

ENDURING POWERS OF ATTORNEY

- **What if you lose mental capacity**
- **Explanation as to Form 1 (Property) and Form 2 (Personal Care and Welfare)**

1. Enduring Powers Of Attorney – possible for 25 years in New Zealand

1.1 This is all about looking ahead to the possibility that you might lose mental capacity. It is a sensible course of action to provide for someone that you trust to look after your property and also “personal care and welfare” (ie where you might need to live if you can no longer look after yourself).

2. Simple forms **1988** - 2008

2.1 New forms more complicated **2008 to now**

3. Enduring Power of Attorney as **to Property (Form 1)**

3.1 General Provisions

- Appoint attorney/s
- (Usually) all property
- No restrictions
- Can take effect immediately or only on loss of mental capacity
- Joint/several authority where more than one attorney
- Successor attorney/s
- Attorney to consult with others
- Attorney to provide information to others
- Attorney only to act for the benefit of the donor but able to receive reasonable compensation for expenses
- Assessment of mental capacity - usually omitted as most GPs can't do

3.2 Notes

3.3 Certificate by solicitor for donor

4. Enduring Power of Attorney as to **Personal Care and Welfare (Form 2)**

4.1 General Provisions

- This is usually putting in the hands of the attorney the decision as to **where the donor will live if they lose mental capacity**
 - Appoint attorney (one only at a time)

- General authority
- No restrictions
- Successor attorney

- Attorney to consult with others
- Attorney to provide information to others
- Assessment of mental capacity (as above)

4.2 Notes

4.3 Certificate by solicitor for donor

5. **Costs**

- For an individual:
Fee: \$600 plus GST plus some disbursements

- For a couple:
Fee: \$800 plus GST plus some disbursements

Updated as at March 2014