



# 10 Things to consider when appointing an Enduring Power of Attorney

Planning ahead for your future is one of the most important steps you can take to ensure your wishes are respected — especially when it comes to financial and legal matters. In South Australia, appointing an **Enduring Power of Attorney (“EPA”)** allows you to nominate someone you trust to make financial and legal decisions on your behalf if you’re unable to do so due to incapacity.

But how do you make the right choice? Here are **10 key things to consider** before appointing your Enduring Power of Attorney.

## 1. Understand What an Enduring Power of Attorney Is

An EPA is a legal document that gives another person (your attorney) the authority to make financial and legal decisions for you. Importantly, it *endures* — meaning it remains in effect even if you lose mental capacity.

Note: An EPA does **not** give authority over medical or lifestyle decisions. For that, you’ll need an [Advance Care Directive](#).

## 2. Choose Someone You Trust Completely

This person will potentially have significant control over your finances and legal affairs, including opening/closing/managing your bank accounts, paying bills, and even selling property. Trust is essential. Many people choose a close family member, but it should be someone who is dependable, responsible, and acts in your best interests.

### **3. Consider Their Financial Management & Record Keeping Skills**

Your attorney doesn't need to be an accountant or lawyer, but they should have a good understanding of financial matters. They'll be responsible for managing your money, so it's important they can handle tasks like budgeting, record-keeping, and dealing with institutions.

An attorney owes an active obligation to keep accurate records and accounts of all transactions made on your behalf, and a failure to do so is an offence under the *Powers of Attorney and Agency Act SA 1984* (SA). Therefore, it is important to choose someone who appreciates the importance of good record-keeping.

### **4. Are They Willing and Able to Take on the Role?**

Before appointing someone, have an honest conversation with them. Are they comfortable with the responsibility? Do they have the time and capacity to act on your behalf, potentially for many years?

Once an EPA has been activated due to incapacity, there are restrictions on when an attorney can legally renounce the role. This is an important consideration for long-term financial future planning.

### **5. Should You Appoint More Than One Attorney?**

You can appoint more than one attorney, and they can act **jointly** (together on all transactions) or **severally** (one or more to act at any time). Joint attorney appointments can add a layer of protection but may slow down decision-making, which may be impractical for the day-to-day household finance management. Consider your family dynamics, including work obligations and distance, and consider whether multiple attorneys would be the best choice for you.

You should also consider nominating a backup attorney in case your first choice can't act for you.

### **6. What Limitations or Conditions Should You Include?**

You can tailor your EPA to suit your preferences. For example, you can limit your attorney's powers to certain tasks or time periods, set rules around certain transaction limits, or specify that their authority only begins if you lose capacity (rather than immediately).

At Andersons Solicitors, we can assist with a customisable EPA that suits your situation best.

### **7. The Importance of Properly Drafted Documents**

An EPA is a powerful document which should be prepared by a legal practitioner.

There are certain signing and witnessing requirements that must be followed in order to ensure that the EPA is a legally binding document.

### **8. Plan for the Possibility of Disputes**

Family disputes over financial matters are sadly not uncommon and there has been an increase in reports of elder financial abuse over the years. Choosing an attorney who is impartial, communicates well, and is respected by your family can help reduce the risk of conflict.

### **9. Keep It Up to Date**

Your circumstances — or those of your attorney — may change over time. Review your EPA regularly, particularly after major life events such as marriage, divorce, illness, death, retirement or a change in financial status. You can revoke or change your EPA at any time while you have capacity.

### **10. Communicate Clearly**

Ensure your attorney either has a copy of your EPA or knows where to find it when it's needed. You may also consider giving a copy to your bank or financial adviser for safekeeping.

Clear communication now can avoid confusion or delays later.

### **Final Thoughts**

Appointing an Enduring Power of Attorney is a powerful tool for protecting your future, but it's not a decision to take lightly. Take your time, seek legal advice, and choose someone who will respect your values and act with integrity.

Taking this step now can give you and your loved ones peace of mind for the years ahead.

For more information please call **8238 6666** or email [enquiry@andersons.com.au](mailto:enquiry@andersons.com.au)