



LEGAL
CONSOLIDATED
BARRISTERS & SOLICITORS

National Law Firm

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Your Reference: Enduring Power of Attorney
Our Reference: 9571801085856
Enquiries: Adj Professor, Dr Brett Davies
Direct Telephone: 1800 141 612
Email: brett@legalconsolidated.com

Wednesday, 18 January 2025

Steven Charlie Cooper
16 Raleigh Street
Carlisle WA 6101
Australia

Dear Steven,

Build this Western Australian Enduring Power of attorney at <http://www.legalconsolidated.com.au/enduring-poa-introduction/> – the building process is highly educational.

And answers most questions.

And you can also telephone us if you need a hand.

Western Australia Enduring Power of Attorney

Thank you for instructing us to prepare the attached **Western Australia Enduring Power of Attorney**.

How to print your document

When you are satisfied that the document is according to your instructions please:

1. Download the PDF (Don't print directly from the browser.)
2. Print the PDF Printer settings: A4 paper
100% scale (turn off 'fit to page')
3. Print double sided (duplex).
4. Once signed keep this covering letter with the document
(However, do not staple the covering letter to the document.)

How to sign your POA

The steps are:

1. Get in front of 2 witnesses:
 - (a) one witness is 'authorised' – see the attached list of people
 - (b) the second witness is any person over 18 years of age

(Most people go to their local chemist. The pharmacist and one of their staff members witness the POA.)

Note: The witness can't be related to you or have any chance of being related to you. For example, it can't be your son's girlfriend because your son could marry that person and then you would be related to the witness.

Note: Obviously, the witness can't be one of your Attorneys (people you are appointing) Attorneys (people you are appointing) leave the room.

2. Get your 2 witnesses and yourself in a room with at least 2 identical blue pens.
3. Lock the doors so that no one leaves the room. If you or either of your witnesses leave the room, then tear up the POA. Print out another copy of the POA and start the signing process again.
4. If reading glasses are required by you or your witnesses then put them on first.
5. With a blue pen you sign your POA first. Then both witnesses (WITH THE SAME BLUE PEN) sign the POA. If you sign with different coloured pens (e.g. a dark blue and a light blue) then tear up the POAs. Print out new POAs and start the process again.
6. Date the POA.
7. If you have issues reading English, then let me know. An interpreter may be required.
8. The person or persons you appoint can sign to accept your POA on another day. But if they are nearby, they can accept the POA as well. They don't require a witness.

Other names for the Donor (you)

The person giving the POAs is you, the "Donor".

Some organisations such as banks and governments may use the terms:

- Donor
- Principal
- Giver
- Appointor
- Person making the POA

Other names for the Attorney (persons you appoint)

The person or persons getting your POA is, the "Attorney". (To put the matter beyond doubt, the expression "Attorney" does NOT refer to a lawyer for POAs.)

Some organisations such as banks and governments may use the terms:

- Attorney
- Receiver
- Appointee
- Persons you appoint

Do my attorneys need to sign with me – at the same time?

No. Your attorneys can sign on another day, in another country and with any coloured pen. They don't need to sign with you. And they also don't need to be together when they sign.

Does my Power of Attorney have to be lodged or registered anywhere?

A Power of Attorney ("POA") does not need to be lodged at the title's office. Sometimes a bank may wrongly ask for the title's office lodgement number. Lodging at the title's office is not required. One day you may decide to buy or sell land. You may want your POA to

do that. Only at that time do you need to lodge your POA at the title's office. Lawyers and the titles office charge for lodging each POA.

Different government departments and institutions may require you to hand over your original POA and not return it to you. Therefore, make sure you print off and sign two copies of your POA.

This POA only works in Western Australia. If there are assets in another state or country, then you need to also build and sign POAs for that jurisdiction as well.

Does the Power of Attorney need to be stamped?

Your POA is not dutiable. It does not need to be stamped.

Making copies

Don't let the original POA out of your hands. Ask the bank to certify a copy. The bank can then "certify" (confirm it is a true copy) of the bank's file.

Can the Power of Attorney override your will?

By law, the POA can only be used by the person you appoint. It can't be used to benefit anyone else. It is not designed to be used if you are in place to protect you. The POA can only be used if you are in the persons you appoint, then you need to review it regularly. If it does not act in your best interests then both civil and criminal actions can be taken against the person you appoint by you, your family or the court.

Five promises by the Attorney in an Enduring Power of Attorney

By law your Attorney you appoint in your Enduring Power of Attorney must:

1. Act in your 'best interests' always.

While you are of sound mind this is easy to find out. But when the Attorney (you) is of unsound mind this is a huge burden. The Attorney has to 'guess' what is in your best for you. "Should we sell mum's family home?"

To reduce the chance of attack your Attorney should get your accountant and financial planner to sign off on all big decisions. This is especially if there are taxation, Centrelink and investment consequences.

2. Keep the assets separate.

The Attorney holds all assets clearly in your name. At any time it must be clear to everyone what assets are the Attorney's assets. And what assets belong to you as the Donor.

This is not just to stop fraud by the Attorney. At Legal Consolidated we are often approached to intervene in, ATO, bankruptcy and family court proceedings to show that assets that 'appear' to be in the name of the Attorney actually belong to the Donor. The Attorney's 'innocence' in not keeping proper records can lead to the loss of your assets.

This is a sample of the Western Australian Enduring POA that you are building on our law firm's website.

Depending how you answer the questions the WA POA and our letter may be different.

*Dr Brett Davies
Legal Consolidated Barristers & Solicitors*

3. Keep good records.

At any time, your family, friends and the government can seek to gain access to what the Attorney has been up to. The Attorney must keep reasonable accounts and records of the Donor's money and property.

The Attorney should take notes or minutes of all activities. There should be a clear chain of activities. The accountant and financial planner should review these records on an annual basis. To do so protects the Attorney.

Even if the Attorney is an only child and the parents are close to death, meticulous records should be kept. At Legal Consolidated we have seen the ATO approach the Attorney after the Donor's death. This is for a full account of what has been done.

4. Not gain a personal benefit.

Some POAs may allow small gifts. But the Attorney should not take the bait. The POA is designed for only one purpose. The POA is to protect you, and you alone, as the Donor. If there is any possible way it can be argued that something the Attorney is doing may help the Attorney or their family, then the activity should be signed off by the accountant and financial planner.

The number one cause of negligence and criminal actions against the Attorney is the 'perception' or 'appearance' that the Attorney has benefited from your POA.

5. Act honestly in the Donor's legal and financial affairs

Here is an additional burden on the Attorney. Not only must the Attorney protect you, as the Donor, but the Attorney must also act within the laws of Australia. And these can conflict.

Again, cleave to the bosom of your accountant and adviser. And get them to sign off in writing that the Attorney's action is both in your 'best interests' and legal.

Can I revoke a Power of Attorney?

While you are of sound mind you can revoke your POA at any time. If you are of unsound mind then, obviously, you can't make any such decisions. While you are of unsound mind you can't revoke a legal document such as a POA. Your POA is revoked at death. (Conversely, your Will only takes effect at death.) The courts can also revoke your POA.

How do I revoke the Power of Attorney?

Firstly, tear up as many copies (originals and photocopies) as you can get your hands on and telephone us.

What happens if I separate, divorce or get married?

Changing your status does not affect the POA. You must revoke it if you no longer want it to operate.

Can the persons I nominate resign?

The persons you appointed can renounce the POA. However, if you are of unsound mind, it is too late for those persons to renounce.

How do the persons I nominate use the Power of Attorney?

Here are some examples:

Example 1 - Using your bank account: The persons you appoint walk into the bank and present to the bank clerk with your Savings Account book and an original POA. The bank clerk stares blankly at them. The bank clerk goes to see the bank manager. The bank manager explains to the bank clerk that those persons "now stand in your shoes". They can do whatever you could do with the bank account. The bank manager asks to take a copy of the POA for future reference. The bank manager tries to take the original POA but the persons you nominate decline and get back the original POA. The bank account takes place.

Example 2 – Signing your legal documents: You have appointed a person, your attorney, to sign a lease agreement as you are on holiday and unavailable. They contact the landlord and tell the landlord that they are signing the lease on your behalf. They sign in the signature area and write under the signature "signed as attorney for [your name] POA dated day, month, year". You are now bound to the lease. You photocopy the POA to attach to the lease.

What are the limits of a Power of Attorney?

The POA is an "economic" document. It won't allow the persons you appoint to make a Will for you. They can, however, open and close bank accounts, buy and sell land. For example, the attorney can't give you a

1. vote in any government elections
2. make a Will or sign another POA
3. carry out Director Duties
4. act as a Trustee
5. control your body (you need to build a Medical POA on our website for that)

Does my Attorney need one of the original Power of Attorneys?

There is no legal requirement for an attorney to accept your POA in any time frame. An attorney can accept your POA many years later. And if you have appointed more than one attorney, they can accept many years apart from each other. They don't need to accept your POA on the same day. Indeed, your attorneys may be living outside of Australia in different countries. However, your POA won't come into operation for that attorney until that attorney does sign. But the signing can be done when the POA is needed.

Further, there is no legal requirement to hand over one of your original POAs to any of your attorneys. You may, however, wish to do so. At the very least:

1. You should speak to your potential attorneys to make sure they are happy to take on the onerous job of holding the attorney position;
2. Let them know where the POA is kept "at my home in my grey filing cabinet and when it is needed you can get the POA and accept it then"; or
3. You may wish to email them a soft copy and the covering letter that we provide so they can understand how it can be used in the future (it can be signed or

A WA Enduring Power of Attorney (POA) is a legal document.

It allows you to appoint a person to make decisions about your assets.

The POA deals with your assets e.g. real estate and bank accounts.

unsigned, it is just a soft copy). If they need a hand, later, they can telephone us for advice.

This now concludes the matter. Thank you for your instructions.

Yours sincerely,



Adj Professor, Dr Brett Davies, CTA, AIAMA, BJuris, LLB, LLM, MBA, SJD
National Taxation Partner
LEGAL CONSOLIDATED BARRISTERS & SOLICITORS

Who can witness a Western Australian Enduring Power of Attorney?

Get in front of two witnesses:

1. This first witness is 'Authorised'. (E.g. accountant, financial adviser)
2. The second witness is any person over 18 of age.

However, both witnesses must be of sound mind, 'disinterested' in the POA and not related to you or your family.

Financial Advisers can witness Legal Consolidated Western

- A person can witness a Western Australian POA if they can witness Commonwealth Statutory Declarations: Schedule 2 Oaths, Affidavits and Statutory Declarations.
- The *Statutory Regulations 2018* (Cth) allows licensed financial advisers to witness Commonwealth statutory declarations.
- Therefore, financial planners are in the List of Authorised Witnesses.
- A Financial Planner can witness both Western Australian Enduring Powers of Attorney (POAs) (Power of Guardianship) prepared by Legal Consolidated.

In Western Australia the Statutory Regulations 2018 (Cth) allows licensed financial planners to witness Commonwealth Statutory Declarations. Therefore, financial planners are in the List of Authorised Witnesses

A financial planner can witness both Western Australian Enduring POAs and Lifestyle/Medical POAs (Power of Guardianship) prepared by Legal Consolidated

List of Authorised witnesses

| | |
|--|--|
| An Academic (post-secondary institution) | Local government |
| Accountant | Loss adjuster |
| Architect | Marriage celebrant |
| Australian Consular Officer and Diplomatic Officer | Member of Parliament |
| Bailiff | Minister of the Crown |
| Bank Manager | Nurse |
| Chartered secretary, governance adviser & risk manager | Optometrist |
| Chemist | Patent Attorney |
| Chiropractor | Physiotherapist |
| Company auditor or liquidator | Podiatrist |
| Court officer | Police officer |
| Defence force officer | Post office manager |
| Dentist | Psychologist |
| Doctor | Public notary |
| Electorate officer of a member of State Parliament | Public servant (both Commonwealth & State) |
| Engineer | Real estate agent |
| Financial Planner | Settlement agent |
| Industrial organisation secretary | Sheriff or Deputy Sheriff |
| Insurance broker | Surveyor |
| Justice of the Peace | Registered teacher |
| Landgate officer | Tribunal officer |
| Lawyer | Veterinary surgeon |

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**Enduring Power of Attorney –
Western Australia
(Financial Power of Attorney)**

Steven Charlie Cooper

9571801085856

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Enduring Power of Attorney from Steven Charlie Cooper to Mary Cooper and Stuart Cooper

This Enduring Power of Attorney is made under section 104 of the *Guardianship and Administration Act 1990* (WA) Part 9 on the:

 day _____ of month _____








by me, Steven Charlie Cooper of 16 Raleigh Street, Carlisle WA
1973.

1. I appoint Mary Cooper of 16 Raleigh Street, Carlisle WA
19 Newcastle Street, East Maitland NSW 2323, Australia
- 1.a I appoint John Cooper of 2 Carrum Street, Malvern
Cooper of 16 Raleigh Street, Carlisle WA
jointly to be my attorneys in substitution of Mary Cooper
occurrence of Mary Cooper and Stuart Cooper being un
instrument.
2. I authorise my attorneys to do on my behalf anything that
3. I declare that this Power of Attorney will be in force only
by the State Administrative Tribunal that I do not have l
106 of the *Guardianship and Administration Act 1990*.

Signed as a deed.

 _____

Steven Charlie Cooper - usual signature

| First Authorised Witness | | Second Witness | |
|---------------------------|---|---------------------------|--|
| Signature |  | Signature |  |
| Full Name <i>Print</i> |  | Full Name <i>Print</i> |  |
| Address |  | Address |  |
| Qualification |  | | |

Build this Western Australian
Enduring Power of attorney at
[http://www.legalconsolidated.com
.au/ending-poa-introduction/](http://www.legalconsolidated.com.au/ending-poa-introduction/)
– the building process is highly
educational. And answers most
questions.

And you can also telephone us if
you need a hand.

Adjunct Professor, Dr Brett
Davies - Partner

Acceptance of the Steven Charlie Cooper Enduring Power of Attorney by Mary Cooper and Stuart Cooper

We, Mary Cooper of 16 Raleigh Street, Carlisle WA 6101, Australia and Stuart Cooper of Newcastle Street, East Maitland NSW 2323, Australia, the persons appointed as Attorneys under the Enduring Power of Attorney for Steven Charlie Cooper, under paragraph 1 of the Enduring Power of Attorney, in acceptance is annexed, accept the appointment.

We acknowledge that:

1. this Power of Attorney is an enduring Power of Attorney;
2. this Power of Attorney will be in force only during any period where the Administrative Tribunal that Steven Charlie Cooper does not have a guardian appointed under section 106 of the Guardianship and Administration Act 1990;
3. we will, by accepting this Power of Attorney, be subject to the provisions of the Guardianship and Administration Act 1990.

Signed



Mary Cooper - appointed under paragraph 1 of the Enduring Power of Attorney (no witness required)



Dated this day _____ of month _____ 20____

Signed



Stuart Cooper - appointed under paragraph 1 of the Enduring Power of Attorney (no witness required)



Dated this day _____ of month _____ 20____

A Western Australian
Enduring Power of
Attorney (POA) is a
legal document.

It allows you to
appoint a person to
make decisions about
your assets.

The POA deals with your
assets e.g. real estate and
bank accounts.

Acceptance of the Steven Charlie Cooper Enduring Power of Attorney by John Cooper and Sarah Cooper

We, John Cooper of 2 Carrum Street, Malvern East VIC 3145, Australia and Sarah Cooper of 16 Raleigh Street, Carlisle WA 6101, Australia, the persons appointed as Enduring Power of Attorney for Steven Charlie Cooper, under paragraph 1a of the Enduring Power of Attorney annexed, accept the appointment.

We acknowledge that:

1. this Power of Attorney is an enduring Power of Attorney
2. this Power of Attorney will be in force only during a period of incapacity as determined by the Administrative Tribunal that Steven Charlie Cooper is incapable of managing his or her affairs under section 106 of the *Guardianship and Administration Act 1990*.
3. We will, by accepting this Power of Attorney, be bound by the provisions of the *Guardianship and Administration Act 1990*.

Signed



John Cooper - appointed under paragraph 1a of the Enduring Power of Attorney (no witness required)



Dated this day _____ of month _____ 20____

Signed



Sarah Cooper - appointed under paragraph 1a of the Enduring Power of Attorney (no witness required)



Dated this day _____ of month _____ 20____

*Build the Western Australian
Enduring POA at
[http://www.legalconsolidated.com.au/
enduring-poa-introduction/](http://www.legalconsolidated.com.au/enduring-poa-introduction/) – the
building process is designed to educate
and empower you.*

*Read the hints and watch the training
videos as you build the WA POA.*

*And, if you need more help to build
the POA telephone us.*

*Adjunct Professor, Dr Brett Davies -
Partner*