

# Hundreds prosecuted for abusing power of attorney

Jonathan Ames, Legal Editor

March 30 2019, 12:01am, The Times

- [Law](#)



**Alan Eccles, the public guardian, said that most cases involved financial abuse or neglect** BEN GURR FOR THE TIMES

Five prosecutions a week are being brought against people for allegedly abusing powers of attorney over the mentally vulnerable, *The Times* has been told.

The number of people given caring responsibilities under lasting powers of attorney has rocketed, but so too has the number of carers being investigated. More than 2,000 cases are investigated a year by the public guardian for England and Wales for allegations of financial and physical abuse.

Alan Eccles, the public guardian, said that about half of those cases trigger some action and that over the past year about 250 resulted in court prosecutions, most of which were successful.

“The vast majority of concerns involve some sort of financial abuse or neglect,” he said. His office also receives a relatively small number of cases involving allegations of physical abuse.

“Of those cases that we investigate, in about 50 per cent of the time we find no wrongdoing.” He said that his office wanted to be “careful that we do not demonise the majority of family and friends who are doing the very difficult job of caring for a loved one”.

The majority of cases that the office prosecutes involve financial negligence, such as when local authorities report that a person with responsibility has failed to pay care home fees and as a result the vulnerable person faces eviction.

It also prosecutes cases of alleged negligence relating to health or welfare. One example is children who act as attorneys for parents who do not have capacity because of longstanding illnesses, and then insist that the parent should take alternative medicine instead of conventional pain relief despite the objection of doctors.

In those cases, the guardian would apply to the court of protection to get the power of attorney revoked on the basis that the child was not acting in the parent’s best interests.

The number of people in England and Wales registering lasting powers of attorney has increased significantly as the population ages and awareness of dementia and other age-related conditions that affect mental capacity has risen. There were 1 million lasting powers of attorney registered between October 2007 and 2012, when Mr Eccles took up his post, but he confirmed that about 800,000 more had been registered in just the past year.

Mr Eccles, who is to retire this summer, said that his ambition was to make lasting powers of attorney “as well known by the public as driving licences. All adult citizens should consider the appropriateness of whether they need one.

## **Comments**

### **Annette Obrien**

Strange article, beginning with the high percentage of prosecutions for abuse of powers of attorney and ending by suggesting everybody should have one! Did I miss something in the middle?

1 APRIL

Mary Moultrie

consider this article from four years ago. A 32yr old city banker cycling to work, gets knocked off his bicycle and ends up paralysed and in a coma. His wife and three young children to look after and didn’t need to work.

She had a separate bank account to her husband, which he would deposit funds from his account for food, shopping etc. Since the accident, the wife had no access to his bank account. She has to go to court to gain access to the account, which takes 10 months to go

through because of the huge increase in LPA applications overseen by Office of the Public Guardian.

The wife had to go to family and friends as the husband's wages went to statutory sick pay after 6 months still in a coma. So now the mortgage on their house isn't being paid and goes into arrears.

If the couple both had Lasting Power of Attorney for Health and Welfare as well as Finance and Property, she would have immediate access to her husband's money. She also has a bigger say as to what happens to her husband's welfare and care, those powers override that of her local authority.

If her husband needed to be discharged from hospital to a nursing home, she could insist on one nearer to where she lives, instead of where was the first available bed which could be 40 miles away for example.

So that's the 'bit in the middle' which happened, still happens when people don't have LPA. It costs £164 for both LPA's if you go to the .gov website and DIY. Or if you approach a solicitor to do it for you, it could cost around £600 upwards.

If you don't have LPA, your family member loses mental capacity and you have to apply to the Court of Protection for Deputyship instead, DIY costs around £400 but a solicitor will charge upwards of £1,000.

If you can guarantee you will never be in an accident where you lose mental capacity, never get dementia in later life, don't bother with LPA. Otherwise, *\*everyone\** should have LPA. I've done the DIY LPA for my parents, my in-laws, my husband and I and my sister in law. We're all fit and healthy but you never know what is around the corner.