

POWER OF ATTORNEY IN SCOTLAND

INFORMATION FOR ATTORNEYS

A Power of Attorney (PoA) allows the patient to choose someone else to deal with third parties, such as banks or the local council, on their behalf, should they become unable to do so in the future.

In Scotland, there are three types of Power of Attorney :

- Continuing Power of Attorney (CPA)
- Welfare Power of Attorney (WPA)
- Combined Power of Attorney, which is a combination of CPA and WPA.

CONTINUING POWER OF ATTORNEY (CPA)

This form of Power of Attorney allows the patient (the “granter”) to appoint someone to look after their property and financial affairs immediately, continuing into incapacity or if the patient becomes mentally incapable. It can also contain welfare powers, for example, to determine where the patient should live should they need to move due to changing levels of care need. Welfare powers can only come into effect on incapacity. A CPA must be registered with the Scottish Office of the Public Guardian to be effective.

WELFARE POWER OF ATTORNEY (WPA)

This Power of Attorney enables the attorney(s) to make decisions about the patient’s health and welfare after they become incapable. These powers can include deciding where the patient will live and personal issues, such as medical treatment and personal care. The attorney(s) can’t intervene while the patient still has capacity to make decisions for themselves.

As health comes under welfare, we will require :

- A registered Power of Attorney (we will take a copy of this)
- An Incapacity Certificate if the patient is deemed to be incapable signed by a GP, Psychiatrist or the patient’s solicitor.

Please do not hand in a Power of Attorney until such time as you have the above in place.

INFORMATION FOR ATTORNEYS

CONTINUING ATTORNEYS

When can Continuing Attorneys start acting?

- The Power of Attorney will state when you can start using the financial and/or property related powers given to you. Your authority could start right away or at a later date, eg in the event of incapacity.
- Refer to the Power of Attorney or any instruction given by the granter to identify how their incapacity is to be determined.
- Your powers will be stated in the Power of Attorney. You only have the powers that are written in the Power of Attorney. For example, the power to make gifts can only be used if it is specifically mentioned in the Power of Attorney document.
- When you are ready to start acting, contact the appropriate authorities and institutions eg banks, Department of Work and Pensions, investment managers. You may be asked to prove you have authority.

WELFARE ATTORNEYS

When can Welfare Attorneys start acting?

- You can only start using the personal welfare powers when the granter becomes incapable.
- Refer to the Power of Attorney or any instruction given by the granter to identify how their incapacity is to be determined.
- Your powers will be stated in the Power of Attorney. You only have the powers that are written in the Power of Attorney.
- You should tell relevant organisations such as the granter’s medical practice, dental surgery, care home or hospital staff that you have been granted Power of Attorney. You may be asked to prove that you have authority.

PATIENTS WITH CAPACITY

If a patient is still deemed to have capacity, you may pick up a consent form signed by the patient allowing you access to results, medical history and medication on their behalf.