



About powers of attorney

[What is a PoA?](#)

[What you need to know](#)

[Who can make a PoA?](#)

[Types of PoA](#)

[People involved](#)

[Who can be an attorney?](#)

[The PoA document](#)

[Where to get a PoA](#)

What is a power of attorney?

Having a PoA lets you plan what you want another person to do for you in the future, should you become incapable of making decisions about your own affairs. PoA is a written document which includes a certificate signed either by a solicitor who is registered to practise law in Scotland or by a practising member of the Faculty of Advocates or by a registered UK medical doctor who

Our Stories

Gerry's Story

[Gerry \(19\) will need help to plan his financial future](#)

Jean and Albert's Story

[Albert has early stage](#)

[Incapacity statement](#)

[Our role](#)

[Doctors & solicitors](#)

[Myths about PoAs](#)

[How to register your PoA](#)

[After registration](#)

[FAQs](#)

[Fees](#)

[Forms and publications](#)

holds a licence to practise.

You will need to arrange for your own [PoA document](#) to be drafted.

This is not something we can help with as our role is to provide a registration service.

The law says that someone who is currently declared as bankrupt or if a protected trust deed is in place that they can make a PoA to deal with their personal welfare decision making but not about their financial and property affairs.

Our target is to process powers of attorney (PoA) within 30 working days of receiving the document. However we are able to process [electronic submissions](#) more quickly than those sent us by post. We provide a weekly update on our [current processing times](#) to keep you informed.

We appreciate that in some cases there is a genuine need for a PoA to be urgently processed due to the granter's needs. If you wish to make an [application](#) to have a PoA expedited you must provide a reason why your PoA requires to be processed more urgently than the other PoAs waiting in the queue.

Once your PoA is drafted and registered with us it will last [indefinitely](#), unless you decide to terminate it.

Further information

[Power of Attorney Top Tips](#) 

[What is a Power of Attorney](#) 

[What is a Power of Attorney](#) 

[dementia and is planning ahead](#)

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



Welcome to the Office of the Public Guardian in Scotland

This site tells you [about our role](#) and provides a single information point about financial provisions contained in the Adults with Incapacity (Scotland) Act 2000.

News






[POAs to be processed this week](#)

Visit online PoA
registration facility



Services we provide

We provide a range of services, however your circumstances will determine which of these is most appropriate

 Power of attorney Planning ahead while you have capacity to do so	 Access to funds Pay living expenses for an incapable adult	 Intervention orders A single action on behalf of an incapable adult.	 Guardianship orders On-going actions on behalf of an incapable adult.	 Investigations Are the funds of an incapable adult being misused?
--	---	---	--	--

Popular pages

- [The Adults with Incapacity \(Scotland\) Act 2000](#)
- [Power of Attorney - what you need to know](#)

Common questions

- [Can you check my PoA prior to registration?](#)
- [What are a financial guardian's duties?](#)

[Changing and amending a power of attorney](#)

[How do I report a concern about financial harm?](#)

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About us](#)

[What we do](#)

[Our services](#)

[Public registers](#)

[FAQs](#)

[Where to get more help](#)

[Terms used](#)

[News](#)

[Fees](#)

What we do

The Office of the Public Guardian in Scotland was created when the [Adults with Incapacity \(Scotland\) Act 2000](#) received Royal Assent.

We have a general function to:

- Maintain a public register of powers of attorney that have been registered, guardianship and intervention orders granted and authorisations granted under the access to funds scheme.
- register powers of attorney that are to begin or continue in the event of incapacity.

[Fee exemption](#)

[Forms and publications](#)

[Contact us](#)

[Feedback and complaints](#)

[You and us](#)

- supervise those individuals who have been appointed to manage the financial and property affairs of adults who lack the capacity to do so for themselves.
- investigate circumstances made known to us where the property or finances belonging to an incapable adult appear to be at risk.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[Home](#) / [General](#) / [News](#)

[About us](#)
[What we do](#)
[News](#)
[Fees](#)
[Fee exemption](#)
[Forms and publications](#)
[Contact us](#)
[Feedback and complaints](#)
[You and us](#)

News

[Accounts to be processed this week](#)

Aug 06, 2019

[Full story](#)

[PoAs to be processed this week](#)

Aug 06, 2019

[Full story](#)

[Office closure - 5th Aug 2019](#)

Jul 31, 2019

[Full story](#)

[Attention EPOAR users](#)

Jul 30, 2019

[Full story](#)

[PoAs to be processed this week](#)

Jul 29, 2019

[Full story](#)

[1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) ...

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[Home](#) / [General](#) / [Contact us](#)

- [About us](#)
- [What we do](#)
- [News](#)
- [Fees](#)
- [Fee exemption](#)
- [Forms and publications](#)
- [Contact us](#)
- [Visiting us](#)
- [Accessing our offices](#)

Contact Us

The office is open from 9.00am to 5.00pm Monday to Friday. If your enquiry is in relation to a Scottish power of attorney (PoA) or an application made under the Adults with Incapacity (Scotland) Act 2000, you can get in touch with us in a variety of ways:

Visiting us:

If you wish to hand deliver correspondence to us, we are open from Monday – Friday between 9.00am and 5.00pm or you can use our post box located outside the main door. Please note that

we do not provide a PoA checking service, as all checks are carried out during the registration service.

We will be closed on the following dates in 2019 for staff training and local / public holidays:

January	April	May	July	August	September	December
1, 2, 29	19, 22	6	1	5	9	2, 24*, 25, 26

*Denotes half day

E-mailing or phoning us:

<p>Scottish Power of attorney enquiries Registration service, EPOAR enquiries & amendments. Current processing times Expedited registration service</p>	<p>01324 678398 webpage OPG@scotcourts.gov.uk</p>
<p>Investigation enquiries General & case related investigation enquiries, making referrals</p>	<p>01324 678300 POA-INV@scotcourts.gov.uk webpage</p>
<p>Guardianship & intervention order enquiries Applications for guardianship or intervention orders Inventory, management plans, and applications to buy/sell property, gifts, renew your order Simplified, annual & final accounts, applications for discharge</p>	<p>01324 678396 opgorders@scotcourts.gov.uk webpage 01324 678397 01324 678395 opgorders@scotcourts.gov.uk webpage</p>
<p>Access to funds scheme enquiries General application & case related enquires</p>	<p>01324 677140 OPGATF@scotcourts.gov.uk webpage</p>
<p>Accountant of Court</p>	<p>01324 678300</p>

	webpage
Not sure who to contact? General enquiries	01324 678300 OPG@scotcourts.gov.uk
Systems enquiries Technical issues in setting up EPOAR	01324 678300
Communications enquiries Website, leaflets, outreach, customer engagement	01324 677744

Writing to us:

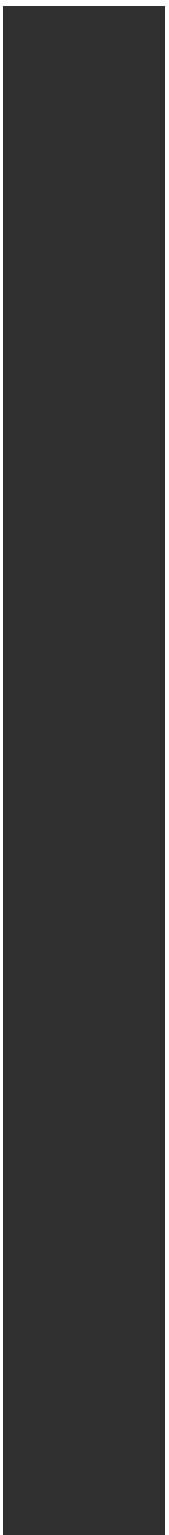
The Office of the Public Guardian
Hadrian House
Callendar Business Park
Callendar Road
Falkirk
FK1 1XR

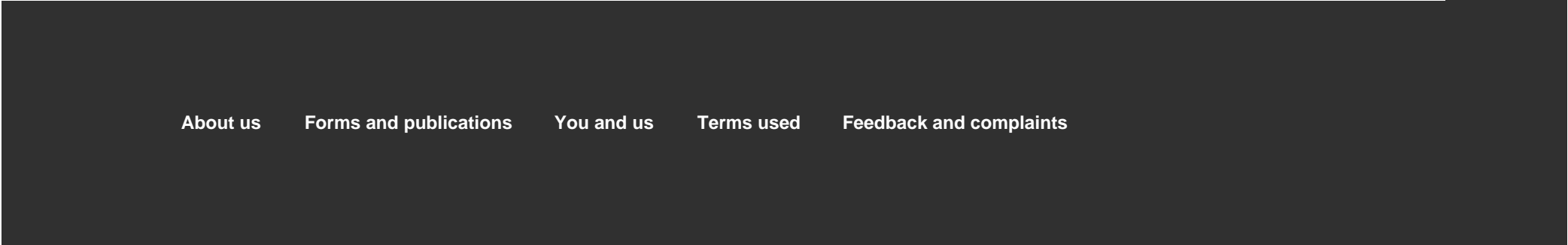
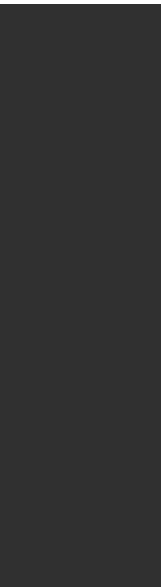
DX 550360 Falkirk 3

Fax: 01324 678301



Public Guardian@OPGScotland





[About us](#) [Forms and publications](#) [You and us](#) [Terms used](#) [Feedback and complaints](#)



Fees

Fees due to the Public Guardian

A fee might be required for registering your PoA or for some of the other services we provide. The majority of our fees are due at the time of making an application to us. There are certain circumstances where you might be entitled to a [fee exemption](#).

Current Fee levels

The [Scottish Statutory Instrument 2018 No.86](#) provides further information on the fees payable to the Public Guardian.

See [schedule 2](#) for fees payable from 1st April 2019 – 31st March 2020.

Our fees

- [Power of Attorney](#)
- [Access to Funds](#)
- [Intervention Orders](#)
- [Guardianship Orders](#)

Methods of payment

Cheques

- We will accept cheques made payable to the 'Scottish Courts and Tribunals Service' for all applications.

Credit/debit card

- We can also accept payment by credit or debit card (we do not accept AMEX card payments) for all applications with exception of clerically submitted powers of attorney. Please contact us with your card details.

Cash

- Please do not send cash in the post. If opting to come into the office to pay your fee, please bring the exact fee amount, as we do not keep cash or change in the office.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About us](#)

[What we do](#)

[Our services](#)

[Public registers](#)

[FAQs](#)

[Where to get more help](#)

[Terms used](#)

[News](#)

[Fees](#)

FAQs

- [Power of Attorney](#)
- [EPOAR](#) (Electronic power of attorney submission)
- [Access to Funds](#)
- [Intervention Orders](#)
- [Guardianship Orders](#)
- [Investigations](#)
- [Public register](#)

[Fee exemption](#)

[Forms and publications](#)

[Contact us](#)

[Feedback and complaints](#)

[You and us](#)

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



Welcome to the Office of the Public Guardian in Scotland

This site tells you [about our role](#) and provides a single information point about financial provisions contained in the Adults with Incapacity (Scotland) Act 2000.

News






[POAs to be processed this week](#)

Visit online PoA
registration facility



Services we provide

We provide a range of services, however your circumstances will determine which of these is most appropriate

 <p>Power of attorney</p> <p>Planning ahead while you have capacity to do so</p>	 <p>Access to funds</p> <p>Pay living expenses for an incapable adult</p>	 <p>Intervention orders</p> <p>A single action on behalf of an incapable adult.</p>	 <p>Guardianship orders</p> <p>On-going actions on behalf of an incapable adult.</p>	 <p>Investigations</p> <p>Are the funds of an incapable adult being misused?</p>
--	---	---	--	--

Popular pages

- [The Adults with Incapacity \(Scotland\) Act 2000](#)
- [Power of Attorney - what you need to know](#)

Common questions

- [Can you check my PoA prior to registration?](#)
- [What are a financial guardian's duties?](#)

[Changing and amending a power of attorney](#)

[How do I report a concern about financial harm?](#)

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



About powers of attorney

What is a PoA?

What you need to know

Who can make a PoA?

Types of PoA

People involved

Who can be an attorney?

The PoA document

Where to get a PoA

What is a power of attorney?

Having a PoA lets you plan what you want another person to do for you in the future, should you become incapable of making decisions about your own affairs. PoA is a written document which includes a certificate signed either by a solicitor who is registered to practise law in Scotland or by a practising member of the Faculty of Advocates or by a registered UK medical doctor who

Our Stories

Gerry's Story

[Gerry \(19\) will need help to plan his financial future](#)

Jean and Albert's Story

[Albert has early stage](#)

[Incapacity statement](#)

[Our role](#)

[Doctors & solicitors](#)

[Myths about PoAs](#)

[How to register your PoA](#)

[After registration](#)

[FAQs](#)

[Fees](#)

[Forms and publications](#)

holds a licence to practise.

You will need to arrange for your own [PoA document](#) to be drafted.

This is not something we can help with as our role is to provide a registration service.

The law says that someone who is currently declared as bankrupt or if a protected trust deed is in place that they can make a PoA to deal with their personal welfare decision making but not about their financial and property affairs.

Our target is to process powers of attorney (PoA) within 30 working days of receiving the document. However we are able to process [electronic submissions](#) more quickly than those sent us by post. We provide a weekly update on our [current processing times](#) to keep you informed.

We appreciate that in some cases there is a genuine need for a PoA to be urgently processed due to the granter's needs. If you wish to make an [application](#) to have a PoA expedited you must provide a reason why your PoA requires to be processed more urgently than the other PoAs waiting in the queue.

Once your PoA is drafted and registered with us it will last [indefinitely](#), unless you decide to terminate it.

Further information

[Power of Attorney Top Tips](#) 

[What is a Power of Attorney](#) 

[What is a Power of Attorney](#) 

[dementia and is planning ahead](#)

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About Access to Funds \(ATF\)](#)

[What is Access to Funds?](#)

[What you need to know](#)

[What can be applied for?](#)

[When ATF is not appropriate](#)

[Who can apply](#)

[People involved](#)

[Our role](#)

[DWP benefits](#)

What is meant by Access to Funds?

This is a procedure which allows an individual, a local authority or another organisation to apply for authority to access and manage the funds belonging to an incapable adult. The scheme would be suitable when the adult's financial affairs are simple, e.g. paying for the adult's day to day expenses such as gas, electricity,

Our Stories

Jonathan's story

[Liz, his daughter, has access to pay care home fees](#)

Scott's story

Submitting your application
After the application is granted
Help for banks
FAQs
Fees
Forms and publications

clothes, toiletries, food etc. It can also be used to request a lump sum to pay off any existing debts or to purchase specific items required by the adult.

[Applications to access the funds](#) belonging to the adult are made directly to the Public Guardian.

Access to funds would not be suitable if the adult's affairs are more complex, e.g. where there are investments or there are heritable property concerns. An [intervention order](#) or [guardianship order](#) might be more appropriate, depending on the circumstances.

If you are thinking about making an application to access only state benefits or a state pension, then the access to funds scheme is not necessary. It is possible to access these type of funds under the [Department of Work and Pensions \(DWP\) appointee arrangement](#).

When deciding on the more appropriate course of action you should take into account the [principles](#) of the Act, including that of the least restrictive option.

[Scott has learning difficulties and his parents access funds to make payments on his behalf](#)

Helen's story

[Charlie, Helen's friend, makes sure her bills are paid on time](#)

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



About Intervention Orders

[What's an intervention order?](#)

[What you need to know](#)

[Types of powers](#)

[Who can apply?](#)

[People involved](#)

[Financial intervenor duties](#)

[Our role](#)

[Applications](#)

What is an intervention order?

This is a court appointment which authorises a person to act and take a one-off action or make decisions on behalf of an [adult with incapacity](#). Anyone with an interest can make an application for an intervention order. When we refer to an adult, this is someone who is aged over 16 who is not able to look after their own affairs.

The order allows the person appointed to do certain one-off things

Our Stories

Aileen and Peter's story

[To move Aileen to a manageable flat, the family home needs to be sold](#)

Mark's story

Once the order is granted

FAQs

Fees

Forms and publications

such as signing legal documents or to sell the adult's house or sign forms agreeing where someone can live. The [Code of Practice](#) provided by the Scottish Government gives further information and guidance in relation to the powers that may be sought.

Before applying for an intervention order, you should seek legal advice to make sure the appointment will [benefit the adult](#) and is appropriate under the circumstances.

The application will include a list of the powers you need to allow you to look after the adult's affairs. Powers can be requested to deal with the adult's property and/or financial affairs and/or make decisions about their personal welfare.

Generally there is no fixed period for the length of your appointment, as the order will last until you have carried out the action or decision authorised in your court order. If you think you might need powers on an on-going basis then a [guardianship order](#) could be more appropriate e.g. managing bank accounts and paying for the adult's day to day expenses.

Refer to the case studies for examples of when guardianship order may be suitable.

Mark is moving from hospital to a flat but needs support with his tenancy agreement

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About Guardianship Orders](#)

[What's a guardianship order?](#)

[What you need to know](#)

[Types of powers](#)

[Who can be a guardian?](#)

[People involved](#)

[Guardian duties](#)

[Our role](#)

[Applications](#)

What is a guardianship order?

This is a court appointment which authorises a person to act and make decisions on behalf of an [adult with incapacity](#). Anyone with an interest can make an application for a guardianship order.

When we refer to an adult, this is someone who is aged over 16 who is not able to look after their own affairs.

Guardianship is likely to be more suitable when decisions need to

Our Stories

James's Story

[James has learning difficulties and his parents want to safeguard his future](#)

Rae's Story

Once the order is granted
Scheme for Professionals
FAQs
Fees
Forms and publications

be taken on an ongoing basis. To give you an idea of the types of circumstances that might be suitable for a guardianship order, please refer to the [case studies](#) we have provided.

Before applying for a guardianship order, you should seek legal advice to make sure the appointment will [benefit the adult](#) and is appropriate under the circumstances.

After taking legal advice, if the application is considered to be both appropriate and beneficial to the adult, the application will include a list of the powers you need to allow you to look after the adult's affairs. Powers can be requested to deal with the adult's property and/or financial affairs and/or to make decisions about their personal welfare.

Based on the adult's condition and circumstances, the Sheriff will decide how long the order should last. It is usual for orders to be granted for a period of 3 years; however it might be granted for a longer period of time or indeed for the lifetime of the adult.

Children about to reach the age of 16

For children who are about to reach the age of 16, you can apply for a guardianship order up to three months before their 16th birthday. This means that the guardianship order will take effect on the date of their birthday.

Rae will soon turn 16 and as an adult his parents can't make decisions for him without guardianship

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About Investigations](#)

[When we can act](#)

[When we can't](#)

[Do you have concerns?](#)

[Investigation process](#)

[For professionals](#)

[FAQs](#)

[Forms and publications](#)

When can we act?

Concerns about financial guardians or withdrawers

We have statutory powers to supervise financial guardians, financial intervenors and withdrawers. Our duty is to ensure that these people act in the best interests of an adult with incapacity and carry out their duties properly within the scope of their powers. However if you have a concern about how a financial

Case Studies & Outcomes

[Attorney not paying adult's care home fees](#)

[Attorney not providing clothing / personal allowance for adult](#)

guardian or a withdrawer is acting, please [contact](#) the guardianship or access to funds team.

Concerns about continuing attorneys or about the actions of any other person

The [Adults with Incapacity \(Scotland\) Act 2000](#) gives the Public Guardian certain powers to investigate concerns and take steps to safeguard financial matters where it appears they are at risk. When we talk about risk, we mean current and future risk as we do not have a remit to investigate historical matters. The Public Guardian is there to protect the interests of the adult and does not represent any other person or public body. An adult is someone who is aged 16 or over.

Our investigation team aims to ensure that an incapable adult's property or financial affairs are suitably safeguarded and not at risk from abuse or misuse. Initially information is gathered from a number of sources to decide whether or not there is a reason to investigate.

What's involved in an investigation?

An investigation involves gathering information from relevant parties by interviewing people and reviewing documentation such as bank statements, financial records, receipts etc. Sometimes we carry out interviews with relevant parties if more information is needed.

If you have concerns that an adult's funds/property are at a risk, you can refer the matter to us. You will need to provide evidence to support your concerns.

Concerns might include:

- The way in which an attorney, who has authority to manage an adult's finances or property, is using that authority.
- An adult's property or financial affairs appears to be at risk,

perhaps because of the involvement of a third party who has no authority to manage the adult's finances.

When we receive a referral, we will review the information provided to establish whether we have a remit to start an investigation.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About powers of attorney](#)
[How to register your PoA](#)
[After registration](#)
[FAQs](#)
[Fees](#)
[Forms and publications](#)

Case Study 1

Young person to adult transition and need for PoA as needs supported decision making

Gerry is a 19 year old young man who has capacity. He needs some help to communicate his decisions and he does this via a mechanical aid. Gerry has a physical disability and this can hinder him getting to the shops, bank, hospital etc.

Gerry has been named as a beneficiary in Wills belonging to several family members. He is in receipt of benefits and currently lives at home. It is likely that he will move into a residential

establishment in the future and will need some help with making decisions. He has given much thought to making a power of attorney.

He wants the people he trusts to have legal authority so they can make decisions on his behalf about his financial affairs and general welfare if needed. He has asked his sister and brother in law to be his attorneys as they know him best and have spent lots of time with him over the years. Gerry has drafted a letter which states his wishes and preferences about his diet, place of residence, activities he takes part in as well as how his money should be managed and the money he needs to allow him to continue with his hobbies and interests. The letter will be given to his attorneys to help them be mindful of his wishes and preferences.

Gerry has asked for his local solicitor to visit him at home to help him draft his PoA.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[Home](#)

[Power of Attorney](#)

[Access to Funds](#)

[Intervention Orders](#)

[Guardianship Orders](#)

[Investigations](#)

[Home](#) / [Power of Attorney](#) / [Our Stories](#) / [Case Study 2](#)

[About powers of attorney](#)
[How to register your PoA](#)
[After registration](#)
[FAQs](#)
[Fees](#)
[Forms and publications](#)

Case Study 2



Jean and Albert Smith are both in their early 60s and until fairly recently have enjoyed good health in their retirement. Both have been active and enjoy a good social life visiting their friends and their 6 grandchildren.

Their elder son and his family are emigrating to Canada later in the year. Their two daughters both live a 30 minute drive away.

Jean noticed that Albert was beginning to get increasingly forgetful and very reluctant to drive anywhere. After much persuasion Albert to go to visit the GP. Albert has since been diagnosed with early stage vascular dementia. In the middle of this Jean has recently been diagnosed with breast cancer and is facing a course of radiotherapy treatment. Both Albert and Jean recognise that they will need some form of support in the future and have discussed getting a PoA while they both have [capacity](#) to do so.

Jean and Albert have had a family meeting with their three children and their partners to discuss what support will be required. Both Jean and Albert have written Wills appointing each other and their children to be their executors. Following advice, Jean and Albert decided to get their affairs in order by appointing their children as their attorneys, as they both recognise that may need assistance to make decisions in the future.

A power of attorney (PoA) is an important and powerful document and you may wish to take legal advice when thinking about making one. You need to give careful consideration who to appoint as your attorney. This should be someone you are confident will act responsibly and who has the necessary skills to carry out the tasks and make decisions on your behalf. It's good practice to write down your thoughts or have a conversation with your attorneys to help them understand what is important to you, such as your:

- Preferred place of residence and how that should be arranged
- Food - likes and dislikes
- Entertainment - likes and dislikes
- Friends and others you'd like to keep in touch with
- Birthdays of others you'd like support to remember
- Spiritual or religious beliefs and practices
- Lifestyle choices such as preference to be busy, or to sleep late at weekends
- Activities – eg. walking, reading, watching television, music
- Fluctuating capacity (or not), and how people can recognise when they should start helping you, and when to leave the decision making to you

The more detailed the information you provide, the more able your attorney will be to ensure that your wishes are followed. You can make your wishes as detailed as you like by writing them in the PoA document or by adding a separate letter which expresses those wishes, known as 'a Letter of Wishes'. Please refer to actioninmind.org.uk for more information on how to personalise your PoA.



[About powers of attorney](#)

[What is a PoA?](#)

[What you need to know](#)

[Who can make a PoA?](#)

[Types of PoA](#)

[People involved](#)

[Who can be an attorney?](#)

[The PoA document](#)

[Where to get a PoA](#)

What you need to know

You will need to arrange for your power of attorney (PoA) to be drafted. We do not provide a template PoA, however most solicitors should be able to assist you to draft a PoA and provide legal advice on this matter. A solicitor will charge a fee for this service and prices may vary. Alternatively, other companies and stationery shops sell PoA packs.

Please note that we do not offer a pre-registration checking service as we check all PoAs when they're submitted at the point of registration.

Incapacity statement

Our role

Doctors & solicitors

Myths about PoAs

How to register your PoA

After registration

FAQs

Fees

Forms and publications

This website will provide some useful information on making a PoA. Here is a summary of what's involved to get you started. You might also find our [top tips](#) leaflet helpful too.

If your'e thinking about making a PoA

- Ask your solciitor for legal advice
- Decide who you want as your attorney
- Decide what powers to give your attorney
- Arrange for your PoA document to be drafted
- Sign your PoA document in the presence of one of the following; a solicitor registered to practice law in Scotland, or a practising member of the Faculty of Advocates or a registered UK medical doctor who holds a licence to practise.

Submitting your PoA for registration

- Send all the necessary documentation and fee to us either online via the EPOAR facility or by post
- We will register your PoA if it is legally valid. If we can't register the PoA we will return this to you.

After registration

- We will send a certificate of registration and copy of the PoA to the person who submitted the PoA to us.
- You must tell us if you move address, change your name or wish to change or cancel the PoA.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About powers of attorney](#)

[What is a PoA?](#)

[What you need to know](#)

[Who can make a PoA?](#)

[Types of PoA](#)

[People involved](#)

[Who can be an attorney?](#)

[The PoA document](#)

[Where to get a PoA](#)

Who can make a Power of Attorney (PoA)?

Anyone over 16 can make a PoA, but you need to have [capacity](#) and be able to understand what you are doing by granting this.

As part of the PoA process a solicitor registered to practise law in Scotland or a practising member of the Faculty of Advocates or a registered UK medical doctor who holds a licence to practise must carry out an interview with you and confirm that you understand the nature and impact of making a PoA. If the person is satisfied of this they will complete a [certificate of capacity](#) (known as schedule 1), this forms part of your PoA document.

[Incapacity statement](#)

[Our role](#)

[Doctors & solicitors](#)

[Myths about PoAs](#)

[How to register your PoA](#)

[After registration](#)

[FAQs](#)

[Fees](#)

[Forms and publications](#)

The law says that someone who is currently declared as bankrupt cannot make a PoA to deal with their financial and/or property affairs. However, you would still be able to make a PoA giving powers to deal with your future personal welfare decision making.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About powers of attorney](#)

[What is a PoA?](#)

[What you need to know](#)

[Who can make a PoA?](#)

[Types of PoA](#)

[People involved](#)

[Who can be an attorney?](#)

[The PoA document](#)

[Where to get a PoA](#)

Types of power of attorney (PoA)

Under the Adults with Incapacity (Scotland) Act 2000, the PoAs outlined below must be registered with this office before they can be used. Please note that we do not register general PoAs.

There are 3 types of PoA:

Continuing PoA – gives powers to deal with money and/or property

Continuing (financial) powers can be used by the attorney immediately after the PoA document has

[Incapacity statement](#)

[Our role](#)

[Doctors & solicitors](#)

[Myths about PoAs](#)

[How to register your PoA](#)

[After registration](#)

[FAQs](#)

[Fees](#)

[Forms and publications](#)

been registered with us. If the PoA is only to be used in the [event of your incapacity](#), it must clearly state that the powers are not to be used until this happens. You may wish to add a statement about who should make this decision about your incapacity.

Welfare PoA – gives powers to make decisions around health or personal welfare matters

Welfare powers may only be acted upon after the PoA has been registered with us and when you have [lost capacity](#) to make decisions on matters to which the powers apply. Read the [definition of incapacity](#).

Combined PoA – gives continuing and welfare powers

The majority of PoAs registered with us are a combination of continuing and welfare powers. However, it is your choice as to the type of PoA you wish to grant.

Further information

[Code of Practice](#)

[Power of Attorney top tips](#)





[About powers of attorney](#)

[What is a PoA?](#)

[What you need to know](#)

[Who can make a PoA?](#)

[Types of PoA](#)

[People involved](#)

[Who can be an attorney?](#)

[The PoA document](#)

[Where to get a PoA](#)

People involved

Here is a description of the people who can be involved in a power of attorney (PoA).

- **Grantor** – the person wishing to grant powers to another person so that decisions can be made on their behalf.
- **Attorney** – the person who is appointed by the grantor to make decisions, if required to do so.
- **Substitute attorney** – this is a person who the grantor has chosen to take over in the event that

Incapacity statement

Our role

Doctors & solicitors

Myths about PoAs

How to register your PoA

After registration

FAQs

Fees

Forms and publications

the attorney cannot act.

- **Sender** – the person, usually a solicitor, who has taken responsibility to submit the PoA for registration.
- **Specified person** – up to 2 people can be nominated however they must be named in the PoA document. They will be issued with a copy of the registered PoA. (This copy is for information purposes only and should not be used by the attorney when exercising powers).

Further information

[Code of Practice](#)

[Power of Attorney top tips](#)

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About powers of attorney](#)

[What is a PoA?](#)

[What you need to know](#)

[Who can make a PoA?](#)

[Types of PoA](#)

[People involved](#)

[Who can be an attorney?](#)

[The PoA document](#)

[Where to get a PoA](#)

Who can be an attorney?

Your attorney must be aged over 16 and be willing to take on the role of attorney. There is no limit to the number of attorneys that you can appoint. It is possible to appoint a sole attorney or joint attorneys and substitute attorneys. You can appoint either individuals or an organisation, such as a firm of solicitors, as your continuing (financial) attorney. However, individuals only may be appointed as welfare attorneys. The law says that someone who is currently declared as bankrupt cannot be a continuing attorney.

We cannot assist you to draft your power of attorney (PoA) nor do we provide template PoAs as we

Incapacity statement

Our role

Doctors & solicitors

Myths about PoAs

How to register your PoA

After registration

FAQs

Fees

Forms and publications

provide a registration service only.

A PoA is an important and powerful document and you may wish to take legal advice when thinking about making one. You need to give careful consideration who to appoint as your attorney. This should be someone you are confident will act responsibly and who has the necessary skills to carry out the tasks and make decisions on your behalf. It's good practice to write down your thoughts or have a conversation with your attorneys to help them understand what is important to you, such as your:

- Preferred place of residence and how that should be arranged
- Food - likes and dislikes
- Entertainment - likes and dislikes
- Friends and others you'd like to keep in touch with
- Birthdays of others you'd like support to remember
- Spiritual or religious beliefs and practices
- Lifestyle choices such as preference to be busy, or to sleep late at weekends
- Activities – eg. walking, reading, watching television, music
- Fluctuating capacity (or not), and how people can recognise when they should start helping you, and when to leave the decision making to you

Confirmation that attorneys are willing to act

- If you intend to submit your PoA to us by [post](#) you can use our [registration form](#) to tell us more about your attorneys. They should sign this form to confirm they are willing to act as your attorney. The form should be sent to us along with your completed PoA document.
- Or if you intend to submit your PoA to us [electronically](#) using our EPOAR facility you will be asked to confirm by ticking a box that the PoA complies with the statutory requirements including satisfying us that the attorney is freely willing to act in their role. **There is no need to submit the above registration form when using EPOAR.**

Further information

[Power of Attorney top tips](#)

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About powers of attorney](#)

[What is a PoA?](#)

[What you need to know](#)

[Who can make a PoA?](#)

[Types of PoA](#)

[People involved](#)

[Who can be an attorney?](#)

[The PoA document](#)

[Where to get a PoA](#)

The PoA document

We do not provide power of attorney (PoA) template documents as our role is to provide a registration service and general PoA advice.

You will need to arrange for your own PoA to be drafted. Most solicitors should be able to assist you to draft a PoA and provide legal advice. Alternatively, other companies and stationery shops sell PoA packs.

When we receive your PoA we carry out a check to make sure it meets the registration criteria. If

[Incapacity statement](#)

[Our role](#)

[Doctors & solicitors](#)

[Myths about PoAs](#)

[How to register your PoA](#)

[After registration](#)

[FAQs](#)

[Fees](#)

[Forms and publications](#)

your document does not comply then we will be unable to register it. We will then write to the sender advising of the reason why it can't be registered. [See common reasons for rejections](#) to help avoid your PoA being returned to you for amendment.

What does it look like?

The drafting of your PoA is important as the wording of the document will be open to interpretation. A legal adviser will be able to provide advice if further information is required or your circumstances are complex.

We have provided a [typical example](#) to help you recognise what the actual PoA document could look like. If you intend using this to form the basis of your own PoA, you will need to think about and add in the specific powers you wish your attorney to have.

Pages 17 - 20 of the [Code of Practice](#) issued by the Scottish Government list possible powers that could be considered. In addition, you can include other powers that your attorney may need to suit your circumstances. Remember the PoA is legally binding once it is registered with us. Make sure you understand the detail in the PoA.

Understanding your PoA section by section

We have broken down a PoA into sections so that you can see how it might be constructed. This may help you to understand the type of information needed in each section. We highly recommend that you read each of the sections as they contain important information which you might want to think about. We are happy to provide general advice, however we cannot provide legal advice.

[Appointment](#)

[General powers](#)

[What powers to give](#)

[Validity statement](#)

[Recalling/withdrawing the PoA](#)

[Testing clause](#)

[Certificate of capacity](#)

Appointment

This section usually includes the information below:

- Your name and address along with the names and addresses of the attorneys you wish to appoint.
- You can appoint a sole attorney or joint attorneys, substitute attorneys or a combination of these. It's your choice.
- You chose whom you wish to appoint, however it is important to give careful consideration and appoint people that you trust. Giving the PoA to another person may have implications further down the line, so it's important that you understand the consequences of giving this power to another person.
- If more than 2 attorneys are appointed additional information should be added here to state how the attorneys are to act. For example you may wish to think about whether your attorneys are to make decisions together, separately or together and separately. Your legal adviser will be able to provide advice to you on this matter.
- If you wish to appoint a substitute attorney, you should state when they are to begin acting, for example this could be if one of the main attorneys resigns, loses capacity or passes away.
- You may wish to include some information / direction for your attorneys to follow should any disagreement arise between them at a future date.
- You must clearly state in the PoA document the type of appointment you are granting.
- Your attorneys need to confirm to us that they are freely willing to take on the role of attorney.

[back to top](#)

General powers

This section usually contains the following details:

- In addition to the specific powers you wish to give to your attorney, this section allows for general powers to be given. A general power could be seen as being a catch-all and could possibly be used by the attorney if a specific power had not been granted or has been missed out from the PoA document.
- The information in this section usually allows the attorney to act as you would have done when making your own decisions about your affairs.
- Information will need to be added to specify when your attorney is to begin acting. If you have given continuing i.e. financial powers your continuing attorney could begin acting as soon as your PoA is registered with the Public Guardian or perhaps you want your attorneys to begin acting on your behalf at a later date. You will need to think about this, and make sure that your intention is clearly written into the PoA document.
- If your attorney is to begin acting at a later date, such as, in the event of incapacity, then the

PoA document must include a statement confirming that you have considered how your incapacity is to be determined. You may also like to go one step further and include details to outline who should make this decision, and whether any evidence is to be made available to support this.

[back to top](#)

What powers to give

This section should detail all of the individual powers you wish to give your attorneys. When thinking about which powers ([continuing, welfare or a combination](#)) to give, you should think about the short term and longer term to ensure your attorneys have sufficient powers to make decisions on your behalf.

You should tailor your own PoA to suit your own needs and circumstances. Further information can be found in pages 17 -20 of the [Code of Practice](#) provided by the Scottish Government.

[back to top](#)

Validity statement

The validity section confirms that the decisions made and documents granted by the attorney are valid and binding, just as they would be if you had made the decision or signed a document yourself.

[back to top](#)

Recalling/withdrawing the PoA

This section stipulates that the PoA will remain in place until you recall/withdraw it in writing or until your death.

[back to top](#)

Testing clause

This section is where you sign your name and enter the date of signature. The testing clause should not sit on a page on its own, and the information must follow on from that in the previous section of the document. See our [typical example](#) for more information. You should note:

- You must sign and date the PoA immediately after you have been interviewed by either a solicitor who is registered to practise law in Scotland or by a registered UK medical doctor who holds a licence to practise.
- Your signature may be witnessed, and the name of the witness, along with the place where the PoA document was signed, and the date of signature can be stated here.

Once you have signed and dated the PoA the document will become legally binding. It must be registered to make it valid.

[back to top](#)

Certificate of capacity

The certificate of capacity forms part of the PoA document. This certificate can only be completed by either a solicitor who is registered to practice law in Scotland or by a UK registered and licenced medical doctor (known as prescribed persons).

- Before you sign and date the PoA document, a solicitor who is registered to practice law in Scotland or by a practising member of the Faculty of Advocates or a UK medical doctor must interview you to ensure that you understand what you are doing by granting PoA. If the solicitor or medical doctor is satisfied that you understand they will sign the [certificate of capacity](#) (known as schedule1). This certificate will now form part of your PoA document.
- Prior to approaching your doctor you might want to check their willingness to undertake the necessary interview assessment and certification step.
- Please note we are unable to provide legal advice and recommend that you speak to a solicitor.

[back to top](#)

Further information

[Code of Practice](#)

[Definition of incapacity](#)

[Power of Attorney top tips](#)

[Certificate of capacity](#)

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



About powers of attorney

What is a PoA?

What you need to know

Who can make a PoA?

Types of PoA

People involved

Who can be an attorney?

The PoA document

Where to get a PoA

Where do I get the PoA document?

We cannot help you to draft a PoA nor do we provide PoA template documents. However most solicitors should be able to assist you to draft a PoA and provide legal advice. Alternatively, other companies and stationery shops sell PoA packs.

To find out what the PoA could look like and the type of information that is included in a PoA see our section about the [PoA document](#).

[Incapacity statement](#)

[Our role](#)

[Doctors & solicitors](#)

[Myths about PoAs](#)

[How to register your PoA](#)

[After registration](#)

[FAQs](#)

[Fees](#)

[Forms and publications](#)

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About powers of attorney](#)

[How to register your PoA](#)

[Your options](#)

[By post](#)

[EPOAR Online](#)

[How long will it take?](#)

[If we can't register your PoA](#)

[After registration](#)

[FAQs](#)

Your options

How do I make a submission?

Before a power of attorney (PoA) can be used it must be registered with us. You can send your documentation to us via EPOAR or by post.

EPOAR online facility

When using the online facility, known as [EPOAR](#) it is important that you read the guidance notes

first. We can process your PoA more quickly if you use our online service.

When using EPOAR, you will need to upload the following documents on and pay the [registration fee](#) by debit or credit card

1. A PDF of the signed PoA, no larger than 2mb, incorporating a completed [certificate of capacity](#) (known as schedule 1)



SCHEDULE 1		Regulation 2
CERTIFICATE UNDER SECTIONS 1(1)(c) AND 1(1)(d) OF THE ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000 TO BE INCORPORATED IN A DOCUMENT GRANTING A POWER OF ATTORNEY		
1.	The certificate is incorporated in the document identified by: Name and address of person:	<input type="text"/>
2.	Or Name and address:	<input type="text"/>
3.	The certificate is: Please specify the unit and the unit:	<input type="text"/>
	<input type="checkbox"/> Combined power of attorney (i.e. certain property or financial powers only)	
	<input type="checkbox"/> Welfare power of attorney (i.e. certain welfare powers only)	
	<input type="checkbox"/> Combined power of attorney (i.e. certain both property or financial and welfare powers)	
4.	Appointed as attorney(s): Name and address of attorney(s):	<input type="text"/>

There is **no need** to complete and submit a separate registration form when using EPOAR as this only applies to postal submissions.

Postal submission

You can send the documents to us by post, however, it will take us longer to process your PoA by this service. If you need us to process your documentation more quickly due to urgent circumstances, we can provide a [priority service](#), but you should first of all consider using the EPOAR service.

If submitting by post, you will need to send the following documents to us along with the [registration fee](#):

1. Your signed [PoA document](#)

2. A completed [certificate of capacity](#)

3. A completed [registration form](#)



SCHEDULE 1 Partnership 1
CERTIFICATE UNDER SECTIONS 1(3)(G) AND/OR 14(1)(G) OF THE ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000 TO BE INCORPORATED IN A DOCUMENT GRANTING A POWER OF ATTORNEY

1. This certificate is incorporated in the document referred to by

2. On

3. This certificate

 Continuing power of attorney (i.e. confers powers on financial persons)
 Writeshop power of attorney (i.e. confers no powers)
 Combined power of attorney (i.e. confers both powers on financial and welfare persons)

4. Appointing an attorney(s)

POWERS OF ATTORNEY REGISTRATION FORM - Scotland

Section 1 - Grantor

TITLE

SURNAME

FORNAME

ADDRESS

DATE OF BIRTH

HOUSE NO.

STREET

LOCALITY

CITY

COUNTRY

POSTCODE

PHONE NUMBER

EMAIL ADDRESS

PROF. OCCAS. OF GRANTOR
What is your main occupation or profession? If you are not currently working please leave blank

None	Other	Other	Other
None	Other	Other	Other
None	Other	Other	Other
None	Other	Other	Other

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[Home](#) / [General](#) / [News](#)

[About us](#)
[What we do](#)
[News](#)
[Fees](#)
[Fee exemption](#)
[Forms and publications](#)
[Contact us](#)
[Feedback and complaints](#)
[You and us](#)

News

[Accounts to be processed this week](#)

Aug 06, 2019

[Full story](#)

[PoAs to be processed this week](#)

Aug 06, 2019

[Full story](#)

[Office closure - 5th Aug 2019](#)

Jul 31, 2019

[Full story](#)

[Attention EPOAR users](#)

Jul 30, 2019

[Full story](#)

[PoAs to be processed this week](#)

Jul 29, 2019

[Full story](#)

[1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) ...

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About powers of attorney](#)

[How to register your PoA](#)

[After registration](#)

[Registered PoA](#)

[Your certificate](#)

[Acting as an attorney](#)

[Amending your PoA](#)

[Cancelling your PoA](#)

[Changes to tell us about](#)

Circumstances that bring a PoA to an end

Some changes in circumstances will result in the power of attorney (PoA) coming to an end. It is important that we are told about the following changes:

Death

We must be notified in writing of the death of an attorney or a granter. A copy of the death certificate will be required, too.

[Substitute attorneys](#)

[Ending a PoA](#)

[Duplicate copies](#)

[Concerns about attorneys](#)

[Further guidance](#)

[FAQs](#)

[Fees](#)

[Forms and publications](#)

The PoA will end when:

- the granter dies, or
- the sole attorney dies; and there is no substitute attorney appointed.

If a substitute attorney was appointed they should notify us of the death of the sole attorney and confirm in writing that they are willing to act as the attorney. If the substitute has been granted continuing powers current, they must confirm that they are not bankrupt and that a protected trust deed is not in place. We will then update the public register and issue a new certificate of registration and copy PoA to the attorney

Resignation

Resignation if there is a sole attorney

A continuing or welfare attorney who wishes to resign should write to us, and where appropriate inform the following of their intention to resign:

- the granter of the PoA
- any guardian or, where there is no guardian, the granter's primary carer

The attorney's resignation will not take effect until 28 days after we receive notification. A new PoA can be created but only if the granter is still capable.

Resignation where there is a substitute attorney

When notifying us of the resignation, if possible, the attorney should include a signed letter from the substitute attorney confirming they are willing to act.

This allows the resignation to be effective from the date of receipt and means the substitute attorney will not have to wait for 28 days before taking up the role of attorney.

If that is not possible, we will contact the substitute attorney to confirm they wish to take up the appointment.

Divorce, separation, dissolution

If the attorney and the granter are married to each other and separate, the PoA will, unless the document states otherwise, come to an end on the granting of a:

- decree of separation; to either party

- decree of divorce to either party
- declarator of nullity of the marriage

If the attorney and the granter are in a civil partnership with each other and separate, the PoA will, unless the document states otherwise, come to an end on the granting of a:

- decree of separation of the partners
- decree of dissolution
- declarator of nullity of the civil partnership

Other reasons

There are other circumstances that bring a PoA to an end. Some examples of these circumstances are listed below:

- The authority of a continuing or welfare attorney in relation to any matter comes to an end on the appointment of a guardian with powers relating to that matter.
- In the case of a continuing PoA, the attorney or granter become bankrupt or a protected trust deed has been put in place.
- The granter recovers capacity to the point that they can take steps to revoke the PoA and does so.
- The PoA is revoked by order of the Sheriff.
- The granter wishes to cancel/revoke their PoA

More information can be found in the [Code of Practice](#) provided by the Scottish Government.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



Powers of Attorney top tips

1

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.

2

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.

3

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.

4

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.

5

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 Hard copies may be obtained by telephoning 0131 244 3581.

6

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.

7

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.

8

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.

9

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.

10

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.

Office of the Public Guardian (Scotland)
Hadrian House
Callendar Business Park
Callendar Road
Falkirk, FK1 1XR

Website: www.publicguardian-scotland.gov.uk

Email: opg@scotcourts.gov.uk

Telephone: 01324 678300

What does the OPG do with my PoA?

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

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.

Duty to keep records

Attorneys acting on your behalf will 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.

Can I 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 us. Information is available from our website explaining how to do this.

Where can I get further help or information?

Your local Citizens Advice Bureau or solicitor may be able to help. There is lots of useful information on our website or you can phone us if you prefer.

Our office is open to the public. However to be sure of seeing a relevant member of staff when you visit us, please contact us to make an appointment.

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

The Office of the Public Guardian is part of the Scottish Courts and Tribunals Service.

Other leaflets available in this series:

[Access to Funds Scheme](#)

[Intervention Order](#)

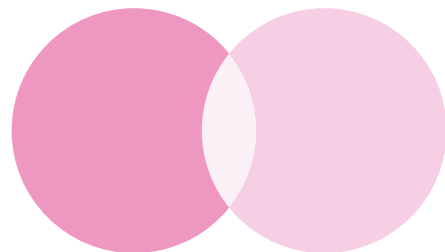
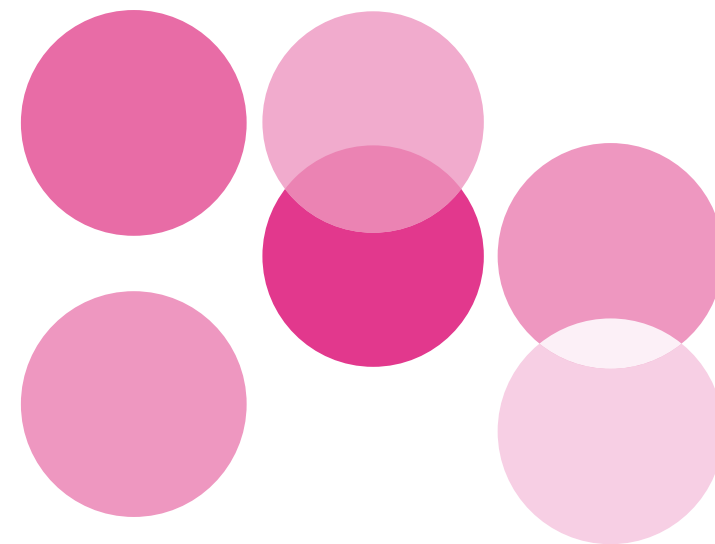
[Guardianship Order](#)



Our leaflets may be available in different formats and languages. We subscribe to Language Line and to the Text Relay service.

We welcome any feedback or comment you may have on the content of our leaflets. You can get in touch with us or fill in the feedback form on our website.

What is a power of attorney?



INVESTOR IN PEOPLE

Issue February 2015

What is it?

A continuing (financial) and/or welfare power of attorney (PoA) is a written document giving someone else authority to take actions or make decisions on your behalf.

The PoA details the names of the people, known as attorneys, who you want to help you and lists the individual powers that you want them to have. The PoA will also state when your attorneys can begin acting.

Who can make a PoA?

Anyone over the age of 16 who is capable can make a PoA. There are restrictions if you have been made bankrupt. See our website for more information.

What does it do?

The PoA provides legal authority for the attorney to make decisions for you. The PoA could be used in the future if you become incapable.

What does incapable mean?

Your 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 you are incapable or not.

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 making decisions about:

- your money and/or property only; or
- your health or personal welfare; or
- all of your financial affairs and personal welfare.

Who can I appoint as my attorney?

You can appoint anyone you want, over the age of 16. This could be a family member or friend, a solicitor or accountant, or a combination. It's 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.

You can appoint someone to deal with your financial matters and someone different to deal with your personal welfare.

It is good practice for you to discuss with the person you want to have as your attorney what being an attorney actually involves. It will be helpful if you keep a note of the matters discussed and give your prospective attorney a copy too.

Although, it's your choice who you can appoint, you should note that someone who is currently declared as bankrupt cannot be appointed to deal with your financial and property affairs.

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. Useful information is also available from our website.

How much does it cost?

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

We also charge a registration fee. You can find out more about our current fees on our website or phone us.

What happens to my PoA?

The PoA must be registered with us before it can be used, even if you are still capable of doing things for yourself.

The following documents need to be sent to us to register your PoA:

- your signed PoA, including the fully completed certificate;
- confirmation that your attorney/s are freely willing to act on your behalf; and
- registration fee.

You can send your documents to us by post or submit your PoA electronically using our electronic power of attorney registration (EPOAR) facility. Step-by-step guidance is available on our website.



[About powers of attorney](#)

[How to register your PoA](#)

[Your options](#)

[By post](#)

[EPOAR Online](#)

[How long will it take?](#)

[If we can't register your PoA](#)

[After registration](#)

[FAQs](#)

Your options

How do I make a submission?

Before a power of attorney (PoA) can be used it must be registered with us. You can send your documentation to us via EPOAR or by post.

EPOAR online facility

When using the online facility, known as [EPOAR](#) it is important that you read the guidance notes

first. We can process your PoA more quickly if you use our online service.

When using EPOAR, you will need to upload the following documents on and pay the [registration fee](#) by debit or credit card

1. A PDF of the signed PoA, no larger than 2mb, incorporating a completed [certificate of capacity](#) (known as schedule 1)



SCHEDULE 1		Regulation 2
CERTIFICATE UNDER SECTIONS 1(1)(c) AND 1(1)(d) OF THE ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000 TO BE INCORPORATED IN A DOCUMENT GRANTING A POWER OF ATTORNEY		
1.	The certificate is incorporated in the document identified by: Name and address of grantor:	
2.	Or Name and address of donee:	
3.	The certificate is: Type and specify date and time and day only:	
	<input type="checkbox"/> Continuing power of attorney (i.e. certificate applies in future periods)	
	<input type="checkbox"/> Winding-up power of attorney (i.e. certificate applies in past periods)	
	<input type="checkbox"/> Combined power of attorney (i.e. certificate applies in future and in past periods)	
4.	Appointed as attorney: Name and address of attorney:	

There is **no need** to complete and submit a separate registration form when using EPOAR as this only applies to postal submissions.

Postal submission

You can send the documents to us by post, however, it will take us longer to process your PoA by this service. If you need us to process your documentation more quickly due to urgent circumstances, we can provide a [priority service](#), but you should first of all consider using the EPOAR service.

If submitting by post, you will need to send the following documents to us along with the [registration fee](#):

1. Your signed [PoA document](#)

2. A completed [certificate of capacity](#)

3. A completed [registration form](#)



SCHEDULE 1 Partnership 1
CERTIFICATE UNDER SECTIONS 1(3)(G) AND/OR 14(1)(G) OF THE ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000 TO BE INCORPORATED IN A DOCUMENT GRANTING A POWER OF ATTORNEY

1. This certificate is incorporated in the document referred to by

2. On

3. This certificate

 Continuing power of attorney (i.e. confers powers on financial persons)
 Writeshop power of attorney (i.e. confers no powers)
 Combined power of attorney (i.e. confers both powers on financial and welfare persons)

4. Appointing an attorney(s)

POWERS OF ATTORNEY REGISTRATION FORM - Scotland

Section 1 - Grantor

TITLE

SURNAME

FORNAME

ADDRESS

DATE OF BIRTH

HOUSE NO.

STREET

LOCALITY

CITY

COUNTRY

POSTCODE

PHONE NUMBER

EMAIL ADDRESS

PROF. OCCAS. OF GRANTOR
What are the main activities in which you are engaged?

None	Very little	Some	Quite a lot	A great deal
None	Very little	Some	Quite a lot	A great deal
None	Very little	Some	Quite a lot	A great deal
None	Very little	Some	Quite a lot	A great deal
None	Very little	Some	Quite a lot	A great deal

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About powers of attorney](#)

[How to register your PoA](#)

[After registration](#)

[Registered PoA](#)

[Your certificate](#)

[Acting as an attorney](#)

[Amending your PoA](#)

[Cancelling your PoA](#)

[Changes to tell us about](#)

Registered PoA

After we have registered the power of attorney (PoA) the details of it will be added to the public register. We will then issue certain documentation.

Returned by EPOAR online system

- **Sender (usually a solicitor)**

A certificate signed by the Public Guardian and copy of the PoA (in PDF format) will be available

Substitute attorneys

Ending a PoA

Duplicate copies

Concerns about attorneys

Further guidance

FAQs

Fees

Forms and publications

electronically for the sender to access and download. The Public Guardian's crest will appear on the certificate and on each page of the PoA. Each page of the PoA will be numbered, contain the Public Guardian's reference and a unique certificate number.

Once the documentation has been downloaded, you will need to print this as it needs to be certified before it can be used. Further information is detailed on the certificate regarding who can do this.

- **Granter**

A copy of the PoA in PDF format will be sent by e-mail to the email address that was input in EPOAR. This copy is for information only and should not be used by the attorney when exercising their powers.

- **Specified person**

If it was stated in the PoA that the specified persons are to receive a copy it will be sent by email to the address input in EPOAR. This copy is for information purposes only and should not be used by the attorney when exercising their powers.

Returned by postal system

- **Sender**

An embossed certificate signed by the Public Guardian with a red seal, along with a paper copy of the PoA will be sent in the post. The original PoA will be returned.

- **Granter**

A copy of the PoA will with be sent by post or email, depending on the granter's preference indicated on the registration form. This copy is for information only and should not be used by the attorney when exercising their powers.

- **Specified person**

If it was stated in the PoA that the specified persons are to receive a copy, this will be sent in the post or by email depending on the preference indicated on the registration form. This copy is for information purposes only and should not by used by the attorney when exercising their powers.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About powers of attorney](#)

[How to register your PoA](#)

[After registration](#)

[FAQs](#)

[Fees](#)

[Forms and publications](#)

FAQs

Drafting your PoA

[Can OPG help me draft my PoA?](#)

[Can you recommend a solicitor to help me with my PoA?](#)

[Can I draft my PoA without the help of a solicitor?](#)

[When do I sign my PoA document?](#)

[My client can't read English, how do I approach providing a PoA?](#)

[Advance Directive/Living Wills](#)

Who to appoint

Can my attorney live in another country other than Scotland?

Prescribed certificate

Who can sign the certificate of capacity?

Can a solicitor witnessing or signing a PoA on behalf of the granter also complete the Schedule 1 certificate?

As a solicitor can I sign this on the basis of having consulted the attorney(s) rather than an individual not involved in the process?

I am a trainee solicitor can I sign the prescribed certificate?

Registering your PoA

Can my PoA be registered urgently?

Do I need to register my PoA straight away?

I am going on holiday and wish to appoint an attorney to look after my affairs in my absence. Do I have to register it?

Do pre Act PoAs have to be registered?

Does the PoA document need to be formally activated with OPG when I start acting as attorney?

Refunding the registration fee

I am a solicitor and my client, the granter of a power of attorney, has died prior to it being registered. Can the registration fee be refunded?

Duplicate copies of your certificate and PoA

I have lost my PoA with the certificate of appointment, can I get a copy?

Bankruptcy

What is bankruptcy?

My attorney has been declared bankrupt, what happens then?

I have granted a PoA and have been declared bankrupt, what happens next?

Deprivation of Liberty

[Can a welfare attorney agree to deprive or restrict the granter of their liberty?](#)

Changing the terms of your PoA

[I am not the granter of the PoA, can I make changes to it?](#)

[Does the Public Guardian charge a fee to amend a PoA?](#)

Changing your address

[I am a granter/attorney and have moved address, do need to tell you about this?](#)

Using your PoA in Scotland or England

[Can a Scottish PoA be used in England?](#)

[Can a non-Scottish PoA be used in Scotland?](#)

[Can a Scottish PoA be used outside the UK?](#)

[Is OPG part of the 'Tell Us Once' service?](#)

Wills

[Can you help me with enquiries about Wills?](#)

Who to appoint

Q. Can my attorney live in another country other than Scotland?

A. Yes. However bear in mind that your attorney should be reliable and able to carry out tasks on your behalf.

[Back to top](#)

Prescribed certificate

Q. Who can sign the certificate of capacity?

A. This prescribed certificate is also known as schedule 1. It may be signed by one of the following:

- A practising member of the Faculty of Advocates
- A practising Solicitor who is registered to practice law in Scotland
- A UK registered and licensed medical practitioner

Q. Can a solicitor witnessing or signing a PoA on behalf of the granter also complete the certificate of capacity?

A. Yes, this is perfectly acceptable.

[Back to top](#)

Q. As a solicitor can I sign the certificate on the basis of having consulted the attorney(s) rather than an individual not involved in the process?

A. Although this would not prevent registration, it is not best practice to sign from such consultation alone as this could be open to challenge in the future as a conflict of interest on behalf of the attorney. In terms of property matters, we are aware that the Keeper of the Registers of Scotland will exclude his indemnity from a purchaser's title in terms of Section 12(2) of the Land Registration (Scotland) Act 1979 where the seller acts under such a continuing PoA. To avoid an exclusion of indemnity the Keeper will require evidence that the attorney has not acted 'auctor in rem suam' (in his own interests) by acting as consultee at part B of the prescribed certificate to the continuing PoA.

[Back to top](#)

Q. I am a trainee solicitor can I sign the certificate of capacity?

A. The Law Society of Scotland has provided guidance to its members regarding trainee solicitors signing the prescribed certificate under sections 15, 16 and 16a of the Adults with Incapacity (Scotland) Act 2000. The advice is that a trainee should **NOT** sign the certificate:

"A trainee without a practising certificate could not be a 'practising solicitor' and therefore could not sign the certificate. A trainee (with a practising certificate) could be a 'practising solicitor' but since these are onerous responsibilities requiring a degree of experience of practice it is considered by the Society that such responsibility should not be placed on a trainee solicitor with a restricted practising certificate and therefore that a trainee should not sign the certificate."

[Back to top](#)

Registering your PoA

Q. Can my PoA be registered urgently?

A. If there is genuine urgency we can process the documentation quicker. We provide an [application form](#) which must be used for all requests to expedite the registration of a PoA. Complete

the form and email it to OPG@scotcourts.gov.uk

To request this expedited service via EPOAR:

1. Submit the PoA via EPOAR
2. Pay the registration fee
3. Email your [application form](#) to expedite the PoA to opg@scotcourts.gov.uk

Solicitors are advised to email EPOAR expedite requests **only** when the payment has been made by their cash office. If the above steps are not followed it results in additional work for all concerned.

[Back to top](#)

Q. Do I need to register my PoA straight away?

A. We would recommend that PoA are registered as promptly as possible. If you choose not to register the document immediately then there is a possibility that between the time of writing and submitting the PoA for registration, there may be changes to the registration requirements or the document may contain an element that prevents registration. If at this time the granter was incapable and their input was required the PoA could not be registered and an alternative, more intrusive and expensive form of intervention may be required to protect the granter's interests.

[Back to top](#)

Q. I am going on holiday for a period of time and wish to appoint an attorney to look after my affairs in my absence. Do I have to register it with your office?

A. No. If the power is not intended to continue in the event of incapacity then it does not require to be registered with this office.

[Back to top](#)

Q. Do pre Act PoAs have to be registered?

A. No. There is no provision under the Act for that to be done.

[Back to top](#)

Q. Does the PoA document need to be formally activated with OPG when I start acting as attorney?

A. No. There is no requirement to notify us when you begin exercising your powers. Attorneys are responsible for informing relevant individual authorities e.g. banks, care homes etc. when they start acting on behalf of the granter. More information can be found in our [factsheet for attorneys](#)

[Back to top](#)

Refunding the registration fee

Q. I am a solicitor and my client, the granter of a power of attorney, has died prior to it being registered. Can the registration fee be refunded?

A. Yes. If a power of attorney is withdrawn, for example because the granter has died or changed their mind prior to us carrying out the validity check and processing, we can arrange for the fee to be refunded to the sender.

[Back to top](#)

Duplicate copies of your certificate and PoA

Q. I have lost my PoA with the certificate of appointment, can I get a copy?

A. Yes. The granter or an attorney can be provided with a [duplicate copy](#) and certificate of registration.

[Back to top](#)

Bankruptcy

Q. What is bankruptcy?

A. Bankruptcy is the process where an individual is declared bankrupt by a Sheriff or the [Accountant in Bankruptcy](#) (AiB), because they are unable to pay their debts.

The debtor (person who owes the money) can apply to the AiB to be made bankrupt. A creditor (to whom the money is owed) can apply to the Sheriff to have the debtor declared bankrupt. In Scotland, “sequestration” is another term used for bankruptcy.

A debtor can enter into a voluntary agreement with their creditors to repay some of what they owe. This agreement is called a trust deed. Full details on bankruptcy and protected trust deeds can be found on the AiB website.

[Back to top](#)

Q. My attorney has been declared bankrupt, what happens then?

A. If your attorney was given continuing powers i.e. could make decisions about your financial affairs or property, the attorney's appointment will be terminated and the PoA may come to an end. This will depend on how the PoA has been drafted and if there are other attorneys. Your legal or financial adviser will be able to give you more information about this.

[Back to top](#)

Q. I have granted a PoA and been declared bankrupt, what happens next?

A. The PoA will cease in relation to continuing powers only. Your legal or financial adviser will be able to give you more information about this.

[Back to top](#)

Deprivation of Liberty

Q. Can a welfare attorney agree to deprive or restrict the granter of their liberty?

Since the ruling in what is known as 'the Cheshire West case' and the Scottish Law Commission's review of and comments on deprivation of liberty there has been much uncertainty as to whether a proxy, particularly a person with welfare power of attorney, can authorise a deprivation or restriction of liberty.

A secondary question which arises is, if so, does the power need to be in be a particular form of words and can the Public Guardian offer wording. We are unable to offer advice on this at this time. These questions are included in the [Scottish Government's consultation](#) on AWI (published in January 2018 and closing on 30 April 2018). We are sorry that we cannot offer a definitive position, [more detailed information](#) is available on the Mental Welfare Commission's website.

[Back to top](#)

Changing the terms of your PoA

Q. I am not the granter of the PoA, can I make changes to it?

A. No. Only the granter of the PoA can make any changes to it. A granter can [amend their PoA](#)

when they still have capacity.

[Back to top](#)

Q. Does the Public Guardian charge a fee to amend a PoA?

A. The Public Guardian has taken the view that an amendment sought by a capable granter is permissible. Subject to the type of amendment a fee may be charged by the Public Guardian. The [PoA amendment policy](#) provides further information.

[Back to top](#)

Changing your address

Q. I am a granter/attorney and have moved address, do need to tell you about this?

A. Yes. We provide [a form](#) that you can use to tell us about the change of address.

[Back to top](#)

Using your PoA in Scotland or England

Q. Can a Scottish PoA be used in England?

A. The Mental Capacity Act 2005 (MCA) is the relevant legislation. One needs to draw a distinction between power of attorney and guardianship (called deputyship under the MCA) as the 'rules' are quite different. A Scottish PoA can be used in England or Wales if an Organisation (e.g. a bank) accepts its authority, but if they do not things are more problematic. The Organisation may require an endorsement of the Scottish PoA from the English authorities [Court of Protection] but the MCA does not appear to allow for such an endorsement. It is recognised that this is an unacceptable position and perhaps not what was intended. It will require a change to the primary underpinning legislation (the MCA) to rectify this situation. The authorities South of the Border are aware of the problem and have indicated that they will seek to remedy this when there is a legislative opportunity. The [Register of international measures](#) provides further information.

If you are now based in England or Wales and are still capable you may wish to consider doing an English/Welsh PoA. If capacity has been lost someone will need to apply to the Court of Protection for deputyship.

If the incapable person is now in England or Wales and you are seeking to rely on a Scottish

guardianship order to support them please see the relevant response.

If you need more information about the English system or how best to proceed in England please contact the Office of the Public Guardian for England & Wales, telephone: 0300 456 0300 e-mail: customerservices@publicguardian.gsi.co.uk

[Back to top](#)

Q. Can a non-Scottish PoA be used in Scotland?

A. A non-Scottish PoA can be used in Scotland if an Organisation (e.g. a bank) accepts its authority but if they do not things are more complicated. The Organisation may require some form of Scottish endorsement of the PoA but interpretation of the Scottish legislation suggests a non-Scottish PoA of is automatically valid in Scotland and consequently there is no arrangement under the law for having it formally endorsed. The law in this area lacks certainty; we are seeking to have this clarified.

As an interim measure, we have devised a [Certificate](#) which can be printed and presented along with the PoA. This may assist in getting a non-Scottish PoA accepted in Scotland.

If you need more information generally or about how best you might proceed in a given case please contact e-mail the Public Guardian for Scotland: opg@scotcourts.gov.uk

[Back to top](#)

Q. Can a Scottish PoA be used outside the UK?

Each country will have its own position on this. You should first establish what the country's requirements are. The country may require 'legalisation' or 'Apostillation' of your power of attorney. This is done via the UK Foreign and Commonwealth office; for more information please see [Get your document legalised - GOV.UK](#). You are likely to require a hand signed copy of your power of attorney (not an electronically signed version). Please telephone us if this is the case, we can arrange for this to be issued to you; 01324 678300. It is likely that the country will require you to have the document translated into their native language and this is likely to be by a nominated official translator of that country.

[Back to top](#)

Q. Is the OPG part of the 'Tell Us Once' service

A. No. When the granter of a PoA passes away the PoA automatically stops. This means that

attorneys no longer can act. Attorneys must inform any relevant authorities that the PoA is no longer active.

[Back to top](#)

Drafting your PoA

Q. Can OPG help me draft my PoA?

A. No. We are unable to help you draft a PoA nor do we provide template PoA documents as our role is to provide general advice and a registration service. You will need to arrange for your own PoA to be drafted. Most solicitors should be able to assist you to draft a PoA and provide legal advice. Alternatively, other companies and stationery shops sell PoA packs.

[Back to top](#)

Q. Can you recommend a solicitor to help me with my PoA?

A. No. We are unable to recommend solicitors but we would suggest that you approach a solicitor who specialises in the Adults with Incapacity (Scotland) Act 2000. [The Law Society of Scotland](#) has a database of solicitors based throughout Scotland. This may help you to find a solicitor in your local area that can help.

[Back to top](#)

Q. Can I draft my PoA without the help of a solicitor?

Yes. You do not need to use the services of a solicitor to draft a PoA. However please note that the drafting of your PoA is important as the wording of the document will be open to interpretation. We would recommend you take legal advice when drafting a PoA.

We provide some [general information](#) on what the PoA document looks like and the necessary detail that should be included in a PoA but we cannot help you draft a PoA nor can we provide legal advice.

Please note that if you intend drafting your own PoA you will need to arrange for either a solicitor or a practising member of the Faculty of Advocates or a doctor to complete the schedule 1 certificate of capacity.

[Back to top](#)

Q. When do I sign my PoA document?

If you are taking your PoA document to a prescribed person i.e. a solicitor or a practising member of the Faculty of Advocates or a medical doctor for them to complete the Schedule 1 certificate of capacity, please note that you should sign the PoA document during the interview with them and not beforehand.

It is a registration requirement that the date the granter signs their PoA is the same date when the prescribed person carried out the interview with the granter. This is because when the prescribed person signs the certificate they are confirming that they interviewed the granter immediately before the granter signed the PoA document. Therefore the date the granter signs and the date of interview must match in the PoA . If these dates do not match we will return the documentation for amendment.

Please note that it is not fraudulent for the granter to amend their PoA document or for the prescribed person to amend the certificate prior to registration.

[Back to top](#)

We can only accept PoAs drafted in English. You might find the following steps useful if the granter cannot read or speak English.

1. Arrange for a PoA in the granter's own language to be drafted and signed by the granter
2. Arrange for an English translation of the PoA and for this to be notially executed on the basis that the granter does not read English but has accepted and signed the original PoA
3. Send both the English translated PoA and the original PoA signed by the granter for registration.
Please ensure that the English translated PoA is at the front of all the PoA documentation.

If the PoA document is to be used abroad and it needs to be apostilled i.e. legalised with a wet signature, please note that the documents must be sent to us via the postal system and not via the EPOAR facility.

You can get certain official UK documents 'legalised' by asking the Legalisation Office to confirm that the signature, stamp or seal is from a UK public official. You might need to do this if an official in another country has asked you to provide a UK document and they've said it must be legalised. For more information please see [Get your document legalised - GOV.UK.](#) or contact legalisationenquiries@fco.gsi.gov.uk

[Back to top](#)

Advance Directive/Living Wills

Advance directives or a living will can be attached to PoA documents if desired. However, our role is to check that PoAs meet the registration criteria of the AWI Act, we are unable to offer any advice on this matter. Nor are we able to comment or make any observations on directives. .

[Back to top](#)

Wills

Q. Can you help me with enquiries about Wills?

A. No. We cannot help with these types of enquires and we suggest that you contact a legal adviser for advice.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About powers of attorney](#)

[How to register your PoA](#)

[After registration](#)

[FAQs](#)

[Fees](#)

[Forms and publications](#)

Fees

A fee might be required for some of the services we provide. The fee for power of attorney is due at the time you send your documents to us. There are certain circumstances where you might be entitled to a fee exemption. If applying for a [fee exemption](#), you will need to send your documentation to us by post and not through the EPOAR facility.

Methods of Payment

Debit or credit cards are acceptable forms of payment for EPOAR submissions (Please note that we

cannot accept AMEX card payments).

- Cheques made payable to the 'Scottish Courts and Tribunals Service' are acceptable for postal submissions.
- If you are coming to the office to pay your fee by cash, please bring the exact fee amount as we do not keep cash or change in the office.
- Debit or credit cards

Title	Description	Fee
Submitting of a power of attorney document for registration	Submission of a document conferring a continuing and / or welfare power of attorney under section 19 of the Act.	£79
Deed of Amendment	Registration of a deed of amendment to a continuing or welfare power of attorney under section 19 of the Act.	£79
Duplicate or Replacement Certificate (includes both the Public Guardian's certificate and a bound copy of the power of attorney document)	Provision of a duplicate or replacement certificate issued under section 19(2) of the Act with a copy of the power of attorney document. This only applies to powers of attorney registered manually and not electronically. (Please note that if there are more than 10 pages in the document, an additional 50p per page applies)	£26
Audit of Accounts	Audit of accounts submitted by a continuing attorney under section 20(2)(b) of the Act.	£124

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



Home / Power of Attorney / Forms and publications

About powers of attorney

How to register your PoA

After registration

FAQs

Fees

Forms and publications




























Forms and publications

A range of information and guidance is available. All of our information and guidance can be downloaded however we can provide copies of leaflets. Copies of the [Codes of Practice](#) may be available from the [Scottish Government](#).

We provide guidance in the following formats:

Publications

Forms

<ul style="list-style-type: none"> • What is a Power of Attorney  • What is a Power of Attorney  • Power of Attorney top tips  • Typical PoA document example  • Factsheet for Attorneys  • Code of Practice for Continuing and Welfare Attorneys  	<ul style="list-style-type: none"> • certificate of capacity  – solicitor or doctor to complete • certificate of capacity  – solicitor or doctor to complete • Revocation certificate  – cancel POA – solicitor or doctor to complete • Revocation certificate  – cancel POA – solicitor or doctor to complete • Regulations governing the supervision of welfare attorneys (SSI 2001 No.77) • SSI 2001 No.77 • Power of Attorney registration form  • Request expedite service  • Change of address form  • Change of address form  • Fee exemption form  • Feedback form  • PoA Recognition certificate (non-Scottish PoAs to be used in Scotland)
<p>Listen  </p>	<p>Translations</p>
<p>• What is a Power of Attorney</p> <p>Guide to Making a Power of Attorney</p> <ul style="list-style-type: none"> • Statutory Requirements • Who can be an Attorney • Solicitors & Organisations acting as Attorneys • Appointment of Joint or Substitute Attorneys • Possible Powers • Discussion with Prospective Continuing Attorney 	<ul style="list-style-type: none"> • What is PoA (Urdu Version)  • What is PoA (Punjabi Version)  • POA Guide (Bulgarian Version)  • PoA Guide (Cantonese Version)  • PoA Guide (Punjabi Version)  • PoA Guide (Italian Version)  • PoA Guide (Arabic Version)  • PoA Guide (Urdu Version)  • PoA Guide (Polish Version) 

- | | |
|---|--|
| <ul style="list-style-type: none">• Discussion with Prospective Welfare Attorney• Specified Persons• Granting Sufficient Powers• Cost of Acting as Attorney• Further Assistance | |
|---|--|

Further Information

Our publications may be available in other formats on request:

- Phone: 01324 678300
- Email: opg@scotcourts.gov.uk

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



About powers of attorney

What is a PoA?

What you need to know

Who can make a PoA?

Types of PoA

People involved

Who can be an attorney?

The PoA document

Where to get a PoA

What is the incapacity statement?

A power of attorney (PoA) that is to begin in the event of incapacity must have a statement confirming that the granter 'has considered how their incapacity is to be determined'.

It is good practice to say exactly how you want your incapacity to be determined and who should do this. This makes it clear what your wishes are so they can be followed. Read the [definition of incapacity](#).

All welfare PoAs must have an incapacity statement to suit your specific needs and wishes.

[Incapacity statement](#)

[Our role](#)

[Doctors & solicitors](#)

[Myths about PoAs](#)

[How to register your PoA](#)

[After registration](#)

[FAQs](#)

[Fees](#)

[Forms and publications](#)

If you only want your continuing attorney to act after you become incapable, an incapacity statement will be needed.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About powers of attorney](#)

[What is a PoA?](#)

[What you need to know](#)

[Who can make a PoA?](#)

[Types of PoA](#)

[People involved](#)

[Who can be an attorney?](#)

[The PoA document](#)

[Where to get a PoA](#)

Our role

The Adults with Incapacity (Scotland) 2000 Act gives the Public Guardian the following duties and responsibilities relating to powers of attorney (PoA):

- to register PoAs that meet the registration criteria.
- to maintain a public register of continuing and welfare PoAs.
- to provide advice and guidance to continuing attorneys on the exercise of their powers.

However, the advice that we can give is limited as we are not legally qualified. If legal advice or financial advice is required you should consult a solicitor or financial adviser.

[Incapacity statement](#)

[Our role](#)

[Doctors & solicitors](#)

[Myths about PoAs](#)

[How to register your PoA](#)

[After registration](#)

[FAQs](#)

[Fees](#)

[Forms and publications](#)

We cannot help you to draft your PoA nor do we provide PoA templates/samples as our role is to provide general advice and a registration service.

Please note that we do not provide a checking service pre-registration.

We do not provide legal advice, please see a legal adviser if you are seeking legal advice.

We have no supervisory role in regard to how an attorney performs their role. However, if you have concerns regarding how the continuing (financial) powers are being operated, [more information](#) is available in the investigation section of this website.

We do not deal with concerns about the use of welfare or healthcare powers. If you have any concerns regarding welfare related issues, contact the [local authority](#) for the area where the granter lives. Alternatively you can contact the [Mental Welfare Commission](#).

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About powers of attorney](#)

[What is a PoA?](#)

[What you need to know](#)

[Who can make a PoA?](#)

[Types of PoA](#)

[People involved](#)

[Who can be an attorney?](#)

[The PoA document](#)

[Where to get a PoA](#)

Doctors & solicitors

Under the terms of the Adults with Incapacity (Scotland) Act 2000 the following people may carry out an interview with a granter to confirm that they understand the nature and impact of making a PoA:

- a solicitor registered to practise law in Scotland or
- a practising member of the Faculty of Advocates or
- a registered UK medical doctor who holds a licence to practise

Why make a PoA?

Incapacity statement

Our role

Doctors & solicitors

Myths about PoAs

How to register your PoA

After registration

FAQs

Fees

Forms and publications

Once a person reaches the age of 16, nobody (regardless of their relationship) has an automatic legal right to make decisions on their behalf.

A person who has been diagnosed or who has a family history of a debilitating illness may wish to consider making a PoA which will continue or begin in the event of their incapacity. This would ensure that legal authority is in place should the time come when they can no longer make decisions about their own affairs.

In making a PoA a person is being proactive and making provision for their financial and / or long term health-care planning.

Your involvement

You may be asked to sign a prescribed [certificate of capacity](#) (also known as schedule 1) to confirm a person has capacity to grant a PoA. In addition:

- You could be contacted by a family member who is concerned that their relative is requiring assistance in making decisions.
- You may even be consulted by another doctor or solicitor because you know the person wishing to make the PoA and are better placed to assess their capacity.
- Some granters may have stipulated in the PoA that they wish their financial powers to be used only in the event of their incapacity. The granter may also have stated that their incapacity is to be determined by a doctor and that written evidence is provided to confirm this.

When can an attorney start acting?

A continuing attorney i.e. an attorney with powers to deal with finances and/or property can begin acting as soon as the PoA is registered with us. However some granters may wish for the attorney to begin acting only when they become incapable. If this is the case, this will be indicated in the PoA.

A welfare attorney can only act during periods of the granter's incapacity.

Can the PoA be changed once it is registered?

Yes, it can be revoked or amended once it has been registered.

However the granter must be interviewed by a prescribed person to confirm that they have capacity

to take this action.

The prescribed person can be either a solicitor registered to practise law in Scotland or a practising member of the Faculty of Advocates or a registered UK medical doctor who holds a licence to practise.

You may be asked to interview the granter and complete the prescribed [revocation certificate](#) (also known as schedule 2) or perhaps another prescribed person may consult you because you are better placed to assess the granter's capacity to revoke/cancel or amend the registered PoA.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)

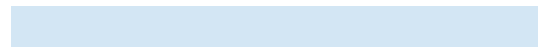


[About powers of attorney](#)

- [What is a PoA?](#)
- [What you need to know](#)
- [Who can make a PoA?](#)
- [Types of PoA](#)
- [People involved](#)
- [Who can be an attorney?](#)
- [The PoA document](#)
- [Where to get a PoA](#)

PoA Myth Videos

Over the years, we have gained an insight into some of the myths and misunderstandings that exist around Power of Attorney (PoA). We have lent our experience in supporting the My Power of Attorney campaign resulting in the 4 short 'myth busting' videos below which highlight why having a PoA in place is important. You will find all the information and guidance you might need about making a PoA our site so please take a look around. Do you know someone like this:



Incapacity statement

Our role

Doctors & solicitors

Myths about PoAs

How to register your PoA

After registration

FAQs

Fees

Forms and publications



1: I Have A Will



2: I'm Too Young



3: My Family Can Look After Me



4: I Don't Have The Money

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About us](#)

- [Public Guardian](#)
- [What to expect](#)
- [Data Protection](#)
- [Our Performance](#)

- [What we do](#)
- [News](#)
- [Fees](#)
- [Fee exemption](#)

About us

Who we are

We are part of the Scottish Courts and Tribunals Service and were established in April 2001 following the passing of the Adults with Incapacity (Scotland) Act. We are based in Falkirk and our remit covers all of Scotland.

Our current management team comprises [Fiona Brown, Public Guardian](#); and Debra Allison, Deputy Public Guardian and Carrie Diggins, Deputy Public Guardian. Debra and Carrie are responsible for

Forms and publications

Contact us

Feedback and complaints

You and us

the [operational and support teams](#). We have approximately 85 members of staff.

Our operational budget for 2019-2020 is £3,072,657.00. This total figure incorporates both staff costs £2,869,117.00 (such as salaries, pensions etc.) and non-staff costs £203,540.00 (stationery, postage, printing, etc.)

Our mission statement

We are an evolving, customer centred and inclusive organisation committed to protecting and safeguarding the property and finances belonging to incapable adults living in Scotland.

Our story so far

We were established in April 2001, when the Adults with Incapacity (Scotland) Act 2000 was enacted. Since then we have learned, evolved and built up expertise which has helped inform our practice and made us become better at what we do.

We are a forward looking organisation continually seeking to improve and develop our services. Engagement with key partners and customers is fundamental in helping us achieve this.

Our dedicated, skilled and knowledgeable workforce will continue to help us deliver a high quality customer-centred service to protect and safeguard adults with incapacity. Our [customer charter](#) outlines the levels of service to expect from us. Customers who are not satisfied with the service we have provided can give us feedback using our [feedback form](#). We can also accept [complaints](#), general feedback or compliments by phone, letter or email.

Our plans for the future

We are currently reviewing our structures, practices and procedures to ensure that we are able to meet the demands made on our services both now and in the future.

We have a challenging business plan for 2018/19. Throughout the year much of our efforts will be focussed on engaging with our customers and stakeholders to improve awareness and knowledge of the Adults with Incapacity (Scotland) Act 2000.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About us](#)

[What we do](#)

[News](#)

[Fees](#)

[Fee exemption](#)

[Forms and publications](#)

[Contact us](#)

[Feedback and complaints](#)

[You and us](#)

Forms and publications

We provide a range of information and guidance on the financial provisions of the Adults with Incapacity (Scotland) Act 2000. All of our information, guidance and referral forms can be downloaded.

- [Power of attorney](#)
- [Access to funds](#)
- [Intervention orders](#)

[Guardianship orders](#)

- [Investigations](#)

Some of our publications can be provided in hard copy format and may be available in other formats on request. We subscribe to Language Line and to the Text Relay service, and welcome your [feedback](#) on the content of our publications.

'What is...' leaflet series

Please note that we are no longer able to provide multiple copies of this popular series of leaflets. Customers wishing multiple copies can either download or contact our print supplier directly to purchase leaflets.

Download leaflets

- [Adults with Incapacity \(Scotland\) Act 2000](#)
- [What is a power of attorney?](#)
- [What is access to funds?](#)
- [What is an intervention order?](#)
- [What is a guardianship order?](#)

Purchase leaflets

If you wish to arrange and pay for an order, please contact Joanne.Smith@theapsgroup.com for further information. The following are indicative costs and exclude VAT:

What is a power of attorney?	Pack of 25 @ £29.29 Pack of 50 @ £51.08
What is access to funds scheme?	Pack of 25 @ £29.29 Pack of 50 @ £51.08
What is guardianship order?	Pack of 25 @ £21.00 Pack of 50 @ £34.50
What is an intervention order?	Pack of 25 @ £21.00 Pack of 50 @ £34.50

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



- [About us](#)
- [What we do](#)
- [News](#)
- [Fees](#)
- [Fee exemption](#)
- [Forms and publications](#)
- [Contact us](#)
- [Feedback and complaints](#)
- [You and us](#)

You and us

Our seminars and events

We are often asked to speak at events and attend meetings around the country to inform of our role and the options available for financial decision making under the AWI Act.

The majority of the outreach we provide are events or information sessions, either facilitated by us or where we are an active participant.

While we wish to offer an effective and comprehensive outreach service we need to ensure it makes

optimal use of our resources in doing so. If you wish us to be involved in an event or to provide an information session, please send your request, detailing as much information as possible about the purpose of the event and numbers attending to: opg@scotcourts.gov.uk

This information will help us to assess how best we can help and if we can be involved.

Customer satisfaction

We engage with customers in a number of ways to find out how we are doing and what we need to do to improve. Customer feedback is important to us and helps us work towards getting things right.

Consultations

From time to time we run consultation exercises to find out what our customers think about the services we offer. You are welcome to [contact us](#) if you would like to participate in future consultations.

Examples of recent consultations:

- [Combined inventory and management plan form](#)
- [Early intervention pilot](#)
- [Inventory & management plans](#)
- [Simple accounting](#)
- [Consent in principle & sale price for heritable property](#)
- [Renewing an order](#)
- [Discharge from appointment](#)
- [EPOAR pre-registration service](#)
- [EPOAR post registration service](#)
- [Access to funds scheme annual review service](#)

Customer surveys

Survey work helps us find out more about the customers experience of our service and it lets us see where we are doing well and what we could do differently or better. This area of work is important and valuable to us and we appreciate the time taken to provide us with feedback.

Our website user survey ran from July to September 2018. The purpose of the survey was to find out more about customer journeys and learn how easy our information is to understand

and find. The results of the survey have been collated, the [feedback summary](#) highlights the key points.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



[About us](#)

[What we do](#)

[Our services](#)

[Public registers](#)

[FAQs](#)

[Where to get more help](#)

[Terms used](#)

[News](#)

[Fees](#)

Terms Used

[A](#) [B](#) [C](#) [D](#) [E](#) [F](#) [G](#) [H](#) [I](#) [J](#) [K](#) [L](#) [M](#) [N](#) [O](#) [P](#) [Q](#) [R](#) [S](#) [T](#) [U](#) [V](#) [W](#) [X](#) [Y](#) [Z](#)

A

Accounts

documents and supporting information submitted by a guardian to the Public Guardian on an annual basis. An account will also be required if the adult dies or the guardianship order comes to an end for any other reason.

[Fee exemption](#)

[Forms and publications](#)

[Contact us](#)

[Feedback and complaints](#)

[You and us](#)

Adult

a person over 16 years.

Adult Support and Protection (Scotland) 2007 Act

legislation implemented to protect adult's from harm and a requirement to establish Adult Support and Protection Committees for the safeguarding of adults who are at risk of harm.

Adult with incapacity

a term applied to a person over the age of 16 who has been certified by a medical practitioner as being incapable of managing their affairs.

Adults with Incapacity (Scotland) 2000 Act

legislation passed by the Scottish Parliament.

Advocate

a member of the Scottish Bar.

Agent administrator

is the person in a solicitor's firm who manages EPOAR user accounts.

Applicant

the person with an interest making an application under part 3 or 6 of the Act. Application for variation – is when either an intervention order or guardianship order has been made and the powers need to be changed / varied.

At risk

an adult who is potentially at risk of harm or are unable to safeguard their finances or property.

Attorney

the person who is appointed by the granter to make decisions, if required to do so.

B

Bankruptcy

where a person is unable to pay his or her debts, a creditor may apply to the court for that person's sequestration, i.e. to have that person declared bankrupt.

C

Care Inspectorate

regulates, inspects and supports the improvement of care, social work and child protection services for the benefit of the people who use them.

Caution

a guardian or an intervener may be required by the Sheriff to find caution, i.e. security, for the protection of the adult's estate. This is usually done by arranging a bond with an insurance

company.

Chief Social Work Officer

this is the person who is appointed under Section 3 of the Social Work (Scotland) Act 1968 to ensure the provision of appropriate professional advice in the discharge of local authorities' statutory social work duties.

Civil legal aid

is help towards the costs of legal advice and representation, for those who qualify, paid for out of public funds. It is designed to help individuals on low and modest incomes gain access to the legal system.

Code of Practice

highly recommended guidance provided by the Scottish Government to assist those appointed under the Act in carrying out their duties.

COSLA

a representative body for the majority of the local authorities / councils in Scotland.

Countersigning

a person who has known the applicant for more than 1 year, who believes that the information in an access to funds application is true and the applicant is a fit and proper person to access the adult's funds. There are some restrictions as to who can countersign.

Court order

a decision made at the court.

D

Deprivation of capital

deliberate deprivation occurs when an individual transfers an asset out of his or her possession to put him or herself in a better position regarding the means test for care home accommodation (or to claim social security benefits).

Designated account

this is the account which is set up by the withdrawer to receive funds from the adult's own account under the authority of the Access to Funds scheme.

Discharge

release from an order or obligation.

Dispensing caution

this is when the Sheriff has decided that there is no requirement for caution.

Dwelling house

this is a property which the adult may still live in or a property that previously was their place of

residence. Holiday homes or a second property are not considered as a dwelling house.

E

Embossed certificate

a certificate issued by the Office of the Public Guardian bearing an embossed mark verifying the document has been registered.

Endorsed court order

this is when the Registers of Scotland have recorded the details of the court order in the Land Register or Sasines Register. The court order is stamped and returned to the solicitor acting for the guardian or intervener.

EPOAR

stands for 'Electronic Power of Attorney Registration' facility.

European Human Rights Commission

has a statutory remit to promote and monitor human rights; and to protect, enforce and promote equality across the nine "protected" grounds.

Executor dative

a person appointed by the court to gather and distribute the estate or property of a deceased person.

Executor nominate

the person named in the will of the deceased to gather and distribute the estate or property of a deceased person.

Expedited service

a priority service offered to process powers of attorney where a need for urgency can be shown. You must provide a reason as to why the PoA is needed urgently.

Experian check

We reserve the right to carry out an Experian check on guardians/ and or the adult throughout the lifetime of a financial guardianship order, any adverse findings may be reported to the Sheriff. Credit ratings are not affected by this search.

F

Faculty of Advocates

The **Faculty of Advocates** is an independent body of lawyers who have been admitted to practise as **advocates** before the courts of **Scotland**, especially the Court of Session and the High Court of Justiciary. The **Faculty of Advocates** is a constituent part of the College of Justice and is based in Edinburgh.

Fee exemption

on application the Public Guardian can waive certain fees provided the financial criteria are satisfied.

Financial adviser

A person or regulated company who has permission for the purposes of the Financial Services and Markets Act 2000 to advise on investments. Advice cannot be given by the guardian or any person who is an employer, employee or business partner of the guardian. Guardians should ensure they are satisfied that the person/regulated company is independent in that they can give broad general advice and not obligated to recommend certain products.

Financial intervener

person appointed by the court to carry out a specific action(s) on behalf of the adult under Part 6 of the Act.

Financial Ombudsman

set up by Parliament to sort out individual complaints that consumers and financial businesses aren't able to resolve themselves.

Fundholder

a financial institution such as a bank or building society where the adult's funds are held.

G**General functions of the Public Guardian**

to safeguard and protect the property or finances belonging to adults with incapacity. Section 6 of the Act provides for this.

Graded guardianship

Public Guardian's [paper on graded guardianship](#) highlighting concern about the current system and the need for review and amendment.

Granter

the person wishing to grant powers to another person so that decisions can be made on their behalf.

Guardian

a person appointed by the court to act as guardian in relation to the property, financial affairs or personal welfare of an adult with incapacity.

Guardianship order

an order made by the court appointing one or more persons to act as financial and / or welfare guardian for an adult with incapacity.

General PoA

is a legal document giving a person/s power to make decisions the granter's behalf. This type of PoA will cease in the event of the granter's incapacity.

H

Heritable estate / property

the term for property in the form of land and houses.

I

Incapacity

for the purposes of this Act, "incapable" means incapable of:

- acting on decisions; or
- making decisions; or
- communicating decisions; or
- understanding decisions; or
- retaining the memory of decisions.

in relation to any particular matter due to mental disorder or inability to communicate because of physical disability.

Incapacity statement

A power of attorney (PoA) that is to begin in the event of incapacity must have a statement confirming that the granter 'has considered how their incapacity is to be determined'.

Interested parties

this can be anyone who is considered to have an interest in an application under parts 3 or 6 of the Act.

Interim guardian

an appointment made by the Sheriff ahead of a final judgement being made, usually to allow an urgent action to take place.

Intervention order

an order made by the court appointing one or more persons to act as financial and / or welfare intervener for an adult with incapacity.

Inventory of estate

document submitted by a guardian to the Public Guardian listing all of the assets in the adult's estate under their control.

L

Land Register

the register of interests in land under the Land Registration (Scotland) Act 1979 which supersedes the recording of deeds constituting or transferring rights in land under the Register of Sasines.

Local authority

a council constituted under Section 2 of the Local Government etc. (Scotland) Act 1994. When we refer to 'local authority' it usually relates to the local authority/council in the area where the adult lives.

M

Management plan

document submitted by a guardian to the Public Guardian stating how they will manage the adult's financial affairs.

Manual submission

is when you chose to send your documentation to us by post.

Medical practitioner

someone who is registered with the General Medical Council with a license to practice.

Mental Health Officer (MHO)

is a specially trained social worker who has the training, education, experience and skills to work with people with a mental disorder. MHOs work for the local authorities who have legal duties under the Act.

Mental Welfare Commission (Scotland)

an independent organisation set up by the Scottish Parliament with a range of functions under the Act. Section 9 of the Act provides more details.

Moveable estate

the term in the form of bank accounts, stocks and shares, vehicles, jewellery etc.

O

Office of the Public Guardian

established by the Adults with Incapacity (Scotland) Act 2000, based in Falkirk, Scotland.

P

PDF

stands for 'portable document format'.

Power of attorney

a legally binding written document detailing who you wish to give authority to and the specific powers you wish them to have.

Principles

the Act establishes a set of guiding principles that those appointed and those working with the provisions of the Act must adhere to.

Protected trust deed

A trust deed is a voluntary but formal arrangement that is used by Scottish residents where a debtor (who can be a natural person or partnership) grants a 'trust deed' in favour of the trustee which transfers their estate to the trustee for the benefit of creditors.

Public Guardian

the official responsible for supervising powers and orders in relation to adults with incapacity under the Adults with Incapacity (Scotland) Act 2000.

Public register

registers of all those appointed under parts 2, 3, and 6 of the Act that are maintained by the Public Guardian.

R**Register of Sasines**

the register of deeds constituting or transferring rights in land and heritable property.

Registers of Scotland

the official land and property register for Scotland.

Relevant others

includes the nearest relative, named person, primary carer and any other person with an interest in the welfare and financial affairs of the adult (this could be a health or social work care manager).

Remuneration

this is the sum of money set by the Public Guardian at the end of an accounting period if satisfied that that the account is a true and fair view of the guardian's management of the adult's estate.

The guardian can then take the sum due to them from the adult's estate.

Revoke / revocation

written notification by a granter in a power of attorney to formally change, add or terminate powers or appointments.

Royal Assent

approval given by Her Majesty the Queen.

S

Scottish Courts and Tribunals Service

an independent body corporate established by the Judiciary and Courts Reform (Scotland) Act 2014. Its function is to provide administrative support to Scottish Courts and to the judiciary of those courts, including the High Court of Justiciary, Court of Session, sheriff courts and justice of the peace courts, Tribunals Service and to the Office of the Public Guardian and Accountant of Court.

Scottish Public Services Ombudsman

handles complaints about public services in Scotland.

Scottish statutory instrument (S.S.I.)

the form in which subordinate legislation, that is orders, rules and regulations etc. under an Act of Parliament are made by the Scottish Parliament.

Sender

the person, usually a solicitor, who has taken responsibility to submit the power of attorney (PoA) for registration.

Sequestration

this is another term used in Scotland for bankruptcy.

Sheriff

the judge who presides in the sheriff court.

Simplified account

the account form issued by the Public Guardian when the adult has less than £20,000 in their moveable estate or where special circumstances dictate.

Solicitor

for the purposes of the Act, this is someone who holds a practising certificate issued in accordance with Part 2 of the Solicitors (Scotland) Act 1980.

Specified person

up to two people nominated in the document can be issued with a copy of the registered PoA.

Springing clause

where a power of attorney is not to be registered with the Public Guardian until the occurrence of a specific event, e.g. incapacity.

SSI 56 Schedule 1

a statutory instrument which provides for the form and content of the certificate which must accompany a power of attorney document.

SSI no 79

a statutory instrument which provides for the form and content of the certificate which must accompany an application under part 3 of the Act.

Standard account

the account form issued by the Public Guardian when the adult has more than £16,000 in their moveable estate.

Statute

an Act of Parliament.

Substitute attorney

this is a person who the granter has chosen to take over in the event that the attorney(s) cannot act.

T

Testing clause

this is the section in a power of attorney document where the granter signs.

U

User

person in a solicitors firm who has been set up with an EPOAR account.

W

Withdrawer

this is the name given to the person who the Public Guardian has given authority to access an adult's funds under part 3 of the Act.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)



- [About us](#)
- [What we do](#)
- [News](#)
- [Fees](#)
- [Fee exemption](#)
- [Forms and publications](#)
- [Contact us](#)
- [Feedback and complaints](#)
- [You said we did](#)

Feedback and Complaints

We want to hear any comments or suggestions you may have about the information on this website or a service we provide and how you feel we could make it even better in the future. Our [customer charter](#) outlines the standards you can expect from us.

We do take seriously the views of people who use our service and have changed our service as a result of people letting us know their experience. Here are [examples of what changes](#) we have made and those we have agreed to work on.

We can accept complaints, general feedback or compliments by phone, letter, email or you if you prefer, you can use our [feedback form](#)

Alternatively you may wish to telephone and give your feedback to our customer services officer Wendy Smellie (telephone 01324 677 328). Wendy can arrange for you to speak to a member of our senior management team if you would prefer.

Ordinarily, we operate a 2 stage complaints procedure which comprises of:

- Stage 1 – “frontline resolution”. This is where a member of our team will work with you to try to resolve your complaint. Should we not have resolved things to your satisfaction, we will advise to whom you may address any ongoing concerns.
- Stage 2 - “investigation stage”. At this point you will have contacted the Public Guardian. The Public Guardian or one of her nominated Senior Deputies will conduct a full case review. They may decide to phone you to discuss the case further, but will always conclude the complaint in writing. In our response we will advise to whom you may address ongoing concerns should we not have resolved things to your satisfaction.

However, on occasions, it is evident from the outset, because of the nature of the complaint, that a level of senior inquiry is required and in which case the complaint is managed directly as a second stage.

If we receive a complaint, we aim to provide a full reply within 5 working days, unless there are exceptional circumstances. In these instances, we will acknowledge receipt within 3 working days and aim to provide a full reply within 20 working days. If we are unable to provide you a full reply within these timescales, we will explain why and provide you with a revised timescale for completion.

Our [complaints policy](#) provides further information.

If you remain dissatisfied following a personal response from the Public Guardian, you have a right to contact the [Scottish Public Services Ombudsman](#). Even though we have finished dealing with your complaint, we would still be keen to hear how we handled the process.

[About us](#)

[Forms and publications](#)

[You and us](#)

[Terms used](#)

[Feedback and complaints](#)