



Preparing Guidance Documents

Letter of Wishes v. Information Management Software

How do you impart that accumulated knowledge about how to best support your family member with a disability after you are unable to participate in their lives any longer?

How do you pass on the known will and preferences of the person, the intricacies of their disability and medical/support needs, how to best play to the strengths of the person, helpful management strategies in times of distress, what they need, what they want and enjoy in life, how best to deliver supports, what scaffolding is in place to protect and empower them, and what your hopes are for them to flourish and/or enjoy life in the future?

At one end of the spectrum is the preparation of a **Letter of Wishes** that can be stored with your Estate Planning documents. This Letter is an informal personal document that can provide specific guidance on a broad range of topics to an Executor, Trustee or Enduring Attorney regarding your wishes for the care of a disabled dependent or beneficiary when you are no longer able to participate in their care.

Your Letter of Wishes may include:

- Important details of the person's disability;
- Information about the person's will and preferences, personality, quirks, individual needs;
- The person's vulnerabilities and challenges; and
- Your priorities for how you wish for the person's inheritance to be applied.

At the other end of the scale, is the preparation of a database of information that can be accessed by a range of people when certain situations arise in the care of the person with a disability. There are now a range of project management software options available that can be utilised to gather relevant information about all aspects of the care of a person with a disability.

Such software enables the storage of vast quantities of information, such as: professional reports, training documents, legal documents, NDIS Plans, minutes of meetings, historical information, preferred contacts/supports for general care, a calendar, rosters of support workers, guidance documents and safeguarding arrangements. This tool can also: contain a vision statement, a list of goals, practical management tips, financial information about how the disabled person's money and investments are currently managed, and even a statement of the disabled person's end of life preferences, if known.

Computerised storage of information can provide much greater peace of mind for carers, particularly where the needs of a person with a disability are complex. Furthermore, access to this important information is not necessarily contingent upon a carer losing capacity or dying.

Building this type of repository of information is quite an undertaking. It is very time consuming and would require on-going updating. However, in this age of advancing technology, such systems can provide very useful guidance well beyond what a Letter of Wishes can achieve. They also have the advantage of being put into use well before a carer loses capacity or dies, and can make for a more seamless transition of responsibilities.

Trustee companies appointed to manage the protective trusts of a person with a disability generally welcome the provision of guidance information in whatever form it comes. Classically, trustee case officers usually have never met the person that they will be making important decisions for in the future, and any information provided by loved ones enables them to do a better job overall.

Duncan.Legal invites you to explore what kind of guidance documents (or systems) your loved one with a disability may be supported by after you are unable to participate in their lives anymore. Our advice is to start documenting now!

CLAIMING THE COST OF DISABILITY INFORMATION TRAINING WEBINARS ON NDIS

It **is** possible to claim the cost of training for carers on a participant's NDIS plan so long as the training is relevant to a participant's stated goal that is funded. The relevant line item is:

Capacity Building – Improved Daily Living – Other Supports

15_038_0117_1_3 Training for carers in matters relating to caring for a person with a disability.

If there is the capacity in your participant's plan to access our webinars using the above line item, please get in touch. We will gladly provide you with an invoice to lodge with your Plan Manager.

When your Centrelink phone calls go unanswered Launch a formal complaint!

Difficulty getting through to Centrelink on the phone is a common problem. Centrelink refuses to deal with some enquiries in their offices, insisting that you telephone their Call Centre. This usually involves long wait times, and numerous attempts with no result. We suggest that you keep a log of dates & times that you have tried to call them unsuccessfully, then launch a **formal complaint**.

The complaints process is simple. There is an on-line form to complete (see link below). Outline the attempts you have made to contact Centrelink and the nature of your enquiry, provide your contact details and hit send. You should receive a response quickly.

We recently assisted a client with their complaint, and they received a call back the later the same day.

[Centrelink complaint form](#)

What is a Protective Trust?

A “**protective trust**” refers to a trust that has the purpose of protecting a vulnerable beneficiary (such as a minor or an adult with a mental illness, serious addiction, intellectual disability or with diminished mental capacity). The main kinds of protective trusts for beneficiaries with an intellectual disability are a **Special Disability Trust (SDT)** and an **All Needs Protective Trust (ANPT)**.

Each trust has different purposes and attributes. Some are very simple, others are so complex that they require a large number of clauses to create.

Sometimes a number of trust options need to be available in a Will because only together can they properly meet the total needs of the vulnerable Beneficiary.

It is very important that a Will providing for a vulnerable beneficiary is flexible. Ideally it should provide as many options as possible to enable you Executor establish the most appropriate trust(s) for your Beneficiary in the circumstances that exist at that time.

Contact Duncan.Legal for further information on Protective Trusts.

NDIS Legacy Nominee

Most participants with intellectual disability will have an NDIS Nominee. This is someone to advocate and make decisions with or for a participant aged 18 years or older.

What happens if the Nominee is suddenly unable or incapable of fulfilling this role because of ill health or death? Is it possible to provide for a replacement Nominee to step up, so that services to the Participant can continue seamlessly?

It is possible to set up an NDIS “Legacy” Nominee. Contact your NDIS Representative and request the NDIS Legacy Nominee form. Complete the form and return it to your NDIS Representative now and it will remain on file until it is required.

This is another step in planning for the future for your loved with a disability.



10 Issues to Consider re Estate Planning with Disability

Families with disability in the mix need more than a simple Will. Their needs are complex and their Estate Planning needs to be also. To adequately provide for disabled children (especially intellectually disabled), the plan needs to multi-faceted taking into consideration all of the items below:

1. **Establishment of Protective Trusts** – Special Disability Trusts & All Needs Protective Trusts can provide financial protection for your beneficiary with a disability.
2. **Trustee Decision Making & Beneficiary Input** – is your disabled beneficiary able to participate in financial decisions as to how their inheritance is spent? How do you want your Trustee to interact with the Beneficiary?
3. **Who to appoint** – consideration needs to be made as to who you would like to nominate in the important roles of Executor(s), Trustee(s) & Power(s) of Attorney.
4. **Pension & Government Benefits** – protecting the pension and government benefits of your disabled beneficiary may need to be considered, or will your estate be adequate to fund them independently without government support?
5. **Splits between Beneficiaries** – should your estate be divided equally amongst your children or should your child with a disability receive a larger or smaller portion?
6. **Personal Asset Accumulation** – is it a good idea to allow a Beneficiary with a disability to accumulate personal wealth, and what are the consequences of this?
7. **Preservation of the Main Residence** – should your main residence be preserved for your disabled beneficiary to live in? or should it be gifted to a protective trust?
8. **Asset Protection Strategies** – should assets intended for a disabled Beneficiary be transferred during your lifetime in order to remove them from the pool of assets in your estate which may be subject to challenge after your death? Do your Beneficiary Nominations need to keep super out of your estate?
9. **Powers of Attorney** – does your Financial Power of Attorney need to be drafted widely to provide for the needs of your dependent family members addition to yourself?
10. **Superannuation Beneficiary Nominations** – your superannuation death benefits do not automatically form part of your estate. Your nominations should be up-to-date and structured correctly so as to reduce or remove potential taxation liabilities for your beneficiaries, and ensure that any death benefits for a disabled Beneficiary are paid into a protective trust.

Want to know more? Our Disability Estate Planning webinar covers these 10 issues in further detail and gives you strategies to consider in your journey to provide for your disabled beneficiary after you're gone. Visit our Webinar Shop on our website to order access to this informative webinar.



Disability Estate Planning' Webinar (1 hour duration)

<https://www.duncanlegal.com.au/shop/>

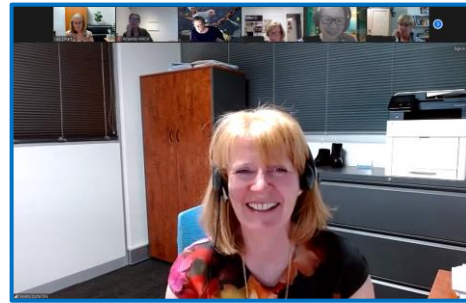
\$99.00 (incl GST)

Duncan.Legal in the Community in 2023

Onemda Presentation

Duncan.Legal held a combined information/webinar session in August for parents & carers at **Onemda** in Doncaster East on **Special Disability Trusts**.

Onemda is a dynamic organisation delivering high-quality, reliable services and they work closely with participants and their support networks to help achieve their goals and build their confidence, independence and control.



VMCH Webinar

Duncan.Legal presented an online webinar on in conjunction with **VMCH** on **Special Disability Trusts**.

VMCH provides high-quality services in disability, aged care and retirement living Melbourne wide.

We had an engaged group of parents & carers tune in for our webinar following by lots of complex & interesting questions!

DSV Step Up! Event

Duncan.Legal were privileged to be invited to the **Down Syndrome Victoria Step Up! Event** held at Princes Park on Sunday, October 22.

Although the weather was a little on the cool side, families enjoyed a 3 km walk around the park, food trucks, craft stalls run and owned by people with Down Syndrome, raffles and live music.

We caught up with some of the DSV crew and friends. A wonderful day, and here's a few pics...!



Estate Planning Audit

Disability Estate Planning can be a complex and daunting undertaking for many families. To assist you to understand the complexities and to provide you with some options, **Duncan.Legal** offers all clients an Estate Planning (EP) Audit with the **first ½ hour of the first appointment free-of-charge**. This initial appointment can be held in person or via teleconferencing (Zoom).

At the end of the appointment, we can provide you with a written estimate of the cost to update your estate plans (Wills & Powers of Attorney etc). You take the estimate away with you and consider it. There is no obligation to proceed.

Take the first step in your Estate Planning or update your existing plans to better reflect your family's situation! To arrange your EP Audit, contact Lee on 9077 7731 or email leesmart@duncanlegal.com.au

Duncan.Legal Webinar Recordings



‘Disability Estate Planning’ Webinar	\$99.00 (incl GST)
‘Special Disability Trusts’ Webinar	\$99.00 (inc GST)
‘Supported Decision Making’ Webinar	\$99.00 (inc GST)

Click to visit our [Webinar Shop](#)

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15_038_0117_1_3 Training for carers in matters relating to caring for a person with a disability.

For more frequent updates and information, follow us on **Facebook** and **Instagram**.

We will be holding more webinars & presentations in 2024 and look out for us at the **Source Kids Expo** in July!



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Free online workshop



First Steps to Support & Connection

Do you have a young child with developmental delay or disability?

Then you're probably trying to navigate the huge amount of information to find out what support your child needs.

Register now for one of our March sessions!

This workshop will provide information about where to start and what you need to support your child and family.

More information:

- Duration: 90-minutes
- Bookings are essential
- Content is intended for families of children with developmental delay or disability
- Professional workshop facilitators are all parents or carers of children with disability

Workshop dates:

- Tuesday 12 March – 10:00 am
- Wednesday 13 March – 10:00 am
- Monday 18 March – 7:30 pm
- Tuesday 19 March – 10:00 am
- Wednesday 20 March – 10:00 am

Topics include:

- Respite
- Financial supports
- Self-care
- Staying connected
- Supporting siblings

Read more and register now



bit.ly/FSTSCmarch24

Contact us



educate@acd.org.au



03 9880 7000 or
1800 654 013 (regional callers)