

Your Legal Questions

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Q My friend and his wife have recently made Lasting Powers Of Attorney (LPA) for property and finance whilst they are both still perfectly capable of dealing with their own affairs. They are urging me and my partner to do likewise – they are not cheap so what's the point?

A You can only make a LPA whilst you are able to understand the nature and extent of the authority that you are giving to the person(s) that you are choosing to help you look after your Property and finances (your Attorney(s)), hence the need to plan ahead and make the arrangements whilst you can. I would imagine that is what your friend has done and why he is suggesting that you follow his lead.

Loss of capacity is not restricted to the elderly. Any one of us could suffer a debilitating accident or illness that robs us of our ability to manage our own affairs. If this happened to you just think for one moment how problematical this could be for your partner.

It would not be possible to access any assets that are held in your sole name. The situation can be just as dire where assets are held in your joint names. One of two property owners is unable to deal with the property alone if the co owner is incapable of acting. In the case of a joint bank account, if the Bank or Building Society is aware that one of the joint account holders has become incapable of understanding or managing the account, it could freeze all transactions and only release funds once an LPA, a valid Enduring Power of Attorney or a Deputyship Order for the person who has lost capacity, is produced. This would mean that the person with capacity is also unable to get access to the funds in the account!

LPAs are rather like an insurance policy – arguably, expensive if never called upon, but worth every penny should the need arise to rely upon them.

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