

Why an LPA?

Case studies demonstrating the importance of an LPA

A Lasting Power of Attorney (LPA) gives an individual/s (your Attorney/s) the legal right to look after your financial affairs or health and welfare if you can't or don't want to.

However, what does this mean in practice? What are the issues if you don't have one?

The case studies below give you some real life examples of when an LPA is needed and what the consequences are if one is not in place.

Retiree with pension drawdown arrangement

Martin was retired and had an income drawdown arrangement in place, with £250,000 invested.

Unfortunately, he lost mental capacity and was no longer able to manage his own affairs. In order to pay for his care, Martin's wife Mary needed to increase the drawdown amount currently being taken. However, Martin did not have a Lasting Power of Attorney (LPA), and therefore Mary had no legal rights to change the details of the drawdown.

In order for Mary to make decisions on Martin's behalf, she now needed to apply to the Court of Protection to seek a Deputyship Order. The application could take over six months to complete and, during this time, no one else would have the authority to make changes or access the additional funds required to pay for Martin's care.

Not only was applying for a Deputyship a costly and lengthy process, Mary also ran the risk that the investment markets would be volatile during this period, reducing the value of the pension pot available.

A Business Owner

Claire, 52, had built up a successful business employing 24 staff, who were all reliant on her for their wages to pay their mortgages, bills, etc.

Claire had never bothered with key protection documents such as an LPA as she was single and thought 'why would she need one?' as there was nobody dependent on her.

However, after an unexpected stay in hospital, she realised that the opposite was true. Not only had it been a complete nightmare for her family trying to deal with things on her behalf, but had she not got out of hospital when she did, there would have been nobody to pay her staff their wages!

She therefore immediately sorted things out by putting in place LPAs for her family to deal with her personal finance and health decisions, and an LPA giving her trusted accountant the power to deal with business decisions, if she was unable to.

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Care of a spouse

Cynthia and Clive had been married for over 45 years. Clive's health had deteriorated considerably recently and they had been advised to put in place LPAs for health and welfare. They could not see any real benefit in this as they both trusted each other to make the right decisions; however, they thought they had better follow the advice.

They asked Pavilion Row to help them with this as they had previously created their Wills through us. Within one week of receiving the registered LPAs back from the Office of the Public Guardian (OPG), we had a call from Cynthia.

Clive had had a stroke. Social services were insisting that he was moved to a nursing home, but Cynthia wanted to care for him at home. We sent her a certified copy of Clive's LPA and she was then able to demand that he got the right care.

Sadly, Clive died six months later, but at least Cynthia was comforted by the fact that he was able to spend his last months in his home with her receiving the care that he would have wanted. Without an LPA, she would have spent the six months fighting with social services.

A vulnerable person – family dispute

Mrs Smith decided not to bother putting an LPA in place when she arranged her will, as she had always been in good health and couldn't foresee a time when she would no longer be able to make her own decisions. Unfortunately, she later developed dementia and, after a fall, had to be admitted to hospital.

When the time came for her to be discharged, Mrs Smith's son said he wanted to move in with her to care for her.

Mrs Smith's daughter wasn't happy with this proposal. She didn't think her brother would be able to care for their mother properly. In fact, she believed her brother, who had never been good with money, was more motivated by the fact that he could live in their mother's house rent free than by a desire to care for her.

In the end, Mrs Smith's children had to apply to the Court of Protection for a Deputyship Order. Mrs Smith's daughter was eventually granted the authority to make decisions for her mother, but the process was expensive and time-consuming, and very stressful for both Mrs Smith and her daughter.

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A young Couple

Paul and Jane had been together five years. Three years previously, Jane had given up her job to look after their two small children and now Paul dealt with the finances.

During a holiday in France, Paul had a horrible skiing accident, which left him incapacitated for three months, one of which was in France. For the three months, Jane had no access to any of their finances at a time that she needed the money more than ever.

In the end, she had to resort to borrowing money from friends and family.

They had briefly discussed setting up LPAs when they had written a Will following the birth of their children. However, they had decided that it was not for them. They were young – why spend the money on something that they did not need!

Once Paul had recovered, one of the first things they did was put LPAs in place.