

Planning ahead to ensure you and your needs are taken care of while you have the capacity to do so.

What is Power of Attorney (PoA)?

PoA is a document giving someone else authority to make continuing (financial) and/or welfare decisions on your behalf if/when you become incapable.

Incapacity may happen gradually or suddenly as a result of accident or illness and would normally be determined by a registered doctor.

Who can be involved?

Anyone over 16, deemed capable, can 'grant' PoA unless they have been declared bankrupt in which case restrictions apply to their financial affairs.

Anyone over 16 can be an attorney unless they are currently declared bankrupt in which case they cannot deal with financial and property affairs.

Who do I choose as my attorney?

Choose someone you trust to take good care of you and your affairs—someone who knows what you would want. This could be a family member, friend, a solicitor, accountant, or a combination. It's a good idea to have more than one or a 'substitute' attorney to step in if your main attorney can no longer act on your behalf.

It is possible to appoint someone to deal with your financial matters and someone else to deal with your personal welfare.

Do I really need PoA?

No-one has the automatic right to take actions on your behalf without legal authority. Without PoA, your family or friends would have to go to court to get the authority to act on your behalf.

(See *Guardianship factsheet*)

Setting up PoA ahead of time is a much easier and less stressful option for all concerned.

What information goes into a PoA?

- The name of your attorney/s
- The individual powers you have given your attorney to act eg concerning:
 - * your money and/or property
 - * your health or personal welfare
 - * all your financial and welfare affairs
- The circumstances under which PoA will be enacted
- A statement confirming you are of sound mind to grant to PoA

Do I need a solicitor to set one up?

It is recommended that you contact a lawyer to make sure that your PoA includes everything it needs to, especially if your situation is complicated.

However, if your arrangements are straightforward, you can potentially:

- buy a PoA pack,
- use a website like

www.lawdepot.co.uk
www.mypowerofattorney.org.uk
www.myscottishattorney.co.uk/

or

there is lots of useful information on the website of the **Office of the Public Guardian (Scotland)** to create your own.

Quarriers does not make recommendations. It is your responsibility to ensure that any individual/organisation you deal with is suitable for your needs.

How much does it cost?

Fees vary but a solicitor will usually charge upwards of £200 to do everything. Don't be afraid to haggle and make sure you agree a fixed cost.

If you use a template you will pay

- the template fee, if any
- the registration fee (currently £81)
- possibly a fee for the doctor's certificate which must be included in the PoA (usually around £25)
- postage

What happens next?

The PoA must be registered with the Office of the Public Guardian Scotland before it can be used. The target is 30 days, with electronic submissions being faster. However, it has been known for registration to sometimes take several weeks during periods of high demand.

If circumstances dictate, you can apply to have your registration jump the queue. However, you must be able to provide a genuine reason why it should be processed more quickly than the others.

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

Can I change my mind?

Once registered, your PoA lasts indefinitely. However, you can terminate it or any of the powers granted in it at any stage.

Remember

PoA is not just for the person you are looking after. It applies to everyone, you included.

We never know what is around the next corner so even more reason to be prepared. Be secure in the knowledge that the people you trust have the legal authority to take care of you and your affairs. Don't put them through having to go to court at what may already be a distressing time for them.

You might even be able to get a discount from the solicitor's if you are getting more than one PoA done! Worth asking about.

Further assistance

Office of the Public Guardian (Scotland)

Hadrian House
Callendar Business Park
Callendar Road
Falkirk, FK1 1XR

01324 678300

opg@scotcourts.gov.uk

www.publicguardian-scotland.gov.uk

Your local Citizens' Advice Bureau or solicitor may also be able to provide assistance

Moray Citizens Advice Bureau

6 Moss Street
Elgin
IV30 1LU

01343 550088

bureau@moraycab.casonline.org.uk

www.moraycab.org.uk/

Quarriers Carer Support Service (Moray)

232 High Street, Elgin, IV30 1BA

Tel: 01343 556031

Email: carersmoray@quarriers.org.uk

www.quarriers.org.uk/morayvcc

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