



What is an Enduring Power of Attorney?

A Power of Attorney is a legal document that lets you to appoint a trusted person (or more than one person) to make financial and/or property decisions on your behalf. An Enduring Power of Attorney is a document that does the same thing but still has effect (endures) if you become incapacitated and unable to manage your affairs (for reasons such as mental illness, acquired brain injury, cognitive impairment or dementia). An Enduring Power of Attorney can be made by anyone over the age of 18, who has full legal capacity (must be able to understand the nature and effect of the document they are completing and the nature and extent of their estate).

Anyone you appoint to manage your affairs must have full legal capacity.

An Enduring Power of Attorney can have effect while you still have capacity. Alternatively, it may only have effect from the time you become incapacitated.

Remember, a Will only takes effect from the time of death – it has no effect should you be alive but incapacitated. The benefit of an Enduring Power of Attorney is that it will operate even if you lose full legal capacity but remain alive.

An Enduring Power of Attorney does not permit a person or persons to make personal and lifestyle decisions, including decisions about treatment on your behalf. An Enduring Power of Attorney is limited to decisions about the your property and financial affairs.

If you want a person to be able to make important personal, lifestyle and treatment decisions on your behalf should you ever become incapable of making such decisions yourself you will need to make an Enduring Power of Guardianship.

You can make your own Enduring Power of Attorney or Enduring Power of Guardianship, but why take the chance of something going wrong with such important documents? There are quite a few potential pitfalls in drafting these documents that can be avoided by having a lawyer draft them for you.

We can help by drafting your Enduring Power of Attorney and/or Enduring Power of Guardianship for a low, fixed price.

Contact us now to discuss your needs.

The information in this article is general in nature and is not, and should not be relied upon as, legal advice. You should obtain advice specific to your circumstances from a lawyer, Legal Aid WA or a community legal centre.