

ENDURING POWERS OF ATTORNEY, ENDURING POWERS OF GUARDIANSHIP AND ADVANCED HEALTH DIRECTIVES



AustAsia Group
Business, Finance & Taxation Solutions
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What are they?

- An Enduring Power of Attorney (EPA) is a legal document that gives someone else the power to make decisions for you and act on your behalf concerning financial matters.
- An Enduring Power of Guardianship covers personal matters (including your living arrangements) and medical matters in circumstances when you lose the capacity to make decisions for yourself.
- An Advanced Health Directive allows individuals to plan their future medical care according to their beliefs, values and preferences.

What is capacity?

- Capacity is a legal term for understanding the main consequences of a decision, being able to take responsibility for making a choice and being able to make a choice based on the risks and benefits.
- Children under the age of 18 do not have the legal capacity to make decisions. Some people are declared unable to make decisions as regulated by the Guardianship and Administration Act 1990.

Should I lodge my EPA with Landgate?

- If you own a property, you may wish to have your EPA lodged with Landgate so that if transactions relating to a property needs to be made in the future by your attorney, your authority will be recognised. If it's not lodged within 3 months of setting up the EPA and is required to be used to sell a property, further statutory declarations will need to be signed by you, which would delay the process and mitigate its effectiveness. Therefore, it is recommended that it be lodged with Landgate (if you live in WA) at the time of setting up the EPA document.

In summary

Appointment Type	Enduring Power of Attorney (EPA)	Enduring Power of Guardianship (EPG)	Advanced Health Directive (AHD)
What decisions can my Attorney or Guardian make?	<ul style="list-style-type: none">• Financial;• Purchase and sell properties control your investments and assets;• Collect your income;• Operate your bank accounts;• Organise your income tax or pension requirements; and• Generally manage your assets and legal affairs.	<p>A Guardian will have the same powers as if they were your parent and you were the child, including but not limited to:</p> <ul style="list-style-type: none">• Decisions on where to live;• Healthcare decisions;• Decisions about personal services; and• Decisions about who you associate with.	<ul style="list-style-type: none">• Consent or withhold consent to medical or dental treatment; and• End-of-life decisions.

In summary continued

Appointment Type	Enduring Power of Attorney (EPA)	Enduring Power of Guardianship (EPG)	Advanced Health Directive (AHD)
What decisions can't my Attorney or Guardian make?	<ul style="list-style-type: none"> • Vote; • Make decisions about the care or well-being of your children; • Make (or revoke) a will; • Make (or revoke) an enduring power of attorney; • Consent to a marriage or a sexual relationship or the dissolution of a marriage; • Make decisions about adoption of a child; • Enter into surrogacy arrangements; • Manage the principal's estate on their death; and • Consent to an unlawful act. 	<ul style="list-style-type: none"> • Vote; • Make decisions about the care or well-being of your children; • Make (or revoke) a will; • Make (or revoke) an enduring power of attorney; • Consent to a marriage or a sexual relationship or the dissolution of a marriage; • Make decisions about adoption of a child; • Enter into surrogacy arrangements; • Manage the principal's estate on their death; and • Consent to an unlawful act. 	Not Applicable as an Advanced Health Directive sets out specific instructions.
Limitations placed on the powers of my Attorney or Guardian	<ul style="list-style-type: none"> • That your attorney provides copies of all records to particular family members; • That they consult with a specified person before acting on a specific decision, such as the sale of your home; • Where you have large capital assets, such as property or shares, you should leave clear instructions for your attorney(s) as to how to deal with or distribute; or • Dispose of these assets; • Notify certain persons; • Consult with a specific person, e.g. prior to moving to a nursing home or prior to making important decisions regarding your health and well-being. 	<ul style="list-style-type: none"> • Consult with a specific person, e.g. prior to moving to a nursing home or prior to making important decisions regarding your health and well-being.; and • Provide details of all decisions to a specific person. 	Not applicable as an Advanced Health Directive sets out specific in sheet.
When does the appointment begin?	<ul style="list-style-type: none"> • Upon incapacity • Notwithstanding incapacity 	Upon incapacity only	Not applicable as an Advanced Health Directive sets out specific in sheet.
Who can I appoint?	<ul style="list-style-type: none"> • Be at least 18 years of age; • Have the capacity to make decisions for you; and • Agree to act as your attorney. 	<ul style="list-style-type: none"> • Be at least 18 years of age; • Have the capacity to make decisions for you; and • Agree to act as your guardian. 	Not applicable as an Advanced Health Directive sets out specific in sheet.
Are there any exclusions to the appointment?	A person to be appointed under an enduring power of attorney must not be bankrupt or insolvent.	A person to be appointed under an EPG must not provide you with professional care, treatment or accommodation.	Not applicable as an Advanced Health Directive sets out specific in sheet.



How can we help you?



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