

Supportive Attorney Appointments

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What is a Supportive Attorney?

Supportive Attorney appointments are about upholding the independence and self-respect of a person who is able to make decisions provided they are supported.

Making decisions is an important part of exercising rights. Supportive Attorney appointments are a way a person can be supported to make and act on their decisions. The person making the appointment retains decision-making authority.

Supportive Attorney appointments are designed to promote the rights of people with disability. However, there can be many reasons why a person may want support to make decisions. While people can be supported informally, making a Supportive Attorney appointment can be helpful as organisations must recognise the authority of the person in the support role.

A person, known as the 'principal', can appoint another person (or people) to support them to make and give effect to their decisions.

The person (or people) the principal appoints are known as the principal's 'Supportive Attorney(s)'. The principal can give power to the person they appoint to access information from organisations (such as banks, utility providers, and health care providers), to communicate their decisions and to give effect to their decisions.

To make a Supportive Attorney appointment the principal must be:

- 18 years of age or older and
- have decision making capacity to make the Supportive Attorney appointment

No one else can make a Supportive Attorney appointment on behalf of another person.

How to make a Supportive Attorney appointment: decide What, Who and When

- **What types of decisions**
- **What powers to give the Supportive Attorney(s)**
- **Who to appoint**
- **When the appointment starts**

What types of decisions

- all financial matters other than in relation to a "significant financial transaction" (making or continuing an investment, a real estate transaction - taking out a loan, and buying and selling substantial personal property)
- all personal matters
- all personal and financial matters or specific personal, financial or other matters

Financial matters are any matter relating to the principal's financial affairs or property affairs, e.g.:

- paying expenses
- withdrawing money from or depositing money into an account with a financial institution
- paying rates, taxes and insurance premiums or other outgoings for the principal's property

Financial matters include any legal matter that relates to the financial or property affairs of the principal.

Personal matters are matters relating to the principal's personal affairs and lifestyle affairs, e.g.:

- access to support services and
- where and with whom a person lives

Personal matters include any legal matter that relates to the principal's personal and lifestyle affairs.

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What powers to give the Supportive Attorney(s)

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

Information power

The principal can authorise their Supportive Attorney to obtain personal information about them from any person.

They can authorise the Supportive Attorney to:

- access, collect or obtain this information
- assist the principal in accessing, collecting or obtaining this information.

The information must be:

- relevant to a supported decision and
- information that may lawfully be collected or obtained by the principal.

This power authorises organisations (such as banks, utility providers, and health care providers) to disclose personal information about the principal to their Supportive Attorney.

Communication power

The principal can authorise their Supportive Attorney to:

- communicate any information about the principal that is relevant or necessary to the making of or giving effect to a decision
- communicate, or to assist the principal to communicate, a decision of the principal.

This power means that organisations are able to rely on information provided by the Supportive Attorney as being information provided by the principal. It also means organisations are able to rely upon what the Supportive Attorney communicates as being the principal's decision.

Power to give effect to decisions

The principal may authorise their Supportive Attorney to:

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

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

Who to appoint

The most important decision when making a Supportive Attorney appointment is choosing who to appoint. Whoever is appointed should be someone the principal trusts, and who respects and values the principal's rights, dignity, autonomy and independence.

The principal may appoint more than one Supportive Attorney. If more than one Supportive Attorney is appointed, each Supportive Attorney acts separately.

The principal specifies in the appointment form the matters for which each Supportive Attorney is to act.

The person (or people) that the principal appoints need to:

- be eligible to be appointed as a Supportive Attorney and
- agree to be a Supportive Attorney.

The principal can also appoint an alternative Supportive Attorney for a Supportive Attorney they have appointed. The alternative Supportive Attorney must be eligible to be a Supportive Attorney.

When the appointment starts

The principal (the person making the appointment) can specify in the appointment form when the appointment of the Supportive Attorney (or attorneys) starts.

This can be immediately or from another time, circumstance or occasion.

If the principal does not specify when the appointment starts, it begins immediately the appointment is made.