

Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF LEGAL GROUP)

Agents, Appointees, Attorneys and Deputies Guide (AAADG)

August 2008 amendment package

1. The Agents, Appointees, Attorneys and Deputies Guide is now the responsibility of the Decision Making and Appeals (Part of Legal Group) (DMA). This amendment package brings the guide up to date with current legislation.
2. This amendment package affects 'About this guide', 'Layout of the guide', 'Abbreviations', Main Contents, Parts 1, 2, 3, 4, 5, 6, 7, 8 and Appendices 1 -15 .
3. This amendment package is issued in PDF format only,

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double-sided prints.
4. Copies of this amendment package can be purchased from Corporate Document Services (0113 399 4040). For DWP customers this will be chargeable to your own cost centre. You can also access the AAADG and individual amendment packages via the DWP website at www.dwp.gov.uk/advisers/index.asp.
5. The AAADG can be accessed on the DWP Intranet. On the homepage click "Delivery", "Benefit guidance", "DWP Forms and Guidance Gateway".
6. Remove the sheets in the left hand column and insert new sheets in the right hand column.

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About this guide

Purpose of the guide

This guide:

- promotes consistent procedures for dealing with agents, appointees, attorneys, deputies and third parties
- does not provide any detailed information about the method of payment. See Methods of Payment Policy on the COBAP website.
<http://intranlink/1/corp/sites/finance/fsd/cbandmp/index.asp>

Who should read this guide

This guide is for all staff within:

- Department for Work and Pensions (DWP)
- Social Security Agency (Northern Ireland) - (SSA(NI))
- Veterans Agency (VA).

Other Guides

Throughout the Agents, Appointees, Attorneys and Deputies Guide there is reference to various other guides, these being:

CAPS Personal Details User Guide

CAPS Technical Guide

CAPS Management Guide.

It should be noted that these guides are for **DWP internal use only** and therefore may not be accessible on the internet.

Layout of the guide

This guide has eight parts:

- Part one** Other Payees
- | **Part two** Deputy (England and Wales)
- | **Part three** Guardian, Curator bonis or tutor (Scotland)
- Part four** Attorney
- Part five** Appointee
- Part six** Action following verification of a PAB/COP
- Part seven** Split Payment Payee
- Part eight** Collection of payment by a 3rd party.

Method of payment

The normal method of payment is Direct Payment into a bank, building society or other provider's account. Cheque payments are available for those customers unable to be paid by Direct Payment. See Methods of Payment Policy on the COBAP website.
<http://intraLink/1/corp/sites/finance/fsd/cbandmp/index.asp>

Data Protection and handling customer information

All data collected and retained for DWP use must conform to the Data Protection Act (DPA) 1998. The purpose of the Act is to protect the rights of individuals, about whom personal data is obtained, recorded, held or disclosed.

Data which, on its own or combined with other information or opinion, can identify a person is called 'personal data'. All data collected, used, recorded and stored/held, either clerically or electronically, must comply with the requirements of the DPA 1998 i.e. it must be:

- processed fairly and lawfully;
- not used for any purpose other than the purpose for which it was supplied;
- adequate, relevant and not excessive;

About this guide

- accurate and up to date;
- kept for no longer than necessary;
- held securely.

All departmental guidance and procedures should comply with the above principles. (For further advice please refer to the *Data Protection Policy* link on the Departmental Intranet site.)

Under section 123 of the Social Security (Administration) Act 1992 it is an offence for anyone who is or has been employed in social security administration or adjudication to disclose information obtained in the course of their employment without lawful authority. For further advice refer to the Personal Information Policy (PIP).

Individuals have the right to see most of the personal data the DWP holds about them. Their request must be made in writing and, on receipt, is referred to as a Subject Access Request (SAR). All SARs should be referred to the Data Protection Officer to process and consider.

Comments on layout and design

To: Editor
DMA Leeds Publications
Room GS36
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My comments about the layout and design of the Agents, Appointees, Attorneys and Deputies Guide are:

Layout

(sequence, contents, index, etc)

Design

(headings, flowcharts, tables, etc)

Style

(Plain English)

Signed: Date:

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Tel no: Ext:

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Signed: Date:

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Tel no: Ext:

Abbreviations

A

AA Attendance Allowance

AHA Area Health Authority

C

CB Curator Bonis

ChB Child Benefit

CCC Customer Conversion Centre

CH Care Home

CIS Customer Information System

COI Corporate Organization Identifier

COP Corporate Other Payee

CP Court of Protection

CRN Child Reference Number

D

DAP Death Arrears Payee

DDPU Departmental Data Protection Unit

DLA Disability Living Allowance

DP Direct Payment

DPA Data Protection Act

DPO Data Protection Officer

DWP Department for Work and Pensions

Abbreviations

E - O

E

EEA European Economic Area

EPoA Enduring Power of Attorney

G

GA Guardian's Allowance

H

HA Health Authority

HB Health Board

I

IMP Information Management Policy

IOP Instrument of Payment

IPC International Pension Centre

L

LA Local Authority

LPA Lasting Power of Attorney

M

MOP Method of Payment

N

NH Nursing Home

NINO National Insurance Number

O

OP Other Payee

OPG The Office of the Public Guardian

P

PA	Permanent Agent
PAB	Personal Acting Body
PGO	Public Guardianship Office
PO	Post Office®
POca	Post Office® Card Account
PoA	Power of Attorney

R

RCH	Residential Care Home
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S

SAR	Subject Access Request
S of S	Secretary of State
SPP	Split Payment Payee
SSA(NI)	Social Security Agency (Northern Ireland)

T

T	Tutor
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V

VA	Veterans Agency
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Part one – Other Payees

Introduction

- 1000 A customer may require someone to collect or receive payments on their behalf. This may be at their request or an arrangement that is made for them.
- 1001 Anyone who collects or receives payments on behalf of the customer in these circumstances becomes known as an OP.
- 1002 As well as being an individual, an OP can be an organization such as a LA or NH. In these circumstances the OP is referred to as a COP.
- I 1003 CIS must hold an account for both the customer and the OP before payment can be made.
1004 - 1005
- I 1006 In order to record the OP on CIS you must have a NINO for the OP (but see 1009 below for COP) or, exceptionally when the OP is aged under 16, a CRN.
- 1007 The only OP types who can be under 16 are agents. (Please note that Permanent Agents must be over 16. Where a CRN is used to identify such OPs, it must not be referred to as a NINO until it is entered on the National Insurance Recording System which usually takes place at age 15 years and 9 months.
- 1008 If the OP does not quote the NINO/CRN, you should trace it using existing business procedures. For more information, refer to your existing business procedures.
- I 1009 If you are recording a COP on CIS, you are recording details of an organization. The use of a NINO/CRN would be inappropriate in these circumstances See para 1176 et seq.
1010 - 1049

Making changes to the Other Payee's CIS account

- 1050 Any changes to personal details including bank, building society or Post Office® details
| should be recorded in the relevant CIS/CPCS dialogues.

1051 - 1099

Types of Other Payees

1100 These are the types of OPs:

- deputy
- Controller
- Judicial factor
- guardian
- curator bonis
- tutor
- attorney
- appointee
- parent/guardian
- alternative payee
- DAP
- SPP

Third Party Payees

1101 Under Direct Payments customers who can manage their own affairs but are unable to go to the bank, building society or Post Office® may be able to arrange for a person they know and trust to have access to the account where the benefits are paid. (See *Collection of Payment by an individual 3rd party* in *Part eight* of this guide).

1102 - 1049

Personal Acting Bodies and Corporate Other Payees

Personal Acting Body

- 1150 A PAB is a named person appointed to look after all or some aspects of a customer's affairs.
- 1151 A PAB can be appointed by:
- the courts to administer all aspects or specified aspects of a customer's affairs **or**
 - an officer (acting on behalf of the Secretary of State) to administer all aspects of a customer's affairs relating to benefits, pensions and allowances
- 1152 The following OP types are known as PABs:
- | • **deputy** – appointed by the Court of Protection in England and Wales
 - **controller** – appointed by the Office of Care and Protection in Northern Ireland
 - | • **judicial factor** – appointed by the Court in Scotland
 - **guardian** – appointed by a court in Scotland on or after 01.04.2002
 - **curator bonis** – appointed by a court in Scotland before 01.04.2002
 - **tutor** – appointed by a court in Scotland before 01.04.2002
 - **attorney with PoA** – appointed by the customer and legally supported
 - **attorney with EPoA** – and, where appropriate, appointed by customer and registered with OPG
 - **attorney with LPA** – appointed by the customer and registered with OPG
 - **appointee** – appointed by an officer acting on behalf of the Secretary of State
 - **parent/guardian** – only used for Disability Living Allowance (DLA) and by the veteran's Agency (VA).
- 1153 | In the above list only deputy and those appointed by the court in Scotland have a higher status than a DWP appointee for payment of benefit.

Example

If the customer has a PAB whose status appears above 'appointee' in the above list, an officer (acting on behalf of the Secretary of State) **cannot** usually authorize an appointee to administer the customer's affairs relating to benefits, pensions and allowances. The only exception is when the existing PAB no longer has authority to act, or the Department has received written confirmation that the PAB no longer wants to act on the customer's behalf.

1154 The customer's PAB is responsible for reporting all changes in:

- the customer's circumstances but only where the customer has lost capacity **and**
- their own circumstances that the Department may require, eg a change of name or address or change of account.

1155 - 1169

Corporate Other Payee

1170 A COP is not a named individual, but an organization appointed to act for a customer, eg:

- a LA
- CH
- an AHA **or**
- a firm of solicitors.

Note: This list is not exhaustive.

1171 COPs are dealt with in the same way as PABs, eg treat a receiver acting for an organization in the same way you would treat a receiver who is an individual.

1172 The following OP types can be COPs:

- **deputy** – appointed by the CP in England and Wales
- **controller** – appointed by the Office of Care and Protection in Northern Ireland
- **attorney** – appointed by the customer and legally supported
- **appointee** – appointed by an officer acting on behalf of the Secretary of State.

1173

1174

1175 **It is important to determine whether an individual is acting in a personal or a professional capacity (e.g. an accountant or a solicitor acting for a family member).**

1176 If the individual is acting in a personal capacity, use his or her NINO as an identifier.

1177 | If the individual is acting as an employee of a Corporate Organization, use CIS to trace for an existing Corporate Organization ID. If there is no trace, use PD385 to create a new record. CIS will generate a unique 6 digit ID for the organization.

Note: A Corporate Organization can only have one corporate ID. If you discover that they have more than one then action needs to be taken to rationalise the position. You may want to discuss with the organization which number they want to use. You should use form CAPS22 from the PD User Guide to alert Pensions IS/IT Directorate to the problem.

1178 In no circumstances should the individuals' NINO be used, nor should any attempt be made to trace it.

1179 Although an individual authorized by the COP's organization will usually act on behalf of the organization to complete forms and collect payments, you **must** record the organization as the COP, **not the individual**.

Example

The LA's Finance Director Peter Jones is the person who actually acts for all the customers for whom the LA is the COP.

Despite this, **do not** record the COP as 'Peter Jones' or 'Finance Director'. The correct COP is the LA, e.g. 'Leeds City Council'.

For more information, see Action following verification of a PAB/COP in Part six of this guide.

1180 If the individual is acting as an employee of a Corporate Organization, the organization must provide him or her with a letter of authority confirming that the individual is acting on their behalf. Form BF57 includes a certificate for completion by the organization at Part 4 - **see Appendix 2**.

1181 - 1189

Deputy

1190 A deputy is appointed by the Court of Protection in England or Wales to act on the customer's behalf to deal with all their financial affairs and/or personal welfare. Deputies appointed to act on the customer's behalf *in relation to financial matters* can act on the customer's behalf in all their dealings with the Department.

1191 If you receive a claim or enquiry from a person who claims to have been appointed as a customer's deputy, see *Deputy (England and Wales)* in Part two of this guide.

1192 - 1199

Controller

1200 A controller is appointed by the Office of Care and Protection in Northern Ireland to act on the customer's behalf to deal with all their financial affairs. Controllers are only valid in Northern Ireland. Once appointed they may act on the customer's behalf in all their dealings with the Department without appointment by the Secretary of State.

1201 If you receive a claim or enquiry from a person who claims to have been appointed as a customer's controller, see your own business procedures.

1202 - 1209

Guardian, CB & T

1210 A guardian curator bonis, or tutor with full powers is appointed by a court in Scotland to act on the customer's behalf to deal with all their financial affairs. Once appointed they may act on the customer's behalf in all their dealings with the Department without appointment by the Secretary of State.

1211 If you receive a claim or enquiry from a person who claims to have been appointed as a customer's guardian, curator bonis or tutor, see *Curator bonis, Tutor or Guardian (Scotland)* in *Part three* of this guide.

1212 The law in Scotland changed on 01 April 2002. From that date the terms 'Curator Bonis' and 'Tutor' are no longer used. Instead Guardians will be appointed. For full details see *Part three* of this guide.

1213 A curator bonis can still act for children under 16 in Scotland. When the customer reaches the age of 16 then the curator bonis will become the child's guardian.

1214 - 1219

Attorney

1220 A PoA is a formal instrument by which one person (a donor) empowers another (a donee, who is the attorney) to act on his behalf either generally or in specific circumstances.

1221 The PoA can be granted to:

- an individual
- two or more individuals, i.e. joint attorneys **or**
- an organization.

1222 If you receive a claim or enquiry from a person who claims to have been appointed as a customer's attorney, see *Attorney* in *Part four* of this guide.

1223 - 1229

Appointee

1230 An officer acting on behalf of the Secretary of State can authorize someone else to act on a customer's behalf if the customer is incapable of managing their own affairs. This is called an appointment to act and the person or organization appointed to act is called an appointee.

1231 Appointee action should only be authorized if a customer is incapable of managing their own affairs even if they require some support to do this, e.g. due to a mental or extreme physical disability they are unable to make a claim or continue to manage an existing claim. Appointee action is not appropriate for customers who are capable of dealing with their own affairs.

Example

Appointee action is **not** appropriate if the customer merely needs someone to:

- collect their money from the bank, building society or Post Office® **or**
- help them to budget

1232 An appointee can be:

- an individual, e.g. a relative or friend **or**
- an organization, e.g. an LA or a NH.

1233 If someone requests appointee action and you are satisfied it may be appropriate, see *Appointee* in *Part five* of this guide.

1234 - 1239

Parent/Guardian

- 1240 A DLA or VA officer acting on behalf of the Secretary of State must authorize:
- in England or Wales, a parent or guardian to act on a child's behalf for the DLA
 - in Scotland, a guardian to act on a child's behalf for the DLA and/or War Pensions benefits only. The guardian is usually the child's parent.
- 1241 For guidance about authorizing a parent or guardian to act on a child's behalf, refer to your existing business procedures.
- 1242 - 1299

Authorized Payees

1300 | For CIS purposes, the following OP types are known as authorized payees:

- Alternative Payee
- DAP
- SPP.

1301 | After appointment, authorized payees can collect payments without any further authorization from the customer.

1302 - 1319

Death Arrears Payee

1320 | An officer acting on behalf of the Secretary of State can authorize a DAP to receive any payment outstanding after the customer's death. If the DAP is an organization or a representative of an organization acting in an official capacity, they are known as a corporate DAP.

1321 | You **must** verify the customer's date of death **before** you authorize a DAP. For guidance on DAPs, see your existing business procedures and the *CAPS Personal Details User Guide*.

1322 - 1329

Split Payment Payee

1330 | An officer acting on behalf of the Secretary of State can authorize a SPP to receive part or all the customer's benefit.

1331 | Consider authorizing an SPP if there is a need to protect the interests of the customer or members of their family. For more information about SPPs, see *Split Payment Payee* in *Part seven* of this guide.

1332 - 1349

Third Parties

- 1350 If the customer is capable of managing their own affairs but needs someone to help them collect their benefit they can authorize someone they trust to help.

See collection of payment by an individual third party in Part 8 of this guide.

Bank or building society accounts

- 1351 When the customer's benefit is paid directly into an account it may be possible for the customer to authorize a third party to access their account and collect their benefit for them. The precise arrangements will depend on the type of account they have and with which account provider. Customers should be told to contact their bank, building society or other account provider to check what arrangements are available.

Post Office® card accounts

- 1352 If the customer is paid directly into a POca they can authorize someone they trust to have permanent access to their account. That person would be called a **Permanent Agent**. They would have their own card and PIN.

1353 - 1379

Signing Agent

- 1380 With the introduction of DP into an account Signing Agents are no longer appropriate.

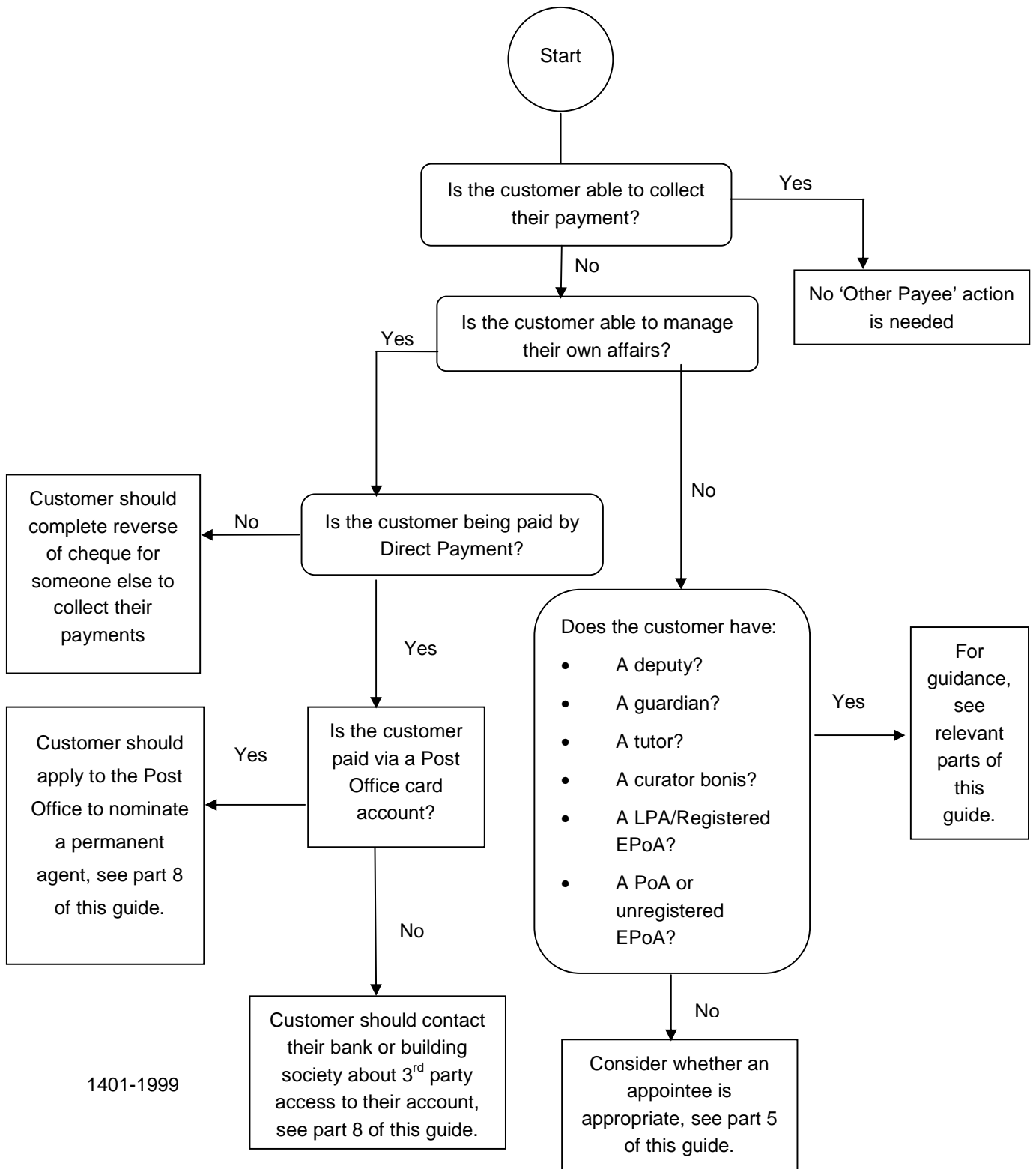
International Pension Centre

1381 Where the customer wishes payment to be made to someone overseas please see further information about IPC (Y) agents in your own business guidance.

1382 - 1399

Other Payee flowchart

1400



1401-1999

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Part two – Deputy (England and Wales)

Introduction

- 2000 | From October 1, 2007 receivers have been replaced by Deputies. Existing receivers became Deputies on that date. They retained the powers and responsibilities they were granted in the receivership order as it was created before the 1 October.
- 2001 | The OPG has been reviewing existing receiverships in the light of the new powers given to Deputies. However, there is no need to check existing orders. We can continue to pay benefit on the existing order.

The role of a Deputy

- 2002 | When a customer is incapable of managing their affairs and requires another person to act on their behalf, an application can be made to the CP to appoint a Deputy. Any person over 18 or an organisation can apply to the CP.
- 2003 | The only issue for this department is whether the deputy's Order gives the Deputy authority over the claimant's finances, that is, their benefit, and whether there are any restrictions which could affect the payment of benefit.
- 2004 | It should be noted that the Order could also relate to personal welfare matters. What it must not do for our purposes is relate only to such matters. If it does then the deputy does not have the authority to act in respect of the customer's benefits.

Verifying the Order of Appointment

- 2005 | All such orders *should* carry the stamp of the CP on every page – see Appendix 14 for the acceptable validation stickers you can expect to see. *However, in reality there is likely only to be a stamp on top of the front page. Provided this is the case it can be accepted. If there is no stamp at all it must not be accepted* and the person presenting the Order should be told to contact the CP.
- 2006 | If the CP stamp is present the next step is to check the powers of the Order. Does it cover finances - sometimes described as property and affairs?
- if yes, then it can be accepted and benefit paid to the deputy
 - if no, then it is not acceptable for benefit purposes. The deputy should be referred to the CP. But you should also discuss the possibility of appointeeship. This may not be the best option because it applies only to benefits and the deputy may want authority over all the claimant's finances. He should be told that he cannot be a deputy for non-benefit finances and an appointee for benefit purposes as this is not allowed in law.
- 2007 | Finally, and where the Order has been accepted, you should remind the deputy of their benefit management responsibilities:
- reporting changes in both the claimant's and their own circumstances which may affect entitlement
 - claiming benefits and
 - receiving benefit payments.
- They are fully responsible for the management of the claimant's benefit affairs.

Paying benefit to a Deputy

2008 | Benefit must not be paid into the Deputy's personal account. The CP will have made this clear to the Deputy when authorising his appointment. A new account should have been opened making it clear that he is acting as a Deputy on behalf of the customer.

After you verify the Order of Appointment

- 2009 After you verify that the CP has appointed the deputy to act on behalf of the customer, see *Action following verification of a PAB/COP* in Part 6 of this guide.

Doubts about Deputy's actions

2010

Where doubts arise as to whether the deputy is using benefit in the best interests of the customer, you should contact OPG immediately. As there is a Court Order in place they will need to advise. Use the discussion with OPG to decide whether to stop payment of benefit immediately. If you are still uncertain as to what action to take then contact Legal Group, DMA Policy.

Receivers and Deputies under Scottish Law

2011 | The Scottish Courts do not appoint Deputies under the Mental Capacity Act 2005 as such appointments are made by the Court of Protection in England and Wales, normally for customers who are habitually resident in England or Wales. However, if a customer already has a Deputy (whether appointed directly under the Mental Capacity Act 2005 or one who was, prior to 1 October 2007, a receiver appointed under Part 7 of the Mental Health Act 1983) and the customer moves to Scotland then the Deputy can continue to act in relation to any property or financial affairs of the customer in Scotland. DWP can refuse to recognise the Deputy's power to act in Scotland on certain grounds (see paragraph 7(3) of the Adults with Incapacity Act 2000). This would include where there is a later appointment of a Guardian under the 2000 Act and allowing the Deputy to continue would be incompatible with the Guardian's appointment.

2012 - 2999

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Part three - Guardian, Curator Bonis & Tutor, Scotland

Introduction

- 3000 When a customer is incapable of managing their affairs and therefore incapable of appointing another person to act on their behalf, an application can be made to the court in Scotland to appoint a Guardian, Curator Bonis or Tutor.
- 3001 A court will grant a Guardian or Curator Bonis full powers to act in all matters.
- 3002 A court decree may grant a Tutor:
- full powers to act in all matters or specifically all Social Security matters **or**
 - limited powers which will not include the power to act on behalf of the customer in relation to property or Social Security matters
- 3003 A Guardian, Curator Bonis or Tutor appointment is always made in favour of an individual. The person to whom a Guardian, Curator Bonis or Tutor is appointed is the customer.
- 3004 A Guardian, Curator Bonis or Tutor with full powers to act on the customer's behalf, takes precedence over any other type of Scottish OP.
- 3005 A Curator Bonis or Tutor appointed for an adult must have been appointed, or the court proceedings started, on or before 31 March 2002.
- 3006 On or after 1 April 2002, Guardians are appointed for adults instead. The OPG will issue a Certificate of Registration.
- 3007 All existing Curator Bonis' or Tutors appointed for an adult before this date will automatically become Guardians from 1 April 2002, although they will retain their original powers under the old law.
- | 3008 - 3009

Position in the order of authority

- 3010 A Guardian, Curator Bonis or Tutor granted full powers to manage all of the customer's affairs in Scotland has the same authority as a receiver in England/Wales.
- 3011 If a Guardian, Curator Bonis or Tutor with full powers is appointed while another type of OP of an equal or lower authority exists, the existing OP arrangements must be ended and replaced with the Guardian, Curator Bonis or Tutor. For a full list of OPs, see *Part one* of this guide.

Example

The customer has an appointee authorized by an officer acting on behalf of the Secretary of State.

A court in Scotland subsequently appoints a Guardian to act on the customer's behalf.

After verifying the court decree appointing the Guardian, you must terminate the appointeeship and record the Guardian as the OP instead.

For more information, see *Changing the customer's OP/COP* in *Part six* of this guide.

3012 - 3049

Verifying the Evidence of Appointment

- 3050 If you receive a claim or enquiry from any person stating that they are the customer's Guardian, Curator Bonis or Tutor, ask to see evidence of the appointment. If such evidence empowers the person to act in all matters, or specifically in Social Security matters, they may act on behalf of the customer. Evidence of appointment will normally mean a court order.
- 3051 | If a Guardian, Curator Bonis or a Tutor has been appointed to act on behalf of a customer, they may do so without further authority from the Secretary of State.
- 3052 If, exceptionally, the powers contained in the decree are limited, refer the case to the nominated / appropriate officer to consider appointee action. For information about authorizing an appointee, see *Appointee* in *Part five* of this guide.

Guardian appointed on or after 1 April 2002

The Adults with Incapacity (Scotland) Act 2000

- 3053 The Adults with Incapacity (Scotland) Act 2000 provides that the courts can appoint welfare guardians or financial guardians to deal with the affairs of the customer. Welfare Guardians will not usually be given powers to deal with the financial affairs of the customer.
- 3054 If you receive a request from someone who claims to have been made the customer's Guardian ask to see both the "interlocutor" and the Certificate of Registration. The "interlocutor" is the court document which specifies the powers that have been granted to the guardian. The Certificate of Registration is issued by the OPG to show that the guardianship order has been registered with them.
- 3055 Where more than one person has been appointed by the OPG all those named must have a Certificate of Registration. Check the proceedings began on or after 31 March 2002.
- 3056 In all cases where it is clear that the guardianship order includes the power to administer the financial affairs of the customer, do not take any appointee action. The guardian is authorized to deal with the customer's social security affairs. See also para. 3010.
- 3057 **Guardianship Orders should be sent to:**
| **Information & Devolution Policy - Scotland**
Room D311
Argyle House
Edinburgh
- 3058 | If Information & Devolution Policy - Scotland confirm that the Guardian has authority to handle the social security benefit affairs of the customer, see *Creating an OP/COP relationship* in *Part six* of the guide.

Intervention Orders

3059 The Adults with Incapacity (Scotland) Act 2000 also gives the courts power to impose intervention orders. These are intended as a temporary measure in relation to a specific act or decision on behalf of the customer in order to protect their interests.

It should be noted that an Intervention Order, even where it includes authority to manage benefit payments, does not take priority over an appointment made by the Secretary of State. They can operate simultaneously. In practice you should consider whether this would be the best approach for the customer. As the Intervention Order is likely to cover all the customer's financial affairs and not just benefits, then if there is an existing appointment you may want to consider revoking it. This will require careful consideration and discussion with all parties.

3060 The length of time the intervention order is in force, and the powers specified in the order will determine whether the Department needs to take any action.

3061 | Intervention Orders should be sent to Information & Devolution Policy - Scotland. See *para 3057* for details.

3062 Issue any claim forms and record the following:

1. details of the PAB;
2. whether the appointment is of Guardian, Curator Bonis or Tutor;
3. the number and date of the order of appointment;
4. the receipt and disposal of the OB if appropriate.

Forward a copy of the appointment to all other appropriate benefit sections.

3063 If the powers of appointment are limited and/or it is not clear whether the person is appointed to deal with Social Security matters, refer the case to the supervisor or team leader to
| consider referral to Information & Devolution Policy - Scotland for normal appointee action.

3064 - 3099

Responsibilities of a Guardian, Curator Bonis or Tutor

3100 If the court empowers a Guardian/Curator Bonis/Tutor to act in all matters, or specifically all Social Security matters, the Guardian/Curator Bonis/Tutor becomes fully responsible for the customer's financial affairs. This includes:

- claiming benefit/s, including completing and signing any claim forms
- collecting/receiving benefit payments **and**
- reporting any changes in circumstance

3101 A Guardian, Curator Bonis or Tutor is also responsible for reporting changes in their own circumstances that the Secretary of State may require, eg a change of address or change of account.

3102 - 3149

After you verify the Evidence of Appointment

3150 After you verify that the court has appointed the Guardian/Curator Bonis/Tutor to act on behalf of the customer, see *Action following verification of a PAB/COP* in *Part six* of this guide.

3151 - 3999

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Part four – Attorney

This Part describes:

- how to recognize a PoA that is a valid authority for social security benefits
- the types of PoA available
- the authority that can be granted by a PoA
- when the Secretary of State is able to accept a PoA for social security benefit purposes

Introduction

4000 Because the law relating to attorneys in England and Wales is different to the law in Scotland, this part is divided into guidance for:

- England and Wales, see *Attorney – England and Wales* in this part of the guide **and**
- Scotland, see *Attorney – Scotland* in this part of the guide.

4001 - 4049

Attorney – England and Wales

- 4050 | A PoA is a formal instrument by which one person (a donor) empowers another (a donee, who is the attorney) to act on his behalf either generally or in specific circumstances.
- 4051 | A PoA can be granted under:
- The Power of Attorney Act 1971 (This is a general PoA)
 - The Enduring Power of Attorney Act 1985 (The power to make an EPoA was revoked 1.10.08 – see para 4111)
 - The Mental Capacity Act 2005. (A LPA is made under this Act)
- 4052 | Whichever Act a PoA is granted under, the attorney can be given:
- **general** powers to handle all the customer's affairs, that is, both in relation to financial matters and personal welfare - see *Responsibilities of an attorney* in this part of the guide
 - **specific** powers to handle some of the customer's affairs - see *Power of attorney granted with specific powers* in this part of the guide and/or
 - powers for a **limited period**, eg while the customer is ill or abroad - see *Power of attorney granted for a limited period*
- 4053 | The Secretary of State can accept a PoA as a valid authority to manage the social security benefit affairs of the customer under certain circumstances.
- 4054 | A PoA can be granted to:
- an individual
 - two or more individuals, i.e. joint attorneys, see *Two or more attorneys*
- or**
- an organization, see *Professional attorneys*.

Verifying the attorney is empowered

- 4055 | If you receive a claim or enquiry from any person(s) or organization stating that they are the customer's attorney(s) and that they wish to act for the customer, ask to see the PoA document.

Part four

Attorney

- 4056 To be acceptable, a PoA document must:
- a) be signed by:
 - the customer, whose signature must be countersigned by a witness **or**
 - someone acting under the customer's direction and in the customer's presence, whose signature must be countersigned by two witnesses **and**
 - b) give the attorney's:
 - name
 - address **and**
 - c) include the words:
 - 'signed and sealed' if the PoA was completed before 31 July 1990 **or**
 - 'signed as a deed' if the PoA was completed on or after 31 July 1990
 - d) in the case of PoA under the 1971 Act, it *must* make reference to that Act.
 - e) in the case of a LPA, a registered EPoA, the CP stamp should be on every page - see Appendix 14 for the validation stickers you can expect to see.
- 4057 There is a template, provided by both the 1971 Act and the 1985 Act, which the vast majority use, see Appendices 9 - 11 in this part of the guide.

Photocopies

- 4058 You can accept a photocopy of any PoA document provided it includes a declaration that it is a true and complete copy of the original signed by:
- the customer **or**
 - a solicitor **or**
 - a stockbroker.
- 4059 The declaration must appear at the end of the page, or at the end of each page if the PoA document has more than one page.

Otherwise you must ask to see the original document.

4060 - 4068

OVERSEAS ATTORNEYS

PoA drawn up abroad

4069 | Where you receive a PoA drawn up overseas you should seek advice from IPC.

Capable customer with an existing attorney moves overseas and wants attorney (who is staying in GB) to retain their role

4070 | No change in existing arrangement.

Attorney moving abroad, customer remaining in GB but wants attorney to retain role

4071 | Only issue here is how the customer will access benefit if paid to the attorney. Assume they will sort this out.

|
|
4072 - 4099

Power of Attorney and Enduring Power of Attorney

Power of Attorney Act 1971

- 4100 A PoA granted under the above Act is an authority for the attorney to manage the financial affairs of the donor or customer. **It is only valid if the customer is mentally capable. It therefore expires when the customer becomes mentally incapable.** If the customer has mental capacity it can be a valid authority to act as long as it grants general authority and conforms to certain formalities.

Powers granted to the attorney under the Power of Attorney Act 1971

- 4101 If the PoA document states that the customer grants their attorney general powers under section 10 of the Power of Attorney Act 1971, the attorney is given full power to handle the financial affairs of the customer. The Secretary of State can accept this authority as sufficient to handle the benefit affairs of the donor, see *Responsibilities of the attorney* later in this section. An example of a general PoA issued under Section 10 of the Power of Attorney Act 1971 is shown at Appendix 11.
- 4102 However, when a PoA is made under the 1971 Act use of the template is not mandatory. A PoA can be created on a piece of paper as long as reference is made to the 1971 Act. For example it should state that it has been made “in accordance with the PoA Act 1971”.
- 4103 If you receive a general PoA document which does not include the wording shown in the example shown at Appendix 11 take a photocopy and refer it to:
- I Legal Group DMA Policy
2nd Floor Adelphi
London
Fax 020 7962 8541.

- 4104 If ACI reply stating that the PoA is:
- acceptable, see Attorney empowered to act **or**
 - not acceptable, see Attorney not empowered to act.
- 4105 If the customer grants their attorney specific powers, the powers may or may not include the power to deal with Social Security benefit, see *Power of attorney granted with specific powers*.
- 4106 Because the customer still must have mental capacity to handle their own affairs for the PoA to be valid, the customer can still choose to handle their own affairs, see Customer has mental capacity in this part of the guide.

4107 - 4110

Enduring Power of Attorney Act 1985

- 4111 Unlike a PoA made under the Power of Attorney Act 1971, a PoA made under the Enduring Power of Attorney Act 1985 is intended to **continue when the customer loses mental capacity**. For the validity of an EPoA in Scotland, see para 4205 in this guide.

NB: *The EPoA Act 1985 was repealed by the Mental Capacity Act 2005. However, existing EPoAs will continue to operate under Schedule 4 of the Mental Capacity Act. The paras below are retained because if we are presented with an EPoA registered before 1 October then the 1985 verification rules will still apply.*

Powers granted under the Enduring Power of Attorney Act 1985

- 4112 If the customer grants their attorney general powers under the Enduring Power of Attorney Act 1985, the attorney has full power to act for the customer over all their financial affairs including social security benefits, see *Responsibilities of an attorney* in this part of the guide. The wording on the power will usually indicate whether the powers granted are general or specific, see *Power of attorney granted with specific powers*.

Checking the validity of a Power of Attorney made under the Enduring Power of Attorney Act 1985

- 4113 The Enduring Powers of Attorney Act 1985 came into force on 10 March 1986. The format and wording of an EPoA document can differ, depending on the date of issue. If the EPoA is signed before 31 July 1990 the document must comply with the regulations at that time. See Appendices 9 and 9a for further information.

Enduring Power of Attorney issued on or after 31 July 1990

- 4114 The 1990 Regulations permit an EPoA issued on or after 31 July 1990 not to be sealed. These Regulations also allow the attorney to sign the document at the direction of the donor (customer), in line with the PoA Act 1971. The customer is not compelled to sign [a mark will be sufficient], provided that there are two witnesses.
- 4115 An example of an EPoA issued under the 1990 Regulations is shown at Appendix 10.
- 4116 Any failure to comply with the Regulations current when the power was executed will invalidate the document.
- 4117 Any doubtful cases should be referred in writing or fax, to:

Legal Group DMA Policy
2nd Floor
The Adelphi
London
Fax 020 7962 8541.

4118 EPoA and the Mental Capacity Act 2005

- It has not been possible to create an EPoA since 1 October. However, it is still possible to register an EPoA created before this date.
- If presented with an EPoA registered before 1 October then the standard EPoA verification rules apply - see para. 4113 et seq.
- If presented with an EPoA registered after 1 October then the LPA verification rules will apply - see para 4141 et seq.

4119 Lasting Power of Attorney under the Mental Capacity Act 2005

An LPA is a new legal form, which from 1 October 2007 allows our customer to choose someone else to manage their affairs - see Appendix 15 for a specimen LPA.

There are two types of LPAs:

- a **property and affairs LPA** allowing the attorney to make decisions relating to financial and property matters. **This can be used even if the customer still has capacity.**

or

Part four

Attorney

- a **personal welfare LPA** allowing the attorney to make decisions regarding the customer's health and personal welfare, such as where they should live or medical treatment received. **This can only be used when the customer does not have capacity.**

Note: An LPA cannot be used until it has been registered with the CP.

4120

Responsibilities of an attorney

4121 These may include:

- making a claim to benefit, including completing and signing any claim forms
- collecting/receiving benefit payments
- reporting changes in the circumstances of the person they represent.

4122 It must be remembered that where the customer retains full capacity and so is able to manage their affairs, then in law there is no duty on their attorney to disclose a change in the customer's circumstances. This is the case even where the attorney is receiving the benefit. The onus to disclose remains with the customer.

4123 This only changes where the customer loses mental capacity. They cannot be expected to report any changes. If there is a registered EPoA or LPA the responsibility will fall to the attorney. It is important that this duty is explained to the attorney at the point he takes over responsibility for managing the customer's benefit.

4124 If the customer has an EPoA, the attorney must inform this Department straightaway if the customer loses mental capacity. This is because the power to act ceases at that point unless the EPoA is registered with the CP. (See *EPoA registered with the Court of Protection* in this part of the guide.)

4125 Once an LPA is registered then unlike an EPoA the attorney does not have to take any further action once the customer loses capacity. The authority of the LPA just continues. However, for our purposes it is important that we know that the customer has lost capacity – as explained in 4125 the responsibility for reporting changes transfers. So when setting up payment to the attorney he should be told to inform us should the customer lose capacity.

Customer/Attorney presents an Enduring Power of Attorney

4126 | Where **the** customer presents an **unregistered** EPoA, the first step is to satisfy yourself that the customer is mentally capable and understands what they are doing. This is a sensitive area because in submitting an unregistered EPoA the customer is saying that they are mentally capable but has agreed that someone else should manage their benefit. If they were not capable then the authority would not be valid until it is registered with the CP. If you are satisfied that the customer is capable, then accept the EPoA. Remind the customer that they retain responsibility for reporting any change in their circumstances. And that they should let the attorney know that he must let us know if the customer loses capacity.

4127 | You should treat each case on its merits. Your step by step approach should be:

Step	Action
1	Check the claim history. Is there anything on file about the claimant's mental health? Is there anything else about the case, the attorney, or the witness to the power, which raises doubts?
2	If there is anything which raises doubt as to the capacity of the customer or the authority for the attorney to act then you should arrange to visit the customer or ask for medical evidence Note: Before taking this action you should explain to the customer and the attorney why you are taking this action. This will involve explaining that you do not doubt the suitability of the attorney but it is that the Secretary of State is discharging his legal duty to ensure that benefit is properly paid. The Secretary of State is not looking to interfere in the relationship between the attorney and customer.
3	If there is no doubt, then you must accept that the customer is mentally capable and accept the EPoA.
4	Remind the attorney that they must contact us if the customer loses their capacity to act.
5	You should also let the attorney know that, although the benefit will be paid to them, the customer retains responsibility for reporting any change in their circumstances. This is an important consideration.

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Attorney

4128 If the EPoA is accepted and payment is to be made to the attorney, they would have to be set up as the PAB on CIS – see para. 4166. Once that is done everything will go to the attorney. However, as the customer retains responsibility for disclosing changes, it is essential that they continue to receive any benefit correspondence.

4129 An unregistered EPoA is not valid in Scotland until it has been registered with the CP.

4130 - 4134

Customer with an Enduring Power of Attorney loses capacity

4135 To continue after the customer has lost mental capacity, the EPoA must be registered with the CP. The CP will then oversee how the attorney manages the financial affairs of the customer and investigate any complaints.

4136 An EPoA registered with the CP will have the CP stamp on the first page and on all subsequent pages - see Appendix 14.

4137 If the customer is not capable of managing their own affairs and the attorney has not applied to have the EPoA registered, the attorney does not have the authority to handle the benefit affairs of the customer. The powers are suspended.

4138 If this is the situation, you should explain the options to the attorney:

- to register the EPoA with the CP. They can do this by contacting tel 0845 330 2900 **or**
- that they could become the customer's appointee for benefit purposes.

Note: Explain that if it is the intention to register benefit will not be paid until proof of the application is received. If there is no intention to register but the attorney wishes to become an appointee, refer the case to a nominated officer to consider appointee action.

4139 Whatever the outcome, follow the instructions in Part 6 of the guide

4140

Customer/Attorney presents a Lasting Power of Attorney

- 4141 Where the customer presents a LPA you need to check for two things:
- i. That it has been registered with the CP. It will have the court's stamp on every page – see Appendix 14; and
 - ii. That it gives authority over the customer's finances. If it only gives authority over the customer's personal welfare then it is of no use for benefit purposes. The person should be referred to the OPG – Tel: 0845 330 2900.

4142 Whilst the LPA may give authority over the person's finances we should check that there are no restrictions on the payment of benefit to the attorney eg, that in respect of benefit the LPA is only to be used once capacity has been lost. [If such an LPA is presented it may suggest that the attorney is acting without the knowledge of the claimant, in which case it may cast doubt about the motivation of the attorney. Where this arises we should let the OPG know what has transpired].

If you are satisfied on both counts (in para 4141) then it can be accepted and benefit paid to the attorney.

Customer has capacity

4143 If the customer has capacity they must be reminded that whilst their benefit is paid to their attorney, they retain responsibility for telling us of any change in their circumstances.

4144 You must also tell the attorney that they should inform us when capacity is lost. This is an important consideration should any overpayment subsequently arise. (If you are dealing with the attorney directly then you can tell them verbally; if not then you should write to them. You should make a note of having done this.)

Customer does not have capacity

4145 Where the customer has lost capacity it is important that the attorney understands the requirement to let us know about any change in the customer's and their own circumstances.

4146 - 4149

Two or more attorneys

4150 The customer can authorize more than one attorney to act over their affairs.

Power of Attorney document allows attorneys to act separately

4151 Where the customer appoints two or more attorneys jointly and the PoA document authorizes them to act separately, the document will state that the attorneys are authorized to act “jointly and severally”. (for LPAs you may see the words “together and independently”, this has the same meaning as “jointly and severally”). You can pay benefit to whichever attorney makes the application, provided the PoA document meets the other requirements.

Power of Attorney document does not allow attorneys to act separately

4152 If the customer authorizes two or more attorneys but does not authorize them to act separately the document will not authorize them to act “jointly and severally” but will only authorize them to act “jointly”. (For LPAs you may see the word “together”, this is the same meaning as “jointly”). Any application must be made jointly and signed by all parties. All payments in respect of the customer must also be paid jointly to the attorneys. Because CIS only allows you to input one PAB, a joint attorney case would have to be maintained clerically.

Either attorney declines to act on the customer’s behalf

4153 When the customer appoints two or more attorneys jointly and the PoA document does not authorize them to act separately, but one or more then decline to act on the customer’s behalf, there are only two options available:

- make payment direct to the customer **or**
- if the customer is mentally incapable, refer the case to the nominated/appropriate officer to consider appointee action. For information about authorizing an appointee, see Part five of this guide

You cannot make payment to only one attorney under a joint PoA.

4154 - 4159

Power of attorney granted with specific powers

4160 If you receive a PoA granting specific powers and the attorney is enquiring about **payment** of benefit rather than a **claim** for benefit, make sure the PoA document includes one or more of the following acceptable forms of wording:

- ‘———to receive and give valid receipt for any money or property due owing or belonging to me on any account whatsoever’
- ‘———to ask demand recover and receive and if need be sue for———all moneys and all other———personal property and effects of me and the Granter———For me in my name to sign———and give effectual receipts releases acquittances and discharges for all property or moneys to be received in manner aforesaid’
- ‘Power———to execute documents of all kinds———and to manage my property of whatsoever kind and wheresoever situate’
- ‘———all my present and future affairs and concerning all my present and future property rights and interests real and personal and whether joint or several all of which I hereby place in the unrestricted power and discretion of my Attorney———’ **or**
- ‘To demand and sue for enforce payment of and receive and give discharge for all money and securities for money———and other personal estate whatsoever now belonging due owing or deliverable or hereafter to belong or to become due owing or deliverable to me———’.

4161 The only way to make payments in these circumstances would be to pay direct into a bank or building society account or to make clerical payments.

Power of attorney granted for a limited period

- 4162 If a customer grants a PoA for a limited period, you must note the end date to make sure the customer's attorney is reviewed, ie to establish if the customer intends to extend the PoA.
- 4163 If the PoA is not extended beyond the expiry date, take action to end the attorney relationship. For more information, see *Ending an OP/COP relationship* in Part six of this guide.

Suspicion of fraud or mismanagement by the Attorney - registered Power of Attorney

4164 | If the customer is not able to manage their own affairs, there is an EPoA or LPA and there is evidence that the attorney is mismanaging the customer's benefit affairs the Secretary of State can make someone an appointee. However this should only be done after careful consideration of the evidence and after having spoken to the OPG. Consider very carefully if it is appropriate to make another person the appointee. **Note:** If the allegation is made by telephone, it is important that a record of the call is made.

Example:

The LA contacts the Department to explain that the customer's CH fees are not being paid. They have serious concerns regarding the attorney's management of the customer's financial affairs. They intend to alert the CP to their concerns, see *Enduring Power of Attorney registered with the Court of Protection* in this part of the guide.

Step	Action
1	Gather evidence that the attorney has been mismanaging the financial affairs of the customer.
2	Contact the OPG and alert them to the situation. Tel: 0845 330 2900. If you are of the view that the evidence clearly shows mismanagement, then you should make this point firmly. If you are also of the opinion that no further benefit should be paid to the attorney pending the OPG doing its own investigation you should say so. Remember that the Secretary of State has responsibility for the payment of benefit and he can withhold payment even where there is a court registered EPoA or LPA in existence.
3	If you decide that payment should be withheld, you must write to the attorney to let him know the situation. There is a draft letter at Appendix 6 that you could use.
4	Allow two weeks to respond.

Part four

Attorney

5	If there is no reply, then you will need to consider an alternative method of payment. Given that the customer is incapable this could only be making someone an appointee. If there is someone then take normal appointee action. If there is not, you will have to contact social services. They may not act as the appointee but should be able to put you in touch with a local support service.
6	If the attorney replies and disputes the allegations, consider his reasons. If you accept them then take no further action. Let him know what you have decided and remind him of his responsibilities
7	If not satisfied, then you should arrange to interview the attorney as quickly as possible to discuss the situation. If you decide finally that no further payment should be made then write to the attorney and take appointee action as per para 5. At the same time let the OPG know what you have done. The attorney's redress in these circumstances would be Judicial Review.
8	If it transpires that the OPG absolves the attorney of mismanagement then you may be asked to revoke any other person appointed at step 5. You should do so.

Suspicion of fraud or mismanagement by the attorney - unregistered Enduring Power of Attorney or Power of Attorney

- 4165 | If the customer is able to manage their own affairs but we have accepted an EPoA or PoA and there is evidence that the attorney is mismanaging the customer's benefit affairs, the Secretary of State should consider paying the benefit to the customer. This should only be done after careful consideration of the evidence. You should follow the steps above at 4164 although as the document has not been registered you do not have to contact the OPG.

Professional attorneys

- 4166 | **It is important to determine whether an individual is acting in a personal or professional capacity.**
- 4167 | If the Attorney is acting in a personal capacity, use his or her NINO as an identifier. Please note there is no obligation for the attorney to provide these details. If they object, explain that, because of the way benefits are administered i.e. departmental computer systems that rely on NINO identification, it will ease the handling of the claim and the payment of benefit if they provide their NINO or enough information for their NINO to be traced. If they continue to object the only option is to handle the claim clerically.
- 4168 | If the Attorney is acting as an employee of a Corporate Organization, use CIS to trace for an existing Corporate Organization ID. If there is no trace, use PD385 to create a new record. CIS will generate a unique 6 digit ID for the organization. In no circumstances should an individual's NINO be used, nor should any attempt be made to trace it.

Attorney empowered to act

- 4169 | After you verify the attorney is empowered to act on the customer's behalf for Social Security benefits, pensions and/or allowances, see *Creating an OP/COP relationship* in *Part six* of this guide.
- 4170 | In law a PoA, EPoA or LPA is not a higher authority than an appointee for social security purposes, but where a valid PoA, EPoA or LPA exists we would respect this and the attorney would normally be accepted to act for benefit purposes, unless there is a reason to believe that the attorney is unsuitable, e.g. there are grounds to suspect fraud, mismanagement or neglect.

4171 - 4179

Attorney not empowered to act

4180 If the attorney is not empowered to act on behalf of the customer for Social Security purposes:

Step	Action
1	inform the attorney they cannot act for the customer for Social Security purposes
2	if you are made aware that the customer is mentally incapable, refer the case to the nominated/appropriate officer to consider appointee action - see Part five of this guide.

4181 | Where you receive a PoA drawn up abroad either for a claimant who lives abroad or one who lives in this country, you should contact IPC for further Advice.

4182 - 4199

Attorney - Scotland

4200 In Scotland, a PoA is an appointment of agent by deed by which one person (the customer) gives another person(s) or organization (the attorney) authority over their affairs.

4201 A PoA can be granted to:

- an individual
- two or more individuals, ie joint attorneys **or**
- an organization.

4202 A PoA granted:

- **prior to 2 April 2001** does not lapse when the customer becomes incapable of managing their own affairs unless the PoA deed specifically so provides
- **on or after 2 April 2001**, lapses when a customer becomes incapable of managing their own affairs unless it is a "continuing power". If it is a continuing PoA certain conditions are required to be met, including registration with the OPG prior to any use of the PoA. For more information about continuing PoAs and these circumstances see the *Adults with Incapacity (Scotland)* part of the guide.

For an example of a PoA issued in Scotland prior to 2.4.2001, see Appendix 12. For example of one issued after 2.4.2001, see Appendix 13.

4203 The attorney can be given:

- full powers to deal with all the customer's affairs
- specific powers to handle some of the customer's affairs, **and/or**
- PoA for a limited period, eg while the customer is ill or abroad.

For more information, see *Powers granted to an attorney* in the Scotland section of this part of the guide.

Incapable in this context means mentally incapable or unable to communicate by reason of incapacity.

Power of Attorney made under the Power of Attorney Act 1971

4204 A Power of Attorney made under the Power of Attorney Act 1971 is not a valid authority to act for benefits for customers who live in Scotland.

Enduring Power of Attorney Act 1985

- 4205 Unlike in England and Wales where an EPoA is valid before it is registered with the CP, in Scotland it must be registered with the CP for it to be valid.

OVERSEAS ATTORNEY

PoA drawn up abroad

4206 | Where you receive a PoA drawn up overseas you should seek advice from IPC.

4207

Capable customer with an existing attorney moves overseas and wants attorney (who is staying in GB) to retain their role

4208 | No change in existing arrangement.

Attorney moving abroad, customer remaining in GB but wants attorney to retain role

4209 | Only issue here is how the customer will access benefit if paid to the attorney. Assume they will sort this out.

| 4210 - 4211

Adults with Incapacity (Scotland) Act 2000

4212 Following the introduction of the Adults with Incapacity (Scotland) Act, Continuing PoAs granted on or after the 2 April 2001 are only valid, regardless of whether the customer is capable or incapable, **if** all the following conditions are met:

- the PoA is contained in a written document, signed by the customer **and**
- the PoA document includes a statement clearly expressing the customer's intention that the PoA should continue after they become incapable **and**
- the PoA document includes a certificate in a specified form signed by a solicitor, practicing advocate or registered medical practitioner, stating that they:
 - interviewed the customer immediately before the deed was signed
 - are satisfied, either from their own knowledge of the customer or after consultation with other named person(s) who know the customer, that the customer understands the nature and extent of the deed **and**
 - have no reason to believe the customer is acting under undue influence or any other factor which would render the deed invalid **and**
- the deed is registered with the OPG (the attorney will have received a copy of the deed with a certificate of registration).

An example of registered Continuing PoA is at Appendix 13.

4213 If a PoA is drawn up after 2.4.2001 in the old format, this is considered a **non-continuing** PoA. This would be valid while the customer retained capacity to manage their own affairs but would become invalid if the customer lost capacity to manage their own affairs.

4214 - 4219

Position in the order of authority

- 4220 In law a PoA or Continuing PoA is not a higher authority than an appointee for social security purposes, but where a valid PoA or Continuing PoA exists we would respect this and the attorney would normally be accepted to act for benefit purposes, unless there is a reason to believe that the PoA or Continuing PoA is unsuitable, e.g. there are grounds to suspect fraud, mismanagement or neglect.
- 4221 If an OP with a higher authority, eg guardian, curator bonis or tutor is already acting on behalf of the customer you cannot accept the attorney as the customer's OP.

4222 - 4229

Responsibilities of an attorney

4230 If a customer grants full powers to their attorney, the attorney is empowered to act on the customer's behalf in all their financial affairs. This includes

- making a claim to benefit(s), including completing and signing any claim forms
- collecting/receiving benefit payments **and**
- reporting changes in circumstance.

4231 The attorney is also responsible for reporting any changes in their own circumstances that the Department may require, eg a change of name or address or change of account.

4232 If a PoA does not grant full powers, it will need to be established what powers have been granted. These might include power to receive benefit, to claim benefit, or both.

4233 - 4239

Powers granted to an attorney

Full powers

4240 If the customer grants their attorney powers to manage their estate/affairs, the attorney receives full power on behalf of the customer to handle their business and financial affairs. This includes:

- making a new claim to Social Security benefits when there is no existing claim **or**
- making a claim for payment of Social Security benefits when there is an existing claim made by the customer and payment is due/already being made.

4241 - 4249

Specific powers

4250 If the customer grants their attorney specific powers, the powers may include the power to:

- make a claim for benefit **or**
- receive payment of benefit **or**
- both make a claim for and receive benefit.

For more information, see *Responsibilities of an attorney* in the Scotland section of this part of the guide.

4251 - 4259

Power of attorney granted for a limited period

4260 If a customer grants a PoA for a limited period, you must note the end date to make sure the customer's attorney is reviewed, ie to establish if the customer intends to extend the PoA.

4261 If the PoA is not extended beyond the expiry date, take action to end the attorney relationship. For more information, see *Ending an OP/COP relationship* in Part six of this guide.

4262 - 4269

Verifying the attorney is empowered

4270 If you receive a claim or enquiry from any person(s) or organization stating that they are the customer's attorney(s), ask to see the PoA document to verify that they have been granted PoA. If the PoA is dated on or after 2 April 2001 and the customer is mentally incapable or unable to communicate, the only acceptable evidence is a copy as returned by the Public Guardian together with his Certificate of Registration.

Photocopies

4271 You can accept a photocopy of the PoA document **provided** it includes a declaration that it is a true copy of the original signed by:

- the customer **or**
- a solicitor **or**
- a stockbroker.

For deeds registered in Scotland on or after 2 April 2001 they must bear the stamp of the OPG and have a certificate of registration.

4272 The declaration must appear at the end of the document.

4273 If the original deed is drawn up before 2 April 2001 and has been registered in the Books of Council and Session, a copy issued by the Registers of Scotland is acceptable provided it bears their official stamp.

Checking the power of attorney document is acceptable

4274 If the PoA was executed:

- **before** 1 August 1995, the customer **must** have signed the PoA document in front of two witnesses **or**
- **on** or **after** the 1 August 1995, the customer need only have signed the document in front of one witness.

4275 The Testing Clause (which appears above the signatures and after the words '**In witness whereof**')

- **must** include the:
 - full name and address of (both) witness(es) **and**
 - place and date of signing, and
- **may** contain the name of the customer, but may state only 'signed by me——'.

Acceptable wording for powers of attorney

4276 In all cases, make sure the PoA document includes one or more of the following acceptable forms of wording - note the distinction between those that only apply to the receiving of Social Security benefits and those that apply to both the receiving of **and the claiming of** Social Security benefits:

- these two clauses only extend to the receiving of, not the claiming of, Social Security benefits:
 - '——to receive and give valid receipt for any money or property due owing or belonging to me on any account whatsoever'
 - 'To demand and sue for enforce payment of and receive and give discharge for——all money and securities for money——and other personal estate whatsoever now belonging due owing or deliverable or hereafter to belong or to become due owing or deliverable to me ——'
- these five clauses extend to both the receiving of, and the claiming of, Social Security benefits:
 - 'with full powers to do everything which I could or can do myself, including without prejudice to the foregoing generality.'
 - 'Power——to execute and deliver documents of all kinds——and to manage my property of whatsoever kind and wheresoever situate'
 - '——with full power to my Attorney to act for me, either in my own name, or in the name of my Attorney and to do everything regarding my affairs and my estates,

heritable, movable, real and personal, of what kind so ever and wherever situate which I could have done myself if personally acting, and in particular, without prejudice to the foregoing generality——’

- ‘ ——with full power to do everything regarding my estate and affairs which I could do or could have done myself without limitation by reason of anything herein contained and without prejudice to the foregoing generality——’ **or**
- ‘ To claim and receive on my behalf all pensions, benefits, allowances, services, financial contributions, repayments, rebates, and the like, to which I may be entitled or for which I may be entitled to apply. To complete and submit all forms, give any necessary undertakings, make any relevant appeals and generally do anything else necessary or appropriate in connection therewith, and that as regards all periods past current or future.’

Power of Attorney document does not satisfy the Scottish requirement

4277 If you receive a PoA or a document which does not satisfy the wording requirements at paragraph 4276, it may still be legally valid. In these circumstances, a copy of the document should be taken and referred for advice to:

I Information & Devolution Policy - Scotland
Room D311
Argyle House
Edinburgh

Fax: 0131 222 5364.

4278 - 4289

Two or more attorneys

Power of Attorney document allows attorneys to act separately

- 4290 If the customer appoints two or more attorneys jointly and the PoA document authorizes them to act separately, you can pay benefit to whichever attorney makes the application, provided the PoA document meets the other requirements. For more information about the other requirements, see *Verifying the attorney is empowered* in the Scotland section of this part of the guide.

Power of Attorney document does not allow attorneys to act separately

- 4291 If the customer appoints two or more attorneys jointly and the PoA document does not authorize them to act separately, any application must be made jointly and signed by all parties. All payments in respect of the customer must also be paid jointly to the attorneys.

Either attorney declines to act on the customer's behalf

- 4292 When the customer appoints two or more attorneys jointly and the PoA document does not authorize them to act separately, a problem arises if one or more then decline to act on the customer's behalf. You cannot make payment to only one attorney in such a joint attorneyship.

- 4293 In these circumstances:

- make payment direct to the customer **or**
- if the customer is mentally incapable, refer the case to the nominated/appropriate officer to consider appointee action. For information about authorizing an appointee, see *Appointee* in Part five of this guide.

4294 - 4299

Attorney not empowered to act

4300 If the attorney is not empowered to act on behalf of the customer for Social Security purposes:

Step	Action
1	inform the attorney they cannot act for the customer for Social Security purposes
2	if the customer is incapable, refer the case to the nominated/appropriate officer to consider appointee action. For more information about authorizing an appointee, see <i>Appointee</i> in Part five of this guide

4301 - 4309

Attorney empowered to act

4310 After you verify the attorney is empowered to act on the customer's behalf for Social Security benefits, pensions and/or allowances, see *Action following verification of a PAB/COP* in Part six of this guide.

4311 - 4999

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Part five – Appointee

Introduction

5000 An officer of grade EO (Executive Officer) or above acting on behalf of the Secretary of State can authorize someone else to act on a customer's behalf **only** if the customer is incapable of managing their own affairs. This is called an appointment to act and the person or organization appointed to act is called an appointee.

NB: An appointment must never be made because it is 'convenient' either for the Secretary of State or prospective appointee. An appointee is not appropriate if the customer is simply unable to get to the bank, building society or post office. Nor is it appropriate simply because the customer no longer wishes to manage their own affairs.

5001 An appointment to act can only be made in favour of a person aged 18 or over.

5002 At any one time, there must only be **one** appointee acting on the customer's behalf for **all** benefits administered by the Department.

5003 An appointee can be an:

- individual, e.g. a friend or relative **or**
- organization or representative of an organization, e.g.:
 - a limited company
 - a firm
 - the AHA
 - the LA
 - a solicitor **or**
 - the matron of a CH or NH

Note: This list is not exhaustive.

5004 An appointment to act is made under Regulation 33 of the Claims and Payments Regulations 1987.

5005 An officer of grade EO or above acting on behalf of the Secretary of State can also revoke an appointeeship under Regulation 33 of the Claims and Payments Regulation if the appointee is not acting in the customer's best interests.

5006 **It is important to determine whether an individual is acting in a personal or a professional capacity.**

Part five

Appointee

- 5007 If the appointee is acting in a personal capacity, use his or her NINO as an identifier.
- 5008 | If the appointee is acting as an employee of a Corporate Organization, use CIS to trace for an existing Corporate Organization ID. If there is no trace, use PD385 to create a new record. CIS will generate a unique 6 digit ID for the organization.
- 5009 Each office should retain a list of registered care homes and the registered person who is appointed to act.

When appointee action is not appropriate

5010 An appointee is not appropriate if the customer already has an OP of an equal or higher authority. These are:

- deputies appointed by the CP in England and Wales
- controllers appointed by the Office of Care and Protection in Northern Ireland
- judicial factor appointed by the court in Scotland
- guardian appointed by a court in Scotland
- curators bonis appointed by a court in Scotland
- tutors appointed by a court in Scotland
- appointees previously authorized by an officer acting on behalf of the Secretary of State
- parent/guardian - only used for DLA (appointee action not applicable if child under 16).

5011 The exceptions to this rule are when:

- the existing OP no longer has authority to act, e.g. the Secretary of State has revoked an existing appointeeship **or**
- written confirmation has been received that the existing OP no longer wants to act (note that court appointments can only be revoked by the court itself)

5012

Managers of Care Homes in Scotland

5013 Under the Adults with Incapacity (Management of Resident's Finances) (Scotland) Act 2000 managers of care homes can manage the financial affairs of residents of their care homes where the adult has mental incapacity. However that authority does not extend to social security benefits. Therefore the Department would need to consider appointee action if there was no other person of a higher authority already acting over the customer's social security benefit affairs.

5014 - 5049

Responsibilities of an appointee

- 5050 If an officer acting on behalf of the Secretary of State authorizes an appointee, the appointee becomes fully responsible for acting on the customer's behalf in all the customer's dealings with the Department. This includes:
- | • Claiming benefits, including completing and signing any claim forms.
 - | **Note:** A claim form received from a corporate appointee which uses a signature stamp rather than a manuscript signature is not acceptable. The form would need to be returned for a manuscript signature. If the person is acting for the corporate appointee then ideally they should sign "Joe Bloggs acting as the agent/representative of the corporate appointee" or similar. If the organisation has followed procedures correctly then this should not be a problem – see para 5222 et seq. If you have any doubts then you should if possible check with the person who signed the BF56 directly.
 - | • collecting/ receiving benefit payments **and**
 - | • reporting changes in circumstances.
- 5051 The appointee is also responsible for reporting any changes in their own circumstances that the Department may require, e.g. a change of name or address or change of account.

5052 - 5099

Request for an appointee received

5100 A request for an appointment to act may be made by:

- the person or organization wishing to become the appointee **or**
- someone acting on the customer's behalf stating that an appointee is needed

5101 If you receive a request from someone wanting to be the customer's appointee, or a person acting on the customer's behalf states an appointee is needed:

Step	Action
1	Access CIS and check if the customer already has an OP of a higher authority acting on their behalf
2	if you find that there is: <ul style="list-style-type: none">• no OP acting for the customer, see Considering the need for an appointee in this part of the guide• an OP of an equal or higher authority already acting for the customer, tell the enquirer:<ul style="list-style-type: none">– they cannot be the appointee (if the enquiry is from someone asking about being the customer's appointee) or– an appointee is not required (if the request is from a person acting on behalf of the customer).

HB/CTB appointee

5102 If you are approached by someone that is, an individual not a COP, who says they have been appointed by the LA, then provided this is confirmed (see below), you can accept the person as an appointee for benefit purposes. There is no need to interview the person or visit the customer. However, you must ask the person to complete and sign a BF56 (can be done by post); in Part 7 you should write "LA approved appointment". You must send a BF57 confirming the appointment.

Re: confirmation. The LA should have given the appointee written proof of his appointment. Failing that, you must contact the LA.

5103 - 5149

Considering the need for an appointee

- 5150 Before an appointee to act can be authorized, the:
- customer must be visited by a visiting officer to make sure:
 - they are incapable of managing their affairs **and**
 - an appointee **is** required **and**
 - prospective appointee (if one has been nominated) must be interviewed to make sure they are suitable and willing to act.
- 5151 **Note:** Although the customer and the prospective appointee can be visited at the same time, ideally they should be interviewed separately. This is to make sure that the customer is not under any pressure from the prospective appointee. However, in exceptional cases, if you believe that it would cause less stress to the customer, you can permit the prospective appointee to remain during their interview. But, you must ensure that they do not answer the questions or try to influence your decision on the customer's ability to manage their own affairs.
- 5152 **Note:** If the request to be the appointee comes from someone already appointed under reg 43 of the Claims and Payments Regulations, that is, they are acting for a child u/16 who is now approaching their 16th birthday, then it will not be inappropriate to interview the child and existing appointee together. It may be helpful to have another adult present but this is not essential. Do not delay the process to try and arrange this.
- 5153 **Remember:** **An appointment must never be made because it is 'convenient' either for the Secretary of State or the prospective appointee. The customer must, because of mental incapacity (or, exceptionally, severe physical disability), be incapable of managing their affairs. If challenged we must be able to justify our decision to make an appointment. And at all times we must be able to provide the necessary paperwork to show that we followed departmental procedures.**

5154 - 5159

Completing the BF56 appointee application form

- 5160 When considering an appointment to act, form BF56 must be completed.
Form BF56 Part:
- **1-6** is completed when the prospective appointee is visited/interviewed

- **7** is completed when the prospective appointee and the customer have been visited and a decision made on the application
- **8** is given to the appointee.

5161 For an example of form BF56, see Appendix 1.

5162 - 5169

Visiting the customer

5170 Appointee action should only be taken where the customer is incapable of managing their affairs. This will usually be because the customer is mentally incapable but, exceptionally, may also be appropriate when the customer is physically disabled, eg if they have suffered a severe stroke. (see 5183)

5171 The purpose of the visit to the customer is to enable the visiting officer to make an independent assessment of their ability to manage their financial affairs and, more specifically, their ability to understand how to make and manage a claim to benefit. The visiting officer must assess whether the customer shows comprehension of the rights and responsibilities of making the claim.

5172 If the customer is physically disabled, the visiting officer must assess whether the disability is such that they are incapable of managing their own affairs, eg if the customer can understand and sign a claim form (even if it has to be completed for them), they may only require an agent to help with the collection of payments.

5173 Where possible you should arrange the visit so that it best suits the customer. They should be given every opportunity to show that they are capable of handling their affairs. That said, the guidance here cannot be prescriptive. For example, some customers may be at their most alert in the morning others in the afternoon, which could mean that if we visit at the wrong time we could get the wrong impression of the customer's capabilities. All you can do is look for any helpful information on file and speak to the prospective appointee or any other person involved with the customer. But do not delay any visit if this information is not immediately to hand.

5174 - 5179

Assessing the customer's capabilities

5180 When assessing the customer's capabilities:

- assume they are capable until they demonstrate otherwise
- focus on the customer's abilities to understand and function in making particular decisions, e.g.:
 - can they pay bills?
 - do they know what income they have?
- do they have a general understanding of their benefits and what is involved in managing them – claiming, reporting changes, methods of payment?
- do they have a general understanding of the consequences of not claiming, reporting a change, not having a bank account?
- do they have an ability to understand and weigh up the information relevant to managing their decisions
- it may be helpful to have an independent person who is familiar with the customer present at the interview, eg a family member or social worker
- if the customer lives in a RCH or NH, do not assume they are incapable – they may be quite capable of managing their affairs
- if the customer has lost the ability to communicate, eg because of a stroke, do not assume they are incapable. Make every effort to find out their views and wishes by all possible means
- record the details of the visit and the assessment of the customer's ability to act in their own right.

Doubt over the customer's capabilities

5181 If the visiting officer does not feel certain about the customer's capabilities to handle their own affairs, ask the prospective appointee to provide evidence to support the application to act as the customer's appointee. This could be supporting evidence from a suitably qualified professional person who has a personal knowledge of the customer, e.g. a social worker, community psychiatric nurse or general practitioner will be acceptable.

Part five

Appointee

If you are uncertain about the medical evidence you can ask the department's Health and Welfare Division for advice.

- 5182 If for some reason the prospective appointee cannot help, then you will have to take the initiative and write to the person who you think is best placed to help. But, whilst you can request medical evidence or information from any medical or other professional involved with the customer eg the customer's doctor, the person approached is under no obligation to provide the information. If you cannot obtain any supporting evidence you will have to make a decision on the balance of probability.

Physical Disability - special circumstance

5183 If the customer is mentally capable but is severely disabled making an appointment is not precluded. This is likely to be a rare event but cannot be ruled out. In particular, if the disablement prevents the customer from signing or making a mark then an appointment will be needed to enable claims etc to be made.

For example: advanced motor neurone diseases where the customer experiences extreme physical difficulties in making and managing written or teleclaims to benefit; Parkinson's disease where the customer still has mental capacity but is not longer physically able to write or telephone; customer who has suffered a severe stroke which impairs their ability to write or telephone.

Customer in hospital

5184 If you receive a request from an appointee for someone in hospital, do not assume that the customer is incapable of managing their own affairs simply because they are in hospital.

5185 If the prospective appointee has provided medical evidence this should be considered and a decision made as to whether it supports making an appointment without any further evidence being needed. If no evidence is provided or it is inconclusive, you should either arrange to visit the customer or, if this is deemed inappropriate (bearing in mind that the customer is in hospital), ask the prospective appointee to obtain the evidence or try and obtain the evidence yourself - see next para.

5186 You can request medical evidence or information as to the customer's capabilities direct from the hospital or any medical or other professional involved with the customer eg their doctor. However, the person approached is under no obligation to provide that information. If writing, apart from explaining why you are writing, the key question to be asked is:

"Do you think the customer is mentally capable of managing their benefit affairs? That is, in your opinion do they have a general understanding of their benefits and what is involved in managing them eg claiming, reporting changes, payments?"

If the information provided is inconclusive or no reply is received, then you should ask the prospective appointee to obtain further information.

Initiating appointee action when customer is in hospital

Step	Action
1	Where appropriate arrange to visit the prospective appointee and the customer and assess the customer's capabilities. See Visiting the customer and Assessing the customer's capabilities in this part of the guide.
2	If a visit to the customer is inappropriate arrange to interview the prospective appointee. If the request is to change the appointee, an interview may not be appropriate. See 'Changing an appointee in this Part'.
3	Establish the nature of the customer's incapacity at interview
4	Assess the prospective appointee's suitability to act at interview and complete sections 1-6 of the BF56. See <i>If an individual is the prospective appointee</i> in this part of the guide.
5	Where appropriate make that person the appointee. You should also consider whether you need to review any benefit in payment as result of this change.
6	Arrange that the appointee inform the Department when the customer comes out of hospital. Try to get a discharge date.
7	Make a note on the file to follow up the case should the appointee fail to inform the Department.
8	When the customer comes out of hospital make arrangements to check whether they still require an appointee. This could be a visit and/or discussion with the appointee. You should also consider whether you need to review any benefit in payment as result of this change.
9	If an appointee is no longer required revoke the arrangement. See <i>Revoking an appointment</i> in this part of the guide.

5187 - 5199

Interviewing the prospective appointee - guidance for the Interviewing Officer

Restrictions on residential care home or nursing home staff (CH/NH)

- 5200 If the prospective appointee is connected with the customer's CH/NH, there are restrictions on their appointment. **Do not** authorize as the appointee:
- a member of staff at the customer's CH/NH (other than the warden or matron) **unless** they are a relative/friend of the customer. If you decide to authorize a member of staff who is also a relative or friend as the customer's appointee, you **must** inform the CH/NH manager
 - the warden, proprietor matron or trustee of the customer's CH/NH **merely for the administrative convenience of the home**. You should establish whether a friend or relative is willing and suitable to act on the customer's behalf
 - the matron or warden of the home **until** enquiries have been made to establish whether the organization or owner, eg the LA, would be willing to act as the appointee.
- 5201 Where the organization becomes the appointee, the proprietor, warden or matron may still collect benefits on their behalf, provided they are authorized to do so by the organization. The organization should complete the certificate at Part 4 of form BF57, or provide a similar letter of authority.

5202 - 5209

If an individual is the prospective appointee

- 5210 If an individual is the prospective appointee, you may interview them:
- in your office
 - at their home **or**
 - if the prospective appointee is a proprietor, trustee, warden or matron, at the CH/NH
- Note:** This list is not exhaustive.
- 5211 | once you have established the relationship and are happy to proceed with the interview, the next step is to decide on their suitability to act as the appointee.

Note: If benefit is already in payment and an appointee is needed because the customer has lost capacity, you should not disclose any details about the customer's savings, income etc during the interview. Until such time as we have approved the appointment the prospective appointee has no legal standing and so no right to know anything about the claimant's circumstances. Once appointed, this changes because he then has responsibility for letting us know of changes in circumstances.

You should state this part of the interview by asking about the existing relationship. Type of question you would ask:

Step	Action
1	<p>if the relationship of the prospective appointee to the customer is not known, this needs to be established. The issue here is that if there is a family member, next-of-kin or executor and none of these are aware that a third party is seeking to become the appointee, we will need to clarify the situation. This applies equally to prospective COPs. We also need to know whether there is an existing authority e.g. PoA, deputy, in existence for the claimant. <i>We need to try and prevent family disputes arising later.</i></p> <p>You should ask the prospective appointee if he knows of any next-of-kin, family member, executor</p> <ul style="list-style-type: none">- if he does not then unless you have reason to doubt him the interview should proceed- if he does or you doubt his answer, then further enquiries should be made. That said, the issue of delay needs to be considered. If the prospective appointee cannot provide contact details, we do not hold anything on file and there is no obvious other way of obtaining the information, then you should not delay the process further. This will have to be the case even where you doubt his answer. However, even where you approve the appointment and put benefit into payment, you should still try and resolve any doubts as best you can.
2	<p>Once you have established the relationship and are happy to proceed with the interview, the next step is to decide on their suitability to act as the appointee.</p> <p>Note: If benefit is already in payment and an appointee is needed because the customer has lost capacity, you should not disclose any details about the customer's savings, income etc during the interview. Until such time as we have approved the appointment the prospective appointee has no legal standing and so no right to know anything about the claimant's circumstances. Once appointed, this changes because he then has responsibility for letting us know of changes in circumstances.</p>

You should start this part of the interview by asking about the existing relationship. Type of question you would ask:

- what dealings do they already have with the customer's finances?
- what arrangements, if any, have they made to pay the customer's bills eg; utilities, rent, mortgage etc.
- do they have access to the customer's bank account?
- what will be their day to day involvement with the customer?

The answers should help inform your decision.

3

make sure the prospective appointee:

- understands the roles and responsibilities of an appointee - that is, take through BF56 **and**
 - is willing and able to accept and fulfil the duties
-

4

explain the methods of payment options:

- i. The department's preferred option is to pay into an account in the name of the appointee managed on behalf of the customer – an "appointee account". The banks will set up such an account; or
- ii. The appointee's own account;

The appointee may suggest the following:

- iii. The customer's existing account to which the appointee has access;
- iv. An existing joint account between customer and appointee;

Note: If the appointee insists on payment in to iii. or iv. we must explain that this will only be arranged if the bank gives its approval. This is required because banking law requires that the account holder is capable of managing their account; where they cannot the account would usually be frozen or closed. We must tell the appointee to speak to the bank. However, we should pay benefit into the account until told that it has been closed.

- v. An existing joint account between the appointee and a third party.

If the appointee insists on option v. then you must explain that this will not be possible. We do not accept it as safe banking for benefit purposes. Tell the appointee that he will be paid via the cheque system until such time that he gives us an alternative account.

Note: You must record any discussions about methods of payment.

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- | | |
|---|---|
| 5 | tell the prospective appointee the Secretary of State can revoke appointeeships if an appointee does not act in the customer's best interest |
| 6 | make sure the prospective appointee reads the form and reads and signs the declaration |
| 7 | give part 8 of form BF56 to the prospective appointee; also give them the Aide-Memoire (see appendix 7) |
| 8 | if you decide to agree the appointeeship at the visit explain what will happen next to the appointee e.g. a new claim will be decided, an existing award will continue etc. If you have taken a BF57 with you to the visit, and this is good practice, then complete and hand this to the appointee. If you do not have a BF57 say you will send one in due course. If you decide not to make a decision at the visit because you are uncertain about the customer's incapacity and require further medical evidence you should explain this. If you think the prospective appointee is best placed to obtain this e.g. from the customer's doctor then he should be told; if you need to discuss with the department's doctors then you should do this as quickly as possible. If at the end of this process you decide to make the appointment then you should tell the appointee, by phone if possible. You should explain what will then happen (see above); you must also send the BF57. |
| 9 | if the decision is made: <ul style="list-style-type: none">• not to appoint the prospective appointee, see Appointment to act not approved in this part of the guide or• to appoint the prospective appointee, see Appointment to act approved in this part of the guide |
-

5212 - 5219

If an organization is the prospective appointee

- 5220 If an organization is the prospective appointee, eg a LA or AHA, action depends on whether the organization is:
- already acting as an appointee for other customers **or**
 - not already acting as an appointee for other customers.

Organization already acts as appointee for other customers

- 5221 If the organization already acts as appointee for other customers, the appointeeship can be authorized immediately after:
- your visit (if this has been appropriate) to the customer confirms their incapacity to manage their own affairs **and**
 - an authorized representative of the organization has:
 - completed form BF56 to show the organization's (not the representative's) details **and**
 - stamped form BF56 with the organization's official stamp.

Organization does not already act as appointee for other customers

- 5222 If an organization does not already act as an appointee for other customers, a visit must be made to:
- discuss the roles and responsibilities of an appointee, **and**
 - make clear that, as an appointee, the organization is responsible for making sure that any of their representative(s) authorized to collect the customer's payments are acting in the customer's best interest.
- 5223 **Note:** When an organization is applying to become an appointee they must authorize an employee to complete form BF56 on their behalf.
- 5224 On being appointed by the Secretary of State, the organization must also complete the certificate at part 4 of form BF57, or provide the employee with a similar letter of authority.

Authorized person within corporate body changes

- 5225 When the authorized signatory for a corporate body changes it may not be necessary to carry out a separate interview with the new person. A form BF56 should be completed by the new authorized signatory. You should satisfy yourself that the new person understands their role and responsibilities. If there is any doubt then you should take whatever steps necessary to explain their role eg face to face interview or phone discussion.
- 5226 The organization will need to provide the employee with a letter of authority authorizing that person to act.

Someone other than authorized person contacts the department on behalf of COP

5227 If a call is received from someone who states they are calling on behalf of a corporate appointee ie from a house manager, psychiatric nurse etc. take the following action:

1. Ask them for the corporate ID number of their organisation.
2. Ask them for their head office address (it is this postcode that the corporate ID will refer to)
3. Ask them for the contact name or position held of the person responsible for the organisation at head office.

All of this information can be verified via PD153.

Once it is accepted that the ID of the person calling is correct, the enquiry can be dealt with.

5228 - 5249

Prospective appointee lives outside your office area

5250 If the prospective appointee lives outside your office area:

Step	Action
1	find out which benefit office deals with the prospective appointee's address
2	Make a referral that includes: <ul style="list-style-type: none">• details of your customer and prospective appointee and• a request that they arrange for the prospective appointee to be interviewed and, if the prospective appointee is approved, that a claim form is completed on behalf of the customer where appropriate.

5251 - 5299

Appointee needed but no one nominated

- 5300 If a visiting officer decides a customer needs an appointee but no one has been nominated, make attempts to identify a suitable person, e.g.:
- a spouse
 - a relative or close friend
 - an organization, e.g. a LA or AHA **or**
 - the proprietor of a CH/NH, but only if no other suitable person is found.
- 5301 If a suitable person is not available, the visiting officer must inform the customer's local social services and the relevant benefit section.
- 5302 If social services cannot help then as a last resort we will have to contact the OPG - 0845 330 2900. A court appointed deputy may be the only option.

Changing an appointee

- 5303 If the current appointee no longer wishes to act and nominates another person or organization to act, it is not always necessary to visit the customer unless there is a reason to do so. The prospective appointee should be interviewed and the form BF56 completed as normal. If the prospective appointee is already acting as an appointee, whether as an individual or corporate appointee, it is unlikely that a visit/interview will be required. But you will still need to ask them to complete a form BF56.
- 5304 As per step 2 of 5211 until such time that the new appointment is made you should not disclose any details about the customer's existing circumstances. Clearly the prospective appointee will be aware that benefit is being received and may be aware of much else about the customer but we should not add to that knowledge until the appointment is confirmed.
- 5305 Once the appointment is confirmed then it may be useful, depending on the time the customer has already been on benefit, to undertake a full benefit review so that the appointee starts afresh. How this is done is up to each benefit but payment should not be delayed whilst whatever steps are taken.

Existing appointee claims another benefit

5306 Where an existing appointee claims another benefit for the person he represents you must first confirm that he is the appointee before deciding the claim. There are three ways you can do this:

- | i. Check CIS/CIS to confirm that he is the appointee for the other benefit. See below, but this should not be used in isolation without taking the further step of
- ii. Asking the existing benefit section if they have the BF56 to hand. If yes, ask for a copy to be sent. If not because it has been sent to Heywood then, finally,
- iii. Ask the appointee if he has his BF57.

If ii and iii are not available then, unless you have doubts about the veracity of his statement that he is the appointee or doubts about the said incapacity of the customer, you can use

- | the CIS/CIS record as confirmation and decide and pay the claim accordingly. You must make a note of the steps taken to verify the appointeeship.

5307 - 5349

Secretary of State's decision on the application

Appointment to act not approved

5350 If the officer acting on behalf of the Secretary of State decides not to authorize an application:

Step	Action
1	notify the prospective appointee that their application was unsuccessful
2	keep a record of the reason for the non-approval and file with the customer's clerical papers

5351 If no one else was nominated to act, see *Appointee needed but no one nominated* in this part of the guide.

5352 - 5359

Appointment to act approved

5360 If the officer acting on behalf of the Secretary of State authorizes an application:

Step	Action
1	complete form BF56 at 'FOR OFFICIAL USE ONLY' and keep it with the customer's clerical papers
2	see Action following verification of a PAB/COP in Part six of this guide.

5361 - 5399

Revoking an appointment

5400 There are three circumstances where an appointment can be revoked:

- if the appointee does not act appropriately within the terms under which the appointment was granted, an officer acting on behalf of the Secretary of State can revoke their authority
- if there is sufficient evidence that the customer is capable of acting for themselves and does not need an appointee to act for them over their benefit affairs.
- where the appointee himself becomes incapable. Where the Secretary of State is satisfied that this is the case - standard evidence considerations apply - he should take normal action to appoint a replacement.

NB. *When allegations of abuse are received it is essential that we react quickly. If there is abuse then any delay will compound the problem. The Secretary of State needs to be seen to be taking any allegations seriously. His responsibility is to ensure that the benefit being paid to the appointee is being used for the benefit of the customer and if that is in question then he needs to take appropriate action.*

Revoking the appointment because the appointee is not acting in the best interest of the customer

5401 If there is evidence that the appointee is not acting in the best interests of the customer follow the procedures below:

Step	Action
1	discuss the case with the nominated/appropriate officer – do not revoke the appointment without their approval. In this circumstance if you know other benefits are in payment you should also alert the appropriate section.
1A	If it is agreed by the nominated/appropriate officer that the evidence of mismanagement is overwhelming, then there is no need to follow the process set out in the steps below. Instead payment of benefit should be stopped immediately whilst the case is further investigated. The Secretary of State must act quickly and be seen to be so doing to prevent any further loss of benefit to the customer. Although it is not possible to 'define' these cases - each case must be considered on its merits - it is likely that the evidence would have come eg from social services, a LA or police adult protection team.

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Appointee

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|-----------|---|
| 2 | If 1A does not apply, if the nominated/appropriate officer agrees, interview the appointee (and the customer if needed), to explain the situation |
| 3 | if you cannot contact the appointee for interview write to the appointee explaining that we are considering revoking the appointment. |
| 4 | Allow the appointee two weeks to respond |
| 5 | If there has been no response within that time then, unless there are grounds for extending this period, you will have no option but to stop payment and revoke the appointment – go to step 8 |
| 6 | if the appointee is available for interview show the appointee the notes printed on the back of form BF57. An example of form BF57 and the Aide Memoire at appendix 5 |
| 7 | <p>if the appointee responds in writing and you are satisfied that he should be allowed to continue in his role then you must re-send him the Aide Memoire at append 5. If you are not satisfied, and interviewing him is still not an option, then you will have no option but to stop payment and revoke the appointment – go to step 8.</p> <p>If the appointee has been interviewed and you are satisfied that he should continue, then you should contact him to let him know, sending him the Aide-Memoire at the same time. If you are not satisfied then revoke the appointment and stop payment – go to step 8</p> |
| 8 | record your reason(s) for revoking the appointee's authority and keep it with the customer's clerical papers |
| 9 | recall the IOP, if appropriate |
| 10 | end the OP/COP relationship(s) in CIS. |
| 11 | The revoking of the appointee should broadcast across the benefit systems; however, if you are aware of any other benefit in payment then you should also notify that benefit directly. You can do this by phone, e-mail or by sending a copy of the BF58 – you should make a note that this has been done |
-

12	send for form BF58 to the ex-appointee - An example of form BF58 is shown at Appendix 3
13	if a customer still needs an appointee and another person has been nominated, take appropriate action as shown in this part of the guide
14	if no one else has been nominated, see <i>Appointee needed but none nominated</i> in this part of the guide
15	<p>Finally, you should consider whether you need to alert others to the abuse. By 'others' we mean LA Adult Services, the OPG or the police. Not all revocations will warrant such referral but at the forefront of your thinking must be the necessity to prevent the appointee having the opportunity to commit acts of further abuse.</p> <p>It is not possible to provide a definitive list but the type of case which is likely to warrant such action could include: the appointee works in a care environment where he/she has contact with other vulnerable adults; the amount of money being misused is such that the police should be involved.</p> <p>If you already have arrangements/partnership agreements in place for making referrals then these should, of course, continue.</p> <p>There are judgements to be made but if in doubt about whether to make a referral you should discuss with your manager. Legal Group, DMA Policy would also be happy to advise.</p>

5402 If an officer of the Department is satisfied that the customer is capable of managing their own affairs they can revoke the arrangement at any time. Follow steps **8 - 12** above.

Case conferences

5403 It is not unusual for the department to be invited to a case conference involving LA, the police and other voluntary groups to discuss individual cases concerning vulnerable adults. The official departmental line is that we *should be wary of attending*. The reason for this is that you are likely to be asked for personal information about a customer but any disclosure to a third party should be in response to a direct request from that third party. Providing

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information at a conference cannot meet that requirement as it is may be the case that there is justification for disclosure to some of the parties present – they could individually justify a request and disclosure - but not all. So any attendance would involve a data protection risk. But it is not ruled out. You just need to be aware of who is attending and be very careful in what you disclose.

Aug 2008

Mismanagement by Care Home

5404 If you have evidence that the Care Home in England or Wales has been mismanaging the benefit affairs of the customer, refer the case to:

- I Legal Group DMA Policy
Second Floor
The Adelphi
London
WC2N 6HT
Fax: 020 7962 8541

5405 If you have evidence that the Care Home in Scotland has been mismanaging the affairs of the customer, refer the case to:

Adjudication and Constitutional Issue Scotland (ACIS)
Room D311
Argyle House
Edinburgh
Fax: 0131 222 5364

Obtaining consent for the release of medical information when a customer has an appointee

5406 i **Customer has mental impairment**

Appointee can give consent (under normal consent rules).

ii **Customer has physical impairment**

KEY POINT: In this circumstance the appointee can never give consent on behalf of the customer.

Options available:

1. The customer can sign or make a mark on a paper consent declaration.
2. If the customer is unable to sign or make a mark he can give verbal consent. This can be given face to face or by telephone. If by phone, there are strict protocols which **must** be observed. These are:

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- it must be established beyond doubt that it is the customer who is speaking
 - there must be a full, written record of the conversation. This will detail the steps taken to confirm identification; and it will confirm that the customer understood that he was giving consent to the disclosure of information
 - under no circumstances must the customer be put under pressure to give consent if he is unwilling to do so for whatever reason (consent given under duress is not valid consent). If the customer declines to give consent this must be recorded.
3. Finally, whatever form is being used to make the request it *must* state that the customer has given *verbal* consent.

5407 - 5449

Death of the customer

5450 You may need to appoint someone to proceed with the claim if the customer dies before action on their claim is decided and the:

- person acting on their behalf is unwilling to proceed with the claim **or**
- prospective appointee's application is not authorized.

5451 For more information, see your existing procedures.

Overseas appointees

- 5452 The rationale behind making someone an appointee is that they will have daily or regular contact with the customer. That within reason their expenditure of the customer's benefit is done in response to their knowledge and observation of ongoing needs. Clearly this becomes problematical when the appointee and/or the customer live overseas. In none of the following scenarios are we prevented in law from making an appointment or continuing to pay an appointee, but we should be wary of doing so in each case.

Customer with an existing appointee moves overseas but the appointee is staying in GB and wants to retain the role

- 5453 You should discuss the position with the appointee. Find out how he intends to fulfil his role. Is there someone near to where the customer is moving who could take on the role? If not then we must continue paying the appointee. If yes, and the existing appointee is willing to step aside, then contact IPC to set up new appointment.

Appointee is moving abroad, customer remaining in GB

- 5455 If appointee wishes to remain the appointee discuss how he intends to fulfil his role. Is there someone who will have daily/regular contact with the customer who can/is willing to take on the role. Would it be better to involve social services? Failing someone else taking on the role, the latter option is better than paying an appointee who lives abroad.

Application from would-be appointee who lives abroad, customer in GB

- 5456 We should be very cautious of making an appointment in this circumstance. We should find out if there is a friend/relative who could so act; failing that social services should be approached.

Overseas customer becomes incapable and prospective appointee lives near the customer

5457 As best we can we still need to follow the normal process. IPC will need to be involved. You must not take any short cuts, that is, not involve IPC, because it will speed up the payment process.

5458 - 5999

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Part six – Action following verification of a PAB/COP

Introduction

6000 When you have verified that an OP or COP is authorized to act on behalf of the customer for Social Security benefits, subsequent action is the same irrespective of whether the OP/COP is:

- | • a deputy
- a controller
- a guardian
- a curator bonis
- a tutor
- an attorney
- an appointee

See *Part one paragraphs 1150 - 1180* for further information on OP/COPs.

6001 **Note:** This part only applies to the OP types listed above.

6002 **It is important to determine whether an individual is acting in a personal or a professional capacity (eg an accountant acting for a family member).**

6003 If the OP is acting in a personal capacity, use his or her NINO as an identifier.

6004 | If the OP is acting as an employee of a Corporate Organization, use CIS to trace for an existing Corporate Organization ID. If there is no trace, use PD385 to create a new record.

| CIS will generate a unique 6 digit ID for the organization

6005 In no circumstances should the individuals' NINO be used, nor should any attempt be made to trace it.

6006 - 6049

Creating an OP/COP relationship

6050 When you have verified that an OP or COP is authorized to act for the customer:

Step	Action
1	if you are dealing with: <ul style="list-style-type: none">• a new claim, make sure the OP/COP has completed and signed a claim form on the customer's behalf or• an existing claim, use your existing business procedures to recall the customer's IOP
2	if you are recording an: <ul style="list-style-type: none">• individual, go to step 3 or• organization, eg a LA, go to step 4
3	record the individual's details by tracing/creating an OP account on CIS. Then go to step 5
4	record the organization's details by tracing/creating a COP account on CIS
5	if appropriate, photocopy the Order of Appointment, Power of Attorney or Evidence of Appointment, note the photocopy that the original document has been seen by the DWP, sign and date it then file with the customer's clerical papers
6	if the OP/COP is an appointee, file the original form BF56 with the customer's clerical papers
7	if another benefit is in payment, forward a copy of the Order of Appointment, Power of Attorney, form BF56 or Evidence of Appointment to the appropriate benefit section(s)
8	if appropriate, return the original document to the OP/COP
9	Finally, and importantly, you must send form BF57 to the OP/COP – an example of form BF57 is shown at Appendix 2 The BF57 can be used as proof that someone is an appointee; it is also used by banks as proof that their client (our customer) is indeed incapable. So, sending it is not an option, it is an essential part of the process
10	use your existing business procedures to make payment to the OP/COP

6051 - 6099

Ending an OP/COP relationship

6100 You may need to end the relationship between a customer and their OP/COP when:

- the OP dies
- the customer dies
- the OP/COP is no longer authorized to act on the customer's behalf
- the OP/COP no longer wants to act on the customer's behalf **or**
- an OP/COP with a higher authority is appointed

6101 To end an OP/COP relationship:

Step	Action
1	use your existing business procedures to recall the IOP, if appropriate
2	end the OP/COP relationship in CIS
3	if another benefit is being paid notify the appropriate section
4	send form BF58 to the OP/COP. An example of form BF58 is shown at Appendix 3
5	if the OP is an appointee who is the registered person at a RCH/NH, send draft letter DLIS 216 to the LA's Registration Officer. An example of draft letter DLIS 216 is shown at Appendix 8

6102 - 6149

Changing the customer's OP/COP

6150 You may need to change the customer's OP/COP when:

- an OP/COP with a higher authority is appointed
- the existing OP/COP no longer wants to act on the customer's behalf **or**
- the customer no longer needs an OP/COP

Note: This list is not exhaustive.

6151 The procedures for changing an OP/COP are the same as for creating and ending an OP/COP relationship. To change the customer's OP/COP, follow the procedures shown in this part of the guide at:

- Creating an OP/COP relationship **and**
- Ending an OP/COP relationship

6152 - 6999

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Part seven – Split Payment Payee

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Part seven – Split Payment Payee

Introduction

7000 An officer acting on behalf of the Secretary of State can, under Regulation 34 of the Claims and Payments Regulations, authorize someone else to receive payment on a customer's behalf if this would protect the interests of the customer and/or their dependants. The person (or representative of an organization) authorized to act is called an SPP. The SPP must be aged 18 or over.

7001 The Secretary of State has the discretion to authorize that part or all of the customer's benefit/pension/allowance is paid to the SPP.

7002 You may need to consider authorizing an SPP if:

- someone who lives with or is in contact with the customer notifies you that the customer is mismanaging their benefit and asks for help
- the customer has a partner (this also means after 5 December 2005, a partner living together as a civil partner)/children and is temporarily away from home **or**
- the customer cannot or will not budget for their own or their family's normal needs, and by splitting payments you will protect the interests of the customer and/or their dependants

Note: This list is not exhaustive.

7003 An SPP can be:

- an individual, the customer's partner (this also means after 5 December 2005, a partner living together as a civil partner), relative or friend **or**
- exceptionally a social worker or youth worker etc. **Please note:** A split payment payee must be somebody who has an ongoing interest in the customer's welfare and cannot be a Corporate Organization such as a LA or NH

7004 If you authorize an SPP, the:

- customer remains responsible for notifying all changes in their own or the assessment unit's circumstances, even though some or all their benefit is paid to another person **and**

Part seven

Split payment payee

- the SPP is responsible for reporting any changes in their own circumstances that the Department requires, e.g. a change in their name or address

7005 See your relevant business guidance for further information on action required for Split Payment Payments.

7006 - 7049

Recording the SPP's details

7050 To record the SPP's details:

Step	Action
1	use your existing business procedures to recall the IOP
2	record the SPP's details on CIS
3	use your existing business procedures to make payments to the SPP, and the customer if appropriate
4	use your existing business procedures to send any relevant notifications to the SPP and the customer

7051 - 7099

Ending the split payment arrangement

7100 | Once the decision has been made to end the split payment arrangement, record the end on CIS.

7101 - 7999

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Part eight - Collection of payment by an individual 3rd party

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Part eight – Collection of payment by an individual 3rd party

Introduction

- 8000 This part describes how someone else can collect benefits when the customer **can manage their own** affairs but is not always able to collect their payment.

Direct Payment

- 8001 Direct Payment into an account is the normal way state pensions and benefits are paid. Some customers may be unable to collect their benefit in person, for example customers who are unable to leave the house without assistance. They may need alternative arrangements on either a temporary or permanent basis. Some of the options available for those customers paid by Direct Payment are:

Third Party access

- 8002 It is usually possible for someone to legitimately access the customer's account with their permission. The precise arrangements will depend on the type of account they have and with which account provider. Customers should contact their bank, building society or other account provider to check what arrangements are available. Customers should be made aware that third party access may take some time to set up.

On no account should the customer disclose their PIN (Personal Identification Number) number to a third party in order for them to access their account.

Payment into a joint account

- 8003 Customers may have a joint account with a person acting on their behalf for benefit purposes, or they may have a joint account with a wife, husband or partner. This arrangement can avoid the need for the customers to operate an account themselves and gives the additional account holder the access to manage all aspects of the account on the customer's behalf. Provision of a card and PIN to both account holders allows easy access to the account.

Standing Order to a third party account

- 8004 If the account provides this facility, the customer can arrange for a Standing Order to be set up. This is an automatic transfer of a fixed amount of money to someone else's account, on a regular basis (e.g. weekly or 4 weekly).

Emergency arrangements

- 8005 In an emergency situation where a customer is temporarily indisposed, the customer could provide the third party with a cheque. Banks or building societies may accept a signed letter of authority requesting that a third party be able to make a withdrawal from the account.

Post Office® card account

- 8006 Customers who are receiving their payment through a Post Office card account can apply for one other person to be given permanent access to their account. A Permanent Agent can be nominated by the customer on an application form available from the Post Office.

The Permanent Agent will be issued with their own card and PIN which will allow them limited access to the customer's account enabling them to withdraw the customer's money at the Post Office counter (this includes obtaining balance queries at Post Office counters). The Permanent Agent does not have any other access to the account. They are unable to discuss the account with the Post Office Customer Service Helpline or request action on the customers behalf.

The customer only authorizes the Permanent Agent to collect payments on their behalf. The customer remains responsible for notifying the Department about all changes in their own circumstances and continues to have access to their account by their own card and PIN.

Customers not paid by Direct Payment

8007 If a customer is unable or unwilling to be paid by Direct Payment, the Department will ensure that they still receive their benefit/pension by issuing a cheque payment.

Cheques below a certain value will be uncrossed and can be cashed at a Post Office or paid into a bank account. Higher value cheques will be crossed and must be paid into a bank account.

For customers who rely on other people or different carers to collect their money for them, there is a facility on the back of the cheque for the customer to authorize someone else to cash the cheque on their behalf.

| Customers with different third parties collecting benefit

8008 | The person who is actually cashing the cheque will also need to sign a declaration on the back of the cheque to indicate they are cashing it on behalf of the customer. The person cashing the cheque will need to produce evidence of both the customer's identity and their own.

| 8009 - 8999

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Appendix 1

An example of form BF56

BF56 04/05

Office stamp

Application for appointment to act on behalf of someone else

Please use BLOCK CAPITALS throughout this application

Part 1 - About the person you want to act for

Their surname or family name

Their other names - in full

All other surnames or family names they have been known by or are using now. Please include maiden name, all former married names and all changes of family name.

Their address

Postcode

Their National Insurance (NI) number

Their date of birth

 / /

Are you applying to act for the person because they are incapable of managing their own affairs?

No Do not fill out this form. Please contact us at the address shown above.

Yes Are you enclosing supporting evidence that the person you are applying to act for is incapable of managing their own affairs?

No

Yes

Are other family members or next of kin aware of your application to become the appointee?

No

Yes

The role and responsibilities of an appointee are set out in Part 8. You must read these so that you understand the roles and responsibilities before signing this document.

Are you applying on behalf of an organisation?

No Go to Part 2.

For example, a local authority or a firm of solicitors.

Yes Go to Part 3.

Application for appointment to act on behalf of someone else continued

■ Part 2 - About you

Surname or family name	Mr/Mrs/Miss/Ms/Dr/Rev
Other names - in full	
All other surnames or family names you have been known by or are using now.	
National Insurance (NI) number It will help us if you can provide this number.	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Date of birth	/ /
Address	 Postcode
Daytime phone number	Code Number
What is this number? Please tick.	Home <input type="checkbox"/> Work <input type="checkbox"/> Mobile <input type="checkbox"/>
Fax number - if you have one	Code Number
Please provide details of your local Post Office®.	 Postcode

■ Part 3 - If you are representing an organisation

Your surname	Mr/Mrs/Miss/Ms/Dr/Rev
Your other names - in full	
Your position or job title	
Full official name of the organisation	
Full postal address of the organisation	 Postcode
Organisation's phone number	Code Number
Organisation's fax number	Code Number
Please provide details of your local Post Office®.	 Postcode

Application for appointment to act on behalf of someone else - continued**■ Part 4 - Making payments to you****Payment direct into an account****We normally pay your money direct into an account**

You can use a bank, building society or other account provider. Many banks and building societies will let you collect cash at the post office.

How we will pay you

We will tell you when the first payment will be made and how much it is for. Each payment, after the first one should be the same unless there is a change in your circumstances. We will tell you whenever there is going to be a change in the amount we pay into your account.

Finding out how much we have paid into the account

You can check your payments on the account statements. The statements may show your National Insurance (NI) number next to payments that are from us. If you think your payment is wrong, get in touch with the office that pays you straight away.

If we pay you too much money

We have the right to recover any money paid to you, which you are not entitled to. This may be because of the way the Direct Payment system works. For example, you may give us information, which means you are entitled to less money but we may not be able to change the amount we have already sent out. If this happens, we will contact you before we recover any money.

What to do now

- Tell us about the account you want to use on the next page. By giving us your account details you are agreeing to be paid by Direct Payment and understand the information above about being overpaid.
- If you intend to open an account, please give us your account details as soon as you have them.
- If you do not have an account, please contact us and we will give you more information.

Application for appointment to act on behalf of someone else - continued

Part 4 - Making payments to you - continued

About the account you want to use

Please tell us your account details below. It is very important you complete all boxes correctly including the building society roll or reference number if you have one. If you tell us the wrong account details your payment may be delayed or you may lose money. You can find the account details on your chequebook or bank statements. If you are not sure about the details, ask the bank, building society or other account provider.

You must keep the money, belonging to the person you want to act for, separate from your own money or anyone else's.

We suggest you use an account in your own name only, or in your name on behalf of the customer. This is known as an *appointee account*.

We cannot pay money into a joint account involving a third party or into someone else's account.

Please note

A corporate appointee can use a corporate account or an appointee account. The appointee account must be in the organisation's or appointee's name, on behalf of the customer.

Name of the account holder

Please write the name of the account holder exactly as it is shown on the chequebook or statement

Full name of bank, building society or other account provider

Sort Code

Please tell us all six numbers for example: 12-34-56.

<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>
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Account number

Most account numbers are 8 numbers long. If your account number has fewer than 10 numbers, please fill in the numbers from the left.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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Building Society roll or reference number

If you are using a building society account you may need to tell us a roll or reference number

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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This may be made up of letters and numbers, and may be up to 18 characters long. If you are not sure if the account has a roll or reference number, ask the building society.

You may be getting other benefits and entitlements that are not paid direct into an account. To have them paid into the above account, please tick the box.

Application for appointment to act on behalf of someone else - continued

■ Part 5 - Declaration

I apply to the Secretary of State for Department for Work and Pensions, Board of HM Revenue & Customs or Secretary of State for Defence for appointment to exercise, on behalf of the person named in **Part 1**, any rights they may have under the Social Security Acts, Tax Credits Act or the Naval, Military and Air Forces Etc (Disablement and Death Service Pensions Order 2006).

To the best of my knowledge no other person or organisation has been legally appointed to administer the affairs of the person named in **Part 1**.

I declare that I have discussed my appointment with other family members or next of kin and that they do not object to my application. **This applies to corporate appointees as well.**

I understand that I must promptly tell the relevant office that pays the benefit, pension, allowance or credit anything that may affect the entitlement to, or amount of, that payment.

I declare that the information I have given on this form is correct and complete as far as I know and believe.

I understand that if I knowingly give information that is incorrect or incomplete, I may be liable to prosecution or other action.

I understand and agree that any information provided may be used by the Department for Work and Pensions, HM Revenue & Customs or the Services Personnel and Veterans Agency to administer this application.

I undertake to the best of my ability to give the Department or Board all the information required by them about the circumstances of the person named in **Part 1** and give information about any relevant changes in their circumstances which may affect the entitlement to, or amount of, the benefit or tax credit claimed.

I will receive any benefit, pension, allowance or credit to which the person named in Part 1 is entitled and spend it in their best interests and keep it safe for them in the interim.

I have read, understood and accept the conditions contained in **Part 8** of this form. The duties and responsibilities required of me when acting for the person named in **Part 1** have been clearly and fully explained to me.

This is my application to be appointed to act for the person named in Part 1.

If you are applying to be an individual appointee, please complete box A.

Persons applying on behalf of an organisation complete box B.

Box A

I am over 18 years of age

Signature (to be signed at interview)

Date of interview

 / /

Box B

I am authorised to make this declaration on behalf of the organisation named in Part 3

Signature (to be signed at interview)

Date of interview

 / /

Application for appointment to act on behalf of someone else - continued

Part 6 - How we collect and use information

The information we collect about you, and the person you are acting for, and how we use it depends mainly on the reason for your business with us. But we may use it for any of the Department's or Agency's purposes, which include

- social security benefits and allowances
- child support
- employment and training
- private pensions policy
- retirement planning, and
- war pensions.

We may get information from others to check the information you give to us and to improve our services. We may give information to other organisations as the law allows, for example to safeguard against crime.

To find out more about how we use information, visit our website www.dwp.gov.uk/privacy.asp or contact any of our offices.

Part 7 - For office use only

Supporting medical evidence necessary

No Yes

Name and address of suitably qualified professional for example, social worker or community psychiatric nurse

Postcode

Other family members / next of kin Discussed - no further action Discussed - further action required

Appointment

Please tick the box that applies

Authorised Refused Reason for refusal

<i>Continue on a separate sheet if necessary.</i>

Signature Date / /

Name in CAPITALS Job title / /

Now pass this form to the appropriate officer for processing or inputting details on the system if necessary

Have other interested sections or offices been notified of the outcome? N/A Yes

Is appointee a corporate organisation? N/A Yes

Corporate organisation's identifier (PDCS compliant benefits only)

Signature Date / /

Name in CAPITALS Office name / /

Forms issued BF57

Appointeeship cancelled Reason for cancellation BF 58 issued

Signature Date / /

All other offices or sections informed. CIS/CES/PDCS checked

Application for appointment to act on behalf of someone else - continued

■ Part 8 - Roles and responsibilities

For retention by the person named in Part 2 or the organisation named in Part 3

If it is accepted that you can act for the person named at **Part 1** you will become responsible for dealing with their social security affairs, HM Revenue & Customs tax credit affairs and war pensions affairs.

This includes claiming and receiving

- social security benefits
- social security pensions
- social security allowances
- HM Revenue & Customs tax credits
- war disablement or war widows or widowers pensions.

Any money that you receive on their behalf must be used in their and their dependant's best interest. **For example**

- paying their fees for a nursing or care home or carer
This includes the fees for social care services such as residence in a care home or support in their own home.
- towards meeting everyday living costs.

However, if they are in a nursing or care home, you must ensure that the specified amount of personal allowance is paid over each week for the benefit of the person named in **Part 1**.

You must tell the person's Department for Work and Pensions or HM Revenue & Customs office or the Service Personnel and Veterans Agency straight away if there is a change in the person's circumstances which could affect their benefit. A list of changes, which must be reported, is given in the notes issued with the first payment of benefit. If you do not have a copy of the list of changes you must report, you can get one from your social security or HM Revenue & Customs office or the Service Personnel and Veterans Agency.

Examples of changes you must tell us about are when the person

- changes address
- changes name
- has a child leaving school
- goes into or comes out of hospital, including coming out of hospital on leave
- becomes well enough to manage their own affairs
- intends to be absent from Great Britain for any period
- dies.

This list is not exhaustive.

If the person you named in **Part 1** dies, you must

- tell your Jobcentre Plus office, social security office, Pension Centre, HM Revenue & Customs office, or the Service Personnel and Veterans Agency straight away if their payments were being made direct into an account
- return any cheque payments you have for them.

As an appointee you will also be responsible for letting us know if there are any changes in **your**

- name
- address
- contact number
- account details.

Continued on next page ►

Application for appointment to act on behalf of someone else - continued

■ Part 8 - Roles and responsibilities - continued

If an overpayment happens

If an overpayment of benefit occurs, you may be required to repay the overpayment yourself depending on how the overpayment arose. See **Part 4**.

You will be responsible for repaying any overpayment of benefit that happened because you

- made an untrue or incorrect statement about yourself or the person named in **Part 1**
- failed to report a change in your own circumstances
- failed to report a change in the circumstance, which you knew about, in respect of the person named in **Part 1**
- failed to obtain relevant information about the circumstances of the person named in **Part 1**.

How long can I be an appointee?

You will be an appointee until

- the person you are an appointee for becomes well enough to manage their own affairs
- the person you are an appointee for dies, or
- you or the Department for Work and Pensions, HM Revenue & Customs or the Service Personnel and Veterans Agency decide to end the arrangement because it is not working properly
- you wish to end the arrangement because you no longer wish to continue as an appointee.

If you want to end the arrangement you must write to your Department for Work and Pensions, HM Revenue & Customs office or the Service Personnel and Veterans Agency, giving them at least one month's notice.

Additional information for organisations

All appointees are responsible for the collection and administration of the person's social security benefits, pensions and allowances, HM Revenue & Customs tax credits, and war pensions and allowances. If the organisation nominates a representative to carry out the appointee duties on their behalf, **the organisation** remains responsible for the management of the person's affairs. Organisations should therefore make any nominated representatives aware of their responsibilities to both the organisation and the person named at **Part 1** and will need to provide them with a letter confirming they are authorised to act on behalf of the organisation. This certificate can be found on form **BF57**.

If you are acting as a representative within an organisation, there are some aspects that need to be considered in addition to those already mentioned. When quoting the appointee details, it is the organisation details that must be given and not those of an individual.

You will need to contact us if any of the following details change

- the organisation name
- the organisation address, including postcode
- phone and fax number
- the organisation ceases to exist, for example, a nursing or care home closes
- bank account details.

Appendix 2

An example of form BF57

	[Office stamp]
	L]

Our direct dial number is

	Code Number
--	------------------------------

If you have textphone, you can call on

	Code Number
--	------------------------------

If you get in touch with us, tell us this reference number

--	--

Date

	/ /
--	----------------------

New or existing appointment to act

We approached your application to act as an appointee on behalf of the person name in Part 1. This appointment will take place immediately.

Your existing appointment as _____ authorises you to act on behalf of the person named in Part 1 for Department for Work and Pensions and Inland Revenue tax credit purposes.

We have returned the following documents _____

You are authorised to exercise on behalf of the person named in Part 1 any rights which they might have under social security legislation or the Board of the Inland Revenue. You will also receive and administer any money which may be due to them. You must tell us about any changes that might affect your appointment.

Part 1 – About the person you are acting for

Surname	Mr/Mrs/Miss/Ms/Dr/Rev
Other names – in full	
National Insurance (NI) number	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Full Address	
If different from above	
	Postcode

Please turn over ▶

BF57 10/04

New or existing appointment to act continued

Part 2 – About you

Full name of individual or organisation	<input type="text"/>
National Insurance (NI) number (Individuals only)	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Address	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	Postcode

If any of the details in Parts 1 and 2 are incorrect, please let us know.

Important – Organisations should fill in the certificate in Part 4, or provide their representative with a similar letter of authority.

Part 3 – Important information

You are responsible for dealing with the:

- social security benefits
- social security pensions
- social security allowances
- Inland Revenue tax credits

For the person named in Part 1. This includes claiming and receiving all of the above.

Any money that you receive on their behalf must be used in their and their dependant's interest, For example

- paying their fees for a care home or carer
- towards meeting everyday living costs.

However, if they are in a care home, you must ensure they receive the specified amount of personal allowance each week.

You will have to tell the person's local office, Pension Centre or Inland Revenue office straight away if there is a change in the person's circumstances which could affect their benefit. A list of changes that must be reported is given in the notes issued with the first payment of benefit. If you do not have a copy of the list of changes you must report, you can get one from your local office or Pension Centre.

Examples of changes you must tell us about are:

- change of name
- change of address
- a child leaving school
- the person goes into or comes out of hospital, including coming out of hospital on leave
- the person becomes well enough to manage their own affairs
- the person intends to be absent from Great Britain for any period
- the person dies.

If the person named in Part 1 dies, please

- tell your local office, Pension Centre or Inland Revenue office straight away where their payments were being made direct into an account.
- return any cheque payments.

This list is not exhaustive.

You are also responsible for letting us know if there are any changes in

New or existing appointment to act continued

Part 3 – Important information continued

your:

- name
- address
- contact number
- account details.

If an overpayment happens

If an overpayment of benefit occurs, you may be required to repay the overpayment yourself depending on how the overpayment arose.

You will be responsible for repaying any overpayment of benefit that happened because you

- knowingly made an untrue or incorrect statement about yourself or the person named in **Part 1**
- failed to report a change in your own circumstances
- failed to report a change in the circumstances, which you knew about, in respect of the person named in **Part 1**
- failed to obtain relevant information about the circumstances of the person named in **Part 1**.

If you have been appointed by the Secretary of State (appointees only)

How long can I be an appointee?

You will be an appointee?

- the person named in Part 1 becomes well enough to manage their own affairs
- the person named in Part 1 dies, or
- you or the Department for Work and Pensions or the Inland Revenue decide to end the arrangement because it is not working properly
- you wish to end the arrangement because you no longer wish to continue as an appointee.

If you want to end the arrangement you must write to your Jobcentre Plus office, Pension Centre, social security office or Inland Revenue office, giving them at least one month's notice.

Please turn over ►

New or existing appointment to act continued

Additional information for organisations

All appointees are responsible for the collection and administration of the benefits, pensions and allowances as well as tax credits. If the organisation nominates a person to carry out duties on their behalf, the organisation remains responsible for the management of the affairs of the person named in Part 1. Appointees should therefore make any nominated representatives aware of their responsibilities to both the organisation and the person named in Part 1.

If you are acting as a representative within an organisation, there are some aspects that need to be considered in addition to those already mentioned. When quoting the appointee's details, it is the organisation's details that must be given and not those of an individual.

You will need to contact us if any of the following details change:

- the organisation's name
- the organisation's address (including postcode)
- phone and fax number
- if your organisation ceases to exist, for example, a care home close
- if the benefit of the person named in Part 1 is paid direct into a bank or building society account please inform us of any changes in the relevant account details.

Part 4 – For organisations only

The bearer of this document is a representative of this organisation and is authorised to collect any benefits, pensions or allowances in respect of the person named in Part 1.

Signature

Date

Positions in organisation

Name of organisation

Notes for the representative

If the payment is made direct into a bank or building society account the organisation should ensure that you are correctly authorised to make withdrawals on behalf of the customer and that bank procedures for making withdrawals are followed. Contact the bank or building society where the accounts is held for further details.

Appendix 3

An example of form BF58

BF58 10/04	<input type="checkbox"/> Office stamp																	
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	/		/															
<h3>End of appointment to act for social security and Inland Revenue tax credit affairs</h3>																		
<p>About you</p> <p>Full name of individual or organisation <input style="width: 100%;" type="text"/></p> <p>National Insurance (NI) number (individuals only) <input style="width: 15px;" type="text"/> <input style="width: 15px;" type="text"/> <input style="width: 15px;" type="text"/> <input style="width: 15px;" type="text"/> <input style="width: 15px;" type="text"/> <input style="width: 15px;" type="text"/> <input style="width: 15px;" type="text"/> <input style="width: 15px;" type="text"/> <input style="width: 15px;" type="text"/> <input style="width: 15px;" type="text"/></p> <p>Address <input style="width: 100%;" type="text"/> <input style="width: 100%;" type="text"/> <input style="width: 100%;" type="text"/></p> <p style="text-align: right;">Postcode <input style="width: 100%;" type="text"/></p>																		
<p>Your appointment to act on behalf of <input style="width: 100%;" type="text"/></p> <p style="text-align: center;">Mr/Mrs/Miss/Ms/Dr/Rev</p> <p>for their social security and Inland Revenue tax credit affairs will end from and including <input style="width: 100%;" type="text"/></p>																		
<p>This letter does not affect any legal or court appointments made which still exist.</p>																		
<p>Please read this part if we have ticked the box</p> <p><input type="checkbox"/> Please return any payments to us. Use the envelope we have sent you. It does not need a stamp.</p>																		

Appendix 4

AIDE-MEMOIRE

MENTAL CAPACITY ACT

The Mental Capacity Act places legal obligations on the appointee when making decisions on behalf of the claimant. When discussing their responsibilities you must mention the following:

- The appointee must always act in the best interests of the customer. This includes managing and spending any benefits in a way that best serves the interests of the customer.
- Decisions on how benefit money is spent must reflect the customer's individuality. This means the appointee should take account of the customer's feelings, beliefs and values. They cannot take account of their own feelings etc in making these decisions.
- If the customer becomes capable of managing their own affairs the customer and appointee must tell the Department.
- If a customer has lucid moments or periods where they are able to make decisions, the appointee must use these to ask the customer about spending options.
- The appointee must report any changes in the customer's circumstances.
- If the appointee is responsible for paying care home fees and/or fees for social care services eg help at home, they must do so. Ideally a direct debit or standing order should be set up with the LA or care provider.
- They must not take a "fee" or "pay" for acting as an appointee.
- It is a criminal offence to ill-treat or wilfully neglect the customer.
- Appointeeship is a position of trust. If it is abused, the appointeeship will be revoked.

You must also ensure that the prospective appointee has, where it is relevant, cleared his request to act with any other interested parties eg other family members, next of kin.

Appendix 5

AIDE-MEMOIRE MENTAL CAPACITY ACT

Your obligations as an appointee

The Mental Capacity Act places legal obligations on you as an appointee when making decisions on behalf of the claimant.

- You must always act in the best interests of the customer. This includes managing and spending any benefits in a way that best serves the interests of the customer.
- Decisions on how benefit money is spent must reflect the customer's individuality. This means you should take account of the customer's feelings, beliefs and values. You cannot take account of your own feelings etc in making these decisions.
- If the customer becomes capable of managing their own affairs you must tell the Department.
- If a customer has lucid moments or periods where they are able to make decisions, you should use these to ask the customer about spending options.
- You must report any changes in the customer's circumstances.
- If you are responsible for paying care home fees and/or fees for social care services eg help at home, you must do so. Ideally a direct debit or standing order should be set up with the LA or care provider.
- You must not take a "fee" or "pay" for acting as an appointee.
- It is a criminal offence to ill-treat or wilfully neglect the customer.
- You are in a position of trust. The department will withdraw your appointee status if we think that you are not acting in the best interest of the customer.

Appendix 6

Draft letter to appointee/attorney about withholding benefit

Letter to the Attorney notifying them that DWP is withholding payment of benefit where there are serious concerns that the Attorney is not acting in the best interest of the customer.

Dear (a)

Re Name (b)

Address (c)

I am writing to advise you that as that as the appointee/attorney of (b) you have responsibility for managing (b) affairs in (d) best interests.

It has come to my attention that you have (f)

I am therefore considering whether payment of the social security (e) in respect of (b) should continue to be paid to you and also whether it would now be more appropriate for another person to be appointed to act for (b) for social security purposes.

I would be grateful if you could advise me if there are any reasons why you have (f) and how you are going to rectify this to ensure that the (e) of (b) is being used in (d) best interest.

If I do not hear from you within 2 weeks I may decide to withhold any further payments to you on behalf of (b).

Yours sincerely

for Manager

Notes for completion:

- (a) enter name of appointee/attorney
- (b) enter customer's name
- (c) enter customer's address
- (d) enter his or her as appropriate
- (e) enter benefit/pension or allowance as appropriate
- (f) enter reason for concerns i.e. failed to pay outstanding care home fees due for (b):

Note: This letter should be typed on your office headed note paper

- (b) to pay any amount owing for the maintenance of the patient
 - (c) to pay or retain any out of pocket expenses properly incurred and any fees paid or payable to the Public Trustee in relation to this application and Order
 - (d) to apply the balance as a supplement to the Patient's income
5. An enquiry is to be made by the court or the Public Trustee as and when required and the first of such enquiries will be made one year from the date of this Order
 6. Any securities and documents of title belonging to the Patient and any jewellery not required for the Patient's own use are to be deposited in the name of the Patient with the Bank at which the Deputy maintains the Receivership Bank account and are to remain so deposited subject (during the lifetime of the Patient) to the directions of the Court or the Public Trustee
 7. A sum equal to the annual administration fee charged by this court and collected by the Public Trustee in this matter is to be allowed to the Deputy (together with VAT thereon and in addition to such out-of-pocket expenses as the Court or the Public Trustee may approve) towards meeting the expenses incurred by him pursuant to Section 49 of the National Assistance Act 1948
 8. The lodgment may be made and the fund is to be dealt with as provided in the Lodgement and Payment Schedule and for that purpose the Deputy is authorised in the name and on behalf of the Patient to give any necessary notices of withdrawal.

FIRST LODGMENT

LODGMET AND PAYMENT SCHEDULE

COURT OF PROTECTION

Order dated the

Ledger Credit:-

I.-LODGMET

Particulars of Funds to be lodged to the account of the Accountant-General of the Supreme Court.	Person to make the Lodgmt.	Amounts	
		Money	Securities
		£	p
Cash (Para. 3b)	Building Society	10,000.00	

IL-PAYMENT

Fund TO BE LODGED

Particulars of Payments, Transfers, or other operations to be carried out by the Accountant-General of the Supreme Court.	Payees and Transferees of Titles of separate Accounts.	Amounts	
		Money	Securities
		£	p

Invest cash lodged by placing to
Special Account

Pay Interest Director of Social Services

Requested by:- DIRECTOR OF SOCIAL SERVICES
County Council


Our Ref: IG/AO

GU0822Ts FGOMar

Appendix 8

An example of an evidence of appointment for a Curator bonis

<p style="text-align: center;"><u>COURT OF SESSION, SCOTLAND</u></p> <p style="text-align: center;"><i>CERTIFIED COPY</i></p> <p style="text-align: center;">INTERLOCUTOR</p> <p style="text-align: center;"><i>In Petition of</i></p> <p style="text-align: center;">FOR</p> <p style="text-align: center;">Appointment of a CURATOR <u>Bonis</u> to</p> <p style="text-align: right;"><u>(Date)</u></p> <p style="text-align: center; font-size: small;">Db. 393347 1m 6 / 75 TTP Ltd. 3244 / 1</p>

	<p>Lancashire</p> <p>for</p> <p>Appointment of a Curator <u>Bonis</u> to formerly residing at and presently a patient at Hospital, _____</p>
(Date)	Lord Stewart
<p>The Lord Ordinary having considered the Petition and proceedings, no answers having been lodged, nominates and appoints Solicitor, _____ to be curator <u>bonis</u> to _____ designed in the petition with the usual powers and decerns: authorises the said _____ after finding caution to enter upon the duties of his office upon a certified copy of this interlocutor with a schedule of the curatory estate annexed thereto: finds the petitioner entitled to the expenses of this application and procedure following thereon out of the curatory estate and remits the account thereof when lodged to the Auditor of Court for taxation.</p>	
(sgd)	
<p>EDINBURGH, (Date)</p> <p>Certified a true copy</p>	
	<p>Assistant Clerk of Session</p>

£1352.42 3½% War Stock at 50%	£682.97	
Interest thereon	47.32	
Deposit Receipt	280.00	
Liferent payments from the estate of the late M mother of the incapax	662.12	
War Pension of	23.87	per week
Arrears of pension in the hands of the Department of Health and Social Security	2000.00	

Appendix 9a

Prescribed format for an Enduring Power of Attorney for the period 1 November 1987 to 31 July 1990

Enduring Power of Attorney

Part A: About using this form

1. You may choose one attorney or more than one. If you choose more than one, you must decide whether they are able to act:

- **Jointly** (that is, they must all act together and cannot act separately) or
- **Jointly and severally** (that is, they can all act together but they can also act separately if they wish)

On the form, at the place marked 1, show what you have decided by crossing out one of the alternatives.

2. If you give your attorney(s) general power in relation to all your property and affairs, it means that they will be able to deal with your money or property and may be able to sell your house.

3. If you don't want your attorney(s) to have such wide powers, you can include any restrictions you like. For example, you can include a restriction that your attorney(s) must not act on your behalf until they have reason to believe that you are becoming mentally incapable; or a restriction that your attorney(s) may not sell your house. Any restrictions you choose must be written or typed on the form in the place marked 2.

4. Unless you put in a restriction preventing it, your attorney(s) will be able to use any of your money or property to benefit themselves or other people by doing what you yourself might be expected to do to provide for their needs.

Your attorney(s) will also be able to use your money to make gifts, but only for reasonable amounts in relation to the value of your money and property.

5. Your attorney(s) can recover the out-of-pocket expenses of acting as your attorney(s). If your attorney(s) are professional people, for example solicitors or accountants, they may be able to charge for their professional services as well.

6. If your attorney(s) have reason in the future to believe that you have become or are becoming mentally incapable of managing your own affairs, your attorney(s) will have to apply to the Court of Protection for registration of this power.

7. Before applying to the Court of Protection for registration of this power, your attorney(s) must give written notice that that is what they are going to do, to you and your nearest relatives, as defined in the Enduring Powers of Attorney Act 1985. You or your relatives will be able to object if you or they disagree with the registration.

8. This is a simplified explanation of what the Enduring Powers of Attorney Act 1985 and the Rules and Regulations say. If you need more guidance, you and your advisers will need to look at the Act itself and the Rules and Regulations. The Rules are the Court of Protection (Enduring Powers of Attorney) Rules 1986. (Statutory Instrument 1986 No 127). The Regulations are the Enduring Powers of Attorney (Prescribed Form) Regulations 1987 (Statutory Instrument 1987 No 1612).

9. Note to Attorney(s)
After the power has been registered the attorney(s) should notify the Court of Protection if the donor dies or recovers.

You can cancel this power at any time before it has to be registered

Part B: To be completed by the 'donor' (the person appointing the attorney(s))

Don't sign this form unless you understand what it means

Please read the notes in the margin

Donor's name & address

I
of

Donor's date of birth

born on

Attorney(s) name(s) and address(es)

appoint
of

• [and
of

See note 1 on the front of this form. If you are appointing only one attorney cross out everything between the square brackets

1

Cross out the one which does not apply (see note 1 on the front of this form)

- **Jointly**
- **Jointly and severally**]

to be my attorney(s) for the purposes of the Enduring Powers of Attorneys Act 1985

Cross out the one which does not apply (see note 2 on the front of this form)

- with general authority to act on my behalf
- with authority to do the following on my behalf:

If you don't want the attorney(s) to have general power, you must give details here of what authority you are giving the attorney(s)

in relation to

Cross out the one which does not apply

- all my property and affairs
- the following property and affairs:

Part B: continued

Please read the notes in the margin

If there are restrictions or conditions, insert them here; if not, cross out these words (see note 3 on the front of this form)

Your signature

Date

Someone must witness your signature

Signature of witness

Your attorney(s) cannot be your witness. If you are married it is not advisable for your husband or wife to be your witness

2 subject to the following restrictions and conditions:

I intend that this power shall continue even if I become mentally incapable.

I have read or have had read to me the notes in Part A which are part of, and explain this form.

Signed, sealed and delivered by me



L.S.

on

In the presence of

Full name of witness

Address of witness

.....
.....
.....

Part C: To be completed by the attorney(s)

Note

- This form may be adapted to provide for sealing by a corporation with its common seal
- If there are more than two attorneys attach an additional Part C

Don't sign this form before the donor has signed Part B

Signature of Attorney

Date

Signature of witness

Each Attorney must sign the form and each signature must be witnessed. The donor may not be the witness and one attorney may not witness the signature of the other

I understand that I have a duty to apply to the Court for the registration of this form under the Enduring Powers of Attorney Act 1985 when the donor is becoming or has become mentally incapable

I also understand my limited power to use the donor's property to benefit persons other than the donor.

I am not a minor

Signed, sealed and delivered by me



L.S.

on

In the presence of

Full name of witness

Address of witness

I understand that I have a duty to apply to the Court for the registration of this form under the Enduring Powers of Attorney Act 1985 when the donor is becoming or has become mentally incapable

I also understand my limited power to use the donor's property to benefit persons other than the donor.

I am not a minor

Signed, sealed and delivered by me



L.S.

on

In the presence of

Full name of witness

Address of witness

Appendix 10

ENDURING POWER OF ATTORNEY

Notes: Stat Plus Form P.A.2 Continuation Part C, is available for use in those cases where it is intended to appoint more than one attorney (See Part C, Note 2).

If you intend to appoint one attorney with general power you may prefer to use the simplified Stat Plus Form P.A.3 which has been adapted in accordance with the Regulations where the donor and attorney are capable of signing or making their mark themselves.

(The notes shown above in italics are not part of this Form).

Part A: About using this form

1. You may choose one attorney or more than one.

If you choose one attorney then you must delete everything between the square brackets on the first page of the form. If you choose more than one, you must decide whether they are able to act:

- Jointly (that is, they must all act together and cannot act separately) or
- Jointly and severally (that is, they can all act together but they can also act separately if they wish).

On the first page of the form, show what you have decided by crossing out one of the alternatives.

2. If you give your attorney(s) general power in relation to all your property and affairs, it means that they will be able to deal with your money or property and may be able to sell your house.

3. If you don't want your attorney(s) to have such wide powers, you can include any restrictions you like. For example, you can include a restriction that your attorney(s) must not act on your behalf until they have reason to believe that you are becoming mentally incapable; or a restriction as to what your attorney(s) may do. Any restrictions you choose must be written or typed where indicated on the second page of the form.

4. If you are a trustee (and please remember that co-ownership of a home involves trusteeship), you should seek legal advice if you want your attorney(s) to act as a trustee on your behalf.

5. Unless you put in a restriction preventing it your attorney(s) will be able to use any of your money or property to make any provision which you yourself might be expected to make for their own needs or the needs of other people. Your attorney(s) will also be able to use your money to make gifts, but only for reasonable amounts in relation to the value of your money and property.

6. Your attorney(s) can recover the out-of-pocket expenses of acting as your attorney(s).

If your attorney(s) are professional people, for example solicitors or accountants, they may be able to charge for their professional services as well. You may wish to provide expressly for remuneration of your attorney(s) (although if they are trustees they may not be allowed to accept it).

7. If your attorney(s) have reason to believe that you have become or are becoming mentally incapable of managing your affairs, your attorney(s) will have to apply to the Court of Protection for registration of this power.

8. Before applying to the Court of Protection for registration of this power, your attorney(s) must give written notice that that is what they are going to do, to you and your nearest relatives as defined in the Enduring Powers of Attorney Act 1985. You or your relatives will be able to object if you or they disagree with registration.

9. This is a simplified explanation of what the Enduring Powers of Attorney Act 1985 and the Rules and Regulations say. If you need more guidance, you or your advisers will need to look at the Act itself and the Rules and Regulations. The Rules are the Court of Protection (Enduring Powers of Attorney) Rules 1986 (Statutory Instrument 1986 No 127). The Regulations are the Enduring Powers of Attorney (Prescribed Form) Regulations 1990 (Statutory Instrument 1990 No 1376).

10. Note to Attorney(s)

After the power has been registered you should notify the Court of Protection if the donor dies or recovers.

11. Note to Donor

Some of these explanatory notes may not apply to the form you are using if it has already been adapted to suit your particular requirements.

YOU CAN CANCEL THIS POWER AT ANY TIME BEFORE IT HAS TO BE REGISTERED

P.A. Form 2

Published by Stat Plus Group plc, London, SW19 2PU @ 1993

Part B: To be completed by the 'donor' (the person appointing the attorney(s))

Don't sign this form unless you understand what it means

Please read the notes in the margin which follow and which are part of the form itself.

Donor's name and address

Donor's date of birth

See note 1 on the front of this form. If you are appointing only one attorney you should cross out everything between the square brackets. If appointing more than one attorneys please give the additional names(s) on an attached sheet.

Cross out the one which does not apply (see note 1 on the front of this form).

Cross out the one which does not apply (see note 2 on the front of this form). Add any additional powers.

If you don't want the attorney(s) to have general authority you must give details here of what authority you are giving the authority(s)

Cross out the one which does not apply.

I

Of.....

Born on

Appoint

Of.....

[and

of

- Jointly
- Jointly and severally]

To be my attorney(s) for the purpose of the Enduring Powers of Attorney Act 1985

- With general authority to act on my behalf
- With authority to do the following on my behalf:

In relation to

- all my property and affairs
- The following property and affairs

Stat Plus Group plc

Part B: continued

Please read the notes in the margin which follow and which are part of the form itself.

If there are restrictions or conditions, insert them here; if not, cross out these words if you wish (See note 3 on the front of this form).

If this form is being signed at your direction:

- the person signing must not be an attorney or any witness (to Parts B or C).
- you must add a statement that this form has been signed at your direction.
- a second witness is necessary (please see below).

Your signature (or mark)

Date

Someone must witness your signature.

Signature of witness

Your attorney(s) cannot be your witness. It is not advisable for your husband or wife to be your witness.

A second witness is only necessary if this form is not being signed by you personally but at your direction (for example, if a physical disability prevents you from signing).

Signature of second witness

- subject to the following restrictions and conditions:

I intend that this power shall continue even if I become mentally incapable.

I have read or have had read to me the notes in Part A which are part of, and explain, this form.

Signed by me as a deed
and delivered

on

in the presence of

Full name of witness

Address of witness

.....

.....

in the presence of

Full name of witness

Address of witness

.....

.....

.....

Part C: To be completed by the attorney(s)

- Note
1. This form may be adapted to provide for execution by a corporation.
 2. If there is more than one attorney additional sheets in the form as shown below must be added to this Part C.

Please read the notes in the margin which follow and which are part of the form itself.

Don't sign this form before the donor has signed Part B or if, in your opinion, the donor was already mentally incapable at the time of signing Part B.

If this form is being signed at your direction:

- the person signing must not be an attorney or any witness (to Parts B or C).
- you must add a statement that this form has been signed at your direction.
- a second witness is necessary (please see below).

Signature (or mark) of attorney.

Date.

Signature of witness.

The attorney must sign the form and his signature must be witnessed. The donor may not be the witness and one attorney may not witness the signature of the other.

A second witness is only necessary if this form is not being signed by you personally (for example, if a physical disability prevents you from signing).

Signature of second witness

I understand that I have a duty to apply to the court for the registration of this form under the Enduring Powers of Attorney Act 1985 when the donor is becoming or has become mentally incapable.

I also understand my limited power to use the donor's property to benefit persons other than the donor.

I am not a minor.

Signed by me as a deed
and delivered

on

in the presence of

Full name of witness

Address of witness

.....

.....

in the presence of

Full name of witness

Address of witness

.....

.....

Appendix 11

An example of a Power of Attorney issued under section 10 of the Power of Attorney Act 1971

SCHEDULES

SCHEDULE 1

Section 10

FORM OF GENERAL POWER OF ATTORNEY FOR PURPOSES OF
SECTION 10

THIS GENERAL POWER OF ATTORNEY is made this day of 19 by

AB of

I appoint CD of

[*or* CD of

and

EF of

jointly *or*

jointly and severally] to be my attorney[s] in accordance with section 10 of the Powers of

Attorney Act 1971.

IN WITNESS etc

Appendix 12

An example of a Scottish Power of Attorney

POWER of ATTORNEY

by

in favour of

(day, month and year)

JBK

I, _____ residing at _____

CONSIDERING that due to physical infirmity I consider it advisable that I should appoint an Attorney to act on my behalf; THEREFORE I DO HEREBY NOMINATE, CONSTITUTE and APPOINT _____

_____ residing at _____ and, _____ residing at _____

aforsaid (being hereinafter referred to as “my Attorney”) to be my Attorney with full power to my Attorney for me and in my name to do all or any of the following: (a) to uplift, receive and discharge all dividends, interests or other sums, whether of capital or income including any repayments of income tax, falling due to me from time to time and to grant receipts and discharges therefor; (b) to uplift any monies standing in my name in any Bank or Banks, and to sign or endorse all cheques, withdrawal forms or other documents which may be required in that connection; (c) to borrow money on my behalf binding me and my executors and representatives jointly and severally for repayment thereof and that on such terms as to interest and otherwise as my Attorney may deem fit, and to grant security therefor over any part of my property, whether heritable or moveable, real or personal; (d) to realise any of the investments which I may from time to time hold and to invest any monies which may be in the hands of my Attorney from time to time in such investments as my Attorney may consider advisable even although the said investments so held or made are not of a kind sanctioned for Trustees by Statute, provided only my Attorney considers them reasonably safe and for that purpose for me and in my name to grant and subscribe all necessary transfers or other documents; (e) to let or to lease any property which may belong to me; (f) to sell any heritable property which I may from time to time hold and that by Public Group or/

Private Bargain, with or without advertisement, and at such price or prices as my Attorney may think proper, to receive payment of the price or prices, and to grant in favour of the Purchaser or Purchasers all necessary conveyances with all usual and necessary clauses and binding me in absolute warrantice; (g) to pursue all actions or processes of law of what kind soever in any Court and to use all manners of diligence and execution to vindicate my rights, and to defend all actions or processes and to resist all diligence and execution which may be brought or used or threatened against me or my estate and sist herself as Mandatory or to procure some other person or Company to do so for or without payment of a premium or other consideration; (h) to settle all questions, matters and disputes by compromise or arbitration, or advice of Counsel, and to give time to debtors, with or without security, and to accept part of the whole or otherwise to settle questions arising with debtors, creditors, purchases and others according as my Attorney shall determine; and (I) generally to do everything in connection with the whole means and estate, both heritable and moveable, now belonging to me, or which may hereafter belong to me, which I could do myself, or to which the Office of Attorney is known to belong; Declaring that all receipts, discharges or other deeds and documents granted by my Attorney to whatever person or persons, and all acts and deeds done by her in execution of these presents, shall be equally valid and binding as if granted and done by myself; And I provide that my Attorney shall incur no responsibility whatever on account or in respect of her actings, intromissions, management or omissions save only to account to me for the funds which she may actually and personally receive; And Declaring also that this Power of Attorney shall subsist until recalled by me in writing; Further declaring/

declaring that this Power of Attorney shall subsist in terms of Section 71 of the Law Reform (Miscellaneous Provisions) Scotland Act 1990: And I consent to registration hereof for preservation: IN WITNESS WHEREOF these presents typewritten on this and the two preceding pages are subscribed by me the said

at _____ on the _____ (day) of _____ (month and year)
before this witness.

Witness

OFFICE OF THE PUBLICAN GUARDIAN
SCOTTISH POWER OF ATTORNEY UNDER
THE ADULTS WITH INCAPACITY
(SCOTLAND) ACT 2000

**CERFITICATE OF REGISTRATION OF POWER OF
ATTORNEY**

Certificate Number

Case Reference Number

I hereby certify that the attached Power of Attorney granted by

on 15 March 2002

has been registered with the Office of the Public Guardian in
terms of the Adults with Incapacity (Scotland) Act 2000
Section 19.

Public Guardian

08 April 2002

Please keep this certificate and attached document in a safe place.

If this Certificate is found please return it to the Public Guardian

*The Office of the Public Guardian, Hadrian House, Callendar Business Park, Falkirk FK1
1XR*

Tel: 01324 678 300

[www. publicguardian scotland.gov.uk](http://www.publicguardian.scotland.gov.uk)

e-mail: opg@scotcourts.gov.uk

Continuing and Welfare Power of Attorney

By name of customer

1. **Appointment**

1.1 I *name of customer and address* appoint *name and address of attorney* to be my continuing attorney in terms of section 15 of the Adults with Incapacity (Scotland) Act 2000 (which net and any subsequent amendments of that is referred to as the “Act”).

1.2 I appoint the said *name of attorney* to be my welfare attorney in terms of section 16 of the said Act.

1.3 My continuing attorney and my welfare attorney are each referred to as my “Attorney”.

2 **General Powers**

2.1 My Attorney may manage my whole affairs as my Attorney thinks fit and shall have full power for me and in my name of their own names as my Attorney to do everything regarding my estate which I could do myself and that without limitation by reason of anything contained in this power of attorney or otherwise.

2.2 In the event of my being incapable in terms of the Act in relation to decisions about my personal welfare, or in the event that my Attorney reasonably believes that that is the case, then my Attorney may make decisions on my behalf in relation to my personal welfare.

2.3 My Attorney shall be subject to the requirements of the Act.

2.4 Without prejudice to these general powers my Attorney shall have the powers set out in the following clauses.

3. **Particular continuing powers**

My Attorney may

3.1 Collect, sue for, receive, discharge and settle all sums, property or rights due to or which may become due to me;

3.2 Draw cheques on and sign forms of withdrawal to uplift money from, or credit money to, or open or close, any accounts in my name including accounts held in common with other persons;

- 3.3 Authorize expenditure for any service or for the purchase of any item which is required for my benefit, and pay any accounts incurred by me for my benefit;
- 3.4 Invest any sum or sums which may be available for investment in such a way as my Attorney in their discretion may think best; and vary the terms of any investment; and purchase any property heritable or moveable wherever situated including property held in common with other persons;
- 3.5 Exchange, sell or lease by public auction or private contract any part of the property, heritable or moveable wherever situated from time to time belonging to me;
- 3.6 Have access to any information regarding my financial affairs;
- 3.7 Give up and sign on my behalf all returns, claims and forms which may be required in connection with my liability to taxation;
- 3.8 Administer and manage any heritable property wherever situated in which I may be interested; repair, maintain, renew and improve the same and erect additional buildings and structures; grant, accept, vary and terminate leases and rights of tenancy or occupancy; plan, thin and cut down timber; work or let minerals; grant or accept feus; excamb land; all as my Attorney may think proper and as if they were the owners of the property;
- 3.9 Commence, run, sell or wind up, whether alone or in conjunction with other persons, any business; appoint or employ any person (including himself) in any capacity in relation to such a business and pay suitable remuneration; delegate the running of such a business to any extent that my Attorney may think proper;
- 3.10 Raise or defend any action or judicial or other proceedings in which I am or may be interested so far as they may consider necessary or expedient, refer to arbitration any questions or disputes which I am or may become involved; appeal against, enforce or implement any judgement, order or award and appear or instruct appearance on my behalf before any tribunal, commission or other official inquiry;
- 3.11 Attend, act and vote for me at all meetings of any company or partnership in which I may be interested;
- 3.12 Continue any guarantee or indemnity I may have given, or grant or join in any guarantee or indemnity in respect of any obligation due or to become due by any person;

- 3.13 Borrow or lend with or without security, jointly with others or severally;
- 3.14 Make gifts of my property of whatever sort and however situated to any of my spouse, my children and remoter issue, any other person, charity or organisation to whom I have been in the habit of making gifts, trusts established for the benefit in any way of any of these, and any trust for the administration of my affairs, establish any trust for the benefit of any of these persons, sign a deed of variation of any testamentary provision in my favour for the benefit of any of these persons; and pay any tax chargeable in respect of such gifts;
- 3.15 Have access to confidential information about my will and other testamentary provisions;
- 3.16 Employ solicitors, factors, stockbrokers, investment managers, brokers or other agents, delegate to them such powers as my Attorney thinks fit; act themselves in any of these ways if qualified, and pay themselves, if so acting, and also for acting as my Attorney, the usual professional remuneration;
- 3.17 Reimburse themselves for any reasonable outlays or out of pocket expenses incurred while acting as my Attorney.

4. **Particular welfare powers**

My Attorney may

- 4.1 Decide what care and accommodation may be appropriate to me;
- 4.2 Consent to any medical treatment or procedure or therapy of whatever nature my Attorney may decide is for my benefit and may provide access for that, or may refuse such consent;
- 4.3 Consent to any medical research involving me but subject to the restrictions in the Act;
- 4.4 Decide about my taking part in education, training, work, holidays, and cultural or social activities;
- 4.5 Make decisions on my dress, diet and personal appearance;
- 4.6 Exercise any rights of access I have in relation to personal data and records;
- 4.7 Take any legal action on my behalf involving my personal welfare;

- 4.8 Receive the usual remuneration for acting as a solicitor or otherwise in the exercise of this welfare power of attorney;
- 4.9 Be reimbursed for any reasonable outlays or out of pocket expenses incurred while acting as my Attorney.

5 **Validity of decisions**

All decisions which may be made and all documents which may be granted by my Attorney shall be equally valid and binding as if made or granted by me.

6 **Recall**

This continuing and welfare power of attorney shall subsist until it is recalled by a writing signed by me or until my death.

This document is executed as follows:

Signature of witness

Signature of

Full name of witness

Date of signing

Address of witness

Place of signing

SCHEDULE 1

Regulation 2

CERTIFICATE UNDER SECTION 15(3)(c) OF THE ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000 TO BE INCORPORATED IN A DOCUMENT GRANTING A CONTINUING POWER OF ATTORNEY

<p><i>Insert names and date</i></p>	<p>This certificate is incorporated in the document subscribed by</p> <p>("the granter") on</p> <p>that confers a continuing power of attorney on</p>
<p><i>Insert date</i></p>	<p>I certify that:</p> <p>A. I interviewed the granter on</p> <p>Immediately before he/she subscribed this continuing power of attorney</p> <p>AND</p> <p>B. I am satisfied that, at the time this continuing power of attorney was granted, the granter understood its nature and extent</p> <p>I have satisfied myself of this:</p>
<p><i>Delete either (a) or (b) if not applicable. Both may apply but one must apply.</i></p>	<p>(a) because of my own knowledge of the granter;</p> <p>(b) because I have consulted the following persons, who have knowledge of the granter on the matter -</p>

<p><i>Insert names, designations, addresses and relationship with granter, if any</i></p>	<p>AND</p> <p>(c) I have no reason to believe that the granter was acting under undue influence or that any other actor vitiates the granting of this continuing power of attorney.</p>
<p><i>Include full name, and state whether address given is business or personal</i></p>	<p>Signed:</p> <p>Date:</p> <p>Print name:</p> <p>Profession:</p> <p>Address:</p> <p>Note: any person signing this certificate should not be the person to whom this continuing power of attorney has been granted.</p>

SCHEDULE 2

Regulation 3

CERTIFICATE UNDER SECTION 16(3)(c) OF THE ADULTS WITH INCAPACITY (SCOTLAND) ACT TO BE INCORPORATED IN A DOCUMENT GRANTING A WELFARE POWER OF ATTORNEY

<p><i>Insert names and date</i></p>	<p>This certificate is incorporated in the document subscribed by</p> <p>("the granter") on</p> <p>that confers a welfare power of attorney on</p>
<p><i>Insert date</i></p>	<p>I certify that:</p> <p>A. I interviewed the granter on</p> <p>Immediately before he/she subscribed this welfare power of attorney</p> <p>AND</p> <p>B. I am satisfied that, at the time this welfare power of attorney was granted, the granter understood its nature and extent</p> <p>I have satisfied myself of this:</p>
<p><i>Delete either (a) or (b) if not applicable. Both may apply but one must apply.</i></p>	<p>(a) because of my own knowledge of the granter;</p> <p>(b) because I have consulted the following persons, who have knowledge of the granter on the matter -</p>

<p><i>Insert names, designations, addresses and relationship with granter, if any</i></p>	<p>AND</p> <p>(c) I have no reason to believe that the granter was acting under undue influence or that any other actor vitiates the granting of this continuing power of attorney.</p>
<p><i>Include full name, and state whether address given is business or personal</i></p>	<p>Signed:</p> <p>Date:</p> <p>Print name:</p> <p>Profession:</p> <p>Address:</p> <p>Note: any person signing this certificate should not be the person to whom this continuing power of attorney has been granted.</p>

Appendix 14

Validation Stickers used on EPA/LPA's Registered After 1st October 2007

The Mental Capacity Act 2005 came into force on the 1st October 2007, after which the Office of the Public Guardian will use 'holographic' stickers when registering EPA/LPA forms.

These stickers have been designed so that if they are removed or tampered with they will deface the form and invalidate it.

There are three types of stickers that are used at specified points on the form:

1. Registration sticker.



One of these is affixed to the bottom right hand corner of the front page of **every** registered EPA/LPA (from October 1st 2007).

The label has a small 'holographic' (silver) OPG disc in the left hand corner (does not copy well), the OPG brand logo in the right corner and specifies that the form has been '**Registered by the Public Guardian**'.

The contact details for anyone worried about the authenticity of a document are also provided.

2. Amendment Sticker



Wherever an amendment (e.g. crossing out) has been made to an application form prior to registration a small transparent circular sticker with the words '**This amendment was made prior to registration**' will be fixed beside it. If there is no label then it is likely the amendment has been made after registration and invalidates the EPA/LPA.

3. Validation Sticker



This sticker is fixed to the bottom right hand corner of **every** page (except the cover sheet) of the EPA/LPA, both sides. The validation Sticker is a small circular 'holographic' (sliver) sticker with Office of the Public Guardian' embedded into it.

Appendix 15

LPA PA 10.07

For official use only
Date of registration

Lasting Power of Attorney Property and Affairs

This is a Lasting Power of Attorney (LPA). It allows you (the donor) to choose someone (the attorney) to make decisions on your behalf. Your attorney(s) can only use the completed LPA after it has been registered with the Office of the Public Guardian (OPG).

Getting started

Before you complete this LPA you **must** read the prescribed information on the next three pages so that you understand the purpose and legal consequences of making an LPA. You should refer to the separate notes on how to complete this LPA when you are directed to because they will help you to complete it.

Things you will need to do to complete this LPA

- decide who to appoint as your attorney(s) in the LPA
- decide if you want to appoint a replacement attorney in case your attorney(s) cannot act for you
- decide whether you want anyone to be notified when an application is made to register your LPA and, if you do, who you want to be notified
- choose at least one independent person to provide a certificate at Part B of the LPA
- fill in part A of the LPA. Your certificate provider(s) will need to complete Part B. Your attorney(s) will need to complete Part C
- have a witness to your signature at the end of Part A of the LPA.

What to do after completing this LPA

An LPA can only be used after it has been registered with the OPG, so you will need to think about when you want it to be registered. There is a fee to register an LPA. Further information about how to register an LPA and what happens following registration is available from the OPG.

Information for you, your attorney(s) and your certificate provider(s) is available from the OPG. If you have any questions about how to complete this LPA please contact the OPG.

Office of the Public Guardian
Archway Tower
London N19 5SZ
0845 330 2900
www.publicguardian.gov.uk



Important - This form **cannot** be used until it has been registered by the Office of the Public Guardian and stamped on **every** page.

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