



The impending 'incapacity crisis': How LPAs can help

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A recent report by Solicitors for the Elderly (SFE) has given a stark warning of an impending 'incapacity crisis', with a growing number of people losing capacity, primarily as a result of dementia, and many of us also failing to plan ahead for this eventuality.

While you may have considered making a Will, it is also important to think about what would happen if you became unable to manage your own affairs.

A Lasting Power of Attorney (LPA) is a document which allows you to appoint "attorneys" to act on your behalf in the event that you cannot make decisions for yourself.

It is important for LPAs to be considered not only for yourself, but also to ensure that your loved ones are able to look after you properly in the future and have the appropriate legal authority to do so.

Types of LPAs

There are two different types of LPAs that a person can put in place for themselves. The first covers property and financial affairs and the second is for health and welfare.

Many people consider their financial affairs to be more important than their personal welfare. However, I cannot stress enough that equal weight and importance should be given to both types of LPA to ensure that your attorneys can make all the necessary decisions they need to, in order to act in your best interests. Any decisions about your medical treatment or your care are just as important as decisions about your financial arrangements.

Planning for the future

Whilst talking about these matters (particularly health and welfare issues such as end of life treatment)

may be very uncomfortable and upsetting, it is important to ensure that your wishes are taken into account. None of us know what is going to happen throughout our lifetime, but the provision of the right legal advice well in advance means that you can take control of those future decisions and specify to your loved ones exactly what you want. Through early planning, you can communicate your wishes to your attorneys about what you would or would not like them to deal with for you (within the scope of what the Office of the Public Guardian allows). It also gives you the opportunity to consider and select who you trust and would want to act as your attorney, should you develop dementia in the future.

Authority to make critical decisions

The SFE report has revealed that 12.8 million people over the age of 65 years old are at risk of developing dementia in their lifetime, yet there are only 928,000 LPAs registered with the Office of the Public Guardian. It is believed that by 2025, 13.2 million people will be at risk, but only 2.2 million Lasting Powers of Attorney will be in place.

Many people do not understand that your family does not have an automatic right to make health and welfare decisions for you. They may discover that critical decisions are taken out of their hands. Where future plans have not been put in place, this responsibility may fall to a doctor, who may not make the choices you would have wanted.

This can create a good deal of distress for family members in highly emotional situations when they are left uncertain about what their loved one would have wanted.



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Recommendation

The hope for everyone is that their LPAs would never be used or needed during their lifetime. However, our advice would be to treat the set up of LPAs as an insurance policy that may never be required but is always there just in case.

For help and advice on putting Lasting Powers of Attorney in place, please get in touch with Amy Floater by calling 01482 325 242 or emailing amy.floater@andrewjackson.co.uk

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