

# are you leaving chaos in your wake?



## grey matters by Ruth Gerzon

I spend a lot of time organising things in my life so I am reluctant to also plan for a future when I am no longer here. Surely that will be a time when someone else can step up? What's more, without me putting in my tuppence-worth my children will get free rein, something they might revel in.

This week, however, I realised that my Cavalier attitude is just not good enough. I spoke to a lawyer who told me, in no uncertain terms, that I would leave chaos in my wake. Is this the legacy I want to leave?

I had thought David Sparks of our Baywide Community Law Service would have seen it all: the messy family dynamics, the unintended consequences, the challenges to wills if we breach our moral or legal duty to our ungrateful offspring without specifying just cause. But no. He says that just when he thinks that's so, some new muddle rears its ugly head and he has to find ways to support people to sort it out.

He gives me pointers to choosing an executor. This term seems scarily close to execution but in reality this is an administrative role. My executor will carry out the terms of my will. A willing person, patient and at ease with bureaucracy would be minimum requirements.

We can download a basic will from the net, and just fill in the gaps. However David exhorts us to avoid doing it ourselves as there are many pitfalls. He also suggests we ask a couple of local lawyers what their fees are before choosing one to support us in this venture.

I wasn't paying for his legal advice but I still like to get a second opinion, so I also met with family lawyer Rachel Paul. She concurred with David's advice. I told her some friends were not bothering with a will. With a small family they thought it unnecessary as things would be straightforward. She made it crystal clear that, if you own any property, this is not the case. A will



is needed to transfer property and, if there is none, children need to apply to the high court for probate. This costs \$2000 and court fees and takes time. After the loss of a parent this brings added stress.

In Maori settings, whanau need to be clear if they want whangai (foster) children as beneficiaries. Birth children might contest the will if it is not specifically made clear that you made that choice.

She also advocates people specifying where they want to be buried. Emotions run high after a loved one passes away, past disagreements

and resentments may be revisited, and families can fly apart rather than come together to mourn.

A legal document likely to have more impact while I am alive but vulnerable, is an Enduring Power of Attorney. This specifies who will take care of my personal or financial matters when I can no longer make decisions for myself.

If I have a massive stroke or develop dementia, then it comes into play. The person I nominate to have these powers over me is my attorney, but this doesn't have to be a lawyer, it can be a friend or family member that I trust with my wellbeing.

They will not necessarily provide my day to day care, but will ensure that those who do so follow my wishes. I need someone who will not just put me in a rest home and disappear, or keep me neglected and isolated at home. Someone who, I hope, will ensure my tea is hot, excursions into the natural environment are frequent and I get to watch reruns of Corona-

tion Street even when I can no longer follow the plot lines.

Sadly, some people lose capacity to make decisions without having a Power of Attorney document. Then a family member needs to apply to the court to become welfare guardian, at a cost of about \$3000. The person who lacks capacity has their own lawyer, such as Rachel, appointed by the court as "counsel for subject person" in such cases.

As we age, coping with all the paperwork, updating wills, ensuring someone is comfortable with being an executor or having power of attorney, are not easy tasks. But I would rather not leave family facing high legal costs and long timeframes to sort things out when I am no longer able to make decisions or no longer here at all.

Thanks David and Rachel for your advice and the motivation to get things sorted. Readers wanting to consider their options are invited to a public meeting, where David Sparks will share his knowledge and answer your questions.

The meeting, organised by Eastern Bay Villages, is on Tuesday, October 8, from 10am to 11.30am, at Knox Presbyterian Church, Domain Road, Whakatane.

All welcome.

A fortnightly series for seniors by Ruth Gerzon from Eastern Bay Villages.

Ruth can be contacted by phoning 027 4308149 or email [eastern-bayvillages@gmail.com](mailto:eastern-bayvillages@gmail.com).



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