

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

Generally, a self-managed superannuation fund (SMSF) is set up to leverage the greater control and flexibility it offers. However, during the establishment and implementation of investment strategies, little attention is given to what would happen to the SMSF if the trustees lose capacity.

It's a common misconception that only old age causes temporary or permanent loss of capacity. But sadly, people can lose capacity at any age for many 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 if you are unable to do so. This includes the responsibility of managing an SMSF. Unlike a general power of attorney, which ends when you lose capacity, an EPoA remains valid.

The appointed attorney would step in as a trustee (or a director of a trustee company) and take over the responsibility for the SMSF, while the previous trustee continues as a member. It is important to note that the attorney acts as a trustee in their own right – they do not act as an agent on your behalf.

Given the requirement to have strong trust between you and your appointed attorney, a spouse, child, relative or close friend is the logical choice. The appointed person should also have the financial literacy and understanding to fulfil an SMSF trustee's obligations, if required.

What are the duties and responsibilities of an attorney?

An attorney must always act in your best interests, 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 decisions about an SMSF.

An enduring power of attorney must:

- Avoid conflicts between their interests and the interests of the principal.
- 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 principal's.
- Act according to the limits and conditions placed on the authority.
- 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.

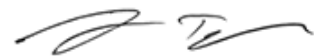
Q. When should an enduring power of attorney be appointed?

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 take effect when the principal is no longer capable of making sound decisions; it does not commence immediately.

Learn more

If you would like to discuss this 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

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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