



Powers of Attorney: Financial and Welfare

This guidance relates to Scottish Law

What is a power of attorney?

A power of attorney is a legal document in which you appoint someone you trust to look after your affairs. The person you appoint is called your attorney. Creating a power of attorney is the best way for you to have maximum say in what happens if one day you can't make your own decisions. Until that time you are in control.

The Adults with Incapacity Act makes it possible to create a power of attorney for your financial affairs (a continuing power of attorney) and your personal welfare (a welfare power of attorney). You can choose the same person to do both or you could choose one person for your financial affairs and another for your welfare affairs. You could also choose two people to act as joint attorneys. It is also a good idea to include a substitute attorney in case your attorney resigns or dies.

You can draw up a power of attorney document yourself but in order to make sure you include all the necessary information it is best to use a solicitor. You can find sample power of attorney documents on the Alzheimer Scotland website at www.alzscot.org and on the website of the Office of the Public Guardian at www.publicguardian-scotland.gov.uk/

How do I create a power of attorney?

1. Discuss your plans with your friends and relatives and any professionals you are involved with.
2. Talk to the person or people you want to appoint as your attorney(s) and make sure they are willing.
3. See a solicitor. Ask how much it will cost before you start – all solicitors must provide this information if they are asked. As a very general guide the cost may be somewhere between £250 and £450.
4. Discuss with your solicitor what powers you want to include. If you are naming the same person as your continuing and welfare attorney, then usually the cheapest way is to do both at once in the same document. Or you could name different continuing and welfare attorneys in separate documents, but at the same time.

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Who can be my attorney?

Think about who you would like to be your attorney(s). Your attorney should be someone you trust; for example:

- » your partner or spouse
- » a family member
- » a close friend

A firm of solicitors could be your continuing (financial) attorney, but your welfare attorney has to be an individual.

What does a continuing power of attorney cover?

A continuing power of attorney allows the person you appoint to make decisions about your property and financial affairs.

The document must specify exactly what powers your attorney is to have.

Powers could include:

- » paying bills
- » collecting pensions and other money due to you
- » dealing with bank or building society accounts
- » having access to important financial information
- » buying and selling investments and other property, including houses
- » signing documents and entering contracts
- » managing direct payments and other public funds provided for community care services
- » bringing, defending or consenting to legal actions, for example, in the case of an accident
- » making gifts of specified amounts to named people
- » expenses for the attorney

What does a welfare power of attorney cover?

A welfare power of attorney allows the person you appoint to make decisions about your care and treatment. Powers could include:

- » deciding on your care arrangements
- » managing your care, including care funded through direct payments and other public funds
- » making decisions on your clothes, personal appearance, diet, leisure activities or holidays
- » deciding where you should live
- » having access to confidential or personal information about your welfare such as health records
- » consenting to medical treatment (if you want your attorney to have this power, it must be specifically stated in the document)
- » consenting to you taking part in research
- » bringing, defending or consenting to legal actions to do with your welfare

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What happens to my power of attorney?

Your power of attorney must be registered with the Office of the Public Guardian (Scotland) before it can be used. Once it has been drawn up and signed it is ready to be sent to the Office of the Public Guardian (Scotland). You or your solicitor can send it by post or electronically.

You can visit the website at www.publicguardian-scotland.gov.uk for more information or telephone 01324 67 83 00. The address is:

Office of the Public Guardian (Scotland)

Hadrian House
Callendar Business Park
Callendar Road
Falkirk FK1 1XR

What if I do not create a power of attorney?

If you do not have a financial attorney, you can still get help from someone you trust to manage your money. The Department for Work and Pensions can appoint someone to receive and manage your state benefits. However that person will not be able to manage any of your other financial affairs.

If you do not have a welfare attorney you and your family may find it difficult to organise and manage your personal care or have a say in any treatments you require.

If you do not create a Power of Attorney and you become unable to make your own decisions, your carer may have to apply for a Guardianship Order and this can be a difficult and costly process.

Further information

Visit the Alzheimer Scotland website at www.alzscot.org for more detailed information, including the booklet “**Dementia: Money & Legal Matters**”.

Call the 24 hour freephone Dementia Helpline on **0808 808 3000** for further information or advice on anything that is worrying you about dementia.

This leaflet has been prepared to provide information for people with dementia, and for their carers.