



FREQUENTLY ASKED QUESTIONS

Who will look after the interests of my disabled family member when I no longer can?

While there are organisations which will look after your disabled family member when you are no longer able, they cannot guarantee that his or her needs will be taken care of in the way your family would wish taking account of individual needs and aspirations.

Future Living Trust was established to support parents in making arrangements that are carried out according to their wishes.

Does Future Living Trust provide day to day care for my disabled family member?

No, such care is provided by other service organisations and generally funded by a Government grant. Future Living Trust can assist in seeking such a grant and can monitor the care being provided through a Personal Support Service.

Where can I go for information that will assist me in making future plans for my disabled family member through my Will?

Future Living Trust provides a free advice service that assists you through the planning process and takes account of the needs of your disabled family member. The Trust does not draft the Will but provides information, advice and contacts to have your Will prepared.

Will Future Living Trust act as Executor to my Will?

No, Future Living Trust is a body which cannot act as trustee under the law relating to Probate. Only Trustee companies or individuals can be nominated as Executor.

Can I leave our family home for my disabled family member to continue to live in, with an assurance for his or her continued wellbeing?

Yes. The Trust can assist you through its Accommodation and Property Trust Service.

How does the Trust ensure the necessary support services are available?

The Accommodation and Property Trust Service seeks to ensure that the disabled family member can continue to live in the family home sharing with one or two other compatible people if the family so wishes. The Trust can assist by negotiating with organisations that provide relevant support services however if funding for care is needed it is best families ensure this is in place.

How can I ensure money or assets that I leave my disabled family member will be managed as I wish, addressing both financial aspects and personal needs?

Future Living Trust can establish a Managed Trust Fund that will be handled in accordance with your wishes. Future Living Trust also has the expertise to ensure the personal needs and overall welfare of your disabled family member will be maintained.

What are the Social Security implications of establishing a Managed Trust Fund for my child with a disability?

From September 2006, parents and immediate family members can establish a Special Disability Trust of up to \$500,000 (indexed annually), without triggering the "gifting" provisions of the Social Security legislation however these Trusts are quite restrictive.

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Future Living Trust's Managed Trust Fund service meets the necessary gifting conditions and is set up to specifically address the needs of a family member with an intellectual disability for their lifetime.

Because everyone's financial situation is different The Trust recommends that parents contact Centrelink to assess any potential implication on their family member's disability support pension from interest earned on Trust Funds.

Can I make funeral arrangements for my disabled family member with Future Living Trust?

Yes, the Trust can assist you with information and specific arrangements that the Trust will ensure will be carried out.

I worry about leaving the responsibility for my child with a friend, other family member, or a carer after I have gone?

The Trust understands this and can help. Family, friends, and carers are all important but knowing that the Trust will always be there, independently overseeing your child's welfare and advocating on their behalf for their lifetime provide parents with additional peace of mind.

What is a guardian or administrator and why are they needed?

Under the Guardianship and Administration Act 1990 a guardian makes lifestyle decisions and an administrator makes financial decisions on behalf of a person who lacks the capacity to make relevant decisions that are in their own best interests. The State Administrative Tribunal will only appoint a guardian or administrator if there is no other less restrictive way of doing this.

When should I apply for formal guardianship or administration of my adult child?

Both guardianship and administration is dependant on need as well as an individual's capacity to make decisions in their own best interests. The State Administrative Tribunal will decide regarding capacity and whether there is a need for an alternative decision maker to be appointed. It may be necessary to apply for guardianship when a significant lifestyle decision needs to be made such as consenting to major medical treatment or deciding where a person will live. An administrator may need to be appointed if a person is not able to manage their own financial affairs.

Can I nominate a guardian for my adult disabled family member?

While it is not possible to 'will' guardianship of an adult, even one with a severe disability, as a parent you can nominate someone who has agreed to take on the role in the future in your personal papers. This will enable your wishes to be considered if an application needs to be made at some point in time. The State Administrative Tribunal will however only make an appointment if it is assured that guardianship or administration is necessary and that the nominated person will act in the best interests of your family member.

What authority do I have as a parent to make decisions on behalf of my adult disabled child?

Legally parents do not have any rights to make decisions on behalf of their disabled child who is over 18 years old. Parents however usually provide consent to medical treatment if their child is not married.

With regard to banks and other financial institutions the Trust recommends that parents find out if they are required to be appointed administrator to manage their child's financial affairs.

Can my disabled family member make a Will?

Yes, if he or she has Testamentary Capacity i.e. he or she is able to give instructions to a Will maker and understand the implications of those instructions.

Recent changes to the Wills Act in WA also now allow for a plenary guardian or administrator to make an application to the Supreme Court for an order that will allow them to make, amend or revoke a Will on behalf of a person who lacks testamentary capacity.

Can my adult child with an intellectual disability make an Enduring Power of Attorney so that someone can manage their financial affairs?

If your adult child has the capacity to understand the basic meaning of an Enduring Power of Attorney and the implications of that in relation to someone making decisions about their financial affairs then yes, they may be able make an EPA. A capacity assessment by a medical practitioner is recommended.