



LEGAL

## Wills & Estate Lawyers

### Granting a Power of Attorney

When doing a will (or in fact at any time) it is appropriate for a person to put in place arrangements so that a trusted person /s may exercise power over their assets should they lose legal capacity through illness (eg dementia) or injury (eg head injury) to do so themselves. They do this by signing a deed granting that person/s their Attorney (and that person then exercises a Power of Attorney).

You do not give up any rights or powers by signing the deed . Its like adding a signatory to your bank account and you can limit the power granted (but I advise making it as wide as possible) if you wish.

If you lose the legal capacity to handle your own affairs and there is no Attorney properly appointed (ie via a lawyer) the NSW Trustee and Guardian (NSWTG) takes over control. the wishes of the next of kin are not necessarily followed and there are many cases of families complaining bitterly about the actions taken by NSWTG (sale of assets, withholding funds etc).

The deed can also empower the attorney to use funds for other named people (eg Your spouse). You do not need to register the deed for it to be valid except where real estate is being dealt with so you can keep it in a drawer at home and register it down the track if/when the attorney needs to sell a property. However, if the original's lost and it has been registered, we can easily obtain a certified copy and use that certified copy. Its a cheap form of insurance against loss @\$107 each deed so for a couple \$214. Quite a few people do not register the deed at the time it is signed.

A person should also consider appointing an **enduring guardian** ( attorneys only have power re financial matters ) to handle other matters such as health care and accommodation

You can ring Greg Smith on 02 9261 4111 or email [gsmith@gregorysmithlaw.com.au](mailto:gsmith@gregorysmithlaw.com.au) for further information.