



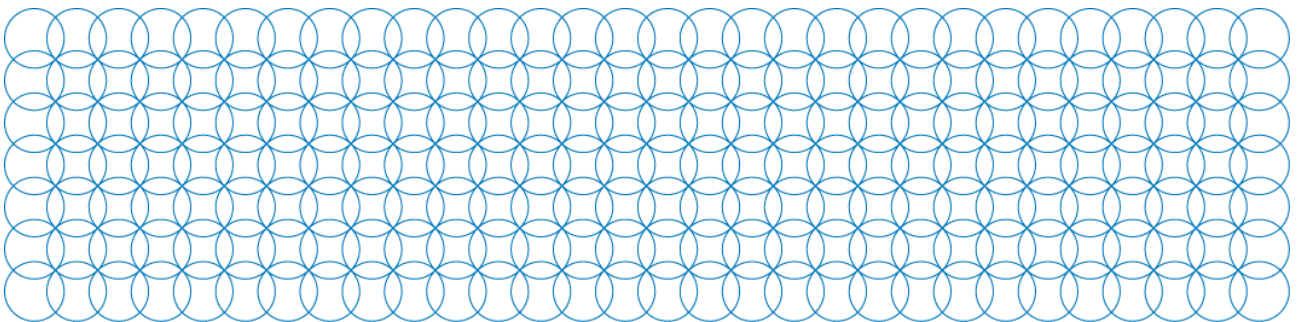
Ministry
of Justice

Transforming the Services of the Office of the Public Guardian

Enabling Digital by Default

This consultation begins on 15 October 2013

This consultation ends on 26 November 2013





Ministry
of Justice

Transforming the Services of the Office of the Public Guardian

Enabling Digital by Default

A consultation produced by the Ministry of Justice. It is also available on the Ministry of Justice website at <https://consult.justice.gov.uk/>

About this consultation

- To:** This consultation is aimed at the public, the legal profession, the judiciary, the advice sector and all with an interest in this area in England and Wales
- Duration:** From 15/10/2013 to 26/11/2013
- Enquiries (including requests for the paper in an alternative format) to:** Kathleen Malvo
Ministry of Justice
102 Petty France
London SW1H 9AJ
Tel: 020 3334 3124
Fax: 020 3334 3147
Email: OPGCONSULTATION@justice.gsi.gov.uk
- How to respond:** Please respond online at <https://consult.justice.gov.uk/digital-communications/transforming-services-opg/> by 26 November 2013
Alternatively please respond by post or fax to:
Kathy Malvo
Ministry of Justice
102 Petty France
London SW1H 9AJ
Tel: 020 3334 3124
Fax: 020 3334 3147
Email: OPGCONSULTATION@justice.gsi.gov.uk
- Response paper:** A response to this consultation exercise is due to be published within three months of the closure date at: <https://consult.justice.gov.uk/>

Contents

Executive summary	3
Introduction	5
The proposals	9
Part 1: Transforming OPG Services by April 2014	9
Part 2: Transforming OPG Services after April 2014	20
Annex A – LPA forms	24
Lasting Power of Attorney (LPA1)	25
Lasting Power of Attorney – Continuation Sheets (LPA1)	43
Lasting Power of Attorney – Health and Welfare (LPA1H)	47
Lasting Power of Attorney – Property and Financial Affairs (LPA1P)	64
Lasting Power of Attorney – Register your LPA (LPA2)	81
Lasting Power of Attorney – People to be told (LPA3)	89
Glossary	95
Questionnaire	96
About you	99
Contact details/How to respond	100
Impact Assessment	102
Consultation principles	103

Executive summary

Our consultation paper '*Transforming the Services of the Office of the Public Guardian*', published on 27 July 2012, invited comments on a range of issues related to the Office of the Public Guardian's (OPG) aspiration to deliver its services digitally by default. In our response, published in January 2013, we set out the changes that we would complete by April 2013. This included reducing the statutory waiting period for registering a Lasting Power of Attorney (LPA) form from six weeks to four weeks and amending the regulations to allow court appointed deputies to change bond provider without the need to apply to the Court of Protection. However, other changes required further policy development or were dependant on the OPG replacement IT system being in place in 2014.

On 1 July 2013, the OPG, working with the Government Digital Service (GDS), launched a new digital tool (<https://www.gov.uk/lasting-power-of-attorney>) which enables customers to complete the majority of the LPA process online. This is a significant milestone, clearly setting out how the OPG is reconfiguring its business, which will enable it to deliver a more responsive and efficient service for its customers.

This consultation paper considers the next phase of the OPG transformation programme, as well as exploring some of the future changes that the Office of the Public Guardian may seek to make within the next few years:

- **Part 1** considers those changes we wish to make by April 2014. This includes how we might improve the design of the paper forms for creating an LPA, fees for a new combined form, access to the OPG Registers and changes to the supervision of Court appointed deputies.
- **Part 2** considers the bigger picture and our proposals for future changes, in line with the Ministry of Justice's "Transforming Justice" agenda and the Government's commitment for more public services to be "Digital by Default". This section sets out initial proposals for the delivery of a fully digital method of creating and registering Lasting Powers of Attorney (e-LPAs). This will require primary legislation in the future.

These proposals are designed to ensure that the OPG is able to deal effectively with future volumes across all areas of its business and deliver services that are more effective, less costly and more responsive for its users.

However, we recognise that not all OPG customers have access to digital services. Indeed, the overarching Government strategy for Assisted Digital¹ sets out that when digital services are introduced, no customer should be left behind. Latest figures from Go-On UK² indicate that around 16 million adults in the UK do not have basic online skills. Elderly people, along with those on a low income and those affected by disability, are the most likely to lack these skills. This is highly relevant to the OPG, given the current demographic for people making LPAs.

¹ <http://digital.cabinetoffice.gov.uk/category/assisted-digital/>

² <http://www.go-on.co.uk/challenge/uk-snapshot>

Therefore, the OPG strategy for Assisted Digital seeks to ensure that customers have access to OPG digital services through alternate routes. To facilitate this, the OPG is talking with the legal sector, as well as working with several prospective partners – including community groups and local authorities – to examine other potential opportunities that exist to support customers. As an exemplar for the digital agenda, OPG is also working in partnership with other Government departments to establish shared assisted digital solutions.

This is a period of significant change for the OPG. We look forward to receiving your views about the proposals outlined in this consultation paper and we would welcome any evidence you may have about the impact of these proposals.

Introduction

This paper sets out for consultation the proposed changes to OPG services in the context of digital delivery. The consultation is aimed at the public, the legal profession, the judiciary, the advice sector and all those with an interest in this area in England and Wales.

An Impact Assessment indicates that the proposals are likely to lead to additional costs or savings for businesses, charities or the voluntary sector, or on the public sector. An Impact Assessment is at Annex A.

Comments on the attached Impact Assessment and the Equality Impact Assessment are very welcome.

Copies of the consultation paper are being sent to:

- Action for Advocacy
- Action on Elder Abuse
- Advice UK
- Age UK
- Alzheimer's Society
- Association for Real Change (ARC)
- Association of property and fixed charge receivers
- Association of Chief Police Officers (ACPO)
- Association of Contentious Trust & Probate Specialists (ACTAPS)
- Association of Directors of Social Services
- Association of Healthcare Communicators
- Association of Public Authorities Deputies
- BILD (British Institute for Learning Disabilities)
- British Association of Social Workers
- British Bankers Association
- British Medical Association
- British Psychological Society
- British Society of Rehabilitation Medicine
- CARE UK
- Care Quality Commission
- Carers UK
- Carers Wales

- Change
- Citizen Advocacy Information and Training (CAIT)
- Counsel and Care
- Court of Protection Visitors
- Court of Protection judiciary
- Dementia Care Trust
- Department of Health
- Department for Work and Pensions
- Disability Awareness in Action (DAA)
- Disability Law Service
- Down's Syndrome Association
- English Community Care Association
- Equality and Human Rights Commission
- Family Action
- Foundation for People with Learning Disabilities
- General Medical Council
- General Social Care Council
- Help the Hospices
- Home Farm Trust
- Independent Healthcare Association
- Independent Healthcare Forum
- Institute of Chartered Accountants
- Institute of Mental Health Law
- Intensive Care Society
- Law Centres Federation
- Law Society
- Learning Disabilities Action Group (LDAG)
- Leonard Cheshire
- Local Government Association
- Medical Research Council
- Members of the Faith Communities Stakeholder Group
- MENCAP
- Mental Health Alliance

- Mental Health Foundation
- Mental Health Lawyers Association
- MIND
- Ministry of Defence
- Motor Neurone Disease Association
- National Association of Citizens Advice Bureaux
- National Association of Financial Assessment Officers
- National Autistic Society
- National Care Association
- National Coalition of Citizens Advocacy Schemes
- National Council for Independent Living
- National Council for Palliative Care
- National Forum for People with Learning Disabilities
- National Fraud Authority
- National Institute for Mental Health in England (NIMHE)
- Neurological Alliance
- NHS Confederation
- NHS Litigation Authority
- Norah Fry Research Centre
- Oaklea Trust
- Office of the Accountant General
- Official Solicitor and Public Trustee
- Oyez stationers
- Patient Concern
- People First
- POPAN
- Practitioner Alliance Against Abuse of Vulnerable Adults (PAVA)
- Relatives and Residents Association
- Rescare
- Respond
- Rethink
- Centre for Mental Health
- SCOPE

- Sense
- Social Care Association
- Social Care Institute for Excellence (SCIE)
- Solicitors for the Elderly
- Society of Trusts and Estate Practitioners
- Stroke Association
- Turning Point
- UK Advocacy Network
- United Kingdom Home Care Association
- United Response
- Values into Action
- Welsh Assembly Government
- Members of the Office of the Public Guardian Stakeholder Group
- Members of the Court of Protection User Group

This list is not meant to be exhaustive or exclusive. Responses are welcomed from anyone with an interest in, or views on, the subject covered by this paper.

The proposals

Part 1: Transforming OPG Services by April 2014

Lasting Powers of Attorney (LPA)

1. Introduction

A Lasting Power of Attorney (LPA) is an important legal document that gives significant powers to other individuals to make decisions about a person's property and financial affairs or health and welfare on their behalf.

The Mental Capacity Act (MCA) 2005 requires an LPA to be in a '*prescribed form*'. This means that the format and content of the form must be set down in regulations that are laid before Parliament. The Public Guardian must reject any form that appears to him to be materially different from the prescribed form. Any changes to the design and content must, therefore, be laid before Parliament before they can be used.

2. Current forms

Since their inception, the design of the LPA forms has been subject to ongoing debate in terms of style, substance and length. A key aspect of the debate on the forms has been to try to balance the need to keep them short, whilst providing sufficient, clear information and guidance to make their completion as straightforward as possible. Suggestions have also been made about developing a 'combined' application form, in addition to the separate forms. As evidence suggests that individuals who make both property and financial affairs and health and welfare LPAs tend to appoint the same person(s) in the majority of applications, this would seem to be a reasonable proposal.

In the consultation paper '*Transforming the Services of the Office of the Public Guardian*', we sought your views on whether to replace the two current separate forms for Property and Financial Affairs and Health and Welfare with one combined 'hybrid LPA form' which would cover both types of decisions. Many respondents were broadly in favour of this proposal, but wanted to see a prototype of the 'hybrid' form in order to give a more informed view. Other respondents thought that the MCA creates two different kinds of LPAs, which are, in effect, very different, with different benefits and risks for the people making them. In the Government response, therefore, we said we would develop a proposed 'hybrid' form, as well as seek to reduce the content of the LPA 002 – Application to Register – with the intention of introducing new forms in April 2014.

3. Proposed forms

a) Types of Form

During the past year, feedback from the development of the digital LPA tool has been used to assist the OPG and GDS in redesigning the existing forms, as well as developing the new combined form (previously referred to as the 'hybrid' form). It is our intention that these new forms should address many of the problems that have been identified with the current forms, such as the duplication of basic information and a reliance on continuation sheets.

To support the work to develop and revise the forms, the OPG has held stakeholder workshops with representatives from the public, other Government Departments, the legal

profession, the judiciary, the advice sector and others with an interest in this area, including people with a cognitive or visual impairment. This feedback has been invaluable in helping the OPG understand how it will ensure that any redesigned/new form is user friendly.

As a result, we now want to seek views on two types of form that are proposed:

- a new combined form (if introduced) – which can be used to create *either* a property and financial affairs LPA *or* a health and welfare LPA or *both* LPAs together; and
- redesigned single forms for each of the two types of power (if it is considered necessary to retain separate individual forms).

In instances where the donor wishes to make both types of LPA with the same attorneys and powers, the combined form will reduce duplication. The form has also been designed for use by donors wishing to make only one type of power. However, we are aware that some individuals who wish to make separate powers – for example, to appoint different attorneys for each type of power – may prefer not to use the combined form. We have, therefore, also redesigned the current separate forms. All of the forms have been designed with the aim of making them easier to use and to be consistent with the new digital tool, as far as possible.

One question that has been raised is whether a new combined form may lead people who want and need a Property and Financial Affairs LPA to simultaneously apply for a Health and Welfare LPA, without having first carefully considered the responsibilities involved in best interests decision-making for health and welfare decisions. One way of addressing this might be for more to be done to educate the public, as well as professionals, on the responsibilities and duties that the powers confer.

Copies of the forms can be found in Annex A.

We recognise that the forms may require further revision as a result of your input to this consultation.

Q1. What are your views about the proposed new combined form? Is there anything else that should be added to the form (and why)?

Q2. If a combined form was introduced and it could be used to make an LPA only for Health and Welfare or only for Property and Financial Affairs, do you think there is a need to retain separate forms for each of the types of LPA alongside a combined form?

Q3. Do you think a combined form will result in some people applying for both forms of LPA, without having fully considered the specific responsibilities involved with health and welfare decisions?

Q4. Should any other changes be made to the redesigned single forms?

Q5. What more can be done to ensure that individuals making LPAs or who become attorneys understand how to make decisions under the Mental Capacity Act? How should the dual message about empowerment and protection be conveyed?

b) Effect of forms

During user testing of the proposed forms, it became apparent that some individuals were not aware that it is possible to create a Property and Financial Affairs LPA which comes into effect immediately (i.e. while an individual still has capacity). In contrast, Once added to the form, if this question is not completed by the donor, the OPG would apply the default position – that the Property and Financial Affairs LPA is to come into effect as soon as it has been registered.

Q6. Do you agree that donors should be encouraged, by way of an option on the LPA form, to specify *when* the LPA comes into effect in the Property and Financial Affairs LPA?

Both the combined and the individual Health and Welfare LPA forms include a section about life sustaining treatment. On the current forms, the life sustaining treatment section includes a separate signature and witnessing requirement in addition to the general one at the end of the donor's section. It was considered that this signature and witnessing requirement provide an important necessary safeguard about whether an LPA confers authority to make decisions relating to life sustaining treatment. This was in order to ensure that the person making the decision was fully aware of the implications of making this choice.

In instances where the donor has chosen to tick the life sustaining treatment authorisation but has not signed/witnessed this authorisation, the OPG has to apply the default option³ – that is, that the donor has *not* granted the attorney authority to consent to life sustaining treatment. The OPG will write to the donor to notify them that the default position has been applied and will confirm that the LPA is otherwise valid, but will not allow the attorney to make any life sustaining treatment decisions.

However, this approach is not ideal and risks the donor's intentions not being given full effect. User testing has shown that individuals do give serious thought to this specific section of the form and are not trivialising or skipping over it. When the testers questioned users in depth on the life sustaining treatment section of the form, there was a clear preference for there to be no need for a separate signature and witnessing requirement. As a result, and in order to seek to maintain the donor's original intent, we are considering removing the signature and witnessing requirement from the life sustaining treatment section of the redesigned Health and Welfare LPA form and the new combined form.

Q7. What is your view about the removal of the signature and witness requirement from the life sustaining treatment authorisation?

c) Language

Customer insight research conducted by the OPG has shown that many people struggle to understand what is meant by some of the technical language used on the forms.

In response to the consultation '*Transforming the Services of the Office of the Public Guardian*', the majority of respondents stated that they preferred to retain some legal terms in the current forms, given the legal nature of the LPA as a deed. As a result, the OPG has redesigned the forms to contain language which attempts to balance legal terminology stemming from the Act, such as 'jointly and severally', with terms which provide a clearer explanation of what is required.

³ Section 11(8)(a) of the Mental Capacity Act 2005. provides the basis of the default option.

Perhaps the most significant suggested change is to the names of specified roles, such as ‘certificate provider’ and people to be told when an application to register is being made. These names are not specified in the Act. The OPG is considering whether these should be replaced with the term ‘people to certify’ (instead of certificate provider) and ‘people to be notified’ (in place of the named person(s)). Other amendments include: making the forms easy to read and easy to fill in; reverting to black and white print for all sections of the forms, as user testing has informed us that the colour coding used on the current forms is not picked up by most users; and reducing duplication so that basic information is entered only once.

Q8. Do you consider that the new language in the forms is more user friendly?

Q9. Do you agree that the renaming of ‘certificate providers’ and ‘named persons’ helps to clarify their roles?

Q10. Overall, do the forms offer the right balance between length and the inclusion of essential information?

d) Application to Register

In *‘Transforming the Services of the Office of the Public Guardian’* we outlined our proposals to amalgamate the LPA002 – Application to Register – with the LPA form. The vast majority of respondents were in favour of this proposal.

However, during user testing it became clear that the different considerations and processes associated with the LPA form and the LPA002 created confusion when combined into one form. There is a marked difference between the decisions required for creating an LPA to those necessary in applying to register it.

As a result, we have redesigned the current LPA002 form so that it is shorter, simpler and eliminates the duplication of information as far as possible. In addition, retaining a separate form also means it can be used for registering earlier versions of the form, rather than retaining the existing 14 page LPA002. The proposed revised form can be found in Annex A.

Q11. Is the revised LPA002 more user friendly? Is there anything in the form that would create difficulties for donors or attorneys applying to register?

e) Accompanying Guidance

At the same time as redesigning the forms, we have also taken the opportunity to revise and update the supporting guidance that accompanies these forms. We have, therefore, sought to make the language in the guidance accessible, without losing the meaning, so that all types of audience can understand the content. The other changes to the guidance are relatively minor, for example, amending the typeface and incorporating information on fees and remissions into the guidance, rather than having them in a separate leaflet (as now).

4. Certificate Providers

The development of the new digital tool, as well as the revision of the paper version of the LPA forms, has highlighted again that the requirement for a second certificate provider adds complexity to the LPA process and creates a barrier to those people who wish to make an LPA but who do not have anyone to notify or to undertake the second certificate provider role. In the Government response last year, we said we would consider further how much additional protection a second certificate provider would give in practice and

the difficulties that individuals encountered trying to find a second certificate provider. We were also clear that we did not accept that a certificate provider needed to be from specified professions.

We are mindful of trying to balance the ease of making an LPA and reducing the barriers for individuals wanting to make LPAs, alongside ensuring that the system as a whole retains adequate safeguards. However, there is a view that this requirement actually creates perverse behaviours: for example, some donors seek to name as their notifiable person an individual who is not that well known to them, thereby undermining the safeguarding aspect of this role, simply to overcome the requirement to have a second certificate provider.

As a result, we are proposing that the requirement for a second certificate provider is no longer essential and could be dispensed with. We would welcome your views on this.

Q12. Do you agree with the proposal that the requirement for a second certificate provider should be dispensed with?

5. Fees

Currently, the OPG offers two separate Lasting Power of Attorney forms, each attracting a single fee per application to register. If we were to introduce a combined Lasting Power of Attorney form, it is likely that the OPG's processing costs would be less than those required to register two separate applications. On that basis, it would seem reasonable to offer a reduced application fee for a combined LPA that is lower than the cost of registering two separate applications and is in line with the actual costs to the OPG to process the application.

Q13. Do you agree that it is appropriate to offer a separate fee for an application to register a combined Lasting Power of Attorney, commensurate with the costs to the OPG of processing that application?

Currently, when an application is rejected by the OPG as invalid, the applicant may make a fresh application at the reduced rate of half the full application fee, known as the resubmission fee.

However, there are some instances where applications are not invalid but the Mental Capacity Act 2005 requires the removal of unlawful clause(s) by the Court of Protection. In these instances, the Public Guardian will apply to the Court for the removal of the unlawful clauses in order to make the LPA capable of registration. If, after being advised of the need for the removal of the clause(s) to enable registration to be processed, the applicant decides to withdraw the application as the removal of the clause is unacceptable and chooses instead to make a new LPA, the application for the registration of the new LPA would not be eligible for a repeat application at the reduced rate but would incur the full fee of £130. This is because the original application was not invalid. It has been suggested that this is inequitable.

We are, therefore, considering whether to expand the range of cases that would be eligible for the reduced application fee to include cases that are not returned as invalid but which require action by the Court in order to make them capable of registration. We would welcome your views on this proposal.

Q14. Do you agree the range of cases for which a reduced application fee is applicable should be expanded to include those cases where the LPA can only be made capable of registration by an application being made to the Court of Protection?

The OPG transformation programme is expected to deliver a range of benefits, including reduced costs to the OPG of processing applications to register LPAs that are made via the digital channel. It would seem appropriate for the reduced costs arising from adopting a digital route to be passed on to those customers choosing that option. In the civil courts, for example, lower fees are charged for accessing certain court services digitally (for example, Money Claims Online).

Last year we asked in principle whether depending on the channel used, a variable fee to register that LPA should be charged and if there would be support for this. As many respondents were in favour. We are now proposing specifically that we charge a fee for digital applications commensurate with the cost of processing those applications.

Q15. Do you agree that those applying to register LPAs via digital channels should pay a fee set at a level commensurate with the lower cost of processing such applications?

Accessing the Registers

1. Background

The OPG holds registers of Enduring Powers of Attorney (EPA), Lasting Powers of Attorney (LPA) and Court of Protection appointed deputies. Any member of the public can request a ‘first tier’ search of the register and receive basic limited information about whether a deputy or attorney exists for a given person and what type of power is in place.

If a ‘match’ is found at this first tier search, a ‘second tier’ search can then be requested, asking for further information. The OPG may provide this on a discretionary basis, taking into account the reasons given for the need to access the information and the role of the individual or organisation seeking it.

2. The proposals

The OPG’s policy on disclosure is to safeguard the donor or ‘P’ from abuse, to help ensure that the donor’s wishes are complied with and to enable those who need to act in the donor’s or ‘P’s interests do so based on relevant information.

Last year we sought views in our consultation about providing online access to the Registers. Many respondents were in favour of basic ‘tier one’ searches being made available online. In our response we indicated that the OPG, therefore, would develop a secure digital tool which will allow tier one search requests to be lodged and responded to automatically online. This facility will be launched in April 2014.

a) Tier one searches

As the OPG has been considering in more detail how this process might operate, they have been considering again the range of information made available as part of a 'first tier' search. Currently, the following information is provided to any individual/organisation who asks for a tier one search:

- The allocated case number
- Known other names of the donor/ person the order is about
- Date of birth of the donor/ person the order is about
- Name(s) of any deputy/deputies
- Name(s) of any attorney(s)
- Whether the EPA, LPA or deputyship order relates to property and financial affairs or personal welfare
- The date the EPA, LPA or deputyship order was made
- The date the LPA, EPA or deputyship order was registered
- The date the EPA or LPA was revoked (if applicable)
- The date the deputyship order expires (if applicable)
- The date the deputyship order was cancelled (if applicable)
- Name(s) of any replacement deputy/deputies
- Whether any replacement deputies are active
- Whether the deputies/attorneys are appointed jointly (i.e. they must all agree before any action is taken)
- Whether deputies/ attorneys are appointed jointly and severally (i.e. they can act independently of each other or act together);and
- Whether there are conditions or restrictions on the EPA,LPA or the deputyship order (but not details of the conditions and restrictions)

The OPG recognises the need to maintain the right balance between transparency and visibility in releasing information from the registers to members of the public, whilst ensuring the necessary protections are in place for the individual involved. As a result of reviewing the information currently made available for a tier one search, and regardless of whether the search is conducted through the digital service or not, the OPG would welcome your views on whether the information provided should be reduced (and if so, what would be the minimum information that should be disclosed) or whether it should remain as is.

For example, an option might be to provide only confirmation of whether a deputy or attorney (or more than one if applicable) is in place and the names of those appointed. If any additional information is required, it would require an application for a discretionary second tier search.

Q16. Is the range of information currently revealed as a result of a tier one search sufficient or should it be reduced?

Q17. If the type of information should be reduced, what should be the minimum amount provided?

b) Tier two searches

Applications for second tier searches are usually made in order to obtain additional information to that given after a first tier search. Only information relating to the donor or 'P' can be obtained through a tier two search and the Public Guardian must consider that there is good reason to disclose it. As highlighted in the Government response to last year's consultation, we propose that applications for tier two searches could also be submitted through the digital tool to the OPG. The response would also be returned through this tool after approval by the Public Guardian.

Q18. Do you agree that second tier searches should be conducted through a secure digital tool?

Q19. Are there any other additional factors that you feel should be taken into account with regards to electronic access of the Registers?

c) Intermediate searches

The OPG is also considering whether to introduce an 'intermediate tier' of searches, via the digital tool, for certain 'accredited third parties'. These 'accredited third parties' might include:

- medical/healthcare/social care staff who would be limited to information regarding healthcare and welfare powers,
- banking and financial institutions whose access would be limited to information regarding property and financial affairs, or
- local authorities assessing P's financial circumstances and liability to pay for care, whose access would be limited to information regarding property and financial affairs.

This facility would provide suitable, secure access to online search results, limited to use within the workplace. These 'accredited third parties' would be able to request specific, structured information beyond that provided by tier one searches, but less than the full range of information that could be released on a discretionary basis under a tier two request. For example, a healthcare practitioner may receive a first tier match confirming that a person does indeed hold a personal welfare power of attorney for a given individual that they are treating. An intermediate search may allow them to access limited further information, such as whether the power allows the attorney to make decisions relating to life sustaining treatment or whether there are any restrictions and conditions that the donor has placed on the power.

Q20. Do you agree with the proposal that 'accredited third parties' should have intermediate access to the Registers?

Q21. What information should they have access to?

Supervision of Deputies

1. Background

The Public Guardian holds a key safeguarding role within the Mental Capacity landscape. Supported by the Office of the Public Guardian (the OPG), the Public Guardian's duties are focused on supporting and protecting the interests of people who may lack mental capacity now or in the future.

In June 2012, the OPG commenced a fundamental review of the way the Public Guardian fulfils his statutory duty to supervise court-appointed deputies. There were a number of drivers for this including increasing volumes of cases requiring supervision, the opportunities arising from using digital channels to improve the way deputyship services are delivered, and evidence from customers, stakeholders and staff about how the current approach was operating and what improvements could be made. As a result, the supervision review is seeking to deliver a more responsive, case-sensitive approach to supervision, with effective and proportionate oversight.

The first phase of the review, carried out between October 2012 and April 2013, primarily focused on gathering evidence about the areas for improvement – internally from staff from a review of current cases and externally from current deputies and key OPG stakeholders. The OPG identified a number of 'quick wins' which could be implemented immediately. These were, on the whole, small operational improvements to the current processes that can be done within existing legislation and OPG structures. Further changes being introduced in 2013 include:

- Introducing a different approach to monitoring visits to local authority and professional deputies, utilising lessons learned from the supervision of panel deputies and applying greater oversight to their caseloads as a whole.
- Earlier contact with more deputies following appointment (to allow more data gathering and a fuller risk assessment)
- Improved guidance (both to staff and deputies, targeted to the individual needs)
- Improved flow of information from visits, and
- Improvements to the annual reporting process.

This consultation paper, therefore, focuses on the next phase of the supervision review and specifically seeks views on how the current model might be restructured more fundamentally to ensure the OPG is fully focused on meeting the needs of customers, provides greater and more tailored support to deputies, whilst ensuring there are adequate protections and safeguards in place.

2. The proposals

Supervision model

The current supervisory model is based on an assessment of the risk factors in a case. It does not take into account the type of support or monitoring that a particular deputy or class of deputies might require – particularly those who act for more than one client. Customer insight research has highlighted that the supervisory requirements of deputies can vary significantly, according to whether they are professional or lay deputies, and for the latter group, whether they are newly appointed or longstanding.

The OPG, therefore, proposes moving to a segmented delivery model that supervises proportionately according to deputy type, with tailored guidance, support and monitoring. This will replace the current, single standard approach.

- For lay deputies: this change of delivery model will involve early engagement and support to assist lay deputies in understanding their role. They will be subject to closer monitoring, where necessary.
- For professional and local authority deputies: the OPG wishes to make use of the expertise held by professional deputies and apply an oversight monitoring approach, assessing the deputy's capability against an agreed set of standards.

This proposed delivery model will enable the OPG to focus its attention on providing the right kind of oversight and support to all deputies, rather than providing a tiered approach, as at present. Information about deputyships will be more widely available and accessible prior to someone making an application to the Court of Protection.

These proposed changes will involve OPG staff specialising in different types of deputyship and applying end-to-end case management, so that they meet the different needs of each deputyship type and increase the protection being given to people without capacity. Assessment of risk would be continuous, throughout the case, rather than carried out primarily on appointment of the deputy, as currently happens.

Q22. What kinds of different support and monitoring do you think professional, local authority and lay deputies might require?

Q23. What risk assessment criteria do you think would be appropriate (for each type of deputy)?

b) Support and monitoring of deputies

For customers, improved OPG involvement is likely to include: improved forms and guidance, involving multiple channels, with signposts to other agencies where appropriate; digital tools enabling deputies to record and submit decisions to OPG in real time; fuller and continuous risk assessment, with more front-end contact; regular reviews of all cases; and greater oversight of professional, panel and local authority deputies. Wherever possible, this information, guidance and contact will be delivered digitally as the default method.

The level of support and monitoring of a deputy needs to be proportionate. It is, therefore, proposed that the OPG should provide a greater degree of guidance, support and monitoring in the first year of a deputyship, with the aim of resolving any potential problems at an early stage and ensuring deputies get off to a good start. Such supervision may include, for example, asking finance and property deputies to submit an inventory of P's assets and a forward plan outlining their proposals for spending in the first year of the deputyship.

Q24. What type of support and monitoring do you feel is needed early on in a deputyship?

The introduction of online services for deputies will enable the OPG to allocate a unique account to the deputy. This will enable a deputy to file documents, post and receive messages, receive reminders (e.g. when the annual report is due), keep records and arrange appointments to speak to a caseworker or book a visit. It will also enable the

deputy to access online support or information to assist them in their role as a deputy. The OPG intend that this facility will be available in September 2014.

Q25. What kind of online support or information do you think would most benefit deputies in fulfilling their role?

c) Contact with deputies

As an increased level of contact will take place early on in a deputyship, it is proposed that once the initial engagements have taken place (for around a year), more intermittent contact with deputies will then become the norm. This does not mean that appropriate oversight of a deputy will not be carried out. Rather, the focus will be on tailoring the support provided, depending on a deputy's experience and the assessment of risk.

The proposals seek to provide more protection to P, via mechanisms which give greater assurance that P's interests are being met. Recalcitrant deputies will be identified quickly and supported to compliance and instances of fraud or abuse will be identified quickly and will be acted on quickly.

Q26. In what circumstances would minimal intervention in a case be most appropriate?

Q27. What do you feel would be a reasonable frequency of contact with the deputy in such cases to protect the person without capacity?

d) Professional Deputy Fees

Currently, the fees that can be charged by professional deputies to cover the costs of their professional services in acting as deputy are governed by a practice direction set down by the President of the Court of Protection. Deputies may either charge a fixed rate to cover their costs or, if their costs exceed the fixed costs levels, they must apply to the Senior Courts Costs Office to have their costs assessed and approved. Since April 2013, new rules have required that any such fees charged must be 'proportionate'

When reviewing a case as part of the supervisory process, the Public Guardian does not routinely take into account explicitly the fees that are charged by professional deputies for managing a case. However, the charging of very high fees, even if they cover actual work properly carried out by the deputy, may not always be in the best interests of the person who lacks capacity. The OPG is, therefore, considering whether a more flexible approach should be adopted with regards to the level of fees charged by deputies and include a review of the deputy management fees as part of the supervisory process.

Q28. Should the OPG take fuller account of the fees charged by professional deputies as part of the supervisory process?

Part 2: Transforming OPG Services after April 2014

Fully Digital Lasting Powers of Attorney (e-LPAs)

1. Introduction

The ultimate aim of the OPG is to deliver a fully digital process for making and registering an LPA, where the whole process is completed online, removing the need for paper forms. A fully online process would encourage greater numbers of the population to plan ahead for a time in the future when they may lack capacity to make decisions for themselves by making an LPA.

The digital LPA tool, launched on 1 July 2013, enables the OPG to provide a partial digital process and is intended to have a positive impact in assisting individuals to complete an LPA application. However, users of the digital tool will still have to print off the forms and have them signed, witnessed and dated before sending to the OPG for registration. This section of the consultation, therefore, seeks views about how the OPG might make the LPA process fully digital. Specifically, it identifies the areas of possible legislative change that would be required to support a fully digital approach.

However, the OPG also recognises that it will be essential to ensure that the necessary safeguards are in place for vulnerable people in a digital context. As the Public Guardian is responsible for supporting and protecting the interests of people who may lack mental capacity now or in the future, we need to ensure that any opportunities for fraud are minimised and that the best interests of ‘P’ remain paramount. Safeguarding and security will be at the heart of any fully digital LPA process, and the aim is for such a process to be as safe as, or safer than, the existing paper process. In addition, the paper-based service will not be removed, but will continue to be offered in parallel to the digital service.

2. The current legal framework in England and Wales

A Lasting Power of Attorney is a deed. This is not specified in the Mental Capacity Act (MCA) 2005 but in the Powers of Attorney Act 1971, which requires in relation to powers of attorney generally (and so includes LPA’s) that an instrument creating a power of attorney must be executed as a deed by the donor of the power.

The requirements for executing a document as a deed are set out the Law of Property Act (Miscellaneous Provisions) Act 1989. For a deed to be validly executed it must be signed and attested by an individual, if and “only if: (a) it is signed– (i) by him in the presence of a witness who attests the signature; or (ii) at his direction and in his presence and the presence of two witnesses who each attest the signature; and (b) it is delivered as a deed”.

Regulation 9 of the Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian Regulations 2007 sets out the specific requirements for the execution of a LPA. It requires the donor to complete Part A of the instrument and then sign Part A in the presence of a witness. The witness to a signature must sign the instrument and give a full name and address.

Under current legislation,⁴ all LPA's must be made on paper, and must include a 'wet signature' which is witnessed. To enable the creation and registration of a fully digital LPA without the need for a wet signature, new primary legislation is necessary. This would include disapplying for LPA's the provisions in existing legislation which require that powers of attorney are deeds which must be signed and witnessed.

We are seeking your views on our initial proposals, set out below, to further our policy development in this area. Any future legislation would enable individuals to choose whether to create an LPA by the fully digital method or to continue using paper.

3. The proposed approach

Completing an LPA on paper can be time-consuming for applicants, who must consider and work through a significant amount of paperwork (forms and guidance). The paper forms often lead to mistakes, resulting in invalid applications. Almost 20% of applications to the OPG currently have to be returned to the applicant, leading to a poor customer experience. The OPG wants to make the whole process for putting an LPA in place easier, which goes beyond simply redesigning the forms.

In line with this aim, therefore, we propose to implement a fully digital service for making an LPA. In implementing this approach, there will only be two key changes to the current process: the removal of the role of the witness; and replacing physically signing the document with a digital 'signature'.

a) Removing the role of the witness

The requirement to prove the identity of a named individual by witnessing a 'wet' signature would be fulfilled in a different way in a digital process, as this would not require a 'wet' signature or a witness to it.

The safeguarding role of the certificate provider will remain, however, as their role in assessing the capacity of the donor to make the application is vital to the process. This role is fundamentally different to that of the witness and is a key feature of the more robust, secure process introduced by the MCA 2005.

Through the new digital process, the activities of all those logging in with a secure identity will be recorded and timestamped, removing the need for a separate witness to confirm that the process has been completed by each individual at the time specified.

b) 'Signing' in a digital environment

We propose to replace physical signatures with a digital 'signature' made up of two components:

- instead of physically signing, the donor, attorney(s) and certificate provider will have their identity verified via a trusted third party online (see below); and
- in addition, the donor, attorney(s) and certificate provider will have to formally confirm, as part of the online process, that they fully understand the nature of their role and agree to act in that capacity. In the case of the donor, they would need to confirm that it is their intention to create a lasting power of attorney conferring the powers specified on the attorney(s).

⁴ i.e. the Powers of Attorney Act 1971 and the Law of Property (Miscellaneous Provisions) Act 1989, as explained above.

All other parts of the process of making an LPA would remain the same; specifically:

- the information required by the donor and the other individuals in the process will remain the same as is currently the case.
- all those currently involved in making an LPA, except the witness, will remain involved and will continue to perform in the same capacity as at present.

At this stage, we also envisage that solicitors and other professionals involved in making LPAs will only have to go through the online identity assurance process if they are undertaking a formal role in an LPA application, either by acting as certificate provider, attorney or otherwise as an agent for the donor.

5. Online identity assurance

Online identity assurance (IDA) through a third party provider is the cross-Government approach to ensuring that those who use Government services are who they say they are – which is fundamental to removing the need for a physical signature which is witnessed. In this process, a person enters information online, which is checked against existing records in order to verify their identity, with their digital identity then linked to a secure username and password.

The OPG proposes to align with the emerging cross-Government approach to IDA; the approach provides a framework for people to interact with Government services securely online via accredited third-party service providers. This framework gives the necessary technical, commercial and regulatory infrastructure to allow users to prove their identity, or give other information about themselves, to Government easily and securely.

Work on this proposal is at an early stage, and options will continue to be developed throughout 2013 around using online IDA. However, the outline proposed process is as follows:

- The applicant, or a professional acting on their behalf, fills in an online LPA application through the digital tool and populates it with the necessary information.
- When the process is complete, the donor will log in securely to the site, at which point, if they do not already have a secure ID, they will be redirected to a secure third-party site where they will go through the process of online IDA.
- The donor will then be redirected back to the instrument, where they will need to formally confirm their understanding of the nature of the LPA instrument they are making and formally confirm their intention that the LPA is to be made.
- The other LPA participants in the process will then complete their parts of the process in a similar way. When each of the necessary parties has securely logged on and completed their parts of the process, the LPA will have been completed.
- From this point, either the donor, or one or more of the attorneys, would be able to log in again and formally apply to register the document with the Office of the Public Guardian online.
- An electronic copy of the LPA would be returned to the applicant.

Q29. Are you in favour of the proposal to introduce legislation to create a fully digital LPA without physical signatures?

Q30. Are you in favour of the proposal to dispense with the role of witness in a fully digital process and for this function to be fulfilled by the digital process combined with secure online ID assurance?

Q31. Are you in favour of the proposal to use online identity assurance to verify the identities of those involved in making an LPA?

Q32. Are you in favour of the proposal that ‘signing’ the document would be completed in a digital context by each individual logging on securely with an assured ID and formally agreeing that they understand the nature of their role and agree to act in that capacity?

Q33. If you foresee any potential issues with implementing a fully digital approach, do you have any suggestions about how they might be addressed?

We welcome your views about these initial proposals to support the implementation of a fully digital process. We would also like to receive any more specific details or rationale for your answers to the above questions. In addition, we will also be discussing this further with interested parties. Our intention is that this will enable us to further develop a policy approach which takes forward the digital by default agenda, whilst balancing it with all of the necessary safeguards required to ensure that vulnerable people are protected when they have lost capacity.

Annex A – LPA forms

Lasting Power of Attorney (LPA1)	25
Lasting Power of Attorney – Continuation Sheets (LPA1)	43
Lasting Power of Attorney – Health and Welfare (LPA1H)	47
Lasting Power of Attorney – Property and Financial Affairs (LPA1P)	64
Lasting Power of Attorney – Register your LPA (LPA2)	81
Lasting Power of Attorney – People to be told (LPA3)	89



Office of the
Public Guardian

1

Lasting Power of Attorney (LPA)

Create your LPA

Health and welfare

Property and financial affairs

Before you start

For help, see
How-to guide
sections A–C



You need several people to make a LPA.

This page explains the essentials.

You don't need a lawyer to make an LPA but you may prefer to do so, particularly where you see the lawyer symbol.



It currently costs £130* to register an LPA unless you receive certain benefits or have a low income.

*Please check you are paying the correct amount at www.gov.uk/power-of-attorney/how-much-it-costs or call 0300 456 0300. We cannot register your LPA until you have paid the fee.

Donor (section 1) You are the donor, the person appointing other people to make decisions for you.

Mental capacity The ability to make a decision. You may have mental capacity for some decisions but not others. For more information on mental capacity, see the How-to guide, part D-8.

Attorneys (section 3) The people you've chosen to make decisions for you are called your attorneys. Your attorneys don't need special legal knowledge or training. The most important thing about attorneys is that they should be people you trust, who know you well. Common choices include your husband, wife or partner, son or daughter or your best friend.

Replacement attorneys (section 5) You can also choose replacement attorneys, who can only act under the LPA if 1 or more of your original attorneys can no longer act on your behalf.

People to certify (sections 6 and 10) The person to certify's job is to make sure you understand the LPA and that no-one is forcing you to do it. Your doctor or lawyer can do this, or you can ask a friend or colleague.

People to be told (section 6) You can specify up to 5 people to be sent a notice when you send the LPA to be registered.

Witnesses (sections 9 and 11) you also need witnesses to your signatures. They can be anyone except you or your attorneys. You could save time by getting your people to certify to witness the signatures.

Registration (form LPA **2**) before your attorneys can use your LPA, you must send it to the Office of the Public Guardian to be registered. Once your LPA has the official stamp, your attorneys can take the form to the bank or doctor to show they have been legally appointed as your representatives.

Lasting Power of Attorney (LPA)

For help, see
How-to guide
part D-1



Section 1

The donor

You are the donor: the person appointing other people to make decisions on your behalf.

First names

Last name

Any other names you're known by (for example, your maiden name)

Date of birth

Day Month Year

Address

Postcode

For completion by the Office of the Public Guardian

LPA registration date

Day Month Year

OPG reference number

Section 2

Health and welfare, property and financial affairs or both

For help, see
How-to guide
part D-2



You must choose what decisions your attorneys can make on your behalf.

Tick one or both boxes

Health and welfare

Property and financial affairs

Both – health and welfare and property and financial affairs –
tick both boxes above

Health and welfare

Health and welfare includes decisions like:

- where you live
- the type of health care and medical treatment you receive
- day-to-day issues such as your diet, dress or daily routine
- whether you receive life-sustaining treatment (you can choose whether your attorneys can make this decision on the next page)

Your attorneys will **only** be able to make these decisions once you have lost mental capacity.

Property and financial affairs

Property and financial affairs includes decisions like:

- running your bank and savings accounts
- making or selling investments
- paying your bills
- selling your house

You can choose when your attorneys will be able to make these decisions on the next page.

Both

Your attorneys will be able to make decisions about both your health and welfare and your property and financial affairs. This applies to all your attorneys.

If you want certain attorneys to manage your health and welfare and different attorneys to manage your property and financial affairs, you must create two LPAs by filling in this form twice. See the how-to guide section D-2 for more information.

Section 2 (continued)

Health and welfare and property and financial affairs questions

For help, see
How-to guide
part D-2



! You must answer at least one question on this page

Health and welfare question

Answer this question if you ticked 'health and welfare' on the previous page.

Life-sustaining treatment

Option A – **I give my attorneys authority to give or refuse consent to life-sustaining treatment on my behalf.**

If you choose this option, your attorneys can speak to doctors on your behalf as if they were you.

Option B – **I do not give my attorneys authority to give or refuse consent to life-sustaining treatment on my behalf.**

If you choose this option, your doctors will take into account the views of the attorneys and of people who are interested in your welfare as well as any written statement you may have made, where it is practicable and appropriate.

Property and financial affairs question

Answer this question if you ticked 'property and financial affairs' on the previous page.

When do you want your attorneys to be able to make decisions about your property and financial affairs?

Immediately (and when I don't have mental capacity)

My attorneys can make any decision on my behalf with my consent as soon as my LPA is registered by the Office of the Public Guardian.

Only when I don't have mental capacity

Remember – your attorneys can make decisions about your health and welfare **only** when you don't have mental capacity.

Section 3

Attorneys

For help, see
How-to guide
part D-3



Your attorneys are the people you want to make decisions for you.

You can have 1 attorney or several. Attorneys must be at least 18 years old and must have 'mental capacity' to make decisions. If you ticked 'property and financial affairs' in section 2, your attorneys cannot be bankrupt or subject to a debt relief order. If an attorney later becomes bankrupt, they can only act under the health and welfare power.

Attorney 1

First names

Last name

Company name (optional)

Address

Postcode

Attorney 2 (optional)

First names

Last name

Company name (optional)

Address

Postcode

Attorney 3 (optional)

First names

Last name

Company name (optional)

Address

Postcode

Attorney 4 (optional)

First names

Last name

Company name (optional)

Address

Postcode

More attorneys – I want to appoint more than 4 attorneys. Use Continuation Sheet 1.



Skip this page if there's only 1 attorney

Tick one only:

Jointly and severally

Attorneys can make decisions on their own or together. Most people choose this option because it is the most practical. Attorneys can get together to make important decisions if they wish, but can make simple or urgent decisions independently. It also means that if one of the attorneys dies or can no longer act, your LPA will still work.

Jointly

Attorneys must agree unanimously on every decision, however big or small.

Remember, some simple decisions could be delayed because it takes time to get the attorneys together. If your attorneys can't agree a decision, then they can only make that decision by going to court.

Be careful – if one of your attorneys dies or can no longer act, all the others become unable to act. Your replacement attorneys will step in (if you appoint any in the next section). This is because a group appointed 'jointly' is seen as a single unit in legal terms.

**Jointly for some decisions,
jointly and severally for other decisions**



Attorneys must agree unanimously on some specific decisions, but can make others on their own.

You must list the decisions to be made jointly and agreed unanimously on Continuation Sheet 2 if you choose this option. The wording you use is important. There are examples in the How-to guide, part D-4. You may also need to take legal advice.

Be careful – if one of your attorneys dies or can no longer act, all the others become unable to make any of the decisions to be made jointly – replacement attorneys will make these decisions instead (if you appoint any in the next section). Your original attorneys will work with your replacement attorneys to take decisions to be made jointly and severally.

Section 5

Replacement attorneys

For help, see
How-to guide
part D-5



! This page is optional, but we recommend you consider it

Replacement attorneys act on your behalf **only** if 1 or more of the original attorneys dies, loses capacity, decides they can no longer act on your behalf, is no longer legally your spouse or civil partner, becomes bankrupt or subject to a debt relief order (only applies to LPAs for property and financial affairs)

Replacement attorneys must be at least 18 years old when you sign this form and must have 'mental capacity' to make decisions. If you ticked 'property and financial affairs' in section 3, replacement attorneys must not be bankrupt or subject to a debt relief order. If a replacement attorney later becomes bankrupt, they can only act under the health and welfare power.

Replacement attorney 1 (optional)

First names

Last name

Company name (optional)

Address

Postcode

Replacement attorney 2 (optional)

First names

Last name

Company name (optional)

Address

Postcode

More replacements – I want to appoint more than 2 replacements. Use Continuation Sheet 1.

How replacement attorneys step in

There are rules for how your replacement attorneys step in, described in the How-to guide (part D-5). If you have 1 original attorney or you ticked 'jointly and severally' in section 4, you can change the way this works.

You'll need to read the How-to guide (part D-5) thoroughly first.

You may also need to take legal advice.

I want to change how replacement attorneys step in

(write your instructions on Continuation Sheet 2)



Section 6

Safeguards

For help, see
How-to guide
part D-6



There are 2 types of safeguard in an LPA: people to certify and people to be told. You must have at least 1 person to certify. You can then choose either a second person to certify or up to 5 people to be told.

You must get your people to certify to sign section 10.

When you or your attorney(s) are preparing to send the LPA to be registered, you must send notices to the people to be told.

People to certify

A person to certify signs to confirm they have spoken with you about the LPA, you understand what you're doing and no one is forcing you to do it.

A person to certify can be:

- Anyone you've known for at least 2 years as more than an acquaintance, such as a friend or colleague
- Someone with the relevant professional skills and expertise to make the above judgment, such as your doctor or lawyer.

A person to certify can't be:

- an attorney or replacement attorney named in this LPA or any other LPA or enduring power of attorney for the donor
- a member of your family or of one of your attorneys' families, including spouses, civil partners, in-laws and step-relatives
- an unmarried partner, boyfriend or girlfriend of either you or one of your attorneys (whether or not they are living at the same address)
- your business partner or an attorney's business partner
- your employee or an attorney's employee
- an owner, manager, director or employee of a care home where you live

People to be told

When the LPA is sent to be registered, the people to be told are sent a notice (form LPA **3**) explaining that they have 3 weeks to object to the LPA registration. They can only object for certain reasons (see form LPA **3**). After this point, they are no longer involved in the LPA.

Choose people who care about your best interests and who would be willing to speak up if they were concerned.

If you're the person sending your LPA to be registered, you will first have to send the notices. If one of your attorneys is registering the LPA, they will have to send the notices. To see a sample notice, see form LPA **3**.

People to be told can't be your attorneys or replacement attorneys.

Section 6 (continued)

Safeguards

For help, see
How-to guide
part D-6



People to certify

Person to certify 1

(required)

First names

Last name

Address

Postcode

Person to certify 2

(required if you have no people to be told)

First names

Last name

Address

Postcode

People to be told

Person to be told 1

(required if you only have 1 person to certify)

First names

Last name

Address

Postcode

Person to be told 2

(optional)

First names

Last name

Address

Postcode

More people to be told – I want to appoint more people to be told.
You can appoint up to 5, use Continuation Sheet 1.

Section 7

Instructions and preferences

For help, see
How-to guide
part D-7



This page is optional

You can record instructions and preferences for when your attorneys make decisions under the LPA. Your attorneys **must** follow your instructions but can decide for themselves whether to take your preferences into account.

You don't have to include instructions and/or preferences – many people don't. Make sure you talk to your attorneys so that they understand your beliefs and wishes and they can make good decisions on your behalf. Then if you want to set out anything in detail you can do so below.

Also use the instructions box if you need to pay fees to the attorneys.

The wording you use is important. There are examples in the How-to guide, part D-7. You may also need to take legal advice.

Instructions



For instructions the attorneys must follow, use words like 'must' and 'have to'.

Preferences



For preferences, use words like 'prefer' and 'would like'.

I need more space. Use a copy of Continuation Sheet 2 and clearly state whether you are writing instructions or preferences.

Section 8

Your legal rights and responsibilities

For help, see
How-to guide
part D-8



! Everyone signing the LPA must read this information

In the next sections, you and all your attorneys sign this LPA forming a legal agreement between you (a deed).

By signing this LPA, you (the donor) are appointing people (attorneys) to make decisions for you.

LPAs are governed by the Mental Capacity Act 2005 (MCA), regulations made under it and the MCA Code of Practice. Attorneys must have regard to these documents, available from www.justice.gov.uk/protecting-the-vulnerable/mental-capacity-act. If you need help viewing this website, visit your local library.

Your attorneys must follow the principles of the MCA:

1. Your attorneys must assume that you can make your own decisions unless they establish that you cannot do so.
2. Your attorneys must help you to make as many of your own decisions as you can. They must take all practicable steps to help you to make a decision. They can only treat you as unable to make a decision if they have not succeeded in helping you make a decision through those steps.
3. Your attorneys must not treat you as unable to make a decision simply because you make an unwise decision.
4. Your attorneys must act and make decisions in your best interests when you are unable to make a decision.
5. Before your attorneys make a decision or act for you, they must consider whether they can make the decision or act in a way that is less restrictive of your rights and freedom but still achieves the purpose.

Your attorneys must always act in your best interests. This is explained in the How-to guide part D-8, and defined in the MCA Code of Practice.

Before this LPA can be used:

- The LPA must be registered by the Office of the Public Guardian.
- The health and welfare power can only be used when you don't have mental capacity. The property and financial affairs power may also be limited to when you don't have mental capacity, according to your choice in section 2.

You can cancel this LPA at any time, as long as you have mental capacity to do so. It doesn't matter if the LPA has been registered or not. For more information, see the How-to guide part D-8.

This LPA will expire when you die. Your attorneys cannot use this LPA to change your will or interfere with its execution.

Section 9

Signature: donor

For help, see
How-to guide
part D-9



! Sign sections 9, 10 and 11 in order

By signing on this page I confirm all of the following:

- I have read this lasting power of attorney (LPA) including section 8 ‘Your legal rights and responsibilities’, or I have had it read to me.
- **If I ticked ‘health and welfare’ in section 2:** I appoint and give my attorneys authority to make decisions about my health and welfare, when I cannot act for myself because I lack mental capacity, subject to the terms of this LPA and to the provisions of the Mental Capacity Act 2005. I confirm I have chosen either Option A or Option B about life sustaining treatment in section 2 of this LPA.
- **If I ticked ‘property and financial affairs’ in section 2,** I appoint and give my attorneys authority to make decisions about my property and financial affairs, including when I cannot act for myself because I lack mental capacity, subject to the terms of this LPA and to the provisions of the Mental Capacity Act 2005.
- I have completed section 6. I personally chose 1 or 2 people to certify and either appointed people to be told or chose not to notify anyone when the LPA is registered.
- The law of England and Wales shall apply to this LPA.

Donor

Signed (or marked) by the person giving this lasting power of attorney and delivered as a deed.

Signature or mark

Date signed or marked

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

Day Month Year

If you have used any continuation sheets you must sign and date each continuation sheet at the same time as you sign this page.

If you can't sign this LPA you can make a mark instead. If you can't sign or make a mark use Continuation Sheet 3.

Witness

Witness must be aged 18 or over and must not be an attorney or replacement attorney appointed under this LPA.

Signature or mark

Full name of witness

Address

Postcode

Section 10

Signature: Person to certify

For help, see
How-to guide
part D-10



! Sign this page as soon as possible after the donor has signed section 9.

! If you have 2 people to certify, make a copy of this page

By signing this section I confirm all of the following:

- I am aged 18 or over.
- I have read this lasting power of attorney (LPA), including section 8 'Your legal rights and responsibilities'.
- I am acting independently of the donor and of the attorneys.
- I have either known the donor personally for at least 2 years as more than an acquaintance **OR** I have relevant professional skills and expertise and I reasonably consider that I am competent to form the necessary opinion to certify the matters on this page.
- I am not:
 - an attorney or replacement attorney named in this LPA or any other LPA or enduring power of attorney for the donor
 - a member of the donor's family or of 1 of the attorneys' families, including spouses, civil partners, in-laws and step-relatives
 - an unmarried partner, boyfriend or girlfriend of either the donor or 1 of the attorneys (whether or not they live at the same address)
 - the donor's business partner or an attorney's business partner
 - the donor's or an attorney's employee
 - an owner, manager, director or employee of a care home where the donor live
 - any other person who the Court of Protection may consider is not sufficiently independent
- If someone challenges this LPA, I may need to explain how I formed my opinion.

Person to certify

I certify that, in my opinion, at the time of signing section 9:

- the donor understands the purpose of this LPA and the scope of the authority conferred under it
- no fraud or undue pressure is being used to induce the donor to create this LPA
- there is nothing else which would prevent this LPA from being created by the completion of this instrument.

How do you know the donor?

Careful – please check the restrictions on the left

- Friend
- Colleague or former colleague
- Neighbour
- Registered healthcare professional (incl. GP)
- Barrister, solicitor or advocate
- Other:

Signature or mark

Date signed or marked

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Day	Month	Year			

Full name

Section 11

Signature: attorneys and replacements

For help, see
How-to guide
part D-11



- ! Sign this page as soon as possible after the donor has signed section 9 and the person(s) to certify has signed section 10**

By signing this section I understand and confirm all of the following:

- I am aged 18 or over.
- I have read this lasting power of attorney (LPA) including section 8 ‘Your legal rights and responsibilities’, or I have had it read to me.
- I have a duty to act based on the principles of the Mental Capacity Act 2005 and to have regard to the Mental Capacity Act Code of Practice.
- I must make decisions and act in the best interests of the donor.
- I must take into account any instructions or preferences set out in this LPA.
- I can make decisions and act only when this LPA has been registered.
- **If the donor has ticked ‘health and welfare’ in section 2,**
I can make decisions and act regarding the donor’s health and welfare only when the donor lacks mental capacity.
- **If the donor has ticked ‘property and financial affairs’ in section 2, I confirm:**
 - I am not bankrupt or subject to a debt relief order.
 - I can spend money to make gifts but only to charities or on customary occasions such as birthdays, and for reasonable amounts, with regard to size of the donor’s estate.
 - I have a duty to keep accounts and financial records and produce them to the Office of the Public Guardian and/or to the Court of Protection on request.
 - I can make decisions and act regarding the donor’s property and financial affairs only at the time indicated in section 2 of this LPA.
- **Further statement by a replacement attorney:** I have the authority to act under this LPA only after an original attorney’s appointment is terminated. I must notify the Public Guardian of the event.

Signature: attorneys and replacements



! All the attorneys and replacement attorneys need to sign.
If there are more than 4 attorneys, make copies of this page.

Attorney or replacement attorney

Signed (or marked) by the attorney or replacement attorney and delivered as a deed.

Signature or mark

Date signed or marked

Day Month Year

Full name

Date of birth

Day Month Year

Witness

Witness must be aged 18 or over and must not be the donor of this LPA.

Signature or mark

Full names of witness

Address

Postcode

Attorney or replacement attorney

Signed (or marked) by the attorney or replacement attorney and delivered as a deed.

Signature or mark

Date signed or marked

Day Month Year

Full name

Date of birth

Day Month Year

Witness

Witness must be aged 18 or over and must not be the donor of this LPA.

Signature or mark

Full names of witness

Address

Postcode

Signature: attorneys and replacements



! All the attorneys and replacement attorneys need to sign.
If there are more than 4 attorneys, make copies of this page.

Attorney or replacement attorney

Signed (or marked) by the attorney or replacement attorney and delivered as a deed.

Signature or mark

Date signed or marked

Day Month Year

Full name

Date of birth

Day Month Year

Witness

Witness must be aged 18 or over and must not be the donor of this LPA.

Signature or mark

Full names of witness

Address

Postcode

Attorney or replacement attorney

Signed (or marked) by the attorney or replacement attorney and delivered as a deed.

Signature or mark

Date signed or marked

Day Month Year

Full name

Date of birth

Day Month Year

Witness

Witness must be aged 18 or over and must not be the donor of this LPA.

Signature or mark

Full names of witness

Address

Postcode

What next?

This page is optional

Your attorneys can only use this LPA when it has been registered by the Office of the Public Guardian (OPG).

We recommend you do this as soon as possible in case you've made any mistakes. Mistakes are more difficult to fix if you delay, and may mean the whole LPA is invalid and your wishes will not be represented.

To register your LPA, fill in form LPA **2**. You'll also have to fill in a copy of form LPA **3** for each of the people to be told (in section 6).

Here's a checklist to help you make sure you've filled in the form correctly. (This checklist is only for your convenience; the OPG will ignore it)

- I, the donor, completed sections 1–7
- In section 6, I've chosen either 2 people to certify or 1 person to certify and 1 or more people to be told.
- I, the donor, signed section 9 in the presence of a witness. I've also signed any copies of Continuation Sheets 1 and 2 that were used on the same date as I signed section 9.
- The people to certify signed section 10.
- All my attorneys and replacement attorneys signed section 11, in the presence of witness(es).
- Sections 9, 10 and 11 were signed in order, or on the same day. Section 9 must have been signed first, then section 10, then section 11.
- I've not left out any of the pages of the LPA (pages 1–15), even the ones where I didn't write anything or there were no boxes to fill in.

Now complete form LPA **2 to register your LPA with the Office of the Public Guardian.**

You'll also have to fill in a copy of form LPA **3** for each of the people to be told (in section 6).

Continuation Sheet 1

Additional People

For help, see
How-to guide
part D-12



! This page is optional

Use this continuation sheet if directed to in form LPA **1**.

If you use this page, you must sign it.

Make a fresh copy of this page each time you're directed to use it.

Attorney

Replacement attorney

Person to be told

First names

Last name

Address

Postcode

Attorney

Replacement attorney

Person to be told

First names

Last name

Address

Postcode

Donor

! You must sign here before you sign
section 9, or on the same day

Signature or mark

Full name

Date signed or marked

Day

Month

Year

Continuation Sheet 2

Additional information

For help, see
How-to guide
part D-13



! This page is optional

Use this continuation sheet if directed to in form LPA **1**.

If you use this page, you must sign it.

Make a fresh copy of this page each time you're directed to use it.

Donor

! You must sign here before you sign section 9, or on the same day

Signature or mark

Full name

Date signed or marked

--	--	--	--	--	--	--	--

Day

Month

Year

Continuation Sheet 3

If the donor cannot sign or mark

For help, see
How-to guide
part D-14



! This page is optional unless the donor cannot sign or make a mark in section 9

Use this page if the donor cannot sign or make a mark in section 9.

Donor

Full name

Signatory

You must:

- sign in the donor's presence and in the presence of 2 witnesses
- sign in your own name
- not also be a witness to this LPA
- remember to sign any copies of Continuation Sheet 1 and 2 used in this LPA at the same time

If the donor has ticked 'health and welfare' in section 2, by signing on this page I confirm the donor has chosen either Option A or Option B about life sustaining treatment in section 2 of this LPA.

Signed as a deed and delivered in the presence of and at the direction of the person giving this lasting power of attorney and in the presence of two witnesses.

Signature or mark

Full name of person signing

Date signed or marked

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

Day

Month

Year

Witness 1

Witness must be aged 18 or over and must not be an attorney or replacement attorney appointed under this LPA.

Signature or mark

Full name

Address

Postcode

Witness 2

Witness must be aged 18 or over and must not be an attorney or replacement attorney appointed under this LPA.

Signature or mark

Full name

Address

Postcode

**! This page is optional unless the donor has appointed a trust corporation as an attorney or replacement attorney****By execution of this deed the trust corporation understands and confirms all of the following:**

- It has read this lasting power of attorney (LPA), including section 8 'Your legal rights and responsibilities'.
- It has a duty to act based on the principles of the Mental Capacity Act 2005 and to have regard to the Mental Capacity Act Code of Practice.
- It can make decisions and act only when this LPA has been registered.
- It must make decisions and act in the best interests of the person giving this LPA.
- It is not going through winding-up proceedings.
- It can spend money to make gifts but only to charities or on customary occasions such as birthdays, and for reasonable amounts, with regard to size of the donor's estate.
- It has a duty to keep accounts and financial records and produce them to the Office of the Public Guardian and/or to the Court of Protection on request.
- It can make decisions and act regarding the donor's property and financial affairs only at the time indicated in section 2 of this LPA.
- **Further statement by a trust corporation acting as a replacement attorney:** It has the authority to act under this LPA only after an original attorney's appointment is terminated. It must notify the Public Guardian of the event.

Company registration number

EITHER

Seal of the trust corporation

OR

I/We are authorised to sign on behalf of the trust corporation acting as attorney whose details are given in this continuation sheet to this lasting power of attorney.

Signed as a deed and delivered by:

Signature of first authorised person

Full name of first authorised person

Date signed or marked

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

Day

Month

Year

Signature of second authorised person (if required)

Full name of second authorised person (if required)

Date signed or marked (if required)

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

Day

Month

Year



Office of the
Public Guardian



Lasting Power of Attorney (LPA)

Create your LPA: Health and welfare

Before you start

For help, see
How-to guide
sections A–C



You need several people to make a LPA.

This page explains the essentials.

You don't need a lawyer to make an LPA but you may prefer to do so, particularly where you see the lawyer symbol.



It currently costs £130* to register an LPA unless you receive certain benefits or have a low income.

*Please check you are paying the correct amount at www.gov.uk/power-of-attorney/how-much-it-costs or call 0300 456 0300. We cannot register your LPA until you have paid the fee.

Donor (section 1) You are the donor, the person appointing other people to make decisions for you.

Mental capacity The ability to make a decision. You may have mental capacity for some decisions but not others. For more information on mental capacity, see the How-to guide, part D-8.

Attorneys (section 3) The people you've chosen to make decisions for you are called your attorneys. Your attorneys don't need special legal knowledge or training. The most important thing about attorneys is that they should be people you trust, who know you well. Common choices include your husband, wife or partner, son or daughter or your best friend.

Replacement attorneys (section 5) You can also choose replacement attorneys, who can only act under the LPA if 1 or more of your original attorneys can no longer act on your behalf.

People to certify (sections 6 and 10) The person to certify's job is to make sure you understand the LPA and that no-one is forcing you to do it. Your doctor or lawyer can do this, or you can ask a friend or colleague.

People to be told (section 6) You can specify up to 5 people to be sent a notice when you send the LPA to be registered.

Witnesses (sections 9 and 11) you also need witnesses to your signatures. They can be anyone except you or your attorneys. You could save time by getting your people to certify to witness the signatures.

Registration (form LPA **2**) before your attorneys can use your LPA, you must send it to the Office of the Public Guardian to be registered. Once your LPA has the official stamp, your attorneys can take the form to the bank or doctor to show they have been legally appointed as your representatives.

Lasting Power of Attorney (LPA)

For help, see
How-to guide
part D-1



Section 1

The donor

You are the donor: the person appointing other people to make decisions on your behalf.

First names

Last name

Any other names you're known by (for example, your maiden name)

Date of birth

Day Month Year

Address

Postcode

For completion by the Office of the Public Guardian

LPA registration date

Day Month Year

OPG reference number

Section 2

Health and welfare

For help, see
How-to guide
part D-2



This LPA is for health and welfare decisions only.

Decisions like:

- where you live
- the type of health care and medical treatment you receive
- day-to-day issues such as your diet, dress or daily routine
- whether you receive life-sustaining treatment (you must choose whether your attorneys can make this decision below)

Your attorneys will **only** be able to make these decisions once you have lost mental capacity.

This LPA doesn't cover property and financial affairs decisions.

Life-sustaining treatment

You must answer this question. For help, see the How-to guide, part D-2.

Life-sustaining treatment

Option A – **I give my attorneys authority to give or refuse consent to life-sustaining treatment on my behalf.**

If you choose this option, your attorneys can speak to doctors on your behalf as if they were you.

Option B – **I do not give my attorneys authority to give or refuse consent to life-sustaining treatment on my behalf.**

If you choose this option, your doctors will take into account the views of the attorneys and of people who are interested in your welfare as well as any written statement you may have made, where it is practicable and appropriate.

Section 3

Attorneys

For help, see
How-to guide
part D-3



Your attorneys are the people you want to make decisions for you.

You can have 1 attorney or several. Attorneys must be at least 18 years old and must have ‘mental capacity’ to make decisions.

Attorney 1

First names

Last name

Company name (optional)

Address

Postcode

Attorney 2 (optional)

First names

Last name

Company name (optional)

Address

Postcode

Attorney 3 (optional)

First names

Last name

Company name (optional)

Address

Postcode

Attorney 4 (optional)

First names

Last name

Company name (optional)

Address

Postcode

More attorneys – I want to appoint more than 4 attorneys. Use Continuation Sheet 1.

Section 4

How should the attorneys make decisions?

For help, see
How-to guide
part D-4



Skip this page if there's only 1 attorney

Tick one only:

Jointly and severally

Attorneys can make decisions on their own or together. Most people choose this option because it is the most practical. Attorneys can get together to make important decisions if they wish, but can make simple or urgent decisions independently. It also means that if one of the attorneys dies or can no longer act, your LPA will still work.

Jointly

Attorneys must agree unanimously on every decision, however big or small.

Remember, some simple decisions could be delayed because it takes time to get the attorneys together. If your attorneys can't agree a decision, then they can only make that decision by going to court.

Be careful – if one of your attorneys dies or can no longer act, all the others become unable to act. Your replacement attorneys will step in (if you appoint any in the next section). This is because a group appointed 'jointly' is seen as a single unit in legal terms.

**Jointly for some decisions,
jointly and severally for other decisions**



Attorneys must agree unanimously on some specific decisions, but can make others on their own.

You must list the decisions to be made jointly and agreed unanimously on Continuation Sheet 2 if you choose this option. The wording you use is important. There are examples in the How-to guide, part D-4. You may also need to take legal advice.

Be careful – if one of your attorneys dies or can no longer act, all the others become unable to make any of the decisions to be made jointly – replacement attorneys will make these decisions instead (if you appoint any in the next section). Your original attorneys will work with your replacement attorneys to take decisions to be made jointly and severally.

Section 5

Replacement attorneys

For help, see
How-to guide
part D-5



! This page is optional, but we recommend you consider it

Replacement attorneys act on your behalf **only** if 1 or more of the original attorneys dies, loses capacity, decides they can no longer act on your behalf, or is no longer legally your spouse or civil partner.

Replacement attorneys must be at least 18 years old when you sign this form and must have 'mental capacity' to make decisions.

Replacement attorney 1 (optional)

First names

Last name

Company name (optional)

Address

Postcode

Replacement attorney 2 (optional)

First names

Last name

Company name (optional)

Address

Postcode

More replacements – I want to appoint more than 2 replacements. Use Continuation Sheet 1.

How replacement attorneys step in

There are rules for how your replacement attorneys step in, described in the How-to guide (part D-5). If you have 1 original attorney or you ticked 'jointly and severally' in section 4, you can change the way this works.

You'll need to read the How-to guide (part D-5) thoroughly first.

You may also need to take legal advice.

I want to change how replacement attorneys step in
(write your instructions on Continuation Sheet 2)



Section 6

Safeguards

For help, see
How-to guide
part D-6



There are 2 types of safeguard in an LPA: people to certify and people to be told. You must have at least 1 person to certify. You can then choose either a second person to certify or up to 5 people to be told.

You must get your people to certify to sign section 10.

When you or your attorney(s) are preparing to send the LPA to be registered, you must send notices to the people to be told.

People to certify

A person to certify signs to confirm they have spoken with you about the LPA, you understand what you're doing and no one is forcing you to do it.

A person to certify can be:

- Anyone you've known for at least 2 years as more than an acquaintance, such as a friend or colleague
- Someone with the relevant professional skills and expertise to make the above judgment, such as your doctor or lawyer.

A person to certify can't be:

- an attorney or replacement attorney named in this LPA or any other LPA or enduring power of attorney for the donor
- a member of your family or of one of your attorneys' families, including spouses, civil partners, in-laws and step-relatives
- an unmarried partner, boyfriend or girlfriend of either you or one of your attorneys (whether or not they are living at the same address)
- your business partner or an attorney's business partner
- your employee or an attorney's employee
- an owner, manager, director or employee of a care home where you live

People to be told

When the LPA is sent to be registered, the people to be told are sent a notice (form LPA **3**) explaining that they have 3 weeks to object to the LPA registration. They can only object for certain reasons (see form LPA **3**). After this point, they are no longer involved in the LPA.

Choose people who care about your best interests and who would be willing to speak up if they were concerned.

If you're the person sending your LPA to be registered, you will first have to send the notices. If one of your attorneys is registering the LPA, they will have to send the notices. To see a sample notice, see form LPA **3**.

People to be told can't be your attorneys or replacement attorneys.

Section 6 (continued)

Safeguards

For help, see
How-to guide
part D-6



People to certify

Person to certify 1

(required)

First names

Last name

Address

Postcode

Person to certify 2

(required if you have no people to be told)

First names

Last name

Address

Postcode

People to be told

Person to be told 1

(required if you only have 1 person to certify)

First names

Last name

Address

Postcode

Person to be told 2

(optional)

First names

Last name

Address

Postcode

More people to be told – I want to appoint more people to be told.
You can appoint up to 5, use Continuation Sheet 1.

Section 7

Instructions and preferences

For help, see
How-to guide
part D-7



This page is optional

You can record instructions and preferences for when your attorneys make decisions under the LPA. Your attorneys **must** follow your instructions but can decide for themselves whether to take your preferences into account.

You don't have to include instructions and/or preferences – many people don't. Make sure you talk to your attorneys so that they understand your beliefs and wishes and they can make good decisions on your behalf. Then if you want to set out anything in detail you can do so below.

Also use the instructions box if you need to pay fees to the attorneys.

The wording you use is important. There are examples in the How-to guide, part D-7. You may also need to take legal advice.

Instructions



For instructions the attorneys must follow, use words like 'must' and 'have to'.

Preferences



For preferences, use words like 'prefer' and 'would like'.

I need more space. Use a copy of Continuation Sheet 2 and clearly state whether you are writing instructions or preferences.

Section 8

Your legal rights and responsibilities

For help, see
How-to guide
part D-8



! Everyone signing the LPA must read this information

In the next sections, you and all your attorneys sign this LPA forming a legal agreement between you (a deed).

By signing this LPA, you (the donor) are appointing people (attorneys) to make decisions for you.

LPAs are governed by the Mental Capacity Act 2005 (MCA), regulations made under it and the MCA Code of Practice. Attorneys must have regard to these documents, available from www.justice.gov.uk/protecting-the-vulnerable/mental-capacity-act. If you need help viewing this website, visit your local library.

Your attorneys must follow the principles of the MCA:

1. Your attorneys must assume that you can make your own decisions unless they establish that you cannot do so.
2. Your attorneys must help you to make as many of your own decisions as you can. They must take all practicable steps to help you to make a decision. They can only treat you as unable to make a decision if they have not succeeded in helping you make a decision through those steps.
3. Your attorneys must not treat you as unable to make a decision simply because you make an unwise decision.
4. Your attorneys must act and make decisions in your best interests when you are unable to make a decision.
5. Before your attorneys make a decision or act for you, they must consider whether they can make the decision or act in a way that is less restrictive of your rights and freedom but still achieves the purpose.

Your attorneys must always act in your best interests. This is explained in the How-to guide part D-8, and defined in the MCA Code of Practice.

Before this LPA can be used:

- The LPA must be registered by the Office of the Public Guardian.
- This LPA power can only be used when you don't have mental capacity.

You can cancel this LPA at any time, as long as you have mental capacity to do so. It doesn't matter if the LPA has been registered or not. For more information, see the How-to guide part D-8.

This LPA will expire when you die. Your attorneys cannot use this LPA to change your will or interfere with its execution.

Section 9

Signature: donor

For help, see
How-to guide
part D-9



! Sign sections 9, 10 and 11 in order

By signing on this page I confirm all of the following:

- I have read this lasting power of attorney (LPA) including section 8 ‘Your legal rights and responsibilities’, or I have had it read to me.
- I appoint and give my attorneys authority to make decisions about my health and welfare, when I cannot act for myself because I lack mental capacity, subject to the terms of this LPA and to the provisions of the Mental Capacity Act 2005. I confirm I have chosen either Option A or Option B about life sustaining treatment in section 2 of this LPA.
- I have completed section 6. I personally chose 1 or 2 people to certify and either appointed people to be told or chose not to notify anyone when the LPA is registered.
- The law of England and Wales shall apply to this LPA.

Donor

Signed (or marked) by the person giving this lasting power of attorney and delivered as a deed.

Signature or mark

Date signed or marked

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

Day Month Year

If you have used any continuation sheets you must sign and date each continuation sheet at the same time as you sign this page.

If you can't sign this LPA you can make a mark instead. If you can't sign or make a mark use Continuation Sheet 3.

Witness

Witness must be aged 18 or over and must not be an attorney or replacement attorney appointed under this LPA.

Signature or mark

Full name of witness

Address

Postcode

Section 10

Signature: Person to certify

For help, see
How-to guide
part D-10



! Sign this page as soon as possible after the donor has signed section 9.

! If you have 2 people to certify, make a copy of this page

By signing this section I confirm all of the following:

- I am aged 18 or over.
- I have read this lasting power of attorney (LPA), including section 8 'Your legal rights and responsibilities'.
- I am acting independently of the donor and of the attorneys.
- I have either known the donor personally for at least 2 years as more than an acquaintance **OR** I have relevant professional skills and expertise and I reasonably consider that I am competent to form the necessary opinion to certify the matters on this page.
- I am not:
 - an attorney or replacement attorney named in this LPA or any other LPA or enduring power of attorney for the donor
 - a member of the donor's family or of 1 of the attorneys' families, including spouses, civil partners, in-laws and step-relatives
 - an unmarried partner, boyfriend or girlfriend of either the donor or 1 of the attorneys (whether or not they live at the same address)
 - the donor's business partner or an attorney's business partner
 - the donor's or an attorney's employee
 - an owner, manager, director or employee of a care home where the donor live
 - any other person who the Court of Protection may consider is not sufficiently independent
- If someone challenges this LPA, I may need to explain how I formed my opinion.

Person to certify

I certify that, in my opinion, at the time of signing section 9:

- the donor understands the purpose of this LPA and the scope of the authority conferred under it
- no fraud or undue pressure is being used to induce the donor to create this LPA
- there is nothing else which would prevent this LPA from being created by the completion of this instrument.

How do you know the donor?

Careful – please check the restrictions on the left

- Friend
- Colleague or former colleague
- Neighbour
- Registered healthcare professional (incl. GP)
- Barrister, solicitor or advocate
- Other:

Signature or mark

Date signed or marked

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Day	Month	Year			

Full name

Section 11

Signature: attorneys and replacements

For help, see
How-to guide
part D-11



! Sign this page as soon as possible after the donor has signed section 9 and the person(s) to certify has signed section 10

By signing this section I understand and confirm all of the following:

- I am aged 18 or over.
- I have read this lasting power of attorney (LPA) including section 8 ‘Your legal rights and responsibilities’, or I have had it read to me.
- I have a duty to act based on the principles of the Mental Capacity Act 2005 and to have regard to the Mental Capacity Act Code of Practice.
- I must make decisions and act in the best interests of the donor.
- I must take into account any instructions or preferences set out in this LPA.
- I can make decisions and act only when this LPA has been registered.
- I can make decisions and act regarding the donor’s health and welfare only when the donor lacks mental capacity.
- **Further statement by a replacement attorney:** I have the authority to act under this LPA only after an original attorney’s appointment is terminated. I must notify the Public Guardian of the event.

Signature: attorneys and replacements



! All the attorneys and replacement attorneys need to sign.
If there are more than 4 attorneys, make copies of this page.

Attorney or replacement attorney

Signed (or marked) by the attorney or replacement attorney and delivered as a deed.

Signature or mark

Date signed or marked

Day Month Year

Full name

Date of birth

Day Month Year

Witness

Witness must be aged 18 or over and must not be the donor of this LPA.

Signature or mark

Full names of witness

Address

Postcode

Attorney or replacement attorney

Signed (or marked) by the attorney or replacement attorney and delivered as a deed.

Signature or mark

Date signed or marked

Day Month Year

Full name

Date of birth

Day Month Year

Witness

Witness must be aged 18 or over and must not be the donor of this LPA.

Signature or mark

Full names of witness

Address

Postcode

Signature: attorneys and replacements



! All the attorneys and replacement attorneys need to sign.
If there are more than 4 attorneys, make copies of this page.

Attorney or replacement attorney

Signed (or marked) by the attorney or replacement attorney and delivered as a deed.

Signature or mark

Date signed or marked

Day Month Year

Full name

Date of birth

Day Month Year

Witness

Witness must be aged 18 or over and must not be the donor of this LPA.

Signature or mark

Full names of witness

Address

Postcode

Attorney or replacement attorney

Signed (or marked) by the attorney or replacement attorney and delivered as a deed.

Signature or mark

Date signed or marked

Day Month Year

Full name

Date of birth

Day Month Year

Witness

Witness must be aged 18 or over and must not be the donor of this LPA.

Signature or mark

Full names of witness

Address

Postcode

What next?

This page is optional

Your attorneys can only use this LPA when it has been registered by the Office of the Public Guardian (OPG).

We recommend you do this as soon as possible in case you've made any mistakes. Mistakes are more difficult to fix if you delay, and may mean the whole LPA is invalid and your wishes will not be represented.

To register your LPA, fill in form LPA **2**. You'll also have to fill in a copy of form LPA **3** for each of the people to be told (in section 6).

Here's a checklist to help you make sure you've filled in the form correctly. (This checklist is only for your convenience; the OPG will ignore it)

- I, the donor, completed sections 1–7
- In section 6, I've chosen either 2 people to certify or 1 person to certify and 1 or more people to be told.
- I, the donor, signed section 9 in the presence of a witness. I've also signed any copies of Continuation Sheets 1 and 2 that were used on the same date as I signed section 9.
- The people to certify signed section 10.
- All my attorneys and replacement attorneys signed section 11, in the presence of witness(es).
- Sections 9, 10 and 11 were signed in order, or on the same day. Section 9 must have been signed first, then section 10, then section 11.
- I've not left out any of the pages of the LPA (pages 1–15), even the ones where I didn't write anything or there were no boxes to fill in.

Now complete form LPA **2 to register your LPA with the Office of the Public Guardian.**

You'll also have to fill in a copy of form LPA **3** for each of the people to be told (in section 6).



Office of the
Public Guardian

1P

Lasting Power of Attorney (LPA)

Create your LPA: Property and Financial Affairs

Before you start

For help, see
How-to guide
sections A–C



You need several people to make a LPA.

This page explains the essentials.

You don't need a lawyer to make an LPA but you may prefer to do so, particularly where you see the lawyer symbol.



It currently costs £130* to register an LPA unless you receive certain benefits or have a low income.

*Please check you are paying the correct amount at www.gov.uk/power-of-attorney/how-much-it-costs or call 0300 456 0300. We cannot register your LPA until you have paid the fee.

Donor (section 1) You are the donor, the person appointing other people to make decisions for you.

Mental capacity The ability to make a decision. You may have mental capacity for some decisions but not others. For more information on mental capacity, see the How-to guide, part D-8.

Attorneys (section 3) The people you've chosen to make decisions for you are called your attorneys. Your attorneys don't need special legal knowledge or training. The most important thing about attorneys is that they should be people you trust, who know you well. Common choices include your husband, wife or partner, son or daughter or your best friend.

Replacement attorneys (section 5) You can also choose replacement attorneys, who can only act under the LPA if 1 or more of your original attorneys can no longer act on your behalf.

People to certify (sections 6 and 10) The person to certify's job is to make sure you understand the LPA and that no-one is forcing you to do it. Your doctor or lawyer can do this, or you can ask a friend or colleague.

People to be told (section 6) You can specify up to 5 people to be sent a notice when you send the LPA to be registered.

Witnesses (sections 9 and 11) you also need witnesses to your signatures. They can be anyone except you or your attorneys. You could save time by getting your people to certify to witness the signatures.

Registration (form LPA **2**) before your attorneys can use your LPA, you must send it to the Office of the Public Guardian to be registered. Once your LPA has the official stamp, your attorneys can take the form to the bank or doctor to show they have been legally appointed as your representatives.

Lasting Power of Attorney (LPA)

For help, see
How-to guide
part D-1



Section 1

The donor

You are the donor: the person appointing other people to make decisions on your behalf.

First names

Last name

Any other names you're known by (for example, your maiden name)

Date of birth

Day

Month

Year

Address

Postcode

For completion by the Office of the Public Guardian

LPA registration date

Day

Month

Year

OPG reference number

Section 2

Property and financial affairs

For help, see
How-to guide
part D-2



This LPA is for property and financial affairs decisions only.

Decisions like:

- running your bank and savings accounts
- making or selling investments
- paying your bills
- selling your house

You must choose when your attorneys will be able to make these decisions below.

This LPA doesn't cover health and welfare decisions.

When do you want your attorneys to be able to make decisions about your property and financial affairs?

You must answer this question. For help, see the How-to guide, part D-2.

When do you want your attorneys to be able to make decisions about your property and financial affairs?

Immediately (and when I don't have mental capacity)

My attorneys can make any decision on my behalf with my consent as soon as my LPA is registered by the Office of the Public Guardian.

Only when I don't have mental capacity

Section 3

Attorneys

For help, see
How-to guide
part D-3



Your attorneys are the people you want to make decisions for you.

You can have 1 attorney or several. Attorneys must be at least 18 years old and must have ‘mental capacity’ to make decisions. Your attorneys cannot be bankrupt or subject to a debt relief order. If an attorney later becomes bankrupt, they will no longer be able to act on your behalf under this LPA.

Attorney 1

First names

Last name

Company name (optional)

Address

Postcode

Attorney 2 (optional)

First names

Last name

Company name (optional)

Address

Postcode

Attorney 3 (optional)

First names

Last name

Company name (optional)

Address

Postcode

Attorney 4 (optional)

First names

Last name

Company name (optional)

Address

Postcode

More attorneys – I want to appoint more than 4 attorneys. Use Continuation Sheet 1.

Section 4

How should the attorneys make decisions?

For help, see
How-to guide
part D-4



Skip this page if there's only 1 attorney

Tick one only:

Jointly and severally

Attorneys can make decisions on their own or together. Most people choose this option because it is the most practical. Attorneys can get together to make important decisions if they wish, but can make simple or urgent decisions independently. It also means that if one of the attorneys dies or can no longer act, your LPA will still work.

Jointly

Attorneys must agree unanimously on every decision, however big or small.

Remember, some simple decisions could be delayed because it takes time to get the attorneys together. If your attorneys can't agree a decision, then they can only make that decision by going to court.

Be careful – if one of your attorneys dies or can no longer act, all the others become unable to act. Your replacement attorneys will step in (if you appoint any in the next section). This is because a group appointed 'jointly' is seen as a single unit in legal terms.

**Jointly for some decisions,
jointly and severally for other decisions**



Attorneys must agree unanimously on some specific decisions, but can make others on their own.

You must list the decisions to be made jointly and agreed unanimously on Continuation Sheet 2 if you choose this option. The wording you use is important. There are examples in the How-to guide, part D-4. You may also need to take legal advice.

Be careful – if one of your attorneys dies or can no longer act, all the others become unable to make any of the decisions to be made jointly – replacement attorneys will make these decisions instead (if you appoint any in the next section). Your original attorneys will work with your replacement attorneys to take decisions to be made jointly and severally.

Section 5

Replacement attorneys

For help, see
How-to guide
part D-5



! This page is optional, but we recommend you consider it

Replacement attorneys act on your behalf **only** if 1 or more of the original attorneys dies, loses capacity, decides they can no longer act on your behalf, is no longer legally your spouse/civil partner or becomes bankrupt or subject to a debt relief order.

Replacement attorneys must be at least 18 years old when you sign this form and must have 'mental capacity' to make decisions. Replacement attorneys must not be bankrupt or subject to a debt relief order. If a replacement attorney later becomes bankrupt, they will no longer be able to act on your behalf under this LPA.

Replacement attorney 1 (optional)

First names

Last name

Company name (optional)

Address

Postcode

Replacement attorney 2 (optional)

First names

Last name

Company name (optional)

Address

Postcode

More replacements – I want to appoint more than 2 replacements. Use Continuation Sheet 1.

How replacement attorneys step in

There are rules for how your replacement attorneys step in, described in the How-to guide (part D-5). If you have 1 original attorney or you ticked 'jointly and severally' in section 4, you can change the way this works.

You'll need to read the How-to guide (part D-5) thoroughly first.

You may also need to take legal advice.

I want to change how replacement attorneys step in

(write your instructions on Continuation Sheet 2)



Section 6

Safeguards

For help, see
How-to guide
part D-6



There are 2 types of safeguard in an LPA: people to certify and people to be told. You must have at least 1 person to certify. You can then choose either a second person to certify or up to 5 people to be told.

You must get your people to certify to sign section 10.

When you or your attorney(s) are preparing to send the LPA to be registered, you must send notices to the people to be told.

People to certify

A person to certify signs to confirm they have spoken with you about the LPA, you understand what you're doing and no one is forcing you to do it.

A person to certify can be:

- Anyone you've known for at least 2 years as more than an acquaintance, such as a friend or colleague
- Someone with the relevant professional skills and expertise to make the above judgment, such as your doctor or lawyer.

A person to certify can't be:

- an attorney or replacement attorney named in this LPA or any other LPA or enduring power of attorney for the donor
- a member of your family or of one of your attorneys' families, including spouses, civil partners, in-laws and step-relatives
- an unmarried partner, boyfriend or girlfriend of either you or one of your attorneys (whether or not they are living at the same address)
- your business partner or an attorney's business partner
- your employee or an attorney's employee
- an owner, manager, director or employee of a care home where you live

People to be told

When the LPA is sent to be registered, the people to be told are sent a notice (form LPA **3**) explaining that they have 3 weeks to object to the LPA registration. They can only object for certain reasons (see form LPA **3**). After this point, they are no longer involved in the LPA.

Choose people who care about your best interests and who would be willing to speak up if they were concerned.

If you're the person sending your LPA to be registered, you will first have to send the notices. If one of your attorneys is registering the LPA, they will have to send the notices. To see a sample notice, see form LPA **3**.

People to be told can't be your attorneys or replacement attorneys.

Section 6 (continued)

Safeguards

For help, see
How-to guide
part D-6



People to certify

Person to certify 1

(required)

First names

Last name

Address

Postcode

Person to certify 2

(required if you have no people to be told)

First names

Last name

Address

Postcode

People to be told

Person to be told 1

(required if you only have 1 person to certify)

First names

Last name

Address

Postcode

Person to be told 2

(optional)

First names

Last name

Address

Postcode

More people to be told – I want to appoint more people to be told.
You can appoint up to 5, use Continuation Sheet 1.

Section 7

Instructions and preferences

For help, see
How-to guide
part D-7



This page is optional

You can record instructions and preferences for when your attorneys make decisions under the LPA. Your attorneys **must** follow your instructions but can decide for themselves whether to take your preferences into account.

You don't have to include instructions and/or preferences – many people don't. Make sure you talk to your attorneys so that they understand your beliefs and wishes and they can make good decisions on your behalf. Then if you want to set out anything in detail you can do so below.

Also use the instructions box if you need to pay fees to the attorneys.

The wording you use is important. There are examples in the How-to guide, part D-7. You may also need to take legal advice.

Instructions



For instructions the attorneys must follow, use words like 'must' and 'have to'.

Preferences



For preferences, use words like 'prefer' and 'would like'.

I need more space. Use a copy of Continuation Sheet 2 and clearly state whether you are writing instructions or preferences.

Section 8

Your legal rights and responsibilities

For help, see
How-to guide
part D-8



! Everyone signing the LPA must read this information

In the next sections, you and all your attorneys sign this LPA forming a legal agreement between you (a deed).

By signing this LPA, you (the donor) are appointing people (attorneys) to make decisions for you.

LPAs are governed by the Mental Capacity Act 2005 (MCA), regulations made under it and the MCA Code of Practice. Attorneys must have regard to these documents, available from www.justice.gov.uk/protecting-the-vulnerable/mental-capacity-act. If you need help viewing this website, visit your local library.

Your attorneys must follow the principles of the MCA:

1. Your attorneys must assume that you can make your own decisions unless they establish that you cannot do so.
2. Your attorneys must help you to make as many of your own decisions as you can. They must take all practicable steps to help you to make a decision. They can only treat you as unable to make a decision if they have not succeeded in helping you make a decision through those steps.
3. Your attorneys must not treat you as unable to make a decision simply because you make an unwise decision.
4. Your attorneys must act and make decisions in your best interests when you are unable to make a decision.
5. Before your attorneys make a decision or act for you, they must consider whether they can make the decision or act in a way that is less restrictive of your rights and freedom but still achieves the purpose.

Your attorneys must always act in your best interests. This is explained in the How-to guide part D-8, and defined in the MCA Code of Practice.

Before this LPA can be used:

- The LPA must be registered by the Office of the Public Guardian.
- This LPA may also be limited to when you don't have mental capacity, according to your choice in section 2.

You can cancel this LPA at any time, as long as you have mental capacity to do so. It doesn't matter if the LPA has been registered or not. For more information, see the How-to guide part D-8.

This LPA will expire when you die. Your attorneys cannot use this LPA to change your will or interfere with its execution.

Section 9

Signature: donor

For help, see
How-to guide
part D-9



! Sign sections 9, 10 and 11 in order

By signing on this page I confirm all of the following:

- I have read this lasting power of attorney (LPA) including section 8 ‘Your legal rights and responsibilities’, or I have had it read to me.
- I appoint and give my attorneys authority to make decisions about my property and financial affairs, including when I cannot act for myself because I lack mental capacity, subject to the terms of this LPA and to the provisions of the Mental Capacity Act 2005.
- I have completed section 6. I personally chose 1 or 2 people to certify and either appointed people to be told or chose not to notify anyone when the LPA is registered.
- The law of England and Wales shall apply to this LPA.

Donor

Signed (or marked) by the person giving this lasting power of attorney and delivered as a deed.

Signature or mark

Date signed or marked

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

Day Month Year

If you have used any continuation sheets you must sign and date each continuation sheet at the same time as you sign this page.

If you can't sign this LPA you can make a mark instead. If you can't sign or make a mark use Continuation Sheet 3.

Witness

Witness must be aged 18 or over and must not be an attorney or replacement attorney appointed under this LPA.

Signature or mark

Full name of witness

Address

Postcode

Section 10

Signature: Person to certify

For help, see
How-to guide
part D-10



! Sign this page as soon as possible after the donor has signed section 9.

! If you have 2 people to certify, make a copy of this page

By signing this section I confirm all of the following:

- I am aged 18 or over.
- I have read this lasting power of attorney (LPA), including section 8 'Your legal rights and responsibilities'.
- I am acting independently of the donor and of the attorneys.
- I have either known the donor personally for at least 2 years as more than an acquaintance **OR** I have relevant professional skills and expertise and I reasonably consider that I am competent to form the necessary opinion to certify the matters on this page.
- I am not:
 - an attorney or replacement attorney named in this LPA or any other LPA or enduring power of attorney for the donor
 - a member of the donor's family or of 1 of the attorneys' families, including spouses, civil partners, in-laws and step-relatives
 - an unmarried partner, boyfriend or girlfriend of either the donor or 1 of the attorneys (whether or not they live at the same address)
 - the donor's business partner or an attorney's business partner
 - the donor's or an attorney's employee
 - an owner, manager, director or employee of a care home where the donor live
 - any other person who the Court of Protection may consider is not sufficiently independent
- If someone challenges this LPA, I may need to explain how I formed my opinion.

Person to certify

I certify that, in my opinion, at the time of signing section 9:

- the donor understands the purpose of this LPA and the scope of the authority conferred under it
- no fraud or undue pressure is being used to induce the donor to create this LPA
- there is nothing else which would prevent this LPA from being created by the completion of this instrument.

How do you know the donor?

Careful – please check the restrictions on the left

- Friend
- Colleague or former colleague
- Neighbour
- Registered healthcare professional (incl. GP)
- Barrister, solicitor or advocate
- Other:

Signature or mark

Date signed or marked

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Day	Month	Year			

Full name

Section 11

Signature: attorneys and replacements

For help, see
How-to guide
part D-11



! Sign this page as soon as possible after the donor has signed section 9 and the person(s) to certify has signed section 10

By signing this section I understand and confirm all of the following:

- I am aged 18 or over.
- I have read this lasting power of attorney (LPA) including section 8 ‘Your legal rights and responsibilities’, or I have had it read to me.
- I have a duty to act based on the principles of the Mental Capacity Act 2005 and to have regard to the Mental Capacity Act Code of Practice.
- I must make decisions and act in the best interests of the donor.
- I must take into account any instructions or preferences set out in this LPA.
- I can make decisions and act only when this LPA has been registered.
- I am not bankrupt or subject to a debt relief order.
- I can spend money to make gifts but only to charities or on customary occasions such as birthdays, and for reasonable amounts, with regard to size of the donor’s estate.
- I have a duty to keep accounts and financial records and produce them to the Office of the Public Guardian and/or to the Court of Protection on request.
- I can make decisions and act regarding the donor’s property and financial affairs only at the time indicated in section 2 of this LPA.
- **Further statement by a replacement attorney:** I have the authority to act under this LPA only after an original attorney’s appointment is terminated. I must notify the Public Guardian of the event.

Signature: attorneys and replacements



! All the attorneys and replacement attorneys need to sign.
If there are more than 4 attorneys, make copies of this page.

Attorney or replacement attorney

Signed (or marked) by the attorney or replacement attorney and delivered as a deed.

Signature or mark

Date signed or marked

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

Day Month Year

Full name

Date of birth

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

Day Month Year

Witness

Witness must be aged 18 or over and must not be the donor of this LPA.

Signature or mark

Full names of witness

Address

Postcode

Attorney or replacement attorney

Signed (or marked) by the attorney or replacement attorney and delivered as a deed.

Signature or mark

Date signed or marked

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

Day Month Year

Full name

Date of birth

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

Day Month Year

Witness

Witness must be aged 18 or over and must not be the donor of this LPA.

Signature or mark

Full names of witness

Address

Postcode



! All the attorneys and replacement attorneys need to sign.
If there are more than 4 attorneys, make copies of this page.

Attorney or replacement attorney

Signed (or marked) by the attorney or replacement attorney and delivered as a deed.

Signature or mark

Date signed or marked

--	--	--	--	--	--	--	--

Day Month Year

Full name

Date of birth

--	--	--	--	--	--	--	--

Day Month Year

Witness

Witness must be aged 18 or over and must not be the donor of this LPA.

Signature or mark

Full names of witness

Address

Postcode

Attorney or replacement attorney

Signed (or marked) by the attorney or replacement attorney and delivered as a deed.

Signature or mark

Date signed or marked

--	--	--	--	--	--	--	--

Day Month Year

Full name

Date of birth

--	--	--	--	--	--	--	--

Day Month Year

Witness

Witness must be aged 18 or over and must not be the donor of this LPA.

Signature or mark

Full names of witness

Address

Postcode

What next?

This page is optional

Your attorneys can only use this LPA when it has been registered by the Office of the Public Guardian (OPG).

We recommend you do this as soon as possible in case you've made any mistakes. Mistakes are more difficult to fix if you delay, and may mean the whole LPA is invalid and your wishes will not be represented.

To register your LPA, fill in form LPA **2**. You'll also have to fill in a copy of form LPA **3** for each of the people to be told (in section 6).

Here's a checklist to help you make sure you've filled in the form correctly. (This checklist is only for your convenience; the OPG will ignore it)

- I, the donor, completed sections 1–7
- In section 6, I've chosen either 2 people to certify or 1 person to certify and 1 or more people to be told.
- I, the donor, signed section 9 in the presence of a witness. I've also signed any copies of Continuation Sheets 1 and 2 that were used on the same date as I signed section 9.
- The people to certify signed section 10.
- All my attorneys and replacement attorneys signed section 11, in the presence of witness(es).
- Sections 9, 10 and 11 were signed in order, or on the same day. Section 9 must have been signed first, then section 10, then section 11.
- I've not left out any of the pages of the LPA (pages 1–15), even the ones where I didn't write anything or there were no boxes to fill in.

Now complete form LPA **2 to register your LPA with the Office of the Public Guardian.**

You'll also have to fill in a copy of form LPA **3** for each of the people to be told (in section 6).



Office of the
Public Guardian

2

Lasting Power of Attorney (LPA)

Register your LPA

You can also use this form for a repeat application if your original registration was rejected.

Before you start

For help, see
How-to guide
section E



You must be either the donor or attorney(s) on the LPA you are registering.

It currently costs £130* to register an LPA unless you receive certain benefits or have a low income.

If there are any people to be told listed in section 6 of the LPA, you must also send each person form LPA **3**. Record the date you sent it in section 3 of this form.

If you are making a repeat application, it must be within 3 months of the date the original LPA was rejected as invalid.

*Please check you are paying the correct amount at www.gov.uk/power-of-attorney/how-much-it-costs or call 0300 456 0300. We cannot register your LPA until you have paid the fee.

When you're done

Once you've finished filling in this form, you can check your form using this checklist. (The checklist is only for your convenience; the OPG will ignore it)

- I am either the donor or an attorney on the attached LPA.
- I've completed sections 1–4 of this form. (If there are no people to be told in section 6 of the attached LPA, section 3 is optional).
- I notified the people to be told using form LPA **3** (if any, see section 6 of the attached LPA). I wrote the date I notified each person in section 3 of this form.
- If the attorneys are applying and were appointed 'jointly' in the attached LPA, we have all signed section 5 of this form.
- I've paid the fee or applied for a remission or exemption. If I've applied for a remission or exemption, I've included the required evidence.
- I've included pages 1–15 of the LPA (form LPA **3**) in the envelope, even the ones that didn't have any boxes to fill in.

Now send your application to:

Office of the Public Guardian
PO Box 16185
Birmingham B2 2WH

Register your LPA

For help, see
How-to guide
section E-1



Section 1

About the LPA

To save you repeating information from the LPA, we only ask for basic details here. We'll use the contact information in the attached LPA.

If any address details need updating, please tell us in section 6: Additional Information.

Donor

Full name

Attorneys

You only have to list the attorneys, not the replacement attorneys.

Full name

Full name

Full name

Full name

More than 4 attorneys – use section 6: Additional Information.

Address details need updating – use section 6: Additional Information.

Section 2

Registration fee

For help, see
How-to guide
section E-2



Registering an LPA costs £130* unless the donor receives certain means-tested benefits or earns less than £12,000 per year (gross annual income).

We cannot register your LPA until you have paid the fee.

Amount to pay

- £130*** **Most people have to pay £130*.**
-
- £65*** I'm making a repeat application.
-
- £65*** If the donor's income is less than £12,000 per year, you may be able to pay 50%. To qualify, you must send proof of the donor's gross annual income with your application. More details in the How-to guide, section E-2.
-
- £0** If the donor receives certain means-tested benefits, you may not have to pay. To qualify, you must send proof that the donor receives one of the eligible benefits. More details in the How-to guide, section E-2.
- In addition, the donor must not have received more than £16,000 compensation for personal injury (a damages award) which was ignored when determining eligibility for the benefit in question.

Payment

- Cheque** I enclose a cheque for the amount above.
-
- Card** Details of card payments TBC.

*Please check you are paying the correct amount at www.gov.uk/power-of-attorney/how-much-it-costs or call 0300 456 0300. We cannot register your LPA until you have paid the fee.

Section 3

Notification of people to be told

For help, see
How-to guide
section E-3



! Skip this page if there are no people to be told
(section 6 of the LPA)

When the donor made the LPA, they may have chosen to let certain people know about the LPA before registration. These people are **listed in section 6 of the LPA.**

Before you complete this form, you must notify all these people using form LPA **3** and record the information below. You must send a separate form to each person to be told. You can notify someone either by sending the form or by giving it to them in person.

Person to be told 1

Full name

Date notified

--	--	--	--	--	--

Day Month Year

Person to be told 2

Full name

Date notified

--	--	--	--	--	--

Day Month Year

Person to be told 3

Full name

Date notified

--	--	--	--	--	--

Day Month Year

Person to be told 4

Full name

Date notified

--	--	--	--	--	--

Day Month Year

Person to be told 5

Full name

Date notified

--	--	--	--	--	--

Day Month Year

Section 4

Correspondence

For help, see
How-to guide
section E-4



The Office of the Public Guardian may have to write to you about your application while it is being processed. You can choose who will receive this correspondence, and how you would like to be contacted.

This does not include the registered LPA. Your LPA can only be returned to the first signatory in the next section (the donor or an attorney).

Who would you like to receive correspondence?

The donor

Attorney: Full name

Other: Full name

Company (optional)

Address

Postcode

DX Number (optional – used within the legal profession)

DX Exchange (optional – used within the legal profession)

For example, you may prefer your solicitor to handle your LPA

How would you prefer to be contacted? (optional)

Post Phone Email DX

Telephone

Email

We can respond faster by phone or email.

Section 5

Signature: donor or attorney(s)

For help, see
How-to guide
section E-5



You are now applying to register this lasting power of attorney (LPA) with the Office of the Public Guardian (OPG). To apply, you must be either the donor or an attorney (not both). If the attorneys are applying and are appointed jointly (in section 4 of the LPA), all must sign this section.

The registered LPA will be posted to the person who signs first, using the address on the LPA.

By signing this section I confirm the following:

I apply to register the LPA that accompanies this application. I certify that the information in this form is correct to the best of my knowledge and belief. I have completed the application in accordance with the provisions of the Mental Capacity Act 2005 and all statutory instruments made under it.

Donor or Attorney 1

Full name

Signature or mark

Date signed

Day

Month

Year

Attorney 2 (optional unless appointed jointly)

Full name

Signature or mark

Date signed

Day

Month

Year

Attorney 3 (optional unless appointed jointly)

Full name

Signature or mark

Date signed

Day

Month

Year

Attorney 4 (optional unless appointed jointly)

Full name

Signature or mark

Date signed

Day

Month

Year

More attorneys or trust corporation need to sign – use section 6: Additional Information.

Section 6

Additional Information

For help, see
How-to guide
section E-6



! This page is optional

Use this section for anything not covered by this form or the attached LPA. For example, if you have more than 4 attorneys, a change of address (normally we use the addresses on the LPA) or if you have specific contact requirements (eg you will be away in the next few weeks).

If you need more space, make copies of this page.



Lasting Power of Attorney (LPA)

People to be told

You only need to use this form if there are people to be told in section 6 of the LPA.

Before you start

You only need to use this form if there are people to be told in section 6 of the LPA.

Before you can register an LPA, you must notify any people to be told using a copy of this form. These people are listed in section 6 of the LPA.

Relatives are not entitled to be notified unless named in the LPA.

You can send them this form or hand it to them in person.

You can save time by filling in and photocopying pages 2 and 3 for each person to be told. Detach this cover sheet before sending.

Write the dates when each person was notified in section 3 of form LPA **2: Register your LPA.**

Notice of intention to register a lasting power of attorney



Office of the
Public Guardian

Person to be told

Name

Address

Postcode

Date

Day

Month

Year

You are receiving this notice because someone you know has named you as a person to be told when their lasting power of attorney (LPA) is about to be registered. Details of the LPA are attached.

You have the right to object to the proposed registration. If you wish to object, you must do so within 3 weeks of being given this notice.

Glossary

Lasting Power of Attorney – a powerful legal document which lets someone appoint other people to make decisions on their behalf. Decisions like making sure bills get paid, or consulting with doctors about your medical care. An LPA can apply to decisions about health and welfare, property and financial affairs or both.

Donor – the person appointing other people to make decisions on their behalf.

Attorneys – the people who make decisions on behalf of the donor.

Registration – before an LPA can be used, it must be registered with the Office of the Public Guardian.

Details of the LPA

About the LPA

Who is applying to register the LPA? (Form LPA **2**, section 5)

Donor Attorney Attorneys appointed jointly

What type of LPA is being registered? (Form LPA **1** section 2)

Health and welfare Property and financial affairs Both

When did the donor sign the LPA? (Form LPA **1** section 9)

Day Month Year

The donor (Form LPA **1** section 1)

Full name

Address

Postcode

About the attorneys

How are the attorneys appointed? (Form LPA **1** section 4)

- There's only 1 attorney Jointly and severally Jointly
 Jointly for some decisions, jointly and severally for other decisions

Attorney 1 (Form LPA **1** section 3)

Full name

Address

Postcode

Attorney 2 (optional unless appointed jointly)

Full name

Address

Postcode

Attorney 3 (optional unless appointed jointly)

Full name

Address

Postcode

Attorney 4 (optional unless appointed jointly)

Full name

Address

Postcode

Attorney 5 (optional unless appointed jointly)

Full name

Address

Postcode

Attorney 6 (optional unless appointed jointly)

Full name

Address

Postcode

If you have more than 4 attorneys, please make a copy of this page.
You don't need to list the replacement attorneys.

How to object

If you wish to object, you must do so within 3 weeks of being given this notice.

You can only object to an LPA for certain reasons. These are termed 'factual grounds' and 'prescribed grounds'.

Factual grounds for objection

- The donor or attorney is bankrupt or interim bankrupt or is subject to a debt relief order (for property and financial affairs LPAs only)
- The attorney is a trust corporation and is wound up or dissolved (for property and financial affairs LPAs only)
- The donor or an attorney is dead
- There has been dissolution or annulment of a marriage or civil partnership between the donor and attorney (unless the LPA provided that such an event should not affect the LPA registration and validity)
- Attorney(s) lack mental capacity to be an attorney under the LPA
- Attorney(s) have disclaimed their appointment

To object on any of the factual grounds above, complete form LPA007 and send it to the Office of the Public Guardian. This form is available from www.gov.uk/power-of-attorney/object-to-a-lasting-power-of-attorney or by calling 0300 456 0300.

Prescribed grounds for objection

- That the power purported to be created by the LPA made by the donor is not valid as an LPA, eg the person objecting does not believe the donor had capacity to make an LPA
- That the power created by the instrument no longer exists, eg the donor revoked it at a time when he/she had capacity to do so
- Fraud or undue pressure was used to induce the donor to make the power.
- The attorney proposes to behave in a way that would contravene his authority or would not be in the donor's best interests.

To object on any of the prescribed grounds above:

- complete form LPA008 and send it to the Office of the Public Guardian. This form is available from www.gov.uk/power-of-attorney/object-to-a-lasting-power-of-attorney or by calling 0300 456 0300

AND

- complete form COP7 and file it with the Court of Protection. This form is available from www.justice.gov.uk/forms/hmcts or by calling 0300 456 4000.

If you are objecting to a specific attorney, it may not prevent registration if other attorneys or a replacement attorney have been appointed.

Glossary

Applicants	The persons applying to register the Lasting Power of Attorney (LPA)
Attorney	Someone appointed under either a Lasting Power of Attorney (LPA) or an Enduring Power of Attorney (EPA), who has the legal right to make decisions within the scope of their authority on behalf of the person who made the Power of Attorney.
Assisted Digital	The methods by which individuals who cannot access the internet directly are assisted in accessing a digital service via a trusted and supported intermediary
Certificate Provider	An independent person who is able to confirm that the person making the LPA understands its significance
Court of Protection	The specialist Court for all issues relating to people who lack capacity to make specific decisions. The Court of Protection is established
Deputy	Someone appointed by the Court of Protection with ongoing legal authority to make decisions on behalf of a person who lacks capacity to make particular decisions
Digital By Default	The delivery of Government services online or by other digital means
Donor	The person making the Lasting Power of Attorney (LPA)
ID Assurance	A method of verifying identities online
Jointly	Attorneys must always make all decisions together. If one of the attorneys does not agree with something, that decision cannot be made.
Jointly and severally	Attorneys can act together or independently for all decisions.
Lasting Power of Attorney (LPA)	A Power of Attorney created under the Mental Capacity Act 2005 appointing an attorney (or attorneys) to make decisions about the donor's personal welfare (including healthcare) and/or deal with the donor's property and financial affairs.
The Act – Mental Capacity Act 2005 (MCA)	The Mental Capacity Act (2005) protects people who may not be able to make some decisions for themselves
Named persons	The persons specified in the LPA, who should be notified that the LPA is about to be registered

Questionnaire

Q1. What are your views about the proposed new combined form? Is there anything else that should be added to the form (and why)?

Q2. If a combined form was introduced and it could be used to make an LPA only for Health and Welfare or only for Property and Financial Affairs, do you think there is a need to retain separate forms for each of the types of LPA alongside a combined form?

Q3. Do you think a combined form will result in some people applying for both forms of LPA, without having fully considered the specific responsibilities involved with health and welfare decisions?

Q4. Should any other changes be made to the redesigned single forms?

Q5. What more can be done to ensure that individuals making LPAs or who become attorneys understand how to make decisions under the Mental Capacity Act? How should the dual message about empowerment and protection be conveyed?

Q6. Do you agree that donors should be encouraged, by way of an option on the LPA form, to specify *when* the LPA comes into effect in the Property and Financial Affairs LPA?

Q7. What is your view about the removal of the signature and witness requirement from the life sustaining treatment authorisation

Q8. Do you consider that the new language in the forms is more user friendly?

Q.9 Do you agree that the renaming of ‘certificate providers’ and ‘named persons’ helps to clarify their roles?

Q10. Overall, do the forms offer the right balance between length and the inclusion of essential information?

Q11. Is the revised LPA002 more user friendly? Is there anything in the form that would create difficulties for donors or attorneys applying to register?

Q12. Do you agree with the proposal that the requirement for a second certificate provider should be dispensed with?

Q13. Do you agree that it is appropriate to offer a separate fee for an application to register a combined Lasting Power of Attorney, commensurate with the costs to the OPG of processing that application?

Q14. Do you agree the range of cases for which a reduced application fee is applicable should be expanded to include those cases where the LPA can only be made capable of registration by an application being made to the Court of Protection?

Q15. Do you agree that those applying to register LPAs via digital channels should pay a fee set at a level commensurate with the lower cost of processing such applications?

Q16. Is the range of information currently revealed as a result of a tier one search sufficient or should it be reduced?

Q17. If the type of information should be reduced, what should be the minimum amount provided?

Q18. Do you agree that second tier searches should be conducted through a secure digital tool?

Q.19 Are there any other additional factors that you feel should be taken into account with regards to electronic access of the Registers?

Q20. Do you agree with the proposal that ‘accredited third parties’ should have intermediate access to the Registers?

Q21. What information should they have access to?

Q22. What kinds of different support and monitoring do you think professional, local authority and lay deputies might require?

Q23. What risk assessment criteria do you think would be appropriate (for each type of deputy)?

Q24. What type of support and monitoring do you feel is needed early on in a deputyship?

Q25. What kind of online support or information do you think would most benefit deputies in fulfilling their role?

Q26. In what circumstances would minimal intervention in a case be most appropriate?

Q27. What do you feel would be a reasonable frequency of contact with the deputy in such cases to protect the person without capacity?

Q28. Should the OPG take fuller account of the fees charged by professional deputies as part of the supervisory process?

Q29. Are you in favour of the proposal to introduce legislation to create a fully digital LPA without physical signatures?

Q30. Are you in favour of the proposal to dispense with the role of witness in a fully digital process and for this function to be fulfilled by the digital process combined with secure online ID assurance?

Q31. Are you in favour of the proposal to use online identity assurance to verify the identities of those involved in making an LPA?

Q32. Are you in favour of the proposal that ‘signing’ the document would be completed in a digital context by each individual logging on securely with an assured ID and formally agreeing that they understand the nature of their role and agree to act in that capacity?

Q33. If you foresee any potential issues with implementing a fully digital approach, do you have any suggestions about how they might be addressed?

Thank you for participating in this consultation exercise.

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Please send your response by 26 November 2013 to:

Kathy Malvo
Ministry of Justice
Family Justice
4th Floor – Post Point 4.31
102 Petty France
London SW1H 9AJ
Tel: 020 3334 3124
Fax: 020 3334 3147
Email:kathlee.malvo@justice.gsi.gov.uk

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <https://consult.justice.gov.uk/>

Alternative format versions of this publication can be requested from Kathleen.malvo@justice.gsi.gov.uk – 020 334 3124

Publication of response

A paper summarising the responses to this consultation will be published within three months of the closing date of the consultation. The response paper will be available on-line at <https://consult.justice.gov.uk/>.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information

we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Impact Assessment

An Impact Assessment has been prepared for these proposals.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>

© Crown copyright 2013
Produced by the Ministry of Justice

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or email: psi@nationalarchives.gsi.gov.uk

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

Alternative format versions of this report are available on request from Kathleen.malvo@justice.gsi.gov.uk