



Office of the  
Public Guardian

# Business Plan

Promoting and upholding the principles  
of the Mental Capacity Act

**2018 to 2019**





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# Introduction by the Chief Executive and Public Guardian

**In October 2017, we marked the ten-year anniversary of the Mental Capacity Act (2005) coming into force, establishing OPG as an executive agency of the Ministry of Justice. This business plan starts to look towards the next 10 years.**



Firstly, I'd like to take just a short look back at where we've come from.

In the last decade, OPG has grown from a small, London-based agency with a workforce of 527, to be a substantial employer in the Midlands with over 1400 staff located in Birmingham, Nottingham and a very small number in London.

Year on year we've managed record numbers of powers of attorney. In 2008–2009 we handled around 8,000 registration requests per month, we now average over 54,000. The number of deputyship cases we're supervising has also grown to over 60,000.

From being paper-based, we now offer a number of innovative digital services and we're developing our own ground-breaking internal systems.

We're establishing OPG as an influential partner in safeguarding networks so that people who may lack capacity are protected.

Against this backdrop, the agency has continued to meet or exceed some challenging customer service targets.

This year, our priorities will include:

- **empowering people to plan for the future** – raising uptake of LPAs with disadvantaged groups
- **strengthening OPG's role in safeguarding** – working with partners to protect and support the vulnerable
- **focusing on our people** – tackling issues that matter to them, attracting and retaining talent, honouring our diversity
- **continuing to increase our digital offer** – improving services for our customers and staff.

The next 10 years will bring some exciting challenges but our core purpose remains the same: to promote awareness of the Mental Capacity Act and the principles enshrined within it.

Alan Eccles,  
**Chief Executive and Public Guardian**

# About OPG

The Office of the Public Guardian (OPG) supports the Public Guardian in carrying out the legal functions of the Mental Capacity Act 2005. The Act protects people in England and Wales who may not have the mental capacity to make certain decisions for themselves, such as about their health and financial affairs.

We also help people plan ahead for someone to make certain important decisions for them, should they become unable to do so because they lack mental capacity.

## We're responsible for:

- **registering** lasting and enduring powers of attorney (LPAs and EPAs) so that people can choose who they want to make certain decisions on their behalf, should they lose capacity to make those decisions themselves,
- **maintaining** the public register of attorneys and deputies appointed by the Court of Protection,
- **supervising** deputies appointed by the Court of Protection, making sure they carry out their responsibilities in the best interests of their clients and in line with the requirements of the Mental Capacity Act, and
- **carrying out** investigations and taking action where there are concerns about an attorney or deputy.

## Mission

to support decision making by promoting and upholding the principles of the Mental Capacity Act.

## Vision

OPG is recognised for excellence, innovation and care, with our users at the heart of everything we do.

## Purpose

to work to promote decision making and the right to choose. Where people lack capacity, we support those who act on their behalf to make good decisions. We create the culture and conditions for our staff to provide high quality services that are accessible and affordable.

# Strategic themes

OPG's business plan is structured to reflect the 5 main themes in the agency's strategy. These themes link clearly to MoJ's strategic aims of a modern courts and justice system, and a transformed department.

Within each theme we have detailed our goals over the course of the next 3 years and how we'll know if we've been successful. We then set out what we'll do in this business year to contribute to these goals.

## Improving services for our users

OPG services are simpler and smarter – reflecting the changing needs of our users

## Raising awareness and driving uptake

People know about lasting powers of attorney and make an active choice on their future planning

## Safeguarding

OPG users have peace of mind that safeguards are in place and concerns acted upon

## Our people

OPG lives by its values and provides a workplace that empowers our people to be their best

## Working more effectively

OPG works smartly and effectively, with the user at the heart of all we do

# Strategic context

The UK's population is ageing, with increasing numbers of people living with dementia and other conditions that affect mental capacity. This includes learning difficulties, mental health issues and acquired brain injuries.

Since OPG's launch in 2007, demand for our services has grown steadily. We expect this trend to continue, with continued growth of lasting powers of attorney projected over the course of a number of years.

Demand in other areas of OPG's business is also increasing. The number of court-appointed deputies requiring supervision is stabilising, but we know that people are living longer, with diseases which may affect their capacity to take care of their own affairs without support.

Our role in safeguarding will become even more prevalent, working with partners to ensure the interests of people who may lack capacity are protected. This extends from identifying issues quickly, to investigating concerns and taking the right action.

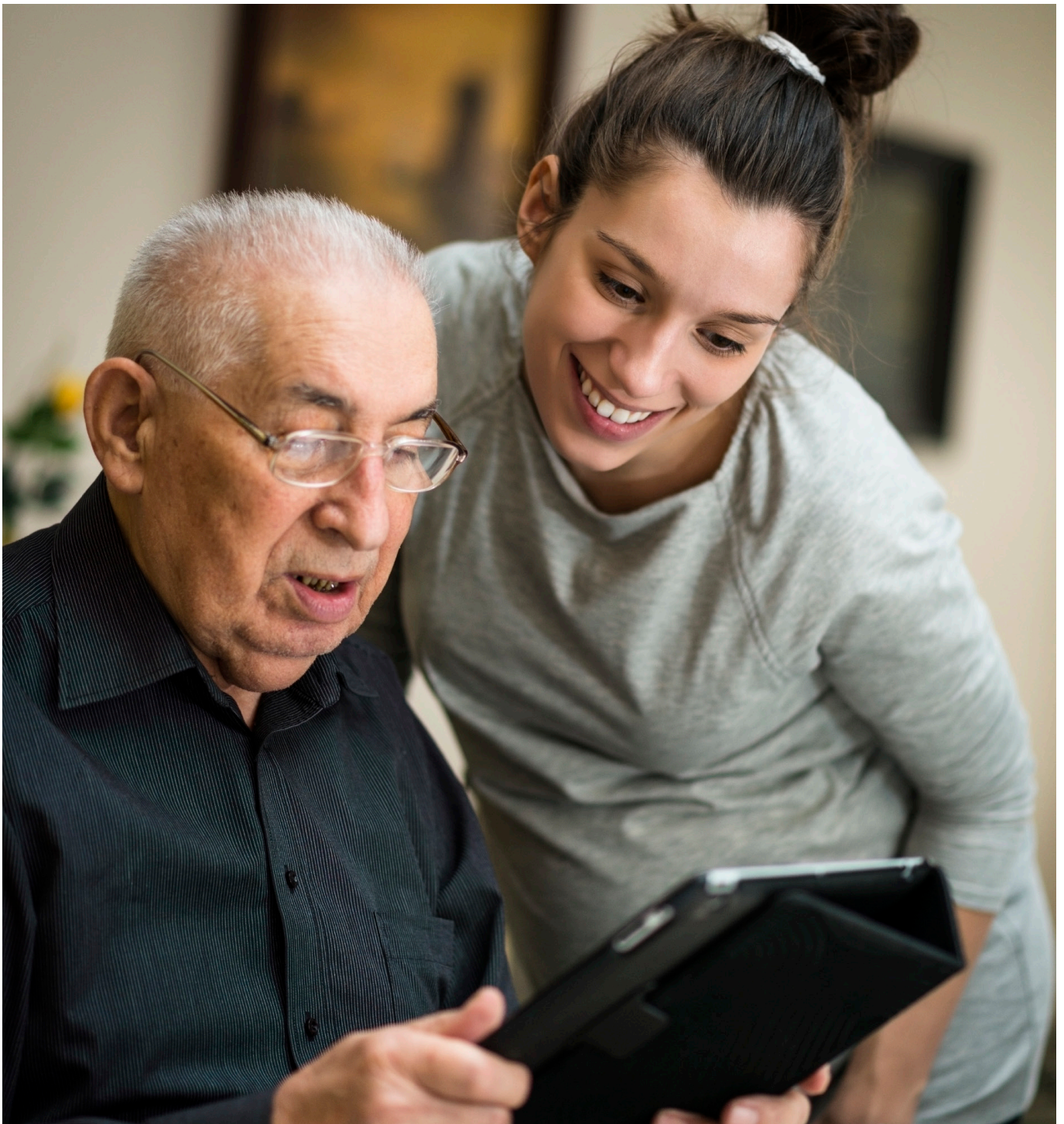
For OPG to grow and develop to meet these challenges, we'll continue to seek feedback from all our stakeholders – customers, partners and staff – to influence what we do.

We'll continue to improve our digital services and our ways of working to provide an exemplary user experience to both our customers and staff.



# Improving services for our users

OPG services are simpler and smarter – reflecting the changing needs of our users



# Improving services for our users

## We will know we have been successful if:

- customers can interact digitally with OPG and have online access to the services they need,
- an increasing percentage of LPAs are made using the online tool and 80% of deputies are submitting their annual reports online,
- an online register of attorneys and deputies is available to third parties to self-serve, with access all day, every day,
- a digital representation of an LPA is available for donors/attorneys to share with third parties, and
- we've increased the ways in which our customers can apply for and use their LPAs digitally.

## In this business year, we will:

- promote the use of our online tools, develop prototypes of new digital products and upgrade our case management system.

## To do this we will:

### by September 2018

- complete user research on a publicly accessible, digital search service of attorneys and deputies, ascertain what is permissible within legislation and begin developing a working prototype,
- achieve our target of 30% of new LPAs being created using the online tool,
- all types of deputy can submit their annual report to us online, and
- complete the discovery phase on a digital representation of an LPA, establish what customers and third parties need, ascertain what is permissible within legislation and begin developing a working prototype.

### by March 2019

- evaluate the prototype of a digital search service and be ready to start development in the next business year,
- achieve our target of 35% of deputies submitting their annual reports online,
- evaluate the prototype of a digital representation of an LPA and be ready to start development in the next business year, and
- secure additional funding to provide future digital services in the Welsh language.

# Customer service

## Within 3 years we will:

- ensure that all customer interactions with OPG are easy and meet their needs.

## We will know we have been successful if:

- customer satisfaction has improved, failure demand has been eliminated, avoidable contact has reduced and we receive fewer complaints as a percentage of workload.

## In this business year, we will:

- revise the way we measure customer satisfaction and ease of interaction with OPG so that we know how effectively we are meeting customer needs, and
- ensure we maintain a rigorous and timely process for registering new LPAs and assisting court-appointed deputies.

## To do this, we will:

### by September 2018:

- implement an accurate way to measure customer satisfaction and ease of interaction with OPG for each service so that we can take action based on insight.

### by March 2019:

- use the results of insight to make measurable improvements to our services,
- register all LPAs with an average actual clearance time of 40 days, and
- provide settling in calls for at least 85% of all new deputies within 35 days of notification of the court order by the Court of Protection.



# Raising awareness and driving uptake



# Raising awareness and driving uptake

**We're committed to raising awareness so that people who would benefit from an LPA are able to do so**

## **Within 3 years we will:**

- reduce the average donor age from 73 to 65 and ensure that our customer base represents a more diverse spectrum of society, and
- achieve a 50% increase in LPA applications from under-represented groups.

## **We will know we have been successful if:**

- the average age of new donors has fallen to 65 and there has been a 50% increase in applications from currently under represented socio-economic groups.

## **In this business year we will:**

- launch a campaign to improve awareness of lasting powers of attorney and take-up in under-represented groups.

## **To do this we will:**

### **by September 2018**

- run a targeted pilot campaign to increase awareness and take-up of LPAs in under-represented socio-economic areas, and
- develop our engagement with health and social care stakeholders to improve their awareness and understanding of LPAs and deputyships.

### **by March 2019**

- update our research in the general awareness of LPAs in England and Wales,
- measure the impact of the campaign by reviewing the percentage of applications from the target groups compared to the overall number of applications made,
- carry out preparatory work for future targeted campaigns to lower the average age and increase the diversity of donors, based on lessons learned, and
- test whether our increased engagement has improved awareness of OPG services in the health and social care sectors.

## Digital delivery of our services

**We'll continue to improve our digital tools to increase customer choice and make it easier for users to access our services.**

### **Within 3 years we will:**

- be able to offer an enhanced suite of digital tools.





# Safeguarding

OPG users have peace of mind that safeguards are in place and concerns acted upon



# Safeguarding strategy

## Within 3 years we will:

- have a published strategy, agreed by ministers and partner agencies which positions the Public Guardian within the multi-agency safeguarding landscape.

## We will know we have been successful if:

- the safeguarding strategy has been agreed by ministers and implementation has started to deliver better outcomes for vulnerable citizens, and
- we will have improved how OPG protects the interests of those who have lost mental capacity through meaningful supervision of court-appointed deputies, and effective investigation of any safeguarding concerns.

## In this business year, we will:

- develop a comprehensive safeguarding strategy that ensures processes are rigorous, while raising the profile of the Public Guardian's role in safeguarding across different sectors.

## To do this we will:

### by September 2018:

- agree the safeguarding strategy with ministers,
- launch the strategy, setting out OPG's role and that of the Public Guardian within the wider safeguarding landscape, and
- start implementing the recommendations from an internal review designed to improve our own approach to safeguarding.

### by March 2019:

- implement the recommendations of the safeguarding review within OPG and demonstrate improvement in outcomes for vulnerable people,
- meet our target to obtain an annual report from court-appointed deputies within 40 days of the report due date,
- meet our target to deal with safeguarding concerns in a timely and effective way, and
- be working with other organisations and health and social care professions to improve safeguarding outcomes for vulnerable people.

# General Data Protection Regulations (GDPR)

## Within 3 years we will:

- be compliant with the regulations, protecting customer data to the highest standard practicable.

## We will know we have been successful if:

- OPG meets all required standards and there have been no breaches of data protection under these regulations.

## In this business year, we will:

- carry out a GDPR compliance review and, for those areas that are non-compliant, have a plan in place to bring OPG into compliance.

## To do this we will:

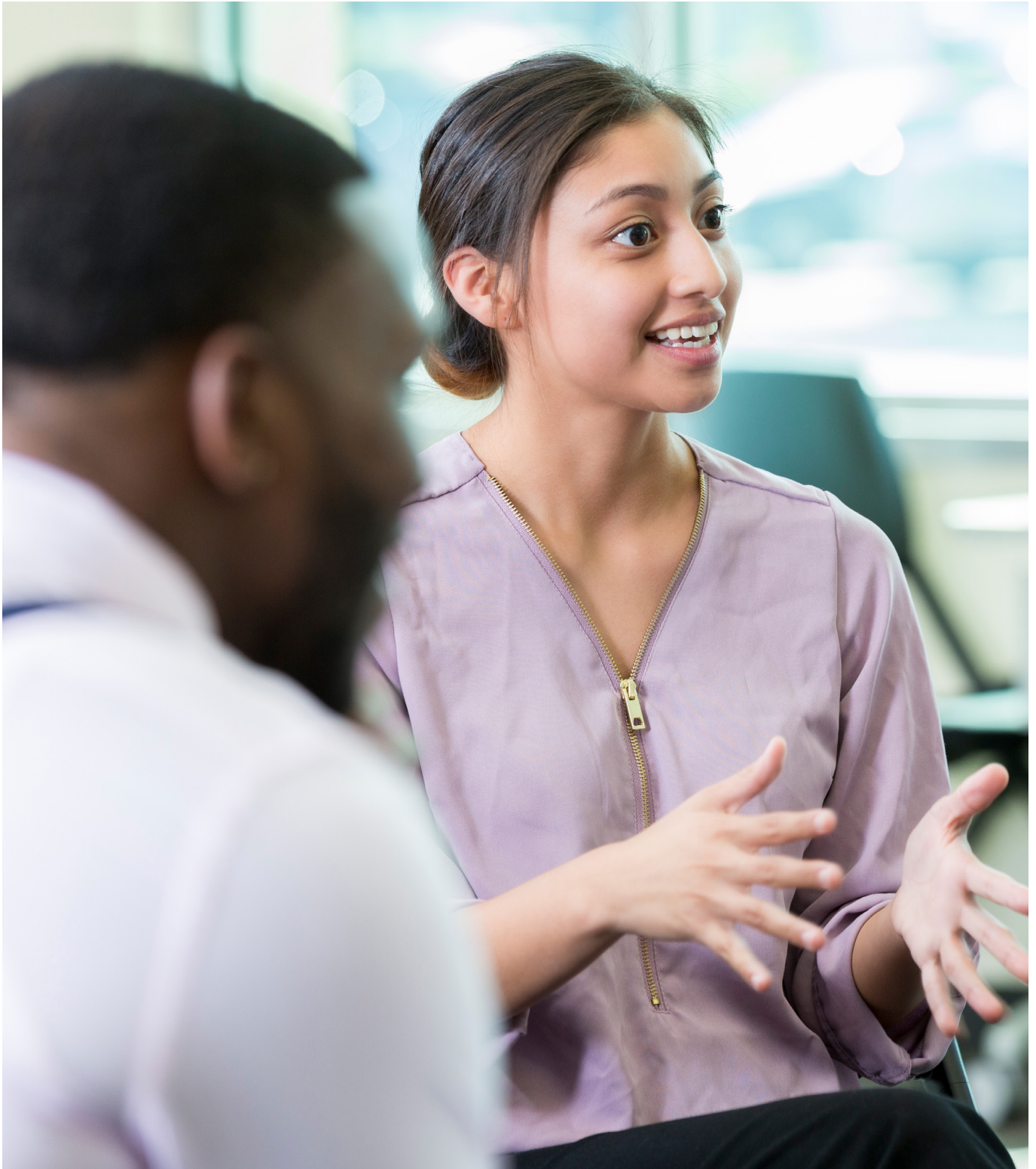
### by September 2018:

- review all areas of customer data and implement any actions to ensure that we're compliant with the regulations.



# Our people

OPG lives by its values and provides a workplace that empowers our people to be their best



# Our people

## Within 3 years we will:

- improve staff engagement by establishing the four values of a brilliant civil service:
  - improved outcomes,
  - effective leaders,
  - a great place to work, and
  - skilled people.

## We will know we have been successful if:

- we achieve staff engagement scores within the top 10% of MoJ,
- we can both recruit and retain the workforce necessary to deliver our business objectives, and
- our workforce reflects the diversity of the general population.

## In this business year we will:

- create an action plan to further develop a professional and qualified workforce,
- initiate a programme of culture change to make our workforce ready for smarter working, and
- improve staff engagement scores by 5%.

## To do this we will:

### by September 2018

- provide all staff with better technology to do their work,
- review the way we recruit so that we identify the right talent and can bring it into OPG in a timely manner,
- implement learning pathways for staff,
- implement training for line managers to identify and support rising stars and develop leadership capability throughout OPG, and
- promote greater empathy and understanding among staff towards our customers.

### by March 2019

- meet our target to increase staff engagement scores,
- reduce the time taken to recruit new starters, and
- improve feedback scores from new staff on their induction into OPG.

# Working more effectively

OPG works smartly and effectively, with the user at the heart of all we do



# Working more effectively

## OPG funding model

### Within 3 years we will:

- have a sustainable, transparent funding model to ensure continued delivery of our business and investment for developing better services to our customers, and
- review the model at least annually, linked to the governance of appropriate fee orders and other legislation.

### We will know we have been successful if:

- OPG has a sustainable fee structure that allows for the delivery of our business and the continued transformation of our services.

### In this business year we will:

- through MoJ, deliver a new policy that makes it simpler to apply for fee remissions and exemptions, and
- through MoJ, implement a new supervision fee structure.

### To do this we will:

#### by September 2018

- propose a new remissions and exemptions policy for ministerial approval,
- revise supervision and investigation demand forecasts, and
- through MoJ, propose a new supervision fee structure for ministerial approval after public consultation.

#### by March 2019

- implement a new remissions and exemptions policy as agreed by the minister, and
- Implement a new supervision fee structure as approved by the minister.



# OPG payments strategy

## Within 3 years we will:

- have a modern and paperless way for customers to make simple and secure payment for products, services and fees.

## We will know we have been successful if:

- all payments for products, services and fees are completed electronically with no requirement for paper such as cheques.

## In this business year we will:

- define and agree a new paperless payments strategy to be implemented across OPG focused on reducing the number of cheques that we process.

## To do this we will:

### by September 2018

- review our processes and the feasibility of introducing a range of proposals for payments to be made by customers electronically.

### by March 2019

- implement any actions to introduce paperless payments that are achievable within the first 6 months of the review, and
- complete a business case to secure additional funding to enable the implementation of a future payments scheme that reduces the dependence on paper.

# Performance indicators 2018/19

| No.  | Description  | Aim             |
|------|--|-----------------|
| 1    | Average actual clearance time for powers of attorney   | 40 working days |
| 2    | Average time taken to reply to requests for tier 1 searches of the register  | 5 working days  |
| 3a   | Deputy first contact support within 35 working days  | 85%             |
| 3bi  | Average time taken to obtain annual report   | 40 working days |
| 3bii | Average time taken to review annual report   | 15 working days |
| 3c   | Number of professional/local authority deputies reviewed   | 33%             |
| 4a   | Risk assessments within 2 working days   | 95%             |
| 4b   | Average time taken for investigations to formally reach a decision signed off by the Public Guardian                                       | 70 working days |
| 4ci  | Average time taken to implement OPG owned actions within Public Guardian recommendations, where court action has been deemed necessary     | 35 working days |
| 4cii | Average time taken to implement OPG owned actions within Public Guardian recommendations, where court action has not been deemed necessary | 25 working days |

# Customer service indicators 2018/19

| No. | Description  | Aim                       |
|-----|--|---------------------------|
| 1   | Customer contact centre average call wait time                                       | <150 seconds <sup>1</sup> |
| 2   | Complaints fully responded to within deadline (deadline ambition of 10 working days) | 90%                       |
| 3   | Customer correspondence responded to within 10 working days                          | 90%                       |
| 4a  | Customer satisfaction survey % very or fairly satisfied with OPG services            | 80%                       |
| 4b  | Customer satisfaction survey % very or fairly satisfied with OPG digital services    | 80%                       |
| 5   | Customers choosing to submit their LPA applications digitally                        | 30%                       |
| 6   | Deputies choosing to submit their annual reports digitally                           | 35%                       |

<sup>1</sup> This KPI is under review and likely to change during 2018 to 2019

# Annex 1

## Status within the Ministry of Justice (MoJ)

OPG is an executive agency of MoJ. Our Chief Executive is responsible to the Lord Chancellor and Secretary of State for Justice for the effective operation of the agency.

The government ministers responsible for OPG are:

- The Lord Chancellor and Secretary of State for Justice, Rt Hon David Gauke MP
- Edward Argar MP, Parliamentary Under Secretary of State

## Funding arrangements

At March 2018, OPG's financial objective is to meet the full cost of its business, excluding remissions and exemptions. OPG achieves this through charging fees for its services. Fees are prescribed by statutory instrument and derived mainly from:

- power of attorney applications (LPA and EPA)
- deputyship set-up and annual supervision charges

The fee for registering powers of attorney was reduced to £82 in April 2017. We are committed to making lasting powers of attorney and deputyships financially accessible and will review our fee structure during 2017/8.

## Location and staffing

OPG is located across sites in London, Nottingham and Birmingham. At March 2017 there were 1436 staff in post (1241.7 full-time equivalents).

## Our board and governance

The role of the OPG board is to ensure we meet our business plan objectives. It does this by overseeing the direction of the MoJ/OPG governance framework. Its members take decisions collectively and not as representatives of the business areas they may lead.

The board provides strategic direction, agrees business aims and objectives and sets targets. It also monitors performance, oversees operations and manages risk. The board supports a strong working relationship between OPG and its partner organisations.

It is the role of the board to ensure that the planning, performance and financial management of OPG is carried out efficiently, effectively and transparently. It also approves our annual business plan.

OPG's board at April 2018 comprises the following members:

- Alan Eccles – Public Guardian and chief executive (chair)
- Sally Jones – director of legal
- Jan Sensier – director of strategy
- Julie Lindsay – chief operating officer
- Elizabeth Gibby – deputy director family justice division, MoJ representative
- Dean Parker – non-executive director
- Alison Sansome – non-executive director
- Professor Anthony Shapira – non-executive director.

## Risk management

OPG's risk assurance framework is maintained in accordance with the guidance in HM Treasury's 'Managing Public Money and Management of Risk – Principles and Concepts'. It is consistent with MoJ's Risk Management Policy and the Office of Government Commerce's guidance on Management of Risk (MoR), escalating risks as necessary.

OPG's risk management process identifies, monitors, manages and reports risks or threats to the achievement of its objectives. This includes the escalation of risks to the MoJ Corporate Risk Register if necessary.

# Annex 2

## Fee rates

### EPA and LPA fees from 1 April 2017

|  |     |
|--|-----|
| Lasting power of attorney (LPA) application to register  | £82 |
| Enduring power of attorney (EPA) application to register | £82 |
| LPA repeat application to register                       | £41 |
| Office copy of an LPA                                    | £35 |
| Office copy of an EPA                                    | £25 |

All fees are payable upon application and are not refundable (even if the power of attorney is not subsequently registered).

A separate fee is payable for applications to register property and financial affairs, and health and welfare LPAs.

Application to register fees are payable from the donor's (the person making the power of attorney) estate/funds.

Office copy fees are payable by the person requesting the document. There is no remission or exemption.

### Deputyship fees from 1 October 2011

|                           |      |
|---------------------------|------|
| Deputyship assessment fee | £100 |
| General supervision fee   | £320 |
| Minimal supervision fee   | £35  |

All deputyship fees are payable from the client's estate/funds. The client is the person the deputy is acting for.

The deputy assessment fee is due when OPG has received the order from the Court of Protection, then assessed and set up the deputyship with the relevant supervision team.

The annual supervision and minimal supervision fees are payable annually in March. Fees are paid in arrears and will be calculated on a pro-rata basis if there are any changes within the year.

# Glossary

**Attorney** is the person chosen to act for someone else on a lasting power of attorney.

**Best interests** – any decisions made, or actions taken, on behalf of someone who has lost capacity must be in their best interests. There are standard minimum steps to follow when deciding on someone's best interests. These are set out in section 2 of the Mental Capacity Act 2005 or in the Mental Capacity Act code of practice.

**Capacity** is the ability to make a specific decision at the time that the decision needs to be made. You can find a legal definition of capacity in section 2 of the Mental Capacity Act 2005.

**Client** is the word OPG uses to refer to the person you have been appointed to act on behalf of. This person is sometimes known as 'P'.

**Deputy** is someone appointed by the Court of Protection to support someone who lacks the capacity to make certain decisions themselves. A deputy is appointed if someone loses capacity and doesn't have a lasting power of attorney in place.

**Donor** is someone who has created either an enduring or lasting power of attorney. They are referred to as donors because they have donated certain decision-making powers to someone else.

**Enduring powers of attorney (EPAs)** were replaced by lasting powers of attorney (LPAs) in October 2007. Like an LPA, it is a legal document used to appoint someone to make decisions on your behalf should you lose capacity. EPAs signed and dated before 1 October 2007 are still valid and can be registered with OPG when the donor starts to lose, or has lost, mental capacity.

**Lasting power of attorney (LPA)** is a legal document which is used to appoint someone to support you should you lose the capacity to make certain decisions yourself. There are two types of LPA: health and welfare, and property and financial affairs. Both types of LPA must be registered with OPG before they can be used.

**User** is anyone who makes use of OPG services. This could be directly (LPA/EPA donors, attorneys, deputies, clients) or indirectly (partners, intermediaries). It also covers internal staff using OPG systems.

# Contact details

**Address:** Office of the Public Guardian, PO Box 16185 Birmingham B2 2WH

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