



# Power of Attorney

Information for older people  
in New South Wales

An Easy Read guide



## How to use this guide



Justice Connect wrote this guide. When you see the word 'we', it means Justice Connect.



We wrote this guide in an easy to read way.

We use pictures to explain some ideas.

**Bold**

We have written some words in **bold**.

Not bold

This means the letters are thicker and darker.



We explain what these words mean.

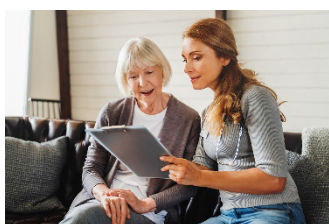
There is a list of these words on page 32.



This Easy Read guide is a summary of another document. This means it only includes the most important ideas.



You can find the other document on our website at [www.justiceconnect.org.au](http://www.justiceconnect.org.au)



You can ask for help to read this guide.

A friend, family member or support person may be able to help you.

## What's in this guide?

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## About us



We are a community legal service.

We give free legal help to:



- people



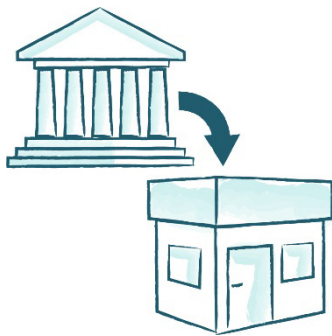
- organisations.



If you want to know more about the information in this guide, you can contact **NSW Trustee and Guardian** on **1300 109 290**



NSW Trustee and Guardian is a **government agency** that helps people with important documents, including Powers of Attorney.



A government agency is part of the government that looks after a service.

## What is this guide about?



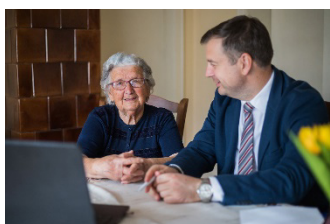
This guide has information about Powers of Attorney in New South Wales (NSW).



You should only use this information as a guide.



It is not legal advice.



If you need support with a legal problem, you can ask someone else before you decide what to do, such as a **lawyer**.



A lawyer is someone who knows and understands the law.

# What is an Attorney?



In NSW, an **Attorney** is a person you choose to make decisions for you when you can't make them yourself anymore.

An Attorney can be:



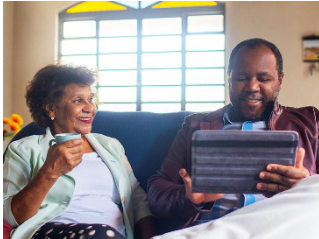
- 1 person



- more than 1 person.

You can choose someone you trust to be your Attorney.

This might be a:



- member of your family



- friend



- carer.

We explain what decisions your Attorney can make on page 14.



Before you choose an Attorney, you can get legal advice from a lawyer.



They can:

- look at what you need
- give you advice.

They might give you advice about:



- which decisions your Attorney should make



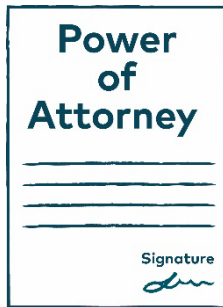
- risks to think about.



You should think carefully about who you choose to be your Attorney.

They will make important decisions for you.

# What is a Power of Attorney?



A **Power of Attorney** is a legal document that says:



- who you choose to be your Attorney

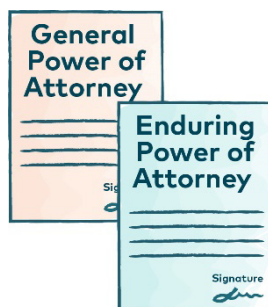


- what decisions you want them to make



- when you want them to start making decisions for you.

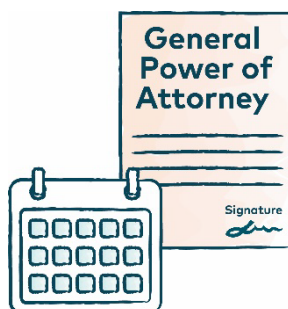
# What are the types of Powers of Attorney?



In NSW, the 2 types of Powers of Attorney are:

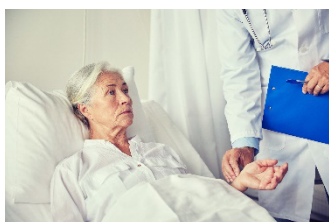
- a General Power of Attorney
- an Enduring Power of Attorney.

## General Power of Attorney

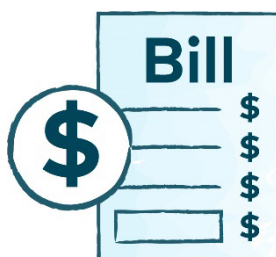


A **General Power of Attorney**:

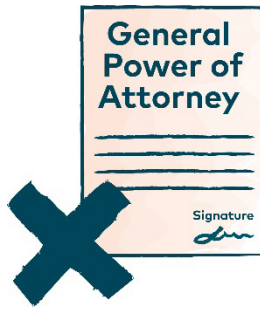
- is for a certain reason
- only lasts a short period of time.



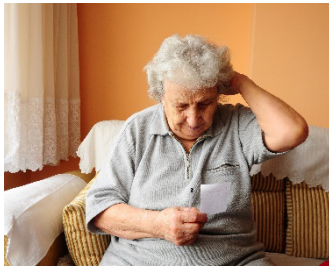
For example, you might need to go to hospital for a short period of time because you are sick.



When this happens, you can choose for your Attorney to make decisions about your money for you, such as pay your bills.



If you reach a point where you lose **capacity**, the General Power of Attorney stops working.



Your capacity is your ability to:

- understand the choices available
- make decisions for yourself
- tell others what you want.

You might lose capacity if you:



- get very sick



- are in an accident.

## Enduring Power of Attorney



When you still have capacity, it's important to:

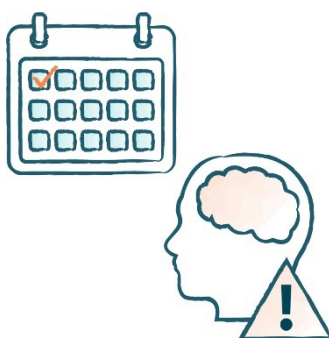
- plan for your future
- make an **Enduring Power of Attorney**.

An Enduring Power of Attorney is for when you:



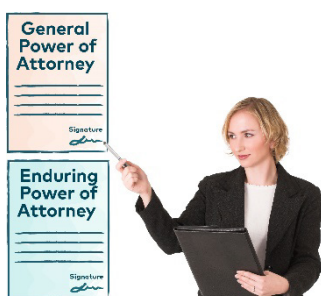
- lose capacity
- can't make decisions for yourself anymore
- want your Attorney to make decisions about your money.

It lasts until your life ends.



You can choose for an Enduring Power of Attorney to start:

- straight away
- only when you lose capacity.



A lawyer can help you decide what type of Power of Attorney you need.

# What decisions can your Attorney make?



An Attorney can make decisions about your money for you.



This can include paying your bills.

It also includes making legal decisions for you, such as:

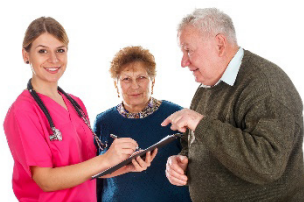


- what to do with your money

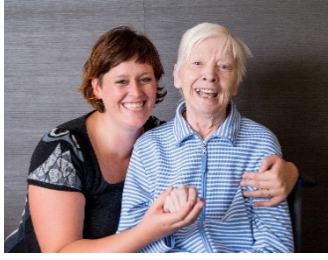


- selling a home

- buying a home.



You can choose more than 1 Attorney to make decisions.



You can also choose to have an **Enduring Guardian.**

They can only make decisions about your day-to-day life.

This includes:



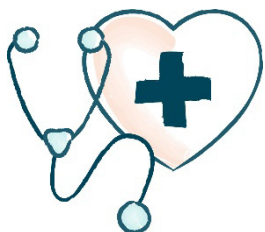
- where you live



- who you live with



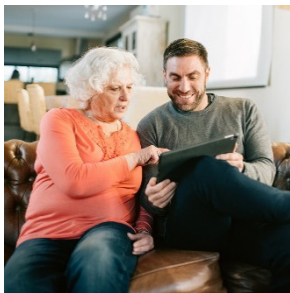
- what services you use



- what health care you get.



They can't make decisions about your money.



You can choose the same person to be your:

- Attorney
- Enduring Guardian.



Or you can choose different people.



You need to fill out an Enduring Guardianship form.



We wrote a guide about having an Enduring Guardian.

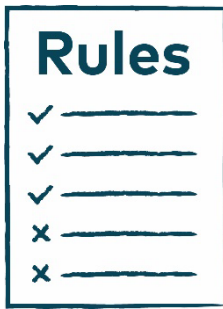


You can find this guide on our website:  
[www.justiceconnect.org.au/resources/enduring-guardianship-appointments-in-nsw](http://www.justiceconnect.org.au/resources/enduring-guardianship-appointments-in-nsw)



If you need more information about an Enduring Guardian, you can contact NSW Trustee and Guardian **1300 109 290**

# What an Attorney must do



The law says Attorneys must follow some rules.

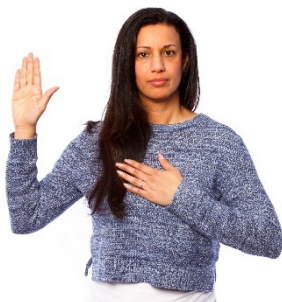


An Attorney must make decisions you would make yourself.



They must always think about what you:

- want
- would choose.



An Attorney must be responsible when they make decisions for you.

They must always:



- do what's right for you



- keep a record of what decisions they make.



When an Attorney makes decisions, they must be about what is best for you, not what is good for them.



An Attorney must be honest.

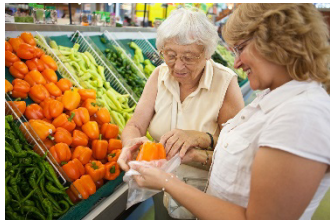


When an Attorney makes decisions, they should not stop you from doing what you want.

An Attorney must support you to take part in:



- making decisions



- your day-to-day life, such as going to the shops

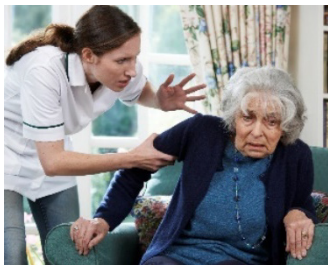


- the community.

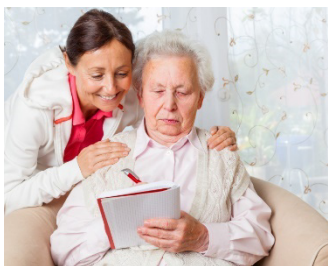
An Attorney must protect you from people who might:



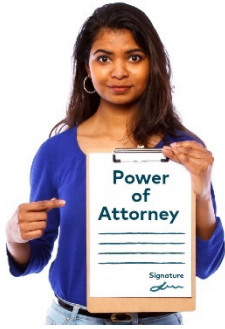
- not help you the way they are supposed to



- treat you badly



- take advantage of you.



An Attorney must do what the Power of Attorney document says.

This includes:



- when they can start to make decisions

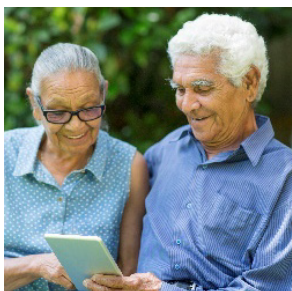


- what they can do



- what they can't do.

# How to choose the right Attorney



It's important to choose the right Attorney for you.

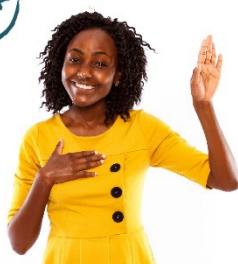
They can make big decisions about your life.

When you choose an Attorney, they should be someone:



- who knows you well
- who knows what you like
- you can trust.

They must also:



- be over 18 years old



- have capacity.

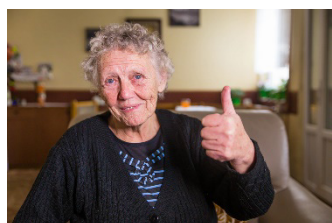
## How to appoint an Attorney



Once you choose your Attorney, you need to **appoint** them.



When you appoint your Attorney, you are giving them your **consent**.



When you give your consent, you say it is ok for someone to do something.

You need to fill out a form that says:



- who you will choose



- what decisions they can make



- what decisions they can't make.



You can get help to fill out this form.

A friend, family member or support person may be able to help you.



If you fill out this form to appoint an Enduring Attorney, you need to sign it in front of a **witness**.



A witness is someone who watches you sign a legal document to make sure it's you.



For this form it needs to be a certain type of witness.

For example:



- a lawyer



- someone who works at NSW Trustee and Guardian



- someone who works at a local **court** – a place where a judge and/or a jury help fix legal problems.



Your Attorney also needs to sign this form to say they want to be your Attorney.



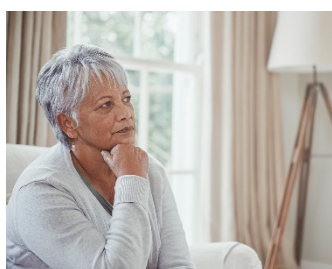
You can find an example of the form on the NSW Land Registry Services website:

[www.nswlrs.com.au/getattachment/  
137dfab6-6d8f-446e-a424-7dfebb470dec/  
attachment.aspx](http://www.nswlrs.com.au/getattachment/137dfab6-6d8f-446e-a424-7dfebb470dec/attachment.aspx)

# How to cancel a Power of Attorney



You can cancel a Power of Attorney at any time.



But you must have capacity to do this.



You need to send a letter to your Attorney to let them know you are cancelling their Power of Attorney.



You should also tell anyone else you gave a copy of the Power of Attorney to.



For example, your bank.

## Important information



NSW Trustee and Guardian can make a Power of Attorney document for you.



If you get the Age Pension from the Australian government, it is free.



If you don't get the Age Pension from the Australian government, you need to pay for it.



You can contact NSW Trustee and Guardian on **1300 109 290**

You should give a copy of the Power of Attorney to your bank after it has been signed by:



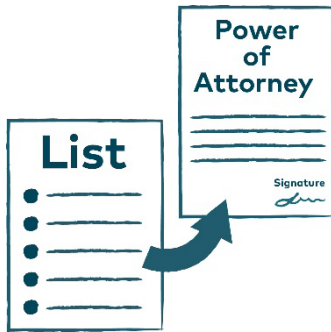
- a witness



- your Attorney.



It's important for your bank to know who your Attorney is.

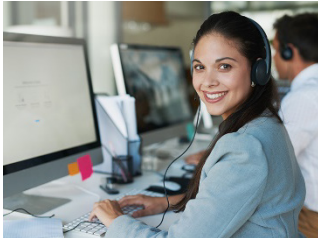


You should keep a list of who you gave a copy of your Power of Attorney to.



If you are worried that your Attorney is treating you badly, you can contact the NSW Ageing and Disability Commission on **1800 628 221**

They can:



- look into the problem
- give you information
- let you know who can help you.

## Word list

This list explains what the **bold** words in this document mean.



### **Appoint**

When you appoint your Attorney, you are giving them your consent.

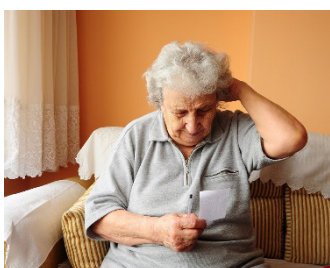


### **Attorney**

In NSW, an Attorney is a person you choose to make decisions for you when you can't make them yourself anymore.

An Attorney can be:

- 1 person
- more than 1 person.



### **Capacity**

Your capacity is your ability to:

- understand the choices available
- make decisions for yourself
- tell others what you want.



## Consent

When you give your consent, you say it is ok for someone to do something.



## Court

A place where a judge and/or a jury help fix legal problems.

## Enduring Guardian

An Enduring Guardian can only make decisions about your day-to-day life.



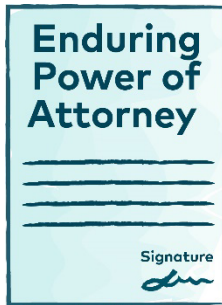
This includes:

- where you live
- who you live with
- what services you use
- what health care you get.

They can't make decisions about your money.

## Enduring Power of Attorney

An Enduring Power of Attorney is for when you:

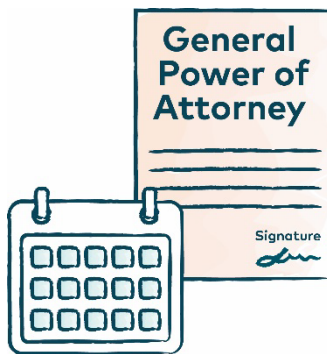


- lose capacity
- can't make decisions for yourself anymore
- want your Attorney to make decisions about your money.

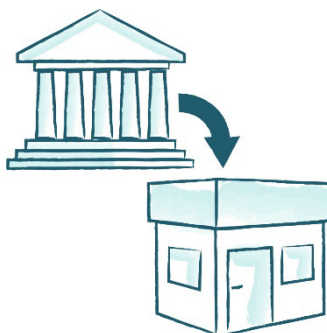
It lasts until your life ends.

## General Power of Attorney

A General Power of Attorney:



- is for a certain reason
- only lasts a short period of time.



## Government agency

A government agency is part of the government that looks after a service.



## Lawyer

A lawyer is someone who knows and understands the law.



## NSW Trustee and Guardian

NSW Trustee and Guardian is a government agency that helps people with important documents, including Powers of Attorney.



## Power of Attorney

A Power of Attorney is a legal document that says:

- who you choose to be your Attorney
- what decisions you want them to make
- when you want them to start making decisions for you.



## Witness

A witness is someone who watches you sign a legal document to make sure it's you.

## Thank you



This Easy Read guide is proudly funded and supported by the New South Wales Government.

We also want to thank 3 organisations who helped us make this Easy Read guide:



- Ethnic Community Services Co-operative



- Seniors Rights Service



- Norton Rose Fulbright.



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