

Powers of Attorney

A Will takes care of your estate when you die, but it does not take care of your financial affairs if you are absent for an extended period or become physically or mentally unable to manage your own affairs. If you have not made any arrangements, you run the risk of having your affairs handled by a guardian or even the Public Trustee.

A Power of Attorney is a formal document by which one person (the donor) appoints another person (the attorney) to act on their behalf in relation to their property and financial affairs. It allows the attorney to sign any document or do anything which the donor can do legally, subject to any conditions or limitations stated in the document.

Powers of attorney may be used for almost any purpose, including authorising the attorney to collect debts, vote at meetings, operate a bank account or to carry out any other function which can be lawfully delegated.

A Power of Attorney is a separate document to your Will and only operates during your lifetime. All authority given to your attorney ceases on death.

You should take care when appointing your attorney. Most people obtain legal advice.

Each State and Territory of Australia has its own Acts of Parliament that regulate the preparation of a Power of Attorney.

There are generally three types of Powers of Attorney:

- General Power of Attorney
- Enduring Power of Attorney
- Enduring Power of Attorney – Medical Treatment

General Power of Attorney

A General Power of Attorney is given to someone to make financial decisions on your behalf when you are absent and is usually prepared to perform a specific function for a limited period. An example of when you may appoint a general power of attorney would be when you need someone to manage your financial affairs whilst you are overseas. This authority ceases immediately you become mentally unable to manage your own affairs, or if an earlier cessation date is specified.

Enduring Power of Attorney

This authority allows your attorney to continue acting even if you have lost your mental capacity.

An Enduring Power of Attorney is an essential document for all adults. It allows you to plan for unexpected events like accidents and/or illness.

General Powers of Attorney and Enduring Powers of Attorney cover decisions concerning financial and legal affairs.

Enduring Power of Attorney – Medical Treatment

This gives you authority to make decisions regarding medical treatment (e.g. operations, medicines, drugs etc). This Power of Attorney is typically prepared when you want to express a preference in relation to the administration of medical treatment. It helps you to plan for the future. It is important to choose a person:

- who you trust to carry out your wishes
- who respects your values and beliefs



Statutory Health Attorney

A Statutory Health Attorney is someone with automatic authority to make health care decisions on your behalf if you are an adult whose ability to make decisions is permanently or temporarily impaired and can consent to most health care issues.

A person automatically (without filling out forms) acts in this role when the need arises because of their relationship to you. These relationships include spouse or defacto partner, primary carer but not paid carer, close adult friend or relative or adult guardian.

Advance Health Directive

An Advance Health Directive is a document in which you give instructions about your future health care. If you become seriously ill, unconscious or unable to communicate your health care wishes, critical decisions may need to be made, so it is wise to make your wishes known before this happens. You can make a direction that an Advance Health Directive only takes effect during certain stages of an illness and can also revoke or change it at any time by putting your wishes in writing.

Disclaimer

This Fact Sheet has been prepared for general information purposes only and not as specific advice to any particular person. We are financial planners and not qualified to give specialised legal advice in this complex area. Detailed legal advice should be sought from a qualified adviser.

We can assist you to prepare an outline of your estate plan for your Estate Planning Specialist or for your own purpose.



IPLAN FINANCIAL SERVICES AUSTRALIA PTY LTD | Level 1, 4 Park Road | PO Box 1969 | Milton Qld 4064
Ph: 13000 IPLAN (1300 047 526) | Fax: 07 3368 3998 | www.iplan.net.au

iPlan Financial Services Australia Pty Ltd ACN: 106 591 833 as trustee for the iPlan Australia Trust ABN: 58 928 175 252 is a Corporate Authorised Representative and Credit Representative of iPlan Financial Services Pty Ltd ABN: 70 122 979 140 AFSL/ACL No. 311824