

The other NDIS


Neutralising Disability

In SMSFs





Caroline Harley
Practice Manager
Commonwealth Private Office - CBA






Caroline Harley
BALLB Grad Dip Leg Prac LLM (Leg Prac) SSA™ TEP

Caroline is the Practice Manager of the Commonwealth Private Office at CBA, providing strategic and technical advice to Ultra High Net Worth individuals and families with investable assets of \$10 million or more



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Important information



The information in this presentation is general information only and cannot be relied upon as a substitute for professional advice

You should seek specific advice relevant to your own circumstances from appropriately qualified persons

Information is current as at 1 February 2019


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What do you think?
Q1



Commonwealth
Private

Poll
Question

Do you
currently provide services to
clients living with disability?

A

YES

NO

B

OR


C

Not that I'm aware of

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SMSE

What do you think?
Q2



Commonwealth
Private

Poll
Question

Do you think
it's likely you will provide services to
clients living with disability?

A

YES

NO

B

OR


C

I'm unsure

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SMSE

What do you think?
Q2



Commonwealth
Private

Poll
Question

Do you think
it's likely you will provide services to
clients living with disability?

A

YES

NO

B

OR

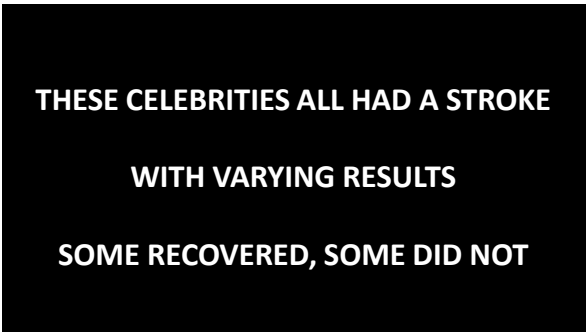
C

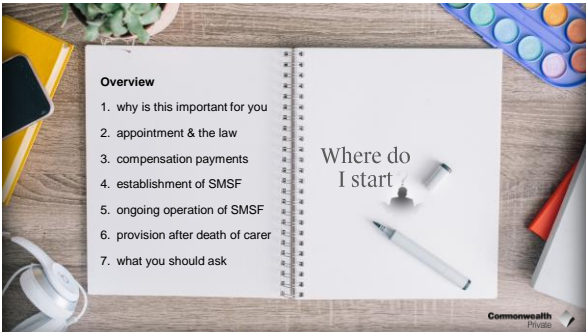
I'm unsure

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why is this important



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disability may occur in clients

- at birth
- due to accident or conditions at any time
- due to age related conditions

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everything carries risk *(just ask your lawyer)*


apparent odds of death

- from slipping in the bath 11,469 to 1
- from shaving 6,585 to 1
- from a car accident 5,000 to 1

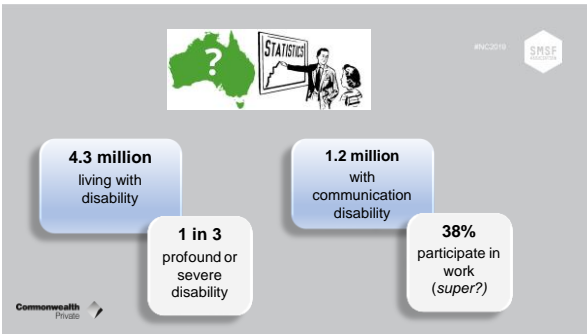


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appointment
and
the law



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Appointment Method

**Enduring
Power of Attorney**


- control over appointment
- certain of validity but not tested until often too late
- *wording matters*
- only reviewed if suspected mischief

**Administrator/
Financial Manager**

- no control over appointment
- may be specific tenure with reviews conducted
- *wording matters*
- more monitoring i.e. FMP or accounts review

**Document**


**Decision
(by Court or Tribunal)**




why does it matter


- legislation for SDM
- legislation for managing/investing money
- SMSFs operating under non-member control have higher need for document awareness


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Keys

may be impacted by


- rules from different institutions, agencies
- registration of EPOA

may include specific rules on


- SMSFs, trusts or company shares
- who can take control as trustee, director, unitholder or appointor



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compensation payments

Time is running out...



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personal injury payments


Structured settlements or ordered amounts may be excluded from the NCC/TBC/TSB if

1. injury payment is an eligible type
2. contribution is made within time
3. correct medical certification is obtained
4. notification is provided to the super fund


Someone needs to be the 'driver' !



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notifying the ATO

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Contributions for personal injury election form (NAT 1162)

- if you made a personal injury contribution on or after 1 July 2007
- SDM lodges form with Super fund before contribution
- super fund notifies ATO

Transfer balance event notification form (NAT 74919)

- if you made a personal injury contribution prior to 1 July 2007
- SDM/Agent lodges form with ATO





investing
compensation money
into superannuation

CONTROL



establishing a new SMSF

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establishing a new SMSF

- 1. can a person without capacity start an SMSF
- 2. can it be done via LPR/SDM
- 3. who is your client
- 4. how will they sign your engagement & other internal considerations



new SMSF continued...


- 5. assessment of needs – short term/long term
- 6. consideration of SDM and appointment method
- 7. ensuring documents are permissive
- 8. compensation payment – timeframe/eligibility window
- 9. money in/money out



ongoing SMSF operation





ongoing SMSF operation

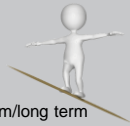


- 1. disability occurs for an existing SMSF member
- 2. who is your client – has it changed
- 3. changes to your engagement & other internal considerations

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ongoing operation continued...



- 4. assessment of needs – short term/long term
- 5. consideration of SDM- appointment method/expiry or review dates
- 6. ensuring documents are permissive
- 7. compensation payment – timeframe/eligibility window
- 8. money in/money out

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provision ...after the death of carers



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doing the heavy lifting now




what happens after death/incapacity of *carers/parents/ spouse*

- different SDM or new ball game - different players
- dependants (S/S Act) – grandparents/grandchildren

what is the longer term strategy

- accommodation
- likely changes to living expenses
- escalation in care, medication, progression/ likely deterioration


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the longevity question

- how is this changed by specific circumstances/conditions
- keeping in same position irrespective of changes
- accumulation/pension phase
- impact on disability benefits
- income stream rules



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non SMSF options

Special Disability Trusts

Set up during life or after death

- ☒ no transition period following death of carer
- ☒ understanding formality/ reporting now


Shut down – how to deal with left over cash

Testamentary Trusts


Set up after death only

- ☒ no complex reporting obligations while carer alive
- ☒ transition period experienced in set up after death

Shut down – can already be dealt with in Will




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SMSF



**OPTIONS FOR
BEYOND
THE CARERS LIFE**


- Testamentary Trusts
- Special Disability Trusts
- SMSFs
- Super Proceeds Trusts

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SMSF

what you need to ask



1. tell me about the condition/impact on life now and in future
2. can the person make decisions for themselves - if not, who makes decisions for them (SDM and back up plan)
3. how is the SDM appointed (get a copy)
4. is there a compensation payment – on it's way or already in the SMSF (TBC calculation)

Is *your* documentation ready for this client scenario

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SMSF

HOW FAR WILL YOU GO FOR YOUR CLIENT



THE CHICKEN IS **INVOLVED**, BUT THE PIG IS **COMMITTED**!

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Questions?



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Thank You

Caroline Harley

BA LLB GRAD DIP LEG PRAC LLM (LEG PRAC) SSA™ TEP

*Strategic Advice Specialist
& Practice Manager*

Commonwealth Private Office - CBA
