



Ministry
of Justice



Making Lasting Powers of Attorney better

What people told us



Easy Read version



Ministry
of Justice

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(LPA) is

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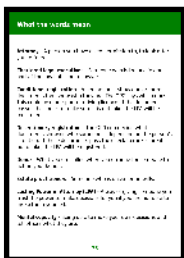
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There are some hard words in this information, these are in **bold**. There is a list at the back of what the words mean.



Who we are



Ministry
of Justice

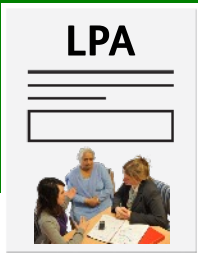
We are the Ministry of Justice, a part of Government.



We look at laws and try to make sure everyone gets justice. Our work includes, running the courts, making new laws and managing prisons.



We want to change the law to make it a bit easier to choose who can make decisions for you if there is a time when you are not able to make them yourself. We also want to give people the choice to do it online.



Lasting Powers of Attorney



Lasting Powers of Attorney or LPAs for short, are a way of making decisions about health and care, money, or both when people cannot make them themselves any longer.



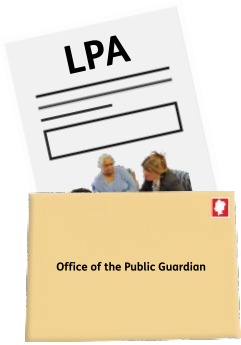
You choose people you trust to make those decisions for you.



An **LPA** is a very important way to help people be ready for a time when they might not be able to make their own decisions in the future.



Making the ways to get an **LPA** better will help everyone who wants one.



An **LPA** must be sent to the **Office of the Public Guardian (OPG)** before it can be used.



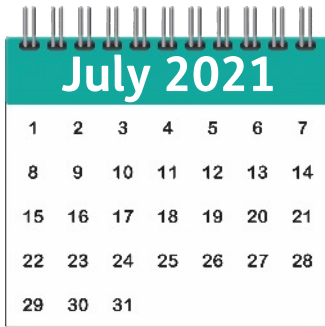
When people complain to the **OPG** about what an **attorney** has done, the **OPG** can investigate to make sure they are acting correctly.



In this paper we talk about the main people involved in **LPAs** – the **donor**, **witnesses**, **attorneys** and the **certificate provider**.



What this paper is about



In July 2021 people were asked about how to make **LPAs** better. This easy read information is about:



- the questions people were asked



- what they told us



- what the government is going to do now.



The questions people were asked

People were asked to say what they thought about 7 things:



1. Witnesses

2. Asking for an **LPA**



3. What the Office of Public Guardian can do



4. Making objections easier

5. When to object

6. Having an urgent service

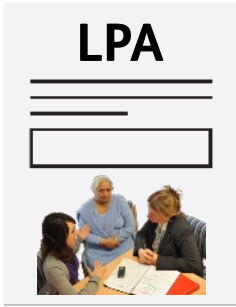


7. What **solicitors** do.

People who answered were:



- the public
- interested professionals
- organisations.



Everyone who answered was asked to say why they were interested in LPAs.



Most of the public were either **donors** or **attorneys**.



Most of the professionals were **solicitors**, **will writers** and **estate practitioners**.



From organisations most were **solicitors**, **charities** and other legal professionals.



The government says thank you to everyone for their answers.

The things people told us will help to decide what changes will be made.



1. Witnesses



A **witness** is someone who sees the **donor** and **attorney** sign the **LPA**.



A **certificate provider** is someone who makes sure the **donor** understands the **LPA**. They also make sure the **donor** is not being forced to make the **LPA** when they do not want to.



At the moment, **witnesses** need to say they have seen the **donor** and **attorney** sign the document.



People were given 3 choices:

1. Not having a witness.



2. Using computers to have a **witness** like video.



3. Using something else like electronic signatures.



None of the choices were popular over all but choice 3 was the most popular with the public.



People were worried that there could be differences in the way **LPAs** would be done.



Some people said that the **certificate provider** was more important than the witness.



Some people said there should be no **witness** for the **attorney's** signature.



What the government will do

The government will make sure there is a clear way to show how the signing has been witnessed.



They will look at:

- the best way to use technology
- ways for the same person to provide the certificate and **witness** the **LPA** being signed
- whether it is important to **witness** the **attorney's** signature.





They will also make sure there is extra information and support to protect against fraud, abuse, or pressure to sign.



Some people said that only professionals should be able to be a **certificate provider**. The government does not agree.



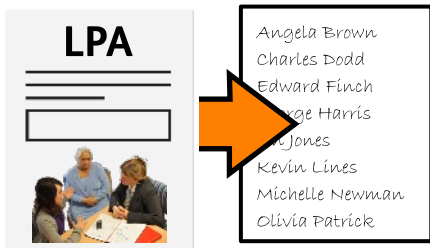
The **certificate provider** can still be someone who knows the **donor** well or a professional. The **certificate provider** will still not need to be a professional.



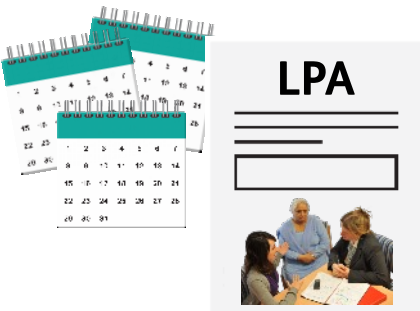
2. Asking for an LPA



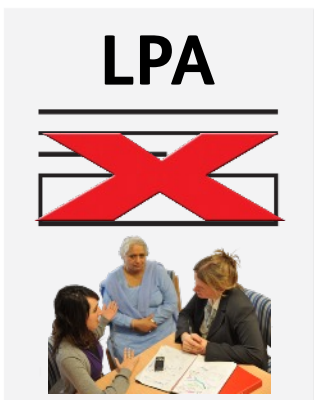
People were asked to think about who can ask the **OPG** to register an **LPA**. They were also asked how to stop people getting turned down for an **LPA**.



LPAs must be sent to the **OPG** before they can be used. This is called **registration**.



Registration can happen any time after the **LPA** is made. There is no limit on how long a signed **LPA** can be kept before **registration**.

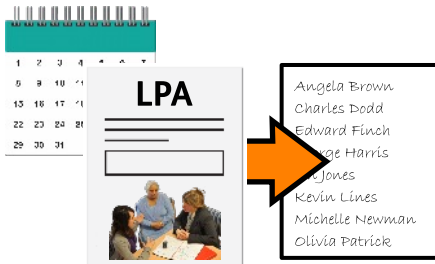


An **LPA** cannot be registered if a mistake is found and the **donor** can no longer decide whether to make a new **LPA** or correct the **LPA** by themselves.

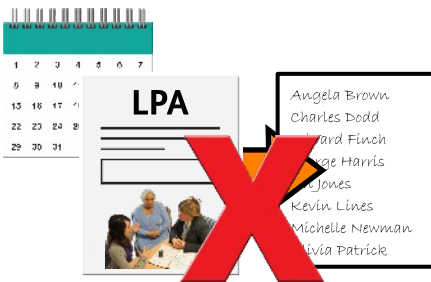


People were given 2 choices:

1. Signing starts the **registration** process.



2. **Registration** can take place any time after signing



Most people said it would be better to take away choice 2. Some people were worried this would affect the donor's choice and control over what would happen.



The government say they will look more at the 2 choices before deciding what will happen.



3. What the Office of the Public Guardian (OPG) can do



The **OPG** checks the paperwork for **LPAs**. It makes sure the **LPA** was filled in correctly.



We asked people to think about the power the **OPG** has now in:

- what checks it can do
- what it can do because of the checks

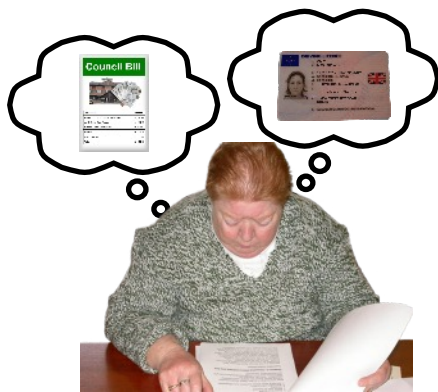


This would be to help stop fraud and abuse.

People were given 2 choices:



1. **Conditional registration:** A person must show one or more documents that show who they are. The **OPG** says which ones it will accept. This is the same for all people. This could be a passport or driving licence. If the document passes the check to make sure it is not fake the **LPA** will be registered.



2. **Discretionary registration:** The **OPG** can decide what documents it will accept that show who someone is depending on the person's situation. If these documents pass the check to make sure they are not a fake the **LPA** will be registered.



People said they thought checking documents to show who people are was a good idea. They were happy about people being asked for identification. They said it should be clear what documents are needed for identification.



They said 1. **Conditional registration** was best.

What the government will do

The government said they will use **conditional registration** only. This will include:



- confirming who the **donor** and the **certificate provider** are in the new modern service



- deciding if the identity checks that are already in place for **attorneys** are enough or if there should be more identity checks when the **LPA** is registered



- think about different ways people can prove who they are.



The government will not add others sorts of check on **attorneys** (such as criminal background checks).



4. Making objections easier



People can say if they do not think an **LPA** should be registered. This is called making an objection.



There are different ways to object depending on what the objection is about. Some are made to **OPG** and some are made to court.



There are 2 reasons for objections:

1. The **LPA** was not properly made. For example, pressure was put on the **donor**.
2. The **LPA** no longer works. For example, if the **donor** has died.





People were asked to think how objecting could be made easier.



People were given 2 choices:

1. The **OPG** will get all objections.



2. The **OPG** will get only the objections when the **LPA** no longer works.



People thought it would be easier for the **OPG** to get all the objections.



They said the **OPG** should be able to refer a case to court if it is needed.



They thought that allowing a wider range of people to object would be a good thing.



What the government will do

OPG will get all the objections.



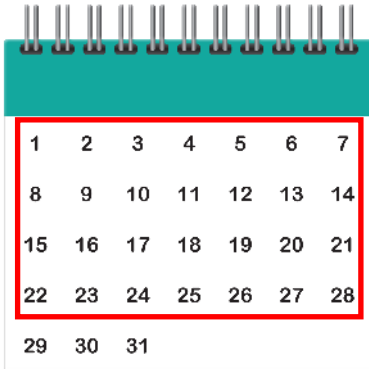
This will include changing the law to:

- allow objections from anyone
- allow the **OPG** to send cases to the Court of Protection where they need to.





5. When to object



Before the **OPG** registers an **LPA** it must wait 4 weeks in case there is an objection. The law says an objection about an **LPA** must be made during this 4 week waiting time. It is to keep the **donor** safe before an **LPA** can be used.

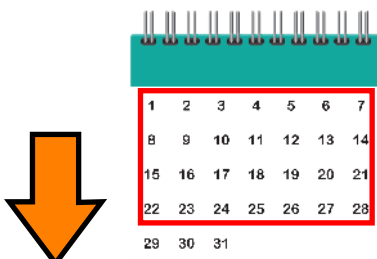


People were asked what would make it easier to object.



They were given 3 choices:

1. Object while the **LPA** is being made.



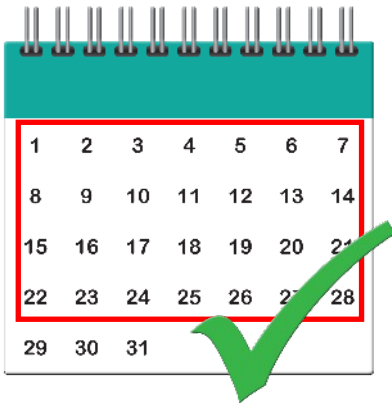
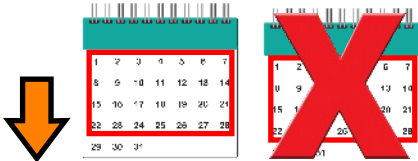
2. Make the legal waiting time shorter.



3. Take away the legal waiting time.



People said it would be good to have a mix of the 3 choices.



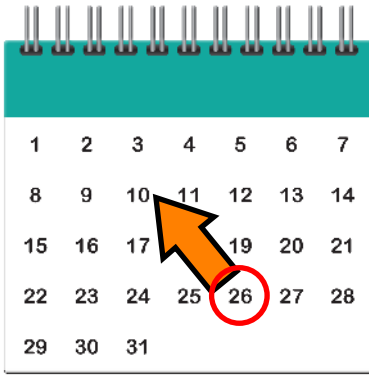
They said the time for objections should be kept. This would help to keep people safe.

What the government will do

The government will look at a way for this to work. They will:

- look at finding a way for people to object while an **LPA** is being made





- check if **OPG** can allow objections before an **LPA** is started



- agree to keep a legal waiting time



They will look at what is a suitable waiting time for the future service.



6. Having an urgent service



This was about whether there should be an urgent service for some people.



For people to prove they need a quicker service; they would need to send in medical evidence to the **OPG**.



People were asked what they thought about this.



Most people did not support having a separate urgent service.

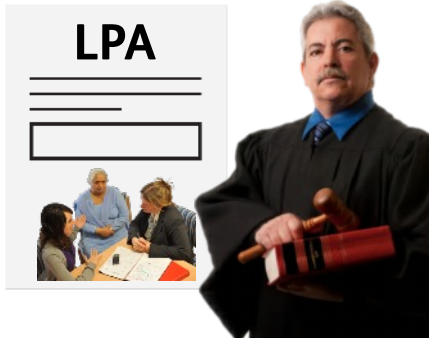
Things the government will not do



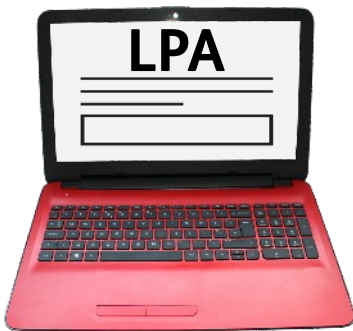
The government will not have an urgent service. This is because it could slow down other people getting their **LPAs**. The government wants to make it quicker for everyone instead of for a small group of people.



7. What solicitors do



Many people use a **solicitor** to help them make an **LPA**. The government must allow **solicitors** to use the new digital service for this to work.



People were given 3 choices:

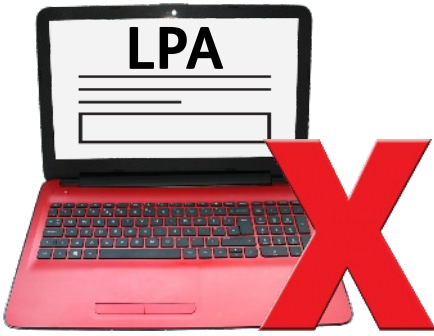
1. Expect **solicitors** to use the new digital service themselves.



2. Make it law that **solicitors** use part of the service.



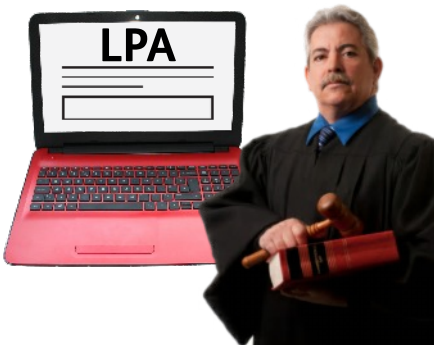
3. Make it law that **solicitors** have to use the whole service.



People did not think it was a good idea to make **solicitors** use a digital service.



People wanted to know who else might be allowed to use the digital service.



What the government will do

The government have started work on having a digital system which they will expect **solicitors** to use.



It will make sure the law is strong enough to make **solicitors** use the digital service in future if it needs to.



Other things



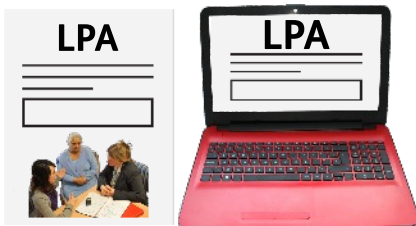
People wrote about things that were not part of what they were asked to answer.



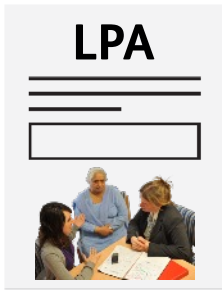
Some people were worried about how well the **OPG** is working right now.



OPG is trying to make its service better.



Some people thought that there should be a way to apply for an **LPA** on paper as well as online.



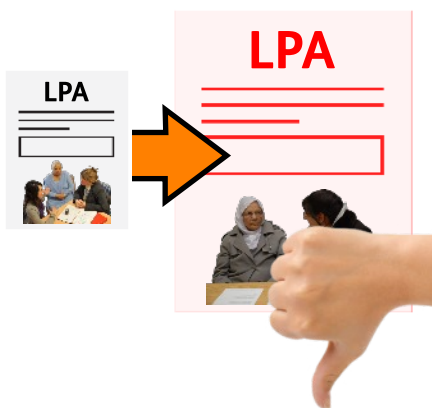
The government have said they will keep a paper process for people who need it.



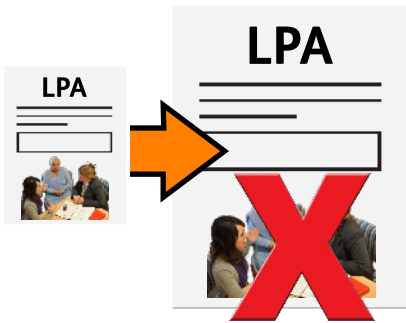
People said using the **LPA** in places like banks or hospitals is hard.



The **OPG** will work to provide more information on how to use an **LPA** in these places.



Some people feel it is hard to change an **LPA** once it has been registered. They said in future it should be easier to make changes.



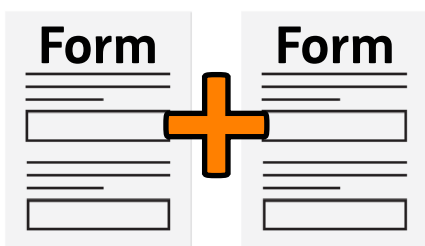
The government say it is not possible to change an **LPA** after it has been registered. The work they are doing now will not change this but they will look at how to make it easier to change an **LPA** in the future.



People think more could be done to make **LPA** and **Mental Capacity** information easier to understand.



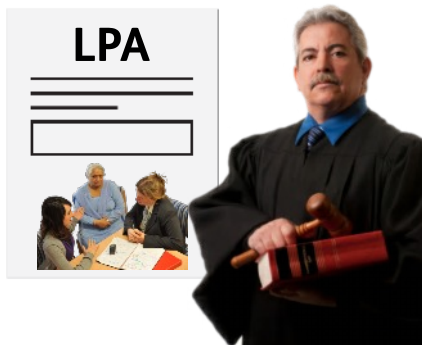
The government will look at giving better information to help the public.



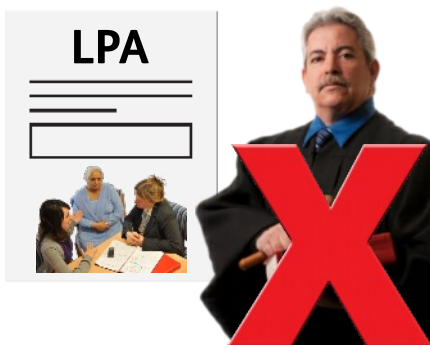
People think it would be easier to join the two types of **LPA** forms together.



The government say they will not do this. They will try to take out any information that is repeated in the forms, so it is less confusing.



Some people think donors should have to use a solicitor to make an **LPA**.



The government will not make this the rule. The **OPG** will look at the best ways to give information about legal advice.



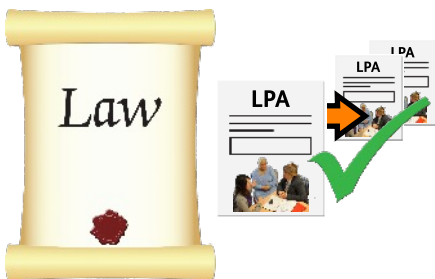
Some people think there should be **security bonds** for **LPAs**. This is a kind of insurance to protect you from harm if your **attorney** takes your money for themselves.



The government think it is up to the **donor** to decide who they trust to act for them.



They will make sure there is information about **security bonds** for donors. It will give them information on how to protect themselves.

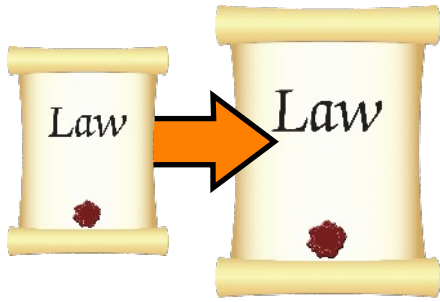


Some people want the law to allow **Chartered Legal Executives** to confirm copies of **LPAs**.



The government will make sure this is done as a separate piece of work.

What will happen next



The law will have to be changed. The government will do this as soon as they can get a space in parliament.



You can find out what is happening by going to:
sites.google.com/digital.justice.gov.uk/opgmlpa/home



If you would like to help in this work, you can let us know.



Get in touch here:
eu.surveymonkey.com/r/GGJ9NMQ



We will contact you when we are working on the things you have said you are interested in.



About people in Wales who answered the questions

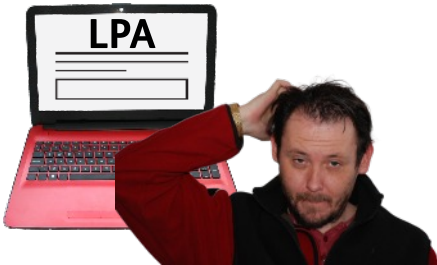


Most of the answers from Wales were like the ones from England.

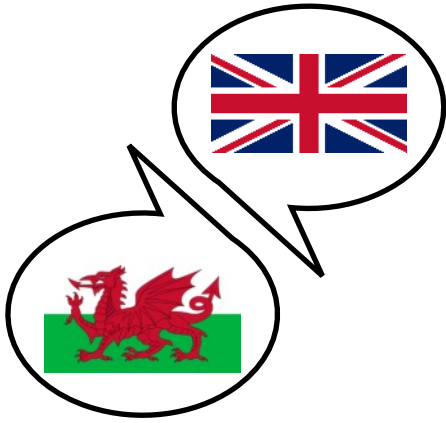


2 things brought up about Wales were:

- the service should also be in Welsh
- the Older Peoples' Commissioner for Wales says there are worries about accessing the service digitally in Wales.



The Welsh Language Commissioner wants to know how a Welsh language service can be developed.



He wanted to be assured that the English and Welsh services would be available at the same time.



The government say the service will be available in both English and Welsh. This is to make sure the service will be equal in England and Wales.



People from Wales are included in helping us with the work. They will continue to work with us during the development of the service. This will make sure Welsh speakers will understand **LPAs**.



The Older Peoples' Commissioner for Wales had a worry, this was:

- being able to keep older people safe from financial abuse



The Commissioner's worry about financial abuse was related to technology. The commissioner is worried about:

- using electronic signing to show evidence of an **LPA**



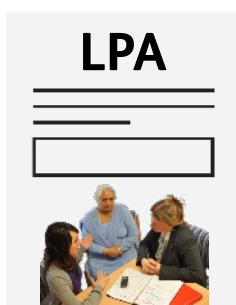
- older people who do not use technology



- older people who do not have internet



The government will keep looking at ways to use technology to prove the **LPA** has been signed by the donor. They say electronic signing is only one way of doing this.



The government will make sure that people who cannot make an **LPA** digitally can still make one on paper. The future service will accept paper **LPAs**.

What the words mean

Attorney - A person you have given permission to, to look after your affairs.

Chartered legal executives - Someone who is trained in one part of the law but is not a lawyer.

Conditional registration - A person must show one or more documents that show who they are. The OPG says which ones. This could be a passport or driving licence. If the document passes the check to make sure it is not fake, the LPA will be registered.

Discretionary registration - The OPG can decide what documents showing who someone is depending on the person's situation. If these documents pass the check to make sure it is not a fake, the LPA will be registered.

Donor - What you are called when you arrange for someone to act on your behalf.

Estate practitioners - Someone who is an expert in wills.

Lasting Power of Attorney (LPA) - A way of giving someone you trust the power to make decisions for you if you are not able to make them yourself.

Mental capacity - Being able to make your own decisions and tell others what they are.

Office of the Public Guardian (OPG) - A government organisation in England and Wales. The OPG make sure that LPAs are properly made and that attorneys do the right thing.

Security bonds - A sort of insurance to protect you from financial harm if your attorney takes your money for themselves.

Solicitor - Someone who knows the law and can advise you about how to create your LPA. They can also help you by doing some of the work so that you don't have to.

Third party - An organisation where your attorney might have to deal with your affairs. This could be something like a bank.

Witness - Someone who sees the LPA being signed.

Will writers - Someone who is an expert in wills.

Credits



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