

# WHO WILL TAKE CARE OF YOUR SMSF IF YOU ARE NO LONGER ABLE TO?

Generally speaking a Self-Managed Superannuation Fund is established to take advantage of the greater control and flexibility provided by the structure. However during establishment and the subsequent investment and strategy implementation stages, little thought may be given to what would happen to the SMSF if the trustees lose capacity.

A common misconception is that people only lose temporary or permanent capacity due to old age and therefore this issue is rarely considered early on in life. Sadly, people can lose capacity at any age for a number of reasons, including:

- Intellectual or psychiatric disability
- Injury e.g. motor vehicle injury
- Dementia
- Temporary illness

## How can you prepare for the unknown?

An Enduring Power of Attorney (EPoA) appoints a trusted person(s) to make financial and business decisions on your behalf in the event that you cannot. This also includes the trustee's responsibility of an SMSF. An EPoA will continue after capacity is lost, a general power of attorney would cease at this point.

A spouse, child, relative or close friend are the logical choices when appointing an attorney. The appointed person should also have the necessary financial literacy and understanding to fulfil an SMSF's trustee's obligations, if required. The authority should be drafted to allow the attorney to act on behalf of your superannuation affairs.

## What are the duties and responsibilities of an Attorney?

An Attorney must always act in the best interests of the principal, act honestly and make responsible decisions. An attorney may be granted the power to make any decisions about the principal's finances which the principal would make under usual circumstances, including in relation to an SMSF.

An enduring power of attorney must:

- Avoid conflicts between their interests and the principals,
- Obey the principal's instructions while mentally capable and any directions made in the enduring power of attorney document,
- Keep their finances separate from the principals,
- Act according to the limits and conditions placed on the authority; and,
- Keep accurate records of their dealings with the principal's financial and business affairs.

An EPoA can be revoked or suspended if they act improperly and abuse their position of trust.

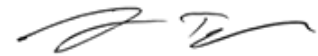
## Q. When should an Enduring Power of Attorney be prepared?

### A. Now!

An EPoA should be prepared and drawn up while you are healthy, aware and in control. Attempting to appoint an Attorney after loss of capacity is very difficult. The EPoA will typically be enforced when the principal is

no longer capable of making sound decisions, it does not commence immediately.

If you would like to discuss further, we recommend you contact your adviser who can put you in touch with a member of Bell Potter's Technical Financial Advice team.



### Jeremy Tyzack

Head of Technical Financial Advice  
Bell Potter Securities

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Bell Potter's technical financial advice team can put together a strategy designed to help you achieve your retirement objectives.

Working with you and your Bell Potter Adviser, we can help with most financial aspects of retirement, including:

- Identifying your financial goals
- Structuring your existing assets appropriately
- Identifying your approach to investment and your appetite for risk, and
- Reviewing your current superannuation arrangements.

To create a tailored investment plan based on your needs and objectives call your adviser or 1300 0 BELLS (1300 0 23357).

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