



**Lasting power of
attorney for
long-term care**





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What is a lasting power of attorney?

It is completely understandable to feel uneasy when there is a possibility that you are losing the ability to make your own decisions. This can be unsettling for most individuals. However, it's important to acknowledge that having a power of attorney in place can alleviate any uncertainty and future difficulties for you and your family.

A power of attorney is a legal document that grants another individual, known as an agent, or more commonly known as an attorney, the legal authority to make decisions and take actions on behalf of yourself or a loved one.

The level of authority granted through a power of attorney can be tailored to the specific needs and preferences of the principal (person requesting for LPA). The authority given can be limited to specific areas or tasks, such as managing a family estate. The principal retains the power to define the limits, duration and conditions of the power of attorney, providing flexibility and control over the attorney's actions.

The power of attorney is not only relevant in times of temporary or permanent incapacitation, but also in proactive planning for the future. It allows individuals to make choices in advance, designating a trusted person who can step in and act when needed, avoiding potential conflicts or delays. By establishing a power of attorney, individuals can protect their interests and ensure that their affairs are managed in alignment with their wishes.

Choosing the right attorney should be done with careful consideration. Understanding the rights, duties and potential risks associated with a power of attorney is essential for both the principal and the attorney to navigate this arrangement effectively.

The process for establishing a power of attorney can take 20 weeks or more. It is advisable to plan in advance, so you are not left having to put one in place in an emergency.



Mental capacity

Having mental capacity means you can make your own decisions, without the support of another person. It is crucial to recognise that no one can make decisions on your behalf unless it can be demonstrated that you lack the necessary mental capacity to do so.

Mental capacity refers to the ability to perform the following actions:

- Understand the information relevant to a decision
- Assess and consider that information
- Retain that information for a sufficient period to make a decision
- Communicate the decision effectively, whether through speech, sign language, or other means

It is important to understand that mental capacity can vary depending on the individual's circumstances. Some people may have the capacity to make decisions about certain matters, but not others. Some may also be temporarily unable to decide at a given moment but regain the capacity to do so later. It is essential not to mistake the need for time to deliberate or communicate a decision as an indication of lacking mental capacity. For example, living with dementia does not automatically imply an inability to make any decisions.

Therefore, it is important to consider each situation individually and respect the decision-making abilities of individuals, even when they may require additional time or support in the process.



Types of lasting power of attorney

There are two types of lasting power of attorney (LPA), and you can set up more than one.

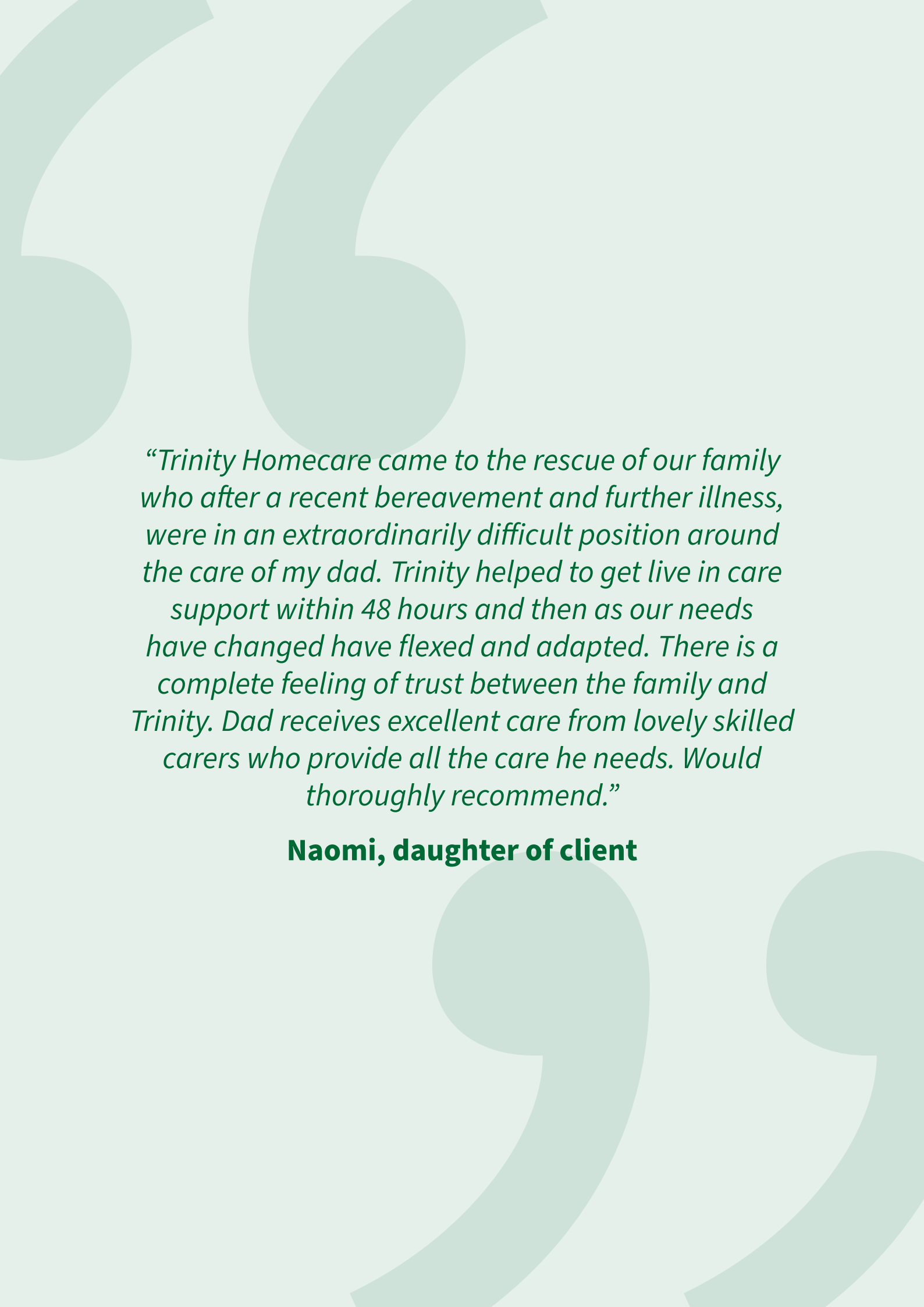
Health and welfare

The health and welfare LPA gives the attorney the legal right to make decisions related to the individuals personal welfare and healthcare. This includes decisions about medical treatment, living arrangements, social activities and other welfare-related matters. It can also cover decisions regarding life-sustaining treatment if specifically authorised in the LPA.

Property and financial affairs

This type of LPA grants the attorney the authority to manage the individuals financial and property affairs. It enables the attorney to make decisions on matters such as managing bank accounts, paying bills, selling, or buying properties, dealing with investments and any other financial transactions.





“Trinity Homecare came to the rescue of our family who after a recent bereavement and further illness, were in an extraordinarily difficult position around the care of my dad. Trinity helped to get live in care support within 48 hours and then as our needs have changed have flexed and adapted. There is a complete feeling of trust between the family and Trinity. Dad receives excellent care from lovely skilled carers who provide all the care he needs. Would thoroughly recommend.”

Naomi, daughter of client

Choosing an attorney

Your attorney will have significant power over your affairs so you need to choose a person or people you know you can completely trust.

Who should I choose to be my attorney?

Deciding on who to choose as your attorney is an important consideration. Many individuals opt for family members or close friends, as there is already a foundation of trust and familiarity. However, it is also possible to select someone from a professional background, such as a solicitor, who can bring expertise to the role. It is crucial to provide the person you approach with sufficient time to reflect on whether they are willing and prepared to take on the responsibilities associated with being an attorney.

Considering the possibility of appointing multiple attorneys can be beneficial. However, it is necessary to determine whether they will make decisions jointly or individually. Additionally, it is wise to designate replacement attorneys in case any of your initial choices are unable to fulfil their duties in the future. This approach helps ensure that there is continuous support and representation in managing your affairs. When selecting an attorney, it is essential to ensure that the person you choose is at least 18 years of age or older.

Your attorney must adhere to these principles:

Presume mental capacity

Your attorney should always assume that you have the mental capacity to make decisions unless it can be demonstrated otherwise.

Assist your decision-making

Your attorney has a responsibility to provide you with practical support to help you make decisions on your own and not force you into a decision.

Avoid assumptions based on unwise decisions

It is essential that no one assumes you lack mental capacity simply because you make decisions that others might view as unwise.

Least restrictive

When making decisions on your behalf, your attorney must consider all available options and choose the one that imposes the least number of restrictions on your rights and freedoms.

Act in your best interests

Your attorney must consider a range of factors and carefully weigh them to reach a balanced conclusion that serves your overall best interests.

By adhering to these principles, your attorney aims to make decisions that align with your wishes and promotes your well-being, while respecting your autonomy and individuality.

Registering for an attorney

All attorneys must be registered by the Office of the Public Guardian (OPG) before registering for an LPA.

This is to ensure:

- That the LPA is legally correct
- That there are no errors
- People have the opportunity to object if they have concerns about the LPA

To register a lasting power of attorney, follow these steps:

Prepare the forms

Obtain the appropriate lasting power of attorney forms from the OPG. There are separate forms for property, and financial affairs and health and welfare LPAs. It is important to ensure you have the correct forms for the type of LPA you are registering for.

Complete the LPA forms

Fill out the forms as accurately as possible and provide all the necessary information. This will include details about the person creating the LPA, the appointed attorneys, any replacement attorneys you may want, and any specific instructions or preferences you would like to include.

Notify relevant individuals

Notify the individual, attorneys, and any other persons involved about your intention to register the LPA. This allows them to be aware of their roles and responsibilities and ensures they understand their authority and obligations.

Obtain certificate provider signatures

A certificate provider, such as a solicitor, registered healthcare professional, or someone else who has known the individual for at least two years, needs to sign the LPA forms. The certificate provider confirms that the donor understands the nature and effect of the LPA and that there is no undue pressure or fraud involved.

Complete the registration form

Along with the LPA forms, you need to complete a separate registration form provided by the OPG. This form includes details about the individuals, attorneys, and any additional instructions or preferences.

All relevant forms are on found on the Gov website lastingpowerofattorney.service.gov.uk.

Submit the forms

Send the completed forms, registration form, and payment to the OPG. The address for submission can be found on the OPG's website.

It is recommended to send the documents by recorded delivery or use a secure postal service to ensure they reach the OPG safely.

Registration fee

There is a fee associated with registering an LPA. The government website states it costs £82 to register an LPA unless you are eligible for a reduction or are exempt. All payments can be made over the phone.

Am I exempt or can I receive a reduction?

Those who are eligible and receive the following benefits in the list below may be exempt or receive a reduction in the registration fee. If the individual receives the following means-tested benefits, they can apply for an exemption. They can also ask for their chosen attorney or solicitor to do this on their behalf.

- Income support
- Income-based employment and support allowance
- Income-based jobseeker's allowance
- Guarantee credit element of state pension credit
- Housing benefit
- Council tax reduction/support
- Local housing allowance
- Working tax credit - disability element of working tax credit – severe disability element of working tax credit not included
- Disability living allowance
- Invalidity benefit
- Personal independence payment

Registration confirmation

The Office of Public Guardian (OPG) will review the submitted forms and process the registration. The process can take up to 20 weeks to register an LPA if there are no mistakes in the application and no objections.

Once the registration is complete, you will receive a registration confirmation document, often referred to as the LPA registration certificate.

It's important to note that the registration process may vary slightly depending on the specific requirements and procedures set by the OPG. It is recommended to visit the OPG's website or consult with a solicitor for the most up-to-date and accurate guidance on registering an LPA.

Professional legal advice

If you are looking for professional legal advice you may wish to consider a Lifetime Lawyer, part of the Association of Lifetime Lawyers, specialises in supporting older and vulnerable individuals with legal needs, offering a high standard of care and expertise. Accredited Lifetime Lawyers are recognised for providing reliable, sensitive legal advice, especially during critical life decisions or for those with complex requirements. They are well-versed in matters like wills, powers of attorney, tax planning, trusts, probate, and elder care.

Lifetime Lawyers undergo rigorous accreditation and specialised training to address unique challenges associated with age-related conditions (e.g., dementia, Parkinson's) and issues like mobility or sensory impairments. They focus on creating a supportive environment by offering tailored guidance and safeguarding against potential neglect or abuse.

Vulnerability can arise from various situations, such as illness, bereavement, or aging. Lifetime Lawyers are equipped to provide compassionate and appropriate legal support during these challenging times.

A Lifetime Lawyer support families with:

- Writing a will
- Lasting Power of Attorney
- Tax planning
- Trusts
- Probate
- Asset Preservation
- Paying for care
- NHS Continuing Healthcare
- Court of protection
- Abuse of older people



Support from Trinity Homecare

At Trinity Homecare, we have been providing our high-quality live-in care service trusted by families across England for over 25 years.

Our multi award-winning care is focused on enabling independence and enriching lives, so that people can stay safely and happily in the comfort of their own home and avoid a disruptive move into a care home.

Families benefit from reassurance and peace of mind that their loved one is receiving the very best care provided by a dedicated team of carers.

Here are a few reasons as to why our clients choose Trinity Homecare:

Live-in care rated 'Outstanding'



Our established service is regulated by the Care Quality Commission (CQC) in England and has achieved the highest 'Outstanding' rating for the quality of care we provide. Only 3% of home care companies in England have achieved this rating.

This means that you can be assured that you are receiving the very highest standards of care at home.

A responsive and flexible service



We appreciate that circumstances may mean you need to put care in place quickly. Our expert care team can set up live-in care in as little as 24 hours, sometimes sooner.

We will work with you and your family to ensure you have the right care team in place exactly when you need it.

A trusted homecare service



We know how important trust is when choosing a live in care provider.

Many of our families, who trust us to provide high quality care to their loved ones, have happily shared their experiences of our service on the rate and review websites homecare.co.uk and Working Feedback, giving us a 5 star rating.

Continuity of care



We have a dedicated team of carers some of whom have been working for Trinity for many years. This means they are committed to us, as we are to them which means they stay with us longer.

For families this means that you get continuity and consistency of carers supporting your loved one, minimising disruption to daily life.

Visibility of the care you receive



Our digital platform TrinityConnect enables us to proactively monitor and manage the care we provide. Families can see the care plan, care notes and all records relating to the care provided. These are regularly reviewed and updated by carers and care managers via an app, enabling effective monitoring and control. These insights provide families with a much needed and reassuring window into the care their loved one receives.

Local care teams close to you



Whilst we operate throughout England, our live-in care service is delivered locally to you. Our care management team support carers and families on a regional basis, ensuring the highest levels of monitoring and support, whilst ensuring a personalised approach to care delivery.

A fully managed service



With our fully managed service, you can enjoy peace of mind and a hassle-free care experience. Our dedicated team of carers is supported by experienced Care Managers around the clock, ensuring that you receive the highest quality of care. This means you won't have to worry about managing the carer and arrangements yourself.

Our fully managed service takes this burden away, allowing you to spend quality time with your loved one.

What's next?

Get in touch today



Call us

Our friendly team of experts are available to talk through your care needs 8.30am to 5.30pm, seven days a week. Call us on **0207 183 4884**.



Enquire online

If you are looking outside of our core office hours, then you can enquire online by visiting **trinityhomecare.co.uk/contact/enquire-online**, we will then be in touch with you as soon as possible to discuss your care needs.





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