



## **A Guide to Powers of Attorney**

Inside this guide is useful information on what a Power of Attorney is, as well as why they are important, what they can do, who can be a suitable attorney and whether you can change your mind after registering.

# What is a Power of Attorney?

A Power of Attorney is a written document which specifies who you want to act as your Attorney, what powers your Attorney should have, and when the powers should take effect. This can be decisions

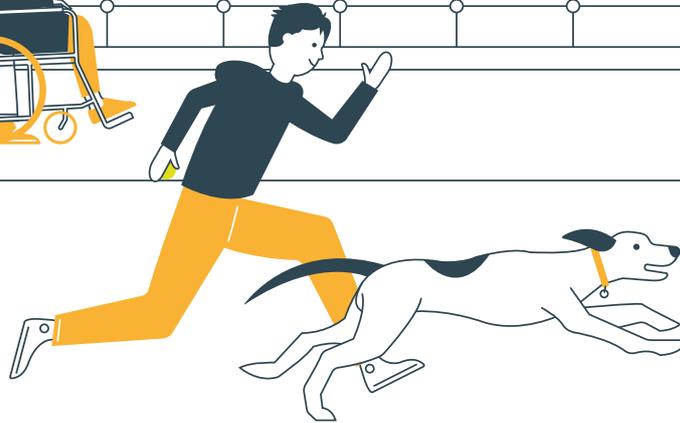
about your welfare, your finances, or both. Where your Will sets out your wishes upon your death, a Power of Attorney sets out your wishes during your lifetime.

# Do I Need a Power of Attorney?

There are various situations in which a Power of Attorney can be useful. It can cover circumstances in which you are involved in a serious accident, or become seriously ill, and either find it difficult or are no longer able to deal with your own affairs. Your Power of Attorney can remain in place

indefinitely until specifically revoked by you.

No-one can act on your behalf unless they have the legal authority to do so. They can get that authority through a Power of Attorney, and you can choose who acts for you. If you don't have a Power of



## What Happens if I Don't Have a Power of Attorney

Attorney, then your family or friends will need to apply to the Court to be appointed as your Guardian.

It would be at the discretion of the Court as to who should be appointed as your Guardian, and they would likely require to apply every few years to renew this authority. If the need to act on your behalf happens suddenly, this can cause stress and anxiety, particularly if they are reliant on accessing your bank account for important bills and living costs.

An application to the Court to be appointed as a Guardian can take approximately 6 months to a year.

As well as the additional time taken to be appointed as a Guardian through the Court, the cost of the Court procedure is likely to be many times more than it would have cost to prepare and register a Power of Attorney.

# Who Could be my Attorney?

The Attorney you appoint has the authority to step into your shoes to make decisions, and so you should think carefully about who you choose. It should be someone who is over 16, willing to take on the role and is someone you trust.

In most cases, an Attorney will be a relative or close friend. This can also be a professional, such as an accountant or solicitor. Your financial attorney must not be bankrupt at the time of them being appointed as your Attorney.



## Can I Have Multiple Attorneys?

There is no limit to the number of Attorneys you can appoint.

You may appoint different people as your Financial Attorney and Welfare Attorney.

You can appoint a sole Attorney, or joint Attorneys. In either case, you may wish to appoint substitute Attorneys in the event that your first choice Attorney is no longer able or willing to act. Where joint Attorneys are appointed, you require to decide whether all Attorneys must act together when exercising their powers, or whether each Attorney may exercise their powers on their own.

# How do I Know What Powers I Need in my Power of Attorney?

There are two main types of Power of Attorney.

The first type is known as a Continuing Power of Attorney and is the type needed to allow an Attorney to make decisions about your finances and property. This can relate to your day to day affairs, such as banking, tax, and household matters. These powers can be exercised as soon as the Power of Attorney has been registered with the Office of the Public Guardian (Scotland), or they can be delayed until a doctor has certified that you are unable to make decisions regarding your affairs.

The second type is a Welfare Power of Attorney, which would allow your Attorney to make decisions about your health and welfare. This would allow your Attorney to discuss your proposed treatment with your medical advisors, and decide if this is something you would have agreed to, had you been able to make the decision yourself. Welfare powers can only come into operation when you are no longer able to make decisions for yourself.

Please note that none of these powers can be exercised unless the Power of Attorney has been registered with the Office of the Public Guardian (Scotland).

The powers listed in the Power of Attorney document are usually extensive because, should your Attorney require to exercise any powers which are not listed in the Power of Attorney document, a supplementary document would require to be granted by you. If you no longer have capacity to grant this supplementary document, then your Attorney may have to apply to the Court. You do not have to include all of the recommended powers in

your Power of Attorney. You may review the recommended powers and decide that there are some that you do not wish to be included.

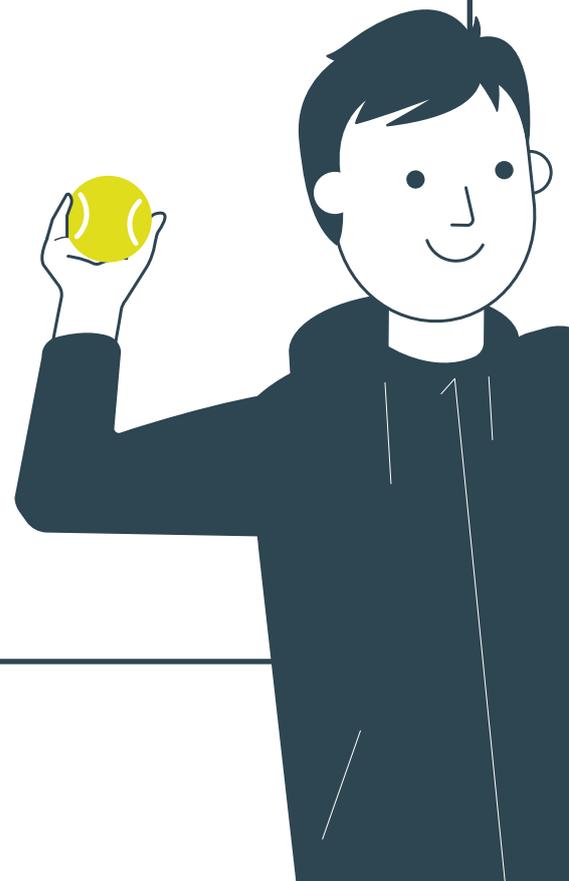
If there are any powers which you feel are required that are not included in the recommended powers, please let us know, and we can ensure to include them.

## Can I Change my Mind About my Power of Attorney?

Should you, for whatever reason, at any time after registration of your Power of Attorney with the Office of the Public Guardian (Scotland), wish to:

- withdraw any of the powers granted in your Power of Attorney;
- add additional powers to those contained in your current Power of Attorney; or
- wish to withdraw the appointment of any of your Attorneys

then this can be done by serving the appropriate Notice on the Office of the Public Guardian (Scotland) and the relevant Attorney or Attorneys, provided you have capacity to do so.



## What is the Price for a Power of Attorney?

We undertake to provide this service for a fixed fee of £150 inclusive of VAT, plus any outlays incurred. This service can be provided for a fixed fee of £290 including VAT, plus any outlays, for a couple wishing to prepare two Powers of Attorney.

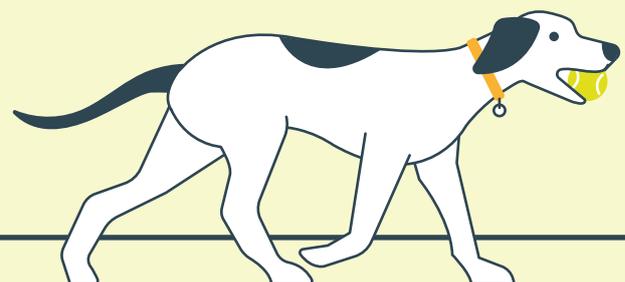
We would expect there to be outlays, such as outlays to the Office of the Public Guardian (Scotland) when registering your Power of Attorney. The cost for each Power of Attorney document being submitted for registration is £81.

## Do I Need a Will as Well as a Power of Attorney?

We would strongly recommend that you have both. A Power of Attorney will cease on your death. The Executors named in your Will are responsible for administering your estate after death, in accordance with the terms of your Will.

If you wish to receive more information about preparing

a Will, or wish to instruct us to prepare one on your behalf, please do not hesitate to contact us. We will be happy to provide further advice, and prepare a Will for you for a low, fixed fee.





## Wills

Planning for the future not only ensures everyone is provided for, it gives your loved ones one less thing to worry about after you're gone.

Our Will packages start at £95. They are flexible, and a simple Will can be completed in 5 working days.

## Trusts

A Trust is a way of managing your assets either while you are alive, or after death.

We help take away the worry of securing your loved ones future with our expertly crafted Trusts, part of our By Your Side service.

## Our Other Services

With By Your Side from Friends Legal, we are promoting a fair and simple way of dealing with the legal side of death.

None of our services have percentages, hourly rates — just transparent, fixed-fee pricing,

## Executry

If a loved one had dies, that last thing you'd want to think about is winding up their estate.

Whilst you concentrate on what's really important, Friends Legal can fully administer the estate and help you obtain confirmation.

If you're the DIY type, we can even help guide you through the process with our Helping Hand service.



*By Your Side*

from

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