



Privacy notice: lasting and enduring powers of attorney

Purpose

This privacy notice sets out the standards that you can expect from the Office of the Public Guardian (OPG):

- when we request or hold personal information ('personal data') about you
- how you can get access to a copy of your personal data
- what you can do if you think the standards are not being met

OPG is the data controller for the personal information we hold.

OPG collects and processes personal data for the exercise of its own and associated public functions. These include the registration of lasting powers of attorney (LPA) and enduring powers of attorney (EPA) and to keep a register of power of attorneys.

About personal data

Personal data is information about you as an individual. It can be your name, address or telephone number. It can also include information about any finances or assets you wish your attorney to manage, or medical conditions you might have and wishes in regards to future medical treatment.

We know how important it is to protect customers' privacy and to comply with data protection laws. We will safeguard your personal data and will only disclose it where it is lawful to do so, or with your consent. This applies to the donor of an LPA, attorney or any third party concern raisers.

Types of personal data we process

We only process personal data that is relevant for the services we are providing to you. This may include: your name and address, date of birth, and the name, address and date of birth of your attorney(s).

Purpose of processing and the lawful basis for the process

The information is processed so that OPG may carry out their lawful duties as set out in the Mental Capacity Act (MCA) 2005. The MCA states that the Public Guardian must, among other duties, establish and maintain a register of lasting power of attorney, receive and review reports

from donor's of lasting powers of attorney, deal with representations about the way an attorney is exercising his powers and that for the purpose of carrying out these functions may examine and take copies of health records, records held by a local authority or any records held by a person registered under the Care Standards Act 2000.

Failure to comply with the reasonable directions or requests of OPG in the exercise of these functions may result in an application for the removal of the appointed deputy.

When an application for remission or exemption of fees is made, the information provided and supporting evidence will only be used for the purpose of the application to ensure that a correct fee is charged.

Who the information may be shared with

We sometimes need to share the personal information we process with the individual themselves and also with other organisations. Where this is necessary we will comply with all aspects of the data protection laws. The organisations we may share your personal information with include:

- the police
- the Court of Protection
- local authorities and social services
- other government agencies
- prisons or probation services
- the Department for Work and Pensions (DWP)
- Court of Protection visitors

This list is not exhaustive and any decision to share information will be made on a case by case basis.

Although we make every attempt to protect your rights, under certain circumstances we have a legal duty to share your information, even if you do not consent. This might include prevention or detection of crime, interests of counter terrorism, and safeguarding responsibilities including child protection.

Details of transfers overseas

It may sometimes be necessary to transfer personal information overseas. When this is needed information may be transferred as necessary. Any transfers made will be in full compliance with all aspects of the data protection law.

Retention period for information collected

We keep your information for seven years after the date that the power of attorney has ended or is cancelled.

Access to personal data

You can find out if we hold any personal data about you by making a 'subject access request'. See more information on making a subject access request at:

www.gov.uk/government/organisations/office-of-the-public-guardian/about/personal-information-charter

To request this information by post, please send your request to

OPG information assurance
PO Box 16185
Birmingham
B2 2WH

Under certain circumstances some or all of the information requested under a subject access request may be withheld. This might include, but is not limited to:

- disclosing information about another individual
- information shared with the police or other government agencies whereby disclosing this may impact criminal or taxation investigations
- any information relating to the physical or mental health conditions of an individual that has been made by or on behalf of a health professional
- information passed to or received from social services may be restricted if it would likely prejudice the carrying out of social work by causing serious harm to the physical or mental health or condition of the requester or any other person

When we ask you for personal data

We promise to inform you why we need your personal data and ask only for the personal data we need and not collect information that is irrelevant or excessive:

- you can withdraw consent at any time, where relevant
- you can lodge a complaint with the supervisory authority
- protect it and make sure no unauthorised person has access to it
- only where appropriate and necessary share it with other organisations for legitimate purposes
- make sure we don't keep it longer than is necessary
- not make your personal data available for commercial use without your consent
- consider your request to correct, stop processing or erase your personal data.

You can get more details on:

- agreements we have with other organisations for sharing information
- circumstances where we can pass on personal information without telling you, for example, to help with the prevention or detection of crime or to produce anonymised statistics
- our instructions to staff on how to collect, use or delete your personal information
- how we check that the information we hold is accurate and up-to-date

- how to make a complaint
- how to contact the Ministry of Justice Data Protection Officer

For more information about the above issues, please contact us:

Data Access and Compliance Unit
Information directorate
Ministry of Justice
Post point 10.34
102 Petty France
London
SW1H 9AJ

For more information on how and why your information is processed please see the information provided when you accessed our services or were contacted by us.

Data Protection Officer

If you have any concerns about how the OPG is handling your personal data, you may contact the Data Protection Officer (DPO).

The DPO provides independent advice and monitoring of our use of personal information.

You can contact the Data Protection Officer at:

Amie Alekna
Data Protection Officer
Ministry of Justice
102 Petty France
London
SW1H 9AJ

Complaints

When we ask you for information, we will keep to the law. If you consider that your information has been handled incorrectly, you can contact the Information Commissioner for independent advice about data protection.

You can contact the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 0303 123 1113

Website: www.ico.org.uk