

Nearly a decade of Lasting Powers of Attorney and Advance Decisions in England: relevance to people with dementia

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Mental Capacity Act 2005 Great Expectations

Alzheimer's Society:

'The law marks a major turning point in the legal rights of people with dementia and their carers....The Society has long been campaigning for these rights which mark a major milestone for people with dementia'.

Share, Alzheimer's Society, March 2007.
pp12-13



Lasting Powers of Attorney (LPA) (similar to Singapore system)



Two types of LPAs

- Personal welfare (Including healthcare)
- Property and affairs

Attorney can be:

- Family
- Friend
- Care staff
- Professionals

They can make decisions but have to be in the person's best interests.



Advance Decisions



- An advance decision is prepared when a person has capacity
- It is a written decision to refuse specific treatment and is binding
- An advance statement is an expression of an individual's preferences and is not binding
- No real evidence on use or uptake.

What's happening on LPAs?



- Getting cheaper - now online
- Depends on:
 - encounters with dementia,
 - family support,
 - 'living for today',
 - trust in professionals
- Problems for people on their own or outliving their peers
- Part of ability to make plans following 'early' diagnosis



Ref: Samsi and Manthorpe HSCC

Take up increasing steadily - with media publicity
2012/13 = 242,000 LPA (22% growth)
2013/14 = 295,000 LPA

When no LPA (health/welfare)



- Political campaigner Manuela Sykes did not have LPA (health/welfare) – had LPA finance
- Court had to rule about her best interests when social workers predicted major risks of staying at home.

When LPA/AD in place but not shared



- Evidem research shows that care home staff do not always know LPA & Advance Decision remits, or if they are in place.
- Much left to managers (not always around)
- Not the only problem in information sharing !



Wellcome Images

Refreshing the LPA/AD



- Choice not Chance campaign 2015
<https://www.gov.uk/ch-oicenotchance>
- Greater emphasis in inspections (Care Quality Commission)
- New Medical Royal Colleges and SCIE initiatives

Conclusions



- Place of law in dementia care?
- Rights based dementia and End of Life Care?
- Measured pace of public acceptance
- What is in the power of government, professionals, lawyers, to change?

Thanks for listening

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