



THE ULTIMATE TRUST SITUATION

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Transcript

When you were feeling frail, perhaps because you're old or no, you're not very well. Then your thoughts will naturally turn to looking to see what happens with your finances and assets. The possibility is that you will leave without really understanding anything about your surroundings. Modern medicine may keep your body alive, but your mind might play strange tricks on you and so legally you will not be capable of making decisions.

Before that situation occurs, people do the sensible thing and sign someone up to be their lasting power of attorney. The way this works is that you appoint one or more people to help you make your decisions. They come in two varieties, one for health and welfare and one for property and financial affairs. And as I've already mentioned, you will need to be a sound mind at the time you make the appointment of the people.

The health and welfare gives the attorney the power, amongst other things, to decide on your medical care, daily routines, moving you to a care home, for instance. Fairly understandably, this power can only be used if you cannot decide for yourself. The property and financial affairs LPA give power over such things as managing your bank account. Selling your home and paying bills. This LPA can be used the moment you register your attorney.

Whilst the comfort of knowing you have someone looking after your affairs must relieve many of a troubled mind, my guess is that none in the position of deciding on an LPA gives too much thought to 'what if it all goes horribly wrong?' Let's just ponder for a moment what can go wrong? The health and welfare LPA is only for when you are unable to decide for yourself. So, without sounding too callous, I presume that should you need that sort of help, then you're probably not going to worry too much about anything. The property and financial LPA, however, can be used immediately. And that is something that needs to be thought about. You will be aware that when you allow an agent to work on your behalf then you should be monitoring them. This situation is, in effect, putting your financial affairs into the hands of an agent. They are not as such a trustee as they do not own the assets legally, but they are in the unique position of being able to manage your financial affairs on your behalf. Therefore, they certainly are in a trusted position. It stands to reason that you will not choose someone you don't trust. In fact, I would suggest you probably would only choose someone you have known a very long time. Here is where the problems may start. If you trust a family member or old friend, it would make sense to ask them to act for you. But what happens if the power goes to their head? And they think to pay for things that ostensibly could be beneficial to you but might actually well benefit themselves even more.

A recent case of an actress who had starred on the big screen saddened me. And points out exactly how relationships, be they friends or relatives, can be soured by money. May Gwyn Owen, real name Margaret Wright, was a well-known actress. She met Brian Mallum while the two of them were working in shows for the BBC. Meg made Brian her LPA. Suffering from dementia then dulled Meg's ability to comprehend financial matters and she lived in a care home. Her bank noticed what they thought were unusual transactions going through her account and raised the alarm. Meg understood enough to be severely upset by what had happened, which was that Brian had been helping himself to her savings. Meg was left with virtually no money. And her life became one where she was cared for out of the generosity of others. Meg died before Brian was found guilty and sent to prison.

It is a situation that no one should find themselves in. But it is a huge dilemma. If your mind is going, you can no longer make your own financial decisions. And one no one can take over. So put something in place before that happens. And run the risk of someone helping themselves to your money. To trust or not to trust, that is the question.