

InfoSheet

Powers of attorney

The power of attorney is a legal document that appoints a person to act on your behalf in respect of your financial management.

Efficiency⁺ Fulfillment⁺ Integrity⁺ Teamwork

Standard power of attorney

There are 2 types of standard powers of attorney:

- One is to act generally in any capacity.
- The other limits what your attorney can do to specific items mentioned in the power of attorney. This can be granted for a limited time or a limited activity. This form of power of attorney ceases to have effect if you lose your mental capacity.

Enduring power of attorney

An enduring power of attorney continues to have effect if you lose your mental capacity. This form of power of attorney is essential if you become incapacitated, for example through a serious accident, stroke or dementia.

You must make an enduring power of attorney before any of these things happen as you will be unable to do so after you lose your mental capacity.

For your power of attorney to be enduring your lawyer must explain the power of attorney to you personally and certify that you appear to understand the effect of the appointment and have capacity.

Your attorney has your full authority to deal with your financial affairs. Accordingly, you must only appoint someone you trust (a family member, friend or professional advisor). Your attorney must also be someone with the ability to deal competently with your affairs.

Appointing more than one attorney

You can appoint more than one attorney to act:

- severally – only one attorney need sign
- jointly – all attorneys **must** sign
- jointly and severally – any or all can sign.

Attorney's duties

Your attorney must:

- obey your instructions
- act in your best interests
- keep your money separate from other money
- not give unauthorised gifts
- keep good records
- not make a profit from you.

Your attorney can only take a personal benefit, or give a benefit to another person, if you have specifically authorised this in the power of attorney

Cancelling a power of attorney

An enduring power of attorney continues until:

- you cancel (revoke) it
- your death
- the attorney no longer wants to act
- the attorney becomes bankrupt or loses mental capacity.

You must revoke the power of attorney if you lose trust in your attorney.

Registering your power of attorney

It is not necessary to register your power of attorney unless your attorney needs to sign documents to deal with real estate. A power of attorney can be registered for this reason at any time.

At Ward Legal we will fully advise you on your rights in accordance with your personal instructions.

Contact Ward Legal's estate planning team

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