

National IMCA Conference

OPG and IMCAs - developing the relationship

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Public Guardian and Chief Executive

OPG - A reminder

- Registering Lasting & Enduring Powers of Attorney
- Supervising Court-appointed Deputies and people acting as attorneys under registered LPAs/EPAs.
- Regulate and investigate Deputies and registered attorneys, working with relevant organisations to protect vulnerable adults
- NOT the Court of Protection

Facts and Figures

200,000 registered EPAs

160,000 registered LPAs

Over 32,800 Deputies

Currently receiving 16,000 applications to register LPA/EPAs per month.

Expect Deputyships to increase to nearly 40,000 this year

Vision & Mission

To encourage everyone to prepare for a possible lack of mental capacity and to empower and safeguard those who lack mental capacity now

To improve awareness and knowledge of the OPG and the services it provides in order to improve the preparedness of everyone for a possible future lack of mental capacity

To continue to improve the service provided to Deputies and Attorneys, and those applying for such roles, in order that decisions concerning people who lack capacity are made optimally and quickly.

To engage effectively with a range of supporting organisations in order to improve the effectiveness of the Mental Capacity Act 2005...

When is a deputy appointed by the Court of Protection

Property & Affairs Deputies are necessary under the following circumstances:

- Cash assets over a specified amount that remain after any debts have been paid
- selling a person's property, or
- where the person has a level of income or capital that the court thinks a deputy needs to manage.

Personal welfare (including healthcare) - generally only required in the most difficult of circumstances:

- Important and necessary actions cannot be carried out without the court's authority, or
- there is no other way of settling the matter in the best interests of the person who lacks capacity to make a particular welfare decision.

Deputies can be lay people, legal professionals or Local Authority

OPG's role in safeguarding vulnerable adults

- Supervising Deputies appointed by the Court of Protection
- Reviewing client files and monitoring the situation through visits.
- Making applications to the Court of Protection for suspension/ discharge/ replacement of a Deputy or revoke an EPA/LPA.
- Providing reports to the Court of Protection under Sections 49 and 58 of the Mental Capacity Act 2005
- Ensuring systems are in place to prevent/reduce the likelihood of abuse of vulnerable adults by OPG staff and contractors
- Development and review of strategies and policies regarding protection of its clients in partnership with others

OPG's role in safeguarding vulnerable adults

OPG has powers, duties and responsibilities towards vulnerable adults who may lack capacity.

OPG uses a more narrowly defined interpretation of 'vulnerable adult' relating to our statutory functions to supervise Deputies and register EPA's and LPA's.

In 2009/10 the OPG received 1080 safeguarding referrals:

- Friends or relatives
- Local Authorities
- Solicitors
- Deputy or co-Attorney (usually about co-Deputy or co-Attorney)
- Police
- Carers/care homes

Local Authority Investigations

1. Deputy was completely reliant on care staff reporting on client's needs. There were no systems in place for finding out clients' views or needs or for ascertaining whether their needs were being met.
2. Multiple concerns not only about compliance with the requirements of the MCA and the Code, but also financial failings including a failure to seek remission of fees, or to claim remuneration for the Deputy, and a failure to monitor personal allowance spending.

Lasting Powers of Attorney – A reminder

- LPAs allow an individual, the ‘donor’ to authorise a decision maker on their behalf in the event of the donor losing capacity
- Two types of LPAs
 - property & affairs
 - health & welfare
- Must be registered to be used

NB – remember s5 MCA 2005 – care & treatment

Some final thoughts

- Don't just think of “core” IMCA role
- If you need to check OPG Registers, “use” the Local Authority as a channel
- Be aware of the importance of Deputyship
- Keep a safeguarding hat in your tool-kit
- Significance of planning ahead – encouraging people to think about making LPA

Further Details

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