



# Powers of Attorney top tips

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**What is a power of attorney (PoA)?** It's a written document that lets you give legal authority to other people i.e. your attorney(s), to make decisions on your behalf. The PoA lists all of the specific individual powers you wish your attorneys to have. You will need to arrange for your own PoA document to be drafted, as we don't provide this.

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**Are there different types of PoA?** Yes, you can have a:

- Continuing PoA – for decisions to be made about your property and financial affairs.
- Welfare PoA –for decisions to be made about your health and welfare matters.

However the majority of people make a combined PoA to allow decisions to be taken about their financial affairs and personal welfare.

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**Who could be your attorney?** Your attorney should be someone you trust, someone who knows what your wishes and feelings are. It's important to make sure you have the same understanding about how and when your PoA is to be used.

You can appoint anyone as your attorney such as, a relative, friend, a solicitor, spouse / partner. Attorneys must be over the age of 16 and, and if you give continuing powers they must not be bankrupt.

There is no limit to the amount of attorneys you can have. It's worth thinking about appointing more than 1 just in case something should happen. You can appoint joint and or substitute attorneys. Attorneys must confirm that they are willing to act.

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**When is your PoA to begin?** If you want to give continuing powers, you need to decide when the continuing attorneys are to begin acting for you. This could be right away as soon as the PoA is registered with us or at a later date i.e. in the event of your incapacity. Welfare PoAs **only** begin if you become incapable of making decisions about your own welfare.

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**Granting sufficient powers to your attorney** - Think about the short and longer term to ensure you give your attorneys sufficient powers to make decisions for you. PoAs can include powers such as; dealing with your bank accounts, pension, payments, investments, deciding where you should live.

The Code of Practice issued by Scottish Government offers further guidance: [www.scotland.gov.uk/justice/incapacity](http://www.scotland.gov.uk/justice/incapacity) Hard copies may be obtained by telephoning 0131 244 3581.

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**How is your incapacity to be determined?** If your attorney is only to make decisions for you if you become incapable, you will need to think about how your incapacity is to be determined. This information must be stated in your PoA document. It's also good practice to say who you want to make this decision e.g. it could be a GP or someone else you trust.

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**Where can I get a PoA from?** Most solicitors can help you to draft a PoA and will give you legal advice. If you don't want to use a solicitor, other professionals can draft the PoA and some stationery shops sell PoA packs which can be used.

Although we don't provide the actual PoA document we do have useful information on our website.

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**Once your PoA is drafted you will need to be interviewed** - This interview is carried out by either a solicitor or medical practitioner to assess that you fully understand what you are doing. If they are satisfied with this, they will complete and sign the prescribed certificate confirming so. The date in box 2 of the prescribed certificate must be the same as the date you signed your PoA. The date at the end of the prescribed certificate where your solicitor or medical practitioner signs can be the same or a later date, but must not predate the date you signed your PoA.

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**Your attorneys must confirm that they are willing to act for you** - We provide a registration form which attorneys sign to confirm that they are freely willing to act for you. The form can be downloaded from our website.

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**Your PoA must be registered with the Public Guardian before it can be used** - If you have instructed a solicitor to draft your PoA they will usually send the documentation to us on your behalf. Other professionals may also offer this service.

If you are opting to send the documentation to us yourself you can do so by either using the online facility via our website or by post. If using the postal system, please send us:

1. The signed PoA document, with the prescribed certificate
2. Completed pages of the registration form
3. Registration fee, if applicable – see the website for [current fees](#) or telephone us

**Further assistance** - We are happy to help with general enquiries however unable to provide legal advice.

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Callendar Business Park  
Callendar Road  
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Website: [www.publicguardian-scotland.gov.uk](http://www.publicguardian-scotland.gov.uk)

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