

# Make an EPOA checklist - QLD



This checklist will guide you through making an enduring power of attorney in Queensland. It will show you what to think about and connect you to relevant information.

## HOW TO USE THIS CHECKLIST



**Think** about each point before you start to complete your enduring power of attorney form and make notes of your preferences, questions and decisions.



**Tick** the boxes once you've completed each step.



**A PDF version** is also available for you to download should you want to go through this process offline.

### 1 GET READY

Background information and resources to help you research and prepare to make an EPOA

### 2 GET STARTED

Practical information you will need to consider before completing the EPOA form

### 3 COMPLETE THE FORM

Helpful information to help you complete the EPOA form

### 4 SIGN AND WITNESS

Information about how to correctly sign and witness your EPOA

### 5 REGISTER AND STORE

Information about registration requirements and tips on where and how to store your EPOA

### 6 CHANGING OR REVOKING YOUR EPOA

Information to assist you should you want to change or revoke your EPOA

Please be aware this checklist is not a substitute for legal advice.



## 1 GET READY

Knowing as much as possible about an enduring power of attorney before you start to make one will make the process easier.

### Changes to guardianship laws and forms

In November 2020 Queensland introduced significant changes in the laws that underpin guardianship and powers of attorney to be more consistent with human rights principles and United Nations conventions. See the Queensland Government website for more information about the changes and how they may affect you.

**More Information**



### Have you read the information about EPOAs? Do you know where you can find out more?

- Compass [Introduction to enduring power of attorney](#) webpage
- Queensland Government [Power of attorney](#) webpage
- Queensland Government [Form 9 – Enduring power of attorney explanatory guide](#) (PDF, 415 KB)
- Public Trustee of Queensland [What is an enduring power of attorney](#) webpage
- Office of the Public Guardian [Enduring powers of attorney](#) webpage
- Office of the Public Guardian [Enduring power of attorney fact sheet](#) (PDF, 693 KB)
- Queensland Civil and Administrative Tribunal [Enduring power of attorney](#) webpage
- The Australian Guardianship and Administration Council's [You Decide Who Decides](#) booklet on the Compass website (PDF, 2.5MB)

**Do you understand the key terms that relate to powers of attorney in Queensland?**

If you're unsure about any of these, visit the Compass [Helpful terms to know](#) webpages or the Queensland Government [Power of attorney](#) webpage.

- **Principal** (you, the person making the power of attorney)
- **Attorney** (the person you appoint under a power of attorney to make decisions for you)
- **Capacity** (your ability to understand facts about your decisions, weigh up the consequences — i.e. the risks and benefits — of making decisions, and communicate consistent choices)
- **General power of attorney** (a legal document that authorises an attorney to decide financial matters on your behalf while you still have capacity)
- **Enduring power of attorney** (a legal document that authorises an attorney to decide personal, health and financial matters on your behalf if you lose capacity)
- **Personal matters** (decisions about your care and welfare, such as living arrangements and support services)
- **Health matters** (decisions about medical treatments, procedures and services, for both physical and mental conditions, and life-sustaining treatments)
- **Financial matters** (decisions about your finances and property, such as your investments, business, expenses and property sales)
- **Eligible witness** (a person authorised to witness your power of attorney)
- **Revoke** (cancel)

**Are you confident that you understand the difference in Queensland between a general power of attorney (GPOA) and an enduring power of attorney (EPOA)?**

- Compass [Powers of attorney in Queensland](#) webpage
- Queensland Government [Power of attorney](#) webpage

**Have you decided that you want a power of attorney that covers your personal (including health) matters and/or financial matters but only if you lose capacity to make them yourself?**

- If so, an EPOA is the right option for your needs.
- If you want your financial decisions to be looked after while you still have capacity (for example, if you are in hospital or travelling overseas), you should make a GPOA.

**Do you also want a future planning tool that will cover medical decisions for you? In Queensland you can choose to make an [advance health directive](#) to give directions about your future health care and to appoint an attorney(s) for your medical decisions.**

An [advance health directive](#) is a record you can make of the health care treatments you'd like to have, or refuse to have, if you become unable to make the decisions yourself at the time.

- Find out more about advance health directives on the [Queensland Government](#) website.
- If something happens to make a guardianship necessary and you haven't already prepared an EPOA or an advance health directive, a statutory health attorney can make health decisions on your behalf. Find out more on the [Office of the Public Guardian](#) website.

*If you've ticked all those boxes, you should feel confident you have all the information you need. Move on to the next list.*

**All of the following three statements must be true for you to be able to make your EPOA:**

- You are over 18 **and**
- you have capacity to understand the document you are signing and the powers it gives **and**
- you are capable of making the EPOA freely and voluntarily, not due to pressure from someone else.

There is a lot of support and assistance available to people who are making their EPOA. The next list will help ensure that you know who you can contact for advice and help.

**Getting legal advice from a solicitor about making your EPOA is highly recommended. They can also help you complete the appropriate EPOA form. Fees will apply.**

- If you don't have a solicitor, you can find one through the [Find a solicitor](#) page on the Queensland Law Society website.

**You may also be able to get information and help from these services:**

- [Legal Aid Queensland](#)
- [Community Legal Centres](#) (list of legal centres offering free or low-cost legal services)
- [Seniors Legal and Support Service](#)

*Now you should be ready to start making your EPOA.*





## 2 GET STARTED

To make your EPOA, you must complete one of the two official Queensland Government forms available from the [Queensland Government website](#).

- Use 'Form 2 – Enduring power of attorney – short form' if you want to appoint either:**
  - Attorney(s) for personal (including health) matters only (a maximum of 4), OR
  - attorney(s) for financial matters only (a maximum of 4), OR
  - the same attorney(s) for both personal matters and financial matters (as many as you'd like).
  
- Or, use 'Form 3 – Enduring power of attorney – long form' if you want to appoint:**
  - Different attorneys for personal (including health) matters and for financial matters.
  
- Download the form you want from the Queensland Government website and save a copy to your computer. (You can also buy a paper copy from most newsagents.)**
  - You must use the most recent version of the form when you make your EPOA. If you wait a while before filling in the one you downloaded, check the Queensland Government website again to make sure there isn't a newer version.
  
- Also, download and read the Queensland Government's [Form 9 – Enduring power of attorney explanatory guide](#) (PDF, 415 KB)**

Before you start filling in the EPOA form, read through it and the explanatory guide. The form includes explanations and tips to help you complete it, but you may still think of questions you want answered. Write down any questions you have if they're not answered in the explanatory guide.

**Look for answers to your questions. These resources may be helpful:**

- Compass [Powers of attorney](#) webpage
- Queensland Government [Power of attorney](#) webpage
- Public Trustee of Queensland [Enduring powers of attorney](#) webpage
- Office of the Public Guardian [Enduring power of attorney](#) webpage
- Your solicitor
- Your accountant
- Trusted family members
- Close friends whom you trust.

You'll need to decide who you'd like to be your attorney(s). In Queensland you can appoint as many attorneys as you like, but no more than 4 for one matter (for example, 4 to manage financial matters and another 4 to manage personal matters) if you wish your decisions to be made jointly. You can also nominate 'successive' or 'alternative' attorneys.

**Read about how to choose an attorney on this [Compass webpage](#).**

**Understand how multiple attorneys can undertake the role together.**

- Your attorneys can act individually (known as 'severally'), together (known as 'jointly'), by majority (meaning, more than half the attorneys must agree) or a combination of these.
- Successive attorneys can only act when one of the original attorneys cannot continue in the role.
- Alternative attorneys can only act in particular circumstances, such as when an attorney is overseas.
- Read more about these options on pages 10 and 11 of the Queensland Government's [Form 9 – Enduring power of attorney explanatory guide](#) (PDF, 415 KB)

**There are lots of people you can consider to be your attorney, but whoever you choose should be someone you trust.**

- Family members (it doesn't have to be your closest relative, if you don't believe they are suitable)
- Close friends
- Neighbours
- Your partner (however, you should consider their own age and decision-making capacity)

**If you believe you don't have anyone suitable to ask, there are other options you can consider. Fees may apply.**

- A trustee company
- Your solicitor
- Your accountant

- Check that your chosen person(s) meets the criteria for being your attorney:**
  - They are 18 years of age or older.
  - They are not bankrupt.
  - They are not your paid carer, your health care provider or your residential services provider where you live.
  - You trust them.
  
- Talk to your chosen attorney(s) about what the role would involve, how you would like your decisions to be made, and how they could support your participation in decision-making. Do they listen to what you want?**
  
- Make sure they understand what the job will involve. You could look at these resources together:**
  - Compass [Being an attorney](#)
  - Queensland Government [Obligations of attorneys under an enduring document](#) (PDF, 363 KB)
  - Queensland Government's [Form 9 – Enduring power of attorney explanatory guide](#) (PDF, 415 KB)
  
- Now that you've had the discussion, has the person agreed to be your attorney?**
  - If the person you've chosen doesn't agree, consider someone else and talk to them about it.
  - If they do agree, they will need to sign your completed EPOA form in section 5.
  - Make sure you have each attorney's full name, current address, phone number and email address, as you'll need them for section 3 of the form.
  
- If you chose more than one attorney, decide how you'd like this to work and whether you want to include any specific instructions for sharing the role:**
  - Jointly (all must agree on all decisions)
  - Severally (one may decide alone)
  - By majority (more than half of your attorneys must agree on all decisions)
  - By a combination of these
  - Successively
  - Alternatively? (You'll indicate this on the form in section 3.)
  
- Consider what should happen if one of your attorneys cannot continue in their role (i.e. they become bankrupt, lose capacity, die or no longer wish to be your attorney).**
  - Remember, you will already have lost capacity for your EPOA to be in effect, so if your attorney discontinues, you won't be able to say then what you want to happen. You need to decide it now.
  - You'll be able to indicate on the EPOA form what you want to happen.
  - You can nominate successive or alternative attorneys as a back-up, and they can step into the role for you.
  - If you decide to nominate successive or alternative attorneys, you'll indicate this in section 3 of the EPOA form.

*Next, decide on the details of your EPOA and how you would like it to work for you.*

**Think which decisions you might need your attorney to look after and consider how you'd like each of them to be made. Some of the personal (including health) decisions could, for example, relate to:**

- Arranging for aged care and other support services
- Where and with whom you live
- Legal matters that don't relate to your finances or property.

Other decisions might relate to financial matters only, such as:

- Real estate: selling your property, renting out your house
- Paying bills: anything from buying groceries to paying for aged care services (think about what bills you pay now)
- Managing any investments you may have
- Carrying on a business
- Taking money out of your bank accounts.

**Are there any additional powers you'd like to authorise? You will need to note these in section 3 of the EPOA form. For example:**

- Do you authorise for your attorney to give gifts from your finances?
- Can your attorney use your money for their own benefit or that of someone else (e.g. your children), such as paying for rent, food, education or medical care?
- Is there anything else you'd like to authorise?

**Are there any limits or conditions you'd like to place on your attorney's decision-making powers? (These will be noted in section 3.) Here are some examples, but you may think of others that are relevant to your circumstances.**

- You could require them to submit accounts to your accountant every year.
- You could state that your attorney(s) must notify someone (e.g. your lawyer, your bank) that the EPOA is taking effect before they make any of your decisions.

**If the EPOA is for personal (including health) matters, it will only take effect if you lose capacity to make decisions. However, an EPOA for financial decisions will take effect immediately, unless you indicate in section 3 that it is only to start if you lose capacity or at some other trigger. Think about which option you'd like for your financial EPOA, ready to note it in section 3:**

- When you have 'lost capacity'?
- Immediately?
- At some other specific time, occasion or circumstance? What would those be?

*Once you have thought through all your preferences and found answers to your questions, you should be ready to fill in the EPOA form.*





### 3 COMPLETE THE APPROPRIATE FORM

There are two EPOA forms in Queensland. Use the short form to appoint the same attorney/s for both personal (including health) and financial matters. Use the long form to appoint different attorneys for personal (including health) matters and for financial matters.

Both EPOA forms are in PDF format. You can complete the form on your computer if you have a PDF-editing program, such as [Adobe Acrobat Reader](#) (a free program—download from the Adobe website). Otherwise, you can print the form and fill it in by hand with a pen.

If you are completing the form on paper, you might like to think about printing two copies: one as a draft that you can change and make mistakes on, the other to become the final, unaltered copy.

- Read the general information at the start of the form.**
- Turn to section 1 'Your personal details'.**
  - Fill in your full name, address and contact details.
- Turn to section 2 'Your views, wishes and preferences'.**
  - Choose whether to complete this section, outlining what preferences your attorney/s must consider when making decisions for you. Cross out any space in the box that you don't use.
  - If you do not have anything to record in this section, cross out the section.

**Section 2 is completed. Turn to section 3 ‘Your attorney(s)’. (In Form 3, you’ll follow these next steps once for personal (including health) matters and again for financial matters.)**

- Fill in the name, address and contact details of your attorney(s).
- If you need more space, tick the box to indicate you are appointing additional attorneys and attach additional pages to the form.
- Indicate which decisions your attorney(s) can make.
- Indicate when your attorney(s) power begins for financial matters.
- If you have appointed more than one attorney, indicate whether you want your attorneys to act jointly, severally, by majority, or ‘other’. Regardless of the option you choose, multiple attorneys must consult with each other regularly to make sure your interests are always looked after.
- If you tick ‘other’, you can appoint a successive or alternative attorney to replace an attorney if it becomes necessary. (A successive attorney only has power to act when the power given to an original attorney ends. Alternative attorneys only have power to act in particular circumstances, which you can specify, such as when an original attorney is overseas.)
- Next, record any general terms and instructions for your attorney(s). Cross out any space that you don’t use. If you need more space than the form provides, tick the box at the bottom of the page and attach an extra page.
- Complete the first ‘Who to notify’ and ‘What to notify’ page if you want to record instructions for your attorney(s) about advising someone (e.g. your lawyer or bank) before they begin making any personal (including health) decisions for you. Cross out any blank space you don’t use, and cross out any parts you don’t want to complete.
- Complete the next ‘Who to notify’, ‘What to notify’ and ‘When to notify’ page if you have instructions for your attorney(s) regarding your financial matters.

**Section 3 is completed. Turn to section 4 ‘Declarations and signatures’.**

- Read the following guidelines and decide who can witness your signature in section 4.





## 4 SIGN AND WITNESS

You must sign your EPOA in front of an 'eligible witness'. This can only be a justice of the peace (JP), commissioner for declarations, lawyer or notary public. Your witness cannot be one of your attorneys, related to you or your attorney, or a paid carer or health provider.

**Arrange a time and day with the eligible witness that you've chosen. Ask them whether any fees will apply for their service.**

- At the appointed time, sign and date your EPOA at section 4 in the presence of the eligible witness. Do not sign your EPOA alone or in the presence of someone else who is not an eligible witness.
- If you ('the principal') are physically unable to sign the form, there is space in this section for another eligible person to sign it on your behalf.
- At the same time that you sign, the eligible witness should sign your EPOA in section 4, then fill in the 'Witness certificate' area, including recording the number of pages in the document.
- The eligible witness needs to also certify they are satisfied that you have the capacity to make the enduring power of attorney.

**Have each of your attorney(s) complete section 5, 'Attorney(s) acceptance' by signing and dating it.**

- The form has spaces for 4 attorneys to sign their acceptance. It does not matter which order they sign it in. If you have more than 4 attorneys, attach additional pages to the form and tick the box to indicate that extra pages are attached.

Your EPOA form is complete! There are a few more steps to finalise the process.

*Once your EPOA has been correctly witnessed, the last step is to decide where to keep it.*





## 5 STORE YOUR EPOA

You do not have to register your completed and witnessed EPOA anywhere in Queensland, unless your attorney needs to deal with land transaction in Queensland on your behalf.

- Think whether your EPOA authorises your attorney(s) to deal with land transactions in Queensland.**
  - If 'yes', you must register the EPOA with the Queensland Titles Registry.
  - If 'no', you can simply keep the original in a safe place at home – perhaps with your will and other important papers.
  
- If your EPOA needs to be registered with the Queensland Titles Registry, you can do this either in person or by post. A fee will apply.**
  - If 'yes', you must register the EPOA with the Queensland Titles Registry.
  - If 'no', you can simply keep the original in a safe place at home – perhaps with your will and other important papers.
  - If your EPOA needs to be registered with the Queensland Titles Registry, you can do this either in person or by post. A fee will apply.
  - Complete and lodge a [Form 16 – Request to register power of attorney](#).
  - The applicable fee for lodging the form can be found on the [Queensland Titles Registry fee calculator](#).
  - If lodging your EPOA by post, include a completed credit card payment request form or a cheque or money order made out to 'Queensland Titles Registry Pty Ltd'. [Find the forms here](#).

- Make and distribute certified copies of the original, signed EPOA. (Copies can be certified by a JP, commissioner for declarations, notary public, lawyer or trustee company, as listed in the *Powers of Attorney Act 1998, s 45.*)**
  - Give certified copies to your attorney(s), doctor, other health provider/s, bank or lawyer.
  - Notify close family and friends that you have made an EPOA and where to find the document.
  - You can choose to upload your EPOA to your [My Health Record](#).
  - You can also choose to have your EPOA uploaded to your Queensland Health electronic record. To do this, send a copy to the Office of Advance Care Planning by email, mail or fax. Find out more on the [Advance Care Planning](#) website.
  - You might like to keep a copy of this checklist with the certified copies of your EPOA.

And finally ...

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- Make a diary note to review your EPOA in 2 to 3 years.**

- Circumstances and relationships change, so it's wise to review your plans regularly and adjust if needed.

*Sometimes things change, and you may decide later that you want to appoint a different attorney, alter the preferences that you recorded in your EPOA, or revoke (cancel) your EPOA completely.*





## 6 CHANGING OR REVOKING YOUR EPOA

In Queensland, you may change or revoke your EPOA at any time if you still have capacity. You must do so in writing.

- Think through why you want to change your EPOA and what the changes will be. For example:**
  - Has your attorney become bankrupt, lost mental capacity, died or changed their mind about being your attorney?
  - Has your good relationship with your attorney changed, or do you have doubts now that the person you nominated will act in your best interests?
  - Will someone else now be better to handle your financial decisions for you?
  - Have your financial circumstances or living arrangements changed?
  - How do you now want your future decisions to be made if you should lose capacity?
  
- Have you read the available information about changing or revoking an EPOA in Queensland?**
  - Compass, [Powers of attorney in Queensland: making and changing powers of attorney in Queensland](#)
  - Queensland Government, [Form 9 – Enduring power of attorney explanatory guide](#) (PDF, 415 KB), page 19
  
- Have you discussed the changes you want to make with other people, such as family members, your attorneys, friends, your solicitor, or a professional trustee or legal advisory service?**

*Now you should be prepared to make the changes that you want.*

- To revoke an existing EPOA, write your revocation on the official form.**
  - Download and complete [Form 6 - Revocation of enduring power of attorney](#) on the Queensland Government website (PDF, 174 KB)
  - You will need a witness to sign it at the end of part 2 and to complete part 3.
  
- Provide the relevant people with a copy of the revocation.**
  - Let all your attorneys know that you have revoked the EPOA and provide them with copies of the revocation.
  - Also provide copies to anyone else who holds a certified copy of the original EPOA, such as your lawyer or bank.
  
- If the existing EPOA was registered with the Queensland Titles Registry, you should also register the revocation letter or form.**
  - You will need to register a Titles Registry [Form 16 – Request to register power of attorney / Revocation of power of attorney](#) (PDF, 77 KB) along with a single-sided certified copy of [Form 6 – Revocation of enduring power of attorney](#) (PDF, 174 KB)
  
- To change an existing EPOA, you have two options.**
  - You can revoke the previous one, following the steps above, and replace it completely with a new one, following the steps in this checklist again.
  - Or, you can make a new EPOA without revoking the first one, in which case the new EPOA will override the original if there is any inconsistency between the two.
  - For minor changes such as updating contact information, you may not need to make a new EPOA. Simply let the people you have given a copy of your EPOA to know your updated details.
  - It is recommended you seek advice from a lawyer about changing your EPOA.
  
- Provide copies of any new EPOA to your attorneys and to other relevant people, such as your solicitor and bank.**
  
- File a copy for yourself with your other important paperwork.**

**Disclaimer:** The information provided on this website is not a substitute for individual legal advice.

