

Office of the Public Guardian Registers

Register of Lasting Powers of Attorney

Register of Enduring Powers of Attorney

Register of Court orders appointing Deputies

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Form	OPG100: Application for a search of the Public Guardian registers	

Part A: About this booklet

This guidance explains what the Office of the Public Guardian ('OPG') registers are, the information they contain and how to apply for a search of them.

Part B: About the registers

What are the registers?

The registers are three databases set up and maintained by the OPG under the Mental Capacity Act 2005. They are:

- the register of Lasting Powers of Attorney (LPA);
- the register of Enduring Powers of Attorney (EPA); and
- the register of Court of Protection orders appointing Deputies.

The registers hold detailed information about registered LPAs, EPAs and Deputyships, including those that were cancelled or revoked after registration.

Who can access information on the registers?

There is no restriction on who can apply for a register search. The only requirement is that you submit a completed application form and include the relevant search fee.

Part C: Searching the registers

How do I apply for a search of the registers?

To apply for a search of the registers you must complete and submit the form **OPG100: Application for a search of the Public Guardian registers** and include a cheque for the relevant search fee.

For OPG fees information refer to booklet **OPG506: Fees, exemptions and remissions**, available to download from our website or call us for a hard copy.

The fee is payable regardless of the outcome of the search.

What information will I receive after a search of the registers?

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You will only receive information if there is an exact match between the name you provided on your application form and that held on the registers. If there is a close but not exact match we may contact you for more information.

When you complete and submit the OPG100 form you have made a 'first tier' search application.

Information you receive after a first tier search includes:

- 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 LPA, EPA or Deputyship order relates to 'property and affairs' or 'personal welfare';
- the date the LPA, EPA or Deputyship order was made;
- the date the LPA, EPA or Deputyship order was registered;
- the date the LPA or EPA 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/Attorney(s);
- whether any replacement Deputy/Deputies/Attorney(s) are active;
- whether 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 LPA, EPA or Deputyship order (but not details about the conditions or restrictions).

A first tier search will **not** reveal:

- details about LPAs or EPAs that have not yet been registered;
- Court of Protection ('Court') order applications that are pending (i.e. in progress), including applications for Deputyship orders; or
- details of any other Court orders. You will need to apply to the Court for those details, and disclosure is governed by the Court Rules.

If you require additional information to that provided after a first tier search, you should apply for a 'second tier' search.

What is a second tier search?

Second tier search applications are made in order to obtain additional information to that given after a first tier search.

The OPG will carefully consider your application before deciding whether additional information is released. It will depend on factors including your relationship to the case, the information you request and why you wish to access it.

To make a second tier search request, write to the OPG and include the following information:

- the name of the Donor/person the order is about;
- the specific information you require;
- the reason you require the information; and
- why you have been unable to obtain the information from the person themselves or from another source.

Any information provided to you will be at the discretion of the OPG and will vary according to the individual circumstances of the case.

No additional fee is payable for a second tier search.

Part D: Legal matters

What about the Data Protection Act?

The Data Protection Act normally applies to information held by the OPG, however it does not apply to the information you can access in a first tier search of the registers.

More information on the scope and exemptions of the Data Protection Act can be accessed from the Information Commissioners Office at www.ico.gov.uk.

Part E: Glossary of key words and phrases

Attorney	Someone appointed under either a Lasting Power of Attorney or an Enduring Power of Attorney who has the legal right to make decisions within the scope of their authority on behalf of the person (the Donor) who made the Power of Attorney.
Court of Protection	The specialist Court for issues relating to people who lack capacity to make specific decisions.
Data Protection Act 1998	A law controlling the handling of, and access to, personal information such as medical records, files held by public bodies and financial information held by credit reference agencies.
Deputy	Someone appointed by the Court of Protection with ongoing legal authority as prescribed by the Court to make decisions on behalf of a person who lacks capacity to make particular decisions as set out in Section 16(2) of the Mental Capacity Act 2005.
Donor	A person who makes a Lasting Power of Attorney or Enduring Power of Attorney.

Enduring Power of Attorney	A Power of Attorney created under the Enduring Powers of Attorney Act 1985 appointing an Attorney to deal with the Donor's property and financial affairs. Existing Enduring Power of Attorneys will continue to operate under Schedule 4 of the Mental Capacity Act, which replaces the Enduring Powers of Attorney Act 1985.
Jointly (or 'together')	Attorneys appointed 'jointly' must always act together. They must all agree before doing anything on the Donor's behalf. If one Attorney does not agree with a proposed action then that decision cannot be made.
Jointly and severally (or 'together and independently')	Attorneys appointed 'jointly and severally' can act on their own and can act together. This means that any one Attorney can decide on a particular issue independently of the others. This can be useful if the Attorneys are not always in the same place at the same time.
Lasting Power of Attorney	A Power of Attorney created under the Mental Capacity Act (see Section 9(1)) appointing an Attorney to make decisions about the Donor's personal welfare (including healthcare) or deal with the Donor's property and affairs.

<p>Personal welfare</p>	<p>Personal welfare decisions are any decisions about a person’s healthcare, where they live, what clothes they wear, what they eat and anything needed for their general care and well-being. Attorneys and Deputies can be appointed to make decisions about personal welfare on behalf of a person who lacks capacity. Many acts of care are to do with personal welfare.</p>
<p>Property and affairs</p>	<p>These include possessions owned by a person (such as a house or flat, jewellery or other possessions), the money they have in income, savings or investments and any expenditure. Attorneys and Deputies can be appointed to make decisions about property and affairs on behalf of a person who lacks capacity.</p>

Part F: Contact us

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Disclaimer

The OPG provides advice about OPG processes only, and cannot provide legal advice or services. 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.

