

Fact Sheet on: Power of Attorney



How to get in touch:

Ceartas Advocacy
Suites 5 – 7
McGregor House
10 Donaldson Crescent
Kirkintilloch
G66 1XF

Telephone:

0141 775 0433

Email:

info@ceartas.org.uk

Website:

www.ceartas.org.uk

Social media:



Please note:

If you require legal representation, we will be happy to help you find a Solicitor.



(pronounced Kier-tis) is a Gaelic word for equality, fairness and justice.

Ceartas is a company limited by guarantee No 264199. Recognised as a Charity in Scotland No SCO35269.

What is Power of Attorney?

A Power of Attorney (PoA) is a legal document in which you appoint someone you trust to look after your affairs. A PoA is the best way to ensure that you have a say in who you want to look after your welfare and/or financial affairs in the future should you be diagnosed as lacking capacity, although Financial PoA can begin earlier if you so wish. You decide what your Attorney can do on your behalf if you are no longer able make your own decisions.

What does incapacity mean?

A person's capacity could be impaired gradually or suddenly as a result of an accident or illness, such as dementia. A registered medical doctor will be able to say whether or not a person lacks capacity. If someone is assessed as lacking capacity, their decision making abilities may be affected, perhaps in relation to their welfare or finances.

Types of Power of Attorney

There are two types of PoA: one which includes managing your money and property only, known as a **Continuing PoA**; the other deals with personal welfare and decisions about your health known as a **Welfare PoA**. You can choose one or the other, or you have the option of having both in place. You do not need to choose the same person to do both; you can appoint a separate Attorney to deal with finances and a different Attorney to help with welfare decisions. Currently the same fee is charged whether you register a Continuing PoA or a Welfare PoA or both at the same time.

Continuing Power of Attorney

A continuing PoA only covers your property and financial matters and gives no power to take any other personal decisions. The document must specify exactly what powers your Attorney is to have. You might want to make a list of all the powers that the Attorney is to have or you may wish to give them a general right to deal with all financial affairs. However, if you want them to deal with property such as your house then the PoA must specifically state this. Powers could include things like; paying bills, dealing with bank accounts, buying and selling investments and property, access to important financial information, signing

Power of Attorney Fact Sheet



Continued

documents and entering contracts to name but a few.

You can choose to have a Continuing PoA operate straight away, even while you have capacity, for convenience, or you can specify that it can only be used after a particular event, for example if your doctor certifies that you lack the capacity to manage your own affairs.

Welfare Power of Attorney

For a Welfare PoA you can also choose what powers you would want your attorney to have, for example, deciding on your arrangements for care, making decisions about where you should live, consenting to medical treatment, access to personal or confidential information about your welfare etc.

A Welfare attorney can only take on these powers when you lack the capacity to take these decisions yourself and **not before**.

How Can I Get Power of Attorney?

You can apply for PoA yourself using the information available on the Office of the Public Guardian website www.publicguardian-scotland.gov.uk, which includes an on-line submission of application facility. You may feel, as PoA is a legal document, you wish to consult a solicitor to draw up PoA on your behalf. Solicitors charge varying fees for drawing up PoA and it is recommended that individuals get several quotes before instructing a solicitor. Once completed, either by yourself or by a Solicitor, the PoA

documents need to be registered with the Office of the Public Guardian which charges a fee – currently £70.00 for registering your PoA, it is worth noting that it costs £70.00 whether you register a Continuing PoA or a Welfare PoA or both at the same time.

What can Ceartas do to help?

Ceartas can help by providing advice and information on PoA, we can also support individuals to plan what they want in their PoA. We can accompany you to appointments and support you to choose a solicitor. Although staff at Ceartas have an awareness of relevant legislation, it is important to note that we are not legally trained. If you require a solicitor we can help you to find one.

Further Information



Office of the
Public Guardian (Scotland)

You can contact the Office of the Public Guardian (Scotland) on **01324 678300** or visit their website www.publicguardian-scotland.gov.uk where there is lots of useful information on Power of Attorney including sample PoAs which some people may find useful.