

Lasting Power of Attorney Property and Affairs

Notes for completing an LPA – Property and Affairs

Important information

These notes will help you to fill in a Lasting Power of Attorney – Property and Affairs (LPA PA).

If you are making a Lasting Power of Attorney – Personal Welfare (LPA PW) you should **not** use these completion notes. Please refer to the notes for completing an LPA – Personal Welfare.

Before you complete the LPA

You must read the prescribed information at pages 2, 3 and 4 of the LPA form before you make the LPA. You should read the blank LPA form and these completion notes all the way through before you begin to make an LPA so that you know what you need to do. Your certificate provider and attorney(s) should also read these notes. There is more information about LPAs available from the Office of the Public Guardian (OPG) and you are advised to read this before making the LPA.

Completing the LPA

If there is not enough room for you to express your intentions in any Part or paragraph of the LPA, you should continue on a separate sheet and **attach it securely** at the back of the LPA. You should sign and date any continuation sheets and note clearly which Part and paragraph of the LPA they relate to.

If you make a minor mistake you should correct it and clearly initial the correction. You cannot make any changes at all to an LPA that has been signed, witnessed and certified.

These notes state which paragraphs and boxes **must** be completed. Failure to complete mandatory paragraphs and boxes may result in a delay when the LPA is sent for registration or may even result in the LPA being invalid in some cases. Where you are asked to cross through a part of the LPA that you are not using this is to stop anyone else filling it in. You must complete or cross through every part of the LPA.

When you are required to make a choice or confirm something you must be sure that you understand what you are choosing or confirming.

If you are unsure about the requirements of this LPA form, contact the OPG at the address given on the front of the LPA form. The OPG can help you in completing the form, but cannot give you legal advice.

Please use black or blue ink when filling in the form.

Part A – Donor’s statement (Page 5 of LPA PA)

Your details

Note 1

Place a cross in the appropriate title box and enter your first name, middle name, last name and date of birth. If you do not have a middle name, clearly cross through that box.

Note 2

You must enter any other names you are known by or have been known by in the past, for example, your maiden name. If you are not known by any other names or have not been known by any other names in the past, clearly cross through this box.

Note 3

Enter your contact details. You must enter your address and postcode. You should enter your telephone number and mobile phone number (if you have one) but you do not have to. You may also like to enter your e-mail address (if you have one). The more contact options you complete the easier it will be for the OPG, your attorney(s) or other people who may be relying on your LPA to contact you. If you leave a box blank clearly cross through that box.

The details of the attorney(s) you are appointing (Page 6 of LPA PA)

Note 4

There are two attorney spaces on the form but you do not have to appoint two attorneys. You can appoint as many or as few attorneys as you want. If you are not using both of the attorney boxes, clearly cross through those that you are not using. You should do this to avoid other people completing blank boxes. If you want to appoint more than two attorneys, follow the instructions on page 1 of these notes about continuation sheets.

Note 5

Place a cross in the appropriate title box and enter the first name and last name of the attorney(s) you are appointing. **You must check with the person(s) you would like to appoint as your attorney(s) that they agree to act as attorney(s) for you before completing this page.**

Note 6

You can choose a trust corporation to be your attorney or one of your attorneys but you do not have to. If you are not appointing a trust corporation to be an attorney, clearly cross through that box. There is more information on the appointment of a trust corporation in the OPG guidance on LPAs.

How your attorney(s) is to act for you (Page 7 of LPA PA)

Note 7

If you are only appointing one attorney cross through the entirety of this page. If you are appointing more than one attorney you must decide how your attorneys are to act and place a cross in one of the three small boxes to indicate your choice. You must only place a cross in one box. If you cross more than one box or fail to cross any of the boxes then your attorneys will be appointed together by default.

If you appoint your attorneys ‘together’ this means that all of them have to take decisions and act together for you. If you appoint your attorneys ‘together and independently’ this means that they can all take decisions and act together for you **and** they can also take decisions and act separately for you. You can also specify that your attorneys should act together in respect of some matters and together and independently in respect of others. You must think carefully about the practical implications of appointing attorneys to act in different ways.

Note 8

If you decide to appoint your attorneys together in respect of some matters and together and independently in respect of others (by placing a cross in the relevant small box) you must then specify in the large text box on which matters your attorneys are to act together and on which matters they are to act together and independently.

In this LPA form, 'together' means jointly and 'together and independently' means jointly and severally for the purposes of the Mental Capacity Act 2005.

Replacement attorney(s) (Page 8 of LPA PA)**Note 9**

You must choose box 'Yes' or box 'No'. You can choose to appoint a replacement attorney to act if one or any of your attorneys cannot continue to be your attorney. You do not have to appoint a replacement attorney. There is more information on replacement attorneys in the OPG guidance on LPAs.

If you are not appointing a replacement attorney, place a cross in the 'No' box and clearly cross through the rest of this page. If you decide to appoint a replacement attorney, place a cross in the 'Yes' box. **You should check with the person you would like to appoint as your replacement attorney that they agree before completing this page.**

If you want to appoint more than one replacement attorney you must follow the instructions above about using continuation sheets. If you do not specify clearly which attorneys your replacements are to replace then the first replacement to be named in your LPA will replace the first attorney who needs replacing.

Note 10

Place a cross in the appropriate title box and enter the first name and last name of your replacement attorney.

Note 11

You do not have to complete this large text box. If you do not complete this box your replacement attorney will replace the first attorney who needs replacing. You can use this box to specify that your replacement should only replace a specific named attorney. Or you can specify that the replacement can replace any of your attorneys except a specific named attorney.

Placing restrictions and/or conditions on the attorney(s) you are appointing (Page 9 LPA PA)**Note 12**

You must choose box 'Yes' or box 'No'. If you do not want to place any restrictions and/or conditions on your attorney(s), place a cross in the 'No' box and clearly cross through the rest of this page.

If you do not place any restrictions and/or conditions on your attorney(s) they will be able to take any decisions about your property and affairs that you can take. If you place restrictions or conditions on the decisions your attorney(s) can make or the matters which they can deal with, these must be followed by your attorney(s).

If you want to place restrictions and/or conditions on your attorney(s), place a cross in the 'Yes' box. If you choose this option you must specify in the large text box what those restrictions and/or conditions are. **You can restrict your attorney(s) or any of your attorneys in whatever manner you see fit but you should ensure that your restrictions and/or conditions will work in practice.** There is more information on the placing restrictions and/or conditions on your attorney in the OPG guidance on LPAs.

Guidance for your attorney(s) to consider (Page 10 LPA PA)

Note 13

You do not have to complete this paragraph. If you do not want to give your attorney(s) any guidance in your LPA, clearly cross through this large text box.

Any guidance you give to your attorney(s) is for their information only. Your attorney(s) should consider your guidance when making decisions for you in your best interests.

If you want to give your attorney(s) guidance, complete the large text box. There is more information on giving guidance to your attorney in the OPG guidance on LPAs.

Paying attorney(s) (Page 10 LPA PA)

Note 14

You must choose one of the two small option boxes in this paragraph. This will reflect whether you have agreed to pay your attorney(s) a fee. You do not have to pay your attorney(s) a fee. If you have more than one attorney you may make different decisions about fees for different attorneys. If you place a cross in the 'Yes' box you may give additional information about the fees you have agreed with your attorney in the text box provided.

If you place a cross in the 'No' box you should clearly cross through the rest of this paragraph.

Notifying others when an application to register your LPA is made (Page 11 and 12 of LPA PA)

Note 15

You can choose up to five people to be notified when an application to register your LPA is made. You can choose anyone you want. **This is an important safeguard because it gives the people you have chosen the right to object to registration of the LPA.** You do not have to choose anyone to be notified but if you do not, you will need to have two certificate providers at Part B of the LPA. If at all possible, you should choose at least one person to be notified when an application is made to register the LPA.

If you are not choosing anyone to be notified, clearly cross through the entirety of this and the following page.

If you choose a person(s) to be notified you should let them know that you have chosen them to perform this role.

For each person you want to be notified place a cross in the appropriate title box and enter their name and address including their postcode. You do not have to enter a telephone number and e-mail for these people but it will be easier to contact them if you do. If you leave a box blank, clearly cross through that box.

Things to confirm (Page 13 of LPA PA)

Note 16

You **must** read the prescribed information on pages 2, 3 and 4 of the LPA form or have it read to you before completing the LPA. You must confirm this by placing a cross in the appropriate box. If the information has been read to you by somebody else their name should be printed in the space provided. This person should **not** be one of your attorneys.

Note 17

By making an LPA you are giving your attorney(s) the legal authority to make decisions on your behalf including in circumstances when you lack capacity. You must place a cross in the box to confirm that you are giving your attorney(s) that authority.

Note 18

When making an LPA you must either choose a person or people to be notified when an application to register your LPA is made or you must select two people to provide a separate Part B certificate each. Confirm which one of these you are doing by placing a cross in the appropriate box.

Note 19

Your certificate provider(s) independently verifies the circumstances in which you are making your LPA. It is important that you choose them, not your attorney(s) or any other person. You must place a cross in the box to confirm that you have chosen your certificate provider(s) yourself.

Signing the LPA (Page 13 of LPA PA)**Note 20**

Sign the document or make your mark in the signature box and enter the date on which it is signed or marked. If you are unable to sign or mark the LPA, see completion note 22 and page 13 of the LPA form. 'Signed by me as a deed' and 'delivered' as a deed are legal formalities. They just mean you need to sign and date.

Witness (Page 13 of the LPA PA)**Note 21**

Your signature must be witnessed. Your witness must be at least 18 years of age and must not be your attorney(s). Your witness can be your Part B certificate provider. The witness must sign the LPA, enter their full name, their address and their postcode.

If you are unable to sign or make a mark (Page 14 of LPA PA)**Note 22**

This page should only be completed if you cannot sign or make a mark. If you cannot sign the form or make a mark you can direct someone else to sign it for you. You can 'direct' someone in whatever way you choose to communicate. This person must be at least 18 years of age and must not be your attorney(s) or your Part B certificate provider(s). The person you are directing to sign must sign and date the form.

Witnesses (Page 14 of LPA PA)**Note 23**

There must be two witnesses to this person's signature. Your Part B certificate provider(s) may be a witness to this person's signature. Your attorney(s) must not be a witness to this person's signature. The witnesses must each sign the LPA, enter their full names and their addresses including their postcodes.

Part B – Certificate provider’s statement (Page 15 of LPA PA)

Note 24

You must choose someone to be the certificate provider for your LPA. Both you and your certificate provider must read the certificate before beginning to complete any of it.

The rest of this note on completing Part B is for the certificate provider. If you do not feel able to complete any of the Part B certificate do not complete it and raise any concerns you have with the OPG. There is separate guidance available, ‘Certificate Provider and Witness Guidance’.

Who cannot provide a certificate? (Page 15 of LPA PA)

Note 25

You must not fall into one of these categories. If you do and you provide a certificate, the LPA will **not** be valid.

Note 26

You must read the whole of Parts A and B of this LPA, including the prescribed information on pages 2 – 4 before completing the certificate. The OPG has guidance on the role and responsibilities of the certificate provider and you should also read this before completing the certificate.

Note 27

You must be acting independently of the person making the LPA and the attorney(s) appointed under the LPA. You must not fall into the categories listed under ‘Who cannot provide a certificate’. Once you are certain that you are not one of these people you must confirm by placing a cross in the box.

Note 28

You must be 18 or over to provide this certificate. You must confirm this by placing a cross in the box. Only after you have confirmed this should you continue to complete the rest of the certificate.

Note 29

Place a cross in the appropriate title box and enter your first name, middle name and last name. If you do not have a middle name, clearly cross through that box. Enter your address and postcode.

Note 30

You should enter your telephone number and mobile number (if you have one) but you do not have to. You may also like to enter your e-mail address (if you have one). The more contact options you complete the easier it will be for the OPG or other people to contact you. If you leave a box blank, clearly cross through that box.

Who can provide a certificate? (Page 16 of LPA PA)

Note 31

You must identify yourself as either a category A certificate provider or a category B certificate provider. Do not fill in both category A and B. You must choose only one.

Knowledge certification (Page 16 of LPA PA)

Note 32

Place a cross in the small box to show that you have known the donor personally over the last two years. ‘Personally’ means that the donor is known to you as more than a passing acquaintance. Specify how you know them. This need not be in detail.

Skills certification (Page 16 of LPA PA)

Note 33

There are five boxes for skills certification. Choose one of the boxes by placing a cross in it. If you place a cross in the last box which begins, 'I am none of the above...' you must describe what you consider your relevant skills and expertise are in the text box titled 'My relevant professional skills and expertise are:'.

I confirm and understand (Page 16 of LPA PA)

Note 34

You must read Part A and B of this LPA including the prescribed information on pages 2 – 4 before you certify. Place a cross in the box to confirm that you have done so.

Note 35

You must discuss the contents of this LPA with the donor in order to be sure of the matters you are certifying. **The attorney(s) must not be present.** Place a cross in the box to confirm that you have discussed this LPA with the donor and that the attorney(s) was not present.

Note 36

You should make efforts to discuss this LPA with the donor without anyone present. Place a cross in the box to confirm that you understand that you should try to do this.

There may, however, be situations where there has to be someone else there, for example where you need someone to assist you to communicate with the donor. You must choose (by placing a cross in the appropriate box) between confirming that you discussed the LPA with the donor alone or that there was another person or person(s) present. Print the name of the person or people who was or were present and explain why they needed to be there.

Note 37

You are certifying certain matters at a particular point in time, so it is important that you complete the certificate straight after discussing the LPA with the donor. Place a cross in the box to confirm this.

Core certification (Page 17 of LPA PA)

Note 38

You are required to certify three things. You are certifying in your opinion having read the LPA and discussed the contents with the donor. You must consider whether you can certify these matters and, if you can, you must place a cross in the three boxes.

Note 39

The certification process is complete when you sign the certificate. **Do not sign the certificate if you have any doubt about any of the matters you are being asked to certify.** Sign the document in the signature box and enter the date on which you are signing. Print your full name in the box below the signature box.

Additional certificate provider's statement (Page 18 LPA PA)

Note 40

Only complete page 18 when there are no people listed at paragraph 9 to be notified of an application for registration. If this additional certificate is required it should not be completed by the same person as the first certificate on pages 15 – 17. See notes 24 to 39 above for guidance.

Part C – Attorney’s statement (Page 21 LPA PA)

Note 41

Every attorney named in Part A of the form must complete a separate attorney’s statement at Part C. They are identical and therefore notes 41 to 49 can be used by all attorneys.

There is a different statement at page 23 to use if a trust corporation is being appointed as an attorney. If there is a replacement attorney they must complete the replacement attorney’s statement at page 24.

The rest of this note on completing Part C is for the attorney(s).

You must read this LPA, including the prescribed information on pages 2 – 4, before completing your statement. The OPG has guidance on the role and responsibilities of an attorney and you should also read this before completing the statement so that you understand the nature of the role you are taking on. You should also discuss with the donor the duties you are assuming.

Note 42

Place a cross in the appropriate title box and enter your first name, middle name, last name and date of birth. You must be at least 18 to be an attorney. If you do not have a middle name, clearly cross through that box.

Note 43

You should enter your telephone number and mobile number (if you have one) but you do not have to. You may also like to enter your e-mail address (if you have one). The more options you complete the easier it will be for the OPG or other people to contact you. If you leave a box blank, clearly cross through that box.

Note 44

You **must** read the prescribed information on pages 2 – 4 of the LPA. Place a cross in the box to confirm that you have done.

Note 45

You **must** read the LPA, and the separate guidance for attorneys and you must familiarise yourself with the wishes and feelings of the donor. As an attorney you have a legal duty to act in accordance with the principles of the Mental Capacity Act 2005. You also have a duty to have regard to the Code of Practice. The Code of Practice has practical guidance about the Act and your role as an attorney. Place a cross in the box to confirm that you understand the duties you have as an attorney.

Note 46

An attorney acting under an LPA – Property and Affairs must not be an undischarged bankrupt or an interim bankrupt. Place a cross in the box to confirm that you are neither.

Note 47

You cannot and must not use the LPA form and the powers in it until it has been registered by the Public Guardian. Place a cross in the box to confirm that you understand this.

Note 48

Sign the LPA in the signature box and enter the date on which you sign. You **must not** sign until the donor has signed at paragraph 14 of the LPA and the certificate provider has signed the certificate. ‘Signed by me as a deed’ and ‘delivered by me as a deed’ are legal formalities. They just mean you need to sign and date.

Note 49 ➤ Your signature must be witnessed. Your witness must be at least 18. Your witness may be a Part B certificate provider or another attorney. The witness must sign the LPA, enter their full name, their address and their postcode.

Part C – Attorney’s statement – Trust Corporation (Page 23 LPA PA)

Note 50 ➤ This page need only be completed where the donor has chosen a trust corporation to be an attorney. In order for a trust corporation to be an attorney they must comply with the requirements of company and trust law.

Note 51 ➤ Enter the company name, the company address and postcode and the company registration number.

Note 52 ➤ Representatives of the company must cross the two boxes to confirm these matters. Please refer to notes 45 and 46.

Note 53 ➤ Please use this space to execute as a deed in accordance with company and trust law requirements.

Part C – Replacement attorney’s statement (Page 24 LPA PA)

Note 54 ➤ This page only needs to be completed if the donor has appointed a replacement attorney at paragraph 5 of the LPA. The rest of this note is addressed to the replacement attorney. You must read this LPA, including the prescribed information on pages 2 – 4 before completing your statement. The OPG has guidance on the role and responsibilities of an attorney (including a replacement attorney) and you should also read this before completing the statement so that you understand the nature of the role you are taking on. You should also discuss with the donor the duties you are taking on.

Note 55 ➤ Place a cross in the appropriate title box and enter your first name, middle name, last name and date of birth. You must be at least 18 years of age to be an attorney. If you do not have a middle name, clearly cross through that box.

Note 56 ➤ You should enter your telephone number and mobile number (if you have one) but you do not have to. You may also like to enter your e-mail address (if you have one). The more contact options you complete the easier it will be for the OPG or other people to contact you. If you leave a box blank, clearly cross through that box.

Note 57 ➤ You **must** read the prescribed information on pages 2 – 4 of the LPA. Place a cross in the box to confirm that you have done.

Note 58 ➤ You will only replace an attorney if you are needed and you will only be eligible to replace that attorney if you are still legally able to do so. Place a cross in the box to confirm that you understand this.

Note 59 ➤ You do not have any authority to act under the LPA until an original attorney’s appointment is terminated. Place a cross in the box to confirm that you understand this.

Note 60

You **must** read the LPA, and the relevant guidance and you must familiarise yourself with the wishes and feelings of the donor. If you are called upon to act as an attorney you have a duty to act in accordance with the principles of the Mental Capacity Act 2005. You also have a duty to have regard to the Code of Practice. The Code of Practice has practical guidance about the Act and your role as an attorney. Place a cross in the box to confirm that you understand the duties you have as an attorney.

Note 61

An attorney acting under an LPA – Property and Affairs must not be an undischarged bankrupt or an interim bankrupt. Place a cross in the box to confirm that you are neither.

Note 62

You cannot and must not use the LPA form and the powers under it until it has been registered by the Public Guardian. Place cross in the box to confirm that you understand this.

Note 63

Sign the LPA in the signature box and enter the date on which you sign. You must not sign until the donor has signed at paragraph 14 of the LPA and the certificate provider has signed the certificate. 'Signed by me as a deed' and 'delivered by me as a deed' are legal formalities. They just mean you need to sign and date.

Note 64

Your signature must be witnessed. Your witness must be 18 or over. Your witness may be a Part B certificate provider or another attorney. The witness must sign the LPA, enter their full name, their address and their postcode.

