

PROVIDING FOR A PERSON WITH A DISABILITY IN YOUR WILL

A will is a legal document that contains your instructions for the distribution of your wealth when you die.

When you have a loved one with an intellectual impairment, it's particularly important to prepare a will that specifically provides for their needs for their lifetime. You may need to ensure their assets are managed and protected in a way that minimizes any impact on their pension and eligibility for public housing. You may also wish to secure their accommodation and support needs and make sure they have an ongoing opportunity to have a good life, including going on holidays, having a social life and pursuing the hobbies that they enjoy.

Things to consider/questions to ask when making your will

- **How to divide your estate.** If you have a number of beneficiaries, it may be appropriate to leave a greater share of your estate to your son or daughter with a disability because their need is likely to be greater than other family members. In some families, an equal share between children will be appropriate. Consulting with a legal professional and regularly reviewing your will is extremely useful when making these decisions.
- **Consider whether you will need to appoint a testamentary guardian.** A testamentary guardian has the formal authority to make decisions on issues such as schooling and health care for children of the will maker. This is necessary if any of your beneficiaries are under 18.
- **Consider a testamentary trust.** If your beneficiary can't manage their finances, you can leave their share of your estate to them on trust. It is important to choose a trustee who will manage the trust for your beneficiary in a responsible way that maintains the value of the trust assets and also ensures that they are used to ensure your loved one has a good life.
- **Does your family member rely on any means tested entitlements?** If so, you may be able to set up a Special Disability Trust on their behalf, so their inheritance will not compromise their eligibility for Centrelink and/or public housing. This is something you should talk to your advisor or solicitor about.
- **Prepare a memorandum of wishes.** You can include a statement of your wishes for your family member with your will, these wishes will not be legally binding but they will guide the trustee/s when making decisions.
- **Do you have a mix of assets?** Assets held in trusts and owned by companies, superannuation benefits and assets held in joint names will not automatically form part of your estate. You should talk to your advisor/solicitor about how to pass these assets to your beneficiaries when you die.

To find out more about setting up your will, call Disability Law Queensland on 3622 1250.