



What is a Power of Attorney (PoA)?

You make decisions every day about your life and your future: small decisions such as what meals to eat or how to dress and bigger decisions about things like money, your family, and your home. You make judgements about what is right for you. The law says that everyone over 16 years old in Scotland has the legal capacity to make decisions, unless a legal decision is made that this is not the case. A Power of Attorney is a legal document that allows someone to make decisions on your behalf when you no longer have the mental capacity to make an informed choice. The person who gives someone else the powers to make decisions on their behalf is called 'the granter' and the person who is given the powers is called 'the attorney'.

Why should I have a Power of Attorney?

Having a Power of Attorney can give you peace of mind, as you know you will have the support of someone you trust if you are unable to make important decisions about the things that matter for yourself. Your attorney will have the information they need to make those decisions with confidence. **Your next-of-kin, family or other people close to you do not have the legal right to make decisions for you if you lose the ability to do so yourself.**

If you don't set up a Power of Attorney, either by a solicitor or making your own PoA, and you lose the ability to make decisions for yourself, the person who makes decisions on your behalf may not be the person you would have chosen. They may not even know you. In a medical emergency hospital staff will try to involve you in decisions about your treatment options. This may not be possible if you are unable to communicate your wishes and you don't have an attorney.

By granting a Power of Attorney to a person you trust, for example, a family member or friend you are keeping control of making decisions about your welfare within your family or friendship group, instead of these decisions being made by the local authority on your behalf in situations where a decision needs to be made.

You can have a Power of Attorney for financial and/or welfare matters, and you can nominate more than one person as your Attorney.

How much does it cost?

There is a financial cost attached to a PoA drawn up by a solicitor, and this will vary depending on the solicitor you use. It is worth considering if you need to make or change your Will, as circumstances can change, you may ask your solicitor to draw up your Power of Attorney at the same time.

- There is also a cost of to register your PoA with the Office of the Public Guardian (OPG). At the time of publication, **this is around £96**, but costs can change, so please check with the OPG for the most up to date information, the details are provided below.

Help with legal fees

Legal assistance may be available if you are on a low income. Depending on your benefits, earnings and savings, you may be entitled to legal assistance, to help with the legal fees for drawing up a Power of Attorney. Legal assistance is means tested, based on the income and capital of the granter, not the attorney.

What to do next

There are options depending on what you would prefer...

- You can contact a solicitor through the [Law Society of Scotland](#) or Call [0131 226 7411](tel:01312267411).
- You can call [0800 028 1456](tel:08000281456) for the [Scottish Citizens Advice Helpline](#) to speak with an adviser at your local Citizens Advice Bureau. Or, if you have a community law centre in your area you can find out how to contact a [Scottish Law Centre](#).
- You can complete your own PoA but you will still need a solicitor or GP to undertake a capacity assessment and this has a cost attached. There is also a charge to register the POA with the [Office of Public Guardian](#) or call [01324678300](tel:01324678300).