

Estate Planning – Powers of Attorney

Why should I arrange a Power of Attorney?

A Power of Attorney lets a trusted person step in to act for you, usually when you are unable to make good decisions for yourself. For example, a Power of Attorney can be useful if you are planning major surgery, or where you have had a serious accident or if you will be overseas. It can also be used if you are struggling to look after your own affairs and you need a helping hand.

There are two different types of Powers of Attorney:

- a General Power of Attorney; and
- an Enduring Power of Attorney.

There are some important things to consider when putting a Power of Attorney in place:

What is a General Power of Attorney?

A General Power of Attorney lets you appoint someone to manage your affairs **only** when you have legal capacity (that is, while you can understand the nature and effect of the decisions you are making).

General Powers of Attorney only relate to financial matters and can be helpful where you are away for extended periods of time or if you want specific assistance - for example, to sell your house. This power immediately ceases once you lose capacity or you pass away.

What is an Enduring Power of Attorney?

An Enduring Power of Attorney allows you to appoint someone you trust to manage your affairs and continues to be effective **even** if you have lost legal capacity.

You can appoint your Attorney to act on your behalf in personal, financial, health care and medical research matters:

Personal – includes day to day concerns like where you will live and what additional support or care you might need.

Financial – includes your financial and property affairs such as operating bank accounts and buying or selling property.

Health Care – includes decisions around medical matters like consenting to courses of treatment or surgery.

Medical Research – includes for research regarding the diagnosis or treatment of a medical condition. Typically, this may be a clinical trial for a new treatment or drug.

Can I choose what my Attorney has the power to do?

Yes - you can place limits on the powers your Attorney has. For example, you may wish to state that your Attorney may only invest your money after receiving formal advice from a qualified financial professional such as your accountant or that your Attorney is not to agree to a donation of your organs after your death.

Another consideration is whether you wish for your Attorney to have the power to refuse medical treatment in certain circumstances. For example, making a decision to end life support.

When does a Power of Attorney start?

You can choose when the financial aspects of a Power of Attorney commence – it could be effective immediately or from a certain date or event (for example, when you lose capacity). No one can make personal or medical decisions for you while you are capable of making these decisions for yourself.

How many Attorneys can I appoint?

You can appoint as many Attorneys as you want, however for practical reasons we suggest appointing one or two Attorneys as your “first option” and appointing one or two other people to be your “alternate” Attorneys. You can also choose to have your Attorneys act together or separately.

Where to from here?

If you want to ensure your Power of Attorney is drafted and executed properly, contact us on (02) 6163 5050 to arrange a meeting.

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