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**Power of Attorney**

**What is a Power of Attorney?**

A Power of Attorney (POA) is a legal document that allows someone to make decisions for you, or act on your behalf, if you’re no longer able to or if you no longer want to make your own decisions.

- Age UK

**Why would I need a Power of Attorney?**

There are a number of reasons why you might need someone to make decisions on your behalf. These include:

* In a temporary situation, such as if you are in hospital and need help with making sure everyday things, such as making sure bills are paid;
* Longer term situations, if, for example, you have been diagnosed with Dementia and you may lose the mental capacity to make your own decisions in the future.

**What are your responsibilities as an attorney?**

When someone is appointed as an attorney, they are placed in a position of trust and must always act in the best interests of their appointee.

The attorney can only do the things that the appointee has authorised them to do. They cannot ask anyone else to carry out any of their duties, unless the appointee has authorised them to do so.

The attorney must keep separate and up-to-date accounts of the appointee’s financial affairs. When they are acting on the appointee’s behalf and have to sign any documents, they should always use their usual signature and add beneath the signature the words ‘Attorney for… (appointee’s name).

Being an attorney is a legal responsibility. If you do not fulfil the role, it is considered a legal offence.

**Who can be an attorney?**

You could choose a family member, friend, your spouse, partner or civil partner. Alternatively, you could choose a professional, such as a solicitor. Think carefully about who you believe would be able to carry out the role, and make decisions in your best interest. Give the person you ask time to think about the role, so they can make sure they are making the right decision about whether to take it on.

You can have more than one attorney, but you must decide whether they are to make decisions together or separately. Attorneys must be over 18, and must have the mental capacity to make their own decisions. Your appointee doesn’t need to live in the United Kingdom or be a British citizen. You cannot choose an appointee who is subject to a Debt Relief Order (DRO), or who is already bankrupt. More information can be found on the [GOV,UK website](https://www.gov.uk/power-of-attorney),

**What are the types of Power of Attorney?**

* **Ordinary Power of Attorney** (OPOA): covers decisions about financial affairs and is valid whilst you have mental capacity. It is suitable for temporary cover (hospital stay or holiday) or if you find it hard to get out or you want someone to act on your behalf.
* **Lasting Power of Attorney** (LPA): covers decisions about financial affairs or health and care. It comes into effect if mental capacity is lost or if you no longer want to make decisions for yourself. You would set up an LPA if you want to ensure you are covered in the future.

**How do I set up an Ordinary Power of Attorney?**

If you want to set up an OPOA, you should contact Citizens Advice or get advice from a solicitor as there is a standard form of wording that must be used.

**Why should I not consider an Ordinary Power of Attorney?**

You **should not** use an OPOA if:

* You have been diagnosed with a mental health problem or other disease which can lead to mental incapacity; or
* You think you may develop a mental health problem or other disease which can lead to mental incapacity.

This is because you will not be able to continue using an OPOA if you lose your mental capacity.

**Why appoint an Ordinary Power of Attorney?**

An OPOA allows more than one person, known as your attorney, to make financial decisions on your behalf. It is only valid whilst you still have mental capacity to make your own decisions. You may want to consider setting one up if:

* You need someone to act for you for a temporary period, such as when you are on holiday or in hospital;
* You are finding it harder to get out and about to the bank or post office, or you want someone to be able to access your account for you; or
* You want someone to act for you while you are able to supervise their actions.

You can limit the power you give you attorney, so that they can only deal with certain assets, e.g. your bank account, but not your home.

An OPOA is only valid while you have mental capacity to make your own decisions. If you want someone to be able to act on your behalf if there comes a time when you do not have mental capacity to make your own decisions, you should consider a Lasting Power of Attorney.

**What do I do if the attorney isn’t fulfilling their role?**

If you have concerns about any attorney or deputy around the misuse of money, decisions that are not in the best interests of the person they are responsible for, the Office of the Public Guardian should be contacted. They can be contacted via email at [opg.safeguardingunit@publicguardian.gsi.gov.uk](mailto:opg.safeguardingunit@publicguardian.gsi.gov.uk) or via telephone on 0115 934 2777. Further information can be found on their [website](https://www.gov.uk/report-concern-about-attorney-deputy).

**For further information contact the Partnership Management Team via email** [**partnerships@telford.gov.uk**](mailto:partnerships@telford.gov.uk)

**Can there be more than one attorney?**

You can choose to appoint more than one attorney. This can work in two ways:

1. Attorneys appointed to act together (also known as joint attorneys), which means that they must always act together. The advantage of this arrangement is that it makes it harder for an attorney to commit fraud or do something against the interests of the person they are appointed for. The disadvantage is that the whole power of attorney comes to an end if one attorney dies or becomes mentally incapable.
2. Attorneys appointed to act together and independently (also known as joint and several attorneys). When attorneys are appointed in this way, it means that the signature or action of one attorney is as valid as if they were the only attorney. It also means that the power of attorney will continue in force if anything happens to one of the attorneys.