

STRICTLY CONFIDENTIAL

# Archon Legal

## Enduring Power of Guardianship

### Information and instruction sheet



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This information sheet is intended as a source of information only and is not legal advice. No reader should act on any matter without first obtaining professional advice which takes into account an individual's objectives, financial situation and needs.

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## About this guide

At Archon Legal, we understand that you need comprehensive information about your legal rights and how to protect them, but don't want to read through reams of overly complicated paperwork. That's why we've prepared this brief and easy to understand guide about an Enduring Power of Guardianship (**EPG**), which includes our fact finding questionnaire, to let us know what you require.

## What is an Enduring Power of Guardianship?

An EPG is a legal document that enables you (the appointor) to appoint a person (called an agent or guardian) of your choice to make medical, healthcare and lifestyle decisions on your behalf should you ever not have the ability to make those decisions yourself.

Many decision making incapacities are caused by illness, accident or trauma and unfortunately there is no way of knowing when we may lose the ability to make decisions for ourselves. By appointing a guardian you can authorise a person (or agency), who you know and trust, to make a medical, healthcare and lifestyle decision for you in your best interest.

Please note that an EPG does not allow your guardian to deal with your finances and property matters, these are covered by the Enduring Power of Attorney (EPA) (guide also available on our website).

## What is an Advanced Health Directive?

An Advanced Health Directive (**AHD**) is a legal document that enables you to specify the medical, surgical and dental treatments, including palliative care and life-sustaining measures that you would want (or not want) to receive if you ever became sick or injured and were incapable of communicating your wishes.

An AHD will only come into effect if it applies to the treatment required and if you are unable to make reasoned judgements about a treatment decision at the time that the treatment is required.

An AHD is a very complicated document so please call Archon Legal and an experienced solicitor will assist you.

## What are the requirements of an EPG appointor?

An EPG appointor needs to be 18 years of age or older and have full legal capacity to make an EPG.

## What are the obligations of an EPG guardian?

A guardian must act in the appointer's best interests.

It is a good idea to discuss with your friends and family about what medical, healthcare and lifestyle choices you want to make so that these are known when your guardian is making decisions and your wishes are able to be followed as much as practically possible.

## Who can I appoint as my guardian?

Anyone can be appointed as your guardian, provided they are 18 years of age or older and have full legal capacity.

It is important to appoint people you trust as your guardian(s), as an EPG will give them considerable power, which could be abused.

## Can I appoint more than one guardian?

You may appoint up to two Guardians who must act jointly.

## Can I revoke an EPG?

An EPG can be revoked by an appointor while they still have legal capacity. Once legal capacity has been lost the appointor is no longer able to revoke the EPG.

## What is the difference between an EPG and an EPA?

Having an EPG means that your nominated guardian can make decisions on your behalf that relate to medical, healthcare and lifestyle choices.

If you have an EPA, your nominated attorney can make decisions on your behalf that relate to your finances or property matters.

The same person(s) can be appointed to be both your attorney and guardian but both EPA and EPG documents must be prepared separately.

## Issues for consideration before you finalise your EPG

### 1. Will your EPG be valid?

Common EPG issues often stem from the document itself being invalid which can be a result of the document not being drafted in the form prescribed by the regulations and/or not being witnessed correctly. This is why it is important to seek legal advice when you wish to prepare an EPG.

### 2. Guardians must act jointly

If you appoint two guardians then both guardians have to make all decisions together, which can have practical implications if they do not get along or if one is not available.

### 3. When will your EPG take effect?

Any EPG only comes into effect if you lose legal capacity to make judgments about your personal, lifestyle and treatment (medical and health) issues.

## Professional Fees

Archon Legal charges professional fees at a fixed rate for preparing EPGs.

Clients who use us to prepare both their Will and their EPG receive a discounted rate for their EPG.

	Fixed Rate
<b>EPG prepared with a will</b>	<b>\$150</b> plus GST and disbursements
<b>EPG prepared without a will</b>	<b>\$200</b> plus GST and disbursements

Please note that rates are subject to annual review.

### What's Next?

If you would like Archon Legal to prepare your EPG please fill out the attached EPG instruction sheet and return it to our office by email at [admin@archonlegal.com.au](mailto:admin@archonlegal.com.au), or call us on 92283010 and an experienced solicitor will answer any questions you may have.

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## Enduring Power of Guardianship Instruction Sheet

### Appointer

Full name:

Address:

### Nominated Guardian 1

Full name:

Address:

Relationship to you:

### Nominated Guardian 2 (if applicable)

Full name:

Address:

Relationship to you:

### Substitute Guardian 1 (if applicable)

Full name:

Address:

*A substitute will act where the Nominated Guardian cannot act for specific reasons that you choose*

Relationship to you:

Substitute for:

- any nominated guardian; **OR**  
 specify:

When will substitution take effect? Please tick all that apply:

- guardian has died  
 guardian has lost capacity to act  
 guardian out of jurisdiction  
 other:

**Substitute  
Guardian 2**  
(if applicable)

*A substitute will act where the Nominated Guardian cannot act for specific reasons that you choose*

Full name:

Address:

Relationship to you:

Substitute for:

- any nominated guardian; **OR**  
 specify:

When will substitution take effect? Please tick all that apply:

- guardian has died  
 guardian has lost capacity to act  
 guardian out of jurisdiction  
 other:

**Restrictions**

Please specify any conditions or restrictions on the Enduring Power of Guardianship:

Thank you for reviewing our EPG information sheet and completing the attached instruction sheet. Upon receiving your completed instruction sheet our team will be able to commence preparing your EPG for you.

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