

Lasting power of attorney service to be made safer, simpler and fit for the future

- New and improved safeguards to protect against fraud and abuse
- Process to be made simpler and easy to use
- Shift to predominantly digital service

The number of registered lasting powers of attorney (LPA) has increased drastically in recent years to more than five million, but the process of making one retains many paper-based features that are over 30 years old.

A 12-week consultation launched today will examine the entire process of creating and registering an LPA – with a view to boosting the Office of the Public Guardian’s (OPG) powers to prevent fraud and abuse while introducing a mainly digital service.

It will examine how technology can be used to reform the process of witnessing, improve access and speed up the service. The consultation will propose widening the OPG’s legal powers to check identities and stop or delay any registrations that raise concern. It will also look at making the process for objecting to the registration of an LPA simpler to help stop potentially abusive LPAs.

The proposed changes will fundamentally alter and update a process that has been in place for decades. While the service will become predominantly digital, alternatives such as paper will remain for those unable to use the internet.

Justice Minister, Alex Chalk MP, said:

A lasting power of attorney provides comfort and security to millions of people as they plan for old age. These changes will make the service quicker to use, easy to access and even more secure from fraud.

An LPA is a legal document which allows people to appoint someone else (an attorney) to make decisions about their welfare, money or property. They are often used by older people to choose someone they know and trust to make decisions for them were they to lose capacity in the future – but can be made by anyone over the age of 18.

The consultation comes just over a year after the OPG launched a new digital service called ‘Use a lasting power of attorney’. As the service allows attorneys to securely share details of their LPA with organisations online, it means they can quickly take action on their loved one’s behalf.

Nick Goodwin, Public Guardian for England and Wales, said:

More people are taking the vital step to plan for the future by applying for lasting powers of attorney, and we want to make sure that it is as safe and simple as possible to do so.

This consultation puts forward proposals which will allow us to make the service fit for the modern world – one that can be accessed online, and which grants OPG the power to conduct thorough checks to protect against fraud while making it easier for people to raise concerns.

The consultation will look at:

- How witnessing works, and whether remote witnessing or other safeguards are desirable.
- How to reduce the chance of an LPA being rejected due to avoidable errors.
- Whether the OPG's remit should be expanded to have the legal authority to carry out further checks such as identification verification.
- How people can object to an LPA and the process itself, as well as when is the right time for an objection to be made.
- Whether a new urgent service is needed to ensure those who need an LPA granted quickly can get one.
- How solicitors access the service and the best way to facilitate this.

Any substantial changes will require amendments to the Mental Capacity Act 2005 which brought in the current system.

Notes to editors:

- The consultation runs for the next 12 weeks until 13 October.
- Lasting power of attorney was introduced in 2007 as part of the Mental Capacity Act 2005. This replaced the previous system of Enduring Power of Attorney that had been in place since 1986.
- In parallel with the formal consultation, the Office of the Public Guardian will continue to carry out engagement through workshops and user research – gathering evidence from, and hear the experiences of, a diverse range of people and organisations.