



Domestic Abuse and Lasting Power of Attorney

A Lasting Power of Attorney (LPA) is when someone appoints another person(s) (attorney) to make decisions on their behalf.

The person appointing is known as the 'subject' or the 'donor'.

There are two types of LPA:

- Property and Financial Affairs – can be used while the subject still has mental capacity
- Health and Welfare – can only be used when the subject no longer has mental capacity

Having an LPA is an individual choice for the public who can make an application but only when they have the mental capacity to do so.

An LPA must be registered with the Office of the Public Guardian. The subject can do this themselves or an attorney(s) to do it for them. The subject can object to the LPA if an attorney has submitted it without their permission.

Full guidance on LPA is available at Report a concern about an attorney, deputy or guardian - GOV.UK (www.gov.uk).

Whilst there is a process to report abuse of LPA

[Report a concern about an attorney, deputy or guardian - GOV.UK \(www.gov.uk\)](http://www.gov.uk), where domestic abuse is being perpetrated it is likely that the abuser will allow little evidence of the abuse to be seen, thus making it hard for third parties to know exactly what is happening. Abusers may also claim that their actions are in the best interests of the victim, using lack of mental capacity or illnesses such as dementia to divert attention.

Ways that LPA can be used to perpetrate domestic abuse

A Property and Finance LPA can be used to make decisions around:

- money, tax and bills
- bank and building society accounts
- property and investments
- pensions and benefits

The attorney(s) can start making decisions while the subject still has [mental capacity](#) if both the lasting power of attorney (LPA) says this can be done and the subject gives you permission

- Economic abuse is a type of domestic abuse under the Domestic Abuse Act 2021 and financial abuse is included in Safeguarding Adults guidance within the Care Act 2014.

- Economic or financial abuse could be used by someone with LPA for Property and Finance to:
 - Get property or belongings signed over to them – forging the victim's signature on legal documents, threatening to harm them if they don't agree to transfer the property to the abuser, threatening to make them move to a care home, using coercion and control to make the victim feel that they 'owe' the abuser for agreeing to be LPA or for care support.
 - Control access to benefits, pensions and any other money the victim has – withholding the victim's bank card, using it without their knowledge to withdraw money, using their money to fund drug or alcohol addiction (the victim may feel guilty about refusing money for substance abuse for fear that the abuser will become unwell without it).
 - Predatory Marriage is an emerging risk that disproportionately affects older people – abusers take advantage of dementia or other cognitive impairments to marry the victim, often secretly, then upon their death they are able to claim the victim's estate. For more information on this, please visit [WeAreHourglass](#)

A Health and Welfare LPA can be used to make decisions around:

- Daily care
- Medical care
- Where the subject lives

The attorney(s) can only start making decisions when the subject no longer has mental capacity evidenced by an assessment

Tactics used by a perpetrator of domestic abuse who has Health & Welfare LPA could include:

- Withholding access to care – the abuser could refuse to let paid care staff into the home, they could advise authorities that they are providing care themselves but refuse to do this or use it to inflict physical, emotional or sexual abuse. Coercion and control could be used around refusing assistance with personal care unless the victim agrees to conditions such as giving the abuser money.
- Medical care – the abuser may tell friends/family members that the victim has dementia, other mental illness, or is unable to make decisions for themselves even though a Mental Capacity Assessment has not been carried out. The abuser may say there is a 'Do Not Resuscitate' in place when there is not. The abuser may be responsible for administering medication and this can be used to make the victim unwell or compliant (overdosing on pain or sleep medication).
- Where the subject lives – bearing in mind the Health & Welfare LPA can only be in place when the subject no longer has mental capacity, the abuser can use this to determine where the victim lives even though they know they would not agree to that option.

Guidance for domestic abuse services, primary and secondary Health services and social care

Domestic Abuse services should have awareness of LPA and how they can be abused.

A subject does not need to have care and support needs for an LPA to be used.

Where a victim is elderly, has mental health needs, a vulnerability or has a learning disability, practitioners should enquire if an LPA is in place and check that it has been registered with the office of the public guardian. Social care practitioners would also enquire about the terms of the LPA. Is it jointly held, severally held or jointly and severally held?



**Cambridgeshire
& Peterborough**
Domestic Abuse & Sexual
Violence Partnership

If you are suspicious as to the validity of an LPA, there is a website to look up LPA details, you will need some details from the person or their attorney [View a lasting power of attorney - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

If there is concern that an LPA is being used to perpetrate domestic abuse, this information should be shared with:

- Adult Social Care (if victim known to them)
Referrals to Adult Safeguarding under Adult at Risk legislation are accepted if the person has care and support needs (whether these are being met or not). Completing a DASH (an older people's DASH where appropriate) may help to support a referral. If the case is not suitable for Adult Safeguarding, the risk assessment may also help justify having a multidisciplinary team meeting and/ or referral to the IDVA service which would also support a report of abuse to the Office of the Public Guardian
- Primary Care – It is good practice to share a LPA for Health and Welfare with the person's GP Practice this should also apply to any setting where healthcare is provided. Emergency situations might be excluded.
- The Office of the Public Guardian – find out how to do this here [Report a concern about an attorney, deputy or guardian - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Contacts:

Adult Social Care: [Make a Referral](#)

IDVA Service:

Peterborough duty IDVA peterboroughidvas@peterborough.gov.uk

Cambridgeshire duty IDVA idva.referrals@cambridgeshire.gov.uk

Office of the Public Guardian opg.safeguardingunit@publicguardian.gov.uk

Telephone: 0115 934 2777

Textphone: 0115 934 2778