

Advice and support for attorneys



At some point, most people will take on the role of being a carer for someone. This may also include being asked to act as an attorney for a loved one in respect to their financial affairs. An attorney is appointed under a document called a power of attorney, which is a legally binding agreement setting out what an attorney can do and how they can act on behalf of a principal.

Being an attorney comes with significant responsibilities.

In this role you must;

- ✓ Act in the best interest of the principal, honestly, with care and diligence.
- ✓ Make the same decisions that the principal would have made, where possible.
- ✓ Support the principal to participate in the decision-making process as much as possible.
- ✓ Ensure the principal's wishes and autonomy are preserved, where possible.
- ✓ Always act in accordance with the instructions, limitations and conditions of the power of attorney.
- ✓ Ensure you don't profit from the appointment.
- ✓ Keep your money and spending separate from the principal's e.g. an attorney must pay for the principal's shopping separately.
- ✓ Only use the principal's account for transactions that are completed on the principal's behalf.
- ✓ Consult a lawyer before making decisions about joint accounts or property you hold together.
- ✓ Keep accurate, up-to-date records and receipts for financial transactions and dealings you complete on behalf of the principal, whilst keeping the principal and any other attorneys informed.



An attorney cannot gift the principal's money to others, unless specifically stated in the power of attorney.



An attorney has both the duty and the privilege of enabling another person to live the life they want to lead by understanding and enacting their wishes and preferences.¹

This guide does not reflect all your responsibilities as an attorney. You should always refer to your power of attorney or seek legal advice to understand your full role and responsibilities.



Important banking information

- Attorneys must only perform card or digital transactions on the principal's accounts using a card in the attorney's name or digital log-on details belonging to the attorney. CommBank may remove access if an attorney uses the principal's card or log-on details.
- Joint attorneys are required to act together. Speak to CommBank about appropriate access options.
- Where CommBank believes there may be a conflict or unusual transaction, we may request additional information.
- When CommBank is notified of a dispute between parties, our obligation is to protect our customer (the principal) from unauthorised account access and potential losses. Attorney access may be removed when CommBank is notified of a dispute.
- You must advise the bank if the principal loses capacity to make financial decisions and provide a suitable letter from the principal's medical practitioner evidencing loss of capacity. When this occurs, the principal becomes a protected person and banking access must be limited.
- Advise the bank of major changes including if you are no longer able to perform your duties or the principal passes away.



A conflict transaction includes a transaction that does not benefit the principal.



A general power of attorney ends when a principal loses capacity. An enduring power of attorney may either start or continue to operate if the principal loses capacity.

Additional support

CBA account access, power of attorney and other authorities

Information about giving someone access to your accounts or becoming authorised to manage someone else's banking on their behalf.

www.commbank.com.au/support/authority-to-access-accounts.html

Compass; Powers of attorney

Comprehensive guide on Powers of Attorney and includes sections on what is an enduring power of attorney, capacity, choosing and being an attorney, misuse and abuse, your rights, checklists for each state and territory and more.

www.compass.info/featured-topics/powers-of-attorney/

CBA Safe and Savvy Guide

A guide to help people avoid scams, fraud and elder financial abuse.

www.commbank.com.au/support/preventing-financial-abuse-of-seniors.html