

Enduring Power of Guardianship (EPG)

What is an EPG?

An enduring power of guardianship is a legal document which allows you (the appointor) to appoint a person of your choice (the appointee) to make personal, lifestyle and treatment decisions on your behalf if you lose the ability to make these decisions for yourself. It is not an Enduring Power of Attorney (EPA). By appointing an enduring guardian you will be giving a person you know and trust the authority to make personal, lifestyle and treatment decisions on your behalf if you become unable to do so in the future due to a decision-making disability.

You must be 18 years of age or older to make an EPG, and have full legal capacity. Having 'capacity' means that you understand the nature and effect of what having an EPG means and whether you have the ability to make your own reasonable decisions about your finances and property. If your capacity might be questioned when making an EPG, you should speak to a medical practitioner prior to signing the EPG.

Nobody should ever force you or pressure you into signing an EPG.

What can my guardian do?

Your guardian can decide where you live (including aged care), who you live with, and the people with whom you associate. They can make decisions about medical treatment including which doctors you see, which medicines you take, the education you receive and what other services you receive.

What can't my guardian do?

Your guardian cannot vote for you, make a will for you, or consent to an adoption or name change on your behalf. They cannot make any financial or property decisions for you.

Who should I appoint as my guardian?

Who you appoint as your guardian is a very important decision, the decisions they make will significantly impact your quality of life. There is no governing body that will directly monitor your guardian's actions, so you must make your choice of guardian carefully.

You should consider someone who -

- Is trustworthy
- Will act in your best interests and make the same decisions you would for yourself
- Has the time and is easily available to make decisions as needed

Your guardian must be over 18 years of age and have full legal capacity. If you choose more than one guardian, you should consider whether they will be able to work together.

You can appoint a **sole enduring guardian** (one person) or **joint enduring guardians** (more than one person). Any joint enduring guardians must always make decisions together and agree on any decision they make.

You can also appoint a **substitute enduring guardian** to act in certain circumstances, for example if your enduring guardian is not available.

When does the EPG come into operation?

An enduring power of guardianship comes into effect only if you (the appointor) are no longer able to make reasonable judgments about personal, lifestyle or treatment matters for yourself.

How long does the EPG last?

An EPG is in force until –

- You cancel (revoke) the EPG. You can only do this if you have legal capacity at the time of revocation; or
- The State Administrative Tribunal cancels (revokes) the EPG, which would need to happen if you no longer have legal capacity; or
- Your death.

What if I lose capacity but I haven't yet made an EPG?

An application to the State Administrative Tribunal may be made, seeking to appoint who will manage your personal, lifestyle and treatment decisions. If you do not have someone suitable or willing to be appointed, then the Public Advocate may be appointed.

How does my EPG relate to an Advance Health Directive (AHD)?

An AHD is a legal document that lets you record your wishes, including the medical treatments to which you do or don't consent, in the event you can't communicate those decisions yourself. You can have both an AHD and an EPG, but your AHD will override your EPG for treatment decisions. This means your doctors will refer to your AHD instead of asking your guardian to make decisions on your behalf, if you are unable to make a treatment decision yourself, unless the AHD doesn't cover the treatment issue in question.

Who do I give a copy of my EPG to?

You choose who receives a copy of your EPA. You may give one to your bank or insurer, or lodge it with Landgate if you own real estate. You don't have to give copies to friends, family or even your attorney, but make sure your attorney knows where the original is stored. You should keep a list of all the people/places that have a copy. Keep the original in a safe place such as a filing cabinet at home.

You choose who receives a copy of your EPG. You may give a copy to your doctor(s), especially your general practitioner (GP), and other relevant health professionals. You have the option of storing these documents online in 'My Health Record'. You don't have to give copies to friends, family or even your guardian, but make sure your guardian knows where the original is stored. You should keep a list of all the people/places that have a copy. Keep the original in a safe place such as a filing cabinet at home.

Where can I get an EPG?

We strongly recommend getting legal advice before making an EPG. A lawyer can advise you on your situation and draft the EPG for you.

Alternatively, you can download a copy of the EPG template from www.wa.gov.au.

Contact us today

Phone: (08) 9440 1663

Email: info@elcs.org.au

Web: www.elcs.org.au



Mirrabooka Office

10 Cobbler Place, Mirrabooka WA 6061

Mon – Thurs 9:00am – 4:00pm

Fri 9:00am – 3:00pm

Joondalup Office

Building 1, Edith Cowan University
270 Joondalup Drive, Joondalup WA 6027

Tue - Wed 9:00am – 4:00pm

Fri 9:00am – 3:00pm