



How to appoint a supportive attorney

There may be times when you want someone to support you to make decisions about financial matters, or your personal or lifestyle affairs.

For support with these types of decisions, you can appoint a supportive attorney. To be able to appoint someone, you must be an adult and have decision-making capacity to make the appointment. There are some people who cannot be your supportive attorney, such as your care worker, health provider, or accommodation provider.

You choose what types of decisions you want support to make. These can be decisions about:

- financial matters
- personal matters.

For example, you may want support to make decisions about:

- paying your bills
- your banking
- services you need
- where you work or study
- where you live
- who you live with.

Type of support

You can give your supportive attorney authority to support you in different ways.

For example, you may want your supportive attorney to be able to:

- get personal information about you from other people or organisations (such as your bank, or your electricity company)
- tell other people and organisations a decision you have made
- tell other people and organisations other information that relates to a decision you have made
- do things so your decision can happen, for example, making phone calls to organise services that you decided you want.

Keep in mind, your supportive attorney does not have authority to support you to make and act on decisions about your medical treatment. Only

your medical support person has authority to support you to make these types of decisions.

You choose the powers you want your supportive attorney to have

You can give your supportive attorney any or all of the following three powers:

- information power
- communication power
- power to give effect to decisions.

Information power

You can authorise your supportive attorney to obtain personal information about you from any person or organisation. This includes authorising your supportive attorney to disclose information where this is relevant to their role as your supportive attorney.

They can also assist you to obtain information. This power means organisations (such as banks, utility providers, and healthcare providers) can tell your supportive attorney personal information about you.

Communication power

You can authorise your supportive attorney to:

- communicate any information about you that is relevant or necessary to the making of, or giving effect to (acting on), your decision
- communicate, or to assist you to communicate, your decision.

This power means that organisations are able to communicate with the supportive attorney as if they were communicating directly with you.

Power to give effect to decisions

You can authorise your supportive attorney to:

- take any reasonable action
- do anything that is reasonably necessary to give effect to a decision that you have made.

However, this authority does not include giving effect to decisions about a significant financial transaction.

Significant financial transactions

Your supportive attorney cannot give effect to decisions about significant financial transactions. These include (but are not limited to):

- making an investment for you
- undertaking any real estate transaction for you
- dealing with land on your behalf, including taking out a loan on your behalf, or giving a guarantee on your behalf
- undertaking a transaction for you involving the use of the your property as security for an obligation
- buying and selling substantial personal property on your behalf.

There are two exceptions. Your supportive attorney can give effect to a decision of yours to:

- enter into a residential tenancy for a premises in which you live or intend to live
- invest, or continue to invest, an amount that is \$10,000 or less in total, if it is in one or more interest bearing accounts of an authorised deposit-taking institution. (For a list of such institutions see www.apra.gov.au)

Checklist of the steps to appoint a supportive attorney

Decide who, what and when

You choose:

- who to appoint
- the types of decisions you want support to make
- how you want your supportive attorney to be able to help you
- when the supportive attorney appointment starts.

Complete the form

Find the form on the Department of Justice and Community Safety website:

<https://www.justice.vic.gov.au/powers-of-attorney-act-2014>

It is important that the form has been explained in a language you understand. If you need an interpreter, the Office of the Public Advocate (OPA) recommends using an independent and qualified interpreter.

Sign the form in front of witnesses

You need to sign the form in front of two adult witnesses. One must be someone authorised to witness statutory declarations, which includes registered medical practitioners (doctors). For more information see:

<https://www.justice.vic.gov.au/statdecs#step-2-find-someone-to-witness-your-declaration>

The witnesses must:

- not be the person you are appointing as your supportive attorney
- not be a person who is signing at your direction (where you are unable to physically sign the supportive attorney form).

In addition, at least one witness must:

- not be a relative of yours or a relative of your supportive attorney
- not be a care worker or accommodation provider for you.

If you cannot physically sign the appointment form, another person can sign the form in your presence and at your direction.

There is the option of remote witnessing. There are different requirements for this. The Department of Justice and Community Safety website has more information about this. See: <https://www.justice.vic.gov.au/justice-system/legal-assistance/powers-of-attorney-documents-online-witnessing>

Your supportive attorneys signs

After you have signed the form in front of witnesses, your supportive attorney must sign a statement of acceptance in front of a witness. This can happen on a later date. Your supportive attorney should read about their role and responsibilities before they accept their appointment.

Storage and certified copies

The form is not registered in Victoria. You should keep the original in a safe place and give your supportive attorney a certified copy (or make sure they know where to find a certified copy, if and when they need it).

If you have a question

The OPA Information Service is available weekdays 9am-3pm on 1300 309 337.