



Make and register your lasting power of attorney a guide



Financial decisions

including:

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



Health and care decisions

including:

- what medical treatment you receive, such as life-sustaining treatment
- where you live
- day-to-day matters such as your diet, dress or daily routine

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How to use this guide

This guide gives you information about making and registering your lasting power of attorney (LPA). You don't have to read it now. You can start filling in your LPA form and look at the guide if you need more information.

Your lasting power of attorney (LPA)

An LPA is a legal document that lets you (the 'donor') choose trusted people ('attorneys') to make financial decisions or health and care decisions on your behalf.

An LPA is mainly used if you don't have the mental capacity to understand and make decisions yourself. You need mental capacity to make an LPA.

Mental capacity is the ability to make a specific decision at the time that it needs to be made.

Your LPA is only for England and Wales. It probably won't work elsewhere, so you may wish to seek legal advice if you want it to.

You don't need a lawyer to make an LPA, unless you have unusual or specific requirements.

Sections in the LPA form where you might want legal advice are marked with this lawyer symbol:



It's up to you to decide whether you want legal advice to fill in these sections.

Making your LPA: which type?

You'll have to choose what sort of decision you'll need help with. There are two kinds of LPA, covering two kinds of decision:

- money, finances and property
- health and care

Each LPA has its own form. To choose both, fill in both forms.

Financial decisions: use form LP1F

Financial decisions might be about:

- opening, closing and using your bank and building society accounts
- claiming, receiving and using your benefits, pensions and allowances
- paying your household, care and other bills
- making or selling investments
- buying or selling your home

You choose whether your attorneys can act for you as soon as the LPA is registered or only if you can no longer understand and make decisions (see part A5 of this guide).

You don't have to own your own home or have a lot of money to make an LPA for financial decisions. For example, if it's hard to manage your bank account or bills alone, you may want someone to help.

You can appoint different attorneys for your personal finances and your business affairs. To do this, fill in two LP1F forms.

Health and care decisions: use form LP1H

Health and care decisions might be about:

- giving or refusing consent to health care
- staying in your own home and getting help and support from social services
- moving into residential care and finding a good care home
- day-to-day matters such as your diet, dress or daily routine

Your attorneys can only make decisions when you don't have mental capacity.

One very important decision has its own section in a health and care LPA. You can choose whether your attorneys or your doctors should make decisions about accepting or refusing medical treatment to keep you alive, if you can't make or understand that decision yourself.

Read more about life-sustaining treatment in part A5 of this guide.

You don't have to have complex health or care problems to make an LPA. It's a way of planning for your care in case you can't make decisions for yourself in future.

People involved in your LPA

You (the donor) need to choose people for your LPA. Discuss this with them before you name them in your LPA form.

Before the official form starts, there's a page to make a note of everyone involved in the LPA – you don't have to fill it in, but you might find it useful.

People you must have to make an LPA

Donor: see part A1 of this guide.

Attorneys: see part A2 of this guide.

Certificate provider: see part A10 of this guide.

Witnesses: an impartial person must witness you and your attorneys signing your LPA. You can't witness your attorneys' signatures and they can't witness yours.

People you might want to include in your LPA

Replacement attorneys: see part A4 of this guide.

People to notify: see part A6 of this guide.

Registering your LPA

Before you can use your LPA, you must register it with the Office of the Public Guardian (OPG). It costs £82 to register your LPA so that it's ready to use. It's best to apply to register your LPA as soon as you've filled in the form.

Helping a friend to make an LPA

If you're helping a friend or relative with an LPA by filling in the form for them, that person must make all the choices when making the LPA. If they can no longer make these choices independently, you can't make an LPA for them. You can apply to the Court of Protection, who will appoint you or someone else to help them. Find out more at www.gov.uk/become-deputy

Your LPA pack

You've been sent all the documents that you need to make and register your LPA.

These are:

- form LP1F to make a financial LPA
- form LP1H to make a health and care LPA
- form LP3 if you want to notify people when your LPA is sent for registration
- continuation sheets 1 to 4 – you only use these if the LPA form says you should
- form LPA120 to apply for a reduced fee if you have low income

If we have sent you a pack and any of these are missing, please call us on 0300 456 0300 or download them from www.gov.uk/government/publications/make-a-lasting-power-of-attorney

Make your LPA online

You can also make your LPA using our digital service. It's quick and easy to do. There's more information at our website, www.gov.uk/power-of-attorney

If you need help making your LPA online

If you'd like to make your LPA online but are unsure about using computers and websites, please ring our contact centre on 0300 456 0300 and we'll try to help.

What is 'mental capacity'?

Your LPA – and this guide – mentions 'mental capacity' a lot. It's important to understand this idea before you make an LPA.

'Mental capacity' means the ability to make a specific decision at the time it needs to be

made. A person with mental capacity has at least a general understanding of:

- the decision they need to make
- why they need to make it
- any information relevant to the decision
- what is likely to happen when they make it

They should be able to communicate their decision through speech, signs, gestures or in other ways.

People can sometimes make certain decisions but don't have the mental capacity to make others. For example, someone may be able to decide what to buy for dinner but be unable to understand and arrange their home insurance.

Assessing mental capacity

To work out whether someone lacks the mental capacity to make a decision, you need to answer 'yes' to these two questions:

1. Do they have a mental or brain problem that stops their brain or mind from working properly?
2. Is that problem causing them such difficulty now that they are unable to make this particular decision at the time it needs to be made?

Being 'unable to make this particular decision' means that the person can't:

- understand relevant information about the decision that needs making
- keep that information in their mind long enough to make the decision
- weigh up the information in order to make the decision
- communicate their decision – this could be by talking, using sign language, pictures or even just squeezing a hand or blinking.

Sometimes – especially in the case of big or complex decisions – you may want to get professional advice, for example, from the person’s GP, psychiatrist or psychologist.

Mental Capacity Act 2005 and Code of Practice

The Mental Capacity Act 2005 covers LPAs. The Mental Capacity Act Code of Practice explains more and has examples, including how attorneys must act. The Code of Practice also has more information about mental capacity.

You can find the Mental Capacity Act Code of Practice online at www.gov.uk/opg/mca-code

You can also buy a printed version from the Stationery Office: www.tsoshop.co.uk

Your local library may be able to help if you can’t get online by yourself.

Making decisions for you

Attorneys can make some decisions on your behalf, but they can’t do as they please. They always have to act in your best interests.

The Mental Capacity Act Code of Practice goes into this much more fully. It sets out five basic principles an attorney has to follow when working out whether and how to act on your behalf:

1. Your attorneys must assume that you can make your own decisions unless it is established 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 practical 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 freedoms but still achieves the purpose.

Attorneys always have to follow these principles.

Contact us

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Monday to Friday: 9am to 5pm (except Wednesday)

Wednesday: 10am to 5pm

Website: www.gov.uk/opg

Part A – make your LPA

Choose form LP1F to make an LPA for financial decisions or LP1H to make an LPA for health and care decisions.

Start filling in the form now.

You don't need to read this guide first. Use it while you're completing the form.

Before the official form starts, there's a page to make a note of everyone involved in the LPA – you don't have to fill it in, but you might find it useful.

When you see the word 'you' from now on, in part A of this guide, it means the donor: the person appointing other people to make decisions on their behalf.

The first proper pages of the forms look like this:

Office of the Public Guardian
Helpline 0300 456 0300

Lasting power of attorney for health and welfare

Section 1
The donor

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

Restrictions – you must be at least 18 years old and be able to understand and make decisions for yourself (called 'mental capacity').

Help?
For help with this section, see the Guide, part A1.

If you are filling this in for a friend or relative and they can no longer make decisions independently, they can't make an LPA. See the Guide 'Before you start' for more information.

Title First names
Last name
Any other names you're known by (optional – eg your married name)
Date of birth
Day Month Year
Address
Postcode
Email address (optional)

For OPG office use only
LPA registration date Day Month Year OPG reference number
Only valid with the official stamp here. LP1H Health and welfare (07.15)

Office of the Public Guardian
Helpline 0300 456 0300

Lasting power of attorney for property and financial affairs

Section 1
The donor

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

Restrictions – you must be at least 18 years old and be able to understand and make decisions for yourself (called 'mental capacity').

Help?
For help with this section, see the Guide, part A1.

If you are filling this in for a friend or relative and they can no longer make decisions independently, they can't make an LPA. See the Guide 'Before you start' for more information.

Title First names
Last name
Any other names you're known by (optional – eg your married name)
Date of birth
Day Month Year
Address
Postcode
Email address (optional)

For OPG office use only
LPA registration date Day Month Year OPG reference number
Only valid with the official stamp here. LP1F Property and financial affairs (07.15)

If your forms don't look like this, you may be using old versions. Download the most recent ones, or call the Office of the Public Guardian's contact centre on 0300 456 0300 to request them.

Part A1 – the donor

Fill in section 1

Fill in your details in section 1 of the LPA form. You can also give an email address, but it's optional.

Give any other names that you use, such as your married name. If your LPA does not include all the names you're known by, there may be confusion or delays if your attorneys need to use it.

More information

Who can be a donor?

An LPA is for just one person. You can make an LPA if:

- you are at least 18 years old
- you have the mental capacity to do so

'Mental capacity' means the ability to make and understand a specific decision at the time it needs to be made.

Most people can make an LPA. However, there could be complications because of:

- residency – if you live or have property outside England and Wales
- bankruptcy – if you are bankrupt or subject to a debt relief order and want to make an LPA for your financial decisions

There's more on these complications on this page and page 9.

Can someone help the donor to fill in the form?

Yes. However, if anyone else is filling the form in for you, you must still choose what goes into your LPA. Only you can give others the power to make decisions with your LPA on your behalf.

Complications: residency and property

LPAs cover people who live or own assets in England and Wales. Your LPA may not work in other countries, including Scotland and Northern Ireland. You may want to get legal advice if:

- you live outside England and Wales
- you have property outside England and Wales and you're making an LPA for financial decisions
- you're planning to move away from England and Wales
- there are other reasons why where you live complicates your situation

Complications: bankruptcy and debt relief orders (LPA for financial decisions only)

There are rules about bankruptcy and debt relief orders for a property and financial affairs LPA.

If you're bankrupt or subject to a debt relief order, you can make, sign and register an LPA for financial decisions. However, your attorneys will not have power over all of your property.

If this applies to you, you should think about getting legal advice before you make your LPA.

If you become bankrupt or subject to a debt relief order after your financial LPA is made or registered, it will be cancelled.

If an attorney becomes bankrupt or subject to a debt relief order, they can no longer be your attorney under your LPA for financial decisions.

Bankruptcy does not affect a health and care LPA.

friends and other people they trust with no legal background. If an attorney is not a professional, the important thing is that you know each other well and they respect your views and will act in your best interests.

You can ask anyone with mental capacity aged 18 or over to be your attorney, including:

- your wife, husband, civil partner or partner
- a family member
- a close friend
- a professional, such as a solicitor

Attorneys must sign your LPA after you have signed section 9 and the certificate provider has signed section 10. They have to sign as soon as reasonably possible after the certificate provider – ideally on the same day.

What attorneys must do

Attorneys can make some decisions on your behalf, but they can't do as they please. They always have to act in your best interests.

The Mental Capacity Act Code of Practice goes into this much more fully. It sets out five basic principles an attorney has to follow when working out whether and how to act on your behalf:

- Your attorneys must assume that you can make your own decisions unless it is established that you cannot do so.
- Your attorneys must help you to make as many of your own decisions as you can.

They must take all practical 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.

- Your attorneys must not treat you as unable to make a decision simply because you make an unwise decision.
- Your attorneys must act and make decisions in your best interests when you are unable to make a decision.
- 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 freedoms but still achieves the purpose.

Attorneys always have to follow these principles.

You can find the Mental Capacity Act Code of Practice at www.gov.uk/opg/mca-code

Property and financial affairs LPA attorneys

Some people choose a professional attorney, such as a solicitor, for their financial LPA.

If you appoint a professional attorney for a property and financial affairs LPA, such as a solicitor, you must name an individual. You can't just give a job title or the name of a firm.

Professional attorneys usually charge fees. Ask what fees they will charge you. You must add instructions in section 7 about what you've agreed to pay them. (See part A7 of this guide.)

An undischarged bankrupt or a person subject to a debt relief order can't be an attorney for a property and financial affairs LPA.

Bankruptcy and debt relief orders don't affect health and welfare LPAs.

Trust corporation – property and financial affairs LPA only (form LP1F)

People with complex finances or who don't have anyone to manage their finances may choose a trust corporation as their attorney. This is usually a commercial bank or firm of solicitors.

You should ask what fees they will charge you. You may want to get legal advice if you are thinking of choosing a trust corporation as an attorney.

Health and welfare LPA attorneys

An attorney for a health and welfare LPA must be a person, not a company. You can have as many attorneys as you need.

Who can't be an attorney

A person who is currently bankrupt or has a debt relief order can't be an attorney on an LPA for financial decisions.

Bankruptcy and debt relief orders don't affect health and welfare LPAs.

A person who is on the Disclosure and Barring Service's barred list cannot act as an attorney – unless they're a family member and they're **not** getting a fee to be your attorney. They will break the law if they do. Find out more at www.gov.uk/dbs

What attorneys can do

Your attorneys can only make decisions that you've allowed them to make in your LPA. For example, if your LPA is for your financial decisions, your attorneys can't make decisions about your care or daily routine. If your LPA is for your health and care, they can't make decisions about your money.

When attorneys can no longer act

An attorney can't act for you if they:

- lose mental capacity
- decide they no longer want to act as your attorney (known as 'disclaiming their appointment')
- become bankrupt or subject to a debt relief order and were an attorney for a financial LPA
- were your wife, husband or civil partner but your relationship has legally ended – unless you write instructions in section 7 of the LPA form that they can continue to be your attorney if your relationship legally ends

Sometimes, if an attorney dies or has to stop acting for one of the reasons above, it can cause serious problems:

- if you appointed only one attorney, your LPA would stop working altogether
- if you've said your attorneys have to act 'jointly' for some or all decisions (see part A3 of this guide) then they won't be able to make those decisions

If either of these apply to you, consider appointing replacement attorneys to protect your LPA. Read more about replacement attorneys in part A4 of this guide.

If you cancel your LPA, your attorneys can no longer act on your behalf.

Part A3 – how should your attorneys make decisions?

Fill in section 3

Mark **only one** box on this page with an 'X'.

If you've chosen just one attorney, tick the box: 'I only appointed one attorney' and go to section 4.

If you've chosen two or more attorneys, you must state how they should make decisions on your behalf. Choose one of three options by marking only one box with an 'X':

- jointly and severally
- jointly
- jointly for some decisions, jointly and severally for other decisions

Each choice is explained in section 3 of the LPA form and below.

If you are not sure which option is best for your circumstances, you may want to get legal advice.

Most people choose 'jointly and severally' because it is the most flexible and practical way for attorneys to make decisions.

If you choose a different option from 'jointly and severally' and your attorneys can't unanimously agree a joint decision, it can't be made. Your LPA might become unworkable.

If you choose 'jointly for some decisions, jointly and severally for other decisions', you must use Continuation sheet 2. On Continuation sheet 2:

- mark the box 'Decisions attorneys should make jointly'
- write in the space which decisions your attorneys must make jointly (see More information below for examples of what you might write)

If you use Continuation sheet 2, you must sign and date it (and any extra copies that you use) before you sign section 9 of your LPA.

The image shows a portion of the LPA form, specifically Section 3. It is titled "Section 3 How should your attorneys make decisions?". Below the title, there is a paragraph explaining that the user needs to choose whether their attorneys can make decisions on their own or must agree unanimously. There are three checkboxes with corresponding instructions: 1. "I only appointed one attorney (tick to section 4)", 2. "Jointly and severally" (with detailed text explaining that attorneys must agree unanimously on every decision, but can make others on their own), and 3. "Jointly for some decisions, jointly and severally for other decisions" (with detailed text explaining that attorneys must agree unanimously on some decisions but can make others on their own). There are also "Help" icons and a "Print" icon.

More information

You must state how your attorneys should act – whether they can make decisions separately, or whether they have to agree some or all decisions unanimously. You need to choose one of three options. The details are below.

Jointly and severally (attorneys act either together or individually)

Your attorneys can make decisions on your behalf on their own or together.

Any action taken by any attorney alone is as valid as if they were the only attorney. It's up to your attorneys to choose how they make decisions but they must always act in your best interests.

Most people choose this option because:

- attorneys can make simple or urgent decisions quickly and easily, without asking your other attorneys
- if an attorney can no longer act, the LPA won't be cancelled

If you choose this option, you must not say anywhere else in the LPA that certain decisions must be made by:

- one particular attorney
- some or all of your attorneys
- a minimum number of attorneys

Instructions like this contradict your choice here, so your LPA may be rejected.

There is a section later in the LPA that lets you give more specific instructions to your attorneys. Most people don't do this, and it can be more complicated than it seems. Read part A7 of this guide before deciding whether to add anything there.

Jointly (attorneys agree every decision unanimously)

Your attorneys must always make all decisions together. They must agree unanimously and they must all sign any relevant documents.

Choose this option if you want your attorneys to agree on every decision, whether it's big or small.

If your attorneys can't all agree on a decision, it can't be made.

With this option:

- if your attorneys can't work together, your LPA won't work
- if one attorney can no longer act or dies, your LPA will stop working – unless you've appointed replacements

If your attorneys live far apart, they may find acting jointly difficult – for example, going to the bank together.

If one of your original joint attorneys can no longer act, all your original attorneys stop acting for you. This is because the law treats attorneys who act jointly as a single unit. If you've appointed replacement attorneys, they will all take over.

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

Your attorneys must make certain decisions together and agree them unanimously – but they can make other decisions individually.

If you choose this option you must clearly state which decisions your attorneys should make together and agree unanimously: that is, when they should act jointly.

If your attorneys can't all agree on a decision, it can't be made.

Some people pick this option because they don't mind their attorneys taking everyday decisions alone but want them to make important decisions together, such as selling a house.

If your attorneys live far apart, they may find acting jointly difficult.

With this option:

- you must write on Continuation sheet 2 which decisions must be made jointly and which must be made jointly and severally – if you don't, your LPA won't work
- if your attorneys can't agree on a joint decision, it can't be made
- if one attorney can no longer act or dies, your remaining attorneys won't be able to make any of the joint decisions, unless you've appointed replacements

With this option, if one attorney stops acting for you but you do have replacement attorneys:

- the replacement attorneys will take over, making all joint decisions instead of your original attorneys
- both the replacement and remaining original attorneys can make any decisions they're allowed to make individually

Examples of working jointly for some decisions, and jointly and severally for others

Property and financial affairs LPA examples:

If you choose 'jointly for some decisions, jointly and severally for other decisions', you should make a statement like one of these on Continuation sheet 2:

“My attorneys must act jointly for decisions about selling or letting my house and may act jointly and severally for everything else.”

“My attorneys must act jointly for decisions about investments in stocks and shares and may act jointly and severally for everything else.”

In the first example, 'everything else' means all financial decisions apart from selling or letting your house. In the second example, 'everything else' means all money matters apart from investing in stocks and shares.

Don't use these examples unless they're exactly what you want – you need to state what is right for you.

Health and care LPA examples:

If you choose 'jointly for some decisions, jointly and severally for other decisions', you should make a statement like one of these on Continuation sheet 2:

“My attorneys must act jointly for decisions about where I live and may act jointly and severally for everything else.”

“My attorneys must act jointly for decisions I have authorised them to make about life-sustaining treatment and may act jointly and severally for everything else.”

In the first example, ‘everything else’ means all decisions about your day-to-day care and medical treatment. In the second example, ‘everything else’ also means day-to-day care and medical treatment and larger decisions about where you should live. It only excludes decisions about treatments needed to keep you alive.

You can only use something like the second example if you give your attorneys the authority to give or refuse consent to life-sustaining treatment by choosing option A in section 5 of your LPA form. See part A5 on page 24 of this guide for more on life-sustaining treatment.

Don’t use these examples unless they’re exactly what you want – you need to state what is right for you.

Protecting your interests

Whichever way you appoint your attorneys to act, the law says that they must always act in your best interests and make every effort to find out whether you can make a decision before they do.

Attorneys must also follow any instructions and bear in mind any preferences that you write in section 7 of your LPA form.

The Mental Capacity Act Code of Practice explains attorneys’ duties. You can find it online at www.gov.uk/opg/mca-code

Questions to ask yourself

- Do you want to pick ‘jointly and severally’, the most flexible and practical option?
- What might stop your attorneys working together? Do they get on? What could happen if they were to fall out?
- Are you happy for your attorneys to choose whether they make decisions together or individually? Choose ‘jointly and severally’, which is the most straightforward option.
- Even if your attorneys can make most decisions on their own, are there some big decisions that you want them to agree on? Choose ‘jointly for some decisions, jointly and severally for others’.
- Do you want your attorneys or replacement attorneys to make all their decisions together and agree every decision unanimously, whether big or small? Choose ‘jointly’.
- Do your attorneys understand how you would like them to make decisions? Make sure you discuss your choice with them.
- Do you know what will happen if one attorney can’t act any more? Read this section again if you’re not sure.
- Do you want replacement attorneys as a back-up if your attorneys have to make some or all decisions together? If you don’t choose replacements, your LPA may be at risk if an attorney stops acting on your behalf.

Part A4 – replacement attorneys

Fill in section 4 (optional)

If you want one or more replacement attorneys, write their details in section 4 of the LPA form.

If you want more than two replacements, mark the ‘More replacements’ box on this page. Take a copy of Continuation sheet 1, called ‘Additional people’. For each extra replacement attorney, mark the ‘Replacement attorney’ box on the sheet and add their details.

You **must** sign and date Continuation sheet 1 **before** you sign the LPA in section 9.

If you need more than one continuation sheet, you can make copies.

Changing when and how your replacement attorneys can act

Mark this box with an ‘X’ if you have appointed more than one replacement attorney and you want to change how or when they act.

Marking this box can create complications for your LPA. There’s more guidance below – please read it. You may also want to get legal advice.

More information

Replacement attorneys are people you choose to step in if one of your original attorneys can no longer make decisions on your behalf.

A replacement attorney will step in if one of your attorneys:

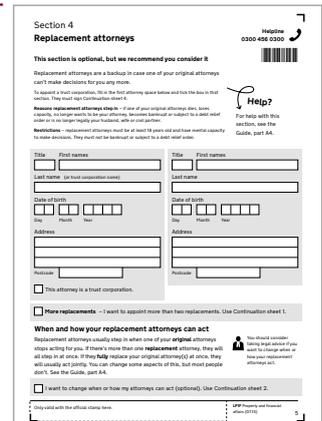
- dies
- loses mental capacity
- decides they no longer want to act on your behalf (known as ‘disclaiming their appointment’)
- was your wife, husband or civil partner but your relationship has legally ended (unless you’ve added an instruction for them to continue)

- becomes bankrupt or subject to a debt relief order – this only applies to financial affairs LPAs

A replacement attorney can only act if the original attorney they’re replacing is permanently unable to make decisions for one of the reasons above.

A replacement attorney:

- cannot temporarily stand in for an attorney who is still able to act (for example, while the first attorney is on holiday)
- cannot replace a replacement attorney

A snippet of the LPA form, Section 4, titled 'Replacement attorneys'. It includes instructions on how to appoint a replacement attorney, a table for providing details of up to two attorneys (Name, Title, Date of birth, Address), and checkboxes for 'More replacements' and 'Want to change when or how my attorneys can act (optional)'. A 'Help?' icon is also present.

You can't add any instructions telling replacement attorneys to start acting in specific circumstances.

If your original attorneys have to make all or some decisions jointly and one can no longer act, your replacement attorneys will make those joint decisions instead. Both your remaining original attorneys and your replacements can make any decisions that don't have to be made jointly.

Replacement attorneys usually step in as soon as one of your original attorneys stops acting for you.

Protecting your LPA

Having replacement attorneys means that your LPA should still work if an original attorney can no longer act on your behalf.

Without replacements:

- if you have only one attorney and that attorney can no longer act for you, your LPA will no longer work
- if you have attorneys who must make all or some decisions together ('jointly') and one attorney can no longer act, the rest will not be able to make those joint decisions

If your LPA can't be used and you don't have mental capacity, someone you know will have to apply to the Court of Protection to get the power to act on your behalf – this can be expensive and will usually take a long time.

Who can be a replacement attorney

A replacement attorney must meet the same requirements as an original attorney. This includes having mental capacity and being 18 or over when you sign your LPA.

One of your original attorneys cannot also be a replacement attorney in the same LPA.

A person who is on the Disclosure and Barring Service's barred list cannot act as an attorney – unless they're a family member and they're **not** getting a fee to be your attorney. They will break the law if they do.

When replacement attorneys step in

If you include more than one replacement attorney in your LPA, they all start at the same time, unless you've:

- appointed your attorneys to act jointly and severally
- **and** stated the order in which your original attorneys will be replaced

Replacing an attorney who acts 'jointly and severally'

If you appoint your attorneys to act jointly and severally, replacement attorneys usually step in if one original attorney can't act for you any more. The replacement attorneys and any remaining original attorneys can then make decisions 'jointly and severally'.

Replacing attorneys who act 'jointly' or 'jointly for some decisions, jointly and severally for other decisions'

If you appoint your attorneys either 'jointly' or 'jointly for some decisions, jointly and severally for other decisions', it is important to have replacement attorneys.

If one original attorney can't act for you any more, all your other attorneys must stop making any joint decisions. If this happens, any replacement attorneys step in to make the joint decisions. If you don't have any replacements, your LPA will stop working for joint decisions. This is because the law sees a group appointed 'jointly' as a single unit.

Read the section on 'Complications', below, to see examples of how this might work in practice.

Changing when and how your replacement attorneys can act

Mark this box with an 'X' if you have appointed more than one replacement attorney and you want to change how or when they act.

There are two main situations where this is useful. You have more than one replacement attorney and:

- you've appointed your original attorneys jointly and severally. You want your replacements to step in a particular order. Read 'Stating an order for replacement attorneys' below
- you have only one original attorney. You don't want your replacement attorneys to act jointly. Read through the guidance on page 20, especially the part about complications called '1. A sole attorney plus two or more replacements'

There are some other situations where you may want to mark this box. You'll find examples under 'Complications: replacement attorneys' on this page.

Stating an order for replacement attorneys

If you mark the box and you appointed your original attorneys to act 'jointly and severally' in section 3 of the LPA form, you can state the order in which your replacement attorneys step in.

Use Continuation sheet 2. Mark the box: 'How replacement attorneys step in.' Use the space to write how you want your replacements to step in. You might write something like:

"If one of my attorneys (my mother and father) can no longer act, I would like that attorney to be replaced by my sister. If, later on, my other parent can no longer act, I would like my brother to replace that person as my attorney."

"If my attorney John Smith becomes unable to act under this LPA, I want replacement attorney Anne Hall to step in and act in his place."

Do **not** state an order to replace attorneys if your original attorneys act 'jointly' or 'jointly for some decisions, jointly and severally for others.' You will stop your LPA from working. If you still want to do this, you should seek legal advice.

Complications: replacement attorneys

Appointing replacement attorneys is a sensible way to protect an LPA, especially if there's only one original attorney, or your attorneys have to make some or all decisions jointly.

Usually, replacing attorneys will work as you expect. For example, you could name one original attorney and one replacement attorney. Then, if the original attorney stops acting, the replacement attorney will take their place.

However, if your attorneys have to make some or all decisions jointly or you have more than one replacement attorney, unexpected things can happen.

Look at the examples on the next two pages: they cover some fairly common situations.

1. A sole attorney plus two or more replacements

What will happen

Unless you say otherwise, the replacements will have to act jointly.

Example

You've appointed your spouse or partner as your only attorney. You appoint your son and daughter as replacement attorneys. You don't say anything about how they should act.

As soon as your spouse or partner can't act any more, your children step in. They're now joint attorneys, and have to agree unanimously on every decision, no matter how small.

Alternatives

This might be what you want – however, a lot of people prefer their attorneys to act 'jointly and severally', giving them more freedom and flexibility.

To make this happen:

- at the bottom of section 4 of the LPA, mark the box called 'I want to change when or how my attorneys can act'
- take a copy of Continuation sheet 2 and mark the box 'How replacement attorneys step in and act'
- write this on the sheet: "I want my replacement attorneys to act jointly and severally"
- sign and date the sheet before you sign section 9 of the LPA

2. Joint attorneys plus one or more replacements

What will happen

The original attorneys will not be able to act at all as soon as one stops acting. The replacements will take over all decisions.

Example

You appoint your two brothers and your sister as attorneys, acting jointly, and appoint your daughter as a replacement attorney.

Something happens to one of your siblings that means they can no longer act. Now your daughter steps in. She is the sole attorney, and your two remaining siblings no longer have any say in decisions made under this LPA – they can't act at all on your behalf.

Alternatives

If you've appointed your original attorneys 'jointly', it isn't straightforward to arrange things so that the others can carry on acting after one of them has to stop – it's part of what 'jointly' means.

You could think about appointing the original attorneys 'jointly and severally' instead. If there are some big decisions you want them to agree on, you could appoint them 'jointly for some decisions, jointly and severally for other decisions' – however, as the example on the next page shows, the same problem would occur again.

There is one way around the problem.

You can make a second LPA in case your first one stops working. In this second LPA, you can appoint as attorneys the joint attorneys from your first LPA.

If you appoint your attorneys jointly and severally in your second LPA, you'll avoid the problem you had with your first LPA.

If you make a second LPA, you must write an instruction in section 7 of your second LPA saying that it comes into force if your first LPA stops working. You might write something like:

'If my original LPA for financial decisions stops working, this LPA comes into force.'

'If my health and welfare LPA fails, this LPA replaces it.'

If you want to do this, you may want to seek legal advice or call our helpline.

3. Attorneys appointed jointly for some decisions and jointly and severally for other decisions plus one or more replacements

What will happen

The original attorneys will have no say in the joint decisions as soon as one stops acting. The replacements will take over the joint decisions.

Example

You've appointed your daughter and her husband as attorneys. They have to act jointly for any decision about selling your house, but can act jointly and severally for all other decisions. You appoint your two grandchildren (who are over 18) as replacement attorneys.

Your son-in-law stops acting as an attorney. Now, your daughter and your grandchildren are your attorneys. However, your daughter no longer has a say in selling your house. Your grandchildren can make that decision without consulting her – they are the only attorneys for joint decisions.

Alternatives

This has the same problem as '2. Joint attorneys plus one or more replacements' on page 20.

If you're sure you don't want to appoint your original attorneys jointly and severally, then you can make two LPAs.

To do this, follow the instructions in '2. Joint attorneys plus one or more replacements' on page 20.

Part A5 – when can your attorneys make decisions? (LPA for financial decisions only)

Fill in section 5

You **must** choose when you want your attorneys to be able to make decisions. Mark only **one box** with an 'X'.

You have two options:

- As soon as my LPA has been registered (and also when I don't have mental capacity)
- Only when I don't have mental capacity

Section 5
When can your attorneys make decisions?
0300 456 0300

You can allow your attorneys to make decisions:
• as soon as the LPA has been registered by the Office of the Public Guardian
• only when you don't have mental capacity

While you have mental capacity you will be in control of all decisions affecting you. If you choose the first option, your attorneys can only make decisions on your behalf if you allow them to. They are responsible for you for any decisions you let them make.
Your attorneys must always act in your best interests.

When do you want your attorneys to be able to make decisions?
(Mark one only)

As soon as my LPA has been registered
(Use this when I don't have mental capacity)
Most people choose this option because it is the most practical. While you still have mental capacity, your attorneys can only act with your consent. If you later lose capacity, they can continue to act on your behalf for all decisions covered by this LPA. This option is useful if you are able to make your own decisions but there's another reason you want your attorneys to help you – for example, if you're away on holiday, or if you have a physical condition that makes it difficult to visit the bank, talk on the phone or sign documents.

Only when I don't have mental capacity
Be careful – this can make your LPA a bit less useful. Your attorneys might be asked to prove you do not have mental capacity each time they try to use this LPA.

For help with this section, see the Guide, part A5.

More information

A financial LPA can usually be used as soon as it's registered. If you have mental capacity, you can tell your attorneys to start using the LPA straight away. If you then lose mental capacity, they can carry on using the LPA.

Alternatively, you can choose that your financial LPA will take effect – and your attorneys will be able to act for you – **only** when you don't have mental capacity.

As soon as my LPA has been registered (and also when I don't have mental capacity)

Mark this box with an 'X' if you want your attorneys to help you with your finances while you have mental capacity.

For example, if you can't leave the house or it's hard to talk to your electricity supplier, you might ask your attorneys to deal with the bank or pay bills. You could ask your attorneys to act for you if you are away – for example, on holiday.

You can give instructions in LPA section 7 (see part A7 of this guide) about decisions your attorneys can't make – for example, about selling your house. You might write instructions like:

“While I have mental capacity, my attorneys must not make any decisions about selling my house.”

As long as you have mental capacity, you control your finances.

Only when I don't have mental capacity

Mark this box with an 'X' if you don't want your attorneys to make decisions or act for you while you have mental capacity. This means you'll look after your finances while you still have mental capacity. Then, if you ever lose that capacity, your LPA will be ready for your attorneys to use.

Banks and other financial institutions sometimes want written confirmation that a donor does not have mental capacity before they'll recognise an attorney's authority to act under an LPA.

Ask the donor's GP, care co-ordinator, social worker or care home staff about a mental capacity assessment.

When you reach section 7 of the LPA form, you can add instructions. Some people explain how their mental capacity should be assessed, such as:

.....

“My attorneys shall only act under this power if they have obtained a written medical opinion stating that I am no longer mentally capable of managing and administering my property and financial affairs.”

.....

However, if you trust your attorneys to assess your mental capacity, you do not need to add instructions like these.

Part A5 – life-sustaining treatment (health and care LPA only)

Fill in section 5

You have two options:

- option A – I give my attorneys authority to give or refuse consent to life-sustaining treatment on my behalf
- option B – I do not give my attorneys authority to give or refuse consent to life-sustaining treatment on my behalf

Sign only **one** option.

You **must** sign and date this page. Your signature must be witnessed. The witness must be aged 18 or over and can't be an attorney or replacement attorney under this LPA.

Sign this section before you sign your LPA in section 9. You **can** sign both sections on the same day.

If you are unable to sign or make a mark and someone else is signing your LPA for you, that person must sign this page and date their signature. Their signature **must** be witnessed.

More information

You **must** choose what you'd want to happen if you needed medical help to keep you alive and you no longer had mental capacity.

If you sign option A and ever need life-sustaining treatment but can't make decisions, your attorneys can speak to doctors on your behalf as if they were you. You can write instructions or preferences for your attorneys in section 7 of the LPA form. See the next page for some examples.

If you choose option B, doctors will make decisions about life-sustaining treatment.

Life-sustaining treatment: definition

'Life-sustaining treatment' means care, surgery, medicine or other help from doctors that's needed to keep someone alive.

Life-sustaining treatment can include:

- a serious operation, such as heart bypass surgery
- chemotherapy, radiotherapy or another cancer treatment
- an organ transplant
- artificial nutrition or hydration (food or water given other than by mouth)

Whether some treatments are life-sustaining depends on the situation. For example, if someone had pneumonia, a course of antibiotics could be life-sustaining.

Decisions about life-sustaining treatment can be needed in unexpected circumstances. One example is a routine operation that didn't go as planned.

Option A: attorneys

Choose option A if you want your attorneys to decide about life-sustaining treatment in case you ever can't make the decisions yourself.

Life-sustaining treatment: preferences (optional)

You can use section 7 of the LPA form to let your attorneys know your preferences, so that any decisions they make are as close as possible to the decisions you would have made.

For example, you might write something like:

.....
"If I were in the last days of a terminal illness, I would only want treatments to make me comfortable. I wouldn't want treatments to prolong my life or that meant I couldn't die at home."
.....

Attorneys should pay attention to your preferences, although they don't have to follow them.

You don't have to give any preferences for life-sustaining treatment – your attorneys can act without them.

Life-sustaining treatment: instructions (optional)

You can write instructions in section 7 of the LPA form to specify medical conditions where your attorneys must or must not consent to life-sustaining treatment on your behalf. For example, you might write something like:

.....
"My attorneys must not agree to life-sustaining treatment if I am in a persistent vegetative state."
.....

You may feel that your attorneys understand you well enough and you don't need to write instructions. Talk to them about what you want.

If you write instructions, your attorneys must follow them. You must be careful not to write anything that contradicts what you have said elsewhere in your LPA or requires your attorneys to break the law. If you do, it could make your LPA unworkable. If you want to write instructions but are uncertain, you may want to seek legal advice.

You don't have to give instructions about life-sustaining treatment.

Option B: doctors

Choose option B if you want your doctors to decide about life-sustaining treatment in case you can't. If the situation arises, they must:

- assess what's in your best interests
- take into account, where possible, the views of your attorneys and other people involved in your welfare
- take into account what you've said or written about life-sustaining treatment, including any guidance you've given in your LPA

Other ways to make your treatment preferences clear

There are other ways to explain what you want to happen if you need medical treatment and you can no longer make decisions for yourself.

An advance decision is a legally binding document in which you write which specific treatments you don't want, in case you can't decide or make your wishes known. Some people call it a 'living will' or 'advance directive'.

If you've made an advance decision that your doctors or attorneys should take into account, refer to it in your instructions in section 7 of the LPA form. You'll also need to include a copy of the advance decision when you send your LPA to the Office of the Public Guardian (OPG) to be registered.

You can find information about advance decisions on NHS Choices website at www.nhs.uk

If you give your attorneys the power to decide about life-sustaining treatment and have made an advance decision, your LPA might override your advance decision.

You may want to get legal advice, particularly if the advance decision and the LPA say very different things.

You can also let people know your views on treatments and care in:

- statements of preference
- care plans

There's more about life-sustaining treatment, advance decisions and how health professionals must respond to your written wishes in chapter 9 of the Mental Capacity Act Code of Practice, which you can find online at www.gov.uk/opg/mca-code

Part A6 – people to notify when the LPA is registered

Fill in section 6 (optional)

You can choose up to five people to notify about your LPA when it's about to be registered.

These should be people who know you well and would be willing to raise concerns about your LPA. They can object to the LPA if they think you were under pressure to make it or if they think fraud was involved.

However, you don't have to choose people to notify.

If you want to appoint people to notify, you can write the names and addresses of up to four in section 6. If you want to appoint five people to notify, tick the box that says 'I want to appoint another person to notify'. Fill in the person's name and address on Continuation sheet 1 and mark the 'Person to notify' box on that sheet.

You **must** sign and date Continuation sheet 1 **before** you sign the LPA in section 9.

If you need more than one continuation sheet, you can make copies.

The person applying to register the LPA – either you or your attorneys – **must** tell any people to notify that the LPA is being sent for registration. They must use form LP3 to do this, **just before** sending the LPA form to the Office of the Public Guardian. Part C of this guide explains how to notify these people.

Section 6
People to notify when the LPA is registered

This section is optional

You can let people know that you're going to register your LPA. They can raise any concerns they have about the LPA – for example, if there was any pressure or fraud involved.

When the LPA is registered, the person applying to register (you or one of your attorneys) must send a notice to each 'person to notify'.

You can't put your attorneys or replacement attorneys here.

People to notify can object to the LPA, but only for certain reasons (listed in the notification form LP3). After that, 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.

For help with this section, see the Guide, part A6.

Title	First names	Last name	Address	Postcode

Title	First names	Last name	Address	Postcode

I want to appoint another person to notify (continuation to 2) – see Continuation sheet 1.

Only valid with the official copy form.

OPG Forming and Registering LPA

More information

Letting people know about your LPA just before it's registered protects you. It's especially important if there's a long time between making your LPA and registering it.

Choose people to notify

You can choose up to five people to notify but they can't be your attorneys or replacement attorneys. Many donors choose family members or close friends.

Check with the people you're planning to notify that they're happy to be named in your LPA. Explain that:

- they don't have to do anything right away
- they will only be told when you or your attorneys apply to register your LPA
- their names and addresses will be sent to OPG
- they do not have to do anything when they are contacted, unless they have concerns

Part A7 – Preferences and instructions

Fill in section 7 (optional)

If you fill in this page and need more space, tick the box at the bottom of section 7 and use Continuation sheet 2. Mark with an 'X' either the 'Preferences' box or the 'Instructions' box on Continuation sheet 2. If you still need more space, you can make copies of Continuation sheet 2.

You **must** sign Continuation sheet 2 before you sign section 9 of your LPA.

The image shows a form titled 'Section 7 Preferences and instructions'. It includes a 'Help?' icon and a barcode. The text on the form reads: 'This section is optional. You can tell your attorneys how you prefer them to make decisions, or give them specific instructions which they must follow when making decisions. Most people leave this page blank - you can just talk to your attorneys on the appointed day you want them to make decisions for you.' There are two main sections: 'Preferences' and 'Instructions'. Each section has a large empty box for writing and a checkbox below it that says 'I need more space - use Continuation sheet 2.' At the bottom, it says 'Only valid with the official change form.' and 'MCA (Mental Capacity Act) 2005'.

More information

You can give your attorneys instructions or tell them your preferences in this LPA section – but you don't usually have to. Most people leave this page blank.

You can just talk to your attorneys and explain how you'd like them to act for you. Your attorneys will then be free to make decisions they think are right, and they will know how you'd want them made.

If you're not sure about what you can put in this section of your LPA, you might want to get legal advice.

The only circumstances in which you must write an instruction is in a financial LPA if:

- you have investments managed by a bank and want that to continue
- you want to allow your attorneys to let a bank manage your investments

In these cases you could use wording like this:

“My attorney(s) may transfer my investments into a discretionary management scheme. Or, if I already had investments in a discretionary management scheme before I lost capacity to make financial decisions, I want the

scheme to continue. I understand in both cases that managers of the scheme will make investment decisions and my investments will be held in their names or the names of their nominees.”

However, OPG can't guarantee that your bank will accept this wording. You must ask your bank to confirm in writing that they'll accept the wording before you register your LPA. That will minimise any difficulties in using the LPA if you lose mental capacity.

You may also want to seek legal advice before you approach the bank.

If the LPA has already been registered, the attorney(s) will have to apply to the Court of Protection to allow them to use a discretionary fund manager.

Complicated or badly worded instructions or preferences can make an LPA unworkable.

Preferences and instructions: definitions

Preferences are what you'd like all your attorneys to think about when they make decisions for you. Your attorneys don't have to follow them but should bear them in mind.

If you write any preferences, avoid words such as 'must' and 'shall'. Instead use words such as 'prefer' and 'would like', so it's clear that you're giving your attorneys advice. If your attorneys **must** do something, include it in your instructions.

Instructions tell your attorneys what they **must** do when acting on your behalf.

If you write any instructions, use words such as 'must', 'shall' and 'have to'.

Instructions cause more problems than preferences. If you want to give instructions, read through the information below to find out about common problems and mistakes. It may be better to phrase them as preferences.

If you want to pay fees to your attorneys, explain this in the instructions. See 'Instructions to pay fees' on page 32 of this guide.

There are some examples below of common preferences and instructions for both types of LPA. They may not be right for you – they are just to give you an idea of what you might write. Your preferences and instructions should be about what matters to you.

Examples of preferences

Health and care LPA

Here are some examples of preferences you might write in a health and care LPA:

“I prefer to live within five miles of my sister.”

“I'd like to be prescribed generic medicines where they are available.”

“I would like to take exercise at least three times a week whenever I am physically able to do so. Whether or not I am mobile, I would like to spend time outdoors at least once a day.”

“I'd like my pets to live with me for as long as possible – if I go into a care home, I'd like to take them with me.”

“I'd like to have regular haircuts, manicures and pedicures.”

Property and financial affairs LPA

Here are some examples of preferences you might write in a financial LPA:

“I like to reinvest all interest from each year's investments into next year's ISA allowance.”

“I would like to maintain a minimum balance of £1,000 in my current account.”

“I prefer to invest in ethical funds.”

“I’d like my attorneys to consult my doctor if they think I don’t have the mental capacity to make decisions about my house.”

“I would like to donate £100 each year to Age UK.”

Examples of instructions

Health and care LPA

Here are some examples of instructions you might write in a health and care LPA:

“My attorneys must not decide I am to move into residential care unless, in my doctor’s opinion, I can no longer live independently.”

“My attorneys must not consent to any medical treatment involving blood products, as this is against my religion.”

“My attorneys must ensure I am given only vegetarian food.”

Property and financial affairs LPA

Here are some examples of instructions you might write in a financial LPA:

“My attorneys must consult a financial adviser before making investments over £10,000.”

“My attorneys must not sell my home unless, in my doctor’s opinion, I can no longer live independently.”

“My attorneys must not make any gifts.”

“My attorneys must continue to donate to charities that I have supported or for which I have set up standing order payments.”

“My attorneys must send annual accounts to my brothers and sisters.”

“My attorneys must instruct a tax accountant to prepare my annual tax return.”

If you have opted (in section 5 of the LPA form) for your attorneys to act under your financial LPA only if you’ve lost mental capacity, you might add instructions about how your mental capacity should be assessed. For example, you might write:

“This lasting power of attorney only applies if a doctor confirms in writing that I don’t have the capacity to make decisions about my finances.”

If you trust your attorneys to judge your level of mental capacity, you don’t need to add instructions like these.

Special case: making two LPAs for financial decisions

You may want to make two LPAs for financial decisions, one for your personal finances, and another for your business affairs, so that different attorneys can look after different things. If this is the case, you should explain what you want to happen in the instructions for each one.

For instance, in one LPA you could say:

“My attorneys only have the authority to use my personal bank account. They are not permitted to access my business account or make any decisions relating to my business.”

In the other LPA you'd say:

“My attorneys only have the authority to use my business accounts and make decisions relating to my business. They are not permitted to use my personal account or make decisions about my personal finances.”

Avoiding problems

Instructions and preferences can create problems. It's easy to ask for something that the law won't allow.

If you'd like to add instructions and preferences, here are some common mistakes to avoid.

You can't change the way attorneys are appointed to act

Don't appoint attorneys to make decisions in one way, then include instructions to make them act differently.

If you've said in section 3 that your attorneys must act 'jointly' – so they must agree every decision unanimously – you must not add here that if one stops being an attorney, the others can continue to act.

If you said your attorneys should act 'jointly and severally' – so they can make any decision on their own or together – you must not add these sorts of instructions:

- that one attorney has to do what another attorney says

- that one attorney must deal with your business and another with your private affairs
- that where attorneys disagree, the majority should decide
- that they must make some decisions together – if this is what you want, you should appoint them in LPA section 3 to act 'jointly for some decisions, jointly and severally for other decisions' instead.

Your LPA won't work if you include instructions like these.

The preferences or instructions are for all attorneys

Any preferences or instructions must apply to all your attorneys. You must not write, for example, that only your daughter is allowed to sell your house, or that one attorney can't make decisions about giving gifts.

Be careful with gifts

Instructions about gifts often cause problems. There are strict limits on the kinds of gifts that attorneys can give on your behalf. They can give presents on 'customary occasions', including weddings, birthdays and religious holidays. They can donate to charities you've previously given to. Any gifts should be reasonable and take into account how much money you have.

You can't give your attorneys instructions to go beyond these limits.

Here are some types of gifts you can't authorise:

- trust funds for grandchildren
- payment of school fees for grandchildren
- interest-free loans to family

- maintenance for any family member other than your wife, husband, civil partner or child under 18

Your attorneys must apply to the Court of Protection if they want to make gifts like this on your behalf.

The Office of the Public Guardian provides guidance on gifts for attorneys. You can find this at www.gov.uk/government/publications/public-guardian-practice-note-gifts

Other mistakes

You should avoid these common mistakes:

- You can't tell your attorneys to do anything against the law – this includes anything to do with euthanasia and assisted suicide
- You can't say that attorneys should act in the best interests of anyone else, including your wife, husband, partner or children. Your attorneys act for you alone
- You can't say a replacement attorney can only start acting in specific circumstances. For instance, you can't use restrictions to add special circumstances – such as an original attorney being on holiday – in which your replacement attorney can step in
- Don't add health and care restrictions to a financial LPA. Don't add financial restrictions to a health and care LPA. You should make a separate LPA for each instead
- You can't tell an attorney to change your will – it's outside their powers
- You can't give an attorney power to appoint a replacement attorney

Instructions to pay fees

Professional attorneys

Professional attorneys, such as solicitors or accountants, charge for their services. They may also claim fees and reasonable expenses.

Write what you've agreed to pay in section 7 instructions or set their fee by referring to standard rates and writing something like:

.....
 "I wish my professional attorneys to be paid the standard solicitor rate as set by [state the name of a relevant professional organisation here]."

Fees and expenses are paid out of your funds.

Non-professional attorneys

Many attorneys don't get fees. For example, if you appoint a non-professional attorney – such as your husband, wife, partner, a family member or a friend – they'll probably be happy to act for you without being paid. However, they can still claim reasonable expenses, such as postage, travel costs and the cost of an accountant preparing annual accounts.

If you don't want to pay your attorneys fees, don't write anything. They can still claim expenses.

If you agree to pay a fee, you must write this in your instructions. If you **don't**, your attorney **can't** be paid. You can set different fees for different attorneys.

For non-professional attorneys, fees are often set as a payment each year.

Here are examples of the sort of instructions you might write to pay a fee to your attorneys:

“Each attorney must be paid a single fee of £1,000 each year, the payment to be made on 20 December each year. The fees will stop when my estate drops to £[fill in amount].”

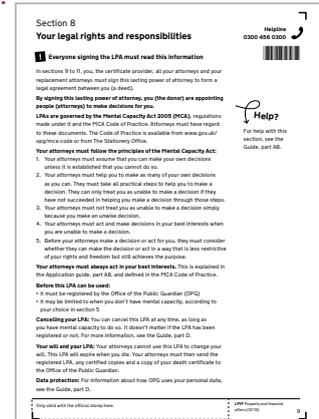
“I wish each of my attorneys to be paid £[fill in the amount] per year for their services under this LPA. My attorneys will stop being paid when my money drops to £[fill in amount].”

Fees and expenses will be paid out of your funds.

Part A8 – your legal rights and responsibilities

Read section 8

Everyone involved in this lasting power of attorney must read this section before signing.



More information

An LPA is a legal agreement (also called a 'deed') between you and your attorneys.

Section 8 contains important information that you, your attorneys and certificate provider must read, as it is part of the legal agreement that you and they are making. The principles of the Mental Capacity Act 2005 and the rules in the Mental Capacity Act Code of Practice, which your attorneys must follow, are set out in this section of the LPA.

You can see the complete Mental Capacity Act Code of Practice at www.gov.uk/opg/mca-code.

If you need help to look at websites, visit your local library.

Your best interests

The law says that your attorneys must always act in your best interests when making decisions and acting for you.

They must:

- do everything they can to help you make all or part of a decision
- identify what you would take into account if you were making a decision

- be guided by your personal, political, cultural, moral or religious beliefs and values when making any decisions for you

To do this, they should:

- find out your preferences and views from you or from how you've behaved and what you've said or written in your LPA and elsewhere
- assess whether the decision can be left for another time, when you might find it easier to make
- avoid restricting your rights
- consult family and friends and anyone else who knew or understood your wishes, feelings and views
- not make assumptions about your quality of life or about what you need just because of your age, appearance, condition or behaviour

Before you sign

Check that you have completed all the sections that you must fill in and any optional sections you want to use.

Once you've signed, you cannot change your

LPA – you will need to make a new LPA if you want to make changes.

The table below summarises everything you should have done before you sign. The grey rows show sections you must fill in; the others are optional.

Section name		Information needed	
1	The donor	Your name, date of birth and address. Give an email address if you have one	
2	The attorneys (at least one)	The names, addresses and dates of birth of your attorneys	<p>More than four attorneys? Use Continuation sheet 1 and sign it before you sign the LPA</p>
3	How should your attorneys make decisions?	Mark one box to show how your attorneys make decisions	
4	Replacement attorneys	The names, addresses and dates of birth of any replacement attorneys	<p>More than two replacement attorneys? Use Continuation sheet 1 and sign it before you sign the LPA Changing the way your replacement attorneys act or step in? Use Continuation sheet 2 and sign it before you sign the LPA</p>
5	LPA for property and financial affairs only: When can your attorneys make decisions?	Tick one box to choose when your attorney(s) can make decisions	
	LPA for health and welfare only: life-sustaining treatment	Tick one box to give either your attorneys (option A) or your doctors (option B) the power to decide about life-sustaining treatment	
6	People to notify when the LPA is registered	The names and addresses of any people to notify	<p>Five people to be told? Use Continuation sheet 1 and sign it before you sign the LPA</p>
7	Preferences and instructions	Any preferences or instructions you want your attorneys to follow or keep in mind	<p>More preferences and instructions? Use Continuation sheet 2 and sign it before you sign the LPA</p>

2. The certificate provider signs LPA section 10

See part A10 of this guide, called ‘Signature: certificate provider.’

3. All the attorneys and replacement attorneys sign LPA section 11

See part A11 of this guide, called ‘Signature: attorney or replacement attorney.’

Donors who cannot sign or mark: Continuation sheet 3

If you can’t sign or make a mark, someone can sign for you using Continuation sheet 3.

You must be present and must tell the person to sign.

That person’s signature must be witnessed by two people. The two witnesses can’t be:

- under 18
- your attorneys
- your replacement attorneys
- employees of a trust corporation that that is your attorney or replacement attorney (LPA for financial decisions only)

Part A10 – signature: certificate provider

Fill in section 10

The certificate provider must sign **after** the donor but **before** the attorneys.

The certificate provider must read LPA sections 8 and 10 before they sign your LPA. They can then fill in their name and address, and sign and date section 10.

Section 10
Signature: certificate provider

1 Only sign this section after the donor has signed section 9

The 'certificate provider' signs to confirm they've discussed the lasting power of attorney (LPA) with the donor, and the donor understands what they're doing and that nobody is forcing them to do it. The 'certificate provider' should be either:

- someone who has known the donor personally for at least 2 years, such as a friend, neighbour, colleague or former colleague
- someone with relevant professional skills, such as the donor's GP, a healthcare professional or a solicitor

A certificate provider **can't** be one of the attorneys.

Certificate provider's statement

certify that, as far as I'm aware, at the time of signing section 9:

- the donor understood 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

By signing this section I confirm that:

- I am aged 18 or over
- I have read this LPA, including section 9 'Your legal rights and responsibilities'
- there is no restriction on me acting as a certificate provider
- the donor has chosen me as a person with relevant professional skills and expertise

Notes:

- as attorney or replacement attorney named in this LPA, you have the same powers of attorney for the donor as a solicitor of the court, subject to any restrictions stated in the instrument
- you must not be a person who is prohibited from acting as a certificate provider by section 10(2) of the Mental Capacity Act 2005
- the donor is an attorney's employee
- an agent, trustee, director or member of a club have used the donor's name

Help?
For help with this section, see the Guide, part A10.

Certificate provider:

Title: First names:

Last name:

Address:

Signature or mark:

Date (month or year): /

Day: Month: Year:

Only valid with the official stamp form.

More information

A certificate provider is an impartial person who confirms that you understand what you're doing and that nobody is forcing you to make an LPA. They must confirm that:

- you understand the significance of the LPA
- you have not been put under pressure to make it
- there has been no fraud involved in making the LPA
- there is no other reason for concern

If possible, they should discuss your LPA with you in private, without attorneys or other people present, before they sign to 'certify' their part of the LPA.

Your certificate provider can witness your and your attorneys' signatures.

Who can be a certificate provider?

A certificate provider must be at least 18 years old and either:

- a friend, colleague or someone you've known well for at least two years – they must be more than just an acquaintance

- your doctor or lawyer or someone with the professional skills to judge whether you understand what you're doing and are not being forced to make an LPA

'People to notify' can be certificate providers.

There are quite a lot of people who can't be a certificate provider – for example, members of your family or your attorneys' families. There's a fuller list below.

The certificate provider must sign after you and can sign on the same day as you (the donor) or as soon as possible afterwards.

Someone who has known you well for at least two years

You should ask a friend or neighbour, someone from your social or sports club, a work colleague, or similar. They must have known you well for at least two years. They must know you well enough to have an honest conversation with you about making your LPA and the things they have to confirm when they sign the LPA.

If possible, they should discuss your LPA with you in private, without attorneys or other people present, before they sign to 'certify' their part of the LPA.

Someone with relevant professional skills

Usually, someone with relevant professional skills would be one of the following:

- a registered healthcare professional, such as your GP
- a solicitor, barrister or advocate
- a registered social worker
- an independent mental capacity advocate (IMCA)

Other professionals may have skills suited to judging whether you can make an LPA – contact the Office of the Public Guardian if you're unsure about your choice of certificate provider.

You may have to pay a professional to act as your certificate provider.

People who can't be a certificate provider

The certificate provider must not be:

- an attorney or replacement attorney for the LPA
- an attorney or replacement attorney in any other LPA or enduring power of attorney (EPA) that you've already made
- a member of your or your attorneys' families – including wives, husbands, civil partners, in-laws and step-relatives
- an unmarried partner, boyfriend or girlfriend of yours or of any of your attorneys – whether or not they live at the same address
- your business partner or one of your attorneys' business partners

- your employee or one of your attorneys' employees
- an owner, manager, director or employee of a care home where you live, or a member of their family
- anyone running or working for a trust corporation appointed as an attorney in a financial decisions LPA

If you're not sure if someone's allowed to be your certificate provider, email the Office of the Public Guardian (OPG) at customerservices@publicguardian.gsi.gov.uk or call OPG's contact centre on 0300 456 0300.

Part A11 – signature: attorney or replacement attorney

Fill in section 11

Your attorneys and replacement attorneys must write their names and sign and date your LPA.

Attorneys and replacement attorneys must sign **after** the certificate provider.

Their signature(s) must be witnessed. The witness(es) must write their full name and address as well as signing. The witness can't be the donor.

There are four copies of this page in the form. If you need more, make photocopies. **All** attorneys and replacement attorneys must sign section 11 (trust corporations are the only exception: they complete and sign Continuation sheet 4 instead).

Section 11
Signature: attorney or replacement

1 Only sign this section after the certificate provider has signed section 10
All the attorneys and replacement attorneys need to sign.
There are 4 copies of this page – make more copies if you need to.

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

- I am aged 18 or over
- I have read the lasting power of attorney (LPA) including section 10 "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 restrictions or preferences set out in this LPA
- I can make decisions and act only when this LPA has been registered and at the time indicated in section 5 of this LPA

Further statement by a replacement attorney: I understand that I have the authority to act under this LPA only after an original attorney's appointment is terminated. I must notify the Public Guardian if this happens.

Attorney or replacement attorney	Witness
Signed (or marked) by the attorney or replacement attorney and witnessed as a deed.	The witness must not be the donor of this LPA, and must be aged 18 or over.
Signature or mark	Signature or mark
Date signed or marked	Full names of witness
Day Month Year	Address
Title First names	Address
GPX Name	Postcode

1. This used with the advice copy form. LPA Property and Financial Powers (England)

More information

When your attorneys sign section 11, they are forming a legal agreement with you (the donor). They are bound by everything written in the form up to this point, including LPA section 8 ('Your legal rights and responsibilities') and the declaration in section 11.

They must read the LPA (including section 8) or it must be read to them. They must then sign section 11 in the presence of an impartial witness.

The attorneys and replacement attorneys can witness each others' signatures. You (the donor) can't be the witness.

Attorneys and replacements should sign as soon as possible after the certificate provider – it's preferable if they all sign on the same day.

Part B1 – register your lasting power of attorney (LPA)

You must register

The LPA can't be used until it's registered by the Office of the Public Guardian (OPG).

Only the donor or one of the attorneys can apply to register it.

An attorney can apply to register the LPA on their own if they are:

- the only attorney
- appointed 'jointly and severally'
- appointed 'jointly for some decisions, jointly and severally for other decisions' – unless the donor has stated in the LPA document that all the attorneys must apply together

If you have been appointed to act jointly, you must apply to register the LPA with all the other attorneys.

Check how the attorneys have been appointed by looking at section 3 of the LPA form.

Before OPG registers an LPA, it must make sure that:

- the LPA is legally correct
- the LPA has no errors
- people have had the opportunity to object if they have concerns

You have to tell any 'people to notify' before you register. You must do this using form LP3. There are more details in part C of this guide. There is a legal four-week wait before OPG can register an LPA. This gives any people to notify a chance to object.

If there are no good reasons for objections and no problems with the LPA, OPG will register it and post it back. OPG stamps the original form to show that it's valid and ready to use. This is the official LPA document.

Register now

If you apply to register the LPA as soon as it is signed, OPG can spot mistakes while they can still be changed. Mistakes can only be corrected if the donor has mental capacity.

If you delay registration and the donor loses mental capacity, the attorneys can still apply to register the LPA. However, it won't be possible to correct any mistakes. If there are mistakes, OPG can't register the LPA and the LPA can't be used. Someone will have to apply to the Court of Protection to get the power to make decisions on the donor's behalf or get a declaration that the LPA can be treated as valid. This can be a long process and can cost a lot more than an LPA.

However, you don't have to register the LPA straight away. If you want to delay registration, then complete sections 12 to 15 and form LP3 when you're ready to register the LPA.

When you see the word 'you' from now on, in part B of this guide, it means the person applying to register the LPA – either the donor or attorney(s).

Part B2 – register your lasting power of attorney

Fill in section 12

Mark only one box with an 'X' to state whether you are the donor or attorney and are applying to register the LPA.

If you are an attorney or group of attorneys, fill in your name(s) and date(s) of birth. Otherwise, leave those boxes blank.

Register your lasting power of attorney

Helpline
0300 456 0300

Section 12
The applicant

You can only apply to register if you are either the donor or attorney(s) for this LPA. The donor and attorney(s) should not apply together.

Who is applying to register the LPA? (tick one only)

Donor – the donor needs to sign section 12

Attorney(s) – if the attorney(s) were appointed jointly (in section 3), then they all need to sign section 12. Otherwise, only one of the attorney(s) needs to sign.

Write the name and date of birth for each attorney that is applying to register the LPA. Don't include any attorneys who are not applying.

Title	First names	Last name	Date of birth	Title	First names	Last name	Date of birth

LPA Register form (04/2013)

Part B3 – who do you want to receive the LPA?

Fill in section 13

You need to choose one person we can contact if we have any questions. This person will also receive the registered LPA document.

You must mark one of three options with an 'X':

- the donor
- an attorney
- other

If it's the donor or attorney, check that the address they gave in section 1 or 2 of the LPA form is correct. If they've moved, give their new address here.

Section 13
Who do you want to receive the LPA?

We need to know who to send the LPA to once it is registered. We might also need to contact someone with questions about the application.

We already have the addresses of the donor and attorney(s), so you don't have to repeat any of those here, unless they have changed.

Who would you like to receive the LPA and any correspondence?

The donor

An attorney (write name below)

Other (write name and address below)

Title _____

First names _____

Last name _____

Company (optional) _____

Address _____

Postcode _____

How would the person above prefer to be contacted?

You can choose more than one.

Post

Phone _____

Email _____

Write (we will write to the person in Welsh)

LPA Register form (04/2013)

Part B4 – application fee

Fill in section 14

How would you like to pay?

Choose a way of paying and mark the ‘Cheque’ or ‘Card’ box with an ‘X’:

If you choose ‘Card’, do not send your debit or credit card details. Write your phone number and the Office of the Public Guardian (OPG) will call you to take the payment.

If you choose ‘Cheque’, send a cheque for £82 made payable to ‘Office of the Public Guardian’ with this form. Write the donor’s name on the back of the cheque.

Reduced application fee

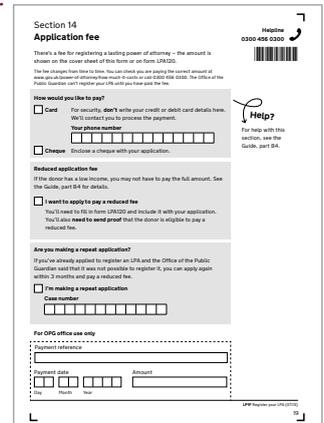
If you have a low income, you may not have to pay the full amount.

Write an ‘X’ in the box and fill in form LPA120. This form is in the application pack.

Are you making a repeat application?

If your LPA form was returned to you because it couldn’t be registered, you can apply again with your new LPA form within three months for £41.

Mark the box in this section with an ‘X’ and give your case number. You’ll find this in the letter that came with your returned application.



The image shows a form titled 'Section 14 Application fee'. It contains several sections: 'How would you like to pay?' with checkboxes for 'Card' and 'Cheque'; 'Reduced application fee' with a checkbox and explanatory text; 'Are you making a repeat application?' with a checkbox and a case number field; and 'For OPG office use only' with fields for 'Payment reference', 'Payment date', and 'Amount'. There is also a 'Help?' icon and a barcode.

More information

OPG cannot register your LPA until you’ve paid the fee.

Registering one LPA cost £82 when you were sent this guidance. Fees can change. You can check that you’re paying the right amount at www.gov.uk/power-of-attorney/how-much-it-costs or call OPG’s contact centre on 0300 456 0300.

Reduced fees: form LPA120

If the donor has a low income, they may be eligible for a reduced fee or may not have to pay a fee at all.

The form to apply for this is the LPA120. If you don’t have it, you can call OPG’s contact centre on 0300 456 0300 to ask for a copy or download it from www.gov.uk/opg/power-of-attorney-forms

Form LPA120 has its own guidance, which explains much more fully:

- who qualifies for a reduced fee or no fee
- what evidence you'll need to send OPG

Complete this form and send it to us with the LPA form and evidence of the donor's low income.

If you're in a hurry to register the LPA and don't have the evidence for a fee reduction, pay the full fee. You then have three months to apply for a refund or partial refund, again using the LPA120.

Things to remember

Reduced fees are often delayed or refused because people make mistakes:

- no matter who's applying to register the LPA, reductions are based on the donor's income
- send evidence – if you don't, the application for a reduced fee will be turned down
- make sure the evidence of the donor's income or benefits covers the right period. It should include the date you're applying to register
- bank statements aren't proof of income on their own

Part B5 – signature

Fill in section 15

Whoever is applying to register the LPA must read section 15 and sign it.

You are signing to say that you are applying to register the LPA and that you have already informed any people to notify listed in section 6 of the LPA form. You do this by sending form LP3 to the people to notify. See Part C of this guide.

If attorneys who are appointed to act jointly in section 3 of the LPA form are applying to register the LPA, they must all sign. If there are more than four joint attorneys, make copies of this page for the other attorneys to sign.

Check your lasting power of attorney

Use the checklist that follows section 15 to make sure that the LPA has been made correctly.

Send all your documents to:

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

Part C: people to notify

Fill in form LP3

Each person to notify must receive their own LP3 form.

For each person, fill in their details on page 1 of the form, called ‘Notice of intention to register a lasting power of attorney’.

The rest of the form – the pages about the donor and attorneys – will be the same for all the people to notify. You can fill them in once, then photocopy the completed version of those pages for each person to notify.

On page 2 of the form, fill in the donor’s details. Then tick one box for each of the next two questions:

- Who is applying to register the LPA?
- What type of LPA is being registered?

You then need to enter the date that the donor signed the LPA.

You should add the details of the attorneys.

Finally, mark one box with an ‘X’ to show how they were appointed.

The image shows the cover page of the LP3 form. At the top left is the logo of the Office of the Public Guardian. At the top right, it says 'Form LP3'. The main title is 'Form to notify people'. Below this, it states: 'You only need to fill in this form if there are 'people to notify' (also called 'people to be told' or 'named people') listed in the lasting power of attorney.' At the bottom, there is a section titled 'How to complete this form' with instructions: 'PLEASE WRITE IN CAPITAL LETTERS USING A BLACK PEN', 'Tick your choice with an X', and 'If you make a mistake, fill in the box and then mark the correct choice with an X'. There is also a small note at the bottom: 'This page is not part of the form' and 'OPG Form LP3 - notify 2016'.

More information

If you’re applying to register two LPAs – one for financial decisions and one for health and care – and the people to notify are the same on each form, you’ll still have to notify each of them twice.

You don’t need to tell the people to notify about replacement attorneys.

Objections

Form LP3 also explains why and how the people to notify can object to the LPA being registered.

Where there are no concerns

If a person to notify has no concerns, they don’t have to do anything.

Where there are reasons to object to the LPA

If a person to notify wants to raise concerns about your LPA, they have three weeks to object to the Office of the Public Guardian (OPG) from the date they were notified.

There are rules about the sort of concerns people can raise. They can’t object to your LPA simply because they don’t like it. The LP3 explains these ‘factual’ and ‘prescribed’ grounds.

Form LP3: the details you need

If you didn't make the LPA, you may not know where to find all the information you need to fill in an LP3. This table explains.

What you need to know	Where to find it
Names and addresses of the people to notify	Section 6 of the LPA form. Up to four are listed here. If the box at the bottom is marked, there's a fifth person to notify
A fifth person to notify?	Look for a copy of Continuation sheet 1, where 'person to notify' is marked with an 'X'
Attorney details	Section 2 of the LPA has the details you need. This has room for four attorneys. If the box at the bottom of the second page is marked with an 'X', there are more than four attorneys
More than four attorneys?	Look for any copies of Continuation sheet 1, where 'attorney' is marked with an 'X'
How are the attorneys appointed?	Look at section 3 of the LPA. One box on that page will be ticked
What type of LPA is being registered?	The front page of the LPA shows this
When did the donor sign the LPA?	Section 9 of the LPA. The date you need is in the grey box below the donor's signature

Part D – Cancelling your LPA, concerns about attorneys, privacy policy and contacting OPG

Cancelling your LPA

You (the donor) can cancel your LPA at any time, as long as you have mental capacity. It doesn't matter if the LPA is registered.

If it's registered, you must write a 'deed of revocation' to cancel it. This is an example of a deed of revocation that you can use:

.....
This deed of revocation is made by [donor's name] of [donor's address].

1. I granted a lasting power of attorney for financial decisions/health and care decisions [delete as appropriate] on [date you signed the LPA] appointing [name of first attorney] of [address of first attorney] and [name of second attorney] of [address of second attorney] to act as my attorney(s).

.....
2. I revoke the lasting power of attorney and the authority granted by it.

Signed and delivered as a deed
[donor's signature]

Date signed [date]

Witnessed by [signature of witness]

Full name of witness [name of witness]

Address of witness [address of witness]
.....

You must sign and date the deed while watched by a witness, who must also sign and date it.

Your witness doesn't have to be the same one you used for your original LPA.

You must then send the deed to the Office of the Public Guardian (OPG) with the original, registered LPA document.

You must also tell all your attorneys that you're cancelling your LPA.

You can find out more at
www.gov.uk/power-of-attorney/end

If you don't have access to the internet at home, your local library can help you.

Concerns about attorneys

OPG protects people who don't have the mental capacity to make decisions for themselves.

If anyone believes that attorneys are not acting in a donor's best interests, they can raise concerns with OPG, the police or social services.

Your personal information

This information charter sets out the standards that you can expect when we ask for, use or share your personal information. It tells you how to get access to the information we hold on you.

OPG is an executive agency of the Ministry of Justice. The ministry is the 'data controller' under the Data Protection Act 1998 and is responsible for the personal information that we hold. We use your information to help us carry out the duties of the Public Guardian, under the Mental Capacity Act 2005.

We collect your personal information when you:

- apply to register a lasting power of attorney using the LPA digital service at www.gov.uk/power-of-attorney or by post
- pay a fee using a credit card, debit card or by direct debit
- agree to take part in our customer research
- contact us with a question
- make a complaint

We will use your personal information to:

- register your power of attorney
- process your fee payment
- keep a register of powers of attorney
- carry out customer research
- carry out administration

We promise to:

- ask only for the information we need
- make sure that your information is safe and no one unauthorised can get it
- make sure that we do not keep your information any longer than we have to
- give you the chance to ask us to change your information if you believe it is wrong

In return, we ask you to:

- make sure that the information you give us is accurate
- tell us about any relevant changes to your personal situation (such as a change of name, title or address) as soon as possible

Sharing personal information

We will only share your information when the law says we can. This includes sharing information to protect vulnerable people.

We may share your contact information with organisations carrying out customer research on our behalf. They must make sure any information we give them is safe and not use it for any other purpose.

Access to personal information

Under the Data Protection Act 1998, you can ask for a copy of the information we hold about you. (This is called a 'subject access request'.)

Write to us at: Data Access & Compliance Unit, Information Directorate, Ministry of Justice, Post point 10.34, 102 Petty France, London SW1H 9AJ.

You'll need to include:

- £10 cheque payable to HM Paymaster General
- two forms of identification, eg: a photocopy of your passport or driving licence or an original electricity, gas, council tax or other bill in your name from the last six months

If you have any questions or think that we might hold incorrect information about you, email us at customerservices@publicguardian.gsi.gov.uk