

Lasting Powers of Attorney

A guide to registering a
Lasting Power of Attorney

Contents

Introduction	5	
When should a Lasting Power of Attorney be registered with the Office of the Public Guardian?	6	
Who can apply to register a Lasting Power of Attorney?	6	
Part A	Information for Attorneys applying to register a Lasting Power of Attorney	8
Part B	Information for Donors applying to register a Lasting Power of Attorney	14
Contact us	18	

Introduction

This guidance is for anyone wishing to register either a Property and Affairs Lasting Power of Attorney (LPA) or a Personal Welfare LPA. An LPA must be registered with the Office of the Public Guardian (OPG) before it can be used.

This booklet provides guidance on:

- when to register an LPA;
- who can register an LPA; and
- how to register an LPA.

If you require further information on the registration process you can contact the OPG; contact details are at the end of this document.

When should an LPA be registered with the OPG?

An LPA can be registered at any time after it is made but cannot be used until it has been registered. The LPA is made when it has been completed and signed by all those who are required to sign.

The benefit of registering an LPA shortly after it is made is that it will be ready to be used by the Attorney(s) when it is needed.

If an application to register is made a long time before the LPA is needed then the LPA may need to be looked at again from time to time to make sure that the contents are still relevant to the Donor's circumstances. In this situation, the Attorney(s) may also like to contact the OPG for up-to-date information on LPAs and the role of the Attorney.

If circumstances change and aspects of the LPA need to be changed to reflect this – for example the restrictions or conditions are no longer relevant or another Attorney needs to be appointed – a new LPA will need to be made. Changes **cannot be made to any part** of a signed and certified LPA.

However, if the contact details of any named persons or Attorney(s) have changed, these changes should be recorded on a separate sheet and kept with the LPA.

Who can apply to register an LPA?

The Donor or the Attorney(s) (depending on how they are appointed) can apply to register an LPA.

A replacement Attorney can also register an LPA in situations where they have replaced an Attorney on an unregistered LPA.

How is the LPA registered?

The applicant must use form **LPA001: Notice of intention to apply for registration of an LPA** to let the ‘named person’ specified in the LPA, know of the application to register the LPA.

6

The applicant must also complete form **LPA002: Application to Register an LPA** and send it to the OPG.

These forms and guidance on how to complete them are available from the OPG or from our website.

Will I need to fill in separate application forms to register separate LPAs?

Yes, you will need to complete an **LPA001** and **LPA002** form for each LPA you wish to register.

Can an LPA be used before it is registered?

No, the LPA must be registered with the OPG before it can be used. The Attorney(s) must not act under the LPA until it is registered

Important: Please read before proceeding:

- If you are an **Attorney** applying to register an LPA (or someone appointed to act on their behalf) please read Part A.
- If you are a **Donor** applying to register an LPA (or someone appointed to act on their behalf) please read Part B.

Part A - Information for Attorneys applying to register an LPA

As an Attorney applying to register, must I give notice to the Donor?

There is no legal requirement to give notice to the Donor that you are applying to register their LPA. However, it is strongly advisable to discuss your intention to register the LPA with the Donor if possible.

The OPG will formally notify the Donor of any application it receives to register an LPA.

As an Attorney, do I need to give notice to any other Attorneys appointed to act on the LPA?

8

Attorneys appointed together must apply for registration together. If you are an Attorney appointed together with others, you need to ensure you make the application with all other Attorneys.

If you are appointed together and independently, any of you may make the application. There is no legal requirement to advise the other Attorney(s) that you are applying to register the LPA. However, it may be advisable to let them know to avoid any challenges to the registration.

When we receive an application to register an LPA, we will formally notify any Attorneys appointed in the LPA that have not taken part in the application.

Who else should be notified of the application to register the LPA?

You must notify the named persons listed in the LPA using form **LPA001**. Once you have decided to make an application to register, this should be the first thing you do.

If the Donor requested that the LPA is only to be registered upon loss of capacity, does medical evidence need to be supplied to the OPG to confirm loss of capacity?

No, we will not need medical evidence. But, as with all applications to register, we will notify the Donor upon receipt to give them an opportunity to object to the registration.

What if I am registering both types of LPA and they have the same named persons? Do I still need to send more than one set of notices?

Yes, they are treated as separate applications and you must send a set of notices for each of the LPAs you are applying to register. A named person may be content for the registration of one type of LPA to go ahead but may wish to object to the other type.

What if I cannot locate a named person?

You must be able to show us that you have made all reasonable attempts to contact the named person (proof of posting or returned notice from last known address) but are unable to do so.

Once I have served notices, what do I do next?

Once you have served the last notice you will need to send us the original LPA form, the completed application form (LPA002) and the appropriate fee.

What if the original LPA is missing?

We will not usually accept an application to register without the original LPA form. However, we may consider registering a 'certified copy'. This means a copy that is signed on every page (including part A) to show that it is a true copy and has not been tampered with in any way. Usually, solicitors sign certified copies.

Unless the Donor has gone to the trouble of certifying a copy (which would be unusual), it will normally be possible for a solicitor to certify a copy if his or her firm prepared the LPA. For this reason, every effort should be made to locate the original LPA.

You will also need to send a sworn written statement explaining how the original was lost, and how and when the certified copy was made.

How much does it cost to register the LPA?

Fees, remissions and exemptions guidance is available in a separate booklet from the OPG, you can download it from the website. Contact details are at the end of this document.

Are two separate fees payable if I am registering both types of LPA at the same time?

Yes, a separate registration fee must be paid for each separate LPA registered.

What if the Donor or I cannot afford the application fee(s)?

The fee is normally paid from the Donor's assets, however, if they and you, cannot afford it you can ask us to postpone or waive payment. See the OPG's guidance on fees, exemptions and remissions for more information.

What happens once I have made the application to register the LPA?

The LPA team will check the LPA and your application form.

If there are any problems, we will contact you, as the applicant. If there are no problems, we will set a registration date and let the applicant(s) know when it is. This date will be six weeks from the date that the OPG gives notice to any persons who did not join in the application to register.

This is because everyone who is entitled to be notified is also entitled to object to the application for registration.

Please note: If there are any objections, it may not be possible to register the LPA after six weeks until these have been resolved.

How long does it take before I receive confirmation that the LPA(s) have been registered?

The registered copy of the LPA will be sent to the person who applied to register it within five days of the six week waiting period, or you will be informed that it has not been registered.

What happens if I need to act on the Donor's behalf (for example to pay an outstanding nursing home bill) before the LPA is registered?

You cannot use an unregistered LPA to make decisions on the Donor's behalf, or gain access to the Donor's money or assets. Therefore, a timely application to register is important.

If an urgent decision needs to be made on the Donor's behalf but the LPA has not yet been registered you can apply to the Court of Protection for an order to make that decision on the Donor's behalf. You will normally have to pay for such an application.

It is therefore advisable for both Donor and Attorney(s) to work together to plan ahead and not leave registration to the last minute. Remember, an LPA can be registered any time after it is created.

Where can I get information on applying for an order from the Court of Protection?

Information on how to make an application to the Court is available from our website under the Court of Protection heading or you can call the OPG - contact details are at the end of this document.

Where do I get extra copies of the registered LPA?

The OPG can supply office copies of the original LPA document and may charge a fee. Solicitors can also certify copies as being true copies of the original and they may also charge.

Please note: To ensure that a copy is acceptable, check first with the organisation/institution who needs to see the LPA.

Part B - Information for Donors applying to register an LPA

As a Donor applying to register my Lasting Power of Attorney (LPA), must I notify my Attorney(s) of the application?

There is no legal requirement to give notice to your Attorney(s) that you are applying to register the LPA. However, it is strongly advisable to discuss your intention with them.

We will formally notify your Attorney(s) of your application to register once we receive it.

Who else should I notify of the application to register the LPA?

14

You must notify the named persons listed within the LPA using form **LPA001**. Once you have decided to make an application to register, this should be the first thing you do.

What if I am registering both types of LPA and I have the same named persons. Do I still need to send more than one set of notices?

Yes, they are treated as separate applications and you must send a set of notices for each of the LPAs you are applying to register. A named person may be content for the registration of one type of LPA to go ahead but may wish to object to the other type.

What if I cannot locate a named person?

You must be able to show the OPG that you have made all reasonable attempts to contact the named person (proof of posting or returned notice from last known address) but are unable to do so.

Once I have served notices, what do I do next?

Once you have served the last notice you will need to send us the original LPA form, the completed application form (LPA002) and the appropriate fee.

What if the original LPA is missing?

We will not usually accept an application to register without the original LPA form. However, we may consider registering a 'certified copy'. This means a copy that is signed on every page (including part A) to show that it is a true copy and has not been tampered with in any way. Usually solicitors sign certified copies.

Unless you have gone to the trouble of certifying a copy (which would be unusual), it will normally be possible for a solicitor to certify a copy if his or her firm prepared the LPA. For this reason, every effort should be made to locate the original LPA.

You will also need to send a sworn written statement explaining how the original was lost, and how and when the certified copy was made.

How much does it cost to register the LPA?

Fees, remissions and exemptions guidance is available in a separate booklet from the OPG or from our website. Contact details are at the end of this document.

Do I have to pay two separate fees if I am registering both types of LPA at the same time?

Yes, a separate registration fee is applicable for each separate LPA registered.

What if I cannot afford the application fee(s)?

If you cannot afford the application fee you can ask us to remit or exempt payment. To apply for the remission or exemption of the LPA fee please contact us for the relevant form or you can download it from our website.

Further information about fees, remissions and exemptions is available from the OPG or from our website.

What happens once I have made the application to register the LPA?

The OPG will check the LPA and your application form.

If there are any objections, we will contact you as the person making the application. If there are no objections, we will set a registration date and let you and any other applicant know when it is. This date will be six weeks from the date that the OPG sends out notification to the Attorney(s) of the intention to register the LPA.

This is because everyone who is entitled to notice is also entitled to object to the application for registration.

Please note: If there are objections, it may not be possible to register the LPA after six weeks until these have been resolved.

How long does it take before I receive confirmation that the LPA has been registered?

The registered copy of the LPA will be sent to the person who applied to register it within five days of the six week waiting period, or you will be informed that it has not been registered.

Where do I get extra copies of the registered LPA?

The OPG can supply office copies of the original LPA document and may charge a fee. Solicitors can also certify copies as being true copies of the original and they may also charge.

Please note: To ensure that a copy is acceptable check first with the organisation/institution who needs to see the LPA.

Contact us

You can obtain further assistance on completing your application to register an LPA by contacting the OPG.

Office of the Public Guardian
Archway Tower
2 Junction Road
London N19 5SZ

Phone Number: 0845 330 2900

Fax Number: 020 7664 7705

Email: customerservices@publicguardian.gsi.gov.uk

Website: www.publicguardian.gov.uk

DX: 141150 Archway 2

Textphone: 020 7664 7755 (If you have speech or hearing difficulties and have access to a textphone, you can call the OPG textphone for assistance.)

International Calls: +44 20 7664 7000

International Faxes: +44 20 7664 7705

Please note: The OPG provides advice about OPG processes only, and cannot provide legal advice or services to any party. The OPG recommends that you seek independent legal advice where appropriate. Information in this publication is believed to be correct at the time of printing, however the OPG does not accept liability for any error it may contain.

