

WHAT IS AN ENDURING POWER OF ATTORNEY?

An enduring power of attorney is an agreement giving another person the power to make personal and financial decisions on your behalf. An enduring power continues if you lose the capacity to make the decisions yourself.

To grant an enduring power of attorney a specific form must be signed by yourself and the attorney outlining the types of decisions the attorney is able to make on your behalf and other details relating to the exercising of the power.

WHY GIVE A POWER OF ATTORNEY?

A Power of Attorney is extremely important as you may not always be able to make decisions when you need to. In circumstance where you become disabled or ill and are unable to make decisions, or if you are simply travelling overseas, a power of attorney means that your wishes can be carried out.

TYPES OF DECISIONS

Your attorney has power to make decisions about personal and health matters (including day to day issues as to where you live, diet and health care, etc) and any financial matters (including banking, investing money, etc).

WHO SHOULD BE MY ATTORNEY?

It is important that you choose someone who you trust. This may be a spouse, family member or close family friend who you feel has the appropriate skills to make the decisions required on your behalf.

You are able to appoint more than one attorney if you wish.

POWERS OF THE ATTORNEY

You can specify and restrict the decisions that you want your attorney to make. These must be clearly outlined within the enduring power of attorney document.

You are also entitled to revoke the power of attorney at any time so long as you are capable of understanding what you are doing.

RESPONSIBILITIES OF THE ATTORNEY

The attorney's responsibility is very clearly set out in legislation and governs powers of attorney. The law ensures that your interests are paramount and that your wishes are respected. If a family member or other person does not feel that the attorney is acting in your best interests they can make an application to the Guardianship and Administration Tribunal or the Supreme Court. The attorney can be

required to provide a detailed account of all money that has been transacted, and any decisions that have been made on your behalf. The Court and Tribunal also have the power to remove the attorney and appoint a new attorney.

The attorney has specific duties to keep records, keep your property separate from the attorney's property and not give away any of your property.

WHAT HAPPENS IF I DO NOT HAVE A POWER OF ATTORNEY?

If you do not have an enduring power of attorney and lose the capacity to make decisions on your own behalf the government can step in to take responsibility for these decisions. This may include the Public Trustee. An application can also be made to the court or the Guardianship and Administration Tribunal in these circumstances, to appoint an attorney.

At Ferguson Cannon Lawyers we are experienced in providing advice regarding enduring powers of attorney and other related matters. We understand that these matters can be sensitive and we will take all care to ensure that your requirements are met.