

Why every adult should have Lasting Powers of Attorney...



You would like to think that if a loved one lost mental capacity – the ability to make their own decisions – perhaps through an illness, accident, dementia or a stroke, that their family would naturally be able to look after their interests. The reality is very different...

Unless you set up the right provisions while you can make your own decisions, if you lose this ability the Government’s ‘Court of Protection’ will freeze all your assets – including joint and business assets – and they, rather than your family, will decide what your money can be spent on, where you should live, and even what levels of treatment you should receive.

Your family must apply to the Court, to be appointed to act on your behalf as their ‘Deputy’. It is by no means guaranteed they will be appointed, as the Court will investigate the full background of your loved ones to decide whether or not they consider them ‘fit to run your affairs’. If not, the Court will make its own appointment – which could be a complete stranger.

Once appointed, the deputy is answerable to the Court, who charge an annual fee to supervise their activities. The Court maintains control of the client’s finances, which means deputies must get authorisation for decisions they make on your behalf, even to pay expenses such as household bills. And for every decision the Court makes, it charges an additional fee... And all this continues until you either recover, or die.

The Court hears over 23,000 cases a year, with no right for families to appeal against its decisions. Over 53,000 mentally impaired ‘clients’ are currently registered with the Court, and they had no choice in the matter. The Court has taken control of more than £4 billion of their assets against the wishes of their families, even forcing them to pay to access their own funds in joint bank accounts.

You could be forgiven for thinking the Court of Protection’s primary role is to protect you from your family, in order to protect itself – from you recovering and suing it for letting your family spend your money! Certainly the families whose lives have also effectively been taken over by the Court of Protection, see it as a cruel, intrusive, expensive, bureaucratic nightmare. Yet all this can be avoided very easily...

Lasting Powers of Attorney (LPAs) are documents you make while you have mental capacity; to appoint people – your ‘Attorneys’ – to manage your ‘property & financial affairs’, and your ‘health & welfare’, should you become unable to make decisions yourself.

Traditionally people think of LPAs as being for old people suffering from dementia, but they should in fact be a very serious consideration for every adult.

Many LPA’s are drafted for younger people – those who own property, or are married or have children, or who run their own business. They realise that if they had a life changing event – which could happen to anybody at any time – they might live for another 30, 40, or 50 years... And without LPAs in place, their family would have to report to a secretive Court, who will charge them potentially thousands of pounds a year for making decisions that they would otherwise be doing as a matter of course.

The costs incurred dealing with the Court of Protection on an annual basis, are far greater than the one-off costs for drafting and registering Lasting Powers of Attorney. Unfortunately most people just don’t know about them – until it’s too late...

Heir Tight Wills & Estate Planning Ltd are specialists in helping people put in place robust estate planning provisions; including Lasting Powers of Attorney, and up to date, carefully considered, professionally drafted Wills. 



Rachael Rodgers

For a complimentary review of your Will and estate planning provisions to ensure they are fit for purpose, contact Rachael Rodgers of Heir Tight Wills.

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