

APPOINTMENT OF ENDURING GUARDIAN

The role of an Enduring Guardian

An enduring guardian is the person you appoint to make personal, health or lifestyle decisions for you if you lose the capacity to make those decisions for yourself.

You can choose what functions you wish your enduring guardian to have. Commonly, those functions are:

- to decide where you live
- to decide what health care you receive
- to consent to medical or dental treatment
- to decide what other kinds of personal services you receive.

Your enduring guardian has no power to deal with your property or with your financial affairs.

The form of appointment of enduring guardian must be signed by you and by the enduring guardian. The signatures must be witnessed by a solicitor, barrister or clerk of the Local Court. The same witness can witness all signatures. Alternatively, different witnesses at different times and in different places can witness different signatures.

Who can you appoint?

The person you appoint must be 18 years of age or over. You should only appoint someone you trust and who is sensitive to your wishes. In making your decision, you should consider that person's willingness and availability to act and that person's own age and health.

You can appoint more than one enduring guardian. If you appoint more than one, you must indicate whether you want them to act jointly or severally. Joint enduring guardians must agree and act together. Where you appoint enduring guardians to act severally they may act independently of each other.

You may also appoint an alternative enduring guardian who is authorised to act only if the original enduring guardian is not able or not willing to act.

Advance Directive

An advance directive is a document that sets out your wishes about future medical intervention and treatment for situations where you are unable to communicate your wishes or you have lost the ability to make the decision for yourself.

An advance directive can be incorporated into an enduring guardianship appointment.

When does Enduring Guardianship end?

Enduring guardianship ends:

- when you die
- when you revoke it
- if the Guardianship Tribunal or Supreme Court revokes it
- when you marry (unless you marry the person you appointed).

Who decides when you have lost capacity?

Where there is uncertainty about whether a person has lost capacity to make his or her own decisions, a medical certificate may be obtained.

If the situation is still not clear, or if there is a dispute, the Guardianship Tribunal may need to decide the issue.

Important note: This information sheet is not intended to be comprehensive and professional advice should be obtained before taking any course of action.