

What does the OPG do with my PoA?

Once the PoA is registered, your documentation and an authentic copy of the PoA along with a certificate will be returned to the sender. We also send you a copy of the registered PoA for your records.

Can my attorney use my PoA before I become incapable?

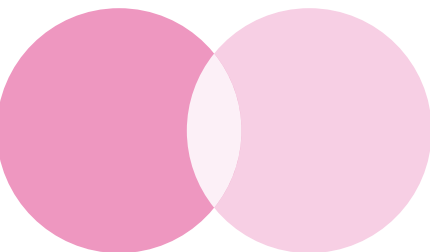
Yes, they can help you with your finances if you want them to do so but they cannot make decisions about your welfare until you are no longer able to make those decisions for yourself.

Duty to keep records

Attorneys acting on your behalf will have a duty to keep records of their actions. This means that continuing attorneys should keep an ongoing financial accounting in relation to your property and financial matters. Welfare attorneys should keep records relating to your welfare issues. Guidance is provided in the Code of Practice.

Can I cancel the PoA once it is registered?

You can cancel your PoA or any of the powers granted in it once it has been registered with us. Information is available from our website explaining how to do this.



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Where can I get further help or information?

Your local Citizens Advice Bureau or solicitor may be able to help. There is lots of useful information on our website or you can phone us if you prefer.

Our office is open to the public. However to be sure of seeing a relevant member of staff when you visit us, please contact us to make an appointment.

Office of the Public Guardian (Scotland)

Hadrian House
Callendar Business Park
Callendar Road
Falkirk FK1 1XR

- Telephone: 01324 678300
- Email: opg@scotcourts.gov.uk
- www.publicguardian-scotland.gov.uk
- Opening hours: 9am-5pm Monday-Friday

The Office of the Public Guardian is part of the Scottish Courts and Tribunals Service.

Other leaflets available in this series:

[Access to Funds Scheme](#)

[Intervention Order](#)

[Guardianship Order](#)

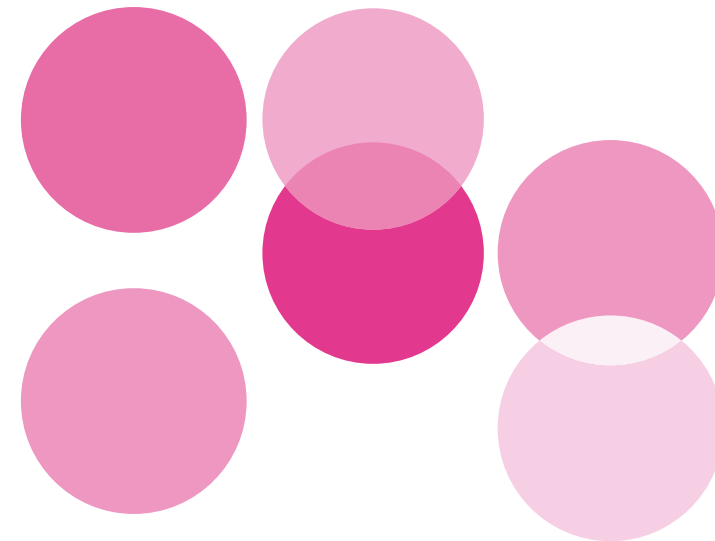


Our leaflets may be available in different formats and languages. We subscribe to Language Line and to the Text Relay service.

We welcome any feedback or comment you may have on the content of our leaflets. You can get in touch with us or fill in the feedback form on our website.

Issue February 2015

What is a power of attorney?



What is it?

A continuing (financial) and/or welfare power of attorney (PoA) is a written document giving someone else authority to take actions or make decisions on your behalf.

The PoA details the names of the people, known as attorneys, who you want to help you and lists the individual powers that you want them to have. The PoA will also state when your attorneys can begin acting.

Who can make a PoA?

Anyone over the age of 16 who is capable can make a PoA. There are restrictions if you have been made bankrupt. See our website for more information.

What does it do?

The PoA provides legal authority for the attorney to make decisions for you. The PoA could be used in the future if you become incapable.

What does incapable mean?

Your capacity could be impaired gradually or suddenly as a result of an accident or illness. A registered and licensed medical doctor will be able to say whether you are incapable or not.

What would happen if I did not have a PoA?

Your family or friends may have to go to court to get the authority to act on your behalf.

Would my partner or family be able to help without a PoA?

No, no one has the automatic right to take actions on your behalf without legal authority.

Is a PoA not for older people?

No, nobody likes to think that they may not be able to look after themselves but accidents or illness can happen to anyone.

Is a PoA not for people with lots of money?

No, it is not just about looking after money/property it can also let you plan who should decide personal welfare issues for you.

What kind of things can I put in a PoA?

You can include things to do with making decisions about:

- your money and/or property only; or
- your health or personal welfare; or
- all of your financial affairs and personal welfare.

Who can I appoint as my attorney?

You can appoint anyone you want, over the age of 16. This could be a family member or friend, a solicitor or accountant, or a combination. It's usually a good idea to have more than one attorney or maybe what is called a substitute attorney to step in if your attorney can no longer do things for you.

You can appoint someone to deal with your financial matters and someone different to deal with your personal welfare.

It is good practice for you to discuss with the person you want to have as your attorney what being an attorney actually involves. It will be helpful if you keep a note of the matters discussed and give your prospective attorney a copy too.

Although, it's your choice who you can appoint, you should note that someone who is currently declared as bankrupt cannot be appointed to deal with your financial and property affairs.

How or where would I get one?

Any local solicitor should be able to assist you to draft a PoA and provide legal advice on the matter. Alternatively, some companies and stationery shops sell PoA packs. Useful information is also available from our website.

How much does it cost?

A professional may charge you to draw up a PoA and prices vary. The PoA should include a certificate signed by a practising solicitor or by a registered and licensed medical doctor. The certificate is needed to confirm that you are capable of understanding the PoA. You might be charged a fee for this service.

We also charge a registration fee. You can find out more about our current fees on our website or phone us.

What happens to my PoA?

The PoA must be registered with us before it can be used, even if you are still capable of doing things for yourself.

The following documents need to be sent to us to register your PoA:

- your signed PoA, including the fully completed certificate;
- confirmation that your attorney/s are freely willing to act on your behalf; and
- registration fee.

You can send your documents to us by post or submit your PoA electronically using our electronic power of attorney registration (EPOAR) facility. Step-by-step guidance is available on our website.