

## Power of attorney chaos hits elderly

Britain's Kafkaesque power of attorney system is making life worse for the elderly.

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By Teresa Hunter

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Financial arrangements for the elderly are in disarray because banks are routinely refusing to accept power of attorney instructions or deal with their affairs sensitively, according to leading lawyers.

A Kafkaesque new system, supposed to make it easier for younger family members to act for elderly relatives, has triggered widespread confusion leading to delays, frustrations and unpaid bills.

The obligation for all new-style powers of attorney to be registered with the Office of the Public Guardian (OPG) has triggered a deluge of applications leading to delays.

But when that process is complete, banks seem incapable of carrying out the instruction, leading to bounced care or nursing home debits, causing great distress to the resident.

Branches won't accept forms, letters are not replied to and telephone callers are passed endlessly from department to department. Some won't allow an attorney to operate the account over the internet, while others still require the elderly account holder to notify them of certain transactions, such as a change of address.

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["I'm a solicitor and I can't sort it out. What hope has anyone else?"](http://www.telegraph.co.uk/finance/personalfinance/8305428/Im-a-solicitor-and-I-cant-sort-it-out.-What-hope-has-anyone-else.html)

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Caroline Bielanska, the chief executive of Solicitors for the Elderly, said: "We are seeing huge numbers of problems. The banks' processes simply don't work when it comes to dealing with vulnerable customers and powers of attorney.

"They are obsessed with departmentalisation, which is fine for simple banking but completely breaks down for anything else.

"None of the departments speak to each other and neither do their computers.

"So you get nonsense letters. You inform a bank that a customer has had a stroke and is incapacitated, so they send out a letter saying, 'Will you please come into the branch, so we can sort these issues out'."

Andrew Kidd, a solicitor at Silverman Sherliker, agreed that the system was fraught with problems. "Staff are sometimes confused and don't appreciate what a power of attorney is or how it works, which is not

helpful when someone is elderly or vulnerable, and requires sensitive handling," he said.

Difficulties are compounded by two systems of power of attorney being in place.

In 2007, Lasting Powers of Attorney replaced the old Enduring Powers of Attorney, although those with a pre-2007 arrangement continue to be governed by the old rules.

Richard Grosberg, a director of Nelsons in Nottingham, said: "The new system hasn't made things easier. Bank staff are not adequately trained to deal with them and their systems do not allow them to use their common sense."

Nicola Plant of Thomas Eggar agreed. "You find yourself dealing with staff who do not have any information about powers of attorney, but who also lack any capacity to make a sensible decision," she said.

Eric Leenders, executive director of the British Bankers' Association, said: "Clearly, we acknowledge that in some cases something has gone wrong. It is incumbent on individual banks to make sure they have systems in place. Where customers are not getting the level of service they require, they should escalate the situation by asking to speak to a manager."

## What has changed?

Before 2007, an Enduring Power of Attorney (EPA) was a simple five-page document, which individuals could draw up themselves. They only had to be registered with the Office of the Public Guardian if someone's mental facilities were impaired. That remains the case.

However, they did not deal with welfare and health issues, and there were concerns that unscrupulous next-of-kin could defraud vulnerable relatives.

Bank staff frequently didn't understand how they worked and would insist on registration when this was not necessary.

In other cases, the Government was concerned that EPAs were not registered when they should have been.

So, it replaced the old system with a Lasting Power of Attorney (LPA). This is a two-part process with one document covering health and welfare, and another financial and legal matters. Together they run to 23 pages.

The web-savvy can download an LPA form free from the Office of the Public Guardian website, and have a bash at doing it themselves. But the submission must now also include a statement from a certificate provider, who verifies your state of mind and that you are not acting under duress.

Crucially, every LPA must now be registered with the Public Guardian before it can be used. This costs £120 for each part, presenting a husband and wife with a £480 bill they might not previously have faced.

Given the need for a certificate provider, most will now consult a lawyer to prepare the forms, at a typical additional cost of between £400 and £700, pushing the total bill to about £1,000.

Mr Kidd said: "The system is horrendously onerous for the consumer, and for some the cost is prohibitive."

Furthermore, requiring all powers of attorney to be registered triggered a bigger-than-anticipated workload, leading to more delays and frustrations.

The Office of the Public Guardian acknowledges that the process has not run smoothly, but steps have been taken to improve service and reduce waiting times.

A spokesman said: "Between April and November 2010, the OPG received more than 125,600 applications to register Lasting and Enduring Powers of Attorney, an increase of 66pc on the same period in 2009. This large increase in work, and associated delays, led to a rise in the number of complaints."

However, some believe improvements have not gone far enough. Mr Kidd suggests: "The forms need to be simplified and the cost of registration should come down. The solicitors' bills would be lower if there was less for them to do. The Public Guardian needs more resources to speed the process."



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