

**Gaye  
Illsley**

## **Lasting Power of Attorney**

- Who am I?
- What is an LPA?
- What is an EPA?
- LPA refund?

# Who am I?

- 30 years working in IT
- Spent 2 years caring for our mother
- Gave up full time work at 50
- Now semi retired
- Providing technology and services to help families care for loved ones
- u3a member
- Charity work, Dementia Action Alliance



# Dementia Action Alliance





# Why?



## Why do I need an LPA?

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- I have a will so don't need an LPA
- I have added my children to my bank account
- How will the banks find out if mental capacity is lost?
- I don't want to lose control of my affairs
- I will wait until I need it

## Sue – half sister



- Early onset dementia in late 50s
- Advanced dementia – 5 years in care home
- LPAs in place
- Able to sell home to pay for care
- Able to move mum closer to son

# Lasting Power of Attorney

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‘To record your wishes for the future and choose in advance those that can make decisions on your behalf’.

Those persons must always act in your **best interest**

- The mental Capacity Act 2005 created the LPA
- In October 2007 the LPA replaced the EPA

4 pages (EPA) became 40 plus pages (LPA)

# LPA Financial decisions

Examples of an Attorney's powers include:-

- **Managing your bank accounts**
- Claiming and receiving monies
- Dealing with your tax affairs
- Paying your bills and all medical and care costs
- Buying, selling and managing property
- Making gifts and presents on your behalf



## **Myth**

I can simply add my spouse or children to my bank accounts, as a joint account holder would just carry on as normal in the event of my mental incapacity.

## **Reality**

Banks are guided by the British Bankers' Association to freeze both solely and jointly held accounts where one account holder loses mental capacity.

## LPA Health and Care

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Examples of an Attorney's powers include:-

- **Deciding where you live and with whom**
- Agreeing your care and medical treatment including life sustaining treatment
- Arranging your social activities and holidays
- Making decisions about your diet and dress

All these decisions and more can be determined by you in advance

## **Myth**

If anything happens to me and a decision needs to be made about life-sustaining treatment, the doctor will automatically follow the wishes of my next of kin.

## **Reality**

Only through a Lasting Power of Attorney can you give the people you trust the right to make choices about your health and welfare, including the ability to refuse life-sustaining treatment if you wish.

## No LPA - Deputyship?

Potential loss of control over joint and single bank accounts. No control over where you live and with whom.

- Application for Deputyship to the Court of Protection
- Can take up to 1 year - £5,000 - £8,000
- On going annual fees
- Loss of privacy
- Unnecessary stress for loved ones

# Reader's Digest

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## **Myth**

If I suffer an accident or illness, my spouse or children will automatically be able to take over the running of my affairs as my next of kin.

## **Reality**

Your spouse or children have no automatic right to act on your behalf. Without a Lasting Power of Attorney, they will be required to apply to the Court of Protection to be appointed as your Deputy – a long, complex, costly and intrusive process.

# Reader's Digest

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## Myth

When creating a Lasting Power of Attorney, it's best to appoint my spouse and children to act together jointly.

## Reality

Many poorly advised individuals have fallen into this trap. Appointing family jointly means they must act together in all matters, rendering the Lasting Power of Attorney useless when one of the appointed family can't act – incapacity or death is not an excuse!

# Enduring Power of Attorney

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## EPA facts

- Can only be registered by Attorneys after loss of capacity
- No alterations allowed
- Can not be used before capacity is lost
- Does not cover Health and Welfare

All relatives including nephews, nieces, uncles, aunts and first cousins can be involved

**THEY CAN ALL OBJECT**

# Options to put LPAs in place?

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- DIY
  - Cheap! £82 per document
  - 40 page document, 56 page guide
  - Fail the registration process
  - Documents can fail to work when needed
- Solicitor
  - Expensive
  - Generalist rather than specialist?
- 3<sup>rd</sup> option
  - Specialist
  - Fixed price – 50% of competition



## Case study – Mrs X

- GP referred to memory clinic – recommend LPA
- Referral from Age UK for ‘tea & chat’
- Met with mother & son explained why important and all the options
- 4 on site visits
- Document constructed differently due to discussions
- All family members fully briefed and in agreement
- Over 30 communications with family
- By the time LPAs were hand delivered bank account had been frozen!

## Case study – Mr X

- No LPAs
- Developed dementia
- Own house, can't sell or access funds
- Social services making decisions on where he lives
- Moved to a very poor care home miles away from friends and family, staff poorly trained
- Family & friends battling with social services to get him moved, constant complaints
- Eventually, 6 months later got him moved to a better home closer to friends and family

A Lasting Power of Attorney is often likened to an insurance policy – you hope you'll never need it, but your family will be very grateful for your foresight if you do. It's the only way to have your say about who you trust to manage your affairs and make things as simple as possible for your loved ones.

# Tea & chat?



## LPA/EPA registration refund?

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- Registered between 1<sup>st</sup> April 2013 & 31<sup>st</sup> March 2017
- Refund per document of £37 to £54
- Claim online or by phone, need donor's bank account details and copy of LPA/EPA
- [www.gov.uk/power-of-attorney-refund](http://www.gov.uk/power-of-attorney-refund)
- 0300 456 0300 (choose option 6)



# Eileen Ash - 107





# Questions?

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