September 2025

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12 **practical reasons** to write a will and name a Power of Attorney

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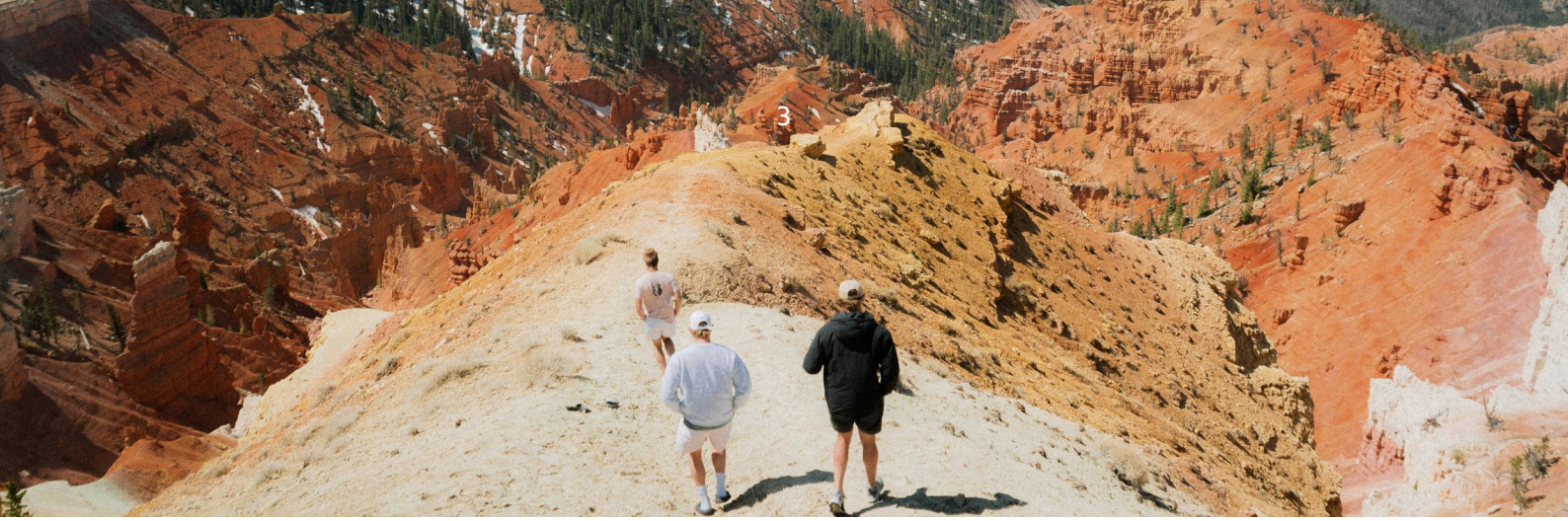
Thinking about what might happen after you die isn't easy. It's hard to imagine the world simply continuing. That's likely one reason why so many people put off writing a will for "another time" or decide to "sort it later". But the reality is, none of us know when we'll die.

Having a will in place means your estate will be dealt with according to your wishes. It will also spare your loved ones from having to deal with working out how to manage your affairs while they're still navigating their grief. You can cover important issues such as:

- Appointing a guardian for any children or dependants
- Deciding how to leave your property
- Taking steps to protect unmarried partners or stepchildren
- Reducing the amount of Inheritance Tax (IHT) applied to your estate.

A Power of Attorney (PoA) is another important consideration in your later-life planning. While we all hope to maintain good physical and mental health, you just don't know what's around the corner. A PoA means that you know people you trust will be making decisions about key areas of your life, such as your healthcare and finances.

In this guide, you can find out more about how making a will and setting up a PoA can give you and your loved ones peace of mind about the future.



Starting with the basics: What exactly is a will?

A will is a legal document that outlines your wishes for after you die. This can include what happens to your money, property, other assets, and possessions, collectively known as your "estate".

Plus, you can appoint guardians for your children, make charity donations, name someone to care for your pets, and include any specific wishes you may have for your funeral arrangements.

Financial pressures, lack of time, and unwillingness to discuss death can put people off writing a will

According to Will Aid, a national will-writing charity, research from November 2024 found that 67% of UK adults either don't have a will, or have one that's out of date.

- 21% cited financial pressures, such as the cost of instructing a solicitor.
- 27% said they didn't have anything worth leaving.
- 18.5% couldn't find the time.
- 16% felt uncomfortable talking about death or felt the process would be too complicated.

While these are understandable reasons, not having a will can cause all kinds of issues and difficulties for your loved ones after you die.

Writing a will helps you to cover all eventualities, so your wishes are followed after you die

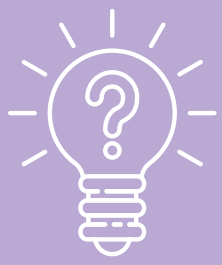
The law around wills is complex and there are certain aspects of it you might not have yet considered or simply may not know about. Read on to discover seven practical reasons to write a will.

1. To make sure your wishes are carried out

First and foremost, you want to know that every aspect of your estate is inherited by the people you'd like to benefit.

If you die "intestate" – without a will – your estate will be distributed according to the law, rather than your own wishes. The rules for this are set out in the Inheritance and Trustees' Power Act (2014), and will vary depending on your circumstances.

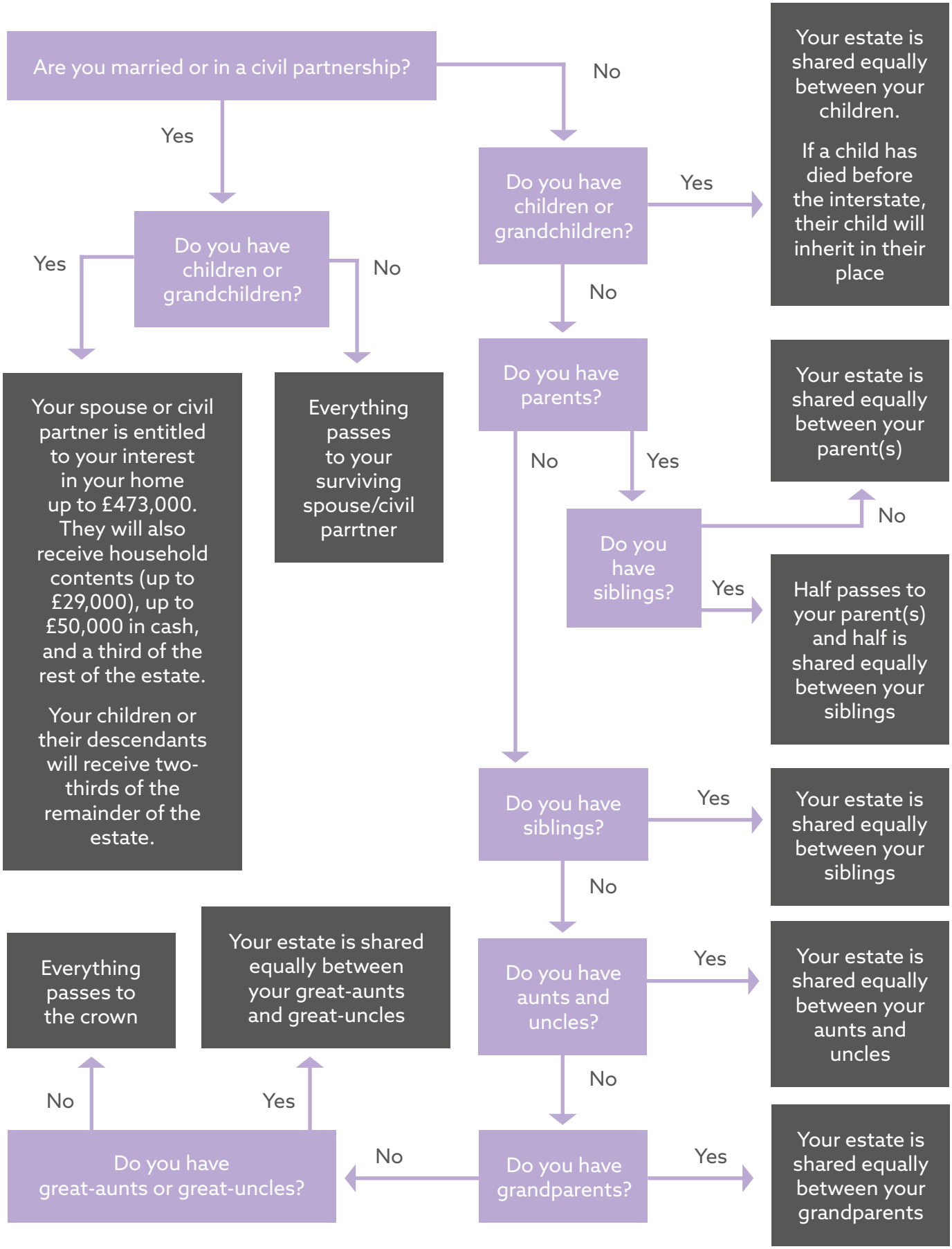
NOMINATING BENEFICIARIES FOR PENSIONS AND LIFE INSURANCE



Although this isn't part of your will, it's a key part of your estate planning.

Financial products such as pensions, life insurance policies, or other assets in trust aren't passed on in your will. Instead, you need to nominate your beneficiary with each separate provider.

Here's how it could look if you die intestate:



NEW PROPOSALS FOR INTESTACY LEGISLATION ARE UNDERWAY

Proposals are in place to offer legal protections for unmarried couples without a will, which according to Will Aid in March 2025, are supported by 65% of Brits.

The government is planning to consult on reforming cohabitation laws later this year.

Three-quarters of cohabiting couples surveyed were unaware of what would happen to their assets if they passed away without a will.

2. You can choose who will care for your dependants

If you have dependants, such as children under the age of 18 or those with diminished capacity, you'll need to name who you'd like as their legal guardian. It's always a good idea to name more than one guardian, in case your first choice's circumstances change in the meantime.

It's a lot to ask somebody to take on children, so check with them upfront if they'd be happy with the arrangement, before you put it into your will. If you don't appoint guardians, this will be handled by the family court, which may choose someone you wouldn't choose yourself.

Your will can also make provision for your dependant's financial future, such as making sure they get a certain amount annually, or a lump sum to buy their first home, for example.

Setting up a trust can be an effective way of controlling when your beneficiaries receive their inheritance. There are different types of trusts and they can be quite complex, so it's a good idea to seek financial advice first.

3. It's the only way to be sure your partner, children, and stepchildren will inherit

Even if you've been together for decades, your partner won't automatically inherit anything if you're not married or in a civil partnership. So, if you want them to receive part or all of your estate, you'll need to specify this in your will.

This also applies to any stepchildren, as they won't automatically inherit anything unless you name them in your will.

Remember, your home is part of your estate, so you can leave a share or all of your property to your partner and/or stepchildren, or specify their rights to remain living there for a period of time.

One other thing to consider here is the concept of "sideways disinheritance". Essentially, this means if you remarry, your new spouse would be first in line to inherit, which could potentially disinherit your children. So, you need to specifically set out what you'd like to happen in this case.

A LETTER OF WISHES CAN BE A HELPFUL ACCOMPANIMENT TO YOUR WILL

Unlike your will, a letter of wishes isn't legally binding. But, it is an opportunity for you to set out more information and go into greater detail about aspects of your will.

For example, you could explain your thinking behind potentially controversial decisions, which could help avoid conflict among family members.

You can also include more particulars about your funeral arrangements, such as whether you'd like to be buried or cremated, and any other details you'd like to add.

4. To keep the peace and avoid disputes

Unfortunately, if your wishes aren't made clear, or you die without leaving a will, it can lead to damaging family arguments and disputes over your estate.

Having everything outlined in your will makes this legally binding, and so can help to prevent fallouts in the aftermath of your death.

If you think you've included anything that will come as a surprise, be upfront when you make your will so you've managed everyone's expectations in advance.

5. You can name who you'd like to manage your estate

Your executor(s) will be responsible for carrying out the wishes you outline in your will. Nominating someone you'd like to be in charge of this task means you can choose who you think is best suited for the job. Ask them if they're willing to take on the role, before you commit it to writing.

6. To make sure your pets are well looked after

Pets are classed as property in the eyes of the law, so if you don't nominate a carer for them, they'll be included in your estate and the courts will decide where they go.

Setting out your wishes for their care in your will can bypass this, but just make sure to check with whoever you nominate that they'll be happy to do so. You can also leave some money for your nominee specifically for your pet's care.

7. You could mitigate your Inheritance Tax liability

Inheritance Tax (IHT) is charged at 40% as standard, and could put a dent in what your loved ones receive from you. Before IHT is due, you have a nil-rate band that allows you to pass on a certain amount of your estate tax-free. In 2025/26, this stands at £325,000.

While you can't directly reduce IHT through your will, there are variations and exceptions you can make use of, and your financial planner can help you to find the most effective ways to minimise the amount of IHT you have to pay.

For example, assets left to your spouse or civil partner are exempt from IHT. Furthermore, if you leave your main residence to your direct descendants, such as children, grandchildren, and stepchildren, this may raise your exemption threshold from £325,000 to up to £500,000 (2025/26 tax year).

Making a donation to your favourite charity or charities could also reduce your IHT liability. This amount isn't included in your estate for IHT purposes and, if you leave more than 10% of your net estate to charity, it can reduce the rate of IHT your loved ones have to pay from 40% to 36%.

How to write a will

It's a good idea to make a will as soon as you have children or any assets. You can review and update it whenever you want.

To make a will, you need to:

- Be age 18 or over
- Make it voluntarily
- Be of sound mind
- Make it in writing
- Sign it in the presence of two witnesses who are both over the age of 18
- Have it signed by your two witnesses, in your presence.

You can't leave anything in your will to your witnesses or their spouses. Although it's not essential to use a solicitor, it can be sensible to have one look over your will, to make sure you've included everything you need to make it legally valid.

Reviewing your will regularly will help to account for major life events

Not only is making a will important, but reviewing and updating it is, too. Life events such as marriage, remarriage, the birth of children and grandchildren, moving house, and a myriad of other occasions mean that if it's been a while since you made your will, there might be some changes you want to make.

Will Aid's research discovered that the average amount of time since people updated their will is six years. Only 34% had updated their will in the past three years, and 20% never had.

You should consider updating your will after any major life changes, such as:

- Getting married, as your existing will usually automatically becomes invalid in England, Wales, and Northern Ireland. In Scotland, this isn't the case, so your spouse may not inherit anything if your previous will doesn't name them.
- Separating or getting divorced. A divorce won't invalidate your will, so your ex-partner could still inherit.
- Having children, to nominate guardians for them and add them as beneficiaries, if you wish.
- Moving house, to ensure that your property goes to your chosen beneficiaries.
- If your named executor dies before you.

ARETHA FRANKLIN AND THE WILL DISCOVERED IN THE COUCH CUSHIONS

Aretha Franklin's will makes for an interesting story.

When the singer died in August 2018, it was believed she had not left a will to distribute ownership of her extensive estate.

The BBC reported in November 2023 that after the singer's death, her niece and estate executor Sabrina Owens discovered two separate sets of handwritten documents at the singer's home in Detroit.

One version, dated June 2010, was found inside a locked desk drawer, along with record contracts and other documents.

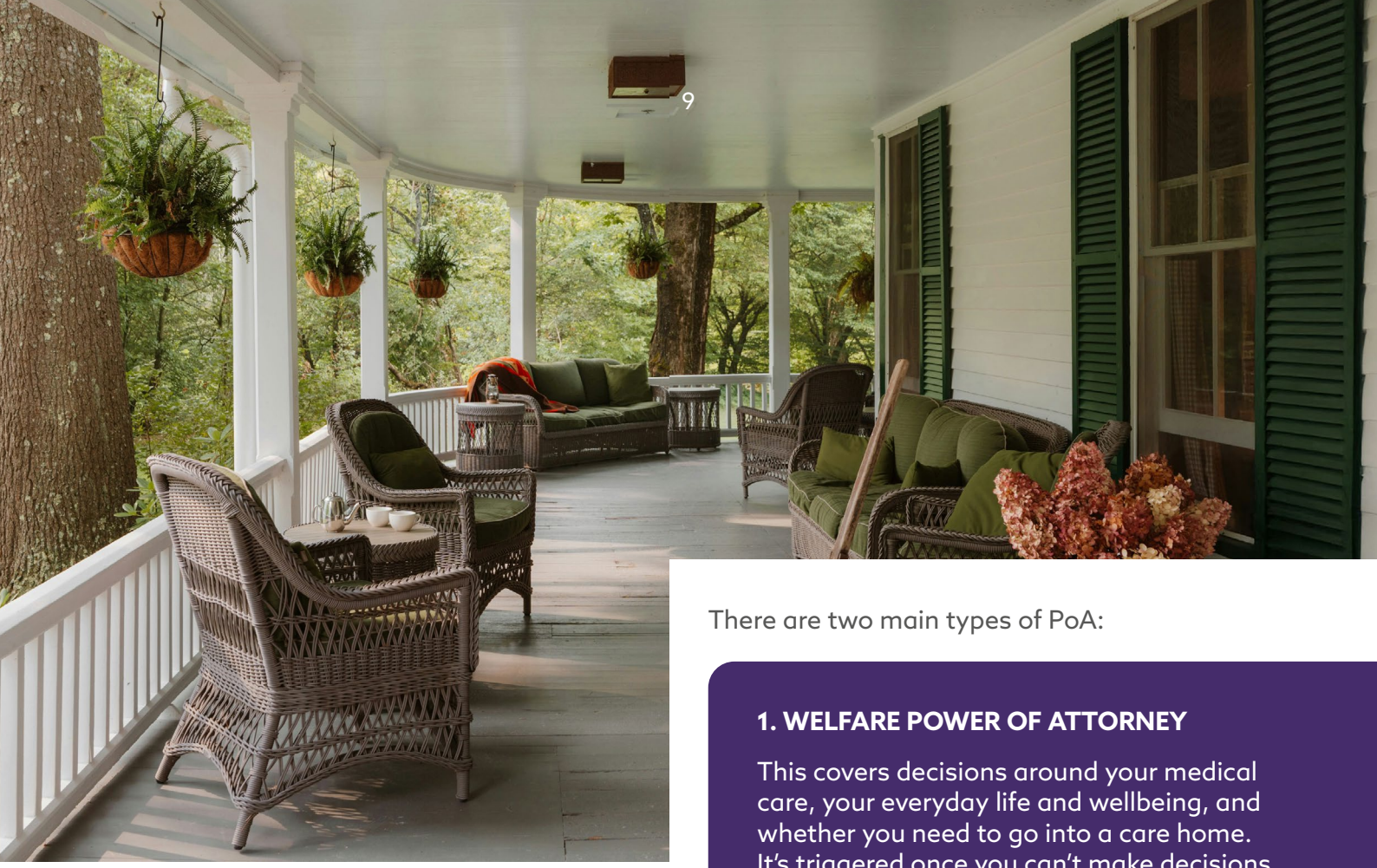
A newer version, from March 2014, was found within a notebook wedged in the living room sofa cushions.

A jury declared that, despite being hard to read, the later document was valid.

Franklin's sons had been disputing with each other over whether Franklin had actually signed the 2014 document.

Both documents indicated that Franklin wanted her four sons to split the income from her music and copyrights, but other areas contained notable differences. The later will particularly benefited her son Kecalf.

You may not be the Queen of Soul, but you still won't want your family disagreeing after your death. So, creating a valid will and keeping it updated can help make things as easy as possible for them.



A Power of Attorney is a contingency plan if you're unable to make decisions for yourself

Thinking about death is understandably difficult. Equally hard is thinking about the possibility that you might not being able to make your own decisions in later life.

Contingency planning is key, however. A Power of Attorney (PoA) enables you to nominate someone to manage your health and welfare decisions, and your financial and property affairs, in the event that you don't have the capacity yourself.

However, this needs to be put in place while you still have mental capacity. This means it isn't feasible to wait until you need one, so it's something to consider as part of your later-life planning.

In the case of a PoA, an "attorney" means the person you want to represent you. They don't need any legal training, but they do need to be trustworthy and able to make decisions on your behalf.

There are two main types of PoA:

1. WELFARE POWER OF ATTORNEY

This covers decisions around your medical care, your everyday life and wellbeing, and whether you need to go into a care home. It's triggered once you can't make decisions for yourself.

2. CONTINUING POWER OF ATTORNEY

This includes paying bills, collecting benefits or your pension, and making decisions about your financial affairs. You can choose when this comes into force.

If you'd like to same person to manage both your welfare and financial affairs, you can also use a Combined Continuing and Welfare PoA. Some people choose a family member for their Welfare PoA, and a professional such as a solicitor for their Continuing PoA.

You'll need to discuss your proposals with your attorneys before you prepare your PoA, to make sure they're happy to be nominated.

If you do choose a professional, remember they are likely to charge a fee for their services.

You can also set up a business PoA, to keep your business running smoothly, compliantly, and with continuity, if you're no longer able to work.

Having a Power of Attorney in place offers peace of mind that you'll be well looked after

There are lots of benefits in setting up a PoA as soon as you can. Here are five practical reasons to do so now:

1. You can choose the people you trust

Putting your PoA in place now means you can nominate the people you trust the most to look after you personally and financially. You know best who you'd like to take care of your everyday wellbeing, and who is likely to be best placed to manage your finances.

2. It can save your loved ones time and money

Without a PoA in place, your loved ones will have to go to court to apply for a Guardianship Order to be able to act on your behalf, which can be expensive and time-consuming.

For example, your loved ones may need to pay fees for legal costs, medical reports, and to register the order, and it can take several months. In contrast, the fee for registering a PoA is usually £96.

3. You'll be in control of who does what

Appointing your attorney while you have mental capacity means you can't be coerced into nominating someone. As well as choosing your attorneys, you can also put restrictions and caveats on the types of decisions they can make. You won't be able to make any changes if you do become incapacitated, however, so you need to think carefully about restrictions or limitations.

4. It's a good way to plan both for the short and the long term

You can use your PoA for a temporary setback, such as if you have an accident and can't look after yourself. It can also be used if you suffer from a long-term condition like dementia.

If you set one up temporarily, you can apply to alter or remove it once you prove renewed mental capacity.

5. It can give you and your family peace of mind

Once you've registered your PoA, you can relax knowing that you've taken steps to protect your health, wellbeing, and finances if you can't manage them yourself. Unless you want to make any changes, you can simply leave it in place for your lifetime.

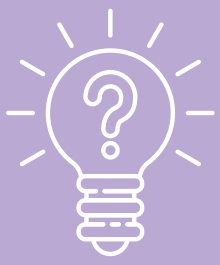
How to make a Power of Attorney

You need to be over 18 years old and have sound mental capacity to make an PoA.

Once you've chosen your attorney or attorneys, you'll need to fill out the forms and then register your PoA with the Office of the Public Guardian in Scotland, making it legally binding.

You can either ask a solicitor to help you make your PoA or follow the steps on the mygov.scot website and do it yourself.

HOSPITALS CAN'T DISCHARGE MEDICALLY FIT PATIENTS DUE TO A LACK OF LPAS



In February 2025, the BBC reported that, in Scotland, an average of 2,000 people each day are stuck in hospital in spite of being medically fit to be discharged.

And in a third of these cases, the reason is not having a PoA in place. In some instances, patients have been delayed for as long as 400 days while legal complications are sorted out.

This is understandably very difficult for these patients, leading to potential isolation and even loss of mobility.

Get in touch

If you'd like to discuss your estate planning, later-life planning, or wish to arrange an initial consultation, please get in touch.

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mail@ebsuk.com

Please note: This guide is for general information only and does not constitute advice. The information is aimed at retail clients only.

All information is correct at the time of writing and is subject to change in the future.

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