

Power of Attorney

Power of Attorney Information Form for Patients

1) Drawing up a PoA document

This is not part of General Medical Services or the NHS services that we provide and we are not legally qualified to advise you or give you any opinion on how to go about it. You should contact The Office of the Public Guardian on 01324 678300 or visit the website <http://www.publicguardian-scotland.gov.uk/power-of-attorney>

2) Completing and signing the prescribed certificate (Schedule 1 certificate)

This is a mandatory certificate, which confirms that you understand the nature and extent of the PoA legal document, the extent of the powers that you are giving to your Attorney and how and when they come into force. You cannot register a PoA with the Public Guardian without this certificate, which must be signed by a practising member of the Faculty of Advocates, a practising Solicitor who is registered to practice law in Scotland or a UK registered and licensed Medical Practitioner. Your Advocate, Solicitor or Medical Practitioner will advise you of the fees involved.

GPs are Medical Practitioners and, therefore, authorised to sign the certificate, but they are not under an obligation to do so. We do not sign it in this Practice because we do not feel that we are legally qualified to understand, explain, and ensure that you understand, the nature and extent of the legal aspects of the PoA document. Our legal advisers at the Medical & Dental Defence Union Scotland and our professional advisers at the British Medical Association support us in this view. You may, of course, approach other Medical Practitioners with your request.

3) Providing a medical report on Capacity

Sometimes a Solicitor will request this from us, with the patient's consent, to help the Solicitor to decide whether to complete and sign the Schedule 1 certificate or not. Usually, this is in the circumstance that the patient is in the early stages of a dementia process and therefore may or may not understand the nature and extent of the legal aspects of the PoA document. The assessment of the patient's capacity to make such a decision should be made by an expert – namely a psychiatrist specialising in dementia. Your lawyer can engage the services, on a private basis, of a suitably qualified psychiatrist.

Please note – we will not refer you to our local NHS Old Age Psychiatry department for the purposes of capacity assessment for PoA as this is not NHS work.

4) Storing the PoA document – when to give a copy to the Practice

This is a legal document and it is up to you and your Attorney to store it safely. We do not require and do not accept copies of the document until the Welfare power for decisions to be made about your health and welfare matters is activated. This only happens when you become incapable of making decisions about your own welfare. We require a copy of the PoA document at that stage, to scan into your medical record, so that we have evidence that your Power of Attorney holder has been granted this power and can interact with us on your behalf.