

NEWS IN BRIEF

Why the banks are failing the vulnerable.....

Complaints about how banks deal with the families of the elderly or sick are on the increase, the financial ombudsman reports, with staff causing their most vulnerable customers great distress by not understanding or properly implementing power of attorney.

Those who look after the finances of their elderly parents or relatives (many of whom suffer from dementia) say that process to deal with lasting power of attorney (LPA) – the legal right to make financial decisions on someone else’s behalf – are “confused and chaotic”, causing additional frustration and paperwork at a difficult time.

The financial ombudsman service, which issued advice to banks about handling power of attorney, receives 30 to 40 new cases each month, most of which it says are avoidable. “By the time the complaints get to the ombudsman, they’re deeply entrenched and difficult to resolve yet could have been avoided if a few simple rules had been followed [by a bank or building society],” says Caroline Wayman, the chief ombudsman.

Typical problems include banks refusing to accept an LPA, not understanding the powers the donor – that is the customer who has agreed to have an attorney act on their behalf – has given, refusing to deal with someone they should deal with, or dealing with someone they should not or important documents being lost.

“Whenever I speak to people about money problems, it is often issues with power of attorney that provoke the strongest reactions,” Mrs Wayman says.

Research by Which?, the customer organisation, last month found that many banks and building societies restrict how attorney’s can manage a donor’s account.

The Post Office doesn’t permit attorneys to have debit cards. Neither does First Direct, the internet bank, which, remarkably, doesn’t allow attorneys to bank online, only by telephone. TSB, Barclays and HSBC deny attorneys an overdraft facility. This is not in keeping with the spirit of an LPA, though it is up to a bank what products they allow a customer to have.

A spokesman for the Office of the Public Guardian explains: “An LPA gives you, as attorney, the clear legal authority to manage the affairs of the donor exactly as he or she would be able to do as a customer.”

Gillian Moore, who with her sister has an LPA for their 89-year-old disabled mother, says that the “utter incompetence” of Barclays in managing the arrangement is “beyond belief”. Last summer she was offered compensation after Barclays admitted that it was wrong to expect her mother to sign a form to have the address on her account changed.

In November she was left without access to her mother’s account because a new debit card was sent to the wrong address – her mother’s care home. Barclays blamed “training issues” and offered compensation, again.

“Our mother has been extremely distressed by the letters she received from the bank,” Mrs Moore says. “My experience is that the management of LPA accounts is chaotic and disorganised. I am sure that other attorneys risk being treated the same unless the bank undertakes a review of how it manages its LPA service.”

A spokesman for Barclays says: “We can understand why Mrs Moore has been unhappy with the service she received for her mother’s account.

“It is clear that we didn’t provide the level of service that every customer should expect. We are sorry that Mrs Moore and her mother had to encounter these problems which we agree are totally unnecessary and should never have happened.”

Jennie Elliott, 61, first complained to Times Money in 2006 about the trouble she had been having moving her mother’s money from account to another, with Natwest Bank not recognising her status as attorney.

She says little has changed over the past nine years. “In a phone call from a young assistant, working for one of the biggest UK banks [not Natwest] I was told she had done a course the previous week and that she knew all about ‘Power of Eternity’. I didn’t know whether to laugh or cry, such is my continued frustration.

The rules

“The Lasting power of attorney” was introduced in 2007 to replace “enduring power of attorney” in England and Wales, though enduring power of attorney should still be accepted by all banks and building societies. In Scotland a “continuing power of attorney“ lets someone manage all of your financial affairs.

It is a good idea while you have the mental capacity to set up a property and financial LPA, which enables your attorney to look after your money and make decisions on your behalf. It can be used with your consent as soon it is registered, but you can also state that it will only be used if you are no longer able to make decisions for yourself. You need to register the LPA, for a fee of £110, with the office of the Public Guardian. Once this is in place, you must then register it again with the donor’s bank or building society.

The ombudsman guidance – www.financial-ombudsman.org.uk/power-of-attorney.html – encourages bank staff to speak to the person registering the LPA in a private room, so they fully understand the situation. They should fully explain the process and offer a timescale for how long it will take.

If you would like a free initial consultation then contact me Chris Berry at: BERRYS SOLICITORS specialising in PRIVATE CLIENT CARE.

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