupport.org.uk](mailto:vsdorset@victimsupport.org.uk)  
Website: [www.victimsupport.org.uk](http://www.victimsupport.org.uk)  
National Victim Supportline: 0845 30 30 900

Victim Support is the national independent charity for people affected by crime – victims and witnesses, their families and friends – we are here to help. Trained staff and volunteers offer free and confidential information, support and practical help following a crime, such as burglary, assault, harassment, domestic violence, rape and murder. Victim Support can offer:

- Someone to talk to in confidence
- Emotional support and practical help
- Information on the police, court procedures and criminal justice system

- Support and information while attending court
- Help with criminal injuries compensation and insurance claim
- Contact with – and referral to – other relevant organisation
- Advice on crime prevention
- Help with housing or benefit problems

