

Abuse of Power by an Attorney and how to report it

The most common reason an attorney for property and affairs abusing their power is financial gain, and sadly in most cases the abuse is committed by a family member. Family are sometimes simply not suitable, think for example of children where the appointment of one over others may cause a conflict, or where a child believes their parent has more than enough money to see them through and is tempted to advance to themselves what they see as their inheritance. This makes choosing your attorney very difficult. There may be some protection in having two attorneys acting jointly and severally, but that will not necessarily prevent abuse. In instances where there are no family to be appointed, the abuse can be just as likely, in part because the attorney may be able to influence the person or gets a sense of entitlement.

For welfare matters, there are also similar considerations with family members acting as attorneys, since they may struggle to make decisions around welfare matters, despite the advice of the treating professionals or where they are concerned that the cost of care will deplete what they see as their inheritance.

With the start of the Covid pandemic the numbers of abuse cases increased with the [Office of the Public Guardian, who supervise attorneys](#), reporting applications for censure or removal of attorneys hitting record highs in late 2019.

What's The Alternative?

An alternative might be a professional (or joint professional) who will not only be held to higher account, but more importantly are independent and can take an impartial view. Their expertise means that they will be fully aware of what powers they have and when they might need to seek additional authority.

Case Law

[Re OL \[2015\] EWCOP 41](#)

[The Public Guardian v AM \[2015\] EWCOP 86](#)

Reporting Abuse by an Attorney or Deputy

It is possible to report a concern to the Office of the Public Guardian (OPG), who supervise attorneys and deputies either through emailing the OPG130 form to opg.safeguardingunit@publicguardian.gov.uk or alternatively you can call their helpline on 0115 934 2777. Please see a [link to their guidance](#).

The OPG have reported applications for censure or removal of attorneys hitting record highs. Whilst the OPG's service is free, their investigations are thorough and very lengthy. Many clients report long delays and then lack of progress in investigations. For example, we had a case of a deputy who went to prison for five years for fraud, who was not removed as a deputy until after he was released.

An alternative, for those with sufficient closeness to the vulnerable person, such as family or close friends, is to make an urgent application to court themselves. This is direct to the Court of Protection, rather than waiting for the OPG investigation and the OPG then making the same application. That court process should be undertaken with the input of specialist lawyers, as without expert advice there is a possibility not only of wasting money, but also of being obliged to pay other people's legal costs in defending such an action.

Sometimes, wrongdoing may only come to light after the vulnerable person has died and a new professional or other family member is appointed to administer their estate.

Link to blog: <https://anthonygold.co.uk/latest/blog/abuse-of-power-by-an-attorney-and-how-to-report-it>