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DEFENDING WEALTH

Ann Stayer's legal career has been built on helping her clients fulfil their wishes, but with greater life expectancy comes the challenge of ensuring clients' best interests are protected. She tells *Richard Douglas* about her work

We might not be particularly familiar with it as a term, but financial abuse is increasingly a cause for concern. It isn't hard to understand why - we instinctively recognise how significant the consequences could be for individuals and their families. As Ann Stayer's experience reveals, people who expected to maintain a comfortable lifestyle and potentially ensure the wellbeing of their family can find themselves in a challenging situation.

"Sadly there are gold-diggers who marry for money," says Stayer, a partner at law firm Wedlake Bell. "But it's also for their succession rights. Once you are married to somebody you are in the frame for succeeding, because the act of marriage revokes any earlier will, unless they sign a new will. It's worrying, the ease with which it can happen.

"I have just been dealing with a case of somebody who was targeted by her neighbour. She lost her husband a month before, and then started to transfer hundreds of thousands of pounds to this neighbour. It turned out that he had told her she needed to do a tax planning exercise, resulting in her signing all sorts of documents she hadn't read.

"They ended up getting married. The first person to realise she was being exploited was her sister who lived in the States. Luckily, her sister had set up property alerts through the Land Registry, so saw that the new husband was trying to place a charge on his share of the property to pay off some of his creditors. We've spent the last year-and-a-half unravelling all of that."

With increased life expectancy, the chances of many of us outliving our sharpest faculties are also increasing. So it is of little surprise that there are more cases of people being taken advantage of, and they need support from family, friends and trusted advisers.

POWERS OF ATTORNEY

In most cases, the first step to protecting a client's interests >

› should be around having a power of attorney in place. Yet some people remain wary of taking this step while they are still fit and well.

There are two types of 'lasting power of attorney' in England and Wales: one for health and welfare, and the other for property and financial affairs. These need to be registered with the Office of the Public Guardian. Although there is a different process in Scotland and Northern Ireland, the scope of the agreements is similar. It is possible to put in place a temporary power of attorney called an



SNAPSHOT

Regulatory focus

Client vulnerability is an area of particular interest for the Financial Conduct Authority (FCA). It has issued guidance to all regulated firms and emphasised the importance of working in the best interests of vulnerable clients. Its definition of vulnerable clients is "someone who, due to their personal circumstances, is especially susceptible to harm".

That means it applies far more widely than simply being about dementia, for example. Equally it is not necessarily a permanent state – for example, if you are recently bereaved or going through a divorce you could equally be susceptible to harm.

Brewin Dolphin's Vulnerable Client Committee manages our approach. With representatives from across the business, it focuses our thinking on how we recognise and respond to vulnerability, and the ongoing education and development of our people in this area. It can also provide advice and guidance in specific cases.

Our colleagues are trained to recognise vulnerability and have a deep understanding of the solutions available that can help manage these issues when they arise.

We can help put in place the right systems and support for our clients, and we realise that everyone will have unique needs and wishes.

Wherever possible we include family, trusted friends and advisers to aid transparency and create a supportive network.

'ordinary power of attorney', but this is really only for short-term assistance.

"It's just a safety net that is there in the background, for that time when you will need help in the future," Stanyer explains. "And you can always change it – if you have still got your capacity, don't think it's set in stone. You can redo it, appoint someone else, and introduce it when you are ready." Helping families to have these conversations is all part of the job.

While we all want to know that our needs are going to be catered for in the future, it can still be an extremely delicate area of conversation. "A lot of our clients are very proud and while on the one hand they would see the sense in signing over power of attorney when they're fully capable, they wouldn't want their attorneys to take over management of their affairs until a much later point – but at what point do the attorneys take over? That is a big question and quite often it's members of the family who recognise it before the parents. So they have some hard decisions to take – and these are hard discussions to have with a client."

Having the practical and emotional knowledge and understanding to be able to have these conversations is something that is increasingly recognised as a specialism.

"It requires a lot of special skills. You've got to be very empathetic. You've got to really spend time with the clients, understanding whether they've got any health issues, whether they have any diminishing capacity in respect of their cognitive abilities.

SHARING PROFESSIONAL KNOWLEDGE

Stanyer, who works with Brewin Dolphin as a professional trustee and as a professional attorney for individual clients who are no longer able to manage their own affairs, is constantly aware of the need to protect clients from the potential risks, and to help other professionals manage these situations effectively.

She has recently published the second edition of her book *Financial Abuse of Older Clients: Law, Practice and Prevention*. It has become the go-to source for professional services recognising the need to specialise in this area.

"There are quite a few textbooks on powers of attorney or the Court of Protection, but there was a need for a book that actually brought together all the different types of financial abuse. It's a sort of umbrella term that covers unauthorised transfers of property, and misappropriation of assets. It also includes somebody moving into your home who's unauthorised, who's not paying their way, not paying you rent, not paying utilities. That is financial abuse.

"I wanted to raise awareness of it because I have seen in practice that it is too easy to take advantage of somebody with declining capabilities. They have a valuable property, they've got savings, they've got investments," she says.

"I've had people who you think wouldn't in a blue moon be persuaded to hand over money. Yet it happens right

STANYER HAS WRITTEN
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PREVENT THE FINANCIAL
ABUSE OF OLDER CLIENTS.



across the board. And people with money are more targeted than others."

THINGS TO CONSIDER

There are several steps that Stanyer recommends when considering how to manage potential future vulnerability.

"Keep everything open because the moment you just limit the discussion of financial arrangements to one member of the family, the others immediately begin to become suspicious. So what about having an open discussion, a family meeting? Keep everybody in the loop."

It is extremely important that people speak to their loved ones and tell them what their plans and wishes are. If it is hard to have these conversations, your Brewin Dolphin adviser can help you manage them with your family.

"You've got to be really empathetic and really spend time with clients."

Secondly, consider using a professional attorney, says Stanyer. "Sometimes, if a client can't make up their mind about who to appoint between members of the family, we suggest appointing professionals to be the attorneys or acting with members of the family on a joint basis. Somebody who deals with this day-to-day to give you peace of mind."

Thirdly, it is important to keep things up to date. "We have a policy of reviewing wills. But we are now reviewing powers of attorney every five years, or if there is a change in circumstance, for example if somebody's been bereaved."

The important thing to remember is that, even if financial abuse takes place, it is possible to correct the situation. "It's very satisfying to be able to go in there, sort it out and put protective measures round the victim to make sure that this doesn't happen again." ■