It’s never just legal. It’s knowing Mum will be okay

Posted on: August 26, 2026

When elderly loved ones lose the ability to make decisions for themselves, families are often faced with difficult and emotional choices. Questions can arise about who has authority to make decisions, whether an Enduring Power of Attorney (EPA) is in place, and what can be done if there are concerns about the way an attorney is acting. New Zealand’s Protection of Personal and Property Rights Act 1988 (PPPR Act) provides important safeguards to protect vulnerable adults and ensure decisions are made in their best interests.

The PPPR Act applies when a person is no longer able, wholly or partly, to manage their own affairs or make decisions about their personal care, welfare, or property. A fundamental principle of the Act is that a person is presumed to have capacity unless there is evidence to the contrary. Capacity is also decision-specific, meaning a person may be capable of making some decisions like weekly shopping but not others such as selling their business or home.

Many people plan ahead by signing EPAs while they still have capacity. An EPA allows a person (the donor) to appoint a trusted individual (the attorney) to make decisions on their behalf if they later lose capacity. There are two types of EPA: a Property EPA, which relates to financial and property matters, and a Personal Care and Welfare EPA, which relates to health, living arrangements, and personal care or medical decisions.

However, problems can arise where there is no EPA in place, or where family members become concerned about the decisions being made by an attorney. In situations where a person has lost capacity and there is no valid EPA, an application can be made to the Family Court under the PPPR Act. Depending on the circumstances, the Court may appoint a Welfare Guardian to make personal care and welfare decisions, or a Property Manager to manage financial affairs. There are also other types of Orders available. The Court’s focus is on protecting the individual while using the least restrictive intervention possible and preserving whatever decision-making ability the person still retains.

The PPPR Act also provides safeguards where an EPA already exists. Attorneys are required to act in the donor’s best interests. If concerns arise about an attorney’s conduct, interested parties may apply to the Family Court to review the attorney’s decisions. The Court has broad powers to investigate concerns, review decisions, give directions, and in some cases remove an attorney from their role if they have acted improperly, failed to act in the donor’s best interests, exercised undue influence, engaged in fraud, or are otherwise unsuitable for the role.

Common warning signs may include unexplained financial transactions, failure to pay for the person’s care, isolation from family members, or decisions that appear inconsistent with the person’s welfare and previously expressed wishes. Early legal advice can be critical, as timely intervention may help prevent further harm and protect a vulnerable person’s assets and wellbeing.

Applications under the PPPR Act often involve complex issues of capacity, family dynamics, medical evidence, and financial management. Whether you need to apply for the appointment of a welfare guardian or property manager, or you are concerned about the actions of an attorney acting under an EPA, obtaining specialist advice can help ensure your loved one’s interests are properly protected.

CLM’s experienced Family Law team regularly assists clients with PPPR Act applications, capacity issues, welfare guardianship and property management orders, and challenges to attorneys acting under EPAs. If you are concerned about the wellbeing or finances of a loved one, our team can guide you through the process and help protect the people who matter most.