

*Protect your future with an*  
**Enduring Power  
of Attorney**



Life can be fragile – an Enduring Power of Attorney means you can have peace of mind that someone you trust will make decisions for you if you can't decide for yourself.

# What is an Enduring Power of Attorney?

*An Enduring Power of Attorney (EPA) is a legal document that can protect you and what is precious to you.*

Because life can be fragile, it's important for everyone to think about protecting their future with an EPA. When you set up an EPA you choose someone you trust to make decisions about you if you can no longer decide for yourself. Your EPA will save your family the cost and stress of getting a court order to make decisions about you, should that be needed.

There are two types of EPAs:

- One covers your PROPERTY (your money and assets) and can come into effect before you lose mental capacity.
- The other covers your PERSONAL CARE AND WELFARE and comes into effect only if a medical professional decides you have become 'mentally incapable'.

That means only that person or people you trust – your 'attorney/s' – can make decisions about your life and/or your treasured possessions, such as your money, house and belongings.



## What does an attorney do?

*Once an EPA comes into effect, your attorney (or attorneys) can make most decisions about your care and welfare, and your property (including finances).*

You decide if their power applies to everything or only to parts of your care. There are some areas – such as marriage, divorce, adoption or refusing life-saving medical treatment – where an attorney has no power to decide.

Your attorney's (or attorneys') main responsibility is to act in your best interests, and they must involve you in decisions as much as you're able. If you or your family have concerns about an attorney's behaviour, applications can be made to the Family Court for help.



## Who can be an attorney?

*Your attorney can be anyone you trust to understand and respect your wishes and feelings. It's important to choose your attorney carefully.*

Usually they are a friend or family member, a colleague, or even a trustee corporation like the Public Trust (for property EPAs only). They have to be over 20 years of age, not bankrupt and be mentally sound.

While you can have only one attorney for your **personal care and welfare** EPA, you can have more than one for your **property** EPA as you may want people with different skills to look after specific areas. You can also name other people you want your attorneys to consult with on EPA decisions.



## How do I get an EPA?

When you've decided on your attorney and what you want them to do, you need to arrange a lawyer, qualified legal executive or representative of a trustee corporation (like the Public Trust), to be your witness. They will make sure you understand all your options, what the EPA document means and that it meets all legal requirements.

Creating an EPA does cost money but there are ways to bring down the cost – most importantly, being organised will mean the process takes less time and may therefore cost less.

Some legal professionals offer a SuperGold Card discount, and making an EPA when you make your Will or need to see your lawyer about another matter may help you save on costs.



## Can I change my EPA?

You can change or end your EPA at any time you are mentally capable.

An attorney loses their power if they become bankrupt, mentally incapable, subject to a personal or property court order, or the Family Court revokes their appointment. An EPA also ceases if you, or they, die. You may name one or more attorneys to take over if your attorney dies.



## Preparing to set up an EPA

*There are standard forms you must fill out to set up an EPA. You can get them from any legal advisor or from [www.msd.govt.nz/epa](http://www.msd.govt.nz/epa)*

Before you see your legal advisor, think about:

1. Who you want your attorney/s to be and what you do and don't want them to do on your behalf.
2. How your attorney/s might be supported – could you name other people, such as family/whānau, friends, an accountant or solicitor to provide your attorney with advice?
3. Making a list of the main things you own, any money owed to you, and any debts.
4. Who else could you give a copy of the EPA to – your doctor, your bank, or family members?
5. When you want your property EPA to come into effect – a date, a period in time, or when you are determined 'mentally incapable'.
6. How your attorney/s might be monitored, such as by appointing a second person to oversee your financial records, get copies of bank statements, or be informed of certain decisions. Remember you can also appoint a second attorney for your property EPA, which may help with monitoring.
7. Whether you want to appoint other people to step in as attorneys if something happens to your first choice.



## Where can I find out more?

More information, advice and EPA resources can be found on the Ministry of Social Development website at [www.msd.govt.nz/epa](http://www.msd.govt.nz/epa), or at your local Citizens Advice Bureau, public library, Community Law Centre, or Age Concern, or by contacting your legal professional.

Information is also available by calling 0800 273 674.

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[msd.govt.nz/epa](http://msd.govt.nz/epa)



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