

Power of Attorney



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What is a Power of Attorney?

A power of attorney is a document that gives a person (called an appointee) the power to act on behalf of the person who gives the power (called an appointor).

It means that the appointee will have the authority to deal with the appointor's **financial affairs** only. There are two different types of power of attorney:

- A general power of attorney – this is an authority given to an appointee to deal with financial affairs. If an appointor becomes **legally incapacitated** then the power will cease to exist.
- An enduring power of attorney – this is the same as a general power of attorney but this power will continue to exist even when an appointor becomes **legally incapacitated**.

When is someone 'legally incapacitated'?

In this context, someone is legally incapacitated if they are unable to understand the nature and the effect of the document, or are unable to effectively communicate. This can be difficult to assess, and if there is a question about this it is best to see a doctor.

How do you make a power of attorney?

You can ask a lawyer to prepare a power of attorney or enduring power of attorney for you OR you can obtain the proper forms from Service SA or large newsagencies.

Keep in mind these forms can be quite complex and it is a good idea to get legal advice before you do this.

How do I safeguard my interests against my appointee?

It is extremely important to choose a power of attorney that is trustworthy, because you are transferring control over your affairs to them. Further, it may be difficult to detect when a appointee is taking the appointor's money or not using it in the donor's best interests.

Therefore it is a good idea to safeguard your interests. Some suggestions are:

- Tell another person who your appointee is.
- You could make a condition that your appointee that you, or someone else, must receive regular copies of your account statements.
- You can make it a condition that your affairs are audited every year.

For further information about your rights and responsibilities, contact the Adelaide Legal Outreach Service on (08) 8118 5200 or email us at alos@adelaide.edu.au to arrange an interview.

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