

# Private Manager's Plan

## About this form

Complete this form if you have been appointed to privately manage a person's finances.

Please complete all of sections A to G. Complete only relevant sections in Appendix A if you request a change to the managed person's estate. It is important that you complete all relevant sections.

Once completed, please return to your Client Service Team or mail to NSW Trustee & Guardian, Locked Bag 5115, Parramatta, NSW 2124.

## Section A - Personal information

Customer reference number	Surname	Given name(s)			
Other name/s	Date of birth	Occupation			
Language spoken at home	Is the managed person of Aboriginal or Torres Strait Islander origin?				
	<input type="checkbox"/> Yes, Aboriginal <input type="checkbox"/> Yes, Torres Strait Islander <input type="checkbox"/> No				
Current address					
		Postcode			
Home phone	Mobile	Email			
Type of disability					
<input type="checkbox"/> Age related	<input type="checkbox"/> Dementia	<input type="checkbox"/> Intellectual	<input type="checkbox"/> Physical	<input type="checkbox"/> Brain injury	<input type="checkbox"/> Mental health
<input type="checkbox"/> Stroke	Other, please specify:				
Does the managed person have a Will? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure. If yes, please attach a copy.					

## Details of private manager(s)

Surname	Given name	Relationship
Current address		
		Postcode
Home phone	Mobile	Email

Surname	Given name	Relationship
Current address		
		Postcode
Home phone	Mobile	Email

If there are more than two private managers, please list details on a separate sheet.

## Details of family and other significant people

A private manager must consult with the managed person and all significant people in their life regarding the management of their estate. Please provide details of any family members, partners, parents, adult children, estranged family members and significant others.

Surname	Given name	Relationship
Address		
		Postcode
Home phone	Mobile	Email

Surname	Given name	Relationship
Address		
		Postcode
Home phone	Mobile	Email

Surname	Given name	Relationship
Current address		
		Postcode
Home phone	Mobile	Email

Surname	Given name	Relationship
Current address		
		Postcode
Home phone	Mobile	Email

Surname	Given name	Relationship
Current address		
		Postcode
Home phone	Mobile	Email

Surname	Given name	Relationship
Current address		
		Postcode
Home phone	Mobile	Email

## National Disability Insurance Scheme (NDIS)

Has the managed person been granted funding assistance under the National Disability Insurance Scheme (NDIS)	<input type="checkbox"/> Yes <input type="checkbox"/> No
If no, have you contacted the NDIS to assess eligibility?	<input type="checkbox"/> Yes <input type="checkbox"/> No

For further information about the NDIS contact 1800 800 110 or visit [www.ndis.gov.au](http://www.ndis.gov.au)

## Section B - What the managed person owns (assets)

This section gathers information about the managed person's assets.

### Real estate

Address	Ownership <i>Sole/joint tenant / tenants in common</i>	Occupancy <i>Managed person/ tenant /vacant</i>	Value \$
			\$
			\$
			\$

### Bank accounts (including term deposits)

Name of financial institution	Ownership <i>Sole/joint</i>	BSB	Account number	Amount <i>Specify managed person's share</i>
				\$
				\$
				\$
				\$
				\$

### Investments (including superannuation, shares, managed funds, debts due to managed person)

Type	Ownership <i>Sole/joint</i>	Description	Units	Amount <i>Specify managed person's share</i>
				\$
				\$
				\$
				\$

### Motor vehicles (including cars, boats, caravans, trailers, and motorbikes)

Type	Model	Year	Ownership <i>Sole/joint</i>	Value <i>Specify managed person's share</i>
				\$
				\$
				\$

### Accommodation bond

Facility name	Date of entry	Paid / unpaid	Amount
			\$

If the accommodation bond has not been paid, please complete Appendix A – section Q.

## Section C - What the managed person owes (debts and liabilities)

Please include all debts and liabilities such as mortgages, loans, and credit cards.

Lender	Type	Term	Amount
			\$
			\$
			\$
			\$
			\$

## Section D - Forecast income and expenditure

Ongoing income and expenditure are funds that are received or spent for regular daily expenses and services. For example, food, accommodation, and entertainment.

### Forecast ongoing income for next twelve months

Income	Annual amount
Pensions (Centrelink, DVA, foreign)	\$
Investments (interest, dividends, managed funds, trust distributions)	\$
Superannuation	\$
Rental income (investment property)	\$
Salary and wages	\$
NDIS funding (include the full package amount)	\$

### Forecast ongoing expenditure for next twelve months

Expenditure	Annual amount
Accommodation (mortgage, rent, fees)	\$
Personal living expenses (groceries, entertainment, transport, medical)	\$
Property expenses (rates, taxes, insurance, maintenance)	\$
Utilities (electricity, gas, water, phone)	\$
Debt repayments (credit cards, loans)	\$
Professional services (accountants, legal, financial planning)	\$
Remuneration (See Appendix A – section P)	\$

## Section E - One-off receipts and expenditure

### One-off receipts

One-off receipts are funds received from a single event. For example, proceeds from the sale of real estate or other asset, a court award, settlement, or inheritance. Relevant sections of Appendix A may require completion.

Event	Anticipated/ proposed/ completed	Amount
		\$
		\$
		\$
		\$
		\$

### One-off expenditure

One-off expenditure are expenses paid from a single event. For example, purchase of real estate or a motor vehicle, renovations, an accommodation bond, legal costs or holidays. Relevant sections of Appendix A may require completion.

Event	Anticipated/ proposed/ completed	Amount
		\$
		\$

		\$
		\$
		\$

## Section F - Consultation

Have you consulted with the managed person on this management plan, if applicable? Please refer to section 39 of the <i>NSW Trustee and Guardian Act 2009</i> in Appendix B.	<input type="checkbox"/> Yes <input type="checkbox"/> No
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## Section G - Private manager checklist

I acknowledge that I must seek approval from NSW Trustee & Guardian prior to making changes to the managed person's estate.	<input type="checkbox"/>
I acknowledge that I am required to retain all documentation relating to the management of the estate, and that NSW Trustee & Guardian may request any documents from me under section 116 of the <i>NSW Trustee and Guardian Act 2009</i> (Appendix B).	<input type="checkbox"/>
I acknowledge that I am required to lodge annual accounts for the management of the estate.	<input type="checkbox"/>
I acknowledge that I must not dispose of estate property which is the subject of a specific testamentary gift in the managed person's Will without the prior written approval of NSW Trustee & Guardian.	<input type="checkbox"/>
I acknowledge that I am not authorised to make a gift or loan from the managed person's estate without consulting NSW Trustee & Guardian first.	<input type="checkbox"/>
I acknowledge that I am not authorised to invest the managed person's estate in a trust environment	<input type="checkbox"/>
For example, a family or discretionary trust.	<input type="checkbox"/>
I acknowledge that any information provided, including in this form, is true and correct to the best of my knowledge and ability.	<input type="checkbox"/>

Private manager's signature \_\_\_\_\_ Date \_\_\_\_\_

Private manager's signature \_\_\_\_\_ Date \_\_\_\_\_

Private manager's signature \_\_\_\_\_ Date \_\_\_\_\_

## Appendix A - Proposed changes to the estate

If significant changes to the managed person's estate are being proposed, please complete the relevant section in Appendix A. For example, the purchase, sale or modification of real estate, or changes to carers, gifts, holidays, or investments.

Tick the boxes on the right and then complete the relevant sections.

Proposed change	Complete section	
Carers	<input type="checkbox"/>	A
Gifts	<input type="checkbox"/>	B
Holiday	<input type="checkbox"/>	C
Investment changes	<input type="checkbox"/>	D
Legal proceedings	<input type="checkbox"/>	E
Legal costs	<input type="checkbox"/>	F
Purchase of motor vehicle	<input type="checkbox"/>	G
Sale of motor vehicle	<input type="checkbox"/>	H
Past gratuitous care	<input type="checkbox"/>	I
Real estate – occupation of managed person's property	<input type="checkbox"/>	J
Real estate – lease of managed person's property	<input type="checkbox"/>	K
Real estate – purchase of property for managed person	<input type="checkbox"/>	L
Real estate – sale of managed person's property	<input type="checkbox"/>	M
Real estate – modifications/renovations to managed person's property	<input type="checkbox"/>	N
Reimbursement of expenses	<input type="checkbox"/>	O
Remuneration	<input type="checkbox"/>	P
Residential accommodation bond	<input type="checkbox"/>	Q
Miscellaneous	<input type="checkbox"/>	R

### Views of family and or other significant people

Please indicate the views of the managed person, family members, including estranged family, or interested persons. Please specify if they support or object to the proposed change.

Name	Relationship	View* <i>support/object</i>

\*Please obtain a copy of all views in writing for your records. You may be required to submit these at a later date.

If anyone disagrees with your proposal, they must include an alternative proposal. They must address how the proposal benefits the managed person, is in their best interests, and the affordability to the estate.

The private manager will need to consider the alternative proposal and submit a report with this form advising if they agree or disagree.

## A Carers

Please note, private care is not funded by the NDIS or home care package. Nursing home fees are also excluded.

Does the managed person require the hire of carers?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the managed person reside in a nursing home or residential accommodation? If yes, why is extra care required?	<input type="checkbox"/> Yes <input type="checkbox"/> No
What is the proposed annual cost for the carers? Please provide a quote or invoice.	\$
Can the estate afford the cost?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are the carers qualified to provide the required care services?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are the carers hired through a professional agency?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, have you obtained advice from a solicitor or accountant?	<input type="checkbox"/> Yes <input type="checkbox"/> No

## B Gifts

Please only include seasonal gifts such as Christmas, weddings, and birthday gifts. For other gifts, such as large donations, please contact your Client Service Team to discuss. Please note gifts listed must fall under section 76 of the *NSW Trustee and Guardian Act 2009* - . See Appendix B.

What is the gift? For example, money, present.		\$
What is the occasion? For example, Christmas, birthday.		<input type="checkbox"/> Yes <input type="checkbox"/> No
Can the estate afford the gift?		<input type="checkbox"/> Yes <input type="checkbox"/> No
Has the managed person made similar gifts in the past?		<input type="checkbox"/> Yes <input type="checkbox"/> No
Will the gift be made regularly? If yes, how often:		<input type="checkbox"/> Yes <input type="checkbox"/> No

## C Holidays

What is the total cost of the proposed holiday?	\$
Can the estate afford the holiday?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have travel quotes been obtained? If yes, please attach a copy.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will travel insurance be obtained?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you satisfied the costs are primarily for the managed person and or carer (if applicable)?	<input type="checkbox"/> Yes <input type="checkbox"/> No

## D Investment changes

Please briefly outline the proposed investment changes:			
What is the amount of funds to be invested?			\$
Does the investment plan comply with section 14C of the <i>Trustee Act 1925</i> ? See Appendix B - Section C.			<input type="checkbox"/> Yes <input type="checkbox"/> No
Are estate funds to be invested:			<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> overseas	<input type="checkbox"/> in a business	<input type="checkbox"/> in a speculative investment for example, a racehorse	<input type="checkbox"/> in a trust, for example family or discretionary
If the investment portfolio is over \$100,000, has a Statement of Advice been obtained from a licenced financial advisor? If yes, please attach a copy. Please note, a Statement of Advice is not required if funds are invested in term deposits below \$500,000. If no, please outline the reason why a Statement of Advice has not been obtained:			<input type="checkbox"/> Yes <input type="checkbox"/> No

## E Legal proceedings

Please briefly outline any pending or upcoming legal action:	
Were the proceedings in place before or after the financial management order?	<input type="checkbox"/> Before <input type="checkbox"/> After
Have you sought independent legal advice to commence, continue or defend the legal action? If yes, please attach a copy of the legal advice obtained. If no, please explain why you wish to continue with the proposed legal proceedings:	<input type="checkbox"/> Yes <input type="checkbox"/> No

## F Legal costs

What are the total estimated legal costs?	\$
Are these costs related to the legal action in Section E or other?	<input type="checkbox"/> Section E <input type="checkbox"/> Other
If other, please outline:	
Have you received a legal cost agreement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Can the estate afford the legal costs?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you satisfied that the legal costs are reasonable?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have the legal costs been included in the expenditure forecast?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is anything required from NSW Trustee & Guardian such as additional Directions and Authorities? If yes, please attach a copy of the solicitor recommendation.	<input type="checkbox"/> Yes <input type="checkbox"/> No

## G Purchase of new motor vehicle (including modifications)

What is the make and model of the motor vehicle?	
What is the cost of the motor vehicle?	\$
What is the cost of any required modifications?	\$ <input type="checkbox"/> N/A
Has a quote been obtained for the cost of the motor vehicle or modifications? If yes, please attach a copy.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Can the estate afford the purchase or modification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the motor vehicle suitable for the managed person's needs and will it be used exclusively for the managed person?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will another motor vehicle be traded in? If yes, what is the trade in amount?	<input type="checkbox"/> Yes <input type="checkbox"/> No \$
Will the motor vehicle be registered in the managed person's name?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will the motor vehicle be insured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will the estate be able to afford the ongoing running costs of the vehicle?	<input type="checkbox"/> Yes <input type="checkbox"/> No

## H Sale of motor vehicle

What is the make and model of the motor vehicle?	
What are the reasons for selling?	
What do you intend to do with funds from the sale?	
Have you obtained a valuation? If yes, please attach a copy.	<input type="checkbox"/> Yes <input type="checkbox"/> No
What is the proposed selling price?	\$
Is the vehicle listed in the Will?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not sure
Is the vehicle being sold to a family member?	<input type="checkbox"/> Yes <input type="checkbox"/> No

## I Past gratuitous care

What is the total cost of the past-care claim?	\$
What is the relationship of the person(s) making the claim?	
Are you satisfied that there is no conflict of interest in paying past gratuitous care?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Can the estate afford the costs?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you satisfied that the past gratuitous care services were supplied for the managed person as per the claim and approved Terms of Settlement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is this the final past gratuitous care claim on the estate?	<input type="checkbox"/> Yes <input type="checkbox"/> No

It is important that you attach a copy of the following supporting documentation for past gratuitous care to be considered:

1. Schedule of damages.
2. Calculation of the total amount.
3. Terms of settlement.
4. Judgement order.
5. Confirmation in writing from claimant that this will be the only claim.
6. Evidence the claimant provided care at their economic loss.
7. Centrelink medical clearance statement, including preclusion period.
8. Any past experience or reimbursement claim pending.
9. Statement of Advice including report on life expectancy.
10. Statement of Particulars.

## J Real estate – occupation of managed person’s property

Do not complete this section if the occupant is a joint owner of the property.

Who will occupy the property?	
What is the relationship of the occupant to the managed person?	
What will be the terms of the occupancy?	<input type="checkbox"/> Market rent <input type="checkbox"/> Reduced rent <input type="checkbox"/> Rent-free
If reduced rent or rent-free is proposed, please outline reasons why:	
Has a real estate agent rental appraisal been sought? If yes, please attach a copy.	<input type="checkbox"/> Yes <input type="checkbox"/> No
What is the recommended weekly market rent as per real estate agent rental appraisal?	\$

How long is the occupational proposal intended to stay in place?	
Who will be responsible for the property outgoing costs. That is, council and water rates, strata levies, insurance, maintenance, repairs and consumables?	
Have you considered the financial impact on the estate and an Centrelink entitlements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Can the estate afford the proposed occupancy?	<input type="checkbox"/> Yes <input type="checkbox"/> No

### K Real estate – lease of managed person’s property

Has an independent real estate agent rental appraisal been sought? If yes, please attach a copy.	<input type="checkbox"/> Yes <input type="checkbox"/> No
What is the recommended weekly market rent as per appraisal?	\$
What is the weekly rental amount you recommend?	\$
Is the rental amount you recommend above or below market value?	<input type="checkbox"/> Above <input type="checkbox"/> Below
If below, please outline your reasons why and how the proposed amount was established:	
Is leasing the property below market rent affordable to the estate?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are renovations required to bring the property to a rental state?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If renovations are required what is the cost as per the real estate agent appraisal? Please provide a copy of the quote.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you considered the financial impact on the estate and any Centrelink entitlements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will leasing the property contribute to other property costs? For example, rates and maintenance? If yes, please outline:	<input type="checkbox"/> Yes <input type="checkbox"/> No

### L Real estate – purchase of property for managed person

Please provide the full property address:			
			Postcode
What is the cost of the property, excluding associated costs?			\$
What is the total cost of associated costs?			\$
Are modifications required? If yes, what is the quoted amount?		<input type="checkbox"/> Yes <input type="checkbox"/> No	\$
Have you obtained a valuation of the property by a licenced valuer? If yes, please attach a copy.			<input type="checkbox"/> Yes <input type="checkbox"/> No
How will the purchase be funded?	<input type="checkbox"/> Mortgage	<input type="checkbox"/> Sale proceeds	<input type="checkbox"/> Investments <input type="checkbox"/> Other – please state:
What is the purpose of purchasing the property?		<input type="checkbox"/> Accommodate the managed person	<input type="checkbox"/> Investment property
Who will reside in the property?			
Have you considered the financial impact on the estate and any Centrelink entitlements?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Can the estate afford the purchase of the property?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Has an occupational therapist inspected the premises and advised that they meet the managed person’s needs? If no, please outline the reasons below:			<input type="checkbox"/> Yes <input type="checkbox"/> No

Have you obtained a building inspection? If yes, please attach a copy of the report. If no, please outline reasons why:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you received a pest inspection? If yes, please attach a copy of the report. If no, please outline reasons why:	<input type="checkbox"/> Yes <input type="checkbox"/> No

### M Real estate – sale of managed person’s property

Please list the address of the property to be sold:		
		Postcode
Please briefly outline reasons for proposing the sale:		
What is the proposed sale price, excluding associated costs?	\$	
What are the associated costs?	\$	
Have you obtained two real estate agent appraisals or one licensed valuation? If yes, please provide a copy.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
What is the recommended sale price?	Minimum \$	Maximum \$
Will the property be sold to a family member or friend? If yes, is the sale price consistent with the real estate agent valuation? If no, please provide further information:	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the property specifically left to an individual in the managed person’s Will? If yes, please outline why you continue to recommend the sale. Please attach a copy of the Will.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Have you considered the financial impact on the estate and any Centrelink entitlements?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Will the funds be used for the payment of a Residential Accommodation Bond? If yes, please complete Appendix A – section Q	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Will the funds be invested? If yes, please complete Appendix A – section D	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Will the funds be used to purchase another property? If yes, please complete Appendix A – section L	<input type="checkbox"/> Yes <input type="checkbox"/> No	

### N Real estate – modifications/renovations to managed person’s property

Please list the address of the property proposing to be modified:		
		Postcode
Briefly outline the work to be carried out:		
Please confirm that the work to be carried out is at a property owned by the managed person. If no, please outline your proposal in a separate letter.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Have you obtained a quote by a licensed builder or tradesperson? If yes, please attach a copy of at least two quotes.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Are you satisfied that the quotes are reasonable?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Please state the amounts quoted	Quote A \$	Quote B \$
Have all necessary local government approvals been obtained?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Will the work be conducted by a licensed builder or tradesperson?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Can the estate afford the modifications or renovations?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are the proposed modifications to accommodate:	<input type="checkbox"/> Yes <input type="checkbox"/> No
a) the managed person b) bring the property to a presentable state for sale or rental	<input type="checkbox"/> A <input type="checkbox"/> B
If A, please confirm that the proposed modification meets the needs of the managed person?	<input type="checkbox"/> Yes <input type="checkbox"/> No
How is the work carried out to be funded?	

## O Reimbursement of expenses

Please outline the reason for the reimbursement:	
What is the total amount of the claim?	\$
Who is the person to be reimbursed and what is their relationship to the managed person?	
Name:	Relationship:
Were all payments made for the direct benefit of the managed person?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Can the estate afford the reimbursement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are all payments supported by receipts? If yes, please attach a copy of any relevant receipts and banks statements.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is this a final reimbursement?	<input type="checkbox"/> Yes <input type="checkbox"/> No

## P Remuneration

To receive payment for acting as a private manager, an order from the NSW Supreme Court is required. More information on private manager remuneration is available at [www.tag.nsw.gov.au](http://www.tag.nsw.gov.au)

Have you obtained a remuneration order from the NSW Supreme Court? If yes, please attach a certified copy of the order.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you created an individual invoice in accordance with the remuneration order from the Supreme Court? If yes, please attach a copy of the invoice.	<input type="checkbox"/> Yes <input type="checkbox"/> No

Please note an invoice must be sent to NSW Trustee & Guardian for approval of any claim for remuneration prior to any funds being processed.

## Q Residential accommodation bond

Please provide the facility name and address:	
	Postcode
What is the total amount of the residential accommodation bond?	\$
Are you satisfied that the document protects the managed persons interests?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will the estate have sufficient funds after the residential accommodation bond is paid?	<input type="checkbox"/> Yes <input type="checkbox"/> No

## R Miscellaneous

Please outline any other approvals not listed. Please include:

- a reason for the proposal
- how the proposal is in the managed person's best interest
- its affordability to the estate
- the amount to be approved
- copies of supporting documents such as invoices.

If urgent approval is required, please contact your Client Service Team.

## Appendix B - Legislative references

### A – Section 116 of the *NSW Trustee and Guardian Act 2009*

#### 116 NSW Trustee may require information and documents to be provided

- (1) The NSW Trustee may, by notice in writing given to a person, order the person to furnish to the NSW Trustee such information or records (or both) as the NSW Trustee requires in connection with any matter relating to the responsibilities of the NSW Trustee when acting in a protective capacity.
- (2) Any such notice must specify the manner in which the information or records are required to be furnished and a reasonable time (not less than 14 days after the giving of the notice) by which the information or records are required to be furnished.

### B – Section 76 of *NSW Trustee and Guardian Act 2009*

#### 76 Gifts

- (1) A manager may use property of the estate of a managed person for the following gifts:
  - (a) a gift to a relative or close friend of the managed person that is of a seasonal nature or is given because of a special event (such as a birthday or marriage)
  - (b) a donation of a nature that the managed person made when the managed person had capacity to do so or that the managed person might reasonably be expected to make.
- (2) A manager may make a gift under this section only if the value of the gift is not more than what is reasonable having regard to all the circumstances and, in particular, the managed person's financial circumstances and the size of the managed person's estate.

### C – Section 14C of *Trustee Act 1925*

#### 14C Matters to which trustee is to have regard when exercising power of investment

- (1) Without limiting the matters that a trustee may take into account when exercising a power of investment, a trustee must, so far as they are appropriate to the circumstances of the trust, if any, have regard to the following matters:
  - (a) the purposes of the trust and the needs and circumstances of the beneficiaries
  - (b) the desirability of diversifying trust investments
  - (c) the nature of, and the risk associated with, existing trust investments and other trust property
  - (d) the need to maintain the real value of the capital or income of the trust
  - (e) the risk of capital or income loss or depreciation
  - (f) the potential for capital appreciation

- (g) the likely income return and the timing of income return
  - (h) the length of the term of the proposed investment
  - (i) the probable duration of the trust
  - (j) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment
  - (k) the aggregate value of the trust estate
  - (l) the effect of the proposed investment in relation to the tax liability of the trust
  - (m) the likelihood of inflation affecting the value of the proposed investment or other trust property,
  - (n) the costs (including commissions, fees, charges and duties payable) of making the proposed investment
  - (o) the results of a review of existing trust investments in accordance with section 14A (4).
- (2) A trustee may, having regard to the size and nature of the trust, do either or both of the following:
    - (a) obtain and consider independent and impartial advice reasonably required for the investment of trust funds or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice
    - (b) pay out of trust funds the reasonable costs of obtaining the advice.
  - (3) A trustee is to comply with this section unless expressly forbidden by the instrument (if any) creating the trust.

### D – Section 39 of the *NSW Trustee and Guardian Act 2009*

#### 39 General principles applicable to Chapter

It is the duty of everyone exercising functions under this Chapter with respect to protected persons or patients to observe the following principles:

- (a) the welfare and interests of such persons should be given paramount consideration
- (b) the freedom of decision and freedom of action of such persons should be restricted as little as possible
- (c) such persons should be encouraged, as far as possible, to live a normal life in the community
- (d) the views of such persons in relation to the exercise of those functions should be taken into consideration
- (e) the importance of preserving the family relationships and the cultural and linguistic environments of such persons should be recognised
- (f) such persons should be encouraged, as far as possible, to be self-reliant in matters relating to their personal, domestic and financial affairs
- (g) such persons should be protected from neglect, abuse and exploitation.

By submitting this form, you understand that NSW Trustee & Guardian collects, stores and uses personal and health information to carry out its statutory functions. To learn more visit [www.tag.nsw.gov.au/privacy](http://www.tag.nsw.gov.au/privacy)