

Are you Prepared for the Unexpected?

It is hard to imagine that we might lose our mental capacity in our lifetime, or what would happen to our financial affairs if we did.

Let's look at the statistics...

There are around 850,000 people with dementia in the UK. This figure is expected to rise to over 2 million in 30 years' time, according to the Alzheimer's Society.

People are more aware of mental illness and appear to be worried about suffering from mental illnesses such as dementia, later in life.

There is a way to plan ahead and ease the potential burden on your relatives should this happen to you.

What can you do?

You can create a Lasting Power of Attorney (LPA). This is a legal document which gives someone you trust the legal authority to make decisions for you in your best interests, should you lose the mental capacity to do so.

There are 2 types of LPAs you can make. One relates to your financial matters and the other relates to your health and welfare.

When should you do it?

You need to set up an LPA when you are still mentally capable, which will be well before you would need it. If you are a fan of contact or high adrenaline sports or activities, you should be seriously considering an LPA sooner rather than later.

What if I don't do it?

If you become mentally incapable and do not have an LPA in place, your relatives or even someone you don't know will have to apply to the Court of Protection for a Deputyship Order to manage your finances in the UK.

This is a long and expensive process and may cause real problems for you if you need urgent financial decisions and action to be taken.

It can take anywhere between 5 to 7 months to obtain a Deputyship Order, which can put a lot of financial and emotional pressure on everyone involved.

Hugo's Story*

Hugo is a keen mountain biker in his early 40's. He has a wife and a young daughter.

Hugo was out riding one day when he collided with a tree. He had serious concussion and was air lifted to hospital. Hugo was in a medically induced coma for 4 days whilst the doctors assessed the swelling in his brain.

When Hugo came out of the coma, he had to remain in hospital for month and was not able to deal with any financial decisions in this time.

Thankfully, he and his wife prepared Financial LPAs after their daughter was born. At this extremely stressful time, Hugo's wife, as his main Attorney appointed under the LPA, was able to access his UK bank accounts to pay the bills concerning the renovation of their holiday home on the Devon coast.

Hugo's wife was also able to make decisions for his medical decisions whilst he was in a coma, as she was appointed as his main Attorney under his Health and Welfare LPA.

Fortunately, Hugo was only unable to manage his finances and health decisions for a relatively short time. Hugo and his wife were relieved that they had put LPAs in place.

Mary's Story

Mary lives in London and is in her late 70's. She sadly lost her husband a year ago.

Mary's children who live in Zurich were concerned that she was becoming more and more forgetful. Mary agreed that she should have an LPA, just in case she lost her mental capacity to manage her money.

Mary wanted her 2 children to be Attorneys under both a Financial LPA and a Health and Welfare LPA.

As Mary's mental capacity was 'borderline', it was necessary to obtain a doctor's report to assess her mental capacity. The doctor reported that Mary had vascular dementia and that unfortunately, she was no longer able to prepare an LPA. The doctor felt that Mary lacked the necessary understanding to prepare an LPA.

The only option for Mary's children to help her was to apply for a Deputyship Order with the Court of Protection in the UK.

Her 2 children applied jointly to the Court of Protection. They found the application lengthy, expensive but unavoidable in their mother's situation. They received the Deputyship Order after 6 months. Over this period of 6 months, Mary became more forgetful and it was decided that

she should move into a care home. As the children did not yet have any authority to make decisions, this was very stressful as they were trying to liaise with Southwark Council about the care home fees with no idea about when realistically they would be able to pay them, as they were waiting for the Deputyship Order.

They had to make a number of trips to the UK which was stressful as they had young families and careers of their own. There was also the matter of Mary's house which needed to be sold.

Mary's children wished that Mary had made an LPA in the years before when she still had mental capacity, as the LPA would have given them the authority to make financial decisions for Mary when she needed it most. Instead they had to go down the Court of Protection route which was lengthy, time consuming and stressful.

Mary's children then prepared LPAs as they thought it was important to have LPAs in place 'just in case'. One of the children commented that she would rather have an LPA and it not be used than have no LPA and have to put her family through the stress of having to apply to the Court of Protection.

A Final Word

Martin Lewis of Money Saving Expert has recently said that he thinks making LPAs is even more important than making a Will.

By doing LPAs now, you are protecting your family from unnecessary stresses later on. You can choose who you would wish to be responsible for your finances and health, and they might not be the same people! You can include

restrictions in your LPAs, or ask that all Attorneys agree on a particular decision, such as selling your home.

At English Wills and Probate Switzerland – EWPS, we believe LPAs are vitally important as we are living longer these days. If you are not sure if you need an LPA, talk to us, we're here to help.

We think it's always better to be prepared for the unexpected.

Victoria McLagan is the founder of English Wills and Probate Switzerland – EWPS. Victoria was entered on the Roll of Solicitors at the Law Society in England in 2005 and is a qualified Will Writer and member of the Society of Trust and Estate Practitioners (STEP).

Victoria advises UK clients in Switzerland and France on Wills, Powers of Attorney and Elder Care Law as well as Probate and Estate Administration.

EWPS offer free consultations on all of the above. You can contact EWPS on info@ewps.ch or by website www.ewps.ch

* These stories are to illustrate scenarios in which clients can benefit from preparing LPAs before losing mental capacity.