



WHAT IF YOU DO NOT HAVE A PROPERTY AND FINANCIAL AFFAIRS LPA – DOES IT MATTER?

EXAMPLES

FINANCIAL ABUSE

Mrs L, a widow in her eighties was befriended by a local man who offered to get her shopping for her. He was very helpful and although she was cautious, he soon earned her trust and he began to do other things for her including carrying out work in her home. Some time later she realised, after confiding in a friend, that the man was overcharging her not only for the work he was doing but also for the shopping and because she had trusted him with her debit card he had taken cash from her account on a regular basis. He had taken over £50,000 over a two year period.

The money was never recovered as it was not possible to prove the theft. The lady then appointed two Attorneys to manage her affairs under an LPA which was registered with the Office of the Public Guardian. They keep records for her and provide receipts for all payments made. They check that her bills are paid by direct debit and that no unauthorised payments are made out of her bank account. If she wants to purchase something or have work done she asks them for their help and advice. They have not taken away her independence, in fact by being Attorneys for her they have enabled her to remain independent and safe.

Good Attorneys can be family members, friends or solicitors or a combination of these.

SCAMS

AB was a widower and a retired doctor. He had been a GP with responsibility for the welfare of his patients over a career that had lasted more than 40 years. He had made decisions which had saved lives, he was well loved and respected and regarded himself as a careful and prudent family man. He considered making an LPA but decided he did not need it. He had two adult children who were hard working and busy with their careers and their young families. He did not want to trouble them and appoint them as his Attorneys - he felt sure he could manage his own affairs as he had always done in the past.

AB was caught by a scam. He was targeted like many older people. He was informed by post that he had inherited money - a considerable amount of money. He

was required to transfer money to a Canadian bank account to pay the tax on the inheritance and then the funds would be released. He didn't tell anyone, he transferred the money. Then he was asked for more – good reasons were always given and he received telephone calls explaining these. At one point his bank telephoned him as they were alerted by the Police that the recipients of these funds were on the Police list of fraudsters. However AB believed it was true and refused to stop the payments. Eventually, when he finally told his children, he had lost his life savings. He was also a broken man. None of the money could be recovered.

Good Attorneys will not stop you from managing your own affairs, they are there for you to talk to, to support you, to give you confidence so that you can enjoy your savings and your independence.

NO ATTORNEY? THE COURT WILL APPOINT A DEPUTY

CD is a lady who no longer has the mental capacity to manage her own affairs. She has had a long and happy marriage to her second husband and she has two adult children by her first husband. As she did not make an LPA (Property and Financial Affairs) her husband applied to the Court of Protection to be her Deputy. The Court granted the Order. This gives him the power to manage his wife's financial affairs.

Under a Deputyship Order the husband had to pay for the Court Application and the Court Fee which has cost him and his wife over £700. Deputies have to be supervised by the Court of Protection and fees are payable every year to the Court for this supervision. The fees depend on the level of supervision. They range from £0 to £800 per annum.

In this case CD's adult son has decided to challenge the Deputyship Order on the basis that his step-father is elderly and not capable of managing his mother's affairs and he wishes to be appointed in place of his step-father. The concern in the family is that the step-son wishes to control the money which is being spent on his mother and step-father in order to preserve his inheritance. The cost of these proceedings (solicitors have been instructed by both CD and her husband and the step-son) will be several thousand pounds. Some if not all will have to be paid from CD's savings.

CD could have appointed her husband as her Attorney when she was well enough to do so and consequently saved a considerable amount of money and prevented the anguish which the family are now going through, particularly CD's husband.

Good Attorneys can be your spouse and/or your children but remember that there is technically a conflict of interest if you appoint your children (the more that is spent on you the less there is for them later). If you wish to appoint your children, it is often advisable to appoint someone with your children to ensure an independent point of view.

THE POWER OF A PROPERTY AND FINANCE ATTORNEY

A Property and Finance Attorney can support you and act on your behalf if you ask him/her to do so. You might find it helpful to use your Attorney to consult with but remember that your Attorney must only do what you authorise them to do.

If a time comes when you cannot manage your affairs personally, then your Attorney has the power to manage all your property and financial affairs but he/she must do so in your best interests. The Attorney must always keep your money in your name and not add it to his/hers. Your Attorney must not make gifts on your behalf without the

permission of the Court. It is important that your Attorney understands this and also understands the seriousness of being in breach of these procedures - particularly of misappropriating your money.

A Lasting Power of Attorney is a powerful document, make sure you appoint **Good Attorneys**. Take advice on this if you have any concerns.

ANY QUESTIONS?

If you have any questions or would like to know more about Lasting Powers of Attorney, please contact us and ask for our **Private Client Department**. We will be very pleased to help. There is no charge for answering your questions.

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