

# Changing your mind about your Enduring Power of Attorney

Has the relationship with your attorney tarnished?

An Enduring Power of Attorney (POA) is a significant legal document necessary for empowering an 'attorney' to make decisions on your behalf. These decisions can be related, in some States just to financial issues, superannuation and asset management and in others extending to residence, health services and more.

Considering how personal and influential these decisions are, it is crucial to appoint an attorney you trust. You may consider your attorney to be:

- a family member;
- a spouse;
- a solicitor;
- a close friend;
- a carer.

There are various reasons why a principal may wish to revoke an attorney. You may no longer trust your attorney, circumstances of yourself or your attorney have altered, they are no longer suitable to make decisions, or events where relationships change.

## **Note: separation and divorce may not automatically terminate a POA**

Angelina appointed her husband Brad as her enduring power of attorney. Unfortunately, 10 years later, Angelina and Brad grew apart and mutually decided to divorce.

It is important to note, separation and divorce may not automatically terminate the enduring power of attorney. It will still be a valid appointment.

Most legislation dealing with powers of attorney allows principals to revoke their attorneys. Angelina must officially revoke the appointment and she should seriously consider appointing a new attorney.

Angelina must have legal capacity. A person without legal capacity can neither appoint nor remove an attorney so if you or a loved one are at risk of losing legal capacity through dementia you need to act sooner rather than later.

In NSW, there is no specific form for revocation. However, the revocation must state the following:

- the name of principal (Angelina);
- name of attorney (Brad);
- date of appointment;
- registered number of power of attorney (if registered);
- date of revocation;
- state the words 'hereby revoke';
- signed and dated; and
- witnessed.

Angelina must register her revocation with the NSW Land Registry Services.

Angelina must notify Brad of the revocation in writing.

For more information on any aspect covered in this article, please call SUPERCentral on 02 8296 6266 or email [info@supercentral.com.au](mailto:info@supercentral.com.au).