

OPG Court Appointed Deputy Application, sadly a true story – Why everyone should make a Lasting Power of Attorney

Its early 2008 and 78 year old Chris decides its time to fulfil he and his wife's lifelong dream of selling up and moving back to their beloved Cyprus for the rest of their days. For the last 2 years, 74 year old Maria had been suffering with Alzheimer's, which was progressively worsening, there was no time to lose.

Chris made the decision and put the house on the market, viewers were plentiful as the housing boom was at its peak. An offer was made and accepted and the solicitor drew up the necessary paperwork. It was then that Chris's nightmare begun.

Both Chris and Maria owned the house, which meant both needed to sign the paperwork. However, by this time the solicitor knew Maria's condition and stated that due to her lack of capacity, she could not legally sign the sale contract. There was no Power of Attorney in place and so there was no choice but for Chris to apply to be a Court Appointed Deputy. A formality, or so he thought!

The application to the Office of the Public Guardian (OPG) started. The buyer was asked to be patient as it would be 'only a matter of weeks'. However, Chris was thwarted by unforeseen circumstances.

First the OPG insisted that as Maria had not made an LPA the four children should be asked if they were in agreement to Chris selling the house (he had to declare this in the application) and taking both mum and the money back to Cyprus. All four of the children wrote to the OPG saying they were happy for dad to do this. However, two of the letters went on to say ...BUT... andPROVIDED THAT... and that's all the OPG needed to stall the process. They needed to be convinced that what Chris was doing was entirely in the best interests of Maria, and quite rightly so.

The OPG then insisted on an independent Deputy to act jointly with Chris in the matter of the house sale and luckily allowed him to choose his daughter-in-law.

The buyer became more and more impatient as the weeks went by, and eventually dropped out. It was difficult to remarket the property, as there was no indication as to how long the OPG application would take. Weeks and months went by, the OPG had a backlog of work and this was not a simple application.

The 'credit crunch' started to bite and property prices started to fall. By the beginning of October 2008 the house had dropped in value by £50,000 and still nothing from the OPG. Worse still, prices continued to fall and still no sign of a buyer. With the squeeze on lending, would a buyer even be able to raise finance?

Chris's health suffered, he wasn't handling the stress well and the costs were escalating. The OPG had already charged an initial £500 and had asked for £400 more. In addition, legal fees for the application already exceeded £1100.

At the time of writing, the OPG had said the application should be finalised within 28 days. Chris still has to find a buyer and complete a sale. The total time for the process will easily exceed 12 months.

Needless to say all this could have been avoided had drawn up a Lasting Power of Attorney before the accident. We're all wise after the event.