

Mark and Sandra's Story

An investigation into
powers of attorney

Who we are and why we investigated

Who we are

The Mental Welfare Commission makes sure that people with learning disabilities and people with mental health problems are properly treated.

The Commission is independent. Most of the people who work for the Commission have worked in mental health or learning disability services.

Some people have used mental health or learning disability services. Some are carers.

Why we investigated

Mark and Sandra are a couple with learning disabilities. They signed a power of attorney form, making Charlie their attorney. Charlie is Mark's brother.

A power of attorney gives the person who you choose the right to make decisions about your money or your life. You choose the person you want to make these decisions. You discuss what decisions you would want them to make for you. Then you sign a legal form.

The person you choose can then make decisions about your money or how you live your life, but only when you cannot make those decisions yourself. This person should make the decisions that are best for you. If they do something that is harmful to you, you can ask for their powers to be removed. If you are not able to do this, the council should do it for you.

The council where Mark and Sandra live told us that they were concerned about how Charlie was treating Mark and Sandra. They did not think he was using his powers in the right way.

We decided to look into this. We spoke to Mark and Sandra and to others who knew them.

The Council where Mark and Sandra live told us they were worried about what Charlie had done.

What Mark and Sandra told us

Mark and Sandra met at school. They married and had support from Mark's dad.

After Mark's dad died, Charlie supported Mark and Sandra. Charlie did not let anyone else in the family help them.

Mark and Sandra did not understand the forms.

Social work staff who worked with Mark and Sandra said that Charlie did not treat them well. They thought that Mark and Sandra were frightened of Charlie.

Charlie took Mark and Sandra to their GP (doctor). Mark and Sandra said that they did not know why they were going there. They met the GP and a solicitor. The solicitor asked them to sign some forms.

The GP said that Mark and Sandra were able to understand and sign the forms. She did not know that they were frightened of Charlie.

Mark cannot read. Sandra can only read a little. They did not have their own solicitor or an independent advocate. There was nobody to help them understand the forms.

They signed the forms. They thought they had to. The forms gave Charlie power of attorney.



Now Charlie was in control of their money and their lives. They thought he treated them badly. They said:

- Mark and Sandra were not allowed to have friends unless Charlie said so.
- They were not allowed into town on their own.
- They were not allowed to open their own mail.
- They had to go to Charlie's house to ask for toilet rolls.
- They were not allowed pudding. Charlie said they were too fat.
- Sandra has epilepsy. She used to take her own medication. Charlie kept her medication and did not let her take it herself.
- Charlie opened credit cards and took out loans in Mark and Sandra's names. He put them in thousands of pounds of debt.
- Charlie came into their house whenever he wanted, even when Mark and Sandra were out.

Charlie controlled Mark and Sandra's money and lives. He treated them badly.

Social work staff who worked with Mark and Sandra told us that they were worried. They tried to help Mark and Sandra, but we think they could have done much more.

They could have gone to court to take the power of attorney away from Charlie.

The social work staff thought Mark and Sandra should take away Charlie's powers. But Mark and Sandra were too scared.

Mark and Sandra were too scared to ask for Charlie's powers to be taken away. Support staff could have helped – but they didn't.

It took six years for Mark and Sandra to be able to stop Charlie being their attorney any more.

For a long time they did not know they could do this. Even when they did learn they could do this, they were scared to act.

Finally, Mark's other brother helped them to do this. They couldn't have done it without him.

Mark and Sandra are now much happier. They do not have to be scared and they feel free.



What should have happened

- Social work staff should have helped Mark and Sandra earlier to stop Charlie using the powers of attorney.
- Mark and Sandra should have had more time to talk about whether they wanted to sign a power of attorney form. When they were asked to sign the forms, Mark and Sandra should have had a solicitor or an independent advocate with them. They would have helped them to understand what the forms meant.
- Social work staff should have given Mark and Sandra more help when they saw Charlie treating them badly.

It is very disappointing this did not happen.

The Mental Welfare Commission doesn't want other people to suffer like Mark and Sandra.

We want to make sure councils and health boards to do more to protect people in future.



If you are thinking about getting a power of attorney

Having a power of attorney can be a good thing. They let you choose someone you trust to help you to manage your money or to make decisions about your life.

- Do not sign the forms without having a solicitor or independent advocate to help you.
- Make sure the attorney is a person who you like and trust.
- Nobody can force you to sign the forms. If someone tries to, tell your GP, social worker, advocate or support staff.
- If your attorney treats you badly, you can ask for their powers to be removed. You can do that or someone can do it for you.

You should think carefully before you sign any forms.

If you want more advice about powers of attorney, you can contact:

**The Mental Welfare
Commission for Scotland**
0131 313 8777
www.mwscot.org.uk

**The Scottish Consortium
for Learning Disability**
0141 418 5420
www.sclld.org.uk

ENABLE Scotland
0300 0200 101
www.enable.org.uk

The Office of the Public Guardian
(For questions about money)
01324 678300
www.publicguardian-scotland.gov.uk

