



Enduring Power of Attorney

Choosing someone to make decisions for you if you can't

An Enduring Power of Attorney (EPOA) is a legal document that allows someone else (your attorney) to make personal and/or financial decisions on your behalf if you can't.

Why is completing one important?

There may be times when you can't make decisions for yourself, such as if you become seriously ill, have an accident, or develop dementia. In these situations, you might not be able to make decisions or communicate your wishes about your money, personal matters, or health.

By setting up an EPOA, you can choose someone you trust to make decisions for you if this happens.

If you don't have an EPOA and lose the ability to make decisions, your family or friends might be able to help you informally, but there won't be a written record of your wishes. In some cases, a formal decision-maker (like a guardian or administrator) may need to be appointed by the Queensland Civil and Administrative Tribunal (QCAT), and you won't have control over who is chosen.

What decisions can an attorney make?

You can appoint an attorney for:

- personal matters - where you live and who you have contact with
- health care - choosing medical and dental treatments
- financial matters - paying your bills and taxes or selling your home.

Your specific health care needs or wishes you be detailed in an Advance Health Directive (AHD). Please see our Decisions about your Future Health Care factsheet for more information.

Your attorney can make any decisions that you could legally make in the areas you have appointed them for. You can include conditions or limits for how your attorney makes these decisions.

Who should I choose to be my attorney?

You can choose any adult over 18 who has the ability to make decisions about the matter you're appointing them for. This should be someone you trust and believe can carry out your wishes and manage your affairs. They could be a family member, friend, or a professional like an accountant. However, they cannot be a paid carer, someone who was your paid carer in the last three years, or a service provider where you live. (Note: someone receiving a carer's pension to look after you is not considered a paid carer.)

It's important to pick someone you trust to act on your behalf and follow your wishes. Take your time and think carefully about this decision. You don't have to choose your partner, adult children, or family members if you don't think they're the right fit. A friend or someone else in your life might be more suitable. When deciding, ask yourself:

- Do I trust them?
- Do they know me well and understand what's important to me?
- Do they have the right skills and qualities to take on this role?

You can also appoint more than one person. For example, you can choose one person to make personal and health decisions and another for financial decisions.

What if I have no one to act as my attorney?

If you aren't confident that you have suitable people in your life to undertake this responsibility, you are able to nominate the Public Guardian as your attorney for personal and health care decisions only (not financial). For your financial matters the Public Trustee or a private trustee firm can take on this role for a fee.



Can I nominate more than one attorney?

You can appoint more than one attorney and decide how they will make decisions for you. For example, you can choose to have different attorneys handle different areas of your life. You can also decide how they will work together:

- jointly - all attorneys must agree and make decisions together
- severally - any one of your attorneys can make decisions on their own
- jointly and severally - your attorneys can make decisions either together or on their own
- as a majority - if you appoint more than three attorneys, you decide how many must agree to make a decision, such as a simple majority or two-thirds majority.

If you appoint joint attorneys, you can choose up to four people to act together for personal matters and up to four for financial matters. No matter how they are appointed, your attorneys must keep each other informed about the decisions they make.

You can also appoint successive attorney which means someone can take over if your first attorney (or attorneys) can no longer act, for example, if they become unwell or die.

When does the power begin?

For personal and health care matters, your attorney's power begins only if and when you lose capacity to make those decisions. For financial matters, your attorney's power begins whenever you want it to and you nominate the start date in your EPOA. You can continue to make any of your own decisions while you are capable of doing so.

Can I cancel or change my EPOA?

You can cancel (revoke) or change your EPOA at any time if you still have ability to do so. You should fill out the Revocation of Enduring Power of Attorney. Give a certified copy to your original attorney, bank, doctor and anyone else who would have known about your existing documents. You can also appoint a replacement attorney, but you must inform your original attorney.

Your EPOA also ends if you were to get married, divorced or die. If your attorney becomes bankrupt, loses capacity or dies, their power to act on your behalf ceases.

How do I arrange an EPOA?

Download the forms from www.publicguardian.qld.gov.au, or you can buy one from most news agencies. You can complete the form yourself, which has explanatory notes to guide you. You will also need it formally witnessed. You can get professional help instead of doing it yourself. Qualified solicitors (generally those specialising in estate planning) and the Queensland Public Trustee provide this service for a fee.

When completed, keep the original form in a safe place. Keep a certified copy for yourself and give a copy anyone else who needs to know its contents – for example, your attorney, family, solicitor, doctor or accountant. There is no central register for Powers of Attorney in Queensland, but the completed form must be registered with the Titles Registry if your attorney buys or sells land on your behalf.

Find out more

For more information visit:
www.publicguardian.qld.gov.au/planahead.



Contact us

T 1300 653 187
E publicguardian@publicguardian.qld.gov.au
www.publicguardian.qld.gov.au

Acknowledgement of Country

The Office of the Public Guardian acknowledges and pays our respects to the Traditional Custodians over the lands, seas and waterways throughout the state of Queensland in which we work and live and pay our respects to their Elders, past, present and emerging.

Translation

If you need translation services, contact the Translating and Interpreting Service on **131 450**.