

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 or office to explain how to cancel a part or all of the POA.

If the registered POA is to be amended i.e. if a power is to be added or if another attorney is to be appointed, please contact OPG for further information.

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 may be able to help or your local solicitor.

Office of the Public Guardian (Scotland)

Hadrian House
Callendar Business Park
Callendar Road
FALKIRK FK1 1XR

- Telephone: 0845 603 1185
- Email: opg@scotcourts.gov.uk
- www.publicguardian-scotland.gov.uk
- Opening hours: 9am-5pm Monday-Friday

Citizens Advice Bureaux provides 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

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

The OPG subscribes to Language Line and to the RNID Typetalk service.

Other leaflets available in this series:

Adults with Incapacity (Scotland) Act 2000
-Financial Provisions

The Office of the Public Guardian

Access to Funds Scheme

Intervention Order

Guardianship Order

Investigation

What is... A Power of Attorney

OPG IS PART OF THE SCOTTISH COURT SERVICE.



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

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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.

You choose the person(s) you want to help you, called an attorney, and decide what powers the attorney should have. You also choose how you want your incapacity to be decided so that it is clear when you want your attorney to act 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 are incapable of doing so for yourself.

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 kinds 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 who 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. There are examples of PoAs on the Public Guardian's website.

How much does it cost?

A solicitor 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 along with a form saying your attorney is happy to act for you. A fact sheet explaining how to register a POA is available from the website.

What does the OPG do with my PoA?

Once the POA is registered, the OPG will return the signed POA and an authentic copy of the POA with a certificate to who ever 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.

What happens if my partner is my attorney and we split up?

It depends on the wording in your PoA whether your partner can still act on your behalf or whether the PoA can no longer be used.