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Clarion

Local solicitor defends lasting powers of attorney



- **Local Chartered Legal Executive and Legal Director of Clarion solicitors, Clare King, has defended lasting powers of attorney**
- **This follows comments from a former senior judge that power of attorney orders are open to financial abuse**
- **But national group Solicitors for the Elderly says with the right advice, powers of attorney can act as important safeguards**

Clare King, local Chartered Legal Executive and Legal Director of Clarion solicitors based in **Leeds, West Yorkshire** has defended lasting powers of attorney (LPA) after Denzil Lush, the former Senior Judge of the Court of Protection, warned they may leave elderly people open to abuse.

An LPA is a powerful legal document that allows a person to appoint trusted individuals to make important decisions about care and finances on their behalf, in the event of a loss of mental capacity through an accident or illness such as dementia.

In the foreword to a new book on the subject, Mr Lush raised concerns about the “lack of transparency” in how appointed attorneys manage older people’s finances. The former judge went on to criticise the Ministry of Justice as being “disingenuous” in its promotion of the legal document.

However, Clare King - a member of national organisation Solicitors for the Elderly - said LPAs are effective safeguards when created responsibly:

“Senior Judge Lush’s comments have given rise to fears that LPAs are a direct avenue for financial abuse. However, his comments must be put into context, as his 20-year career at the Court of Protection will have presented him with the very worst cases of financial abuse.

“An LPA can be a positive and effective legal tool, which ensures your wishes are respected should you ever lose capacity. Senior Judge Lush’s comments should highlight the clear need for professional advice when considering powerful legal documents of this nature.”

Top tips on drafting a lasting power of attorney

Solicitors for the Elderly (SFE) is an independent, national organisation of over 1,500 lawyers, such as solicitors, barristers, and chartered legal executives, who provide specialist legal advice for older and vulnerable people, their families and careers.

SFE has been campaigning to ensure essential checks and controls are conducted when making an LPA. Here are SFE’s top tips to ensure your lasting power of attorney is effective, legally robust and safe:

Plan early – While you have capacity, it’s vital that you get your affairs in order and choose the best people to manage your affairs, in case of an accident or illness. You can’t appoint an attorney once you lose capacity.

Choose carefully – Think carefully who you want to appoint as your attorney and have an open conversation with them so they understand your wishes and what their responsibilities will include. Consider appointing more than one person as your attorney so they can share the responsibility.

Consider appointing a professional – A family member might not always be the best person to act as your attorney. Instead, you can appoint a professional such as a solicitor. They can act as a neutral third party and make unbiased decisions that are in your best interests. Bear in mind this usually involves a cost.

Think about different circumstances – Consider how you would like your attorney to manage your property and financial affairs in different situations. For example, are you happy for your property to be sold to pay for your care costs?

Address the difficult questions – Your attorney might have to make difficult decisions about your health and welfare. If you have specific wishes around your care plans, medical treatment, or end of life wishes, make sure you discuss this with them and make your choices clear in your document.

Seek professional advice – Shop-bought and online LPA kits may be suitable for those with very straightforward financial situations or with considerable legal experience, but for most people, seeking professional legal advice is the best way of ensuring that an LPA is effective, legally robust and safe.

Keep your plans current – Make sure you keep your LPA updated if your circumstances change. Your choices around the people you want to be responsible for your finances and wellbeing may change, such as following a marriage or divorce, when children reach adulthood, or if parents pass away.



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To find out more about LPAs and and to find a solicitor near you, go to: <http://www.sfe.legal>