



Ministry
of Justice



Changing laws about lasting power of attorney (LPA)



Please tell us what you think about these changes

You need to let us know by
13 October 2021



This is an easy read version of:
Modernising lasting powers of attorney
From the Ministry of Justice



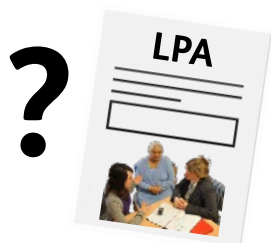
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Who are we and what are we asking about?



Ministry
of Justice

We are the Ministry of Justice, a part of Government.



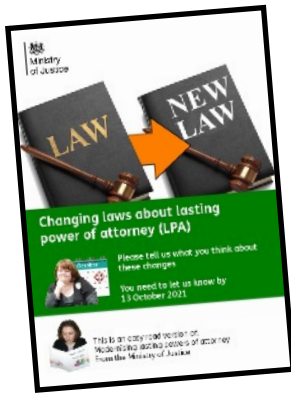
We look at laws and try to make sure everyone gets justice. Our work includes, running the courts, making new laws and managing prisons.



We are asking about choosing who can make decisions for you if there is a time when you are not able to make them yourself.



We want to change the law to make this a bit easier and give people the choice to do it online.



This is the information leaflet with details about the law and changes we are looking at.



There is an answers booklet with this leaflet for you to fill in and send back to us.



Changing Laws about lasting power of attorney (LPA)



An **attorney** is someone you say can make some decisions for you.



You can give this person (your **attorney**) the power to make decisions for you in the future if you can't because you are not well or you have trouble remembering things. This is called a **lasting power of attorney**, or **LPA**.



If you give another person this power by making an **LPA**, you are called the **donor**.



Your **attorney** might be a friend, relative or a professional person, like a solicitor. You can have more than one **attorney**.

The person you choose as your attorney can decide about:



- things you own

- your money



- your health

- your care.



You can choose your own **attorney** if you understand what it means and have the **mental capacity**. **Mental capacity** means you understand what you are doing.



The rules about how to choose your attorney are set out in a law.



We want to make this law work better so that LPAs are:

- safe for everyone
- open for everyone
- easier to make

?



We are asking everyone questions about it and we want to know what you think.

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The way you get a lasting power of attorney



This is what happens now

To make a lasting power of **attorney**, you have to fill in a paper form.



On the form you say who you want to be your **attorney**.

Then you sign the form.



Someone watches people sign the form. This person is called a **witness**.

Then the **witness** signs it.



Next, your **attorney** signs the form. Then their **witness** signs it.



Someone else signs it to say you understand what you are doing. This person is called a **certificate provider**.

So there can be lots of people signing and witnessing the form.



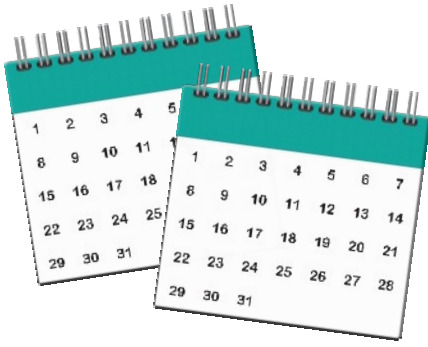
You post the form and some money to the **Office of the Public Guardian** (this is the **OPG**).



The **OPG** check the form. They add your name and your **attorney's** name to a list. This is called **registering** the **lasting power of attorney**.

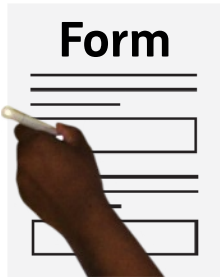


The **Office of the Public Guardian** posts it back to you.



Problems with what happens now

It can take a long time.



People can make mistakes by signing the wrong part of the form.



It can cost a lot of money if the form is filled in wrongly or signed wrongly.



People can try to force the **donor** to make an **LPA** or make one without the **donor** knowing.



What we want to change

We want to make everything happen more quickly.



We want people to be able to do this **online**. **Online** means using a computer, tablet or a mobile phone to look at the internet, send emails or talk to other people.



We want to make it easier for you to make your **LPA**.

We want to make the **LPA** safer for you.



What will stay the same

We know some people don't use the internet, so they will still be able to use paper forms.



We know we need to keep your information safe.

What happens next?



We asked lots of people to tell us what they think about changing the way you make an **LPA**.



Then we put together seven main ideas, called **proposals**.



Proposal 1: About the person who watches the **donor** sign an **LPA** – the **witness**



Proposal 2: About what happens when the **donor** sends the **LPA** to the **OPG** and how quickly the **OPG** is able to check it.



Proposal 3: About how the **OPG** checks that people are who they say they are (their identity) and what action the **OPG** can take if it is worried in any way about an **LPA**.



Proposal 4: How to make it easy for people to tell the **OPG** if they are worried in any way about the **LPA**.

?



Proposal 5: When is the best time for people to object (say they are worried in any way about) an **LPA**?



Proposal 6: Registering an **LPA** quickly if you need it in an emergency.



Proposal 7: How legal people (solicitors) send forms to the **OPG**.



Questions for you to tell us what you think about the changes



We want to know what you think.



Please have this document with you to help you answer the questions in the question booklet.



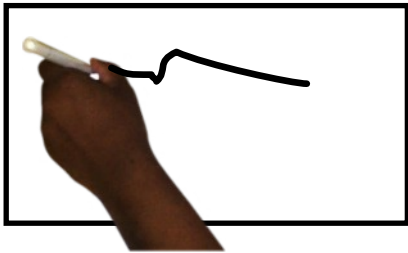
You can ask someone to help you write down your answers.



You can tick a box like this.



Or you can say you don't know the answer.



There are places where you can say more if you want to.

Proposal 1: About the person who watches the donor sign the LPA - the witness.



Question 1 is about having a **witness**, someone with you to watch you and your **attorney** sign the **LPA**. We ask you to pick one answer.



1a. This question is about not needing a **witness** with the **donor** to watch them sign the **LPA**.



1b. This question asks if you think it is okay for the **witness** to watch the **donor** sign the **LPA** through a video call. This is called **remote witnessing** because the **witness** is not in the room with the **donor**.

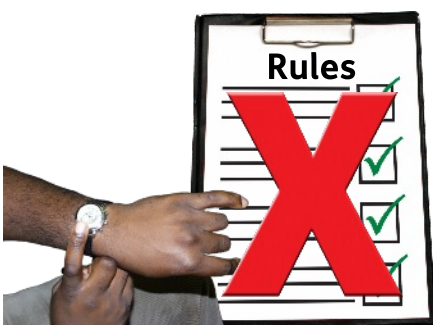


1c. This question is about replacing the **witness** and finding a new way to prove that the **LPA** has been made correctly.



Proposal 2: About what happens when you send the LPA to the OPG and how quickly the OPG are able to check it.

Questions 2 and 3 are about when you should send your **LPA** to the **Office of the Public Guardian**.



At the moment, there are no rules about sending it to the **OPG** quickly.

Angela Brown
Charles Dodd
Edward Finch
George Harris
Ian Jones
Kevin Lines
Michelle Newman
Olivia Patrick

When you fill out the form to make an **LPA**, you then send it to the **OPG** to register it. This means it goes in a register or list.



Some people fill out the form but don't send it because:

- they can't pay the fee



- they are worried their **attorneys** will start to make decisions for them before they are supposed to



- they don't understand that they must send the application to the **OPG** to be registered.

Proposal 3: About how the OPG checks that people are who they say they are (their identity) and what action the OPG can take if it is worried in any way about an LPA.



Question 4 is about asking the **Office of the Public Guardian (OPG)** to check people are who they say they are (their identity or ID).



People who use a solicitor to apply for the **LPA** have to prove their identity.



But people who apply by themselves do not have to prove their identity.



Checking a person's identity keeps everyone safer.



Question 5 is about checking that you are the person who has made the **LPA**.

There are two ways this can happen.
You must pick one.



The **Office of the Public Guardian (OPG)** tells people exactly what types of identification documents they must have.

OR



The **OPG** will work out different ways to check people's identity.

Proposal 4: How to make it easier for people to tell the OPG if they are worried in any way about an LPA.



An **objection** is when someone has a worry in any way about the way an **LPA** has been made. Question 6 looks at the types of **objection** the **OPG** will deal with.



At the moment, making an **objection** can be quite a confusing because some **objections** come to the **OPG** and others go to the Court of Protection.



So you need to say if you want all **objections** or only some to go to the **OPG**.



If the **OPG** only got some of the **objections**, it would be because something has happened and the **attorney** has had the power to act taken away from them. This could be because the **donor** has died or because the **attorney** is no longer allowed to look after money.



Question 7 asks if you think the **OPG** should be able to tell the Court of Protection if they have a worry in any way about how an **LPA** was made.



Proposal 5: When is the best time for people to object (say they have a worry in any way about) how an LPA was made?

People have four weeks to say they are not happy about the **registration** of a **lasting power of attorney**.

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The question is about when people should be allowed to tell the **OPG** if they have a worry in any way about the **LPA**.



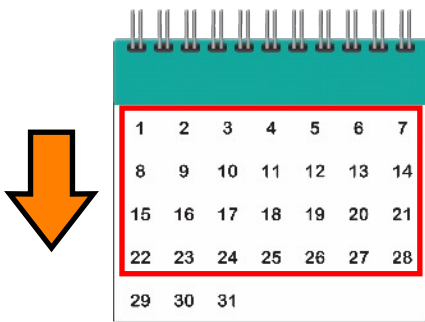
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Question 8 asks you to say how long you think people need to **object**.



You can say that people should be able to object as soon as someone (the **donor**) has started making their **LPA**.

OR



You can choose to make the **objection** period shorter than four weeks.

OR



You can say that there should not be an **objection** period and that we should put a different protection in place.



Proposal 6: Registering an LPA quickly if you need it in an emergency.

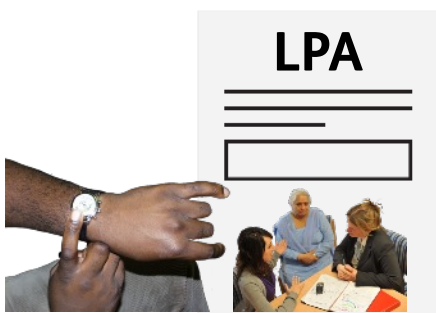
Sometimes the person who needs the **LPA** is in a hurry because they are getting very sick or forgetful.



Getting an **LPA** quickly is good if you need it in a hurry.



But getting an **LPA** quickly means people who care about you have less time to say they have a worry in any way about how the **LPA** was made.



The government wants to help people who need an **LPA** to get one faster.



The Court of Protection can help with very urgent emergencies.



Question 9 asks if an urgent **LPA** service is important to you.



If the government make some of the changes we have explained, you may be able to register your **LPA** in 2 weeks.



Questions 10 is for service providers



Proposal 7: How legal people (solicitors) can help.

Question 11 is for solicitors.

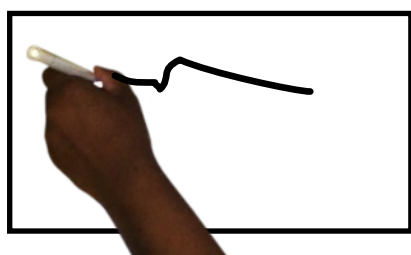
More questions (if you want to say more)



These changes try to include everyone so we want to hear from people from every race, sex, age, disability, sexual orientation, religion or belief, pregnancy and maternity, gender reassignment, marriage/civil partnership.



We can check we are doing this if you answer the questions about you.



There is a place for you to say anything else about the way changing the **LPA** process will affect you.



How to send back your answers



Please send your answers by
13 October 2021



Post to:
**Vulnerability Policy Unit,
Family and Criminal Justice Policy
Directorate,
Ministry of Justice,
Post point 7.25
7th Floor, 102 Petty France,
London. SW1H 9AJ**



Email:
mlpaconsultation@justice.gov.uk



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What people have told us



We will write a paper about the things people have told us after the closing date. We hope to do this in 3 months.



You will be able to see this here:
consult.justice.gov.uk/



Asking people what they think and keeping information private

We follow the law on keeping personal information safe.



We think it is important other people can see who has sent us their answers. So people might be able to see your name.



If you do not want your name to be used please do not let us have it.



We follow the government rules on how to ask people what they think, see these here: **tinyurl.com/consultation-principles**

What the words mean

Attorney - The trusted person the donor asks to make decisions for them.

Certificate provider - Signs the LPA to confirm the donor understands the document.

Check identity - Check people are who they say they are.

Consultation - A way for you to tell us what you think.

Donor - The person who makes the LPA.

Lasting Power of Attorney or LPA - A legal document that lets you say who will be your attorney. Lasting Power of Attorney.

Mental capacity - This means you understand what you are doing.

Objection - When someone tells the OPG they have a worry in any way about an LPA.

Online - Using a computer, tablet or a mobile phone to look at the internet, send emails or talk to other people.

Office of the Public Guardian or OPG - A government agency that checks an LPA is being used properly. Office of the Public Guardian.

Proposals - Ideas about how to change the way you get an LPA.

Register an LPA - Sending it to the OPG so it can be added to a list.

Remote witnessing - Having someone watch you sign a document using a video call.

Witness - A person who watches you sign a document.

Credits



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