

SPECIAL DISABILITY TRUSTS – SET UP NOW OR LATER?

Special Disability Trusts can be established in your lifetime or by your Will after death.

There are advantages and disadvantages for both options but armed with the right knowledge, you can make good Estate Planning decisions for the future.

If you would like advice as to whether to set-up an SDT now, or have it built into your Will, contact us to arrange an appointment.

Call: 9077 7731

OR

Email:

reception@duncanlegal.com.au

NEW GUARDIANSHIP & ADMINISTRATION LAWS – CLOSING A GAP?

The new *Guardianship and Administration Act 2019* (Vic) has been passed through Parliament and will come into effect on **1 March 2020**.

Historically there has been a gap in the coverage of the law to support persons who have an intellectual or cognitive disability that impairs independent decision making. As a generalised rule of thumb, persons with an IQ below approximately 65-70 have not been able to take advantage of the *Powers of Attorney Act 2014* Supportive Attorney Laws because they do not possess sufficient mental capacity to instruct a lawyer or understand the concept of a Supportive Attorney properly. The only remaining option for these people was the appointment by VCAT of a substitute decision maker, in the form of a Guardian or Administrator, and only where need was demonstrated.

The new Act allows VCAT to appoint a “supportive administrator” (for financial matters) and a “supportive guardian” (for personal matters). The main difference is that VCAT makes the supportive appointment rather than the represented person themselves. This overcomes the difficulties of the represented person having to both understand and communicate an understanding what a Supportive Attorney appointment is all about to a lawyer.

Supportive Administrators and Supportive Guardians can be given much the same powers as those available to Supportive Attorneys under the 2014 *Powers of Attorney Act*, including: power to access information relevant to a supported decision, communicate or assist the represented person to communicate a decision, and/or assist the represented person to implement their decisions (including investment decisions and dealings with land of significant personal property).

It is to be hoped that the new provisions of the Act go some way to closing this gap, to give lower functioning intellectually disabled persons more scope to participate in their own decision making and control over their own affairs, with greater support.

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WINTER WARMER OFFER

Winter is a great time to pour a cuppa and start a conversation about your Will. Do you have one? If you do, when was the last time you looked at it? Does it cater for your beneficiaries adequately?

Duncan.Legal is a relaxed and cosy environment in which to explore your Estate Planning options.

Place your Estate Planning business with Duncan.Legal by **15 August 2019** & receive a **15% discount** on professional costs (T's & C's apply).

Terms & Conditions – to be eligible for this offer Duncan.Legal must receive a signed Costs Agreement, together with payment of funds into Trust and a copy of this newsletter by close of business August 15, 2019. The 15% discount does not apply to disbursements or GST. Additionally this offer does not apply to matters in which Costs Agreements have already been signed.

MELBOURNE INNER EAST SPECIAL OLYMPICS FUNDRAISER

On June 21, Duncan.Legal attended the Annual Fundraising Dinner for the Melbourne Inner East Special Olympics Club.

We provided a Gift Certificate to the value of \$550 to enable an athlete with intellectual disability make a Supportive Attorney appointment.

A fabulous evening of food & fun that, along with a number of generous donors, raised over \$19,500 to support athletes with intellectual disability actively participate in regular sports training & competition.

The available sports include Basketball, Ten Pin Bowling, Swimming, Athletics, Bocce, Snow sports, Tennis and Gymnastics. To learn more follow the Special Olympics Melbourne Inner Facebok page or check the website:

www.specialolympics.com.au

DIGITAL SIGNATURES AND ESTATE PLANNING

We are often asked about Wills being signed 'remotely' or digitally rather than making an appointment to sign their documents in person.

Digital signatures are an advanced and secure type of electronic signature. They can be used to comply with most legal and regulatory requirements because they provide a level of assurance about a signer's identity and the authenticity of the documents they sign.

However, this is not the case currently with Estate Planning laws. EP laws are lagging behind digital signature technology and all Will and Power of Attorney documents must still be hand signed in the presence of 2 witnesses.

The common school of thought is that this will change in the future, but due to the powerful nature of some Estate Planning documents, further development of this technology is required to ensure the authenticity & reliability of the digital signature.

ABOUT US

Duncan.Legal is a small law firm based in Surrey Hills. We offer personalised, caring service with an interest in assisting families with disability. Each of us are parents of children with autism and bring our life experience to our work.

We operate from a home office in the eastern suburbs in a quiet back street. There is easy access with all day parking (no permits or tickets required), or we are a short walk from Tram Route 109, stop 50. Our meeting room can seat up to 12 people, so family conferences can be accommodated.

We invite you to consider Duncan.Legal when you need advice with your Estate Planning.

Duncan.Legal

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