

# health care professional report (HCPR) ENDURING POWER OF ATTORNEY



This report, the Health Care Professional Report (HCPR), must be completed by a health care professional such as a psychiatrist, psychologist or a medical practitioner.

An Enduring Power of Attorney authorises one person to make financial decisions for another once they have lost capacity. The person who made an Enduring Power of Attorney is called the 'donor'. The person they have authorised to act for them is called the 'attorney'.

Once it is completed, the Guardianship and Administration Board will use this HCPR as evidence in a hearing related to an Enduring Power of Attorney. From that hearing the Board might:

- Declare that the donor had or did not have sufficient capacity to grant a power of attorney,
- Vary, invalidate or revoke a power of attorney,
- Appoint a new or substitute attorney or an administrator, or
- Give specific directions to an attorney about the exercise of the power.

Generally this report will be required to assist the Board in coming to a conclusion about the donor's mental capacity to make relevant decisions. The legal test for assessing competence for granting an enduring power of attorney is attached at the back of this form.

## completing the report

Please complete the relevant sections of the report.

The report will be photocopied for Board members, so please type or print clearly. If space provided in any section of the report is insufficient please type or write on a separate sheet and attach. Please photocopy the report and keep the copy as your own record.

If you are uncertain about filling in any part of this form, please contact the Board on (03) 6233 3085 and ask to speak to an Investigation and Liaison Officer.

## payment for health care professional reports

The Board is not responsible for payment for this report. Your fee for this report will be paid from the estate of the person to whom it relates. Please forward the account to the person who requested you to complete the report. The Board considers that a reasonable fee for completing the report is \$55.00.

## general procedure

The Board will generally accept the HCPR as documentary evidence without the need to call you as a witness. You may be sent a notice inviting you to attend the hearing. You are welcome to come to the hearing. Unless you are specifically notified, you are not required to attend.

In cases where you are required to attend, it is usually possible to attend a hearing by telephone. Staff members of the Board will discuss this with you before the hearing.

**Please return the report to the person who requested you to complete it.**

Alternatively, you may forward it directly to the Board, addressed as follows:

The Registrar  
Guardianship and Administration Board  
GPO Box 1307  
HOBART Tas 7001

OR you may deliver the completed report to the Registrar at the Board's offices at:  
Level 1  
54 Victoria Street  
HOBART

Telephone: 6233 3085  
Fax: 6233 4509  
Email: [Guardianship@justice.tas.gov.au](mailto:Guardianship@justice.tas.gov.au)

The Registrar  
Guardianship and  
Administration Board

GPO Box 1307  
HOBART  
Tasmania 7001

Level 1  
54 Victoria Street  
HOBART

Telephone: 6233 3085  
Fax: 6233 4509  
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Application No. \_\_\_\_\_

## health care professional providing this report

please stamp or fill in details below

Your Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_ Postcode \_\_\_\_\_

Preferred Contact Telephone Numbers  
\_\_\_\_\_

Fax Number \_\_\_\_\_

Email address \_\_\_\_\_

In what capacity do you know the person? (Please tick)

GP     Psychologist

Specialist: type \_\_\_\_\_  
(eg. Psychiatrist)

## the donor

Name \_\_\_\_\_

Date of Birth (if known) \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

How long have you known the donor? \_\_\_\_\_

On what date did you last personally examine the donor?  
\_\_\_\_\_

Are you the donor's regular medical attendant? please tick  Yes  No

## past capacity

The donor purportedly executed an enduring power of attorney on:

\_\_\_\_\_ (applicant to insert date EPA was executed)

Did you know the donor on this date? please tick  Yes  No

If "No", are you able to express an opinion regarding his or her probable capacity to execute an enduring power of attorney on this date?

please tick  Yes  No (If "No" please proceed 'present capacity')

If yes, please comment

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## questions specific to the enduring power of attorney and the management of the donor's estate

Did the donor appreciate the nature and extent of his or her property at the date of execution?

Yes     No     Unsure

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Did the donor understand that he or she has given the attorney the authority to manage his or her property and financial affairs at the date of execution?

Yes     No     Unsure

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Did the donor understand that, subject to any directions contained in the power, the attorney can have full control over his or her property e.g. sell real estate, pay bills, open and close bank accounts at the date of execution?

Yes  No  Unsure

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Did the donor understand that, with capacity, he or she could vary or oversee the use of the power or revoke the power at the date of execution?

Yes  No  Unsure

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In your opinion did the donor have the capacity to make reasonable decisions or judgments in relation to his or her property at the date of execution?

Yes  No  Unsure

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Can you advise whether any further assessment, testing, investigation or other procedure was undertaken to determine the mental capacity of the donor at the date of execution?

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## present capacity

Does the donor have a disability/disabilities? (Please tick)

Yes  No  Unsure

If Yes, please specify the type and nature of the disability:  
(Tick one or more boxes.)

Acquired brain injury (Resulting from) \_\_\_\_\_

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Intellectual disability (Give details) \_\_\_\_\_

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Psychiatric disability (Give details) \_\_\_\_\_

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Dementia (Give details) \_\_\_\_\_

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Other (any other disability which affects the person's ability to make decisions about personal and/or financial matters.) Give details

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How long has the disability been evident? \_\_\_\_\_ years

Is the disability (Please tick)

- Static
- Deteriorating
- Fluctuating
- Improving

What is the prognosis?

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## applicant's details

Please give details of the person who is making the application to the Board and/or requested this Health Care Professional Report from you.

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_ Postcode \_\_\_\_\_

Preferred Contact Telephone Numbers

\_\_\_\_\_

Fax Number \_\_\_\_\_

Email address \_\_\_\_\_

## donor's attendance at hearing

Does the donor have any physical disability that would prevent him or her from attending a Guardianship and Administration Board hearing?  
(Please tick)

Yes  No

If Yes, please explain the condition:

\_\_\_\_\_  
\_\_\_\_\_

Does the donor's mental condition prevent him or her from attending a hearing? (Please tick)

Yes  No

If Yes, please explain the condition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## confidentiality

The information in this report may be provided without the consent of the person about whom it is written. However, the Board may provide a copy of this report to the person about whom it is written or an 'interested party' to the proceedings. If you have any concerns about disclosure of information from the report, please indicate below.

Have you discussed this report with the proposed represented person?

Yes  No

Do you have concerns about disclosing the contents of this report to the person about whom it is written or any 'interested party'? (Please tick)

Yes  No

If Yes, please provide details:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I have provided this report in good faith and have reasonable and probable grounds for believing the report to be true.

Signed \_\_\_\_\_

Dated \_\_\_\_\_

**Thank you for your time in completing this report.**

**Your assistance is greatly appreciated.**

### *Office Use Only*

Date report received:

Date data entered:

Attach to Application No.

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## test for assessing competence for granting an enduring power of attorney

(Section 30(2) & (3) *Powers of Attorney Act 2000*)

To be capable of granting an enduring power of attorney, a person (the donor) must understand the nature and effect of the document creating the power.

The donor is taken to understand the nature and effect of the document if he or she understands the following matters:

- (i) that the donor may, in the document, specify or limit the power to be given to the attorney and instruct the attorney about the exercise of the power;
- (ii) that the power begins when authorised by the donor or when the donor loses his or her mental capacity;
- (iii) that subject to any directions contained in the power, the attorney will have full control over the donor's property;
- (iv) that the donor may revoke the enduring power of attorney at any time while he or she has the mental capacity to do so.
- (v) that the power the donor has given continues even if the donor subsequently loses his or her mental capacity;
- (vi) that the donor is unable to oversee the use of the power if he or she subsequently loses mental capacity.

### Notes:

It is preferable that you ask open questions such as: "What will your attorney be able to do?" and "What will happen if you become mentally incapable?" to assess whether the donor understands the nature and effect of the power.

In order to revoke an enduring power of attorney the donor must have the same degree of capacity as he or she had when the power was made. Once a person has lost capacity, only the Board may revoke the power.

An attorney must act as a 'trustee' for the donor. If you believe that there has been any pressure applied to a person to make an Enduring Power of Attorney, or if you believe that the attorney has not acted in the donor's best interests in exercising the power, these are important matters to bring to the attention of the Board.