

SUPPORTED DECISION
MAKING

If someone you care for could benefit from assistance with supported decision-making, please get in touch.

We can provide you with further information, including simplified material with which to start a discussion with the person who may be assisted by supported decision-making.

Call: 9077 7731
OR
Email:
reception@duncanlegal.com.au

SUPPORTED DECISION MAKING

Every person has the right to make their own decisions. For persons with cognitive disability this right extends to receiving whatever support is needed to assist this process.

A variety of newly enacted laws in Victoria recognise the right to receive decision making support for decisions with legal consequences. The legal framework now exists for an adult person with a cognitive disability to appoint a trusted person to the role of supporting their decision making.

Legally recognised roles for decision supporters include:

- 1. Supportive Attorney** (personal & financial) is appointed by a person to support them to make and act on their decisions. The scope of Supportive Attorney is for support with personal and financial decisions.
- 2. Support Person** (medical) is appointed by a person to help them make, communicate and act of their medical decisions. This appointment may also be made by a minor (under 18 years of age) who has decision making capacity. The scope of Support Person is for support with medical decisions only.
- 3. Nominated Person** (mental health) is appointed by a person who is receiving mental health services, to represent their best interests in the event that they become a patient under the Mental Health Act. This includes receiving information and being one of the people consulted about the patient's treatment in accordance with the Act.
- 4. Plan Nominee** (NDIS) is appointed by an NDIS participant to act on their behalf. A Plan Nominee has a duty to ascertain the wishes of the participant and act in a manner that promotes the personal social & wellbeing of that person.
- 5. Supportive Guardian*** (personal) is appointed by VCAT with the Principal's consent, to provide support with personal decision-making.
- 6. Supportive Administrator*** (financial) is appointed by VCAT with the Principal's consent, to provide support with financial decision-making.



“Supported decision-making evolves our understanding and appreciation of everyone’s human right to exercise their maximum autonomy.”

(Colleen Pearce, Public Advocate)

The appointment of persons to these roles may depend upon the Principal’s level of mental capacity.

*Supportive Guardian & Support Administrator roles are applicable where a Principal has more limited decision making capacity. These laws come into effect on 1 March 2020.

Appointing persons to support decision making both empowers and assists persons with cognitive disability to navigate their way in a complicated world, and sort out problems that may arise. As an appointed person, privacy barriers that would otherwise preclude you from participating in discussion about the Principal’s affairs are bypassed.

Special Disability Trust Update:

The new Asset Exemption Limit is **\$681,750** (current to 30 June 2020) up from \$669,750.

MISSED A NEWSLETTER?

This is our 7th Newsletter! In earlier issues we’ve discussed topics including: Estate Planning for Families with Disability, Superannuation Beneficiary Nominations, Supportive Attorney, Executor Appointments and New Guardianship & Administration Laws.

*If you’ve missed any previous newsletters, head to the Duncan.Legal website: www.duncanlegal.com.au & click on the ‘**Newsletter**’ button. Happy Reading!*

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. Over half of all our clients have disability in their family.

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



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