

# Third party access

## Lasting power of attorney explained

### What is a lasting power of attorney?

A lasting power of attorney is a legal document that lets a third party make decisions on your behalf even if you lose mental capacity. Your lasting power of attorney needs to be registered with the Office of the Public Guardian\*<sup>1</sup> before it can be used. Lasting powers of attorney replaced Enduring powers of attorney as of 1 October 2007.

There are two types of lasting power of attorney; the comments below relate to the Property and Financial Affairs lasting power of attorney. You can find more detailed information on the Directgov website\*<sup>1</sup>.

By lodging a lasting power of attorney with HSBC, you're letting us know you're happy for your attorney to carry out transactions on your HSBC bank account in accordance with the lasting power of attorney.

### Could a lasting power of attorney be right for me?

Unlike a third party mandate or an ordinary power of attorney, a lasting power of attorney remains valid if you lose mental capacity. Please note, before deciding if a lasting power of attorney is right for you, you might want to consider seeking legal advice.

You'll find examples of when a lasting power of attorney may be suitable in our 'Choosing Third Party Access' table at [www.hsbc.co.uk/thirdparty](http://www.hsbc.co.uk/thirdparty)

### What important information do I need to know?

#### Mental capacity

You must have mental capacity when you make a lasting power of attorney.

#### Fees and registering

The process of writing and registering your lasting power of attorney may take some time. There are no fees to lodge a lasting power of attorney with HSBC, but the Office of the Public Guardian requires a fee for registering. You can find details of these fees on the Directgov website\*<sup>1</sup>.

### Restrictions

If there are certain things you don't want your attorney to have control over, you can include restrictions on your lasting power of attorney. For security reasons, this will prevent the attorney from having access to Telephone Banking or Internet Banking.

### Multiple third parties

If you'd like to nominate multiple third parties as your attorneys, you must specify on your lasting power of attorney whether you want them to act jointly or individually\*<sup>3</sup>. For security reasons, if you nominate two or more parties to act jointly they won't have access to Telephone Banking or Internet Banking.

### What access does a lasting power of attorney give?

To see what powers a third party would have over your account, see our 'Managing Third Party Access' table on page 3.

### How do I grant a lasting power of attorney?

If you feel a lasting power of attorney may be right for you, you can find information about how to apply, how much it costs and how to register it with the Office of the Public Guardian on the Directgov website\*<sup>1</sup>.

### Lodge a lasting power of attorney with HSBC in branch

You and/or your attorney should bring the lasting power of attorney to an HSBC branch.

There are some important things to know:

- ▶ You must ensure the lasting power of attorney is correctly and fully completed. It should also be clearly stamped and perforated by the Office of the Public Guardian
- ▶ The attorney must supply suitable documents proving their identity and residential address (see examples below)
- ▶ We may ask the attorney to supply a sample signature in the branch

We will only accept the original registered power of attorney or an official copy certified by a solicitor\*<sup>3</sup>.

## What ID documents are acceptable?

### Example identification documents

- ▶ Current passport
- ▶ Current National Identity Card
- ▶ Travel Documents (issued in the UK by the Home Office)

### Example address documents

- ▶ Council tax bill (valid for current year)
- ▶ Utility bill (dated within last four months)
- ▶ Telephone bill (dated within last four months) – mobile phone bills are not acceptable

For a list of all the documents we accept, please see our proof of ID and address page.

## When will third party access stop?

As long as you have mental capacity, you can choose to cancel the lasting power of attorney at any time—find out how on the Directgov website.\*<sup>1</sup>

Certain events such as if you or the other party were to die would result in it being automatically revoked. For more information on events which may affect your lasting power of attorney see our 'Stopping Third Party Access' table on page 4.

You can also find more information on the Directgov website\*<sup>1</sup>.

\*<sup>1</sup> See our useful links page at [www.hsbc.co.uk/thirdparty](http://www.hsbc.co.uk/thirdparty)

\*<sup>2</sup> See our Third Party Access pages for explanation of other types of access at [www.hsbc.co.uk/thirdparty](http://www.hsbc.co.uk/thirdparty)

\*<sup>3</sup> Refer to our Glossary. [www.hsbc.co.uk/thirdparty](http://www.hsbc.co.uk/thirdparty)

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## Managing Third Party Access

Actions to be done on behalf of the account holder	Third Party Mandate* <sup>2</sup>	Ordinary Power of Attorney* <sup>2</sup>	Lasting / Enduring Power of Attorney* <sup>2</sup>	Court of Protection Order (Deputyship)* <sup>2</sup>	Department for Work and Pensions (DWP) Appointee* <sup>2</sup> (Please note, the below applies only for the benefits received by the individual who has lost mental capacity)
Hold a debit card	—	✓	✓	✓	✓ <sup>2</sup>
Obtain information about account holder's account(s) from bank	✓	✓	✓	✓	✓
Open/close accounts in the account holder's name	—	—	✓	✓	—
Issue cheques	✓	✓	✓	✓	—
Make payments (i.e. bills)	✓	✓	✓	✓	✓
Withdraw cash	✓ <sup>1</sup>	✓	✓	✓	✓ <sup>2</sup>
Deposit cash/ cheques	✓	✓	✓	✓	✓
Retrieve items from safekeeping	✓	✓	✓	✓	—
Apply for ISAs	—	—	✓	✓	—
Access Internet banking	—	—	✓ <sup>4</sup>	✓ <sup>4</sup>	✓
Access Telephone banking	✓ <sup>3</sup>	✓ <sup>3</sup>	✓ <sup>3</sup>	✓	✓
Hold a cheque/pay-in book	—	✓	✓	✓	✓ <sup>2</sup>
Manage the account if account holder becomes mentally incapacitated	—	—	✓	✓	✓
Sign a mortgage loan agreement	—	✓	✓	✓	—
Arrange an overdraft	—	—	—	—	—

**The information in the table above is for your guidance only. The powers we grant a third party over a customer's account may change from those listed above depending on the particular circumstances or changes to our procedures (and are subject always to our obligations under applicable laws and regulations). In particular, the power of attorney, court of protection order or third party mandate itself may contain restrictions on the third party's access to and powers over a customer's account(s). We will need to comply with any such restrictions which will override our general position set out in the table.**

1 Third parties acting under a Third Party Mandate cannot hold a debit card. They can withdraw cash, provided that the third party mandate or power of attorney do not contain any relevant restrictions, by writing out a cheque to themselves. In an emergency, the third party may be able to visit a branch with suitable identification documents and request a withdrawal slip from the counter.

2 Appointees can have a Debit Card card for the other person's account and use it to withdraw money from an ATM. Appointees can also hold a paying-in book.

3 Some third parties can have Telephone Banking access to the accounts of the individual they are acting for.

Irrespective of the type of third party authority held (third party mandate or power of attorney), we are only able to provide telephone access if both of the following are true:

- The third party access is unrestricted. This means that the third party has full authority to operate a sole account or has the same signing authority on a joint account as the individual they are acting for and there is no clause limiting their authority.

- There is only one named third party OR There are multiple third parties acting jointly and severally\*<sup>3</sup>.

Deputies under a Court of Protection order and Department of Work and Pensions appointees can have Telephone Banking access as they will have their own accounts opened instead of being added as signatories to the account of the individual they are acting for.

4 Only certain types of third party access allow the third party to use Personal Internet Banking (PIB) to access the accounts of the individual they are acting for. Third party mandate holders and holders of ordinary powers of attorney cannot be set up for Internet Banking.

Some holders of lasting or enduring powers of attorney may be set up for Internet Banking access, provided that all of the following are true:

- The individual they are acting for has lost capacity OR if the individual retains capacity, he or she understands and agrees that only the attorney will have access to PIB. This is because only one person can access a sole account via PIB at a time; therefore, either the attorney or the individual they are acting for can have PIB access, not both.

- The Power is unrestricted. A power of attorney is unrestricted if the attorney has authority to operate a sole account or has the same signing authority on a joint account as the individual they are acting for and there is no clause limiting their authority.

- There is only one named attorney OR there are multiple attorneys acting jointly and severally\*<sup>3</sup> – in the latter case only one of the attorneys will have Internet access.

Deputies under a Court of Protection order and Department for Work and Pensions appointees can have Internet Banking access as they will have their own accounts opened instead of being added as signatories to the account of the individual they are acting for.

## Stopping Third Party Access

	Third Party Mandate* <sup>2</sup>	Ordinary Power of Attorney* <sup>2</sup>	Lasting Power of Attorney* <sup>2</sup>	Enduring Power of Attorney* <sup>2</sup> <small>(only valid if written and signed before 1 October 2007)</small>	Court of Protection Order (Deputyship)* <sup>2</sup> <b>See note 5</b>	Department for Work and Pensions Appointee Account* <sup>2</sup>
<b>Account holder dies</b>	The Mandate is automatically revoked and the balance of the account will form part of the deceased's estate.	The power is automatically revoked and the balance of the account will form part of the deceased's estate.	The power is automatically revoked and the balance of the account will form part of the deceased's estate. See note 3	The power is automatically revoked and the balance of the account will form part of the deceased's estate. See note 3	The order is automatically revoked and the balance of the account will form part of the deceased's estate. See note 4	Authority of the appointee is cancelled and the balance of the account will form part of the deceased's estate.
<b>Account holder loses mental capacity</b>	The mandate is automatically revoked.	The power is automatically revoked.	No change – the power remains valid and the attorney retains full authority.	If the power is unregistered, it is temporarily suspended until registration is completed. A registered power will remain valid and the attorney regains full authority.	The Court of Protection order would only be used in case of mental incapacity.	The Appointee account would only be used in case of mental incapacity or severe physical disability.
<b>Account holder wants to cancel</b>	The mandate is revoked upon receipt of account holder's instruction.	The power is cancelled by Deed of Revocation* <sup>3</sup> .	Written evidence by either the Court of Protection confirming Deed of Revocation* <sup>3</sup> or by the Office of the Public Guardian advising cancellation of the power. See note 3	Written evidence by either the Court of Protection confirming Deed of Revocation* <sup>3</sup> or by the Office of the Public Guardian advising cancellation of the power. See note 3	Written evidence by Court of Protection needed to confirm Deed of Revocation* <sup>3</sup> . See note 4	See note 2
<b>Third party dies</b>	The mandate is automatically revoked.	The power is automatically revoked. See note 1	The power is automatically revoked. See note 1 and 3	The power is automatically revoked. See note 1 and 3	The order is automatically revoked. The Court needs to appoint new deputy. See note 4	The appointment is revoked and the appointee's authority is cancelled immediately.
<b>Third party loses mental capacity</b>	The mandate is automatically revoked.	The power is automatically revoked. See note 1	See note 3	See note 3	The order is automatically revoked. The Court needs to appoint new deputy. See note 4	See note 2
<b>Third party wants to cancel</b>	The mandate has to be revoked by the account holder.	The power is automatically revoked.	See note 3	See note 3	The order may be revoked upon application by deputy. The Court needs to appoint new deputy. See note 4	See note 2

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**1** All powers of attorney (General, Lasting, and Enduring\*<sup>2</sup>): These legal documents allow the individual granting a power of attorney to name multiple or replacement attorneys.

Subject to the text of the power of attorney, a replacement attorney may be able to take over in the event of bankruptcy, loss of capacity or death of an existing attorney.

If there are multiple attorneys appointed jointly and severally\*<sup>3</sup> and one of them cannot continue to act for some reason, the other attorney(s) may continue to act on behalf of the individual who granted the power of attorney.

**2** See the Guide for Agents, Appointees and Attorneys on the webpage of the Department for Work and Pensions at <http://www.dwp.gov.uk> \*<sup>1</sup>

**3** Find out more information under "Cancelling or ending a Lasting or Enduring Power of Attorney" on the DirectGov page at [www.direct.gov.uk](http://www.direct.gov.uk) \*<sup>1</sup>

**4** Find out more information under "Cancelling or ending a deputy's responsibilities" on the DirectGov page at [www.direct.gov.uk](http://www.direct.gov.uk) \*<sup>1</sup>

**5** A deputy's appointment can be revoked at any time by the Court of Protection.

\*<sup>1</sup> See our useful links page at [www.hsbc.co.uk/thirdparty](http://www.hsbc.co.uk/thirdparty)

\*<sup>2</sup> See our Third Party Access pages for explanation of other types of access at [www.hsbc.co.uk/thirdparty](http://www.hsbc.co.uk/thirdparty)

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