

REPRESENTATION AGREEMENTS

Do I need one?

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Do I need a Representation Agreement?

We all have different abilities. Some of us are better at cooking and other people are better at math. And we all have choices to make every day. From the time we get up in the morning until we go to bed at night we make choices about what to wear, what to eat, how to get to work, what to spend our money on, and so on. Some decisions are simple, such as what to wear. Other decisions, such as how to budget and spend money, are more difficult.

Perhaps you know that you have trouble making decisions about money — paying bills, how much money to put in the bank and how much money to spend on food. Perhaps you have trouble keeping to your budget plan. For example, you may have a budget, but when payday comes, you spend your pay on whatever strikes your fancy at the time. Maybe your friends pressure you to spend the money on partying. And then you have no money to pay the rent or buy groceries. If this has happened to you over and over again, you may want someone to take over your money decisions.

Maybe you have trouble deciding where you should live. In the past, maybe you rented an apartment that you couldn't afford. If this has happened to you, you may want someone to make the decisions about where you should live.

If you want someone to take over making decisions for certain things, then you can give one or more people that power by filling out a **Representation Agreement**.

This booklet will help you decide whether you want a Representation Agreement.

What is a Representation Agreement?

A Representation Agreement is a written agreement between you and your **Representatives**. You can give your Representatives the authority to make decisions for you for day-to-day decisions about your money or your personal affairs. These areas are listed in the regulations of the *Adult Protection and Decision-Making Act*. You must list the decisions you want your Representatives to make for you in your Representation Agreement.

Representation Agreements are for adults who are capable of making **most** of their decisions but know that they need help making **some** decisions. Representation Agreements are **not** for adults who have a degenerative disease like Alzheimer's. This is because once you no longer understand what you have put in your Representation Agreement, your Representatives don't have any authority to make decisions for you. For these adults, an Enduring Power of Attorney is a better choice. You must visit a lawyer to do an Enduring Power of Attorney.

Why sign an agreement?

Without a Representation Agreement, someone else cannot write cheques for you or decide how to spend your money. But you can have someone informally **support** you to budget and do your banking. If this works for you and your support worker (or family member or friend), then you don't need a Representation Agreement. But if you have tried informal support and it doesn't work for you, then you may want a Representation Agreement. Once the agreement is signed, your Representatives will be able to make decisions for you that will be accepted by the bank, your landlord and others.

A Representation Agreement also gives protection to your Representatives. As long as they carry out their duties honestly and in good faith, they will not have to pay for any mistakes.

Who can make a Representation Agreement?

- You must be 19 years of age or older.
- You must be able to understand the nature and effect of the agreement — what you have written and what it will mean to your life.

What do I have to put in an agreement?

You must use the form created by the Yukon government for a Representation Agreement.

- List the reasons you want your Representatives to make decisions for you.
- Name the Representatives who are willing to make decisions for you.
- List the types of decisions that you want your Representatives to make.
- Say whether there are any special requirements for ending your agreement before the expiry date. For example, you could say that you must give one week's notice to your Representatives before the agreement ends. Then, if you get mad because your Representative won't buy a new stereo for you because you won't have enough money for rent, you can't just end the agreement while you are mad.
- Take the agreement to a "designated witness" and have everyone sign the agreement at the same time.

Who is a “designated witness” and what do they do?

A designated witness is somebody who will look over the Representation Agreement and witness the signatures. They may also ask you to explain what is in your Representation Agreement and what it will mean to your life.

The *Adult Protection and Decision-Making Act* says who can be a designated witness:

- a person working for Yukon Health and Social Services or Justice, assigned to be a designated witness, or
- a health, social services or justice worker with a First Nation.

In Whitehorse, Adult Services (Health and Social Services) has some designated witnesses assigned. Regional social workers are also designated witnesses.

Why two Representatives?

When you give someone control over your money, it is pretty easy for them to rip you off. Most people are honest, but sometimes people do get abused and ripped off. Having two Representatives makes it harder for one person to rip you off without having anyone else find out.

The two Representatives must agree in order to make a decision. If they don't agree, then they can't make a decision.

Can I have just one Representative?

If it is impossible for you to find two Representatives, then you can go with one Representative.

If you have one Representative, your Representation Agreement is only good for one year and then you have to sign a new Representation Agreement. If you have two Representatives, your agreement is good for three years.

What decisions can Representatives make?

As long as you say so in your Representation Agreement, your Representatives can make personal and financial decisions for you.

Personal decisions include the following:

- where you can live and with whom;
- whether you should work and, if so, the type of work, who you should work for and other things related to work;
- whether you should go to any school or training program, and if so, the type of training and other decisions related to education;
- what your daily living activities are, including hygiene, diet, dress, your social activities and companions.

Representatives can make these financial decisions:

- pay your bills, including your property taxes and loan and mortgage payments.
- buy goods and services for your day-to-day living that you can afford and that match your lifestyle;
- arrange and pay for a place for you to live other than by buying property or a home for you;
- buy, renew or cancel household, motor vehicle or other insurance for you, except buying a new life insurance policy for you;

- make contributions to your RRSP (registered retirement savings plan) and RPP (registered pension plan);
- for the purposes of doing anything listed above, your Representatives can:
 - take money out of your bank accounts, and
 - sign, endorse, stop payment on, negotiate, cash or otherwise deal with cheques, bank drafts and other negotiable instruments on your behalf.

Your Representatives can also:

- receive and confirm statements, passbooks or notices from your bank so that your Representatives can reconcile your accounts;
- receive and deposit your pension, income and other money in your bank accounts;
- transfer money between your bank accounts;
- take steps to get benefits or entitlements for you, including financial benefits or entitlements;
- in relation to income tax,
 - complete and send your income tax returns, or arrange for them to be completed and sent,
 - deal with tax assessments, reassessments, additional assessments and all related matters on your behalf, and

- sign, on your behalf, all documents, including consents, concerning income taxes;
- keep your documents and property safe and available to you when you ask for them.

What decisions can Representatives NOT make?

Representatives cannot make health care decisions for you. If you want to appoint someone to make health care decisions for you in the event you are not capable of making your own health care decision, then you must appoint a “proxy” through an Advance Directive.

Representatives cannot make any decision that is not explicitly set out in the Representation Agreement.

Representatives cannot deposit your money in their bank account. Representatives must always deposit your money into your bank account before buying anything for you or paying your bills.

Representatives cannot do any of these financial activities:

- use or renew your credit card or line of credit or obtain a credit card or line of credit for you;
- institute a new loan, on your behalf, including a mortgage;
- purchase or dispose of real property on your behalf;

- guarantee a loan, post security or indemnify a third party on your behalf;
- lend your personal property or dispose of it by gift;
- act, on your behalf, as director or officer of a company;
- invest any of your money in any investment not protected by the Canada Deposit Insurance Corporation; or
- any other activity not listed in the regulations.

A Representative has no authority to do any of the following:

- execute or be the recipient of any assignment of your pension or other income;
- spend any of your cash without first depositing it in a bank account in your name; or
- take any of your cash or property or spend any of your money for the Representative's own use.

What are the duties of Representatives?

Representatives must:

- consult the best they can with you to find out what you want;
- follow your wishes, if it is reasonable to do so;
- follow any instructions or wishes you put in your Representation Agreement if your current wishes cannot be determined or it is not reasonable to follow them. If no instructions or wishes are expressed in the agreement, Representatives must act on the basis of your known beliefs and values, or in your best interests, if your beliefs and values are not known;
- not pressure you into signing the agreement or making certain decisions;
- act honestly and in good faith;
- exercise the care, diligence, and skill of a reasonably prudent person;
- act within the authority granted in the Representation Agreement;
- encourage and assist you to care for yourself and participate in making decisions;
- help you get the information you need about a decision;
- not try to get information about you without your permission;

- not talk about you with other people without your permission;
- not give other people information about you without your permission;
- make sure that personal information about you is kept safe;
- make sure that information about you is only used to make the decision; and
- get rid of information about you once it is no longer needed.

What records should Representatives keep?

Representatives who are making financial decisions must keep accounting records.

Representatives must show you their records whenever you ask to see them.

This is a safeguard for you and for the Representatives so that they can show how they have spent your money.

Who should I pick as your Representatives?

Pick someone you trust and someone who understands you. This could include a friend, relative, or advocate.

You cannot pick:

- your boss who pays you for work;
- anyone you pay as an employee;
- anyone who gets paid for providing rent, room and board or other services to you. (This includes a Supported Independent Living worker and an approved home operator.);
- anyone who has had a court order against them under the *Family Violence Prevention Act* or Part 4 of the *Adult Protection and Decision-Making Act*;
or
- the spouse, child, parent, employee or agent of anyone in the categories listed above.

How do I make an agreement?

Think about why you want someone to make decisions for you and what decisions you want them to make.

Then find two people, if you can, who are willing to be your Representatives.

Fill out the Representation Agreement form. Make sure the form has a date, and is signed by you, your Representatives and the designated witness at the same time.

Give copies of the agreement to your Representatives and keep the original copy in a safe place.

Your Representatives will have to present a copy to the bank and other people if your agreement says that they can make decisions about your money.

What if I don't want this agreement any more?

If you don't want a Representation Agreement any more, tell your Representatives and other people close to you. Then ask them to return the copies you gave them so you can destroy all copies of your agreement.

The agreement will automatically end if you no longer understand what you have written and what it means to your life. If you think that your level of understanding will decline during the term of the Representation Agreement, appoint someone to look after your finances through an Enduring Power of Attorney — not a Representation Agreement.

What if I think my Representatives are taking my money?

If you think your Representatives are ripping you off, you should ask for help. Talk to a Health and Social Services social worker (in Whitehorse, contact Adult Services Unit at 867-667-5674) or someone you trust. Accusing someone of stealing your money is very serious. But if you have good reason to believe that your Representatives are stealing your money, talk to someone you trust.

For more information

To obtain more information and copies of the Representation Agreement form, go online to www.hss.gov.yk.ca.

