

10 Things to Consider When Appointing a Power of Attorney

Sadly, elder abuse is becoming a serious problem in South Australia.

Common examples of elder abuse we have seen include your attorney receiving an early inheritance, misusing monies in your bank account (including draining your bank account) or transferring your home into your attorney's own name.

Consequently, the South Australian Law Reform Institute recently conducted a review to prevent the abuse of Powers of Attorney in South Australia; thus, serving as a timely reminder to carefully consider who you should appoint when making this document.

What is Power of Attorney?

A *Power of Attorney (POA)* is a legal document that enables you to give a person or persons appointed by the document the authority to deal with your business, financial and legal affairs and make decisions on your behalf. Commonly, the document is to take effect when you lose mental capacity.

Sadly, there are currently many cases before the South Australian Civil Administrative Tribunal (SACAT) that demonstrate the misuse of the Power of Attorney document by an appointed attorney.

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The position of attorney is one of absolute trust, as your attorney must act with reasonable care to protect your affairs, as well as to act in your best interests at all times.

Therefore, before appointing a particular person or persons, it is important that you ask yourself the following:

1. Are they trustworthy?
2. Are they responsible and reliable?
3. If appointing more than one person, will they work well together?
4. How old are they?
5. Are they in good health?
6. Where do they live in comparison to you?
7. Do they have a good understanding of your affairs?
8. Are they willing to act?
9. Do they have time to manage your affairs (if required)?
10. Is the appointment of one or more persons likely to lead to issues amongst your family? And, by extension, the beneficiaries of your estate?

The Importance of Choosing Wisely

A Power of Attorney is one of the most important documents that a person will make during their lifetime. If you lose the mental ability to look after yourself, either temporarily or permanently, your attorney may have complete control over your assets.

So, it is of the utmost importance that you understand how a POA operates, and once understood, to prepare a document tailored to your specific needs and circumstances.

If you have a question regarding Powers of Attorney and the law, or wish to make or update your existing Power of Attorney, contact our Wills and Estates team at Andersons Solicitors today.

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