

# Understanding and use of Power of Attorney in Victoria's CALD communities

Analysis of responses from Regional Advisory Council  
Members

# Acronyms:

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CALD	Culturally and linguistically diverse communities
NEC	New and Emerging communities
POA	Power of Attorney
RAC	Regional Advisory Council
VMC	Victorian Multicultural Commission

# Context

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The Department of Justice approached the Victorian Multicultural Commission (VMC) to request assistance in advising diverse communities of the opportunities offered by powers of attorney (POA) legislation. In order to ascertain levels of awareness, knowledge and potential in communities the VMC sought information from its Regional Advisory Council (RAC) members.

Members of the eight RACs were canvassed in regard to information related to POA and asked to respond to three questions. RAC members were asked to provide their responses to the questions by close of business on Friday 15 May 2015.

## Department of Justice questions posed to RAC Members

- 1) Are the members of your community aware of the option to make a power of attorney?
  - a) If so, how did they hear about it? Do they have a power of attorney?
  - b) If not, what would be the best ways to make them aware of the option, or help them understand, powers of attorney?
- 2) What would be some of the barriers to the people in your community making a power of attorney? (Barriers may include things like cultural nuances, limited access to technology or not knowing the powers of attorney exists.) Please explain.
- 3) Which kind of power of attorney would be most useful for your community members? Would it be those which arrange for someone to take care of your financial matters, or to make medical decisions for you, or to make decisions in relation to lifestyle / personal matters?

All responses received by the due date were collated and analysed. This report provides the findings of this analysis.

Summary of Responses from RAC Members					
<b>Total Number of responses received:</b> 40					
<b>Number of Responses by Region:</b>					
Barwon South West	1	Eastern	5	Gippsland	4
Grampians	3	Hume	5	Northern	6
Loddon Mallee	6	Southern	10		

# Key Findings

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The key findings following analysis of responses to the questions posed by Department of Justice are as follows:

1. Overall low levels of awareness of the option to make a POA in diverse communities throughout the regions.
2. The main factors limiting awareness included:
  - a. Low level English language skills;
  - b. Settlement experience and length of time in Australia;
  - c. Education and literacy skills:-
    - i. Limited English and low levels of literacy are barriers;
    - ii. Legal language of POA is a barrier even for those proficient in English;
    - iii. Low level literacy skills are often related to limited education in country of origin, thus individuals lack literacy skills in native languages; and
    - iv. Education and literacy barriers present issues related to informed consent.
3. Responses generally suggest that RAC members do not encounter requests for information about the option of POA on a regular basis in their regions. Some RAC members were not well informed themselves on the concept.
4. Respondents reported that most community members did not have a POA (80%).
5. The main barriers to making a POA are cultural differences, language and literacy, and lack of awareness.
6. The most useful kind of POA for community members was predominantly medical matters (41.7%), with financial matters a close second (39.6%).

# Recommendations

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Informed by the key findings the following recommendations are designed to reduce barriers and inform activities that will raise awareness of the option to make a POA, as well as information on the concept.

1. Run an awareness campaign through local ethnic and community radio stations and media, including social media.
2. Collaborate with mainstream agencies and settlement services to promote information about POA. This could be through a central event to raise awareness and provide information in the regions, with agencies well represented and participating.
  - a. Especially utilise organisations already linked into senior's groups (e.g. local Councils Aged & Disability Service Units, community health centres and ethno-specific agencies)
3. Seek to translate all materials relating to POA into community languages and distribute to key community locations such as libraries, estate agencies, community health centres and Council offices.
4. Seek to provide interpreters and/or bilingual presenters for information sessions on POA.
5. Be sensitive to cultural nuances particularly the differences between individualist and collective cultures. Sensitivity to these cultural aspects will build bridges to understanding the concept of POA for diverse community members.
6. Seek representative community members/community leaders and equip them with the information to take to their respective communities. In many culturally and linguistically diverse (CALD) communities people learn by word of mouth, and from family and friends.

# Question 1 - Awareness

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## Are the members of your community aware of the option to make a power of attorney (POA)?

Responses overall demonstrated low levels of awareness of the option to make a POA. It was reported that for new arrivals, and new and emerging communities (NEC) generally, levels of awareness were very low.

Level of Awareness		
<b>Question 1:</b>	Are the members of your community aware of the option to make a power of attorney?	
<b>Responses:</b>	No	23
	Yes	12
	Mixed Response	4
	Total Responses	40

Slightly more than half (57.5%) responded negatively, that community members are not aware of the option, while less than a third (30%) were reported to be aware of the option, and the remainder (10%) provided mixed responses.

Mixed responses (neither yes or no) included observations on the factors that affect levels of awareness of the option to make a POA. These included:

- English language skills, especially NEC such as Karen community in Loddon Mallee;
- length of residency in Australia;
- levels of education and literacy;
- community subset (for example some respondents rated awareness among Indian subsets as high, but among Chinese subsets as low); and
- a general reluctance to discuss the matter, impacted by levels of trust for example (African communities) and death as a taboo subject (Nepalese communities).<sup>1</sup>

### RAC Member Feedback

RAC members in Hume and Southern consulted local service providers on the issue and advised that, generally, those that they consulted advised that the issue did not arise in the course of providing services.

RAC members representing particular subsets confirmed that levels of awareness of POA vary in their communities.

For example:

- Northern and Eastern RAC members reported high levels of awareness in the Nepalese and Indian communities;
- Southern RAC reported high levels of awareness in the Oromo, Chinese and Italian communities.
- Hume and Southern local government RAC members advised an overall lack of awareness in diverse communities overall in the regions. Hume recommended future briefing sessions.

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<sup>1</sup> This issue is discussed further in response to questions 2 and barriers to making a POA.

- Grampian RAC reported that many members of the community had not heard of POA. However the issue of POA tended to be raised with individuals during property/land exchange.
- Eastern RAC reported that African communities generally would not entrust another person with decision making powers over financial or legal matters. However in diverse communities more broadly in the region, those with higher levels of education and connections with professional bodies tended to be more aware of POA. It was also reported that when elderly community members require aged care POA is raised prior to admission.

### Question 1. a) Part 1: How did they hear about it?

Less than half of respondents (45%) provided a response to this sub-question. This suggests that RAC members in the regions are not encountering requests for information about POA.

Those respondents who did provide an answer to this sub-question cited the various ways in which communities in their regions heard about the option to make a POA.

RAC REGION	COMMUNITY	RAC MEMBER	HEARD THROUGH...
<b>Eastern</b>	German	Service Provider	Life events/ageing parents need care
	Greek	Service Provider	
	Australian	Local	
<b>Northern</b>	Nepalese	Government	
<b>Gippsland</b>	Greek	Resident	
<b>Southern</b>	Greek	Local	Department of Justice presentations
		Government	
<b>Northern</b>	Nepalese	Service Provider	Grants applications and acquittal processes
	Indian		Country of origin – POA used in property matters in India
<b>Southern</b>	Zambian	Resident	Educational institution (university etc)
<b>Loddon Mallee</b>	Australian	Resident	
<b>Northern</b>	Italian	Service Provider	Word of mouth/Family & friends
	Nepalese	Local	Life events/Ageing parents need care
		Government	
<b>Southern</b>	Chinese	Resident	

### Question 1. a) Part 2: Do they have a power of attorney?

Only a quarter (25%) of RAC members provided a response to this part of the question. The majority (80%) of these responses were negative, no POA.

Respondents provided some cultural background to explain these negative responses. For example the local government RAC member in Gippsland suggested that in the Greek community there was a belief that elderly community members would be cared for by their children. This thinking implies that the option of POA is not readily considered.

Another issue, also reported from Gippsland, was that an aspect of the reticence to discuss the option of POA relates to people's belief that they will lose control of their own affairs if they make a

POA. Hume RAC members reported that terminal medical issues and end of life decisions are not discussed openly in most CALD communities.

### Question 1. b) Raising awareness and understanding of the option of POA

Most respondents (78.8%) answered this question and provided useful suggestions to raise awareness and understanding of the option of POA.

Suggestions are grouped together in the following table and prioritised in terms of the number of times the suggestion was offered. Suggestions offered most often appear at the top of the table.

SUGGESTION	RAC REGION	COMMUNITY	
<ul style="list-style-type: none"> <li>• <b>Run awareness campaign</b> through local ethnic and community radio stations and media, including ethnic media and social media.</li> <li>• <b>Collaborate with mainstream agencies and settlement services</b> to promote option of POA, with translated materials.</li> <li>• <b>Free community event/information session</b> – bring together representatives from a variety of agencies and services. Use as a platform to raise awareness of POA option with translated materials and interpreters on hand.</li> </ul>	Southern	Chinese, Italian	
	Gippsland		
	Hume		
	Eastern		
	Northern	Italian	
	Eastern	Greek	
	Loddon Mallee	NEC	
	Southern		
	<ul style="list-style-type: none"> <li>• <b>Provide translated materials</b>, especially at community points of contact (e.g. Real Estate Agencies, Health Centres/GPs, Accountant/Tax Agent, Libraries, Peak Bodies, etc).</li> <li>• <b>Use interpreters</b> .</li> <li>• <b>Conduct bilingual education sessions</b> in the community (at seniors clubs etc).</li> <li>• <b>Disseminate information through cultural communities</b> (schools, workplaces)</li> <li>• <b>Utilise organisational networks</b> email distribution to raise awareness</li> </ul>	Hume	Indian
		Northern	Nepalese
Gippsland		Pakistani	
Grampians		Indian	
Eastern			
Southern		African	
		Indian	
Eastern		African	
Northern		Indian	
<ul style="list-style-type: none"> <li>• <b>Equip a trusted community member/leader</b> to convey information.</li> <li>• <b>Equip service staff at points of contact</b> to be able to refer people along (e.g. to Community Legal Centre for further information).</li> </ul>		Northern	Nepalese
	Eastern	African	
	Grampian	Indian	
	Southern		

SUGGESTION	RAC REGION	COMMUNITY
<ul style="list-style-type: none"> <li>• <b>Utilise Community Legal Centres</b> and service provider networks to share information about POA.</li> </ul>	Southern	Italian
<ul style="list-style-type: none"> <li>• <b>Equip Council's Diversity Officer</b> as a 'go-to' person.</li> </ul>	Grampians	Indian
<ul style="list-style-type: none"> <li>• <b>Equip home and community care (HACC) workers</b> to take information into homes.</li> </ul>	Eastern	German
<ul style="list-style-type: none"> <li>• <b>Develop DVD</b> in different languages<sup>2</sup></li> </ul>		
<ul style="list-style-type: none"> <li>• <b>Utilise Council newsletters</b> (these go to all residents).</li> </ul>	Southern	Chinese
<ul style="list-style-type: none"> <li>• <b>Utilise existing events and activities</b> to imbed information sessions/materials.</li> </ul>	Barwon SW Eastern	Serbian
<ul style="list-style-type: none"> <li>• <b>Utilise community services</b> and local organisations to spread the information verbally.</li> </ul>	Loddon Mallee	South American
<ul style="list-style-type: none"> <li>• <b>Cultural nuances and sensitivities.</b> For example consider women's only information sessions.</li> </ul>	Hume	

<sup>2</sup> Similar to Ethnic Communities Council Victoria (ECCV) DVD 'Within My Own Walls' on Elder Abuse. See <http://eccv.org.au/projects/elder-abuse-prevention-in-ethnic-communities>

# Question 2 - Barriers

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## What would be some of the barriers to the people in your community making a power of attorney?

This question was addressed by most respondents (92.5% responded).

Local government RAC members in Hume, Northern and Southern did not provide a responses to all questions including this.

### A. Main barriers:

The three main barriers reported by respondents were cultural differences (27.6%) , language and literacy barriers (26.4%), and overall lack of awareness (20.7%) .

#### Cultural aspects include:-

- Cultural differences in the ways that elder family members are cared for and collective decision-making within families were reported as barriers in Chinese, Indian, South American, German, Italian and Oromo communities;
- Reliance upon children to provide for elderly relatives was raised in relation to Greek and other waves of earlier migrants;
- Trusting close relatives to make good decisions;
- Fear that utilising POA concedes control over one's affairs;
- Fear of causing offence to family members and creating conflict;
- Fear that enacting POA option displays or implies a lack of trust in family members;
- Younger family members fear that POA document implies elderly relative is incompetent;
- Having POA in place detracts from whole of family consensus in decision-making, such as in Chinese communities;
- The patriarchal aspects of traditional ethnic family structures generally where males are the dominant decision-makers;
- The concept of POA is alien to some cultures, it appears foreign and there is no similar concept within the culture. This may be especially true of NEC such as the Karen community; and
- Individual rights can be a difficult concept for collective cultures.

#### Language and Literacy:

- Limited English and low levels of literacy cited as barriers;
- Legal language presents another aspect to the language barrier even for English speakers;
- Literacy can be an issue when family and community members received limited schooling in their country of origin, and thus lack literacy skills in native language;
- Language and literacy are also barriers relating to issues of informed consent;
- Low literacy in English prohibits access to information about POA

#### Lack of Awareness:

Comments relating to lack of awareness of the option of POA included:-

- 'unaware of the concept';
- 'concept of POA is foreign';

- community lacks understand of the role and purpose of POA;
- ‘lack of knowledge’;
- ‘not knowing that such an opportunity exists’;
- ‘do not consider POA as an option’;
- do not know POA exists; and
- ‘simply unaware that this choice exists’.

## B. Other barriers:

Other barriers cited were technology (11.5%), reluctance (6.9%), cost (4.5%), fear of authority (1.2%) and issues related to settlement (1.2%).

BARRIER	COMMENT
<b>Technology</b>	<ul style="list-style-type: none"> <li>• Limited access to and ability to use technology</li> <li>• Inability to access information online</li> <li>• Lack of knowledge in how to use technology</li> <li>• Generally information online is presented in English</li> </ul>
<b>Reluctance</b>	<ul style="list-style-type: none"> <li>• Believe that children and family will ‘do anything for us’</li> <li>• ‘taboo topic’ – community members fear loss of control and that it may be one step before the grave</li> <li>• ‘people generally don’t like to talk about possible difficult circumstances’</li> <li>• ‘cultural reluctance to discuss’</li> <li>• Can be related to issues of trust</li> <li>• ‘alien concept’</li> <li>• ‘...like signing your power away’</li> </ul>
<b>Cost</b>	<ul style="list-style-type: none"> <li>• Impression is that it involves substantial legal cost</li> <li>• Cost such as engaging a lawyer is a hindrance</li> <li>• Not being aware of the monetary costs associated</li> </ul>
<b>Fear of Authority</b>	<ul style="list-style-type: none"> <li>• Some migrants’ experiences of authorities and authority figures have been unpleasant, either in their country of origin and/or in their journey to Australia. As a result they lack trust in authority and even in processes such as signing deeds.</li> </ul>
<b>Settlement</b>	<ul style="list-style-type: none"> <li>• Settlement involves a number of adjustments and learnings</li> <li>• Sometimes the practicalities of settlement are time intensive such as finding a house, employment, schools for children etc. This leaves little time and energy for other matters.</li> <li>• ‘The settlement period may take 5-10 years before the family feels comfortable in their new location’</li> </ul>

## Question 3 - Types of POA

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### **Which kind of power of attorney would be most useful for your community members?**

This question was addressed by 85% of respondents. Those who responded supported POA for medical and financial matters in the main. There was general understanding that these matters can be interrelated, such as decision making for elderly people entering aged care or younger people with disability.

Respondents, answering this question on behalf of their community members, chose medical matters (41.7%) as the most useful kind of POA. The second most useful kind of POA was financial matters(39.6%)

POA for lifestyle/personal matters was the least understood and as a result rated least useful (18.7%).

There was recognition that initiating a conversation regarding one kind of POA, i.e. medical, could lead into another, i.e. financial.