



# Ensuring business continuity through an LPA

***Business owners of all ages are initiating a lasting power of attorney as a way to safeguard their business.***

Whilst lasting powers of attorney (LPAs) are often considered in respect of your personal affairs, a third business LPA can be entered into to protect your business in case of incapacity.

#### **The benefits of wills and LPAs**

The benefits of an LPA are, in some ways, a bit like making a will, which defines what happens to your assets when you die. Making a will is fundamental to ensuring the assets in your estate go where intended. Dying intestate can lead to distressing disputes for loved ones, financial hardship or assets being divided according to law rather than personal preference.

The benefits of a will also extend beyond finances: it provides the reassurance of providing for loved ones, including appointing guardians for children.

In contrast, an LPA will come into play during your lifetime and permits trusted individuals – attorneys – to oversee financial and medical decisions if you are incapacitated. Although commonly associated with later life, these legal documents are increasingly becoming an important tool for business owners of all ages. They're also applicable to any type of business entity – limited companies, partnerships and sole traders.

#### **Different types of LPA**

People often have two LPAs – a health and a finance one. The health LPA empowers chosen individuals to make decisions concerning medical treatment, care and welfare if a person

becomes incapacitated. A financial LPA authorises selected individuals to manage a person's financial affairs – including assets, property and monetary transactions – in situations where they cannot make these decisions themselves.

Making an LPA isn't complicated but it's important that it does exactly what you want it to do. It also needs to be signed in the correct way and in the right order by all those involved to minimise any chance of any legal challenge later on.

#### **Business benefits**

Traditionally, the focus of LPAs has been predominantly on personal matters, but since the pandemic there's been increasing interest in business LPAs, with many people recognising them as a way to safeguard their businesses. The evolving business landscape, often coupled with unexpected events such as a sudden illness or accident, has prompted a rise in popularity for these documents.

Business LPAs mitigate business risks associated with incapacity, ensuring that the business can continue to operate seamlessly even if the owner is unable to make crucial decisions when it comes to financial matters. This can provide continuity of day-to-day business activities, including paying staff, managing transactions and settling taxes. Having an LPA in place can also be important if an owner's condition becomes irreversible and the business

needs to be wound up or sold.

Financial institutions are also increasingly likely to scrutinise a businesses' disaster recovery plans, and the lack of an LPA could pose a risk to loans and business operations during a crisis.

#### **Finding the right decision-makers**

Appointing suitably qualified individuals as attorneys for a business is, of course, essential. Family members might not possess the necessary skills to manage the intricacies of a business, leading to potential risks. Selecting appropriate colleagues or peers with relevant expertise, on the other hand, can help to provide vital business continuity in times of incapacity.

#### **A crucial element of business planning**

The tumultuous events of recent years have prompted many businesses to re-evaluate how prepared they are for unforeseen events and highlighted the importance of LPAs for business owners of all ages. In helping to safeguard the future of their business, LPAs bring peace of mind for owners and their families. If the worst happens, an LPA ensures continuity for the business that an owner has often worked hard to build.

If you want to discuss setting up an LPA – or a will – talk with your Shipleys contact. We can arrange this for you through our network of legal specialists.