



How Enduring Powers Of Attorney Can Keep You Safe

INFORMATION SHEET & CHECKLIST

Enduring Powers of Attorney

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Enduring Powers of Attorney (EPOAs) serve as essential legal tools, enabling you to appoint others to oversee your personal or financial matters.

We often receive enquiries from clients who want to know how their personal affairs would be managed if they lost their mental capacity.

Possibly you know or have heard of someone who through age, disease, or accident has lost their mental capacity to the extent that they can no longer handle their own affairs. It is a good idea to consider who you would wish to look after your personal affairs and property if that ever happened to you.

Within New Zealand's legal framework, there are two distinct categories:

- 1. Property EPOA**
Covers financial and property matters.
- 2. Personal Care & Welfare EPOA**
Covers personal health, welfare, and lifestyle decisions and is only enacted upon a medical professional's or the Family Court's assessment of the individual's inability to make independent decisions.

The great thing about an EPOA for property is that you have it prepared in advance so it can be activated immediately if you need it, and it continues to be effective after you are no longer capable of dealing with your affairs.

The EPOA for personal care and welfare comes into effect only once you are no longer capable – but granting it now gives you peace of mind that you have decided, ahead of time, who you trust to make decisions for you if you cannot decide for yourself.

People often ask what will happen to their property or personal affairs without having an EPOA in place to enable someone to act on their behalf.

In those circumstances, it is usually necessary for a family member or someone else to apply to the Family Court to be appointed as manager of your property and as your welfare guardian.

This would require a written application to the Family Court supported by medical evidence showing that you had become mentally incapable.

This can have the following disadvantages:

- It involves greater expense and there may be delays which can be difficult and stressful for your family and friends; and
- The person appointed to act as your manager and your welfare guardian may not necessarily be the person whom you would have chosen.

We recommend that you put in place an EPOA appointing someone to look after your affairs if you have not already done so.

The procedure is relatively simple, and it enables you to appoint a person of your choice to be your Attorney.

By doing this, you will avoid the disadvantages outlined above if you later become seriously ill or mentally incapable.

It is quite common for a family member to be chosen to act as the Attorney. It is also possible for different people to be appointed to act as your Attorney in relation to property matters and personal care & welfare. We find that in most cases, clients choose to make an EPOA for both Property and Personal Care & Welfare.

As far as property matters are concerned either one or two or more people can act together as the Attorney, but only one person can be appointed as your Attorney for personal care and welfare.

It is important for every adult, whatever their age, to take steps to create an EPOA and in particular to consider making an EPOA for property when purchasing a family home or other assets.

It is also important to note that your EPOA only lasts while you are alive. It dies with you.

We're here to help.

To get EPOAs drawn up or to get advice on your circumstances, chat with us:

Nelson Office:
03 548 2269
315 Hardy Street,
Nelson

Motueka Office:
03 528 9580
78 High Street,
Motueka

chatwithus@clientlegal.co.nz
clientlegalsolutions.co.nz

EPOA Checklist



Should you wish for us to draft EPOAs for you, we would require the following details:

Property Matters:

1. The person you wish to appoint as your Attorney (full name, contact details - address, phone numbers, email).
 - Multiple individuals can act as attorneys.
 - For multiple attorneys, please specify if they should act unanimously.
2. Successor (backup) attorney's name and contact details.
3. Any specific properties or assets the attorney shouldn't oversee?
4. Individuals to consult during decision-making processes?
5. Specific people to whom your attorneys should furnish information upon request?
6. EPOA activation preference: immediate or only upon mental incapacity?
7. If activation is only post mental incapacity, would temporary power be granted during physical incapacitation?

Activation Criteria and Implications:

Immediate Activation:

- **Advantages:** Offers convenience and flexibility, aiding in immediate tasks or during overseas travels.
- **Disadvantages:** Potential risks include misuse, conflicts, or sense of lost control.

Activation Criteria and Implications:

Activation Upon Mental Incapacity:

- **Advantages:** Ensures protection and sustained control.
 - **Disadvantages:** Can lead to delays, potential disputes, and added stress during determination.
8. Any further directions or particulars for your attorneys?

Personal Care & Welfare:

1. The person you wish to appoint as your Attorney (full name, contact details - address, phone numbers, email).
2. Acknowledgment that only a singular attorney can be assigned for this role.
3. Successor attorney's name and contact details.
4. Consultation preferences for personal care and welfare decisions.
5. Individuals to whom your attorneys should offer personal care and welfare details upon request?
6. Any additional insights or instructions concerning your personal care and welfare EPOA?

To get EPOAs drawn up or to get advice, chat with us.