

Powers of Attorney and Enduring Guardianship

It's important to know the difference

The NSW Elder Abuse Helpline & Resource Unit receives calls regarding suspected abuse of older people living in the community in NSW. Many of these calls are related to alleged financial, psychological, physical, sexual abuse, and neglect.

Many instances of financial and psychological abuse result from the misuse of Powers of Attorney and confusion between the roles of an attorney and an enduring guardian.

Things to Consider	Power of Attorney	Enduring Power of Attorney	Enduring Guardian
Can only be appointed by Older Person while they have capacity.	✓	✓	✓
Manages finances & assets on behalf of older person, according to older person's wishes (e.g. paying bills).	✓	✓	
Useful if older person is overseas or unwell & needs finances managed by another person.	✓	✓	
Can be in effect whilst older person has capacity.	✓	✓	
Is effective when the older person loses capacity.		✓	✓
May decide where the older person lives.			✓
May decide what health care the older person receives.			✓
May decide what other kinds of personal services are received.			✓
Can consent to medical or dental treatment being carrying out.			✓

* Note: other decisions can be made by enduring guardians however they require a "special function" which must be clearly stated in the guardianship documentation. These special functions may include an "access function" which allows the enduring guardian to restrict specific persons, stated in the guardianship documentation, from having access to the older person. This is normally used when there is some discord in family or close relationships. However, without these special functions being specifically listed in the guardianship documentation, the enduring guardian does not have the right to restrict anyone access to the older person.

For more information about powers of attorney and enduring guardianships please see:

<http://www.tag.nsw.gov.au/what-is-a-power-of-attorney.html>

<http://www.publicguardian.justice.nsw.gov.au/agdbasev7wr/publicguardian/documents/pdf/accesssummaryweb2014.pdf>



NSW Elder Abuse Helpline & Resource Unit

www.elderabusehelpline.com.au

1800 628 221 - Anyone can make the call



The NSW Elder Abuse Helpline & Resource Unit is funded by NSW Government

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