
STATUTORY INSTRUMENTS

2007 No. 1253

The Lasting Powers of Attorney, Enduring Powers
of Attorney and Public Guardian Regulations 2007

PART 4

FUNCTIONS OF THE PUBLIC GUARDIAN

Miscellaneous functions

Applications to the Court of Protection

43. The Public Guardian has the function of making applications to the court in connection with his functions under the Act in such circumstances as he considers it necessary or appropriate to do so.

Visits by the Public Guardian or by Court of Protection Visitors at his direction

44.—(1) This regulation applies where the Public Guardian visits, or directs a Court of Protection Visitor to visit, any person under any provision of the Act or these Regulations.

(2) The Public Guardian must notify (or make arrangements to notify) the person to be visited of—

- (a) the date or dates on which it is proposed that the visit will take place;
 - (b) to the extent that it is practicable to do so, any specific matters likely to be covered in the course of the visit; and
 - (c) any proposal to inform any other person that the visit is to take place.
- (3) Where the visit is to be carried out by a Court of Protection Visitor—
- (a) the Public Guardian may—
 - (i) give such directions to the Visitor, and
 - (ii) provide him with such information concerning the person to be visited, as the Public Guardian considers necessary for the purposes of enabling the visit to take place and the Visitor to prepare any report the Public Guardian may require; and
 - (b) the Visitor must seek to carry out the visit and take all reasonable steps to obtain such other information as he considers necessary for the purpose of preparing a report.
- (4) A Court of Protection Visitor must submit any report requested by the Public Guardian in accordance with any timetable specified by the Public Guardian.
- (5) If he considers it appropriate to do so, the Public Guardian may, in relation to any person interviewed in the course of preparing a report—
- (a) disclose the report to him; and
 - (b) invite him to comment on it.

Functions in relation to persons carrying out specific transactions

45.—(1) This regulation applies where, in accordance with an order made under section 16(2) (a) of the Act, a person (“T”) has been authorised to carry out any transaction for a person who lacks capacity.

- (2) The Public Guardian has the functions of—
 - (a) receiving any reports from T which the court may require;
 - (b) dealing with representations (including complaints) about—
 - (i) the way in which the transaction has been or is being carried out; or
 - (ii) any failure to carry it out.
- (3) Regulations 38 to 41 have effect in relation to T as they have effect in relation a deputy.

Power to require information from donees of lasting power of attorney

46.—(1) This regulation applies where it appears to the Public Guardian that there are circumstances suggesting that the donee of a lasting power of attorney may—

- (a) have behaved, or may be behaving, in a way that contravenes his authority or is not in the best interests of the donor of the power,
 - (b) be proposing to behave in a way that would contravene that authority or would not be in the donor’s best interests, or
 - (c) have failed to comply with the requirements of an order made, or directions given, by the court.
- (2) The Public Guardian may require the donee—
- (a) to provide specified information or information of a specified description; or
 - (b) to produce specified documents or documents of a specified description.
- (3) The information or documents must be provided or produced—
- (a) before the end of such reasonable period as may be specified; and
 - (b) at such place as may be specified.
- (4) The Public Guardian may require—
- (a) any information provided to be verified in such manner, or
 - (b) any document produced to be authenticated in such manner,
- as he may reasonably require.
- (5) “Specified” means specified in a notice in writing given to the donee by the Public Guardian.

Power to require information from attorneys under enduring power of attorney

47.—(1) This regulation applies where it appears to the Public Guardian that there are circumstances suggesting that, having regard to all the circumstances (and in particular the attorney’s relationship to or connection with the donor) the attorney under a registered enduring power of attorney may be unsuitable to be the donor’s attorney.

- (2) The Public Guardian may require the attorney—
 - (a) to provide specified information or information of a specified description; or
 - (b) to produce specified documents or documents of a specified description.
- (3) The information or documents must be provided or produced—
 - (a) before the end of such reasonable period as may be specified; and

- (b) at such place as may be specified.
- (4) The Public Guardian may require—
 - (a) any information provided to be verified in such manner, or
 - (b) any document produced to be authenticated in such manner,as he may reasonably require.
- (5) “Specified” means specified in a notice in writing given to the attorney by the Public Guardian.

Other functions in relation to enduring powers of attorney

- 48.** The Public Guardian has the following functions—
- (a) directing a Court of Protection Visitor—
 - (i) to visit an attorney under a registered enduring power of attorney, or
 - (ii) to visit the donor of a registered enduring power of attorney,and to make a report to the Public Guardian on such matters as he may direct;
 - (b) dealing with representations (including complaints) about the way in which an attorney under a registered enduring power of attorney is exercising his powers.