



Australian Government

Department of Families, Community Services
and Indigenous Affairs

Planning for the Future People with disability

Improving the lives of Australians

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Introduction

What is this booklet about?

A major concern for a carer of a person with disability is how the person they care for will be supported in the future when they are no longer able to provide the love, support and care themselves. This is of greatest concern to parents of children with high support needs. Most people with disability are capable of making their own decisions or contributing to the decision making processes about their own future needs, support and care. However, some family members with disability will have a low level of control over their lives and will therefore not be participating actively in the decision making process.

Research indicates that many people wish to make private financial provisions for the future care and accommodation needs of a person with disability but do not understand the steps they should take to plan for the future. This booklet has been written to assist people, their families and carers to find information and support to plan for the future wellbeing of a person who has high support needs. It has been designed to assist families to consider the issues involved in making decisions based on sound knowledge. It encourages families, particularly parents, to take into account their own future needs as well as those of their son or daughter with disability.

The information aims to assist families to plan future arrangements for the ongoing care of their family member with disability that is positive, sustainable, flexible and fulfils the wishes of both the person with disability and their family where possible. The issue of whom to trust for advice and ongoing involvement in the plan can be a major issue for families and can affect their ability to make decisions. Information in the booklet raises questions and provides possible responses to future planning issues. This booklet is a guide only and you should get appropriate legal and financial advice before implementing your plan. At the end of this booklet there are further details about whom you can go to for advice.

Outline of this booklet

The booklet is divided into sections to assist families to navigate the options available when implementing a plan for the future. While systems can be set in place to safeguard the financial future of their family member, planning for the future requires much more than just an understanding of the legal processes available. Planning for the future is about taking steps now to put plans into place, and not just about when you are older and can no longer provide the level of care the person needs.

The booklet is divided into five sections:

Section 1: Future planning: things to consider helps families to think through some of the issues to consider when planning for the future of their family member with high support needs and encourages families to take a ‘whole of life’ approach to planning.

Section 2: Planning for the future: choosing the right option talks about the options available to families when planning for the future and is written in a question and answer format to assist you to find information relevant to your needs.

Section 3: Setting up a trust examines how to set up a trust to provide for a family member with high support needs and contains questions and answers about trusts.

Section 4: How to access legal and financial advice gives advice on how to access legal and financial advice and includes information sheets to provide lawyers and financial advisers with information they may need to best advise you.

Section 5: Useful contacts provides contacts in each state and territory, and gives some suggestions for further reading.

Section 6: Planning templates provides a care plan checklist for you to complete with your family, and an information pro forma to complete and provide to your lawyer.

Some points about how this booklet is written

Questions and answers

The questions and answers asked in this book are the questions parents and other family members most often ask about future planning.

Assets, money and property

In this booklet, the assets of people or trusts will be referred to as their assets. **Assets** used in this way can include land or real estate, money, shares or any other type of asset. Lawyers may also refer to assets as property.

Section 1

Future planning: things to consider

In order to provide for the future of a family member with high support needs, it is important to spend some time reflecting on what your hopes and dreams are for the future for that person and also what hopes and dreams they hold for themselves. This is creating a vision to enable you to put plans into place that aim towards fulfilling that vision to the best of your ability. There is no ‘one size fits all’ as each person will have their own hopes, dreams and wishes.

As families face the issue of how to provide a sustainable future and safeguards for their family member, their access to information to support them in their decision making may be limited to advice from lawyers or financial planners who themselves may be ill informed in this area. Many people with disability are now outliving their parents, so preparing for the future is now more of an imperative than it was in the past. Each family has diverse needs according to its circumstances.

People and their carers can be proactive in planning for the future. The key is to create a clear vision of what this future might be and develop a plan to make it happen. As parents it is important to ask the question: ‘What outcome does my son or daughter desire for the future support and what do I hope and wish for him or her?’ It is beneficial for parents to include other family members when reflecting on this question so that siblings and others have input into the process. Work as a family and involve your family member with disability as much as possible.

To avoid conflict later on, ensure that there is discussion on what the needs of each family member are now and in the future. However, keep the focus on the person with disability. It is vital that wherever possible the family member with disability is given the opportunity to have as much input as possible into what their vision is for their own future and that they are given the support to realise this vision. A person’s level of cognitive understanding will impact on their ability to participate in this decision making. While reflecting on the vision and planning for the future it is essential to keep the person with disability at the centre of your focus.

Thinking about providing a sustainable future for your son or daughter with disability can raise many fears and concerns. It may be useful to look to someone in your network or your community for support and guidance when considering these issues. Give some thought to where you might find this support. Develop a ‘wish list’ of all the things your family member desires as this will help you and others who may come after you to make sound decisions for their wellbeing. Update this list as the person’s age and circumstances change.

Planning for the future support for a person with high support needs is not just about what will happen after you die. Our lives are uncertain and your plan may need to go into effect tomorrow rather than some time in the distant future. There are circumstances where it becomes desirable to make provision for a person at an earlier time – for example, if there is a significant risk that the principal financial provider may become unable to continue to manage the affairs of the person with disability due to illness.

A secure and sustainable future for your son or daughter with disability will be more likely to be achieved if there are committed others in their lives in the long term. As part of your planning you may wish to set up such a group, often referred to as a ‘support circle’ or ‘personal network’. A support circle or personal network can include family, friends, and others committed to your family member, for example an advocate who is close to the person or a church elder.

Before you see someone for legal or financial advice it is important to work out what you need (goals and plans) as much as possible. If you have a plan already, it is easier to access advice that is relevant to your situation. The clearer your vision, the easier it is to plan and to stick with the plan. There will be many challenges to fulfilling the plan, including responses from people and organisations that aim to discourage you. Having your family and others outside your family supporting your vision will help you to maintain your direction. Once a plan is well developed it can be updated regularly to reflect the changing needs of your family member with disability.

Here are some ideas for the kinds of things you may want to consider as a starting point. Be explicit when thinking through this checklist. It may not be possible for all the goals you identify to be achieved, but do not allow this to stop you planning and working towards a positive outcome for the future.

- ▶ What are the hopes and dreams of the person with disability and your hopes and dreams for them?
- ▶ How does the person currently communicate their needs?
- ▶ What accommodation will satisfy the needs and desires of the person?
- ▶ What is important to maintain their valued social relationships and interactions and what do they desire for the future in terms of relationships?
- ▶ What activities do they enjoy at present or desire for the future?
- ▶ What are their likes and dislikes (be specific and include food, music, environment, people)?
- ▶ What are their learning and educational needs?
- ▶ How can we, or others, support the person to achieve their hopes and dreams?

A copy of this checklist for you to complete is available in Section 6.

The most difficult part of the process is turning the hopes and wishes of the person with disability and your hopes and wishes into a clear and concise plan.

If this is your first attempt at planning, you will need to continue to work through the ideas for your plan and adapt them over time.

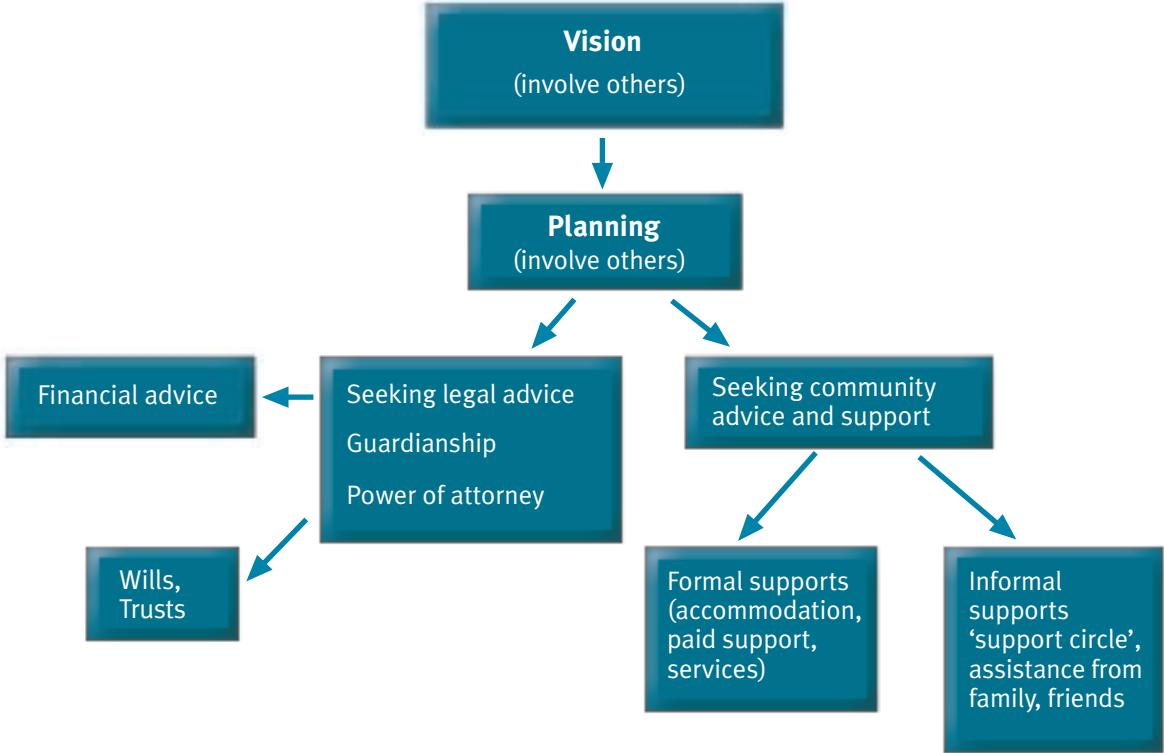
If you have already established a plan, this booklet and the issues raised may be useful to help you review, update and refine your plan.

Once you have taken the planning as far as you think you can, consider whether you might like some further advice from a lawyer or financial adviser on how it may work.

This is a summary of some things to keep in mind when working out how to provide for your family member. Many of these issues are covered in greater detail further on in this booklet.

- ▶ Keep the family member with disability the central focus of the vision and planning, and involve them in the process as much as possible.
- ▶ Include other people in talking through the vision and the plan. These others will ideally include siblings, other family members including extended family who are close to the person with disability and others who provide support and care to the person with high support needs.
- ▶ Look at the steps needed to achieve the vision – these steps make up your plan.
- ▶ Gather information and advice to assist you in your planning.
- ▶ Create a plan that includes all the steps to achieve the outcomes you have identified – developing a plan allows you to have more control over what is going to happen in the future.
- ▶ Take a ‘whole of life’ approach when developing a plan. This is not just about how a person will be provided for financially but about how they can fulfil their hopes and dreams and have a lifestyle that reflects these.
- ▶ Take one step at a time as building solid foundations will create a more sustainable future for the person with disability.
- ▶ Talk to others in your community or network and consider setting up a ‘support circle’ or ‘personal network’, with the purpose of safeguarding your family member and your vision in the long term.
- ▶ Before you see someone for legal or financial advice it is important to work out what it is you need (goals and plans) as much as possible.
- ▶ Remain flexible to challenges and change.
- ▶ Develop a ‘wish list’ to assist others in making decisions on behalf of your family member with disability.

Planning Process



Section 2

Planning for the future: choosing the right option (questions and answers)

Why special planning for disability?

You do not **have to** make any special arrangements for a family member with disability. Whether you need to think about special arrangements depends upon **the abilities of the person with disability, the resources available**, and your wishes for the future.

If the person with disability is able to manage their own money or manage money with informal assistance, it is less likely that you will need to make special arrangements. You can use family resources the same as you would for family members who do not have disability. You can give assets to the person with disability through your will or a trust just the same as you would do for other members of the family – usually by a straight-out gift.

However, there are two main reasons why it might be a good idea to make special arrangements.

- ▶ If the disability affects the person’s mental capacity (such as intellectual disability, brain injuries, mental illness or dementia), the person with disability may need help to manage assets or money. You may need to provide for this. Different options for doing this are discussed below.

Example

Kwame has an intellectual disability. He works, lives in a unit and can look after himself day to day, but needs help with money. His sister Rose helps him manage his money, including paying bills and weekly budgeting.

This arrangement looks like it will continue. Kwame’s mother, Grace, decides to give Kwame half of her estate, confident that it will be well looked after by him with Rose’s help.

If Kwame did not have Rose to help him, or if his disability were more severe, Grace would have to decide who to appoint to help look after Kwame’s share of her estate.

- ▶ Sometimes you will want to keep more control than usual over how family resources are used in the long run, even if the person with disability can look after their own affairs. You may want to control how family resources are used after the person with disability no longer needs them.

For example, because the person with disability has greater needs than other family members, you might want to let the person with disability use a larger share of your estate than your other

children who do not have disability. However, after the person with disability has died, you may want whatever assets are left to go to your other children or your grandchildren. To achieve this result rather than leave it to chance, you may need to make special arrangements.

Example

Fred and June have four children. Their daughter Jessica has a physical disability and does not work. Fred and June feel that she needs greater support than her sister and brothers.

They decide to set aside 75% of the estate, in a trust set up by their will, for Jessica's use, to buy a suitable house and leave some money to cover other expenses. The other three children share in the remaining 25%.

The trust deed states that after Jessica has died, the house and any other money that is left is to be divided between Jessica's children and Fred and June's other grandchildren, so that each branch of the family ultimately shares equally in the estate.

To decide whether any special arrangements are necessary, and what those arrangements should be, you need to think about the abilities and needs of your family member with disability. You need to consider what issues may arise and what you can do about them. You also need to think about the needs of other members of your family.

You can talk to the person with disability to find out what they want to happen before deciding what to do. You can also talk to other people in your family or in the network of people who know the person with disability.

Your assessment will be an individual assessment based on specific circumstances: every situation is different and there are no right answers.

The starting point is your vision of what you want to be available to look after the interests of your family member with disability into the future, after you have gone. This will help you decide how can you best set that up while you are still around to do it.

How important is it to have a will?

A fundamental question is what assets you will leave to a family member with high support needs and in what form.

It is very important to have a will in place and to get assistance from a lawyer in making a will. There are a number of reasons for this.

- ▶ If you do not have a will, when you die your assets will be distributed in the way that the law determines in the state where you live or where your assets are. These are called laws of intestacy and will not give consideration to the special needs of a person with disability. This may leave your family member with disability seriously underresourced to provide for their future. Provision is made in all States (for example, in NSW it is the *Family Provision Act*) for a person with disability to apply to the court to obtain a larger share of the estate (this also applies when there is a will) but it is very stressful for a person to have to take this action.

If a person with disability is not able to make decisions by themselves, action can be taken by a 'next friend' – usually by a financial manager appointed by the Guardianship Tribunal or by the Protective Commissioner (each state/territory has its own title – see Section 5).

In many cases where there is no will, the family will agree on how the assets will be divided without going to court. If this happens a ‘deed of family arrangement’ is prepared by a lawyer and takes the place of a will. If the person with disability cannot have input into the decision making, a financial manager can be appointed to represent their interests.

- ▶ By having a will you have the security of knowing that you have set in place your hopes and wishes for the future support and care of your family member with high support needs. It provides you with a safeguard to ensure that the plans you have developed continue to be implemented.

You should see a lawyer to draw up a will. A lawyer can help you to make sure that you include all the things you want in the will, that you understand the consequences of what you have written, and that it is written in the correct way. As many lawyers are not experienced in providing advice to people who have a family member with high support needs, and may not be up to date with disability and social services, it is worth spending some time finding a lawyer who understands these issues.

A will should be regularly reviewed and updated to allow for changes in your circumstances. For more information on wills see Section 3.

Can I give assets directly to the person with disability?

This is certainly an option, either while you are alive or through your will. It is the way in which people most often transfer their assets to other family members. If you are thinking of doing this, consider the following.

- ▶ **Will the family member with disability need assistance to look after their assets?**

Can the person look after money in the bank or look after a house, including paying rates and other expenses, dealing with maintenance and insurance and so on? Would they be vulnerable to exploitation or abuse if someone tried to ‘rip them off’ or somehow take over their assets? To the extent that the person needs support, is it available or do they need a financial manager?

- ▶ **Is it fair, balancing their needs and the needs of others?**

Look again at the example on page 8. If Fred and June gave 75% directly to Jessica without any further control, is that a fair way to do things, considering their other children? The assets would then be Jessica’s, and she could leave them to whomever she likes in her will (or if she can’t make a will, they would automatically pass to her closest family member). That might be the way you would want things, but maybe you would want your assets to be distributed more evenly, in the interests of other family members in the long run. Talking things over with your children and including them in the planning may prevent resentments arising.

- ▶ **If you are thinking of giving away money while you are alive, do you have enough additional funds available for your own needs, especially as you get older?**

Is your retirement fully funded so that you are not likely to need those assets at all? Once assets are given to someone else or put into a trust, they are no longer yours and you cannot rely on getting them back. A parent of a person with high support needs may be used to putting the needs of their son or daughter before their own and not consider the impact of giving away their assets on their own future wellbeing.

Are there tax implications in planning for the future?

Taxation is a highly complex area as there are various taxes at both the Commonwealth and state levels that need to be considered when planning (for example, Commonwealth taxes include income tax and capital gains tax; state taxes vary from state to state and may include land tax and stamp duty).

This complexity makes it impractical to provide more than just a brief summary of some of the key areas. One of these complexities is that taxation is dependent on your personal circumstances and, as such, specific taxation information cannot be provided in this booklet.

It is essential that you seek appropriate professional advice to be clear about the tax implications of your plan.

Tax	When it may be applicable
Capital gains tax – may apply to any situation where there is a change in property or legal rights.	<ul style="list-style-type: none">when you transfer an asset to a trust.when the trust sells an asset.
Stamp duty – payable on the transfer of specific assets from one party to another. Stamp duty is not payable on property that is inherited through a will.	<ul style="list-style-type: none">when the trust purchases an asset.when the trust receives an asset by way of transfer.
Income tax – payable by individuals and trustees of trusts based on their assessable taxable income.	<ul style="list-style-type: none">when the trust revenue is greater than its expenses.distributions from the trust to any beneficiary.

Are there Social Security implications?

If the person to whom you give assets receives an income support payment, their payments might be affected by receiving those assets.

As you have no guarantee about possible changes to your circumstances in the near future, before you give assets to your family member with disability, find out about the potential implications on your, and their, income support payments.

What about financial management orders or guardianship orders?

By law, once a person turns 18 years old, they are no longer under the guardianship of their parents whether they have disability or not. If a child is under the age of 18, a parent can appoint a guardian in their will. Once their child turns 18 a parent cannot appoint a guardian for their son or daughter even if they have high support needs.

Your family member may not need a formally appointed guardian or financial manager if they have a committed group of people to assist with decision making.

If a person with disability is unable to manage his or her own affairs, it is possible:

- ▶ to have a financial manager appointed to make financial management decisions on behalf of the person with disability; or
- ▶ to have a guardian appointed who can make decisions on other life issues (such as health care and other services, where the person will live, and so on).

This can be done under legislation in **each state and territory** such as the *Guardianship and Administration Act* in Queensland and the *Protected Estates Act* in NSW. The person appointed can be an individual, including a family member. However, a body such as the Guardianship Tribunal will only make an appointment if the person with disability has a current need. You could apply to have a financial manager or guardian appointed while you are alive, or you can suggest in your will that this occurs.

A financial management order may address concerns about management of assets given to the person with disability. A financial manager or guardian is someone who will ‘look out for’ the person with disability. In considering who you would like to fill these roles, the same considerations arise as in choosing a trustee, but while you can have a say in who is appointed this is ultimately a decision for the Guardianship Tribunal (or other relevant tribunal), which might consider someone else better suited to the task.

See Section 5 for the contact details for the guardianship bodies in each state who can provide you with further information.

What about a power of attorney?

An attorney is appointed by a legal document called a power of attorney. An attorney is a person you appoint to take care of your financial and assets matters if for some reason you are not available to make decisions or if you can no longer make those decisions. This means that they can operate your bank accounts, pay your bills, and buy or sell assets or shares on your behalf.

Who can make a power of attorney?

You can appoint an attorney. This would allow someone to do the things you are currently doing for your family member with disability while you are still alive but no longer able to do these things yourself. This will be important if you later develop dementia or can no longer make decisions.

You may want someone to look after your interests and to look after the interests of the person with disability as you would. You need to include directions to the attorney about using your assets for the benefit of your family member with disability, as well as for your own benefit.

The person with disability can appoint an attorney (to make decisions on his or her behalf) if he or she is able to do so. Like a financial manager, the attorney could help with financial management and decisions.

However, if the person with disability is able to control his or her own affairs sufficiently to be able to appoint an attorney, you and other family members are less likely to have concerns about their ability to manage their affairs in the future.

The person with disability cannot appoint an attorney if he or she has impaired decision making capacity. If the person with disability cannot understand the nature of a power of attorney and its implications, they will not have the legal capacity to sign such a document. In that case, a power of attorney is not an option for managing their assets.

So what are the other options if I decide not to give assets directly to my family member with disability?

If a direct gift is not suitable, then the other options are:

- ▶ to **informally** give the assets to a third person for the benefit of the person with disability, or
- ▶ to give the assets to a third person to use for the benefit of the person with disability **on a formal basis**. This is called setting up a trust.

An example of **the informal approach** would be a gift of assets to a third person in a will – for example, leaving all of your estate to one of two children with the expectation, either stated in the will or just ‘understood’, that the child who inherits will look after the child with disability.

Hoping that someone else will ‘do the right thing’ with assets over which they have absolute control can give rise to many problems. Such an arrangement is very uncertain. You cannot be sure it will benefit the person who has disability, and it may give rise to a range of other problems such as a challenge to the will.

Example

Yee Min has two children. Her son, Tim, has high support needs and cannot look after money himself. Her daughter, Sue, does not have disability. Yee Min thought that Sue would look after Tim, although she had not discussed this with Sue and said nothing about it in her will. Yee Min’s will gave everything to Sue.

In fact, Sue took no interest in Tim after their mother died and did not use any of her mother’s money for Tim’s benefit. Even if Yee Min had told Sue what she expected, or said in the will ‘I would like you to look after Tim’, Sue would not have any legal obligation to look after him.

(In a situation like this, Tim might challenge the will, with the help of someone else in his life such as a service provider or advocate.)

The formal approach of using a trust is much better than the informal approach. The following section of this booklet provides you with more detailed information about setting up trusts.

Section 3

Setting up a trust

There are many different kinds of trusts and a lot of things to think about before setting up a trust. This section aims to help you decide whether a trust is right for you.

The booklet '*Special disability trusts – Getting things sorted*' provides detail on special disability trusts and how the new income support concessions can help families wishing to provide for people with severe disability.

The following information will give you a general understanding about trusts.

What are the basic issues with a trust?

A trust is a legal concept which involves arrangements which can look complex but are really quite simple.

A trust is a legal obligation placed on one person, called the trustee, to look after the assets of the trust for the benefit of another person or a number of people, called a beneficiary or beneficiaries.

Some people treat trusts with suspicion because trusts are often used to reduce tax. Trusts of this sort can be very complicated. This use of trusts means that tax rules affecting trusts can be difficult to manage.

However, it does not mean that a trust is unsuitable for providing for the needs of a person with disability.

In fact, a trust is a very good way to control assets for the benefit of a person with disability. A trust can continue to look after some of the interests of a person with disability after your death. It is a structure you set up to operate before or after your death, which can continue into the future.

If you have decided to use a trust to provide for a family member with disability, the main decisions that you will need to make are:

- ▶ Who will be the trustees?
- ▶ How will I divide up my assets to deal fairly with the person with disability and other members of the family?
- ▶ What accommodation and care options should I provide for?
- ▶ How much discretion and direction do I give the trustee?

These questions are discussed in this section.

What do trustees do?

There are established rules about the rights and duties of trustees and the rights of beneficiaries.

The nature of a trust is to separate the **power to control assets** from the **right to benefit from those assets**. Generally speaking:

- ▶ the trustee has the right within the guidelines set up by the trust to control and administer the assets, **but only for the benefit of the beneficiary**; and
- ▶ the beneficiary has the right to benefit from the assets, but not the power to control the trust assets.

The person with disability can therefore benefit from the assets without the risks involved in having direct control over the assets. These risks include:

- ▶ exploitation or abuse, if the person with disability is vulnerable;
- ▶ not making the most of the available assets; and
- ▶ what might happen to the assets after the death of the person with disability, especially if the person with disability is not able to make a will.

Example

Jeannine sets up a trust for her assets. Her nephew Sam will control it as trustee for the benefit of her son Ben, who has disability. It will be Sam's decision whether and when to use the trust money. Ben can ask Sam for money, or other people (such as other family members or care workers) can ask on Ben's behalf.

Sam can use trust money for Ben's benefit even if Ben doesn't ask for help. It will be Sam's decision how to invest money: whether to invest mainly for the long term or to keep some or all of the money available for Ben's needs, depending on what Sam thinks Ben's needs are likely to be.

How is a trust set up?

If you are establishing a trust to operate while you are alive, you need to have a **trust deed** prepared. The deed is a legal document which:

- ▶ identifies who is the founder of the trust, who is the trustee and who benefits from the trust (called the beneficiaries);
- ▶ provides details of how the assets of the trust are to be used for the beneficiaries; and
- ▶ sets out the various powers of the trustees.

You can also set up a trust through a will so that the trust will not begin until after your death. You could do this by writing it into your will or by referring in your will to a separate document containing the full terms of the trust.

Before setting up a trust, you should get appropriate legal and financial advice. Using a trust deed (for example, the sample special disability trust in the booklet *Special Disability Trusts – Getting things sorted*) may not work for your particular circumstances.

Who should I appoint to be the trustee?

The appointment of a trustee is probably the most important decision you will make when setting up a trust for a person with disability.

Legal structures do not ensure people will do the right thing. Therefore, choosing people who will do the right thing is extremely important.

The trustee is the person who will make decisions in your place, so you should ensure that they understand and share your views about how your family member can best be looked after by the trust. Your trustee should be someone who will make decisions consistent with your wishes, so far as you can foresee.

For example:

- ▶ If you believe that the available funds should be distributed in a generous way and take into account all aspects of a person's life, it may not work to have someone as trustee who does not believe that it is important for people with disability to have holidays, or to have a TV or CD player. (If the trust is a Special Disability Trust, it can only pay for care and accommodation.)
- ▶ If you believe your family member with disability should live as independently as possible, it may not be a good idea to appoint a trustee who thinks people with disability should live in an institution or a group home.

So the first consideration is choosing a trustee who is sympathetic to the needs and wishes expressed by your family member with disability, to your vision of the future, and to your approach to the issues that matter to you. If you involve others in your vision and planning, as discussed in Section 1, it is more likely that you will have identified a person who is suitable to be a trustee. If you have developed a 'wish list' for the person with high support needs, this can assist the trustee to continue to make decisions in the best interests of the person. You may also wish to have more than one trustee.

However, there are also other features to bear in mind which it may be useful to have in a trustee.

- ▶ **Youth:** if the trust is to last for the lifetime of the person with disability, it is sensible to appoint a trustee of roughly the same age as the person with disability. They are then more likely to be around for as long as the person with disability.
- ▶ **Business sense:** if a person can understand business and legal or financial advice, they may be a good choice as a trustee. Their skills will enable them to look after the trust effectively over a long time.
- ▶ **Independence:** ideally, the trustee will have no conflict of interest which might cause the trustee to look after his or her own interests, or those of the people close to him or her, rather than the interests of your family member with disability.

Example

An expectation of inheriting any money not spent on the person with disability could give rise to a conflict of interest: the less spent on the person with disability, the more the trustee inherits in the long run.

An involvement in an organisation which provides accommodation for the person with disability could give rise to a conflict of interest. The trustee's position with the organisation might override the interests of the person with disability if there is an issue about where the person should live or a complaint against the organisation.

Choosing trustees who are independent provides a useful safeguard to ensure that they serve the best interests of the person with disability.

- ▶ **An interest in the person with disability:** it is very important to have a trustee who knows the person with disability, is in regular contact with him or her, and is well aware of his or her needs and interests. A trustee who relies on second-hand information about what is needed will not be as well prepared to administer the trust. The trustee needs to keep up to date with changing ideas and knowledge about how best to support the person with disability.
- ▶ **Compatibility:** if there is more than one trustee, the trustees need to get on well with each other. Any serious dispute among trustees can end up in court, and it is highly desirable that this doesn't happen.

Having all these qualities is the ideal; however, it is not essential. It may be difficult to find one person with all these qualities. Some of these qualities may be more important to you than others. You may want to choose more than one person as a trustee so that you have a combination of qualities to best suit your needs.

Who could be a trustee?

These are the options for appointing trustees, and some of the pros and cons.

- ▶ **Family members:** the brothers or sisters of the person with disability are of the same generation and usually have a close interest in the welfare of their sibling. They are therefore a natural choice as trustees. However, family members may have a **conflict of interest** because they often stand to benefit from whatever funds are left over after the death of the person with disability.

This is not to say that many family members would not 'do the right thing' in all circumstances, but it is an issue to think about. Many parents say they trust their children but don't know whom they might marry. Expectations of family members as trustees should be discussed within the family to avoid problems.

A possible conflict of interest is a reason why you might **balance a family member as a trustee with someone more independent.** Aunts or uncles or cousins of the person with disability may be more independent because they are less likely to have a future financial interest. Family members are less likely to charge fees for their services than other potential trustees. (If the trust is a special disability trust, immediate family members cannot be paid for their services.)

- ▶ **Friends or other people involved in the life of the person with disability:** friends often have a close interest in the life of the person with disability without having any conflict of interest. They may therefore be good trustees, or one of a number of trustees, providing a useful balance. Encouraging a strong network of people around your family member with disability may provide good candidates for trusteeship later on (or could mean that the informal network will be sufficient without setting up a trust).
- ▶ **The Public Trustee or private trustee companies:** the Public Trustee in each state and territory, or private trustee companies, can provide trustee services and are very experienced at doing so. They can be expected to have an objective view about what will be beneficial in any circumstances and substantial financial ability.

The Public Trustee and trustee companies will charge fees for their services (this may be money well spent for the advantages that they bring) and do not have any close personal interest in the person with disability. They will rely on other people providing information as a basis for deciding where to use the available trust funds. This means that the trustee companies will be more remote, especially if there is no other trustee actively involved with the person with disability.

Contact details for the Public Trustee agencies in each state and territory are provided in Section 5 of this booklet.

- ▶ **Professional advisers:** your lawyer or accountant may be another candidate as an independent trustee, but they are likely to charge for their services and may not have any direct involvement in the life of the person with disability or knowledge of disability issues.
- ▶ **Corporate trustees:** your advisers may recommend that you should set up a company to be the trustee. In that case, the considerations about who should be a trustee will apply to the people who will be directors of that company.

Considering these various candidates, it is sometimes necessary to make difficult choices and there may well be no right answer.

How many trustees can I appoint?

You can appoint more than one trustee to get a spread of skills and abilities. For example, you could appoint as trustee a family member who has regular contact with the person with disability and also appoint a trustee company which has the financial capacity to look after the trust assets and will be around for the life of the person with disability.

Or you could appoint three individuals who provide the different qualities that you need and also may keep each other honest about advancing the interests of the person with disability.

Example

Margaret has an intellectual disability and needs help managing money. Her mother, Christine, considers whom she can appoint as trustees.

Margaret's brother, Paul, takes a close interest in Margaret, and Christine is confident that he would always do the right thing for Margaret, even though he will receive anything left in Margaret's trust after Margaret dies. However, Paul is only 20 and not very good with money himself, though Christine thinks he will mature as he gets older.

Christine's sister Julie gets on very well with Paul, and Christine thinks she would be a good balance to Paul as trustee.

Christine's accountant, Bruce, has also been involved in planning her financial affairs to ensure Margaret's future is well looked after. Christine also considers him as a trustee.

She decides to appoint all three because of the mix of independence and close involvement with Margaret. She also thinks they would get on very well together and feels it is worth paying Bruce for his professional time.

There is no limit on the number of trustees you can appoint but, from a practical point of view, more than three is not desirable.

The advantage of three trustees over two is that any disagreement can be resolved by the majority (only if the trust deed or will allows this) so there is no deadlock.

What if the trustee dies or can't accept the appointment?

You can specify in the trust deed or the will who can appoint extra trustees or replacement trustees. This will often be one or more of the trustees themselves. If a situation arises where there is no trustee, the Trustee Acts in each state and territory specify who is to take over, and if those provisions don't work the courts are given the power to appoint trustees.

To ensure that the trustees are people of your choosing (so far as you can), it is important to specify who the replacement trustees will be or how they are to be appointed.

Some important practical issues when setting up a trust

There are two general issues to bear in mind in setting up a trust.

- ▶ **If you are setting up the trust while you are alive, can you afford to put assets into the trust?** That is, can you do without those assets in your retirement? Once given to the trust, you will not have the power to control those assets in future or have them back for your own benefit. They will have been committed to the benefit of the person with disability.

Example

Silvio and Anna want to provide for their son Marco who has disability. They are retired and have a house and some money from their super. They think they will go to live with their other son Tony, sell their house, then put the money in trust for Marco. They see a financial adviser who points out that, if for any reason they can't stay with Tony at some future time, they will have a problem: they will not be able to get the money out of the trust for their own use, so they may not be able to afford other retirement housing.

They might decide to set up the trust for Marco now but not put much money into it. Their adviser tells them about the costs and paperwork involved in operating a trust, which they need to balance against the feeling of security they will get from having set up the trust now and knowing that they have done the best they can for Marco.

They decide instead to keep the money in investments in their own name, just in case they ever need it, and to put money into trust for Marco through their wills, after both of them have died.

- ▶ **Trusts do not create options which do not otherwise exist.** While setting up a trust structure may be beneficial, this depends on either you or others having assets which they are willing to put into the trust for the benefit of the person with disability. The powers of the trustee are limited to the assets within the trust. Appointing a person as trustee for a person with disability does not give that person any rights in the nature of guardianship or financial management with respect to any assets directly owned by the person with disability.

Example

James has disability because he was badly injured in a car accident and he is unable to work. He owns his own home and has a reasonable amount of money that he saved before the accident. James is able to manage most of his own affairs with assistance from his sister Susan.

Susan decides to establish a trust for James and appoints her daughter Sarah as trustee. Sarah wants to protect James, as she is concerned that he is being exploited.

Being trustee of James' trust doesn't give Sarah the right to control James' personal assets. The options are to work with James to help him protect his own money or to apply to the Guardianship Tribunal in the relevant state to have a financial manager appointed for James (which could be Sarah or someone else) to control his money.

How do I divide my assets between family members?

If the person with disability is your only child, this will probably not be a big issue: you can give your whole estate to your son or daughter, via a trust or your will, without concerns about competing claims.

However, if the person with disability is one of a number of children, parents and other family members need to consider carefully how they look after those other children as well as the person with disability.

Usually, the general structure will be:

- ▶ establish how much will go to each child of the family;
- ▶ put the share of the person with disability into trust (now, or through your will); and
- ▶ include a provision for assets still held by the trust, when the person with disability dies or no longer needs the assets, to go to other family members or to a charity, or whomever else you consider appropriate.

Deciding how to divide your assets between family members can be a very difficult question that depends on matters such as:

- ▶ what assets are available to divide – the more there is, the easier it will be to balance everyone's interests;
- ▶ what assets the person with disability owns in their own right and what income they are likely to receive in the future;
- ▶ what accommodation arrangements have been made for the person with disability and how secure those arrangements are;
- ▶ whether your house, often the main asset, needs to be kept for the person with disability;
- ▶ social security considerations, including the possibility of changes to the social security rules in the future;
- ▶ possible changes in services available for people with disability, government or private, in the future;
- ▶ whether you need to provide additional resources for the person with disability and postpone the interests of the other children until the person with disability has died or otherwise no longer needs the support of a trust; and

- ▶ the needs of other people in the family, such as younger children who need to complete their education or adult children who also need support.

Giving most of your assets to a trust (for your son or daughter with disability) could result in a very long delay before your other children benefit. Much will depend on whether they are well established and providing adequately for themselves or whether they need assistance. Different people will resolve these problems in different ways: again, there is no right answer.

For some parents, the best solution is to give more to their son or daughter with disability because their needs (or uncertainties as to their needs) are greater and they have less opportunity to provide for themselves compared to their other children. Even if a person with disability has what appears to be secure accommodation, if these arrangements change it may be necessary to fund accommodation privately, which can be very expensive, so creating a reserve fund for this could be a priority. Paying support costs to supplement government funding can also be very expensive.

Other parents feel that equal division is the right thing to do, to be fair to everybody: the disability is not a reason for one child to get either more or less. Some parents decide to give a larger share of their estate to the other children if the child with disability has appropriate housing that is likely to continue to be available into the future.

Your decisions might change at different times as your circumstances change.

Example

Alex and Rita have two children: Anne, 12, and Peter, 15. Peter has an intellectual disability. It is hard to determine what arrangements Peter will need. If anything happens to Alex and Rita while Anne is still young, Anne will also need support to finish her education. Alex and Rita decide to split their estates equally and to appoint trustees to look after Peter's share and also to appoint trustees for Anne's share (who can use the money to pay for her education) if she is less than 21 when Alex and Rita die.

Ten years later, Alex and Rita reconsider their wills. Anne is now well on the way to being independent. Peter is living in a group home and this seems likely to continue indefinitely. However, Alex and Rita feel that, as Peter might have a greater need for funds in the future if his housing arrangements ever have to change, it is appropriate to now give him two-thirds of their assets.

There are too many possible arrangements to go into more detail here. What will suit your vision and circumstances is a matter for careful consideration when preparing a will or setting up a trust. Appropriate legal and financial advice can help you to look at your particular situation.

It is important to openly talk through these issues with everyone concerned (including the person with disability so far as possible) and arrive at an agreement as to what will happen. This will ensure that there are no surprises for anyone after your death. If there is a conflict within the family and you need help with resolving this, you can get support from the Family Mediation and Counselling services available in each state and territory.

Under the Family Relationship Services for Carers initiative, funding has been provided to deliver mediation and counselling services to help parents and other family members reach agreement on the private provision arrangements, and to assist families to resolve family conflict and negotiate a settlement in the best interests of the whole family.

For more information go to Section 6.

How do different forms of accommodation fit into this?

Currently there is a huge demand for accommodation for people with high support needs. The options are limited and they are often very distressing for families to consider – for example, long term care in nursing homes, hostels and disability institutions.

States and territories are introducing changes, in response to the needs identified by people with disability and their families, to provide more appropriate options for people with disability. There is no ‘one model fits all’; the best way is to provide a range of accommodation options to suit each person’s individual needs. These options include independent living with some advocacy; sharing with another person, with or without disability, with support as needed; independent accommodation with each state/territory Department of Housing with individual 24-hour support; or remaining in the family home with advocacy and support as needed.

Some families are looking at providing sustainable accommodation for their family member by exploring with other families a model where resources are pooled to provide appropriate shared living arrangements. There are a number of very small family developed and managed organisations which are using innovative methods to develop accommodation options for their family members with disability which blend both informal and formal support.

When looking at how a trust supports accommodation options, it is important to understand that creating a trust, either while you are alive or through a will, does not create new resources. To have reasonable certainty as to the accommodation available to a family member with disability, you need to make these arrangements yourself so that they are ready when the need arises. It is also important however, to leave the trustee with enough flexibility to respond to the person’s changing wishes and needs, and to new ideas about how to best support people.

For people with an intellectual disability who are ‘in the system’, with accommodation provided by a service organisation or government which is likely to continue to be available, this issue might seem to be resolved. However, there is always the possibility that the situation may change in the future. For example, the current accommodation may no longer be suitable in 10 years time or the service organisation may close down or change how it provides services.

For parents whose son or daughter with disability still lives with them at home, the issues will be about continuing to provide care as the parents get older. However, a sudden change of circumstances may arise when the parents die and the person with disability needs to move into strange new accommodation.

Organising access to whatever form of accommodation is appropriate and available is a very important step. It can be good to do this before the trust or will comes into effect. You will need to give the trustee(s) the power to obtain whatever form of accommodation is suitable, with guidelines as to what you would like to happen if it is feasible.

You may need available assets for:

- ▶ insurance, rates, maintenance and other expenses related to housing; and
- ▶ the necessary care and support services.

There is no point in providing housing for the person with disability if the means do not exist to keep that housing or to support the person with disability staying there. If there is insufficient money available for these things, your arrangements will not last and assets may have to be sold to fund the

purchase of something more appropriate. The money to pay expenses might come from income from a trust or from the money of the person with disability, such as earnings, savings or social security payments.

Support or care services will often cost a lot of money, especially if services may be needed for many years. If you intend to provide for these expenses through your will or a trust, you will need to consider the likely costs and plan finances to cover such services for maybe 30 or 40 years. Private funding of these services in full will be impossible for many people as they will not have sufficient assets to cover the cost. They will have to consider the services available through government or non-government organisations and consider what contribution they can make to get the best arrangements they can afford.

Special disability trusts

To assist families with estate planning, the Australian Government has legislated to provide social security and veterans' affairs means test concessions, where specific conditions are met, for certain gifts and for trusts known as special disability trusts. Anyone can establish a special disability trust for a principal beneficiary with severe disability as long as the legislative conditions are met.

The focus of the special disability trust measure is to encourage people to make their own provision for accommodation and care costs for family members with severe disability. A special disability trust may help with this because the social security concessions may resolve concerns about how funds held in a trust may affect social security entitlements. However, if the assets available are small, so that reduction of social security entitlements is not a significant risk, a special disability trust may not be relevant. For detailed information on special disability trusts refer to the booklet *Special Disability Trusts – Getting things sorted*.

Can my trust arrangements or my will be challenged?

When you are trying to balance the factors considered above, there is also a background issue to consider: **the possibility that a close family member who feels unhappy about the way you decide to divide things up may challenge your decision after your death by disputing your will.** This may still be an issue if you set up a trust to operate while you are still living rather than doing it through a will. Transactions undertaken before you die can sometimes be challenged and set aside as part of a challenge to a will.

If you decide to leave a large share of your assets to your son or daughter with disability, other children may argue that you have not made proper provision for them. Even if you leave your estate to your children in equal shares, one of your children could still make such a claim. Claims of this kind can result in expensive court proceedings, and the legal proceedings are typically paid for by your estate.

There is no way to be absolutely certain that your will won't be challenged. The best approach is to discuss the issues and agree within the family how the future needs and desires of the person with disability will be managed. Discussing the issues within the family, and if possible with other key people in the person's life, will assist all family members to reach agreement on acting in the best interests of the person with disability.

If you would like to talk to someone about disagreement or conflict in your family, you could access the Family Mediation and Counselling Services. Contact details are provided in Section 5 of this booklet.

Your legal adviser may prepare an explanation of the reasons why you have divided your estate which can be included in your will or a separate document. This may reduce the likelihood of a challenge.

However, providing properly for your family member with disability is an important matter. The possibility of a dispute about it should not stand in the way of doing what you think is right. After you have carefully considered the options with the benefit of professional advice, the fact that other people will be unhappy about what you do should not stop you making the arrangements which seem the best to you. If there is a dispute, the executor of your will can try to resolve it without the estate spending a lot of money on legal expenses.

Should I set out in detail in the trust what I want to happen?

You can include much or little detail as to what you would like the trustees to do for the person with disability. If you specify what the trustees **must** do, there may be problems if circumstances change in ways you did not think about.

You cannot foresee all the possible situations the trustees will have to deal with, 20 years or even 10 years in the future, because there are too many unknown factors. In setting up trusts or wills, you can only do the best that you can with the resources and information available.

It is generally desirable to give a lot of flexibility to the trustees to enable them to have full and free decision making power in whatever situations might arise. Providing them with guidelines about how you would like things to work for the person with disability will enable the trust to provide flexible solutions rather than being too rigid.

You have to strike a balance to control the actions of the trustee to a reasonable extent and at the same time not being overly detailed. You can do this by giving some general guidelines in the trust deed or will about how the trustees should go about their duties. The deed or will can say that the welfare of the person with disability must be the paramount concern of the trustees. That is, it is not the trustees concern to save money for whoever will receive what is left in the long run. The guidelines can express the general policy you want them to follow and tell them who they must consult.

This booklet does not go into the pros and cons of how trusts are taxed; however, there is some information in the booklet *'Special Disability Trusts – Getting things sorted'*. This is a matter for specialist legal and financial advice. Details about how to find a lawyer are included in the back of this booklet. Each of the law societies in the states and territories can provide you with information about practitioners who specialise in wills and estates.

How do I pass on everything I've learned about the needs of the person with disability?

Too much detail doesn't fit easily into a will or trust deed, especially if the detail may change. One way around this is to prepare information to be given to the trustees to assist them with their task outside the trust deed or will. This could be the written account of all the things you know about what is good or bad for the person with disability and how they communicate their needs and wishes: activities which the person likes or dislikes, what they can and can't do for themselves around the house, what

support they need to participate in activities, medications and therapies, who provides services to them and so on. You can change it and update it as things develop.

While this information, and your preferences on various subjects, will not be legally binding on the trustees, it will be invaluable for helping the trustees to do the best for the person with disability. Of course, your family member with disability will often be able to say these types of things for themselves, to a greater or lesser extent, and that too is something which the trustees should be directed to take into account.

Section 4

How to access legal and financial advice

Finding a lawyer

Lawyers may be very good at giving legal advice regarding making a will or establishing a trust but less knowledgeable at understanding the needs of people with disability and the current situation regarding social and disability services. When trying to find a lawyer appropriate to your needs it is useful to ask other families, or people you know who are in a similar situation to yours, how they have gone about finding a lawyer and if they have a recommendation.

If you are not able to get a recommendation, some states and territories have legal centres which specialise in providing services to people with high support needs. Their contact details are on the contacts page. However, most states and territories do not have these centres, so contacting a Community Legal Centre or the Law Society where you live may be the best place to start.

If your lawyer is not familiar with advising on issues related to the area of disability and estate planning for a person with high support needs, you may need to educate him or her. If you have a well-developed plan you can tell the lawyer about the things in your plan that you won't change and the things that you need advice on.

Once you have worked out a structure with your lawyer, ask the lawyer's advice on whether you should seek further financial planning advice.

Information to take to the lawyer

Your information:

- ▶ full name, address and occupation;
- ▶ full names and ages of children;
- ▶ what the situation is in life (marriage, children, work status and occupations, housing) of your children without disability;
- ▶ if you are setting up a trust to operate while you are alive, your social security status;
- ▶ approximate value of your assets: your house, other financial assets, expected superannuation, etc;
- ▶ if making a will, how you would like to split your assets among the potential beneficiaries;

- ▶ if setting up a trust to operate while you are alive, how many assets you want to put into the trust;
- ▶ whether your house need to be kept for the person with disability;
- ▶ who you would like to appoint as trustees;
- ▶ whether you want to provide for pay for the trustees;
- ▶ whether there are any particular things you want to give to anyone; and
- ▶ whether you want to nominate who should be appointed as guardian or financial manager for your son or daughter with disability, if he or she ever needs one?

Information about the person with disability:

- ▶ type and degree of disability, care and accommodation arrangements: at home, within a system, other service providers;
- ▶ how secure these arrangements are and how long they are likely to last;
- ▶ what degree of support is required and where you expect that will come from;
- ▶ social security arrangements and how much they are relied upon;
- ▶ assets owned by the person with disability in his or her own name; and
- ▶ could he or she make a will.

Finding a financial planner

Knowing who to trust to assist you in making financial plans can be a major source of anxiety for family members. Knowledge about disability and issues related to future planning may not be in the range of expertise of many planners. If you decide with your lawyer that you would benefit from advice from an accountant or financial planner, and you do not already have a relationship with such a person, a good starting point is to ask around amongst other families in your situation and amongst your networks to find out if they have information or advice in this area. They may be able to recommend you to someone.

Most financial advisers have limited knowledge about the issues facing a family who are providing for a family member with high support needs. When choosing a financial adviser, ask about their personal experience with advising people in your situation. The Financial Planning Association of Australia can assist you in finding an accredited planner in your area. Their toll free number is included in the contacts list at the back of the booklet. They do not, however, have information about a planner's expertise in the area of planning and disability.

You could contact the Australian Securities and Investment Commission by visiting their website at <http://www.asic.gov.au>, emailing them at infoline@asic.gov.au or phoning 1300 300 630, and asking for a free copy of their 'Getting Advice' booklet.

Apart from taking your plan to the adviser, think about what sort of income you would need to generate in order to provide for a family member with high support needs into the future. Also take information on what other benefits a person is eligible for and accommodation options that will help the adviser develop a financial plan that clearly responds to your needs.

Section 5

Useful contacts

Nationwide

Family and Mediation Counselling Services

Parents establishing private arrangements for the future care of a son or daughter with disability can be assisted through the provisions of family mediation and counselling.

Under the Family Relationship Services for Carers initiative, funding has been provided to deliver family counselling and mediation services to help parents and other family members reach agreements over the private provision arrangements, and assist families to resolve family conflict and negotiate a settlement in the best interest of the whole family.

The following organisations have been selected to deliver information, support, counselling and mediation services, and the services are provided under the Family Relationship Services Program (FRSP). They will provide support and expert advice to parents to help them develop a plan for the future care of the son or daughter, providing peace of mind to parents and continuity of care for the person with disability.

Australian Capital Territory	Centacare Canberra – Goulburn Phone: 02 6162 6100
New South Wales	Interrelate Family Centres Phone: 02 9745 5544
Queensland	Centacare Catholic Family and Community Services Phone: 07 3252 4371
South Australia	Uniting Care Wesley Adelaide Inc Phone: 08 8202 5111
Tasmania	Relationships Australia Tasmania Phone: 03 6421 5800
Victoria	Eastern Access Community Health Inc Phone: 03 9871 1800
Western Australia	Anglicare WA Inc Phone: 08 9263 2050
Northern Territory	Centacare NT Phone: 08 8944 2000

More information on the FRSP can be found at www.facs.gov.au/internet/facsinternet.nsf/family/frsp-family_relationships_service_program.htm

Legal Advice

See legal centres and law societies in your state or territory in the list below.

Financial Advisers

Financial Planning Association of Australia – Find a Planner Service 1800 626 393

Australian Securities and Investments Commission (ASIC)

FIDO (financial tips and safety checks) is the consumer website of ASIC.

Contact their Infoline by email infoline@asic.gov.au or phone 1300 300 630

New South Wales		
Organisation	Contact Details	Comments
Law Society of NSW	170 Phillip Street SYDNEY NSW 2000 DX 362 Sydney Phone: (02) 9926 0333 Fax: (02) 9231 5809 Email: lawsociety@lawsocnsw.asn.au Website: www.lawsociety.com.au	<p>The Solicitor Referral Service of the Law Society of New South Wales helps members of the public find a private firm of solicitors or accredited specialists in specific areas of law. You can contact the service on (02) 9926 0300 or access it online at: www.lawsociety.com.au/Search/Query.aspx</p> <p>Enquiries for legal information or legal advice are best directed to LawAccess NSW on 1300 888 529 or visit the LawAccess website: www.lawaccess.nsw.gov.au (see 'Wills and Estates'). Information there includes a Wills referral to NSW Legal Aid Services and fact sheets explaining Wills, Power of Attorney and Estate Planning.</p>
Intellectual Disability Rights Service (IDRS)	2C/199 Regent Street REDFERN NSW 2016 Phone: (02) 9318 0144 Freecall: 1800 666 611 Website: www.idrs.org.au	IDRS is a specialist Community Legal Centre that provides legal help to people with an intellectual disability and to family members, carers, advocates and others who are seeking advice on behalf of a person with an intellectual disability. IDRS will refer people to lawyers specialised in this area.
Combined Community Legal Centres Group (NSW) Inc.	Suite 3B, Briard House 491 - 493 Elizabeth St SURRY HILLS NSW 2010 Phone: (02) 9318 2355 Fax: (02) 9318 2863 Website: www.nswclc.org.au	Community Legal Centres (CLC) are independent community organisations providing free legal advice and information as well as legal education for individuals and communities across NSW. There are 41 Community Legal Centres in NSW. Centres provide confidential legal advice and assistance on a range of issues including wills. Anyone needing advice or assistance that cannot afford the services of a private solicitor can contact a CLC. Interpreters can be arranged and all client information is strictly confidential. For a list of Community Legal Centres servicing NSW, go to Website: www.nswclc.org.au/CLCs.html

Public Trustee	<p>19 O'Connell Street SYDNEY NSW 2000 Phone: 1300 364 103 Website: www.pt.nsw.gov.au Online enquiries: www.pt.nsw.gov.au/Enquiries/Default.aspx</p>	<p>The role of the Public Trustee is to act as an independent and impartial Executor, Administrator and Trustee for the people of NSW. With a network of 19 branches throughout metropolitan Sydney and regional areas across NSW, the Public Trustee provides services in will making, Trusts, Estate Administration and Power of Attorney.</p>
Office of the Public Guardian	<p>Level 15, 133 Castlereagh Street, Sydney Mail: PO Box A231 SYDNEY SOUTH NSW 1235 DX 1335 Sydney Phone: (02) 9265 3184 Fax: (02) 9283 2645 Freecall & after hours: 1800 451 510 TTY: 1800 882 889 Information and Support: (02) 9265 1443 Website: www.lawlink.nsw.gov.au/opg Email: informationssupport@opg.nsw.gov.au</p>	<p>The NSW Public Guardian is a public official who can be appointed by the NSW Guardianship Tribunal to be the guardian of a person (16 years and over) with disability when there is no other person suitable or able to be the guardian.</p> <p>The Public Guardian is the guardian for people who may have disability such as dementia, intellectual disability, brain injury, or mental illness or who may live an 'at risk' itinerant lifestyle.</p> <p>The Public Guardian is only appointed as the 'guardian of last resort' when the Guardianship Tribunal considers that no private guardian can be appointed. For more information visit: www.lawlink.nsw.gov.au/lawlink/opg/ll_opg.nsf/pages/pg_aboutus</p>
Private Guardian Support Unit (Office of the Public Guardian)	<p>PO Box A231 SYDNEY SOUTH NSW 1235 Phone: (02) 9265 1441 Fax: (02) 9283 2645 Toll free (for country callers): 1800 451 510 TTY: 1800 882 889 Website: www.lawlink.nsw.gov.au/lawlink/opg Email: informationssupport@opg.nsw.gov.au</p>	<p>The Private Guardian Support Unit is a free and confidential service to assist legally appointed guardians in their role. The Unit can provide assistance such as: help in understanding the role and responsibilities of a guardian, help in understanding the <i>NSW Guardianship Act</i>, providing information to assist you to make the best decision on behalf of the person under guardianship, providing practical support for guardians who may be making decisions in situations of conflict or dispute such as assistance where advocacy is needed or where decision-making may be helped by knowledge or a range of services and options available to people with disability, providing information to assist in working with service providers, keep you up-to-date with current guardianship issues through a regular newsletter.</p>

Office of the Protective Commissioner	<p>Level 15, Piccadilly Tower 133 Castlereagh Street, Sydney or 144 Clarence Street, Sydney Mail: PO Box A235 SYDNEY SOUTH NSW 1232 DX 1335 Sydney Phone: (02) 9265 3131 Outside Sydney: 1300 360 466 Fax: (02) 9265 3686 TTY: 1800 882 889 Website: www.lawlink.gov.au/opc Email: Estate Management Branch opcmail@opc.nsw.gov.au Private Management Support Branch pmsd@opc.nsw.gov.au</p>	<p>There are two relevant links on this website: OPC Management and Private Management. Each part clearly outlines the roles and responsibilities of an OPC Estate Manager and a Private Estate Manager respectively as well as providing information about Substitute Decision Making and a large collection of support materials for Private Estate Managers.</p>
Guardianship Tribunal	<p>Level 3 / 2a Rowntree Street, Balmain Mail: Locked Bag 9 BALMAIN NSW 2041 Phone: (02) 9555 8500 Fax: (02) 9555 9049 Toll free: 1800 463 928 TTY: (02) 9552 8534 Website: www.gt.nsw.gov.au Email: gt@gt.nsw.gov.au</p>	<p>The Guardianship Tribunal makes decisions in relation to the appointment of guardians and financial managers, or in relation to medical and dental consent, for people with disabilities who do not have the capacity to make their own decisions. The Guardianship Tribunal has specific and limited powers. The Tribunal can make guardianship orders to appoint a private guardian (family member or friend) and/or the Public Guardian, make financial management orders to appoint a private financial manager and/or the Protective Commissioner, provide consent for treatment by a doctor or dentist, review enduring powers of attorney, review an enduring guardianship appointment, approve a clinical trial so that people with decision-making disabilities can take part.</p>

Victoria		Comments
Organisation	Contact Details	
Law Institute of Victoria	470 Bourke Street, Melbourne Mail: PO Box 263C MELBOURNE VIC 3001 DX 350 Melbourne Phone: (03) 9607 9311 Fax: (03) 9602 5270 Website: www.liv.asn.au Email: lawinst@liv.asn.au	The Accredited Specialist search facility can help you find a lawyer specialising in wills and Estates. An accredited specialist must have at least five years full time practice experience and at least three years practise experience in their area of specialisation, and must maintain a high degree of Professional Development in their area of specialisation, must pass a comprehensive examination process, testing technical knowledge, writing and practical advocacy skills. This examination process is developed and assessed by industry experts. Specialists need to apply for re-accreditation every three years. www.liv.asn.au/directory/specialists
Online Legal Referral Service	Phone: (03) 9607 9550 Website: www.legalreferrals.liv.asn.au Email: referrals@liv.asn.au	The Law Institute of Victoria's online Legal Referral Service providers free referrals to legal practices around Victoria. All referrals are to Law Institute of Victoria members who practice in specific areas of law. Law firms on the service undertake to see clients for up to the first 30 minutes free of charge. Normal fees will be charged after the first thirty minutes, or if additional work needs to be prepared on behalf of the client.
Community Legal Centres Directory	Website: www.liv.asn.au/public/finda/clc	This is a contact database compiled by the Law Institute of Victoria. You can find Community Legal Centres listed according to their location or area of specialisation.
Mental Health Legal Centre Inc	Level 4, 520 Collins Street MELBOURNE VIC 3000 Phone: (03) 9629 4422 Fax: (03) 9614 0488 Toll free: 1800 555 887 Website: www.communitylaw.org.au/mentalhealth Email: Mental_Health_VIC@clc.net.au	This Centre deals with legal matters for people who are supporters/carers of people with a mental illness. It provides legal services to anyone who has experienced mental illness or had contact with mental health services. These include Mental Health Review Board hearings, guardianship and administration matters, telephone advice and casework.

<p>Villamanta Disability Rights Legal Service</p>	<p>44 Bellerine Street GEEELONG VIC 3220 Freecall (legal issues only): 1800 014 111 Mon-Fri: 1-3p.m All other calls: (03) 5229 2925 Fax: (03) 5229 3354 TTY: 1800 014 333 Website: www.villamanta.org.au Email: info@villamanta.org.au</p>	<p>Villamanta Disability Legal Service is a Victoria-wide free community legal centre that works only on disability related legal issues, with a focus on issues which affect people with intellectual disability. Services offered: Advice, information and referral; legal casework; community legal education, primarily for people who have a disability; sales of publications on disability rights issues. Training for service providers may be arranged for a fee.</p>
<p>State Trustee</p>	<p>168 Exhibition Street MELBOURNE VIC 3000 Phone: (03) 9667 6444 Fax: (03) 9663 4260 Website: www.statetrustees.com.au Email: use online contact form at www.statetrustees.com.au under 'contact us'</p>	<p>A core service of State Trustees is protecting the financial and legal interests of thousands of Victorians who are unable to manage their own affairs because of mental illness, injury or disability. The Victorian Civil and Administrative Tribunal often appoints State Trustees to perform the role of financial and legal administrator. The Disability Service includes programs such as the Financial Independence Program and the Intensive Support Program.</p> <p>An Enduring Power of Attorney is a binding legal document that comes into effect either when a person decides they want another person to help them deal with their affairs, or when the person becomes incapable of making decisions about their affairs. In many ways, having an Enduring Power of Attorney is just as important as having a will.</p>
<p>Victorian Civil and Administrative Tribunal (Guardianship List)</p>	<p>55 King Street MELBOURNE VIC 3000 Phone: (03) 9628 9911 Freecall: 1800 133 055 (within Victoria) Fax: (03) 9628 9932 Website: www.vcat.vic.gov.au (see 'Guardianship and Admin') Email: vcat@vcat.vic.gov.au</p>	<p>The Victorian Civil and Administrative Tribunal deals, amongst other things, with disputes about guardianship and administration. Applications may include applications for orders; appointing guardians to make decisions for a person, including the person's accommodation; appointing administrators to manage a person's financial and legal affairs; revoking an attorney's appointment, or varying, suspending or making another order in relation to a financial enduring power of attorney under the <i>Instruments Act</i>; revoking or suspending an enduring power of attorney (medical treatment) under the <i>Medical Treatment Act</i>; and consenting to a 'special procedure'.</p>

<p>Office of the Public Advocate</p>	<p>5th Floor 436 Lonsdale Street MELBOURNE VIC 3000 Phone: (03) 9603 9500 Fax: (03) 9603 9501 Toll Free: 1300 309 337 TTY: (03) 9603 9529 Website: www.publicadvocate.vic.gov.au Email: publicadvocate@justice.vic.gov.au</p>	<p>The Office of Public Advocate can investigate problems and, if necessary, use special authority to make enquiries on behalf of people with disability where there are fears for their safety or concerns about their interests. The Office can provide information on topics such as guardianship, administration, financial enduring power of attorney, medical enduring power of attorney and enduring guardianship – planning for the future.</p>
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Queensland		
Organisation	Contact Details	Comments
Queensland Law Society	179 Ann Street, Brisbane Mail: GPO Box 1785 BRISBANE QLD 4001 Phone: (07) 3842 5842 Fax: (07) 3842 5999 Website: www.qls.com.au Email: info@qls.com.au	The Queensland Law Society can help you find an accredited specialist or a solicitor via online referral in an area such as Estate Planning Finding. In addition to having extensive experience, accredited specialists are solicitors who have satisfactorily completed an advanced study program in a particular area of law. In Queensland, specialist accreditation is available in family law, personal injury law, property law, succession law, business law, criminal law, commercial litigation law, mediation law, taxation law and immigration law.
Pave the Way	Mamre Association Level 1 1428 Logan Road MT GRAVATT QLD 4122 (07) 3291 5800	Mamre Pave the Way works across Queensland. Pave the Way assists families and people with disability to develop a vision for now and the future to plan, to implement that vision and to safeguard that vision and the individual with disability in the long term. Pave the Way: <ul style="list-style-type: none"> • provides information for families, relevant to future planning • holds individual consultations and meets with small groups • conducts workshops • supports the development of networks and support circles • provides information on legal issues • refers to a panel of solicitors experiences in wills and trusts • develops long-term safeguarding strategies for families.
Queensland Association of Independent Legal Services (QAILS) Inc.	PO Box 119, ANNERLEY, 4130 Phone: 3392 0644 Fax: 3392 0658 Website: www.qails.org.au Email: info@qails.org.au	The Queensland Association of Independent Legal Services is the state based peak body representing funded and unfunded Community Legal Centres operating throughout Queensland. Community Legal Centres can provide you with advice, referral, legal assistance and limited representation. The Queensland Community Legal Centre directory is available online at www.qails.org.au

<p>Department of Justice and Attorney-General</p>	<p>Level 18, State Law Building 50 Ann Street, Brisbane Mail: GPO Box 149 BRISBANE QLD 4001 Phone: (07) 3239 3520 Fax: (07) 3221 2534 Website: www.justice.qld.gov.au Email: mailbox@justice.qld.gov.au</p>	<p>This government department contains contact details and useful information about relevant government agencies in Queensland.</p>
<p>Public Trustee of Queensland</p>	<p>444 Queen Street, Brisbane Mail: GPO Box 1449 BRISBANE QLD 4001 Phone: (07) 3213 9288 Fax: (07) 3213 9489 Website: www.pt.qld.gov.au Email: clientenq@pt.qld.gov.au</p>	<p>The Public Trustee acts in the capacity of administrator of deceased estates, providing financial management for people with disability and giving aid in any legal proceedings by or against a disadvantaged person.</p>
<p>The Office of the Adult Guardian</p>	<p>Level 3, Brisbane Magistrates Courts Complex 363 George Street, Brisbane Mail: PO Box 13554 George Street BRISBANE QLD 4003 Phone: (07) 3234 0870 Outside Brisbane: 1300 653 187 Fax: (07) 3239 6367 Email: adult.guardian@justice.qld.gov.au</p>	<p>The Adult Guardian is an independent statutory officer appointed under the <i>Guardianship and Administration Act</i>. The role of the Adult Guardian is to protect the rights and interests of adults with impaired decision-making capacity. Additionally, the Adult Guardian’s function is to investigate allegations of abuse, neglect and exploitation of adults with impaired decision-making capacity and to seek help, or make representations for the adult. The Guardianship and Administration Tribunal may appoint the Adult Guardian to act as substitute decision-maker for adults with impaired decision-making capacity for personal and/or health care matters when there is no one else willing, able or appropriate to make those decisions for them. At times, the Adult Guardian may act as statutory health attorney of last resort.</p>

<p>Guardianship and Administration Tribunal</p>	<p>Level 9, 259 Queen Street, Brisbane Mail: GPO Box 1639 BRISBANE QLD 4001 Phone: (07) 3234 0666 Outside Brisbane: 1300 780 666 Fax: (07) 3221 9156 Email: guardianship@justice.qld.gov.au</p>	<p>The Tribunal has the authority to appoint guardians and administrators for adults with impaired decision-making capacity. The Tribunal works from the following principles: most people with disabilities don't need a legally-appointed guardian or financial manager; GAAT is the last resort and should only be used when a person is incapable of making their own decisions and when all other suitable alternatives have been tried; GAAT's main concern is the welfare of the person with impaired decision-making capacity.</p>
<p>The Public Advocate</p>	<p>Floor 1, State Law Building 50 Ann Street, Brisbane Mail: GPO Box 149 BRISBANE QLD 4001 Phone: (07) 3224 7424 Fax: (07) 3224 7364 Email: publicadvocate@justice.qld.gov.au</p>	<p>The role of the Public Advocate is to identify widespread situations of abuse, exploitation or neglect of people with impaired capacity due to shortcomings in the systems or facilities of a service provider. The Public Advocate then reports these findings to State Parliament. This function is also known as systems advocacy.</p>
<p>Disability Services Queensland</p>	<p>GPO Box 806 BRISBANE QLD 4000 Phone: (07) 3224 8444 Toll free: 1800 177 120 Fax: (07) 3896 3467 TTY: (07) 3896 3471 Website: www.disability.qld.gov.au/disability_information Email: disabilityinfo@disability.qld.gov.au</p>	<p>Through the 2005-06 Succession Planning Initiative, Disability Services Queensland provided funding to three non-government service providers (Mamre Association Incorporated, Parent to Parent Association Queensland Incorporated and Homes West Association Incorporated) to provide succession planning strategies to support people with disabilities and their families. Succession planning assists families to address their needs by planning appropriate supports throughout the person's life-stages, and developing a range of informal networks to support the person in their local community. This planning for the future creates greater certainty for the individual when the parents/carers are no longer able to continue in their caring role. Planning should occur early in the life of the family rather than waiting for a crisis..</p>

<p>Parent to Parent Association Queensland Incorporated</p>	<p>3 Conn Street PO Box 434 YANDINA, QLD 4561 Phone: 07 5472 7072 1800 777 723 Fax: 07 5472 7073 Email: parent@parentzparentqld.org.au</p>	<p>Parent to Parent Association Queensland Incorporated provides a range of succession planning opportunities to promote positive changes in the lives of people with disabilities and their families. These activities include Family Skill Building through families planning together to develop essential lifestyle plans and establish family networks; Pathways to Possibilities for families to participate in guided journeys towards planning desired futures and personalised supports; and Pathways to Planning utilising P.A.T.H. (Planning Alternate Tomorrows with Hope). The organisation utilises a team of highly qualified Parent to Parent family facilitators, all of whom are parents of people who have a disability, in locations across the state to draw upon and share their own life experiences, and employ successful strategies to work with other families to more effectively meet the challenges within their local community.</p>
<p>Homes West Association Incorporated</p>	<p>496 Sherwood Rd SHERWOOD QLD 4075 Phone: 07 3278 2378 Website: www.homeswest.org.au Email: helend@homeswest.org.au</p>	<p>Homes West Association Incorporated is an organisation that has been established by a small number of families in Brisbane. The Association has developed strategies to encourage and support people with disabilities to build informal networks to support the person in their local community now and in the future. Homes West families work collaboratively with the Community Resource Unit to disseminate and distribute succession planning information to families through state-wide workshops.</p>

Australian Capital Territory

Organisation	Contact Details	Comments
Law Society of the Australian Capital Territory	<p>Level 3, 11 London Circuit, Canberra City Mail: GPO Box 1562 CANBERRA ACT 2601 DX 5623 Phone: (02) 6247 5700 Fax: (02) 6247 3754 Website: www.actlawsociety.asn.au Email: mail@actlawsociety.asn.au</p>	<p>The Law Society offers an online brochure titled 'Making A Will'. The Legal Advice Bureau operates Monday to Friday between the hours of 12.30pm and 2.00pm. To make an appointment for a free 15 minute consultation call the Law Society on 6247 5700. Alternatively, you can apply to see if you are eligible for pro bono (free) assistance via the clearing house online.</p>
National Association of Community Legal Centres	<p>Website: www.naclc.org.au/directory/centres.html#act</p>	<p>Community Legal Centres can provide you with advice, referral, legal assistance and limited representation. To find a list of Community Legal Centres in the ACT go to: www.naclc.org.au/directory/centres.html#act</p>
Public Trustee	<p>Ground Floor, ActewAGL House 221 London Circuit Canberra City Mail: PO Box 221 CIVIC SQUARE ACT 2608 Phone: (02) 6207 9800 Website: www.publictrustee.act.gov.au Email: publictrustee@act.gov.au</p>	<p>The Public Trustee provides information about wills, Administration of Estates and Executors, Powers of Attorney and Trusts.</p>
Office of the Community Advocate	<p>3rd Floor, CFM Building 12 Moore Street, Canberra City Mail: PO Box 1001 CIVIC SQUARE ACT 2608 Phone: (02) 6207 0707 Fax: (02) 6207 0688 Website: www.oca.act.gov.au Email: oca@act.gov.au</p>	<p>The Office of the Community Advocate has a range of statutory functions and powers with respect to children and young people, and adults with a mental illness or impaired decision making ability, who require protection from abuse, exploitation or neglect.</p>

Northern Territory		
Organisation	Contact Details	Comments
Law Society of the Northern Territory	Suite G16, 1 st Floor, Paspalis Centrepoint 48-50 Smith Street (Mall), Darwin Mail: GPO Box 2388 DARWIN NT 0801 Phone: (08) 8981 5104 Fax: (08) 8941 1623 Website: www.lawsocnt.asn.au Email: lawsoc@lawsocnt.asn.au	The Law Society has an online referral service where you can find lawyers dealing with matters such as Estate Planning and wills. There is also a First Interview Scheme via which you can have an initial 30 minute consultation with a solicitor for \$77 (inclusive of GST). All you have to do is contact one of the firms listed and make an appointment under the First Interview Scheme. You must pay at the conclusion of the consultation and consultations are strictly limited to 30 minutes. Find these at the website under 'About the Law Society', 'General Public Assistance and Information'
Darwin Community Legal Service	Cnr Manton St & Woods St, Darwin Mail: GPO Box 3180 DARWIN NT 0801 Phone: (08) 8982 1111 Fax: (08) 8982 1112 Freecall: 1800 812 953 TTY: (08) 8982 1177 Website: www.dcls.org.au Email: info@dcls.org.au	The Darwin Community Legal Service gives free advice about the law, and helps you find a lawyer if you need one. Also, the Aged and Disability Rights Team provides a rights service for people with disabilities.

<p>Office of the Public Trustee</p>	<p>Darwin Nichols Place, Corner Cavenagh & Bennett Streets Mail: GPO Box 470 DARWIN NT 0801 Phone: (08) 8999 7271 Fax: (08) 8999 7882</p> <p>Alice Springs Centrepoint Building, Corner Hartley Street & Gregory Terrace Mail: GPO Box 8043 ALICE SPRINGS NT 0871 Phone: (08) 8951 5493 Website: www.trustee.nt.gov.au Email: Public_Trustee.DOJ@nt.gov.au</p>	<p>The Office of the Public Trustee provides a trustee, executor, will making and personal financial administration information and services within the Northern Territory. The Office also offers a wills storage service and acts as executor of last resort.</p>
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Western Australia		
Organisation	Contact Details	Comments
Law Society of Western Australia	Level 4, 89 St George's Terrace PERTH WA 6000 Phone: (08) 9322 7877 Fax: (08) 9322 7899 Website: www.lawsocietywa.asn.au Email: info@lawsocietywa.asn.au	If a person requires a solicitor and is able to afford normal solicitor rates, a referral will be made to solicitors dealing in the area of law they require. When suitable, the Shopfront Lawyer will refer people to Legal Aid or Law Access, and assistance will be given in completing these application forms.
National Association of Community Legal Centres	Website: www.naclc.org.au/directory/centres.html#wa	Community Legal Centres can provide you with advice, referral, legal assistance and limited representation. To find a list of Community Legal Centres in Western Australia go to: www.naclc.org.au/directory/centres.html#wa
Department of the Attorney-General	Level 16, 141 St George's Terrace PERTH WA 6000 Phone: (08) 9264 1600 or 131217 Website: www.justice.wa.gov.au	The functions of the department include administration of the state's courts and tribunals; providing support for victims of crime; registering births, deaths and marriages; providing support to the state's release boards and; administering the activities of the Public Advocate and Public Trustee. The Public Trustee assists the community with trustee services including estate administration, will drawing, trust management and enduring power of attorney. The Public Advocate provides services to promote and protect the rights of adults with decision-making disabilities.
Public Advocate	Level 1, 30 Terrace Road EAST PERTH WA 6004 Phone: (08) 9278 7300 Country Freecall: 1800 807 437 Fax: (08) 9278 7333 Enduring Power of Attorney information line: (08) 9278 7301	The Public Advocate is an independent statutory officer appointed to promote and protect the rights, dignity and autonomy of people with decision-making disabilities and to reduce their risk of neglect, exploitation and abuse.

Public Trustee	<p>565 Hay Street, Perth Mail: GPO Box M946 PERTH WA 6843 Phone: (08) 9222 6777 Fax: (08) 9222 6607 Freecall: 1800 642 777</p>	<p>The Public Trustee employs specialist solicitors, accountants and highly experienced trust officers to represent the interests of the estates under administration, the beneficiaries of those estates and the financial affairs of those for whom the Public Trustee is appointed as administrator.</p>
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South Australia		Comments
Organisation	Contact Details	
Law Society of South Australia	124 Waymouth Street, Adelaide Mail: GPO Box 2066 ADELAIDE SA 5000 DX 333 ADELAIDE Phone: (08) 8229 0222 Fax: (08) 8231 1929 Website: www.lawsocietysa.asn.au Email: email@lssa.au	<p>The Legal Advisory Service offers appointments each Monday, Wednesday and Thursday between 5.30pm and 7.00pm. A twenty minute interview with a solicitor costs only \$22 (or \$10 for pension or concession card holders). An experienced practising solicitor is available to answer basic questions on any legal problem.</p> <p>The Law Society's Referral Service is a free community service which provides referrals to solicitors according to specific areas of law, geographic locations, languages, the First Interview Scheme, home visits by solicitors and more. Information on legal costs is also available from the Law Society. You can call or access the referral service online at: www.lawsocietysa.asn.au/referral/LSSA_SearchCriteria.asp</p> <p>The Law Society can also provide brochures about wills and Power of Attorney.</p>
National Association of Community Legal Centres	www.naclc.org.au/directory/centres.html#sa	Community Legal Centres can provide you with advice, referral, legal assistance and limited representation. To find a list of Community Legal Centres in South Australia go to: www.naclc.org.au/directory/centres.html#sa
Office of the Public Advocate	Level 7, ABC Building 85 North East Road, Collinswood Mail: PO Box 213 PROSPECT SA 5082 Phone: (08) 8269 7575 Toll Free (for country SA only): 1800 066 969 Fax: (08) 8269 7490 Website: www.opa.sa.gov.au	The Public Advocate is an independent official whose job is to assist persons with a mental incapacity. The Public Advocate can advise about rights and provide advocacy in certain situations.

Public Trustee	<p>25 Franklin Street, Adelaide Mail: GPO Box 1338 ADELAIDE SA 5001 Phone: (08) 8226 0443 Fax: (08) 8231 9518 Website: www.publictrustee.sa.on.net Email: harris.john4@saugov.sa.gov.au</p>	<p>The Public Trustee provides information and services concerning legal documents (such as wills and Powers of Attorney) as well as Personal Estate Administration.</p>
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Tasmania		
Organisation	Contact Details	Comments
Law Society of Tasmania	28 Murray Street, Hobart Mail: GPO Box 1133 HOBART TAS 7001 DX 111 Phone: (03) 6234 4133 Fax: (03) 6223 8240 Website: www.taslawsociety.asn.au Email: info@taslawsociety.asn.au	The Law Society has an online directory of lawyers and law firms dealing with various Estate Planning issues (wills, Powers of Attorney etc). There are also links to other resources and sites.
Hobart Community Legal Service	166 Macquarie Street HOBART TAS 7000 Phone: (03) 6223 2500 Fax: (03) 6223 2510 Website: www.hobartlegal.org.au	The service provides the general community with free legal advice and referral to Legal Aid, other private practitioners, and other community resources.
National Association of Community Legal Centres	www.nacclc.org.au/directory/centres.htm#tas	Community Legal Centres can provide you with advice, referral, legal assistance and limited representation. To find a list of Community Legal Centres in Tasmania go to: www.nacclc.org.au/directory/centres.htm#tas
Guardianship and Administration Board	First Floor, 54 Victoria Street, Hobart Mail: The Registrar Guardianship and Administration Board GPO Box 1307 HOBART TAS 7001 Phone: (03) 6233 3085 Fax: (03) 6233 4509 Website: www.guardianship.tas.gov.au Email: guardianship@justice.tas.gov.au	The Guardianship and Administration Board can make decisions for the benefit of persons who have disability and are unable to make reasonable judgements about lifestyle and financial matters. The functions of the Board are extensive and include powers in relation to: guardianship, enduring guardianship, administration, enduring powers of attorney, emergency situations, consent to medical or dental treatment and statutory wills.

<p>Office of the Public Guardian</p>	<p>Level 3, 15 Murray Street, Hobart Mail: GPO Box 825 HOBART TAS 7001 Phone: (03) 6233 7608 Fax: (03) 6233 4882 Website: www.publicguardian.tas.gov.au Email: publicguardian@info.tas.gov.au</p>	<p>The Office of the Public Guardian promotes, speaks for and protects the rights and interests of people with disability and acts as the guardian of people with disability when appointed by the Guardianship and Administrative Board.</p>
<p>Public Trustee</p>	<p>116 Murray Street, Hobart Mail: GPO Box 1565 HOBART TAS 7001 Phone: (03) 6233 7598 Fax: (03) 6231 0621 Website: www.publictrustee.tas.gov.au Email: tpt@publictrustee.tas.gov.au</p>	<p>The Public Trustee deals with matters of wills, Estates, Trusts, Enduring Powers of Attorney and Financial Administration. Online brochures are available at the website.</p>

Further reading in this area

Booth, Stephen 'Wills for Parents of Person's with an Intellectual Disability', chapter 12.1 in *Lawyers Practice Manual* (NSW), Redfern Legal Centre/LBC Information Services (looseleaf service).

Booth, Stephen, 'Wills for People with an Intellectual Disability', chapter 12.1A in *Lawyers Practice Manual* (NSW) Redfern Legal Centre/LBC Information Services (looseleaf service).

Booth, Stephen, *When I'm Gone: an introduction to wills and estate planning for parents of people with an intellectual disability*, Intellectual Disability Rights Service, June 1999.

People with Disabilities – A legal information manual for West Australians, People with Disabilities WA (Inc), May 2004.

Residential Property Ownership for disabled persons in Western Australia, Deacons, June 2003.

Disclaimer: this booklet is not providing specific legal advice to any reader. Readers should obtain their own legal advice particular to their circumstances.

Section 6

Planning templates

Future planning checklist

Before you see someone for legal or financial advice it is important to work out what it is you need (goals and plans) as much as possible.

Ensure that there is discussion on what the needs of each family member are now and in the future, but keep the focus on the person with disability. It is also important that the family member with disability is given the opportunity to provide as much input as possible.

Here are some ideas for the kind of things you may want to consider as a starting point. Be explicit when thinking through this checklist. It may not be possible for all the goals you identify to be achieved. Do not allow this to stop you planning and working towards a positive outcome for the future.

Issues for consideration

What are the hopes and dreams of the person with disability and your hopes and dreams for them?	
How does the person currently communicate their needs?	
What accommodation will satisfy the needs and desires of the person?	
What is important to maintain their valued social relationships and interactions and what do they desire for the future in terms of relationships?	
What activities do they enjoy at present or desire for the future?	
What are their likes and dislikes (be specific and include food, music, environment, people)?	
What are their learning and educational needs?	
How can we, or others, support the person to achieve their hopes and dreams?	

Information to take to the lawyer:

Your Information:

Full name, address and occupation	
Full names and ages of children	
What is the situation in life (marriage, children, work status and occupations, housing) of your children without disability	
If you are setting up a trust to operate while you are alive, your social security status	
Your assets (\$ approx.): <ul style="list-style-type: none"> ▶ house ▶ financial assets ▶ superannuation 	
If making a will, how would you like to split your assets among the potential beneficiaries?	

<p>If setting up a trust to operate while you are alive, how much assets do you want to put into the trust?</p>	
<p>Will your house need to be kept for the person with disability?</p>	
<p>Who would you like to appoint as trustees?</p>	
<p>Do you want to provide for pay for the trustees?</p>	
<p>Are there any particular things you want to give to anyone?</p>	
<p>Do you want to nominate who should be appointed as guardian or financial manager for your son or daughter with disability, if he or she ever needs one?</p>	

Information of the person with disability:

<p>Type and degree of disability, care and accommodation arrangements: at home, within a system, other service providers?</p>	
<p>How secure are these arrangements, how long are they likely to last?</p>	
<p>What degree of support is required and where do you expect that will come from?</p>	
<p>Social security – how much is that relied upon?</p>	
<p>Assets owned by the person with disability in his or her own name?</p>	
<p>Could he or she make a will?</p>	

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