

Aspirations

Live the life you desire now and in the future



Power of Attorney Taking the first step

Giving your power of attorney to someone is a major step. It means giving them the right to make financial and other decisions for you if you are not able to do so.

While their names and specific rules vary among the Australian states, there are four different types of power of attorney.

General: gives your financial decision-making powers to someone else until a specific date. It lapses on that date or if you become incapable of making your own decisions.

Enduring: gives another person (or persons) the power to make your financial and legal decisions, and continues to apply even when you are no longer capable of decision making.

Enduring Medical: appoints a person or persons to make decisions regarding your medical treatment on your behalf if you are not capable of doing so. (This is not a 'Living Will', which is a document recording your express wishes regarding resuscitation and other important medical decisions).

Guardianship: empowers someone to act for you in all areas of your life should you be incapable of making decisions. It is not strictly a power of attorney but it works like one.

To sign over power of attorney you must be capable of appointing someone and understand the implications of your action.

But what happens if you haven't signed a power of attorney and an accident or medical condition removes your option?

In that case, a statutory official – a Public Advocate or Guardian – appoints a guardian for you. The appointee may or may not be a family member or close friend, and as a result, decisions regarding your life and finances could possibly be left to the Public Trustee.

Most states also have a body which can review enduring powers of attorney, remove an attorney, or substitute one if the original person is no longer able to fulfil that role; or require the attorney to provide accounts or submit a financial management plan.

You can buy or download a standard Power of Attorney form, but if your financial affairs are complex or cross state borders, or you have estate planning issues, you should discuss the details with your financial adviser who may recommend that you also need legal advice.

Take action now, because by the time you need it, it may be too late.

