

Response ID ANON-47BR-7DJ1-N

Submitted to Modernising Lasting Powers of Attorney
Submitted on 2021-10-13 13:08:58

Introduction

a What is your name?

Name:
Andy Agathangelou

b What is your email address?

Email:
andy.agathangelou@transparencytaskforce.org

c Where do you live?

Where do you live?:
England

If other, please specify::

d Are you:

please tell us who you are:
Giving a response on behalf of your organisation

e If you're responding as a member of the public, which best describes your interest:

which best describes your interest:

Further detail::

f If you're responding due to professional interest, which best describes your profession:

which best describes your profession:

If other, please specify::

g If you're responding on behalf of your organisation, which best describes your organisation?

which best describes your organisation:
Charity or tThird sector

Please provide the name and details of your organisation or, if other, please specify::
Transparency Task Force; a Certified Social Enterprise campaigning for pro-consumer reforms. More specifically, this response is the output from our group that is focusing on 'protecting the wealth of the vulnerble elderly' see here:
<https://www.transparencytaskforce.org/groups/#ProtectingtheWealthoftheVulnerableElderly>

Role of the witness

1 What are your views on the proposals outlined? Please give your reasons for your responses:

Negative

Please give your reasons::

Remote witnessing (approach 1b)

Negative

Please give your reasons::

Replace witnessing with a similar function (approach 1c)

Negative

Please give your reasons::

Role of application

2 Would you, or the people you support, delay the registration of an LPA? Please select all that apply and give reasons for your answer.

Yes

If your answer is NO:

If other reason, please specify::

If your answer is YES:

May want to change my LPA

If other reason, please specify::

Sometimes donor may wish to appoint a child but would prefer to delay as they are not quite old enough.

Delay registering can spread the total cost.

3 What impact would removing the ability to delay registration have? Please give reasons for your answer.

Negative

Please give your reasons::

OPG remit

4 Which actors do you think should have their identity checked? Please select all that apply and give reasons for your answer:

Donor, Attorney, CP, Other (please specify)

If other, please specify::

Also witness if that is kept.

all should have their identity checked - if pensions scams become harder to achieve, I fear serious and organised crime will turn their attention to digital LPAs to facilitate theft.

5 What are your views on the proposals outlined? Please give your reasons for your responses:

Mostly positive

Please give your reasons::

Discretionary checks (approach 3b)

Negative

Please give your reasons::

How to object

6 What are your views on the proposals outlined? Please give your reasons for your responses:

Positive

Please give your reasons::

OPG receives only factual objections (approach 4b)

Not Answered

Please give your reasons::

7 Should the OPG be referring cases directly to the Court of Protection? Please give reasons for your answer.

Yes

Please give your reasons::

Yes where safeguarding concerns are raised these should be investigated. The OPG often does not investigate where it feels abuse happened outside of its remit - but all safeguarding concerns should be taken into account when considering the suitability of an attorney and a precautionary approach should be adopted.

When to object

8 Which aspects of the proposals for when to object do you prefer? Please select all that apply and give reasons for your answers.

Objections found and resolved earlier, Concerns easier to raise, Prevents registration of invalid LPAs

If other, please specify::

Reduce statutory waiting period (approach 5b)

Keeps some waiting period as a safeguard

If other reason, please specify::

Remove statutory waiting period (approach 5c)

If other reason, please specify::

Speed of service

9 If we are able to reduce the time to register an LPA to two weeks for most donors (without objections), would an urgent service provide additional benefit for you or the people you support? Please give reasons for your answer.

Yes, I need an LPA registered within two weeks

Please give your reasons::

Yes - The majority of LPAs should be drafted well in advance of when they are needed. Urgency is far more important in a deputyship situation. We can envisage scenarios where a fast service would be very helpful, but these should be the exception rather than the norm. We are comfortable with a 2 speed service. Urgent cases should raise a 'red flag' and additional safeguards such as a capacity test should be provided. Urgency is often associated with coercion.

10 If you are a professional who would be asked to provide evidence of eligibility for an urgent service, what would the impact of this be for you? Please provide evidence, including on the impacts in time (days/hours) or in monetary terms where relevant.

Don't know

Please give your reasons::

Additional questions

12 Are there any other costs (in hours/days or in monetary terms) that you could see changes to LPAs causing yourself or other people involved? Please provide evidence for your answer.

Please give your answer::

13 Are there any other benefits (monetised or non-monetised) that you could see as a result of modernising LPAs? Please give evidence for your answer.

Please give your answer::

14 Do you have any further comments on modernising lasting power of attorney?

Please give your answer::

I attended the safeguarding workshop, where the claim was repeated that financial abuse by attorneys is very rare. I do not believe this claim. The All Party Parliamentary Group on Insurance and Financial Services has issued a call for evidence to understand the issue of theft and fraud within families. It is recognised that there is insufficient data, care should be taken to proceed only when we have up to date evidence.

The following is taken from the Financial Vulnerability Taskforce's call for evidence, we support

Link here ... https://80162760-26bc-4062-be5a-3322b8afa67b.filesusr.com/ugd/2c5374_1340b05c9a874b11adc0a3b24ed0aa69.pdf

There is a lack of awareness about this issue amongst the public and some safeguarding partners. Others are struggling with the difficulties faced by the conflict between the right to make unwise decisions and statutory safeguarding duties around protection

• Financial abuse including theft and fraud within families needs to be researched and best practice guidance for safeguarding partners and other agencies developed.

- The cost to individuals and tax payers through public health implications, care fee debts, and to agencies investigating concerns is significant
- The issue does not just affect local authorities. There is a widespread harmful impact across agencies and society

The education system for attorneys is very poor, attorneys need better access to useful and succinct guidance

Clearer guidance on moral and legal obligations to support dependants and family of the donor is needed

In 2015 pensions freedoms was introduced. This allows a pension fund to be withdrawn in a single transaction. This has increased both the incentive to commit financial abuse and worsened the consequences of financial abuse. We have not seen a corresponding increase in transparency or safe-guarding measures. We expect this to become a significant problem as the 'drawdown cohort' age and we see increasing numbers of people with a combination of highly liquid pension pots and completely unsupervised LPAs. Currently numbers of people flexible drawdown and cognitive impairment is low, but we expect number to rise significantly over the next 5-10 years, when the problem will become more apparent.

The Transparency Task Force believes that serious and organised crime are involved in pension scams. As measures are put in place to make pensions scams harder to achieve these criminals could be minded to turn to LPAs as a way of attacking pension wealth.

LPA safeguarding should be seen as an ongoing process, rather than something to be conducted at point of registration. It is often many years between registration of an LPA and its use. Family dynamics can change over time.

The deputyship regime has 3 important safeguards that are proven to be effective.

1. Transparency - the annual deputy return.
2. Safeguarding - Mandatory security bond.
3. ongoing supervision / mentoring

If you are not going to provide oversight – then the very minimum safeguard should be the security bond which should be mandatory.

As an alternative to mandatory (preferred)

Behavioural psychology has given us the concept of default bias, this has been used very effectively in public policy to drive beneficial behaviours by the consumer. For example auto-enrolment is effective at increasing pensions contributions as membership of the scheme is the default option. The same could be applied to safeguarding of P&A LPAs.

We would like to see the normalisation of use of transparency clauses and the 'attorney' security bond. These should be offered as default options (with the ability to remove the clauses if you wish).

Equalities questions

15 Have we correctly identified the protected characteristics that could be impacted by the proposed reforms set out in this consultation paper? Please give reasons for your answer.

Please give your answer::

16 What do you consider to be the equalities impacts of the proposed options for reform on individuals with a protected characteristic?

Please give your answer::

Confidentiality