

Duty to keep records

Attorneys acting on your behalf 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.

What happens if my attorney becomes unable to act on my behalf?

If your attorney is not able to act for you then you will need to draw up a new PoA if you are still able to do so. For this reason it is 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.

What happens if I decide I want to 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 the OPG. A fact sheet is available from the website explaining how to do this in more detail.

Where can I get further help or information?

In the first instance you can telephone the OPG or have a look at the website which is noted below. Your local Citizens Advice Bureau or your local solicitor may be able to help.

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

If visiting the office, to be sure of seeing a relevant member of staff, it is preferable to make an appointment.

Citizens Advice Bureaux provide free independent advice and information to people in need. You can find addresses of your local Citizens Advice Bureau from your phone book or local library, or contact Citizens Advice Scotland to locate a bureau in your area: www.cas.org.uk

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This leaflet is available in other formats and languages. Please contact the OPG if you would like to receive it in a particular format or language.

The OPG subscribes to Language Line and to the Text Relay service.

Other leaflets available in this series:

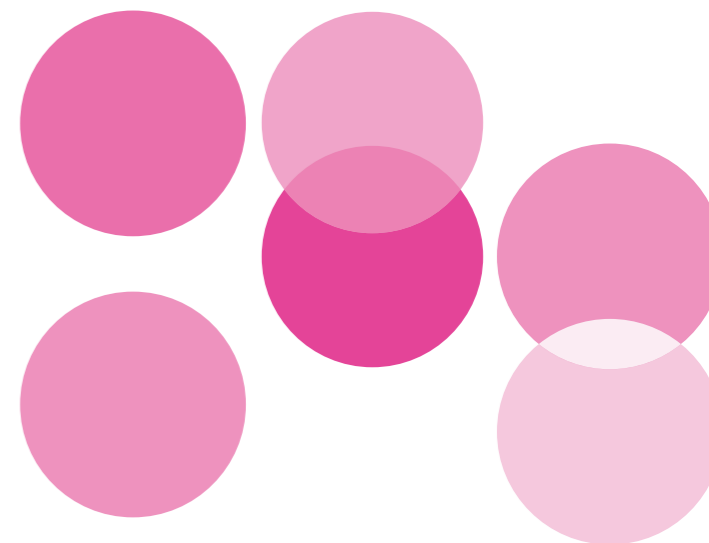
[Access to Funds Scheme](#)

[Intervention Order](#)

[Guardianship Order](#)

The OPG welcomes any feedback or comment you may have on the content of this leaflet.

What is... a Power of Attorney



INVESTOR IN PEOPLE

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What is it?

It is a written document giving someone else authority to take actions or make decisions on your behalf.

The Power of Attorney (PoA) document contains the name of the person(s) whom you want to help you, i.e. the attorney and a list of the individual powers that you want your attorney to have. The powers must be written down individually to make it clear as to what decisions your attorney can make on your behalf. The PoA will also include when your attorney is to begin acting for you.

What does it do?

It lets you say who you want to look after your affairs and what you want your attorney to be able to do for you if you become incapable of looking after your own affairs. The PoA provides legal authority for the attorney to make decisions for you.

What does incapable mean?

Someone's 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 or not that person is incapable.

Why would I need a Power of Attorney (PoA)?

It lets you plan what kinds of things you want someone to do for you in the future.

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 money or property only (called a Continuing PoA) or just decisions about your health or personal welfare (called a Welfare PoA) or both.

Who can I appoint as my attorney?

You can appoint whoever you want, a family member or friend, a solicitor or accountant or a combination. You can appoint someone to deal with your financial matters and someone different to deal with your personal welfare. However, someone who is currently declared as bankrupt cannot be appointed as a continuing attorney.

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. The Public Guardian's website illustrates what the PoA document could look like.

How much does it cost?

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

The Office of the Public Guardian, Scotland (OPG) charges a registration fee for this service. To find out our current fee, please either contact the office or view the fee schedule on the website.

What happens to my PoA?

It must be registered with the OPG before it can be used, even if you are still capable of doing things for yourself. Once you have drawn up your PoA, and made sure the certificate is signed, it is ready to be sent to the OPG to be registered. You can send the PoA along with confirmation that your attorney is happy to act for you either in the post or electronically. More information is available from the website on how to register a PoA. For electronic submissions, see the EPOAR page of the website.

What does the OPG do with my PoA?

Once the PoA is registered, the OPG will return the PoA and an authentic copy of the PoA with a certificate to whoever sent it in. The OPG also sends you a copy of the PoA.

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.