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Who could step in if you couldn't?



Most of us have someone we would turn to if life took an unexpected turn. A partner who knows the household finances. An adult child who understands our wishes. A trusted friend who would be there when needed.

But knowing who you would rely on is different from giving them legal authority to act. If an accident or illness left you unable to make decisions, your family would not automatically have the right to manage all your affairs.

What is an enduring power of attorney?

An enduring power of attorney, often called an EPA, lets you appoint someone you trust to make certain decisions on your behalf. New Zealand has two types, covering different parts of your life.

Property

This covers your money and property, such as bank accounts, bills and other financial matters. You can choose whether it operates while you still have mental capacity or only if you lose that capacity.

Personal care and welfare

This covers decisions about your health and personal care, such as where you live and how you are looked after. It only operates if you become mentally incapable of making the relevant decisions yourself. You can choose different people for the two roles.

Wouldn't my partner be able to handle everything?

Being married or in a long-term relationship does not automatically give your partner authority to act for you in every situation. Without an appropriate EPA, an application to the Family Court may be needed so someone can manage your property or make welfare decisions. This can add time, cost and uncertainty during an already difficult period.

It is about more than getting older

Unexpected illness and injury can happen at any age. The mortgage, household bills and decisions about your care do not disappear if you are unable to manage them. For people with a farm or business, planning should also consider the ownership structure and how operations would continue.

Choose the person, then have the conversation

Consider whether your chosen attorney understands your wishes, has the time and ability to help, and can communicate well with your family and advisers. Discuss the role with them first. Think about a backup if your first choice becomes unavailable, and ask your lawyer about suitable instructions and safeguards.

A will and an EPA do different jobs

A will deals with what happens after your death. An EPA helps with decisions during your lifetime and ends when you die. Having one does not remove the need to consider the other. If you already have EPAs, check whether your chosen people and arrangements still suit your circumstances.

Put a plan in place while you can choose

You need the necessary mental capacity to create an EPA. A conversation now can give the people closest to you clearer direction if they ever need to step in.

To discuss enduring powers of attorney or review your existing arrangements, contact Magill Earl on 07 888 7049 or email admin@magillearl.co.nz.

This article provides general information about New Zealand law and is not a substitute for legal advice tailored to your circumstances.