

2 stripped of Lasting Power of Attorney to decide for loved ones



Individuals can appoint someone to make decisions and act on his behalf if he loses his mental capacity. This is done through a legal document known as the Lasting Power of Attorney. PHOTO: LIANHE ZAOBAO

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Court decisions taken following change in law to protect the mentally incapacitated



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Since the Mental Capacity Act was amended last year allowing it to do so, the court has removed the powers of two individuals to make decisions on behalf of mentally incapacitated individuals under their care.

In one case, which involved spousal abuse, P was force-fed, restrained by force and made to sleep in the toilet.

A charity alerted the Office of the Public Guardian (OPG), which protects people who lack mental capacity and is a division of the Ministry of Social and Family Development, to the abuse.

Within days, the OPG moved P to a shelter for safety. It also applied to the court to revoke the spouse's power to make decisions on matters relating to P's welfare.

The spouse was sent for counselling, as the OPG found during its probe that the spouse was stressed from caring for P alone, without help from other family members.

The OPG did not say if P was a man or woman and gave no other details.

Its spokesman told The Straits Times this was one of two cases in which it had asked the court to revoke a deputy or donee's powers, since the Act was changed.

The court can do so if there is a significant risk of abuse, or in situations where the donee or deputy is convicted of fraud or dishonesty against another person, and not just the person he is tasked to act on behalf of.

Individuals can appoint someone, known as a donee, to make decisions and act on his behalf if he loses his mental capacity. This is done through a legal document known as the Lasting Power of Attorney (LPA).

If a person becomes mentally incapacitated but does not have an LPA, his loved ones can apply to the court to be appointed as his deputy to make decisions on his behalf.

In both the cases that the OPG took to court, the deputies or donees were stripped of their powers, although its spokesman did not give details of the second case.

Since it was started in 2010, 33,360 people have made an LPA as of August. There have been 1,592 revocations to date. About 82 per cent of the revocations were due to the death of either the person who made the LPA or the donee.

Others were revoked, for instance, because of reasons like divorce, illness or migration, lawyers interviewed said. They added that often, the relationship between the person and his donee had soured.

Lawyer Ng Bin Hong, of Peter Low and Choo law firm, said: "The relationship changed, so that the person feels they can no longer trust or believe the donee will act in their best interest."

The court can also revoke an LPA if the donee has not acted in the person's best interest, although such cases are rare, said the OPG spokesman.

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The most well-known case of an LPA being revoked involved Yang Yin, a former tour guide from China who was jailed for nine years for cheating a wealthy widow of \$1.1 million. Madam Chung Khin Chun, 90, named Yang as her donee in her LPA. She revoked it two years later in 2014, after his intentions came to light.

The OPG said it takes all complaints seriously and will probe and take action against donees or deputies who are found to have not acted in their charges' best interest.

Lawyer Lim Chong Boon, of PKWA Law Practice, noted that the OPG is unlikely to take steps to revoke an LPA unless there are compelling reasons to do so, like abuse or ill-treatment.

It also has to apply to the court to revoke the LPA. Through this process, the court hears the donee's side of the story before it makes its decision.

He said: "This shows the system is transparent, robust and fair."