

WHY EVERYONE SHOULD HAVE AN ENDURING POWER OF ATTORNEY

Property and Commercial Law

Many people have heard the phrase “power of attorney” but not everyone knows what is involved and what this important legal document can do for you and your loved ones.

As we get older, it is not uncommon that our children, grandchildren or friends will need to make decisions on our behalf in the event that we become incapacitated through a medical emergency or lose mental capacity. An EPOA makes it easier to maintain your affairs.

What is an EPOA?

An enduring power of attorney is a legal document that allows you to appoint a person you trust to look after your welfare, property and affairs and make decisions on your behalf if you are unable to do so.

EPOAs are an important legal document for any individual--no matter their age--to provide a sense of security and peace of mind. Age is irrelevant because no one knows what's around the corner, which is why we advise all our clients to prepare early with an EPOA.

EPOAs are part of the Protection of Personal and Property Rights Act 1988 and are handled by Carlile Dowling's property and commercial teams. They're not something that can be handled informally. The documentation is prescriptive and long, which is why the person you've chosen as your power of attorney needs to take legal advice too. Ideally that person would also understand your personal goals and values at a deeper than surface level so they can act in the spirit and to the letter of your wishes.

Is this simply a Power of Attorney?

There are two types of power of attorney: enduring and limited. As the name suggests, a limited power of attorney is specific to certain aspects of your life, such as being able to access your bank account to make specific payments. Whereas an enduring POA gives the appointed individual broad powers to make all kinds of decisions on your behalf.

Why EPOAs benefit everyone

A big benefit of having an EPOA in place is protecting your family from uncertainty about how you want everything managed.

In addition to helping with day-to-day expenses, if your children are struggling financially a power of attorney can be used for financial and tax purposes as well. For example, they could sell assets such as property or shares that you own to help alleviate any financial stress. They can also make sure that you are receiving the care and treatment that you require to get better.

Of course, there are many other circumstances in which an EPOA would be useful. Simply think of what needs to continue uninterrupted if you were incapacitated.

Doesn't a will cover me?

You may be wondering why it is important to have an EPOA in place, rather than relying on a will or appointing someone as a trustee for your assets when you die. Trustees are appointed under a trust document which is not the same as an EPOA. Moreover, an EPOA ensures your wishes are carried out while you are alive and you effectively retain all rights to make decisions for yourself even if you can't physically or mentally do so anymore.

What happens if I don't have an EPOA?

Once you have lost the capacity to sign an EPOA, managing your welfare and affairs, means getting a court order. This is a time consuming and expensive process during what is usually a stressful period. Court orders only last 3-5 years before they need to be renewed – which is additional time, expense and stress. Also, if you have more than minimal assets, there will be additional annual reporting requirements on the person managing your property. An EPOA avoids all of this and your loved ones will thank you for having one in place.

How do I get an EPOA?

A little planning and legal fees now will make managing your affairs as stress-free as possible. There is no time like the present to get the ball rolling. If you're interested in learning more about this process, please contact [Megan](#), [Jessica](#), or [Patrick](#) who can talk you through the steps to get an EPOA set up.