



Freecall: 1800 812 953

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Web Site: www.dcls.org.au

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Postal Address: GPO Box 3180, Darwin NT

Location: 8 Manton Street, Darwin, NT

ADVANCE PERSONAL PLANNING

From the 17th of March 2014, you can make an Advance Personal Plan instead of an Enduring Power of Attorney.

Advance Personal Plan

An Advance Personal Plan lets you record wishes and decisions about your future should you lose decision-making capacity because of age, an accident, illness, or some other reason.

Decision-making capacity means a person can understand and remember information about a certain issue, think about the information in a way that lets them make a decision about the issue, and communicate the decision.

When an Advance Personal Plan can be made

You need to have decision-making capacity to make an Advance Personal Plan. You cannot make an Advance Personal Plan if you have an Adult Guardian, or a Manager under the *Aged and Infirm Persons' Property Act 1979* ('Manager').

What an Advance Personal Plan can include

An Advance Personal Plan can include one or more of the following:

Advance consent decisions: these are legally binding decisions about future health care.

Advance care statements: these set out your views, wishes and beliefs about future health, financial or lifestyle matters.

Appointment of decision maker: this gives someone else the power to make decisions for you should you lose decision-making capacity in the future.

Advance consent decisions

An advance consent decision can be made about one or more health care actions. A health care action means starting, continuing, withholding or stopping health care. An advance consent decision may be about the health care that you want provided in a particular situation, or over a period of time. In most situations, medical professionals will have to follow an advance consent decision.

Advance care statements

Among other things, an advance care statement can include statements about your health, however these statements will not be legally binding. If there is disagreement about whether a statement about healthcare is an advance consent decision or an advance care statement, an application can be made to the Local Court who can decide.

Appointment of decision maker

You can appoint one or more decision makers to make decisions about matters to do with your care or welfare (including healthcare), property or financial affairs.

A decision maker can be:

- anyone over the age of 18;
- the Public Trustee;
- the Public Guardian; or
- a licensed trustee company.



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Length of an Advance Personal Plan

An Advance Personal Plan applies from when it is made until:

- the person who made the plan cancels it. However, this can only be done where the person has decision-making capacity, and does not have an Adult Guardian or Manager;
- a court cancels it;
- the appointed decision maker dies or resigns. However, this only applies where the Advance Personal Plan does not include an advance care statement or advance care decision;
- the time the Advance Personal Plan is due to end, if it was made for a limited time; or
- the death of the person who made the Advance Personal Plan.

You can make changes to an Advance Personal Plan as long as you have decision-making capacity and you do not have an Adult Guardian or Manager.

Role of the Local Court

The Local Court can assist in resolving a dispute about the validity, effect or meaning of an Advance Personal Plan, as well as many other issues.

Impact on a Power of Attorney and a Will

An Enduring Power of Attorney cannot be created after the 17th of March 2014, but an Enduring Power of Attorney made before this date will remain valid.

An Advance Personal Plan does not impact on a General Power of Attorney, which only applies before a person loses decision-making capacity. A decision maker appointed under an Advance Personal Plan is not allowed to make, change or cancel a Power of Attorney or an Advance Personal Plan.

A decision maker appointed under an Advance Personal Plan is not able to make, vary or revoke your will.

A decision maker appointed under an Advance Personal Plan is not able to make, vary or revoke your will.

How to make an Advance Personal Plan

To make an Advance Personal Plan, you should:

1. Obtain an Advance Personal Plan form from the Office of the Public Trustee or online at the NT Department of the Attorney-General and Justice Advance Personal Planning website.
2. Complete a draft plan and discuss this with your doctor, financial advisor, lawyer, and the person you want to be your decision maker (if you are appointing one).
3. Finalise the plan and have it witnessed by an authorised witness, which can include a lawyer or Justice of the Peace, a Doctor or Nurse, or a principal of a Northern Territory school.
4. Provide a certified copy of the plan to your doctor, lawyer, financial advisor and decision maker. You may also choose to register it with the Office of the Public Trustee. If your plan allows a decision maker to deal with land, you must register it with the Land Titles Office.



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Useful contacts

Darwin Community Legal Service

Phone: (08) 8982 1111

Freecall: 1800 812 953

Office of the Public Trustee

Phone: (08) 8999 7271

Email: agd.publictrustee@nt.gov.au

Location: Nichols Place, Corner of Cavenagh &
Bennett Streets, Darwin NT