

Business Owners: What happens to your business if you fall ill?

Whilst many people will be familiar with the concept of a Lasting Power of Attorney and how this can be used to help an individual who loses capacity in the future, many people will not have considered its effectiveness in helping to continue run business interests of the incapacitated party.

When making a Lasting Power of Attorney, the choice of Attorney is always the most important decision to be made. You must trust your Attorney implicitly to step into your shoes should you no longer retain capacity and should you require assistance in dealing with your affairs. The tricky part is that you may feel that certain people would be better suited to deal with your personal financial situation and that others may be better positioned to deal with your business interests. It is not uncommon for a family to be unfamiliar with an individual's business interests and in such circumstances this could cause great problems with the running of the business should they be called upon to act.

Fortunately, it is possible to create two different types of Lasting Power of Attorney for financial affairs and appoint different people to act in each. The key point in doing so is to ensure that each Lasting Power of Attorney contains specific instructions limiting the scope of the Attorney's powers. The Lasting Power of Attorney to deal with the personal assets should specifically exclude any dealings with the Donor's business interests and likewise the Lasting Power of Attorney which is to deal with the business assets should be specific in its instructions also.

It is not uncommon for a business to fail or to suffer significantly following the illness or incapacity of one of its business owners. Payment of bills and employees' wages or even tax payments to HMRC can become difficult without having anybody with authority to deal with these matters. It would be impossible for anybody to enter into contracts on behalf of the business and failing to address these potential problems in advance could ultimately be fatal.

If no Lasting Power of Attorney is put in place then a Deputyship application to the Court of Protection will be necessary which is not only time consuming and expensive but also results in the Court choosing the most appropriate person to act. Such person may not be the one who is best placed to do so in the eyes of the business owner. Addressing this problem at an early stage provides peace of mind to the Donor and also his fellow business colleagues. It also provides peace of mind to the family who know that they are not required to deal with an area which they may not feel comfortable in dealing with and will ensure that the value of the Donor's Estate

is maintained as best as possible should something happen whereby he or she is unable to operate.

Butcher & Barlow have a vast experience in dealing with the preparation and registration of Lasting Powers of Attorney for all types of individuals and should you wish to discuss matters with one of our qualified Solicitors, please [contact your local branch](#) to arrange a no obligation appointment.

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