

Scottish Courts and Tribunals Service



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10 December 2018

Dear Ms Baillie,

SCOTTISH PARLIAMENTARY QUESTION S5W-19898, 19899, 19900 FIGURES

The Cabinet Secretary in his response to the above Parliamentary Questions indicated that they relate to operational matters within the responsibility of the Scottish Courts and Tribunals Service. I am now writing to you in response to the matters which you have raised.

S5W-19898 To ask the Scottish Government what the key stages are in the process from applying for a power of attorney to it being granted.

When the Power of Attorney (PoA) deed and other relevant paperwork have been prepared and authenticated, they are submitted to the Office of the Public Guardian (OPG) for registration. This can be done clerically i.e. in hard copy, or electronically via the 'EPOAR' online portal.

Key application stages –

If the documentation has been submitted clerically, it is scanned on to the OPG case management system and processed in the order of their initial submission date. Applications via the online portal are received in electronic format.

The documentation submitted is then scrutinised to ensure it meets the registration criteria in terms of the Adults with Incapacity (Scotland) Act 2000. If it does not, it is held on the system but returned to the applicant to correct any errors and/or enclose any additional required documentation and is resubmitted at a later date.

If the documentation submitted meets the criteria it is then processed and the personal details of the "granter" and "attorney(s)" are entered into the OPG case management system and the Public Guardian's certificate produced.

If the application is clerical an embossed certificate (signed by the Public Guardian with a red seal), is then sent by post to the applicant or their solicitor along with a

paper copy of the PoA and any documentation they submitted. In addition a copy of the PoA is also sent to the “granter” and any other person specified in the application.

If the application is electronic then the applicant or solicitor will receive an electronic certificate signed by the Public Guardian and copy of the PoA (in PDF format) which will be available electronically for the sender to access and download. A copy of the PoA in PDF format will also be sent by e-mail to the “granter” and any other person specified to receive a copy, it too will be sent by email.

By registering the PoA it is recorded in the Public Register, which is maintained by OPG.

S5W-19899 To ask the Scottish Government how long, on average, it has taken from applying for a power of attorney to it being granted, in each of the last five years.

S5W-19900 To ask the Scottish Government what the longest wait has been for an application for a power of attorney to be granted in each of the last five years.

From readily available records, it has not been possible to derive the average and longest waiting times for the entire period asked for. The table below however provides this information from June 2015

June to December 2015	Clerical	EPOAR
Longest	30 days	19 days
Average	24 days	8 days

January to December 2016	Clerical	EPOAR
Longest	92 days	63 days
Average	63 days	35 days

January to December 2017	Clerical	EPOAR
Longest	105 days*	95 days
Average	41 days	35 days

*delays in processing times are often due to errors within the document or missing documentation/fees. In this example it took 105 days due to delays receiving the fee.

January to October 2018	Clerical	EPOAR
Longest	71 days	63 days
Average	21 days	18 days

When POA became the responsibility of the Office of the Public Guardian a timescale of 30 working days for issuing correctly completed POA's was adopted.

However, in recent years there has been a growing trend of POA's becoming part of good life-style planning, rather than something only to be sought when an individual's health deteriorates. While this is of course welcomed, the significant increase in the number of applications for PoA can at times be challenging in terms of the 30 day timescale.

When POA's are required urgently, normally due to an individual's health deterioration, OPG provide an expedited service which ensures PoA's can be issued within 5 working days. I am satisfied that it is the correct approach to ensure that the interests of individuals and families are safeguarded.

PoA waiting times are reported each week in the 'News' section of the OPG website <http://www.publicguardian-scotland.gov.uk/general/news>

A copy of this letter will be placed in the Scottish Parliament Information Centre and published on the Scottish Courts and Tribunals Service website.

Yours sincerely,



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