

Lasting Powers of Attorney- The new forms July 2009

Those of our clients who have already put Lasting Powers of Attorney (LPAs) in place will be only too aware of the complexity and shortcomings of these forms.

Newspaper articles abound with tales of applications to register the LPAs which have been rejected by the Office of the Public Guardian (OPG) because a box has not been ticked or a Certificate Provider has failed to state that he/she is over 18 even though he/she is a GP, solicitor or similarly highly qualified professional who has undergone years of training and can hardly be practising without being over 18!

Indeed, we understand that there are many who have decided not to put LPAs in place for these reasons.

You will therefore be pleased to hear that the OPG has taken note of the public outcry and that, following a consultation process in which Wilsons took part, the LPA forms have been redesigned and will be ready for use from 1 October 2009.

The new forms include the main guidance notes which help you work your way through the form as you complete it. This is to be welcomed as the existing forms simply point to the guidance notes which have been published separately and which only add to the amount of paperwork.

Sign posts in the new forms detail where to find more information and guidance to cover more unusual situations. As a result the forms are shorter than the existing ones which have been criticised for their length.

The new forms now have space to include the Attorneys' addresses. The banks had already complained that this had been a serious omission especially when complying with the Money Laundering Regulations.

Formal continuation sheets have been prepared so we no longer need to produce our own to cover those situations where the Donor wishes to appoint more than 2 attorneys or more than one replacement attorney. Also there is a clear reference in the form itself to the number of attorneys being appointed. The existing form did not specify this and as a result was open to abuse. Anyone wishing to remove any evidence that a third or fourth attorney had been appointed could simply remove the continuation pages and no-one would be the wiser. Home produced continuation sheets also led to difficulties as it was easy enough to forget to ask the Donor to sign and date the continuation sheets which varied in shape and design depending on who had produced the sheet.

Even better, many of the tick boxes have been removed so there is less chance that the LPA will be rejected by the OPG on registration because a box has not been ticked.

An attempt has been made to use plain English so that the lay person can understand the form. Has this worked? Instinctively, we do not like the use of "Don't" and "You've" which should only be used in written speech but we suspect that we are alone when we criticise the use of the vernacular in a legal document!

We also welcome the availability of a large print version of the form which will assist many of our clients.

Finally for those few of us who have become used to the existing forms and may now be resistant to change we can continue to use the existing forms provided that they are completed

before 1 April 2011. We doubt that many will take advantage of this though as overall the new forms are to be welcomed and we will be eager to use them as soon as midnight passes on 30 September this year.

For further information please contact:



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