



Do I need a Power of Attorney while I'm still young?

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A [Power of Attorney](#) is a document often considered necessary only as someone ages and needs assistance in managing their affairs. It is often seen as part of retirement planning, or for someone experiencing an illness, something that you only worry about later in life or if circumstances require it.

But in reality, a Power of Attorney is an important legal document for adults of any age, including younger adults.

Life is unpredictable. Whether you are heading overseas, running a business, buying property, or just want to be prepared for the unexpected, having a Power of Attorney in place can give you and your family peace of mind and protection if something goes wrong.

What is a Power of Attorney?

A Power of Attorney is a legal document that allows someone else, your attorney, to make decisions and take actions on your behalf with respect to your legal and financial affairs. This can include managing your bank accounts, signing documents, paying bills, or buying and selling property. It allows your attorney to use your money to pay for your expenses.

It does not give your attorney authority to make decisions about your health care or personal welfare. In NSW, those matters are covered by a different document called an Appointment of Enduring Guardian (also commonly referred to as Enduring Guardianship).

There are two main types of Powers of Attorney in NSW

General Power of Attorney

This is typically used for a specific purpose or a short-term arrangement, such as while you are overseas or to assist with a particular transaction, such as selling a property. It ends if you [lose capacity to make decisions for yourself](#).

Enduring Power of Attorney

This continues to operate even if you lose the ability to make decisions for yourself due to illness, accident, or cognitive decline. It is the most common type of Power of Attorney used for long-term planning.

What age do I need a Power of Attorney?

In NSW, anyone over the age of 18 can make a Power of Attorney, but there is no set age at which you **must** have a Power of Attorney.

Here are some reasons why people in different life stages might want to consider putting one in place.

In your 20s and 30s: it is about being prepared

When you are young and healthy, it can feel like overkill to think about legal documents like a Power of Attorney. But unexpected events can happen at any age, including illness, accidents, overseas travel, or simply being unavailable when something important needs to be done.

Common scenarios where a Power of Attorney benefits younger people:

- You are travelling or working overseas and need someone to manage your Australian finances while you are away. This could include if your accounts are hacked or compromised, or if your personal items are stolen while travelling. Having an attorney appointed may allow them to assist you in dealing with your bank if the unexpected occurs.
- You are buying property and cannot complete steps required for the settlement to proceed in person.
- You are in an accident and temporarily unable to make decisions or manage your affairs due to your injury. Particularly if you have a young family and both parents are involved in an accident, having a Power of Attorney in place can provide protection to your children to ensure their financial needs can be met.
- You are running a business and want a trusted person to step in if you are ever out of action.

Having a Power of Attorney means someone you trust can keep things running smoothly while you recover, travel, or focus on other priorities.

In your 40s and 50s: planning for the future

This is often the life stage where people start to think more seriously about financial security, family obligations, and estate planning.

A Power of Attorney becomes a key part of your broader estate planning strategy, alongside [your Will](#) and possibly an [Enduring Guardianship](#).

It can be similar to an insurance policy, ensuring that if the unexpected occurs, your financial affairs will not be left in limbo. In particular, if you have liabilities or expenses to be paid, such as a mortgage, a Power of Attorney can help to ensure that you or your family are not disadvantaged.

Common scenarios include:

- you want to ensure your partner or other trusted person can manage your finances if you are not able to;
- you have been diagnosed with a health condition that may affect your decision-making in future or require assistance in managing your affairs;
- if you own or manage a business, your absence, whether due to illness, travel or injury, could delay major decisions. A Power of Attorney can allow someone you trust to manage finances and keep operations running.

In your 60s and beyond: a vital safeguard

For older adults, Powers of Attorney are particularly important to ensure you have a plan for the unexpected. Capacity issues can arise slowly over time, and it is far easier to put proper documents in place before it is actually needed.

If a Power of Attorney is required due to an accident or loss of mental capacity, it may be too late to make a Power of Attorney if you no longer have capacity to prepare one. If a Power of Attorney is required but not prepared, your loved ones may have to go through a more complicated and expensive tribunal process to manage your affairs.

Why making a Power of Attorney while you're young is the best option

Making a Power of Attorney before you need it is preferable as you stay in control of who acts for you, and it can limit future complications for your family.

If you lose capacity without a valid Power of Attorney in place, your family might need to apply to the NSW Civil and Administrative Tribunal (NCAT) to be appointed as your financial manager. This process can be stressful, expensive, and time-consuming, and it might not be the person you would have chosen.

Whoever is appointed as your financial manager would also need to report to the NSW Trustee and Guardian, which acts as the overseer or supervisor of the financial manager. This can include submitting plans and accounts to the NSW Trustee and Guardian, and seeking additional approval for certain transactions.

If an individual is not appointed as the financial manager, the NSW Trustee and Guardian may be appointed to make decisions for you.

However, if you prepare a Power of Attorney yourself:

- you decide who you trust, how broad their powers are, and whether their authority starts immediately or only if something happens to you;
- an attorney appointed under a Power of Attorney would not automatically be required to account to the NSW Trustee and Guardian.

Who should I appoint as my attorney?

Your attorney should be someone you trust implicitly. You can learn more about this in our earlier blog, [“Choosing the Right Attorney for Your POA in NSW”](#),

You can appoint more than one attorney if you wish, and they can act either jointly (together) or severally (independently). You can also appoint a substitute attorney in case your first choice is unable or unwilling to act.

What powers will my attorney have?

You can tailor your Power of Attorney to suit your needs, which may be to:

- authorise them to make certain decisions, such as using your money to pay for your child's needs; or
- limit the decisions they can make, such as only making decisions for you if you are unable to make decisions for yourself.

This flexibility is one of the great strengths of the document, but it is also why it is important to get legal advice to ensure the document is set up correctly.

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How do I put a Power of Attorney in place?

To make an Enduring Power of Attorney in NSW, you need to:

- be over 18 years old;
- understand what the document means (you would need to have mental capacity to make the appointment); and
- sign the document in front of a prescribed witness (usually a lawyer or Registrar of the Court).

Your attorney also needs to sign the document to accept the appointment before they can act on your behalf.

If your attorney needs to act for you in property transactions, the document will also need to be registered with NSW Land Registry Services.

Final thoughts

You do not need to wait until something goes wrong to make a Power of Attorney. In fact, by the time you need one, it might be too late.

Putting a Power of Attorney in place is a useful way to safeguard your affairs and give yourself and your loved ones peace of mind.

How an estate planning lawyer can help

At E&A Lawyers, we can guide you through the process and make sure your documents are legally sound and tailored to your needs.

We will work closely with you to understand your circumstances, provide experienced advice, and ensure your wishes are expressed clearly and legally, no matter what stage of life you may be in.

If you would like to speak to a lawyer about preparing or updating your Power of Attorney, please get in touch with our team today.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

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