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Your Reference: Enduring Power of Attorney  
Enquiries: Adj Professor, Dr Brett Davies  
Direct Telephone: 1800 141 612  
Email: [brett@legalconsolidated.com](mailto:brett@legalconsolidated.com)

Monday, 12 April 2022

Nathan Hughes  
21 Mounts Bay Street  
Perth WA 6000  
Australia

Dear Nathan,

Build this legal document at  
[https://www.legalconsolidated.com.au/  
enduring-poa-introduction/](https://www.legalconsolidated.com.au/enduring-poa-introduction/) –  
telephone us, we can help you  
complete the questions.

Adj Professor, Dr Brett Davies - Partner

## 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).

2. Attorneys (people you are appointing) leave the room.
3. Get your 2 witnesses and yourself in a room with at least 2 identical blue pens.
4. 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.
5. If reading glasses are required by you or your witnesses then put them on first.
6. 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.
7. Date the POA.
8. If you have issues reading English, then let me know. An interpreter may be required.
9. 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.

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

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.
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### **Does the Power of Attorney need to be stamped?**

Your POA is not dutiable. It does not need to be lodged at the local stamp duty office.

### **Making copies**

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

### **Can the Power of Attorney override your wishes?**

By law, the POA can only be used by the persons you nominate for your best interests. It can't be used to benefit anyone else. It is not designed to help your spouse or children - it is in place to protect you. The POA can only be used to help you. If you lose confidence in the persons you appoint, then you need to revoke the POA. If the person you appoint

does not act in your best interests then both civil and criminal actions may be taken against the person you appoint by you, your family and the government.

### **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 keep the original POA but the persons you nominate decline and get back the original POA. The transaction on the bank account takes place.

**Example 2 – Signing your legal documents:** You have asked the persons that you nominated, to sign a lease agreement as you are on holidays overseas and email is unavailable. They contact the landlord and tell the landlord that there is a POA. They tell the landlord that they are signing the lease on your behalf. They sign in their usual signature area and write under the signature "signed as attorney for \*your name\* under a POA dated day, month, year". You are now bound to the lease. The landlord may 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 nominate to vote or make a Will for you. They can, however, open and close bank accounts, pay debts, and buy and sell land. For example, the attorney can't give you a POA to:

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?

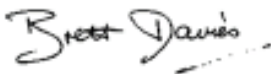
There is no legal requirement for an attorney to accept your POA in any time frame. An attorney can accept your POA many years later. And if you have appointed more than one attorney, they can accept many years apart from each other. They don't need to accept your POA on the same day. Indeed, your attorneys 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 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

*This is a sample of the document you are building on our law firm's website.*

*Depending how you answer the questions the document and our letter may be different.*

*We have a 100% money back guarantee. For any reason you can return the document to us for a full refund.*

*Dr Brett Davies  
Partner  
Legal Consolidated Barristers & Solicitors*

## Who can witness a Western Australian Enduring Power of Attorney?

Get in front of 2 witnesses:

1. One witness must be 'Authorised'
2. The second witness is any person over 18  
(Most people go to their local chemist)

### List of Authorised witnesses

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

Under Schedule 2 of the *Oaths, Affidavits and Statutory Declarations Act 2005* witnesses that are authorised by law to take declarations.

Build the legal document at <https://www.legalconsolidated.com.au/enduring-poa-introduction/> – telephone us. We can help you answer the questions.

On our law firm's website, you:

1. Retain legal professional privilege
2. Receive legal advice
3. Get a signed letter on our law firm's letterhead with the legal document
4. We take responsibility for the legal document

Only a law firm provides the above. We also offer a 100% money back guarantee on every document you build.

*Adj Professor, Dr Brett Davies - Partner*



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

Nathan Hughes

# Enduring Power of Attorney from Nathan Hughes to Jacinta McMillan


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 \_\_\_\_\_ 20\_\_\_\_

by me, Nathan Hughes of 21 Mounts Bay Street, Perth WA 6000, Australia








1. I appoint Jacinta McMillan of 5 Shenton Street, Claremont WA 6001 as my attorney.
2. I authorise my attorney to do on my behalf anything that I can lawfully do.
3. I declare that this Power of Attorney will be in force only during any period in which I am declared by the State Administrative Tribunal that I do not have legal capacity under section 106 of the *Guardianship and Administration Act 1990*.

Signed as a deed.

 \_\_\_\_\_

Nathan Hughes - usual signature

An 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.

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

## Acceptance of the Nathan Hughes Enduring Power of Attorney by Jacinta McMillan

I, Jacinta McMillan of 5 Shenton Street, Claremont WA 6010, Australia, the person appointed to be attorney of the Power of Attorney for Nathan Hughes, under paragraph 1 of the instrument to which this acceptance is annexed, accept the appointment.

I 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 when a declaration by the State Administrative Tribunal that Nathan Hughes does not have legal capacity is in force under section 106 of the Guardianship and Administration Act 1990; and
3. I will, by accepting the provisions of Part 9 of the *Guardianship and Administration Act 1990*

Signed

You can build this document here:

[https://www.legalconsolidated.com.au/  
enduring-poa-introduction/](https://www.legalconsolidated.com.au/enduring-poa-introduction/)

Jacinta McMillan - appointed u  
required)

Attorney (no witness

Dated this day \_\_\_\_\_ of month \_\_\_\_\_ 20\_\_\_\_