

# Power of Attorney

A guide to why you might want one



**KELLANDS**

CHARTERED FINANCIAL PLANNERS

# Power of Attorney

A guide to why you might want one



**KELLANDS**

CHARTERED FINANCIAL PLANNERS



# Power of Attorney

A guide to why you might want one



**KELLANDS**

CHARTERED FINANCIAL PLANNERS

# Power of Attorney

A guide to why you might want one



**KELLANDS**

CHARTERED FINANCIAL PLANNERS

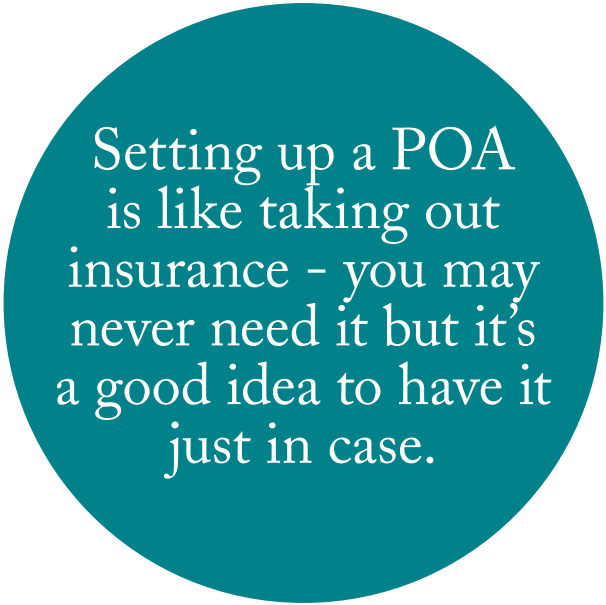
There may come a time when you no longer want or are able to make financial or other decisions for yourself. A Power of Attorney (POA) enables you to give one or more trusted friends or family members the legal authority to make decisions on your behalf. The POA lists all the specific powers you wish these people (your attorneys) to have.

A POA is not just for older and wealthier people – anyone can benefit from having one. Imagine a situation where your health failed suddenly or you had a serious accident and were unable to make decisions. Having a POA in place would help your relatives immensely at a difficult time.

### **Why have a Power of Attorney?**

If you don't have a POA in place and you lose the ability to make your own decisions, your family or friends would have to go to court to get authority to make decisions on your behalf. This can be a costly, complicated and time consuming process. It is easier if you have already set up a POA that can be used.

Setting up a POA is like taking out insurance – you may never need it but it's a good idea to have it just in case.

A teal circle containing the text "Setting up a POA is like taking out insurance - you may never need it but it's a good idea to have it just in case." in a white serif font.

Setting up a POA  
is like taking out  
insurance - you may  
never need it but it's  
a good idea to have it  
just in case.

## Power of Attorney in England and Wales

In England and Wales there are two main types of POA:

- a property and financial affairs Lasting Power of Attorney and
- a health and welfare Lasting Power of Attorney.

The person who makes the Lasting Power of Attorney (LPA) is called the donor and those who act for them are attorneys.

A property and financial affairs LPA covers all aspects of someone's financial well-being. An attorney could find themselves making or helping the donor to make decisions regarding their bills, savings and property. They could find themselves managing the donor's bank accounts, making gifts on their behalf or even selling property. The donor can choose when the property and financial LPA can be used and how. For example, you can give your attorney authority to start making decisions for you right away, at a particular time for a set period, or only once you're no longer able to make decisions yourself.

With a health and welfare LPA the attorney makes or helps the donor to make decisions around how they are cared for. This could include anything from where they live, how they are cared for and even the day to day things such as what they eat. If you need extra support – for instance carers to come in during the day – then this would fall under the remit of a health and welfare LPA. Such arrangements can also contain information regarding whether you would receive or reject particular types of treatment and the person acting as an attorney must ensure they understand your wishes. A health and welfare LPA only takes effect once you're no longer able to make decisions yourself.

### 3 steps to making a LPA

1

Choose your attorney/s.

If someone agrees to be your attorney they must keep records of all the important decisions they make for you.



2

Fill in the relevant forms and get them signed and properly witnessed.



3

Register your LPA and pay the registration fee.



You must have mental capacity at the time you set up the LPA and, to make sure no-one has forced you into signing an LPA, when you complete the forms you will appoint a person to be a certificate provider. This is someone who confirms you know what you're signing and understand the powers it will give your attorneys.

As another safeguard, you can name people who should be informed when an application is made to register your LPA. These should be people who have your best interests at heart and who would speak up to object to the registration if they have any concerns.

You can either pay a solicitor to fill in the forms for you, complete the forms online yourself, download the forms and complete them by hand or ask for the forms to be sent to you by post by phoning 0300 456 0300.

An LPA can only be used once it's been registered with the Office of the Public Guardian. The donor or attorneys can apply to register the LPA (if the attorneys apply to register it, the donor will be notified and can object if they want to).

You have to pay a fee to register each LPA application unless you receive certain state benefits. If you are on a low income (below £12,000) you only pay half the fee. If you think you may be entitled to a fee reduction or waiver you'll need to complete form LPA120A.

It currently takes 8 to 10 weeks for the registration process to take place providing no mistakes are made on the form.

#### **FEE**

To register each LPA application

#### **REDUCED OR NO FEE**

Low income (below £12,000)  
or certain state benefits



**8-10 WEEKS**  
**REGISTRATION PROCESS**

## Power of Attorney in Scotland

In Scotland there are three main types of POA. These are:

- Continuing POA which allows your attorneys to make decisions for you about your money and/or property. This can include paying bills or managing your savings and investments or arranging repairs to your home or buying/selling property.
- Welfare POA which covers your health or personal welfare. This can include choosing where you live, what you eat and who you see as well as what medical treatment you receive.
- Combined POA which enables your attorneys to make both financial and welfare decisions for you.

To make a POA:

- Choose your attorney/s – you can have as little as one attorney up to as many as you choose. Your attorneys must confirm they are willing to act for you. Your attorneys must keep records of their actions.
- Draft a POA (unlike in England and Wales you can't just fill in the relevant forms). Most solicitors can help you do this and will give you legal advice. If you don't want to use a solicitor, other professionals can draft the POA for you. You can draw up your own POA if you want and some stationery shops sell POA packs which can be used. But if you do this make sure you look at the guidance available on the Office of the Public Guardian website to avoid any costly mistakes.
- Have your POA properly witnessed. You will need to be interviewed by either a solicitor or medical practitioner to assess that you fully understand what you are doing. If they are satisfied with this, they will complete and sign a certificate confirming this.
- Register your POA with the Office of the Public Guardian (Scotland) and pay the registration fee (depending on your circumstances you may be exempt from this). Your solicitor may do this for you or you can do it yourself. It's likely to take more than 30 working days to process a postal application. If you submit the documents electronically the process is often quicker.

## Power of Attorney in England and Wales

**Two main types:**

**Property and financial affairs LPA**



**Health and welfare LPA**



---

## Power of Attorney in Scotland

**Three main types:**

**Continuing POA**

Allows your attorneys to make decisions for you about your money and/or property



**Welfare POA**

Covers your health or personal welfare



**Combined POA**

Enables your attorneys to make both financial and welfare decisions for you



## Where to find out more

## England and Wales

**You can find out more about LPAs at:**

[gov.uk/power-of-attorney](https://gov.uk/power-of-attorney)

**You can use the government's online service to create your LPA at:**

[lastingpowerofattorney.service.gov.uk/home](https://lastingpowerofattorney.service.gov.uk/home)

**You can download the LPA forms to complete by hand at:**

[gov.uk/government/publications/make-a-lasting-power-of-attorney](https://gov.uk/government/publications/make-a-lasting-power-of-attorney)

**Find out about the role of an attorney at:**

[gov.uk/lasting-power-attorney-duties](https://gov.uk/lasting-power-attorney-duties)

**To claim a reduction in the LPA registration fee:**

[gov.uk/government/publications/power-of-attorney-fees](https://www.gov.uk/government/publications/power-of-attorney-fees)

## Scotland

**You can find out more about POAs at:**

Office of the Public Guardian Scotland

[publicguardian-scotland.gov.uk/power-of-attorney](http://publicguardian-scotland.gov.uk/power-of-attorney)

mygov.scot

[mygov.scot/power-of-attorney/setting-up-a-power-of-attorney/](https://mygov.scot/power-of-attorney/setting-up-a-power-of-attorney/)

**To claim a reduction in the POA registration fee:**

[publicguardian-scotland.gov.uk/meta1/fee-exemption](https://publicguardian-scotland.gov.uk/meta1/fee-exemption)

## Your notes

Kellands (Hale) Limited is authorised and regulated by the Financial Conduct Authority (FCA Register number 193498, see <http://www.fca.org.uk/register> for registration details) and registered in England and Wales. Kellands (Hale) Limited is a firm of Chartered Independent Financial Advisers and our scope of permitted business activity under the FCA is restricted to advising and arranging life insurance, pensions, investments, protection, general insurance and mortgage contracts following a fair and comprehensive review of the marketplace. The Financial Ombudsman Service (FOS) is an agency for arbitrating on unresolved complaints between regulated firms and their clients. Full details of the FOS can be found on its website at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk). Registered Office: Kellands (Hale) Limited, 24 Victoria Road, Hale, WA15 9AD. Kellands (Hale) Limited is registered with the UK Information Commissioner's Office as a Data Controller and we endeavour to follow all the guidelines and rules set out in General Data Protection Regulation. Further details of our terms of engagement, general conditions, principles and legislation which cover how we work with you are available from our Service Charter which is available on request. Please note that past investment performance is not a guide to the future performance. Potential for profit is accompanied by the possibility of loss. The value of investment funds and the income from them may go down as well as up and investors may not get back the original amount invested. Any figures provided are for indicative illustrative purposes only.

The content of this market bulletin has been prepared by Royal London. It should not be viewed in isolation and is provided for information purposes only. This market commentary should be considered in conjunction with other relevant information which is available, including that which is held within the public domain. Any views or opinions expressed within this material are provided in good faith and based upon our understanding and experiences of UK legislation, regulation and the financial services market place at this time which is subject to change without notice. The content should not be construed as personal financial advice or any inducement to invest. Whilst we take responsibility to ensure that the information contained within this material is accurate and up to date, we do not accept any liability for any errors or omissions.

The Royal London Group consists of The Royal London Mutual Insurance Society Limited and its subsidiaries. The Royal London Mutual Insurance Society Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. The firm is on the Financial Services Register, registration number 117672. Registered in England and Wales number 99064.  
Registered office: 55 Gracechurch Street, London, EC3V 0RL.