

Attorney Duty Overview:

A quick guide to your responsibilities as an LPA Attorney

You have been chosen as an Attorney: someone trusted to step in and make decisions if the donor cannot make them themselves. This is an important legal responsibility. Your role is to support the donor's wishes, protect their wellbeing, and act only in their best interests.

Please take a moment to read the responsibilities below. They outline how the law expects attorneys to act under the Mental Capacity Act 2005 and, where health and care decisions apply, the Care Act 2014.

1. Best Interests First

You must always act in the donor's best interests.

This includes:

- Respecting their wishes, values and preferences
- Considering what they would choose
- Avoiding decisions that benefit others over the donor

2. Presume Capacity & Support Decision-Making

Under the Mental Capacity Act (MCA), you must:

- Assume the donor can decide unless they clearly cannot
- Help them make decisions for as long as they're able
- Step in only when they lack capacity

3. Health & Care Decisions (Care Act 2014)

If you are a Health & Welfare Attorney, decisions must reflect the Care Act. This means:

- Promoting wellbeing, dignity and personal choice
- Involving the donor whenever possible
- Choosing the least restrictive option

4. Accountability & Good Record-Keeping

You are legally accountable for decisions made on behalf of the donor. You should:

- Keep basic notes of key decisions where capacity is lacking
- Be ready to explain how choices reflected best interests
- Keep finances separate and never for personal gain