



ATTORNEY INFORMATION

The Attorneys under the LPA must follow the five **core principles** as outlined in the Mental Capacity Act 2005

1. They must assume that the donor can make his or her own decisions unless they establish that he or she cannot do so.
2. They must help the donor make as many decisions on his or her own and only treat him or her as unable to make a decision if all practicable steps to help him or her have not succeeded.
3. They must not treat the donor as unable to make a decision because he or she wants to make an unwise decision.
4. They must make decisions and act in the donor's best interests when he or she lacks capacity to make a decision.
5. Before making the decision, they must consider whether they can make the decision or act in a way that does not restrict the donor's rights and freedom but still is in the donor's best interests. In deciding what is in the donor's **best interest** the attorney(s) should consider all the circumstances he or she is aware of or what it is reasonable to have regard to, and in particular they should:
 - Not make an unjustified decision based on the donor's age, appearance, condition or behaviour;
 - Consider if and when the donor may recover capacity to make the decision;
 - If reasonably practicable, involve the donor in the decision-making process;
 - If reasonably ascertainable, consider the donor's views, including any written statement;
 - If practicable and appropriate, take into account the views of carers, those interested in the donor's welfare, any other attorney(s) acting under the LPA and any deputy appointed by the Court of Protection;
 - If the decision to be made relates to life-sustaining treatment, the attorney(s) should not be motivated by a wish to bring about the donor's death.

The Attorney(s) must have regard to the Code of Practice*, which provides guidance to assist him or her in decision-making. Failure to follow the code may be taken into account by a court or tribunal, where relevant. This is most likely to be within the court of Protection, which is able to remove an



attorney if it is satisfied that the attorney has behaved, is behaving or proposes to behave in a way that is not in the donor's best interests or beyond the scope of the authority.

*The Code of Practice is available on the internet at <https://www.gov.uk/government/.../mental-capacity-act-code-of-practice>