

FACTSHEET

Continuing power of attorney

What is a continuing power of attorney?

A continuing power of attorney (CPA) is a legal document that appoints one or more people (your attorney/s) to make financial decisions for you (the granter/donor), even if, in the future, you lose the mental capacity to make your own decisions.

A CPA has to be registered with the Office of the Public Guardian before it can be used. Whether the CPA can be exercised immediately or not will depend on the terms of the power of attorney, ie whether the granter has included a statement specifying a date or an event which must happen before the attorney can act.

By registering a CPA with us, you're letting us know that you're happy for your attorney to carry out transactions on your M&S Bank account/s in accordance with the power of attorney document.

Could a CPA be right for me?

There are two types of CPA, one for financial decisions and one for health and welfare decisions.

A CPA for financial decisions can cover things such as paying bills, investing money, buying or selling property. The CPA must be made by you and you choose whether to limit the decisions your attorney is able to make or to allow them to make all the decisions on your behalf. You can also decide if the CPA should be used immediately or only when you're no longer capable of making your own decisions.

Before deciding if a CPA is right for you, you might want to consider seeking legal advice or finding out more about the other options available to you.

See publicguardian-scotland.gov.uk for more information.

If you appoint more than one attorney and you appoint them to act jointly and one of them is unable to act, then the CPA ceases immediately. You cannot appoint replacement attorneys.

What important information do I need to know?

Mental capacity

You must have mental capacity to create a CPA, however, unlike a general power of attorney, it remains valid if you lose mental capacity.

Restrictions

Restrictions can be included if there are certain things you don't want your attorney to have control over. This may take longer to process if we need to get extra information from you.

Multiple attorneys

If you nominate multiple attorneys, you must specify on the CPA whether you want them to act jointly or individually. If you nominate two or more attorneys to act jointly, they won't have access to Telephone Banking/Internet Banking/a debit card.

Fees and registering

There are no fees to register a CPA with us.

What access does a CPA give?

To see what powers an attorney would have over your account, see our 'What an attorney can do' table below.

How do I grant a CPA?

If you feel a CPA may be right for you, you will need to decide whether to use a solicitor or write the POA yourself.

Most people use a solicitor to draw up the document to ensure the wording meets your needs and is legally acceptable. The solicitor will have to confirm that you have the mental capacity to understand what you are doing by granting POA.

Registering a CPA with M&S Bank

Once you've made the decision to put a POA in place and have created your POA, registering it with us is very simple – just follow the steps below.

Step 1 – Get your documents together

- You'll need to send us either the original POA document or a certified copy of the document. Depending on the situation, you may be able to certify the document yourself. Please see 'Important information regarding your POA document' below for further details.
- We will also need to verify the identity and address details of all your attorneys. We may be able to do this electronically. Each attorney wishing to be registered with us should complete a POA information form (available online at marksandspencer.com/bank and navigate to the power of attorney section) for you to return with the POA document. If we're not able to verify any details electronically, we will contact you with a list of acceptable forms of ID and address verification.
- All attorneys will also need to provide a sample signature.

Step 2 – Send us your documents/Visit us in branch

- To make an appointment in branch, call our Customer Services team on 0345 900 0900.
- To send your documents to us by post:
 - M&S Bank
 - Kings Meadow
 - CH99 9ST

Step 3 – Next steps

- Our specialist team will check the documents sent in/given to us in branch and may ask for additional information if there are any restrictions/conditions in the POA document.
- Once we've updated our records and set up the POA on the account/accounts, we'll send out a confirmation letter to your 'main' attorney.

When will attorney access stop?

As long as you have mental capacity, you can choose to cancel a CPA at any time.

There are also certain events (such as if you were to die) which would result in it being automatically revoked.

What an attorney can do

An attorney can help make decisions about someone's finances, or make decisions on their behalf.

The following table provides guidance on the services that we can provide under the different types of POA and indicates what the attorney/attorneys may do.

If the donor appoints more than one attorney to act together (ie 'jointly'), all attorneys have to act together. This means that any services restricted to sole access cannot be provided. This includes debit cards, Internet Banking and Telephone Banking.

If the POA document contains restrictions, we will need to comply with the restrictions which may mean that we cannot provide some of the services listed.

	General power of attorney	Enduring power of attorney	Lasting power of attorney	Continuing power of attorney	Court of Protection	Guardianship Order
Manage donor's account/s if mental capacity is lost		✓*	✓	✓	✓	✓
Hold a debit card**	✓	✓	✓	✓	✓	✓
Issue cheques/make payments (eg bills)/withdraw cash	✓	✓	✓	✓	✓	✓
Pay in cash/cheques	✓	✓	✓	✓	✓	✓
Order cheque book/paying-in book	✓	✓	✓	✓	✓	✓
Order a replacement debit card/PIN**	✓	✓	✓	✓	✓	✓
Order a statement	✓	✓	✓	✓	✓	✓
Set up/amend/cancel standing orders and Direct Debits	✓	✓	✓	✓	✓	✓
Access Telephone Banking**	✓	✓	✓	✓	✓	✓
Access Internet Banking***		✓	✓	✓	✓	✓
Change the donor's address	✓	✓	✓	✓	✓	✓
Apply for ISAs		✓	✓	✓	✓	✓
Open/Close accounts on behalf of the donor		✓	✓	✓	✓	✓
Obtain information regarding the donor's account/s	✓	✓	✓	✓	✓	✓
Arrange an overdraft						

*If the customer (donor) loses/is losing mental capacity, an enduring power of attorney must be sent to the Office of the Public Guardian (England and Wales) or Office of Care and Protection (Northern Ireland) for registration.

**If the POA appoints more than one attorney, they must be able to act separately as well as together (ie jointly and severally).

*** If the POA appoints more than one attorney, they must be able to act separately as well as together (ie jointly and severally). In addition, only one person can access a sole account through Internet Banking. Therefore, either one attorney or the individual they are acting for can have internet access, not both.

Important information regarding your power of attorney document

We will need to see a full copy of either the original POA document or a copy which has been certified on each page.

If you (the donor) are mentally capable, you can certify the copy of the POA yourself or get it certified by a solicitor, a notary public, a member of the Council for Licensed Conveyancers or a member of the Chartered Institute of Legal Executives (CILEX).

Alternatively, if the donor (you) is no longer mentally capable, the attorney/attorneys will need to get the POA certified by a solicitor, a notary public, a member of the Council for Licensed Conveyancers or a member of the Chartered Institute of Legal Executives (CILEX).

Calls may be recorded for security, training and monitoring purposes.

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