



Financial and legal planning for people living with MS, family members and carers

No-one knows what the future holds but by planning ahead you can ensure that your affairs and the welfare of your family are taken care of in advance.

Why is it important to plan ahead?

The future is often unpredictable. Planning ahead enables individuals to maintain control over their affairs (and the welfare of their dependent families) if they are no longer present or unable to make informed decisions due to illness or injury. As such, there are several legal and financial arrangements that are important for everyone to consider. Many of these arrangements will involve consultation with qualified legal and financial advisers. It is crucial that these advisers understand your individual needs and circumstances. We've provided some additional contacts towards the end of this fact sheet to help you source relevant support.

FINANCIAL PLANNING

What financial arrangements do I need to consider?

Many individuals and families don't have access to quality financial advice at a time when they most need it, and because of their health and financial circumstances, cannot afford to pay for it.

People who need advice are typically currently confronting a serious event or illness that creates a clear need for assistance.

How can a financial adviser help you?

Financial advice will provide you with information such as how to access financial support, Centrelink payments, superannuation and insurance benefits.

A series of appointments with a financial adviser will help you develop:

- a budget and ensuring a regular cash flow
- a plan for financial security
- investment strategies such as for lump sum insurance payouts

The Pro-Bono Financial Advice Network (PFAN)

You may already have the services of a trusted financial adviser in place. If not, the MS organisations in Australia have established a partnership with the Pro-Bono Financial Advice Network to assist you.

How does the Pro-Bono Financial Advice Network (PFAN) work?

The Pro-Bono Financial Advice Network puts you in contact with financial advisers willing to provide pro bono (free) advice in line with best practice requirements.

Who is eligible?

Individuals who have been referred by an MS organisation who don't have access to quality advice at a time when they most need it.

What types of matters are covered?

Estate planning and powers of attorney; Life and Trauma insurance; Income Protection; Income streams; Annuities; Government pensions; pension Investment; Directed shares; Managed investments; Retirement planning; Succession planning; Superannuation; Self-Managed Super Funds; Old Policies; Whole of Life policies; Endowment Policies; Bonds.

How will the advice be provided?

The service can be provided via your preferred communication channel: over the phone, video conferencing and/or face to face meeting in the office or at home.

(Contact and application details for the Pro-Bono Financial Advice Network can be found on page 4 of this fact sheet.)

Superannuation, death and disability insurance

- If you are working or have been employed, check the benefits statements which are sent out by your super fund every year.
- If you have a choice of super funds, it's important to check the disability and death insurance cover when deciding which fund to join.

Most superannuation policies include death and disability insurance and other benefits, but not all. These may include disability benefits such as Total and Permanent Disability (TPD) lump sums or disability pensions or both. There are usually insurance benefits which “top up” the contributions in your fund if you have to stop work.

Under some insurance funds, you can lose your right to claim some disability benefits, if your employment is terminated for reasons other than disability.

It is very important to get good advice before resigning or leaving work!

If you stop work because you have resigned or because you have been made redundant, it can make disability claims harder to negotiate. Your rights of appeal can also be affected.

The [Chronic Illness Alliance](http://www.chronicillness.org.au) website provides a range of detailed information about superannuation and insurance, please visit:

<http://www.chronicillness.org.au/workwelfarewills/superannuation-and-insurance/superannuation-disability-benefits/>

LEGAL PLANNING

What legal arrangements do I need to consider?

Legal will

It's important that everyone has an up-to-date will that has been developed with the assistance of a lawyer. If you do not have a will, when you pass away your assets will be distributed in the way that the law determines in the state you live or where your assets are. This may not be how you wish your assets to be distributed or managed.

A will allows you the security of knowing that your hopes and wishes for the future support and care of your family will be carried out, especially when there are dependants involved.

Advance health care directives

Advance health care directives (or 'living wills') document your preferences for medical care and treatment, to apply in any future situation where you are unable to communicate or make your own decisions. The process and legal status of advance care directives can vary between states and territories. The Advance Care Planning website listed on page 5 provides state-specific information about this. (See also our related information sheet, *Planning for Future Care and End of Life.*)

Enduring power of attorney

This is an important document that everyone should consider making. It is a way for you to appoint another person or organisation (your attorney) to manage your financial and legal affairs if you become unable to do so because of illness or accident. You will need to decide on a suitable person to be your attorney (for instance, a family member, trusted friend or adviser).

An 'enduring power of attorney' (EPA) is different from a normal 'power of attorney' in that it continues to operate even if you have lost the capacity to make your own decisions.

Importantly, though, when signing an EPA, you must be competent and capable of doing so, and a qualified person, such as a lawyer (which may differ in each state/territory), must witness the document.

Medical power of attorney

Medical decision-making laws changed on 12 March 2018 when the *Medical Treatment Planning and Decisions Act 2016* commenced.

A person can now appoint a medical treatment decision maker with authority to make medical treatment decisions. A person no longer makes a medical enduring power of attorney to do this.

A medical enduring power of attorney made before the law changed is recognised under the new Act. This means there is no need for legal documents made before 12 March 2018 to be redone.

Guardianship

State-based guardianship Tribunals or Offices of the Public Advocate operate to protect people with decision-making disabilities. They facilitate substitute decision-making in relation to the appointment of guardians and financial managers, or in relation to medical and dental consent, for people who do not have the capacity to make their own decisions.

These institutions can make guardianship orders to appoint a private guardian and/or the Public Guardian or Advocate when there is no other person suitable or able to be the guardian.

Considerations for family members and carers

While the information above is applicable to everyone, for those who have a family member with high support needs, there are a number of additional considerations to make such as, how the person you care for will be supported in the future if you are no longer able to provide the love, care and support they need. Most people with a disability can make their own decisions or contribute to decision-making about their needs; however, there are some who have a low level of control over their lives. As such, the Australian Government has developed an informative booklet, *Planning for the Future: people with disabilities* (see page 5), to assist people to find information and support to plan for the future wellbeing of a person who has high support needs.

The booklet includes:

- guidance and options on things to consider when planning for the future
- information about how to set up a trust
- information about how to obtain financial and legal advice.

Useful contacts

■ Contact details for your state MS organisations:

MS Limited (Victoria, NSW, ACT and Tasmania)	1800 042 138	msconnect@ms.org.au	www.ms.org.au
MSWA (Western Australia)	1300 097 989	communications@mswa.org.au	www.mswa.org.au
MS Society SA & NT (South Australia and Northern Territory)	1800 812 311	msassist@ms.asn.au	www.ms.asn.au
MS Queensland	1800 177 591	info@msqld.org.au	www.msqld.org.au

■ Pro Bono Financial Advice Network (PFAN)

The AFA (Association of Financial Advisers) is the custodian of The Pro Bono Financial Advice Network.

Telephone: 02 9267 4003

Email: probonoadvice@afa.asn.au

Website: www.afa.asn.au/pro-bono-financial-advice-network

How do I apply?

Complete and submit the online Application for Pro Bono Referral Form

www.afa.asn.au/pro-bono-financial-advice-network

■ Chronic Illness Alliance

The Chronic Illness Alliance website provides detailed information about superannuation and insurance:

<http://www.chronicillness.org.au/workwelfarewills/superannuation-and-insurance/superannuation-disability-benefits/>

■ Advance Care Planning

A national program that encourages people to consider their current and future health goals, values and beliefs:

<https://www.advancecareplanning.org.au/>

■ Planning for the Future: People with Disability Booklet

Part of an information package developed by the Australian Government to assist families planning for the future of their family member with disability.

<https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/general/planning-for-the-future-people-with-disability-booklet>

■ Financial Planning Association of Australia (FPA)

The FPA is the largest professional body representing financial planners in Australia. Read about financial planning and find a planner in your local area.

<https://fpa.com.au/>

■ Office of the Public Advocate

The office of the Public Advocate in each State and Territory promote the rights and interests of people who may need assistance with decision making.

STATE/TERRITORY	PUBLIC ADVOCATE WEB-SITE	PHONE
Australian Capital Territory	https://hrc.act.gov.au/public-advocate/	02 6205 2222
New South Wales	https://www.publicguardian.justice.nsw.gov.au/	02 9692 1533
Northern Territory	http://publicguardian.nt.gov.au/	1800 810 979
Queensland	https://www.justice.qld.gov.au/public-advocate	07 3738 9513
South Australia	http://www.opa.sa.gov.au/	1800 066 969
Tasmania	https://www.publicguardian.tas.gov.au/	03 6165 3444
Victoria	https://www.publicadvocate.vic.gov.au/	1300 309 337
Western Australia	https://www.publicadvocate.wa.gov.au/	1300 858 455

■ Public/State Trustees

The Public Trustee (or equivalent in each state and territory) is a self-funding statutory authority that reports to State/Territory Parliament through that State/Territory's Attorney-General. Services may include Will and Enduring Power of Attorney drafting, deceased estate administration, executor support, financial administration and trust management services.

STATE/TERRITORY	PUBLIC TRUSTEE WEB-SITE	PHONE
Australian Capital Territory	https://www.ptg.act.gov.au/	02 6207 9800
New South Wales	https://www.tag.nsw.gov.au/	1300 364 103
Northern Territory	https://nt.gov.au/law/processes/about-public-trustee	1800 517 223
Queensland	https://www.pt.qld.gov.au/	1300 360 044
South Australia	https://publictrustee.sa.gov.au/	1800 673 119
Tasmania	https://www.publictrustee.tas.gov.au/	1800 068 784
Victoria	https://www.statetrustees.com.au/	1300 138 672
Western Australia	https://www.publictrustee.wa.gov.au/	1300 746 116

Sources

This fact sheet comprises material from a range of sources, links to each are provided above.

Disclaimer: Information prepared by MS Australia. It is intended to provide useful and accurate information of a general nature and is not a substitute for medical advice.