

## When a parent is not a parent any more!

If you are the legal parent/s of a family member who is unable by reason of their disability to make reasonable judgements in respect of all or any matters concerning their personal circumstances and/or estate.... You need to continue to be so! Whereas the law says, once your family member becomes legally an adult, your parental powers cease!

Some of the practical effects of not being a legal parent of the person with the said degree of intellectual disability can be:- That you are restricted from operating your member's bank accounts, health funds, etc. You suddenly find you have no right to access their medical/health reports. You are denied access to Day Centre and Group Home activity reports. Etc, etc.

Suddenly, a person with no ability to do things for themselves, is legally cut off from the people who are generally the most caring and responsible people they will ever have - Parents! Naturally, this includes other family members! But parents are the ones who had the legal right to act, prior to their family member becoming an adult legally.

Regaining the right to legally act (continue to be a parent) on behalf of your family member who is, "unable by reason of their disability to make reasonable judgements in respect of all or any matters concerning their personal circumstances and/or estate", is to obtain Guardianship from VCAT (the "Victorian Civil and Administrative Tribunal").

There are two levels of Guardianship, "Limited" and "Plenary". "Limited" is generally for short term special events. "Plenary" is "Whole of Life" Guardianship..... Like, continuing to be a full parent!

Where our family member is unable by reason of their disability to make reasonable judgements in respect of all or any matters concerning their personal circumstances and/or estate, we need "Plenary Guardianship"! We consider the, "Responsible Person" legislation is not good enough for a family member with the said level of intellectual disability!

Plenary guardianship can be difficult to obtain, as the guardianship legislation (the "Guardianship and Administration Act 1986) attempts to protect the vulnerable person from over regulation by families and others. The legislation

directs the "Tribunal" (VCAT) to ask basic questions.... The Tribunal has to satisfy itself that, (a) the person has a disability, (b) the person is unable by reason of the disability to make reasonable judgements in respect of all or any matters relating to her or his person or circumstances and, (c) **the person needs a guardian.**

It is the third question which is the stumbling block to obtaining plenary guardianship, because the legislation attempts to protect the vulnerable person from over regulation by a guardian. This is through a section of the legislation which directs the Tribunal to ask if the person's needs can be met by other means less restrictive than guardianship. We don't consider plenary guardianship is restrictive in the hands of caring parents/families. Caring parents/families use plenary guardianship as a support to ensuring quality of life care for their vulnerable family member.

Those of us who have an adult family member who is unable by reason of their disability to make reasonable judgements in respect of all or any matters concerning their personal circumstances and/or estate, know very well that they really do need caring parents or other family members who have the legal power to provide the degree of care provision and monitoring their family member needs in a world where the vulnerable are easily exploited.

Rather than concentrating on question (c), Section 22(c) of the legislation, in relation to protecting the vulnerable person from over regulation, we consider the Tribunal should place more emphasis on the on-going eligibility and credibility of those seeking guardianship of a vulnerable person. Of course a person with the said degree of intellectual disability needs a plenary guardian, but they need one with very high moral and ethical standards.

In conclusion: If you feel you need to continue to be a legal parent when your family member becomes an adult, go for "Plenary Guardianship"!

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**above. We recommend the Guardianship and Administration Act 1986, consulting OPA and VCAT, and consulting with your solicitor if intending to pursue guardianship.**