

LSA

Legal Services Agency

Doing the Right Thing,  
the Right Way

# Powers of attorney: Planning for the Future

Information for people thinking  
about appointing someone to act  
on their behalf



Legal Services Agency  
[www.lsa.org.uk](http://www.lsa.org.uk)

Glasgow 0141 353 3354  
Edinburgh 0131 228 9993

# About powers of attorney

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Appointing someone else to make certain decisions and to act for you is usually simple and inexpensive. It involves setting up a 'power of attorney' (POA). Legal Services Agency (LSA) can help you with this. Our solicitors are experienced in helping people who have a mental health diagnosis, memory problems or find it hard to understand complex information.

It is important to speak to a solicitor so that you understand what a POA is, the various options and what they mean.

This leaflet explains POA and why you should set one up.

## What a POA is

A POA is a legal document. It lets you (the 'granter') appoint someone else to make certain decisions and act for you, now and/or in the future. This person is called your 'attorney'.

The decisions/actions can be about:

1. Your money and property (for example paying bills and dealing with your bank)
2. Your health and welfare (for example agreeing to medical treatment on your behalf or making decisions about your care)

There are two different types of POA:

1. **Continuing** power of attorney (for money and property, for example paying bills)
2. **Welfare** power of attorney (for health and welfare, for example medical treatment and care)

You can have a continuing POA, a welfare POA, or a combined continuing and welfare POA.

## When a POA can be helpful

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A POA can be helpful if you have a mental illness, learning disability, brain injury or dementia. This is because you may not be able to remember information or think clearly enough to make decisions or act for yourself some or all of the time. You may have a condition or illness which is likely to get worse over time.

But having an attorney can be helpful for anybody. For example, some people appoint an attorney when planning for their old age or because they intend to live abroad for a while.

## Who can set up a POA (be a ‘granter’)

If you are able to understand what a POA is, what it means to give someone else the authority to make decisions or act for you, and explain what you want to happen, you can grant a POA. Usually, you need to be over 16.

## Who can be an attorney

Anyone over 16 and who is legally able to decide or act for you can be your attorney. But the person you appoint should be someone you know and trust such as a:

- Husband, wife or partner
- Family member or good friend
- Professional such as a solicitor

You cannot appoint someone who is bankrupt as an attorney for your money or property (‘continuing’ POA).

You can have more than one attorney. This is sometimes the best option. You can have different attorneys for your financial and welfare matters.

## Choosing an attorney

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It is important to choose someone you trust and who knows you and what you would want. Think about:

- How they manage their own lives
- Whether they share your values and way of going about things
- Whether you can rely on them
- Whether they are likely to be there if you need them

## Why it is best to appoint an attorney now

There are benefits to appointing an attorney when you have the ability to do this. These are:

- You can choose the person you want to act for you
- You can tell the person what you would like for the future
- It is quick and easy to arrange

You can make it so that the attorney can act for you now, or in the future if it ever becomes necessary.

You can decide to end the POA whenever you want as long as you are capable of making this decision.

If you do not appoint an attorney, and then lose the ability to make decisions, other legal measures may be taken. It may mean that friends or family have to apply for a 'guardianship order'. This is a court process and can sometimes be expensive and take a lot of time.

## Next steps: help from LSA

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The first step is to contact LSA to speak to one of our solicitors. You can make an appointment to see a solicitor in one of our offices. Or, we can visit you at home if you need this.

We can:

- Explain options such as continuing and welfare POA
- Advise you about how many attorneys to appoint; the powers to include; when they should start; and so on
- Prepare a POA which fits with what you need and want
- Help register the various documents. This includes a certificate signed by a solicitor or medical doctor to say that you are capable of appointing an attorney and that you have not been forced to do so

## Registering the POA

The POA documents are sent to the Public Guardian who is the official responsible. Once the Public Guardian registers the POA, they will let you know and also the various authorities involved.

Once the POA is registered, your attorney has the authority to act for you, in certain circumstances, depending on the type of POA:

- If it is a **continuing** POA, your attorney can use it immediately or only if you are no longer capable (depending on what you want)
- If it is a **welfare** POA, your attorney can only use it if you are no longer capable

# Costs

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There are some costs in setting up a POA. You may qualify for legal aid for these. A solicitor can tell you more about this.

## More information

### LSA's Mental Health Representation Projects

#### **Legal Services Agency**

Fleming House, 134 Renfrew Street, Glasgow G3 6ST  
0800 316 8450 / 0141 353 3354

[www.lsa.org.uk](http://www.lsa.org.uk)

and

#### **Legal Services Agency**

Princes House, 5 Shandwick Place, Edinburgh EH2 4RG  
0131 228 9993

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## Other useful contacts

### **Office of the Public Guardian**

[www.publicguardian-scotland.gov.uk](http://www.publicguardian-scotland.gov.uk)

Hadrian House, Callendar Business Park, Callendar Road, Falkirk FK1 1XR  
01324 678300

### **Law Society of Scotland**

[www.lawscot.org.uk](http://www.lawscot.org.uk)

26 Drumsheugh Gardens, Edinburgh EH3 7YR  
0131 226 7411

### **Mental Welfare Commission for Scotland**

[www.mwscot.org.uk](http://www.mwscot.org.uk)

Thistle House, 91 Haymarket Terrace, Edinburgh EH12 5HE  
0800 389 6809 (advice line for service users and carers)  
0131 313 8777

**Legal Services Agency Ltd.**  
**www.lsa.org.uk**  
**Freephone 0800 316 8450**

LSA is one of Scotland's leading law centres. We undertake a wide range of casework in all courts and tribunals, organise seminars and publish leaflets on many topics. See also [www.lsa.org.uk](http://www.lsa.org.uk) for full details of our work and how we can help you. We specialise in social welfare law, including asylum, landlord and tenant disputes, homelessness, criminal injuries compensation, children's rights, mental health, incapacity law, community care, disability discrimination and dementia.

LSA's legal work is undertaken by a team of solicitors in the firm of Brown & Co., which is regulated by the Law Society of Scotland.

**Legal Services Agency, Glasgow: base for LSA's Mental Health Legal Representation Project (Strathclyde)**

3rd Floor, Fleming House, 134 Renfrew Street, Glasgow, G3 6ST

Tel: 0141 353 3353

Email: [lsa@btconnect.com](mailto:lsa@btconnect.com)

**Legal Services Agency, Edinburgh: base for LSA's Mental Health Legal Representation Project Edinburgh and Lothians**

3rd Floor, Princes House, 5 Shandwick Place, Edinburgh, EH2 4RG

Tel: 0131 228 9993

Email: [Isaedin@lsa.org.uk](mailto:Isaedin@lsa.org.uk)

**Legal Services Agency, Greenock**

Inverclyde Housing Rights Project, 9 Sir Michael Street, Greenock, PA15 1PQ.

Tel: 01475 725665

Email: [Greenock@lsa.org.uk](mailto:Greenock@lsa.org.uk)

**Legal Services Agency at North Glasgow Advice Centre (NGAC)**

LSA and Glasgow Central CAB run North Glasgow Advice Centre at

1169 Royston Road, Glasgow, G33 1EY.

Tel: 0141 770 7869

Email: [ngac@btconnect.com](mailto:ngac@btconnect.com)



Glasgow's Advice &  
Information Network

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LET'S STOP THE STIGMA OF MENTAL ILL-HEALTH  
[www.seemescotland.org](http://www.seemescotland.org)

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