



An Australian Government Initiative

Information for Carers

Legal Arrangements

Carers are usually family members or friends who provide support to children or adults who have a disability, mental illness, chronic condition or who are frail aged. Carers may be parents, partners, brothers, sisters, friends or children of any age.

Carers may care for a few hours a week or all day every day. Some carers are eligible for government benefits, while others are employed or have a private income.

There are a number of legal arrangements that may help you plan for the future and put your affairs in order. You may also have responsibility for the legal or financial affairs of the person you care for. What can be done to plan for the future of the person you care for will depend on their abilities, views and age – every situation will be different.

Why should I bother to plan ahead?

Making legal arrangements can sometimes seem daunting – there are a lot of complex legal terms that need to be understood. Laws can be different in each state and territory, so you may hear about the different experiences of other carers, which may add to the confusion. Some carers find it difficult to plan ahead – planning for illness and death may seem morbid, or to be inviting bad luck. When you are already busy with the many demands of caring it may seem like a lot of extra work.

It's worth it though. Once arrangements are made you can stop worrying and have some sense of security and peace of mind about the future. It may help you avoid difficult situations,

especially at times of crisis or emergency.

Planning ahead may provide some sense of security and peace of mind about the future for both you and for the person you care for. If possible it is best to get organised early in your caring experience before the need becomes urgent.

Commonwealth Carer Resource Centres can help you plan ahead. Contact your Commonwealth Carer Resource Centre on 1800 242 636*.

What's the best way for me to plan ahead?

Deciding where your assets should go after you die is important, especially if the person you care for is financially dependent on you. This is sometimes known as estate planning. Two

ways that people use to plan ahead are by making a will and by creating a trust.

Wills

A will is a legal document that enables you to exercise your right to select the people or organisations you want to inherit your estate. If you die without a will your assets will be divided according to a formula set out in government legislation. You can make your own will, but you must make sure it is very clear or there is a risk your wishes won't be carried out.

Make sure you keep your will up to date and someone you trust knows where the will is kept.

Creating a Trust

A trust is an alternative to leaving property or money outright to the person you care for. The person you care for owns the property or money, but it is looked after by someone else called the trustee. This may be a useful choice where the person you care for is, or will be, unable to manage their financial and legal affairs. Always get professional advice when creating a trust.

Who can help me?

- **Your local community legal centre**
- **Legal aid**
- **Solicitor**
- **Law society or institute**

Managing someone's finances

You may have to look after the finances of the person you care for if they are unable to manage themselves. There are some legal arrangements that may help you do this, but it will depend on your individual situation.

Power of Attorney

A Power of Attorney gives a person nominated by you the power to act on your behalf on financial matters if you need them to. This can be for all financial matters or just for some. This arrangement can mean that essential matters are attended to by a trusted person at the right time. A Power of Attorney may be cancelled at any time

as long as you are of sound mind.

If the person you care for is able to understand what it means to give a Power of Attorney they may wish to appoint you. This would enable you to do specified things such as managing their bank account or paying bills. For example, if the person you care for has lost the ability to sign documents through loss of vision or problems with their hands, a Power of Attorney may enable you to help manage their affairs.

Enduring Power of Attorney

A Power of Attorney is only valid while the person who gives it is of sound mind. An Enduring Power of Attorney enables you to continue managing their affairs even if they are not able to understand the

implications. However, the Enduring Power of Attorney can only be given while the person is able to understand what they are doing.

It's a good idea to make an Enduring Power of Attorney for yourself, so that if anything happens to you someone you trust can make arrangements for you and for the person you care for.

'It's hard to read into the future. I really live from day to day dealing with my husband's Alzheimer's, diabetes and heart condition'.

Guardians and Administrators

Each state and territory has a guardianship board or tribunal, which can appoint a guardian or administrator for an adult who is not able to make decisions for themselves. A guardian is able to make lifestyle

decisions such as where a person should live. An administrator is responsible for the person's finances. The guardianship board or tribunal then supervises the management of the person's affairs.

If there are problems dealing with the affairs of the person you care for, or there is conflict in the family about the person's best interests, you may wish to find out whether an application for guardianship should be considered.

In some states and territories other formal arrangements are available, including Medical Guardianship and Enduring Power of Medical Guardianship.

Who can help me?

- Your local community legal centre.
- Legal aid.
- Guardianship board or tribunal.

- Law society or institute.
- Solicitor.

In some states or territories fees may apply.

Legal recognition of relationships

The law does not recognise all relationships. Unfortunately sometimes this only becomes known when one person in the relationship becomes incapacitated or dies. The failure to legally recognise a relationship can affect a number of areas including ownership of joint property, joint bank accounts, medical decision making and superannuation benefits. If you are unsure about the legal recognition of your relationship with the person you care for seek legal advice.

Legal aid

Legal aid is a term used to describe a range of services for people who are unable to afford the cost of the services they need to resolve a legal problem. Legal aid services may include advice, information, representation and negotiation. Your local community legal centre can give you advice about legal aid.

'Don't be afraid or too proud to ask for help. Discuss problems with qualified people'

Benefiting from a will

If you care for someone you may assume you will receive something in their will after their death, especially if you are their partner or next of kin. The best way to be sure of this is to talk openly with the person you care for, if this is possible. If you are

concerned about aspects of someone's will seek legal advice.

When the person you care for dies

Some carers need advice and financial assistance in the immediate period after the death of the person they cared for. Centrelink social workers can provide advice about any entitlements you may have during this period, or contact your Commonwealth Carer Resource Centre on 1800 242 636*.

Things to discuss with your family and friends

- Do you have a will?
- Is this will current?
- Where is the will kept?
- Are there copies of the will?

- Who are the executors of the will?
- Does someone know where your important documents are kept?
- Does someone know the details of legal arrangements you have made with the person you care for?
- Who will take over your caring responsibilities in an emergency?

Remember that important documents include birth and marriage certificates, property deeds or lease agreements, insurance policies and details of bank accounts and other investments or debts. These should be kept together in a secure place.

An emergency care plan can be an important part of planning ahead. You can use an emergency care plan to make alternative arrangements for the person you care for. This may help you

stop worrying about what would happen if you had an accident or suddenly became ill.

Emergency Care Kits are available as part of the Carer Information Pack. The kits contain emergency contact cards for you to carry in your purse or wallet, and instructions and forms for making an emergency care plan.

It may be possible to insure yourself against illness and injury in your caring role. Contact an insurance agent for more information.

Organisations which help you plan ahead are:

- **Commonwealth Carer Resource Centres
1800 242 636***
- **Kids Helpline
1800 551 800***
- **Veterans' Affairs Network (VAN)
1300 551 918#**
- **Aged and Community Care Information Line
1800 500 853***

Where can I get more information?

There is a lot more information for carers available on a range of topics. Commonwealth Carer Resource Centres in each state and territory provide carers with referral to services and practical written information to support them in their caring role.

Contact your Commonwealth Carer Resource Centre on 1800 242 636*.

Alternatively, carers may use the services provided by the carer association in each state or territory.

The Translating and Interpreting Service (TIS) can help you if you need assistance with a language other than English. TIS can be contacted on 13 14 50#.

*Free call from local phones, mobile calls at mobile rates

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