



## **SAMPLE**

### **Enduring Power of Attorney**

### **Office of the Public Advocate – official form**

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# IMPORTANT

This is a **sample** EPA

- It provides **examples** of the instructions you may wish to include in your EPA.
- Your EPA must be in the official form provided by the OPA or substantially in this form.

**Your EPA should set out your wishes in your own words.**

# PA vs EPA

An ordinary power of attorney (**PA**) operates **only while you have capacity**

An EPA operates (**AS YOU DECIDE**): either

- while you have capacity **and** when you lose capacity

**or**

**Only** during any period when SAT declaration of your lack of capacity is in force

## About the form ...

As with an EPG and AHD, for an EPA to be valid:

- You must be an adult and have capacity when you sign the form; and
- The form must be properly witnessed

**But you decide when it is effective**

**Note:** It is recommended that you initial any deletions and each page, **but if you don't the form will still be valid.**

# **Sole or joint appointment (clause 1, p.1)**

**Note: The person appointed under an EPA is called an attorney or donee – for convenience “Attorney/s”**

You can appoint:

- A sole Attorney; or
- Joint Attorneys who must **act together and agree on all decisions made on your behalf.**
- Joint and several Attorneys who can act either **together or independently.**

# Substitute Attorney/s (clause 1(a), p.2

**Clause 2.** It is useful to appoint a substitute attorney in case your Attorney cannot continue to act for any reason.

This appointment also may be sole, joint, or joint and several.

In this section you can **describe the circumstances in which the substitute is to act**, eg if your Attorney is temporarily or permanently unable to act for any reason.

## **Authorisation: (clause 2, p.2)**

Your Attorney cannot make personal, lifestyle or medical treatment decisions for you.

**Do not cross out the first part of the authority. It may invalidate your PA if you do.**

**You may add 'CONDITIONS' or 'RESTRICTIONS'.**

## **When will your EPA start? (clause 4, p. 3)**

In clause 4 **you MUST decide if your EPA:**

- (a) will continue notwithstanding your subsequent legal incapacity, or
- (b) will be effective only when a SAT declaration is in force that you do not have capacity.

**If you do not choose (a) or (b) your EPA will be invalid.**



## **Execution (pp.3 & 4)**

**Execution by the Appointor** must be witnessed by an authorised witness and an ordinary witness (as for an EPG).

The witnesses must not also be a party to the EPA (eg an attorney or substitute attorney).

**Acceptance by the Attorney** need not be signed on the same day (as in an EPG) and need not be witnessed at all (unlike in an EPG).

# Further Information

FAQs – handouts available or can be found on the DWDWA website at <https://www.dwdwa.org.au/>

The OPA *Guide to Enduring Power of Guardianship in WA* at [https://www.publicadvocate.wa.gov.au/files/EPA\\_Guide.pdf](https://www.publicadvocate.wa.gov.au/files/EPA_Guide.pdf)

provides comprehensive information and the official EPA form.

OPA telephone no: 9278 7300 or Telephone advisory service: 1300 858 455

Email: [opa@justice.wa.gov.au](mailto:opa@justice.wa.gov.au)

## **State Administrative Tribunal**

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To register with My Health Record - [www.myhealthrecord.gov.au](http://www.myhealthrecord.gov.au)

Telephone 1800 723 471

**Authorised witness list can be found in Appendix B of the Guide to EPAs**