



**With Power of Attorney,  
the Future is in your hands.**



**Around 45,000 people register Power  
of Attorney every year in Scotland.  
You should make your plans too.**

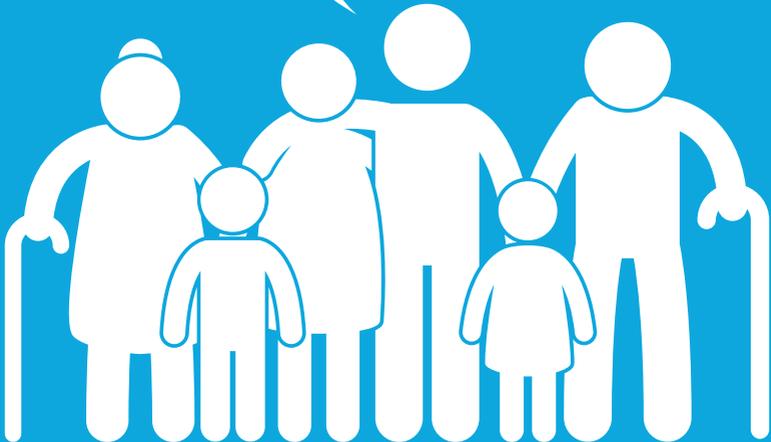
**[www.mypowerofattorney.org.uk](http://www.mypowerofattorney.org.uk)**



**the future is in your hands**

## **Did You Know?**

Without power of attorney you cannot act for your husband, wife, mother, father or anyone else should they have loss of capacity.



## Background to the campaign

Did you know that if you become unable to make decisions for yourself - because of illness or injury for example - no-one else can make those decisions for you, unless you have given them legal powers to do so?

NHS Tayside, Angus, Dundee, Perth and Kinross Councils, together with local law firms, have joined forces to raise awareness about the importance of having a Power of Attorney.

This campaign is about encouraging everyone to “Start the Conversation” with family or those close to them as the first step to giving Power of Attorney to someone they trust.

Power of Attorney can cover your financial affairs (e.g. managing your bank account) and your welfare (e.g. deciding where you will live if you are no longer able to decide for yourself).

As well as TV adverts, the campaign has a website, a *Facebook* page and a *Twitter* feed.

## Who is the campaign targeting?

The campaign is for everyone! Please:

- visit the website [www.mypowerofattorney.org.uk](http://www.mypowerofattorney.org.uk)
- follow the Twitter feed [@StartTalkingPoA](https://twitter.com/StartTalkingPoA)
- engage with the Facebook page [www.facebook.com/starttalkingpoa](http://www.facebook.com/starttalkingpoa)

The more followers and retweets the campaign gets, the greater the opportunity to Start the Conversation!

## **What will be featured in the campaign?**

Throughout the campaign we will be bringing a wide audience a number of key messages. This includes getting people to “start the conversation” with family and friends as well as prompting others to act. The ongoing multi-media campaign will take the form of posters in public spaces, leaflets and roadshow events as well as our ongoing social media, online and broadcast ads across radio and TV.

## **What will the impact of the campaign be?**

Starting the conversation about Power of Attorney is one of the most important things any of us can do with our family, friends and those close to us. It should be a priority for every adult across Scotland. By taking action and appointing Power of Attorney, you will protect yourself and those closest to you by granting legal powers to act on your behalf if something were to happen to you. These legal powers are discussed more in this booklet. By working with colleagues across the public, private and voluntary sectors, we have developed this information pack which will give advice on arranging suitable legal expertise and make the process of finding out about and arranging Power of Attorney as straightforward as possible.

**Don't put things off  
until you are older.**

**Prepare for the future,  
starting NOW.**



## **Did You Know?**

Without Power of Attorney in place you may spend up to four months longer in hospital if you lose capacity.



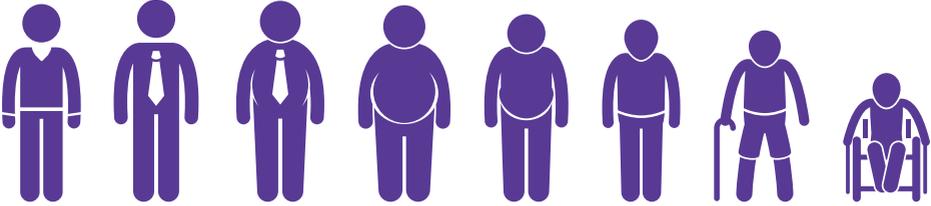
## 1. What is a Power of Attorney?

A Power of Attorney is a written, legal document giving someone else (your Attorney), authority to take actions or make decisions on your behalf (the granter). You choose the person(s) you want to act as your Attorney and what powers you want the Attorney to have. A Power of Attorney is intended to ensure that your financial affairs and personal welfare can still be dealt with/protected in the event of you being unable to act on your own behalf.

## 2. What is incapacity?

If you lose capacity it means that you are no longer able to look after your own financial and personal affairs, perhaps due to illness e.g. dementia/stroke etc. The Adults with Incapacity (Scotland) Act 2000 sets out certain situations in which you could be deemed to be incapable. These are:

- incapable of acting on decisions
- incapable of making decisions
- incapable of communicating decisions
- incapable of understanding decisions
- incapable of retaining the memory of decisions in relation to any particular matter due to mental disorder
- incapable of communicating due to physical disability.



### **3. Are Powers of Attorney not just for elderly people?**

No - anyone over the age of 16 can grant a Power of Attorney. Accidents or illness can happen at any age. The sooner a Power of Attorney is completed, the better. The sooner a Power of Attorney is completed and registered with The Office of the Public Guardian the better.

### **4. Are Powers of Attorney not just for the wealthy?**

No – a Power of Attorney is not just about looking after your financial affairs. It also allows you to choose who should decide personal welfare issues (e.g. where you live/who looks after you etc).

### **5. I am married and have grown up children. Surely my family can act for me and make decisions on my behalf?**

No-one has an automatic right to do this. There must be a legal document by you appointing your chosen person/persons as your attorney. If no one is legally appointed by you to act, then no one has legal authority to do so.

### **6. What sorts of powers can be included in the Power of Attorney deed?**

The deed can cover both financial and welfare provisions or you can have separate deeds to cover your financial affairs and welfare matters.

The financial provisions can include power to purchase and sell heritable property (i.e. your house), power to operate

bank accounts, power to claim and receive all pensions, benefits, allowances, etc. There are many other powers which can be included or left out as appropriate, depending on your circumstances.

Welfare powers can include power to decide where you should live, to have access to your personal information, to consent or withhold consent to medical treatment. There are many other powers which can be included to ensure that all appropriate powers are available to meet your needs.

## **7. Who should I appoint as my Attorney?**

You can appoint anyone you trust to be your attorney, e.g. a family member, friend, solicitor or other professional adviser. It is up to you whether you include the same person(s) as both financial and welfare attorneys, or if you have separate attorneys to carry out the different functions.

It is better to appoint more than one attorney in case your attorney is unable to act for any reason – you can appoint joint attorneys with similar or different powers, or one or more substitute attorneys to take the place of an attorney who dies, loses capacity or resigns.

## **8. What happens to my Power of Attorney once it has been signed?**

The document must be registered with The Office of the Public Guardian. The deed itself, together with a registration form signed by your attorney and the registration fee (currently £70) is sent to the Public Guardian and once the deed has been registered, the Office issues a certificate to your solicitor and to you.

Once the Power of Attorney has been registered the financial powers can be used immediately if required. However, the welfare powers are only effective if you lose capacity, i.e. once you are no longer able to act on your behalf.

### **9. What if I appoint my husband/wife as my attorney and then we split up?**

Unless the Power of Attorney deed specifically provides otherwise, your spouse's powers to act on your behalf would cease upon your formal separation or divorce.

### **10. If my Power of Attorney is registered, can I still change my mind?**

As long as you have capacity, you can revoke the powers granted in your Power of Attorney. To do so, you must give written notice to The Office of the Public Guardian.

### **11. How will my attorney know my feelings/wishes if I lose capacity?**

You should discuss both the financial and welfare powers with your attorney and make sure that he knows what decisions/actions you would wish to be taken on your behalf in the event of you losing capacity.

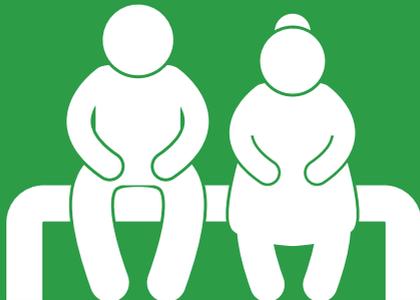
## **Did You Know?**

Every year around 2000 people of all ages will be admitted to hospitals in Scotland with severe traumatic brain injury, as a result of which they will lose capacity for at least a period of time.



## **Did You Know?**

Those on low incomes or benefits, especially the elderly, are entitled to have all or part of their Power of Attorney paid for. That's just over a quarter of the adult population.



## Getting Legal Support for Power of Attorney

Legal help is important in preparing a power of attorney. Most law firms will be able to prepare and complete a Power of Attorney, sign the relevant certification form, and register the Power of Attorney with the Office of the Public Guardian for their clients. In addition firms will provide advice to attorneys and to people granting powers of attorney - on the legal effects of the document, how it may be used, and what the duties of attorneys are.

If you wish to complete a power of attorney or get legal advice about one you can contact your own solicitor or a local solicitor of your choice. All solicitors will quote fees if requested prior to the commencement of any work. Not all solicitors do work under the Legal Aid Scheme and if this is important you should check this before instructing any firm.

Solicitors for Older People Scotland (see [www.solicitorsforolderpeoplescotland.co.uk](http://www.solicitorsforolderpeoplescotland.co.uk)) - SOPS for short - is a group of solicitors dedicated to providing legal services to older people in a caring way. This group supports this campaign and the members are committed to providing Powers of Attorney under the legal aid scheme to clients who qualify. Contact details of SOPS members in Tayside are listed below.

### **Legal Aid – the “Advice and Assistance” scheme (AA)**

Powers of Attorney (and other legal documents) can be completed under this scheme. Where a person qualifies the work can be wholly or partly paid for by the Scottish Legal Aid Board.

Assessment is quick and easy and would take an experienced solicitor no more than 5 minutes with a client to establish eligibility. Application by the solicitor for the client is on line and provided clients can show proof of income and assets at a first meeting legal aid grant is almost immediate.

This scheme is relatively generous to pensioners – any house they own and live in is not taken into account nor are savings of up to £25000. The house and savings are said to be “disregarded” in the financial assessment. These remain “disregarded” as long as the applicant has only the state pension as income. Should the applicant have a private income on top of the state pension – the house remains “disregarded” but the amount of savings “disregarded” reduces on a sliding scale depending on how much additional income the applicant has.

There are no clear statistics as to how many people qualify for AA but perhaps up to 30 % of pensioners may qualify, lower for other groups. The main thing is that it is quite straightforward and simple to find out if you qualify - do not be afraid to ask.

### **“Private” Fees – i.e. those charged if Legal Aid is not available**

Firms of solicitors do not all have the same fees – but every firm will quote fee levels before work starts. Most firms will have “fixed” fees for this type of work – so you will know the total fee due at the outset. This would generally only be subject to variation if some special complexity arose – which is rare.

SOPS member firms have agreed “Guide Fees” for Powers of Attorney. These are:-

- Single Power of Attorney - £304, this includes the Registration fee of £70
- Double (e.g. Husband and Wife) Power of Attorney - £440, this includes the Registration fee of £140.

NB if SOPS members are instructed to complete powers of attorney at the same time as other documents (e.g. a will and/or a living will) the cost of the power of attorney will be reduced significantly.

## **Contacting a Legal Professional**

Legal firms are listed in numerous local directories – too many to mention here. Many of these directories state the type of work the firm does and their website address. Again the website will usually state the work types covered by the firm and whether or not the firm provides assistance under the Legal Aid Scheme.

To find a local firm you can also contact the Law Society of Scotland 0131 226 7411. To find a local firm registered to do Legal Aid contact the Scottish Legal Aid Board 0845 1228686.

Solicitors of Older People Scotland Solicitors member firms in Tayside supporting this campaign are: -

### **Marjory MacDonald, Solicitors**

Tel: 01241 874898 • [www.marjorymacdonald.co.uk](http://www.marjorymacdonald.co.uk)

We advise and assist in setting up Power of Attorney for people who are legally capable, and process Guardianship Applications through the Courts for those who are not. We have many years' experience in advising on Power of Attorney, and take time to make you feel comfortable, so that we can get to know and understand the whole family situation. We work with you to put in place arrangements tailor-made to suit your requirements, and can guide your family if and when they need to use them. We can provide Legal Advice and Assistance through the Scottish Legal Aid Scheme.

### **RSB macdonald**

Tel: 01382 202025 • [www.rsbsmacdonald.co.uk](http://www.rsbsmacdonald.co.uk)

We have a team of 3 senior solicitors experienced at advising on and drawing up Powers of Attorney. We are approachable, easy to talk to, and provide a caring, sensitive service. Where required we provide legal advice and assistance through the Scottish Legal Aid Scheme.

## **McCash & Hunter**

Tel: 01738 620451 • [www.mccashhunter.co.uk](http://www.mccashhunter.co.uk)

We have a highly experienced team (including a Law Society of Scotland Accredited Specialist in Incapacity and Mental Disability Law) who can help you with all legal issues in connection with Powers of Attorney and Guardianships if required. We provide friendly, practical advice to achieve the best arrangements for you and your family. McCash & Hunter are registered by the Scottish Legal Aid Board to provide legal aid and legal advice and assistance through the Scottish legal aid scheme.

## **Macnabs**

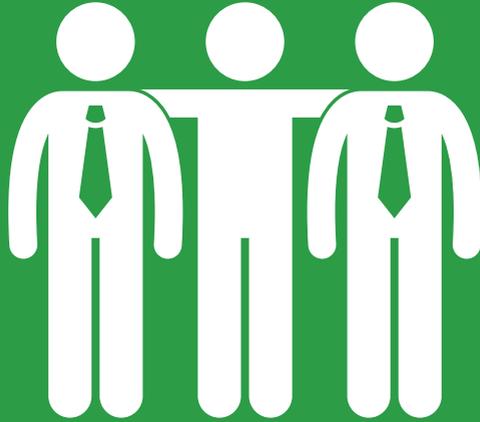
Tel: 01738 623432 • [www.macnabs-law.co.uk](http://www.macnabs-law.co.uk)

Macnabs are delighted to assist you as your partners in law. We will look after you and your family's legal needs. Based in Perthshire our caring and experienced team will visit you at home or hospital if needed (at no extra charge), and will help you to decide the best way forward for you and your loved ones. We will advise you on all aspects of Wills, Powers of Attorney and Guardianships, and are pleased to be registered as a provider of legal aid through the Scottish Legal Aid Scheme. So, start the conversation with us and we will give you the answers you need.

## **Shiells Law**

Tel: 01356 622171 • [www.shiellslaw.co.uk](http://www.shiellslaw.co.uk)

We are a long established law firm with solicitors who are highly experienced at advising on the preparation of Power of Attorney and also the process for applying for guardianship or intervention orders. We provide friendly and practical legal advice. We will guide and support you to put in place the best arrangements available for the management of your affairs now or in future years. We can provide Legal Advice & Assistance and Civil Legal Aid available through the Scottish Legal Aid Board.



## **Did You Know?**

You can grant power of attorney to anyone over 16- a friend, family member, neighbour or even a professional you trust.

## Useful Contacts

To get advice on solicitors in your area

- The Law Society:  
[www.lawscot.org.uk](http://www.lawscot.org.uk) • Tel: 0131 226 7411

To enquire about financially assisted legal support (subject to status)

- The Scottish Legal Aid Board:  
[www.slab.org.uk](http://www.slab.org.uk) • Tel: 0845 122 8686

To get advice on Power of Attorney

- Office of the Public Guardian  
[www.publicguardian-scotland.gov.uk/contact\\_us.asp](http://www.publicguardian-scotland.gov.uk/contact_us.asp)  
Tel: 01324 678300

To get advice on the Power of Attorney campaign

- Start the Conversation website:  
[www.mypowerofattorney.org.uk](http://www.mypowerofattorney.org.uk)

## Other contacts

- Alzheimer Scotland:  
[www.alzscot.org](http://www.alzscot.org) • Tel: 0131 2431453
- 24 hour freephone Dementia Helpline:  
0808 808 3000
- Chest, Heart and Stroke Scotland Telephone:  
[www.chss.org.uk](http://www.chss.org.uk) • Tel: 0131 661 7730
- The Silver Line Scotland, helpline for older people  
<http://www.thesilverline.org.uk> • 0800 4 70 80 90



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



The Tayside Power of Attorney Campaign gratefully acknowledge the support from NHS Greater Glasgow and Clyde and Glasgow City Council in developing this resource