

# Business Lasting Powers of Attorney



## Everyone over 18 should have LPAs in place.

These are legal documents drawn up and registered with the Office of the Public Guardian to give another or others (attorneys) the power to deal with your affairs and make decisions for you if you are unable to do this for yourself because you lack the capacity.

### **Business LPAs**

Business LPAs allow business owners to protect their business. Without one, their business is at risk.

If you own a business and you lose capacity, without having already made a business LPA, the bank could freeze your bank accounts; contracts or services might go unfulfilled and; your business contacts may think twice about doing business with you. If you are a sole trader, it could put you out of business.

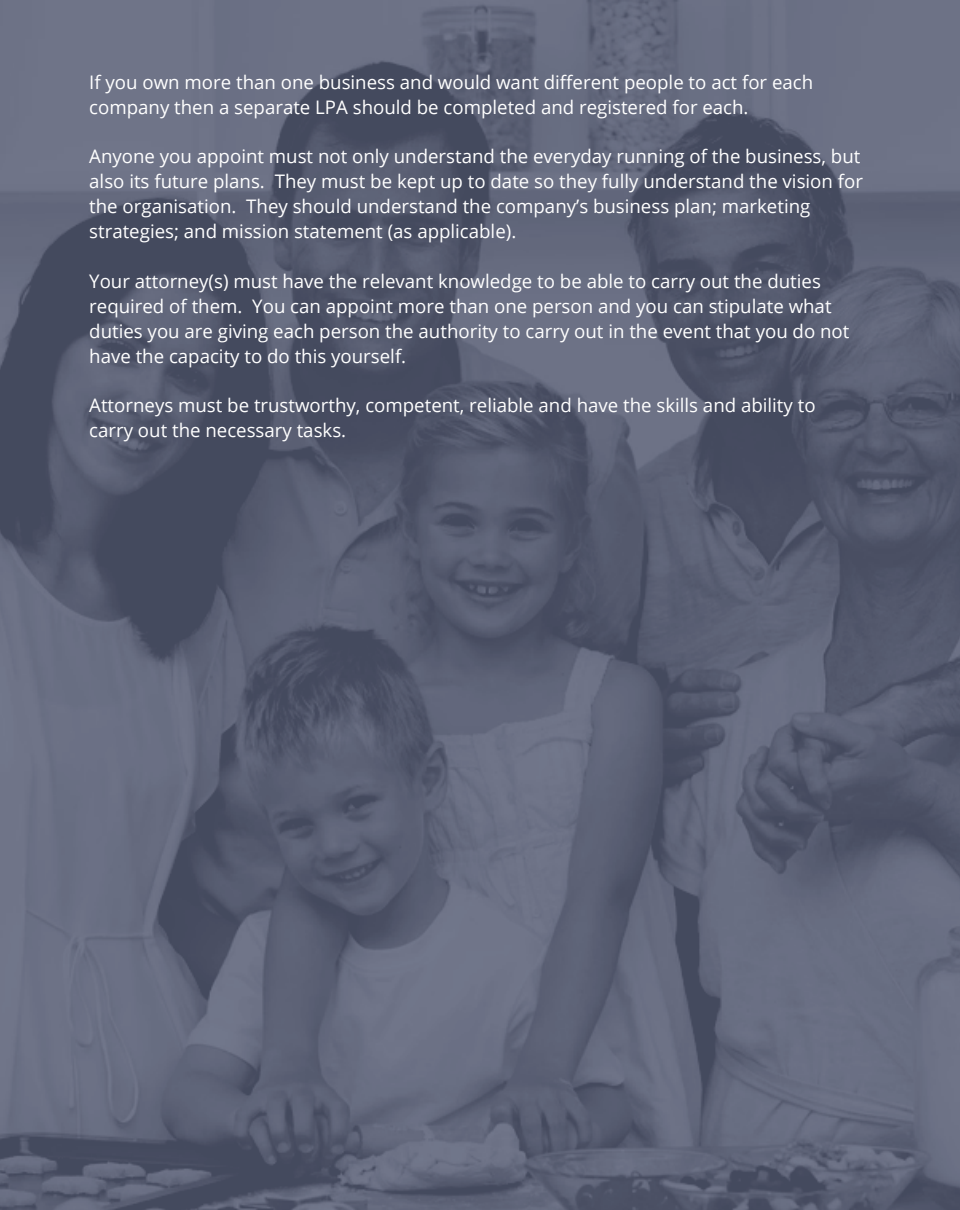
A business LPA is particularly important when there is more than one Director and when you employ staff and need to ensure they continue to get paid.

The Mental Health Discrimination Act 2013 states that a director or partner of a company who loses mental capacity cannot automatically be removed as a director. It depends on the clauses that are contained within the company articles of association. Provisions removing partners because they lack mental capacity may be in breach of anti-discrimination legislation – it is therefore far better to have appointed persons (attorneys) within a business LPA in the event that someone needs replacing urgently.

As above, if a company has multiple directors and one loses the capacity to make business decisions, the other directors or partners may not be able to remove them under the Mental Health Discrimination Act 2013.

In order to be able to implement the business LPA, the company articles and any partnership agreements must reflect this as an option. These may therefore need to be amended. Articles can be amended by special resolution under s21(1) of the Companies Act 2006.

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If you own more than one business and would want different people to act for each company then a separate LPA should be completed and registered for each.

Anyone you appoint must not only understand the everyday running of the business, but also its future plans. They must be kept up to date so they fully understand the vision for the organisation. They should understand the company's business plan; marketing strategies; and mission statement (as applicable).

Your attorney(s) must have the relevant knowledge to be able to carry out the duties required of them. You can appoint more than one person and you can stipulate what duties you are giving each person the authority to carry out in the event that you do not have the capacity to do this yourself.

Attorneys must be trustworthy, competent, reliable and have the skills and ability to carry out the necessary tasks.