

POWERS OF ATTORNEY



WHAT ARE POWERS OF ATTORNEY?

A Powers of Attorney is a legal authority/document you use to allow another person to act on your behalf. The amount of power they have is up to you. You can determine when and how they act on your behalf. It is important to know that there are two types of Powers of Attorney, General Powers of Attorney (*related to property affairs*) and Enduring Powers of Attorney (*related to health and personal affairs*).

The two types of Powers of Attorney and what they mean are:

General Powers of Attorney (GPA)

A General Powers of Attorney is the delegated power (*usually for a short period of time or a specified period of time*). This person can be anyone: a friend, family member, trustee, lawyer. Basically, anyone you see fit to look after your affairs. You can appoint more than one person as a GPA, but if you do this you have to clarify if they are to act jointly, separately or both. It is best to talk to your lawyer about what is appropriate for you. A GPA cannot act on your behalf if you become incapable for carrying out your affairs yourself (*mentally incapable*).

Enduring Powers of Attorney (EPA)

An Enduring Powers of Attorney is the delegated power of your personal and financial matters. This person can make decisions about your health and welfare if you are unable to. If you do not have an EPA, your family will need to go to the Family Court to apply to have someone appointed as a 'welfare guardian'. It is important to note that if your family is required to do this, this can put delay on any medical decisions they may need to make. An EPA is appointed to act on your behalf in personal and financial matters. This power endures if you become mentally incapable, unlike GPA. There are two types of EPA's. Property: this is the power to act on your behalf in relation to your property. E.g: house, bank accounts, shares, possessions and debts. You can choose when this power comes into force, it can be before you're mentally incapable or after you're incapable.

It is important to note that General Powers of Attorney is not essential to have, but Enduring Powers of Attorney is.

THE BENEFITS OF HAVING AN EPA

Having an EPA is an important, and we would say, essential thing. The following are a few benefits of having one:

- Without an EPA your family will need to apply to the Family Court to get an order authorising them to act on your behalf as a 'welfare guardian'. This can cause delay in medical treatment and can be costly.
- An EPA gives you comfort that your interests will always be protected by someone you know and trust
- Having an EPA will reduce significant burden on your family if you were ever to become mentally incapable or ill.

Life can be unpredictable that's why we recommend that anyone over the age of 18, that is mentally capable, should have an EPA.

WHAT YOU SHOULD KNOW ABOUT POWERS OF ATTORNEY

It is important that you see a lawyer to create a Powers of Attorney. In order to create a Powers of Attorney there are strict requirements imposed by the Law. Your lawyer will be aware of these and can help you navigate this.

When appointing a Powers of Attorney there are strict requirements about creating and signing an EPA. It is important that you appoint someone that you trust. This person will have the power to make a big decision for you. This person should be responsible, trustworthy and you think will make decisions in line with your best interest and wishes.

As said multiple times previously, your Attorney will make decisions for you when you can't. How they will do this is controlled by the law and by what powers you give them. The law has safeguards to protect you in unruly situations. If you are concerned about how your Attorney is acting for you, you can apply to the Family Court for a review of the Attorney's decisions.

If you have found yourself concerned with this, here are some safeguards you can put in place:

- You can appoint a person who your Attorney must provide information about their decisions to.
- You can appoint two Attorney's to deal with your property matters. The good thing about this, is that the Attorneys must agree unanimously.
- Making sure you are aware of what powers you have delegated and assuring that you feel okay with that person making decisions for you with those powers.
- You can always appoint a professional Attorney, may your lawyer or any other company who will act as an independent party.

It is always a good idea that you discuss your options with your Lawyer. Your lawyer is trained to know what you should know about Powers of Attorney and can tell you these things. They can specifically tell you about what risks there are, and what laws are in place to safeguard you



CONTACT US

T 09 537 1600

F 09 537 1603

E info@gmllawyers.co.nz

ADDRESS

26D Aviemore Drive
Highland Park
Manukau 2010
New Zealand

POSTAL ADDRESS

PO Box 82024
Highland Park
Manukau 2143
DX EP82009

www.gmllawyers.co.nz