



Mental Capacity and Powers of Attorney

Bryony Cove
Richard McDermott

25 April 2017

Introduction



Help! – my friend/colleague/client is losing mental capacity

Context

- Demographic shift
- Key issues



Key instruments

- Everybody needs a Lasting Power of Attorney!
 - Ordinary Powers of Attorney
 - Court of Protection Deputyship
 - Enduring Powers of Attorney ("EPAs")
- Choice of attorney(s) is crucial



LPAs – the mechanics

- Property and financial affairs
- Health and welfare
- Advance Decisions (aka Living Wills)



LPAs – further mechanics

- Independent certificate of capacity
- Substitute attorneys allowed
- Persons to be notified
- Registration (incl. likely timescale)



Image from Pinterest

LPA forms

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/600964/LP1H-Create-and-register-your-lasting-power-of-attorney.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/600963/LP1F-Create-and-register-your-lasting-power-of-attorney.pdf

Health warning: online forms



When attorneys get it wrong

- *Investments/gifts*
- *Welfare issues*



Outside forces

- Second thoughts
- Death
- Incapacity of an Attorney or Deputy
- Family and financial issues
- Publicity
- Communication and teamwork



Conclusions



**KEEP
CALM**

AND

**DON'T JUMP TO
CONCLUSIONS**

?

Questions?

?

?

?

?

?

?

?

?

?

?

?

?

?

?

?

?

?

?

?

We would be delighted to hear from you

Should you have any concerns about your own clients or any further questions, please email the core team and we will be in touch.

Core team:

mentalcapacitygroup@farrer.co.uk

Bryony Cove

020 3375 7213

bryony.cove@farrer.co.uk

Richard McDermott

020 3375 7229

richard.mcdermott@farrer.co.uk



Other useful contacts

Emma Gaudern – Solicitor and Managing Director, EMG Solicitors

Emma.Gaudern@emgsolicitors.com

0191 731 4612

Solicitors for the Elderly

www.sfe.legal/public/search

Action on Elder Abuse

<https://elderabuse.org.uk/England>