

Enduring Power of Attorney

What is an Enduring Power of Attorney (EPA)?

An EPA is a legal document that lets you pick someone to make decisions for you if you become unable to make them yourself. This person is called an attorney. They don't need to be a lawyer to become your attorney.

Why do I need an EPA

If something happens to you and you do not have an EPA, your family – even your spouse or partner – would have to apply to the Family Court to be able to make decisions on your behalf.

This can be a stressful and expensive process.

Having an EPA means your wishes are more likely to be respected because you have chosen people you trust in advance who will make decisions in your best interest.

A good time to complete your EPA is when you're either making or updating your will or engaging with a legal professional on another issue such as buying a house.

Other significant life events that are good opportunities to complete an EPA could be:

- When your relationship changes
- Diagnosis of a long-term illness or disability that impacts capacity
- Having children.

It is strongly recommended that everyone – regardless of age or health – should think seriously about getting an EPA.

What does an EPA cover

There are two types of EPA

- Property
- Personal care and welfare

Property EPA

A property EPA covers decisions relating to your financial assets, for example:

- arranging benefits
- paying bills
- buying and selling assets
- taking care of bank accounts.

A property EPA can come into effect before you lose the ability to make decisions for yourself, for example, if you are moving into assisted living and would like a loved one to manage selling your house on your behalf.

You can choose more than one attorney for this EPA.

Personal care and welfare EPA

A personal care and welfare EPA covers decisions relating to health and wellbeing, for example:

- medical treatment
- health and welfare
- where you live.

You can have only one attorney for this EPA.

Who can be an attorney

People often choose a family member or close friend as an attorney, but ideally it should be someone who:

- knows you well
- you trust to make decisions for you
- is willing and able to take on the responsibility of being an attorney
- clearly understands what the role requires.



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Fees

There are costs involved in setting up an EPA.

Save money by:

- being organised
- researching and planning well in advance
- knowing exactly what you want
- completing all the relevant forms prior to your appointment (you can find these on the Office for Seniors website or ask your lawyer for them).

Some lawyers and legal professionals may offer a SuperGold discount or let you pay the cost off over time. Check for latest offers at www.supergold.govt.nz

Some organisations offer online EPAs which can also reduce the cost.

If you are not eligible for a SuperGold discount, other discounts may be available.

Making an EPA when you make your will or need to see your lawyer about another matter can also help you save on costs.

More information

Setting up an EPA can seem complex. Remember your lawyer is there to help you with the process.

More detailed information on every step of the process and online copies of all the forms you will need can be found:

officeforseniors.govt.nz/our-work/promoting-enduring-power-of-attorney

EPA set-up checklist

EPAs are important legal documents. Before you talk to your legal adviser, make sure you have considered what you need to do:

- decide who you want your attorneys to be and what you do and don't want them to do on your behalf
- think about how your attorneys might be supported – for example, by naming whānau, friends, an accountant or solicitor who must be consulted, or provide your attorney with additional advice
- make a list of the main things you own, any money owed to you, and any debts you have
- think about who you want to give a copy of the EPA to – for example your doctor, your bank or family members
- decide when you want your property EPA to come into effect – this can be a specific date, after a certain period in time, or when you are determined mentally incapable by someone qualified to assess mental capacity
- think about how your attorneys might be monitored, for example by appointing a second person to oversee your financial records, or be informed of certain decisions
- decide whether you want to appoint other people to step in as attorneys if something happens to your first choices
- download and complete the forms.

The language in this guide has been simplified to facilitate understanding of Enduring Powers of Attorney. Where any language appears to conflict with that contained in the relevant legislation (generally, the Protection of Personal and Property Rights Act 1988) the relevant legislation should be referred to instead.