

## POWERS OF ATTORNEY – WORTH THINKING ABOUT!

There is regular discussion concerning Powers of Attorney and more so since the commencement on 1 September 2015 of the [Powers of Attorney Act 2014](#) (Vic) (“the Act”) and [Powers of Attorney Regulations 2015](#) (Vic) (“the Regulations”).

Powers of Attorney made after 1 September 2015 are made under the Act with new forms prescribed under the regulations.

Powers of Attorney made validly prior to 1 September 2015 continue to be effective.

### **What are Powers of Attorney?**

Powers of Attorney are legal documents that let you appoint and authorise someone else to make decisions on your behalf.

### **Are they a good idea?**

Yes, but remember you are giving that other person substantial control over your affairs. But, you can revoke a Power of Attorney.

The best way to explain why they are a good idea is to think about common circumstances where you may need someone else to act on your behalf:-

- Travelling overseas or interstate.
- Getting older.
- Debilitating accidents.

However, it is best to prepare Powers of Attorney before the events occur.

## **Example**

Betty was 84 years of age living independently in her own home and always has been in good health. Her son Bill, his wife and their 2 children live next door. Betty's grandchildren saw her every day and provided stimulation for the doting grandmother. Betty's husband had died 10 years ago and she had been left financially secure with substantial assets (including her own home) with no debt.

Betty did not have any Enduring Power of Attorney to deal with her financial or personal affairs. It was a subject that was not discussed between Betty and her family as it was "awkward".

Bill thought Betty was "losing it" but was quickly diagnosed as suffering dementia. Her treating team thought it best that for her own wellbeing, Betty should be accommodated where professional care was readily available. However, Bill did not have the resources to finance Betty's care and as Betty did not have an Enduring Power of Attorney, he could not access her resources. The only practical alternative is for Bill to make an application to the Victorian Civil and Administrative Tribunal ("VCAT") for an order to empower him to deal with Betty's assets on her behalf. If Betty had an Enduring Power of Attorney this delay, expense and aggravated concern would be readily avoided.

## **Additional Information**

The Victorian Office of the Public Advocate has helpful and plain English information on Powers of Attorney on its website [here](#) and a free telephone advice service from 9am to 5pm Monday to Friday on 1300 309 337.

## **Advanced Care Planning**

The Office of the Public Advocate also contains helpful information on advanced care planning enabling to plan your future care with links to the following:-

- [Advance Care Planning Australia.](#)
- [My Values.](#)
- [The Conversation Project.](#)
- [Victorian Department of Health.](#)

Enduring Powers of Attorney and Medical Powers of Attorney are integral to an effective Advance Care Plan.

**Date Published: 1 February 2016**

**Victor Hamit**  
**Wentworth Lawyers Pty Ltd**  
Level 40  
140 William Street  
MELBOURNE VIC 3000

Tel: +61 (3) 9607 8380  
Mobile (Aust.): 0408 590 706

Email: [vhamit@wentworthlawyers.com.au](mailto:vhamit@wentworthlawyers.com.au)  
Website: [www.wentworthlawyers.com.au](http://www.wentworthlawyers.com.au)

*Disclaimer:*

*These materials are provided as a general guide on the subject only, not as specific advice on any particular matter or to any particular person. Please seek specific advice on your own particular circumstances as situations and facts vary.*

*Liability limited by a scheme approved under the Professional Standards Legislation*