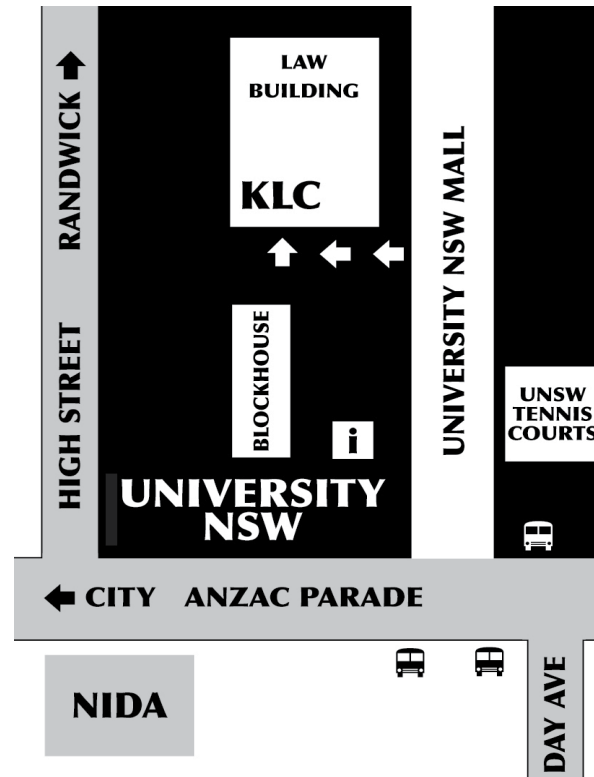


**KLC aims to
provide quality
legal services to
the community
& to promote
excellence in
clinical legal
education, whilst
fostering a critical
analysis of the
legal system.**

9385 9566



LOCATION

Kingsford Legal Centre is located on the ground floor of the Law Building, University of New South Wales, Anzac Parade, Kensington.

Enter the university at the main entrance on Anzac Parade, walk down the main walkway and turn down the 2nd path on the left. The entrance to the legal centre is opposite the Uni Bar.

POSTAL ADDRESS

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**Power of
Attorney**

THE UNIVERSITY OF
NEW SOUTH WALES



This article does not constitute, and should not be viewed as a substitute for legal advice. Please contact Kingsford Legal Centre if you would like to make an appointment for legal advice.

WHAT IS A POWER OF ATTORNEY?

It is a legal document that allows you to appoint someone to act on your behalf in making legal and financial decisions.

The person who makes the appointment is called the 'principal'. The person who is given the power to make decision is called the 'attorney'.

WHO CAN MAKE A POWER OF ATTORNEY?

In order to make a valid power of attorney you must be:

- 18 years or older
- Have the mental capacity to understand the nature and effect of the appointment.

WHEN DO YOU NEED ONE?

When you are unable to act for yourself, for example when you are:

- Overseas;
- Sick or in hospital;
- Experiencing language or cultural barriers;
- Otherwise having difficulty attending to your affairs at the bank, real estate agent or at any government office.

WHAT TYPES OF DECISIONS CAN YOUR ATTORNEY MAKE FOR YOU?

Your attorney can make all kinds of legal decision on your behalf such as:

- Buying/selling shares;
- Buying, selling, leasing or mortgaging your property;
- Managing your bank account; or
- Any other decision affecting your assets.

Your attorney cannot make decisions about your health or personal lifestyle.

WHAT IS AN ENDURING POWER OF ATTORNEY?

- An ordinary power of attorney is not effective and cannot be used by your attorney after you have lost the mental capacity to make your own decisions.
- An Enduring Power of Attorney continues to be effective after you have lost mental capacity.

This difference is especially important for elderly people.

HOW DO I GIVE SOMEONE A POWER OF ATTORNEY?

To give someone the authority to make decisions on your behalf:

1. Sign a power of attorney appointing one or more other persons as your attorney(s). These forms are available at the Guardianship Tribunal website www.gt.nsw.gov.au or at any solicitor's office.
2. Indicate on the power of attorney if there are any additional powers or restrictions you wish to give or impose on your attorney.
3. Have a solicitor, a registrar of a Local Court or other prescribed witness to witness your signature and, if it is an enduring power of attorney, certify the document.
4. For an enduring power of attorney ask your attorney to accept their appointment. They can accept by signing the form.

WHAT IS AN ENDURING GUARDIAN?

An enduring guardian is someone you choose to make personal or lifestyle decisions on your behalf. You may choose which functions you give your enduring guardian, such as:

- Deciding on your healthcare
- Deciding on your medical treatment
- Deciding where you live

WHAT IS THE DIFFERENCE BETWEEN AN ENDURING GUARDIANSHIP AND A POWER OF ATTORNEY?

An enduring guardian can only make **personal** and **lifestyle** decisions on your behalf.

An attorney under a power of attorney can only make **financial** and **legal** decisions on your behalf.

It might be appropriate for you to appoint both an attorney and an enduring guardian.

WHO SHOULD I APPOINT ?

You should appoint someone who:

- You can trust;
- Will be impartial;
- Will act in your best interest;
- Is competent to make decisions for you.

WHERE CAN I GET HELP?

- Your local community legal centre or the Public Trustee can help you.
- Private solicitors can prepare the relevant forms for a fee.
- A registrar of a Local Court can witness the appointment for free.
- The Guardianship Tribunal website contains useful general information on Powers of Attorney and Guardianship www.gt.nsw.gov.au.
- The Department of Lands provides a telephone inquiry service on (02) 9228 6713.
- The Chamber Magistrate or duty solicitor at a Local Court may also help you with any legal questions you may have.