

Enduring Powers of Attorney – financial and personal matters

Attorneys

You can appoint one or more attorneys. If appointing more than one attorney, you may specify how they can make decisions (eg. jointly, jointly and severally or by majority). You can also appoint an alternate attorney to act if the main attorney is unable or unwilling.

Scope of Authority

You can authorise your attorney(s) to make decisions in relation to one or both of:

Personal matters:

Matters relating to your personal and lifestyle affairs, which include:

- where and with whom you live;
- who has access to associate with you;
- daily living issues such as diet and dress;
- the decision to move into accommodation providing care.

Financial matters:

Matters relating to your financial and property affairs, which include:

- accessing your bank accounts;
- dealing with government and non-government institutions on your behalf;
- paying your expenses and debts;
- receiving any money owing to you;
- making and continuing investments on your behalf; and
- dealing with real estate on your behalf.

Commencement

Your enduring power of attorney can commence at a time specified by you (eg. immediately or upon you losing capacity).

Importantly, your power of attorney will continue to operate if you become legally incapacitated and unable to manage your affairs on your own.

Revocation

Whilst you have capacity, the power of attorney can be revoked at any time, by notice in a prescribed form to the attorney, which must also be witnessed by two independent persons. If you have lost capacity, the power of attorney cannot be revoked.

Resignation of attorney

If you have capacity, your attorney may resign by providing written notice to you. If you have lost capacity, your attorneys cannot resign without the consent of the Victorian Civil and Administrative Tribunal (VCAT) or Court.

Conditions and instructions

You can limit your attorney's powers by including special conditions on how your attorney should act. You can also specify how they should carry out their responsibilities.

Where you have superannuation, you can consider further special conditions that:

- allow or disallow the attorneys to make or revoke a binding nomination;
- permit the attorney to withdraw superannuation benefits during your lifetime provided the funds are invested in your own name.

Contact Us

If you need further assistance or advice, please do not hesitate to contact our Estate Planning team on (03) 9843 2100.