

Revoking (cancelling) a Power of Attorney

Revoking a power of attorney (POA) can be easy. If you have a power of attorney in place you have the right to revoke that power if you no longer want that person managing your money or assets.

Who can revoke a power of attorney?

You can revoke (cancel) a POA at any time as long as you have the capacity to do so (refer to figure 1.1). Only you can revoke the power given to your attorney.

How do you revoke a POA?

You can revoke a POA simply by writing to your attorney, stating that you are revoking the POA. You should also notify, in writing, organisations your attorney was dealing with on your behalf e.g. banks and Centerlink. Once you have revoked the POA it is best to destroy all copies of the original POA document.

There is no specific form to fill out when revoking a POA although there is a sample revocation document on the Land and Property website at http://www.lpi.nsw.gov.au/_data/assets/pdf_file/0005/25367/Revocation_of_POA_Form_FINAL.pdf

A document revoking a POA must state the following:

- your name (the name of the attorney is optional)
- the date the POA was put in place
- the registered number of the power of attorney (if registered in which case the revocation must also be registered)
- the date of the revocation
- words indicating cancellation such as “I hereby revoke” (Land & property information 2015).



What happens if you lack capacity?

If you lack capacity (refer to figure 1.1) you cannot revoke an enduring POA (EPOA). If the POA is not enduring then it ceases once you've lost capacity (i.e your POA can no longer assist with your finances or assets unless you made them Enduring POA when you had capacity). If you lack capacity and family members or concerned others feel that your money & assets are being misappropriated by your enduring attorney, the NSW Civil and Administrative Tribunal (NCAT) have a process in place to investigate these matters once an application is lodged.

What can the NSW Civil & Administrative Tribunal (NCAT) do?

If an application is made to the tribunal and they find that your money & assets have been misappropriated, they may decide to allocate a financial manager to manage your funds for you. This may be the NSW Trustee & Guardian or an appropriate family member or friend.

1.1 Capacity

Capacity refers to an adult's ability to make decisions for themselves (Justice 2015). When revoking a POA you must understand the nature & consequences of the decision you're making. Professionals such as doctors can assist in determining your level of capacity.

Where can you get more information?

NSW Trustee & guardian- Information on POA's
<https://www.tag.nsw.gov.au/attorney-faqs.html>

NSW Civil & Administrative Tribunal- financial management orders
http://www.ncat.nsw.gov.au/Pages/guardianship/gt_matter_about/financial_management.aspx

Capacity toolkit fact sheet
http://www.diversityservices.justice.nsw.gov.au/divserv/ds_capacity_tool/ds_capa_factsheet.html

Land & property information- Revoking POA fact sheet
http://rgdirections.lpi.nsw.gov.au/deeds/documents_lodged/power_of_attorney/revocation_power_of_attorney

References

Justice 2015, 'Capacity toolkit fact sheet', NSW Government, accessed 27 March 2015,
<http://www.diversityservices.justice.nsw.gov.au/divserv/ds_capacity_tool/ds_capa_factsheet.html>

Land & property information 2015, 'Revocation of a power of attorney', NSW Government, accessed 29 March 2015,
<http://rgdirections.lpi.nsw.gov.au/deeds/documents_lodged/power_of_attorney/revocation_power_of_attorney>

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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