

# I signed over control — and he sold my house: how power of attorney disputes can tear families apart

Power of attorney disputes can tear families apart and, with our ageing population, the problem is only getting worse

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## **Alan Copson, 86, and his cousin fell out**

Alan Copson wanted help managing his finances. His glaucoma was making it hard to read a computer screen or paper documents, and he was depressed because of his deteriorating eyesight. So, he asked his cousin, Christopher Burgess, if he would look after his bank accounts and pay his bills.

Christopher agreed and the pair found a law firm, Tinklin Springall, in Bromley, southeast London, to draw up a document giving Christopher limited control over some aspects of his finances.

However, the document, called a lasting power of attorney (LPA), gave Christopher complete control of Alan's estate, including his homes in Bromley and Swanage, Dorset. It also meant Alan no longer had access to his bank accounts without Christopher's approval.

Trust between the cousins deteriorated after the LPA was granted in 2010. Alan withdrew his authority in 2013, but by then Christopher had sold the Bromley home — Alan says this was done against his wishes. Some of its contents, including furniture, clothes and heirlooms, had been sold or given away.

Alan, 86, is speaking out to warn others of the pitfalls of giving someone else — even a family member you trust — powers to make decisions on your behalf.

“It seems there is no one who can help you if you sign away the rights to your finances,” said Alan, who used to be a manager at an east London brewery.

Contacted by Money, Christopher denied any wrongdoing, insisting he had acted in Alan's best interests and followed his instructions at all times.

He sold the Bromley property after Alan moved to Swanage to be nearer to his doctor. The money was to be used to cover Alan's care costs. There were two separate independent valuations of the property before it was sold.

The proceeds of the property and contents sales were returned to Alan, although many “worthless” items were discarded or given to charity.

Christopher, 76, a retired management consultant from Egerton, Kent, insists Alan was made aware of the powers he was giving away. “I was persuaded to take on a role, at great personal expense,” said Christopher. “I had a job to do but instead of receiving thanks, I got a lot of abuse.”

## **How did this happen?**

A key issue is whether or not Alan was in a fit mental state at the time he granted the LPA. An individual cannot choose to whom they will grant authority if they are not in a fit state to do so. In such cases, the Court of Protection decides who will manage their finances (see below).

A month before the meeting with Tinklin Springall, Alan had become depressed because of his eyesight problems. He was admitted to a psychiatric ward for a short period, according to Dr David Haines, Alan's doctor for 29 years.

Haines said Alan was able to make his own decisions today, but that this had not been the case after he had left hospital. "I would not have advised him he was fit to agree to a change of will or a lasting power of attorney at that time," said Haines.

The Legal Ombudsman, which investigated the case in 2013, was "severely critical" of Tinklin Springall for failing to keep notes of its initial meeting with Alan and Christopher, when the details of the LPA were supposed to have been discussed.

It said this made it impossible to say for certain how much was explained to Alan before the document was signed. The ombudsman was "unable to say either what Mr Copson's instructions to the firm were, or that the firm advised him of the implications of entering into an LPA".

Tinklin Springall also failed to take proper account of Alan's mental and physical state at the time, the ombudsman said. It pointed out that more than a year passed before Alan received a copy of the document that was legible, given his poor vision, and that it was only after this that he raised complaints. Alan said he had signed the document "on trust".

However, the ombudsman could only order Tinklin Springall to pay £250 for its failings. It could not rule on any alleged actions by Christopher.

Alan has taken the matter to the police and the Office of the Public Guardian (OPG), a government agency that investigates cases of LPA abuse. However, the police said there was insufficient evidence to prove any wrongdoing as he had voluntarily granted his cousin the LPA.

The OPG could not help because Alan was deemed to be of sound mind and could withdraw the authority at any time, which he did.

Tinklin Springall declined to comment.

Jane Whitfield of the law firm Barrett and Co said the case “should act as a warning, not only to members of the public who are considering making an LPA, but also to solicitors advising them and preparing the documents. It is a dreadful situation in which Mr Copson has found himself.”

### **The rise of LPA disputes**

An LPA can assist someone who feels they no longer have the capacity to manage their money. It may also be used by those who move abroad and want to authorise someone to look after their affairs for a certain period.

Applications for LPA have surged as the population ages. Almost 771,000 were granted last year, up from 72,000 a decade ago. About 3.5m are in place today, according to the Ministry of Justice. It receives about 3,100 LPA applications every day.

The OPG dealt with 1,897 “safeguarding” cases in the 12 months to April 2018 — up 50% from the year before.

One law firm, JMW Solicitors, said it had seen the number of LPA dispute cases it is handling double in 18 months.

In one case, two siblings, both with an LPA over their mother’s finances, have argued over whether their mother’s property should be sold or let. This required OPG intervention on several occasions.

In another case, a daughter had suspicions about her father, who was acting as attorney for her grandmother. The daughter believes her

father does not give her grandmother adequate spending money and refuses to buy clothes for her when asked to by support workers. The OPG is investigating.

### **Bills, gifts, savings: what attorneys can and can't do**

There are two types of lasting power of attorney (LPA) in England and Wales — one for health and welfare and the other for property and financial affairs. Each costs £82 to set up. The person appointing the attorney is known as the donor.

A welfare LPA covers decisions about medical care and routines such as washing and dressing.

A financial LPA allows the attorney to make decisions about bills, savings and property, manage the donor's bank account and make gifts on their behalf.

The donor can state exactly how much authority they want to grant and over which aspects of their finances. For example, they may want someone only to look after their shares or an individual investment property.

The attorney does not have to be a relation. Some appoint professional attorneys because they think they are better placed to be impartial.

The attorney must ensure their finances are kept separate from the donor's — and keep records of any decision made on behalf of a donor and the reasons behind it.

There are strict limits on making gifts out of a donor's funds. An attorney can make gifts of a "reasonable amount" to the donor's relations on certain occasions, such as birthdays and weddings. They can donate to charity if the donor previously made such gifts. If an attorney wants to make more extensive gifts, or a significant gift to himself or herself, they must seek authority from the Court of Protection.

Attorneys can claim expenses, including travel, postage and stationery, and hiring an accountant to complete a donor's tax return. Again, clear records must be kept.

### **Misuse of an LPA**

An investigation into possible misuse of an LPA will typically begin when concerns are raised by third parties, such as care homes and local authorities, as well as relations and solicitors.

Concerns should be reported to the Office of the Public Guardian (OPG), part of the Ministry of Justice (find out more at [bit.ly/report\\_attorney](https://bit.ly/report_attorney)).

The OPG can apply to the Court of Protection for an attorney's removal and they can be made to repay money. The court cannot impose penalties or imprison people, but it may work with the police in cases of fraud.

The Ministry of Justice said the LPA system provided "reassurance for people who need it". It said: "Breaches of trust are very rare but we have improved the way we deal with suspected breaches and have increased the number of staff dealing with safeguarding concerns."

If you lose mental capacity without an LPA in place, the Court of Protection decides who should manage your money, known as a deputy. There are about 60,000 registered deputies.