

For Immediate Release

19th January 2010

Justice Minster urges action to protect personal financial affairs

The Court of Protection is facing a barrage of criticism for its red tape and inefficiencies, which include relatives waiting up to six months to be given control of financial affairs.

Around 1500 complaints have been received in the 18 months since the Court of Protection - which is responsible for managing the affairs of people who have become mentally incapable - was set up.

And now the public is being advised to take action to protect themselves against any future mental illness or accident, by appointing someone to look after their financial affairs in advance.

In one example, a wife had to get the Court's permission every time she wanted to sign a cheque for more than £500 after an accident left her husband in a coma; in another a brother was told it could take 21 weeks and incur a fee of £400 to apply for funds for increased nursing home fees.

In an interview on the BBC's Today programme to discuss the complaints, Justice Minister Judith Prentice said she was encouraging solicitors across the UK to advise clients to make Lasting Powers of Attorney (LPAs) - a document appointing somebody to look after your affairs if you become mentally incapable.

Latest statistics show that around two million people in England and Wales lack the mental capacity to make decisions for themselves, and 15,000 people under the age of 65 have dementia.

If someone has not made an LPA and they become mentally incapable, their financial and personal affairs must be managed by the Court of Protection, through a deputy appointed by the Court. Usually the deputy is a family member, but it's that procedure which is under fire – for being long-winded, complex, expensive and inappropriate for most families.

Having an LPA in place avoids the delay, expense and stress of applying to be appointed deputy by the court. Most importantly it gives the named deputy the authority to act without referral to the Court of Protection.

There are two types of LPA: a Property and Financial Affairs LPA, which is used to appoint someone to look after your finances; and a Health and Welfare LPA, which is used to appoint someone to deal with issues such as where you live, medical treatment, the level of care you require, and so forth.

As with any legal document, the LPA is only valid if the person signing it is capable of understanding what they are signing and its consequences, so it must be put in place while a person is still capable.

The LPA must then be registered with the Office of the Public Guardian, which is the administrative arm of the Court of Protection, before it can be used, and the registration procedure can take two months or more – another of the sources of complaint.

Said Clare Wills, Head of Wills & Probate at Vanderpump & Sykes Solicitors: “An LPA is just as important as a will. Although we all hope that we will remain mentally fit until the day we die, greater life expectancy means that illnesses such as Alzheimer's are becoming more of a problem. An LPA gives a friend or family member the means to look after your affairs in the simplest and least burdensome way”.

“The alternative is that some unlucky family member will be saddled with dealing with the Courts, producing annual accounts, and paying legal and Court fees until the day you die.”

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About Vanderpump & Sykes: Established since 1899, Vanderpump & Sykes is a well respected North London partnership offering a wide range of legal services to business and private clients.

Vanderpump & Sykes serve clients nationwide whilst retaining strong links with the local community. The friendly and dynamic team are specialists in company and commercial work as well as in the traditional areas of litigation, conveyancing, family, wills and probate.