

Appointees, Personal Acting Bodies and Corporate Acting Bodies: Guidance

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Appointees

If a claimant is incapable of managing their own affairs because of mental incapacity or severe physical disability, an appointee may be appropriate.

The Secretary of State may, on receipt of a written application, appoint a person to act on the claimant's behalf for benefit purposes. This form of appointment removes control of the benefit from the claimant.

An appointee can be an individual (such as a friend or relative) or an organisation.

Appointees are authorised by the Secretary of State to act on behalf of the claimant for the purposes of all benefits, but only one person or organisation can act as the appointee for all benefits being received from DWP.

Therefore, if a claimant already has an appointee acting for them with regard to another benefit, this arrangement must be transferred to the Universal Credit claim.

The Secretary of State can also revoke an appointeeship, for example - if the appointee is not acting in the claimant's best interests.

Eligibility

When deciding if an appointee is appropriate, the following must be considered:

- the appointee must be over the age of 18
- the claimant must be incapable of managing their benefit affairs because of mental incapacity or severe physical disability

- the claimant must not have another person of equal or higher authority appointed to act for them such as a court appointed deputy or a Power of Attorney
- an appointee is not appropriate if the claimant is simply unable to collect their benefits or no longer wishes to manage their own affairs
- claimants 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 collect their benefits on their behalf

Before an appointment is made, the claimant is visited to confirm they need an appointee. The prospective appointee is also interviewed to confirm their suitability to act and to explain their role and responsibilities. This is done using form BF56. After the appointment is made, form BF57 is issued for confirmation.

Personal Acting Body

A Personal Acting Body (PAB) is a person who acts on behalf of a claimant who can't manage their own affairs. Their appointment must be approved by the Secretary of State.

An appointee appointed by the Secretary of State is also known as a PAB.

As well as an appointee, a PAB can also be a:

- deputy appointed by the Court of Protection to administer a claimant's affairs
- person with Power of Attorney, appointed by the claimant or the Office of the Public Guardian (England and Wales) to act on their behalf

There is a different legal process regarding the appointment of a PAB under Scottish Law, and it would be the Sherriff Court in Scotland that would be involved in this situation.

There is also an Office of the Public Guardian in Scotland that would be involved during these stages.

Corporate Acting Body

A Corporate Acting Body (CAB) is not a named individual but an organisation which acts on behalf of a claimant.

An appointed CAB can delegate their authority to a named representative within the organisation who has a day-to-day working relationship with the claimant. The representative will act as a third party. A CAB could be any of the following:

- a solicitor
- local authority
- specialist organisation
- a charity, for example - Age UK

This is not a complete list.

A CAB will be appointed by the Secretary of State but can also be appointed by the:

- Court of Protection – as a deputy (England and Wales) or Guardian (Scotland).
- Office of Public Guardian – Power of Attorney.

Deputies and attorneys must have valid authority (which must be verified).

Responsibilities

The PAB or CAB becomes fully responsible for acting on the claimant's behalf in all the claimant's dealings with the Department. This includes:

- making a claim to Universal Credit on behalf of the claimant online (unless they are digitally excluded)
- maintaining the digital account on behalf of the claimant
- notifying changes of circumstances for the claimant
- being available to attend appointments to support the claimant (a representative can be nominated on an ad-hoc basis)
- reporting changes in their own circumstances by telephone for example:
 - a change of name or address
 - change of account

Deputy (England and Wales)

A deputy is appointed by the Court of Protection in England or Wales to act on the claimant's behalf if they are incapable of managing their financial affairs or personal welfare. Deputies appointed to act on the claimant's behalf in relation to financial matters can act on all their dealings with the Department.

The Court of Protection will issue an order which must include the validation stamp and seal on the front page for it to be valid. They will also inform the deputy that the claimant's benefit must not be paid into the deputy's own personal account.

Guardian (Scotland)

A Guardian with full powers is appointed by a court in Scotland to act on the claimant's behalf to deal with all their financial affairs. Once appointed, they may act in all their dealings with the Department without appointment by the Secretary of State.

A Guardian will have a court document showing the powers they have been granted and a certificate of registration with the Office of Public Guardian as evidence of having the authority to manage the claimant's benefits.

Power of Attorney

A Power of Attorney is a legal document in which a person gives another person (the Attorney), formal authority act on their behalf either generally or in specific circumstances.

England and Wales

Lasting Power of Attorney falls under the (Mental Capacity Act 2005) and applies throughout England and Wales. There are two types of Lasting Power of Attorney:

- property and affairs – this allows the Attorney to make decisions about finances and property (including benefits)
- personal Welfare – this allows the Attorney to make decisions about the claimant's health and personal welfare

Only a Lasting Power of Attorney for property and affairs is accepted by the Department. And must be registered with the Office of Public Guardian before it can be used.

A registered Power of Attorney will have the Office of Public Guardian stamp on all the pages and the reference number and date of registration on the front page. A Lasting Power of Attorney (registered after January 2016) may present a code which can be used to verify online on the Office of Public Guardian website.

A claimant may have two or more Attorneys, known as joint Attorneys. Only 1 Attorney can be paid a benefit from the Department on behalf of the claimant. The Attorneys must nominate who will be the lead contact on behalf of the claimant.

Further notes from the agent can be made to record secondary Attorneys.

Scotland

Under the Adults with Incapacity (Scotland) Act 2000, there are three types of Power of Attorneys:

- Continuing Power of Attorney – this allows the Attorney to make decisions about finances and property (including benefits)
- Welfare Power of Attorney – this allows the Attorney to make decisions about the claimant's health and personal welfare
- Combined Power of Attorney – this allows the Attorney to make decisions on finances and property as well as health and personal welfare

Only Continuing and Combined Power of Attorneys are accepted by the Department if the claimant does not have capacity.

A Power of Attorney must be registered with the Office of Public Guardian (Scotland) before it can be used. A registered Power of Attorney will have the Office of Public Guardian stamp on all the pages and the reference number and date of registration on the front page.

Claimant Commitment

PABs / CABs will not be able to accept a claimant commitment on behalf of a claimant.

If the claimant is physically or mentally unable to accept a claimant commitment and this is unlikely to change, the requirement can be lifted.

Claimant with an appointee (PAB or CAB) contacts DWP

If the claimant (rather than the appointee) makes contact with DWP, no account action should be taken.

If the claimant mentions a change in their circumstances, you must discuss this with the appointee immediately. The claimant should be referred to the appointee and the call ended.

If you judge the conversation as having no impact on the claim or current benefit, you can engage with the customer.

Appointee wishes to relinquish their role

An appointee can resign from being the claimant's appointee at any point during the claim. It is the appointee's decision and they do not need to give any reasons.

If an appointee is still required, and the now ex-appointee identifies another person willing to replace them, that person must be contacted immediately. If they are willing to act, normal appointment action should be taken without delay.

If no one has been identified or the person isn't willing to become the appointee, steps must be taken to protect the claimant whilst a new appointee is found and relevant action may include contacting the Adult Social Services through the local authority.

If the ex-appointee says that the claimant no longer needs an appointee, this must be confirmed because the claimant will be taking on all responsibilities for managing their claim and will need full access to the claim including payments being made into their own bank account. Agents must ensure that this is clearly understood by the claimant.

A note is made to store all relevant information.

Appointee is not acting in the best interests of the claimant

If an appointee does not act in the best interests of the claimant and they are no longer suitable, an officer acting on behalf of the Secretary of State can revoke their authority.

Each case must be considered on its merits. It is likely that the evidence would have come from, for example:

- Social Services
- the local authority
- a Police Adult Protection Team

If there is strong evidence of mismanagement, benefit payments must be suspended immediately whilst the case is further investigated.

The outcome of any investigation must be communicated to the claimant and appointee once a decision has been made.

If the decision is for the appointee to remain, the appointee relationship continues. If the decision is for the appointeeship to be revoked and the claimant still requires an appointee, steps must be taken to protect the claimant and a new appointee put in place. This may require a home visit to resolve any disputes and the Universal Credit claim must state the reasons for the appointee no longer acting in the best interests of the claimant.

Appointee no longer required

A claimant may contact the Department and state they no longer require an appointee as they can manage their claim independently. A review of the need for an appointee must be conducted.

If an appointee is no longer required, the claimant takes on all responsibilities for managing their claim and will be given full access to the claim including payment into their own bank account. The Universal Credit claim must state the reasons why the appointee is no longer required.

Removing Personal Acting Body details in CIS (Searchlight)

A CIS500 must be sent to the Data Guardian Team who will update CIS. This is to ensure accurate and up to date information is held on CIS and is accessible by other benefit lines.

Payments

Universal Credit is paid by direct credit transfer. If there is a PAB or CAB, it is *usually paid into an account in the appointees name but in exceptional circumstances they may nominate another account.*

Overpayments

If there is an overpayment where the claimant has a PAB or CAB, it may be recoverable from the PAB or CAB and/or the claimant.