

Who might need a Lasting Power of Attorney?

Mr A's Situation

Mr A is in his early 80s, retired and lives on his own in the family home, having sadly been widowed just over a year ago. He has two grown up children, with whom he has a close relationship and they often come to visit and bring with them his six grandchildren. He finds life hard without his wife, having been happily married for 45 years. He had a successful career in the city himself and also inherited money when his parents died so he has never had to worry financially. When his wife was alive they took on the 'traditional' roles of husband and wife as she stayed at home and brought up the children and he went out to work. He looked after the money, paid the bills and saved for the future and his wife never had to be troubled. He has significant savings and lives off his private pension and the income from his investments.

Mr A is a clearly a bright man and he believes all of his affairs are 'in order'. He re-wrote his will when his wife died and leaves all of his estate to his children in equal shares, with the exception of small legacies for each of the grandchildren. The solicitor briefly mentioned preparing a Lasting Power of Attorney (also known as an LPA), but spoke no more about it once Mr A's wife's estate and will were concluded. Therefore Mr A thought that he did not need an LPA. He thought no more about it. His daughter is now doing her will and her solicitor mentioned LPAs to her. She has now managed to find time to speak to her father about it.

The Advice

Mr A really does need to seriously consider preparing an LPA. It is the only way by which

he can appoint someone to deal with his property and financial affairs if he were to lose mental capacity. Even if his wife were alive, he would still be best advised to do this as she, despite being his spouse, would have had no automatic right to deal with his affairs on his behalf. If he lost mental capacity and hadn't prepared an LPA the effect could be very difficult for his family; cash flow would be very tricky to organise in the short term and the only solution for his family would be to apply to the Court of Protection for a Deputyship order to be able to assist him with his finances. This can be very costly and also time consuming. An LPA is much simpler.

The Outcome

Despite Mr A's strident independence and the fact that his children sometimes find it hard to talk to their father about getting older or, even harder, the possibility of losing mental capacity, the family have come to an agreement. Mr A has appointed his children along with a long time family friend as his attorneys. He has given them detailed advice in his LPA regarding how he would like them to look after his money, but has also said that he trusts them to make the right decisions in light of what may be suitable for him as time progresses.

The children have had their minds put at rest and Mr A is focussing on getting the most out of his retirement, now that all his affairs truly are in order.

This case study is fictional and is not intended as, and should not be relied upon or taken as, legal advice. Individual circumstances vary and you should take specific advice on your own situation.