



Shanahans

family and property law

INFORMATION ABOUT ENDURING POWERS OF ATTORNEY

A power of attorney is a formal document that gives someone else the power to act for you. A power of attorney is generally only valid if the person giving the authority has the capacity to deal with the matters yourself. By contrast, an enduring power of attorney continues to be valid even if you become mentally incapable. Therefore if you lose capacity, the attorney can still manage your affairs.

There are two types of enduring power of attorney:

- 1. Enduring power of attorney in relation to property:** In this case, you can choose when the power can be used: either before you become mentally incapable, or after, or both. A power of attorney for property allows the attorney to access your bank accounts, deal with WINZ and sell any assets that you may own on your behalf. You may appoint more than one property attorney, acting together or separately, at any one time and we often recommend that at least two people are appointed to act together as a safeguard for both you, and for them.
- 2. Enduring power of attorney in relation to your personal care and welfare:** The personal care and welfare attorney can only make decisions for the donor if the donor has lost capacity and this is confirmed by medical diagnosis. The attorney can then make decisions regarding where the donor should live, what type of medical care and treatment is appropriate and similar decisions for personal care and welfare. You may have only one attorney to be responsible for your personal care and welfare.

An enduring power will usually be given when people are concerned about who will look after their affairs if they become unable to do so. Most people appoint a partner, close friend or family member as their attorney. You can also appoint successor attorneys so that if your attorney pre-deceases you the successor attorney can act on your behalf.

The enduring powers of attorney are based on the form set out in the Protection of Personal and Property Rights Act 1988. The form allows you the right to be very specific in the powers that you wish to give the attorney; if the terms of the authority you give are too general the attorney may be able to do more tasks than you in fact wanted.

If you would like to discuss putting enduring powers of attorney in place then please email mary@shanahan-solicitors.co.nz or frances@shanahan-solicitors.co.nz or call us on 827 2783. www.shanahansolicitors.co.nz