

Legal Issues

Signing documents

Legal documents for the managed person can be signed by you as the private manager.

Under the *NSW Trustee and Guardian Act 2009* documents must be certified by a legal practitioner to be correct and protect the interests of the managed person.

NSW Trustee & Guardian must endorse all transfer documents of real estate.

Court cases

You have power under the Directions and Authorities to obtain and pay for professional legal advice. If the solicitor recommends starting court proceedings, we must first give approval. Court proceedings include:

- damages for injuries suffered in car accidents
- workers' compensation claims
- claims for maintenance and child support
- claims to recover assets where the managed person may have been exploited
- claims by the managed person against a deceased estate.

If we consent to the commencement or continuation of court proceedings, you will usually be given authority to:

- employ solicitors and legal counsel/ barristers
- conduct legal proceedings and give instructions on behalf of the managed person to the solicitor and legal counsel
- if advised by legal counsel, enter negotiations for settlement.

In the event of legal proceedings against the managed person, you may, with our approval employ a solicitor and legal counsel to represent the managed person.

Power of Attorney

Any Power of Attorney (including an enduring Power of Attorney) given by the managed person is suspended while there is a financial management order in place.

The managed person makes a Will

You cannot make or change a Will for the managed person. However, the managed person may still be able to make a Will providing they have what is known as testamentary capacity.

If a managed person wants to make or change a Will, you should seek independent legal advice.

Deceased estates

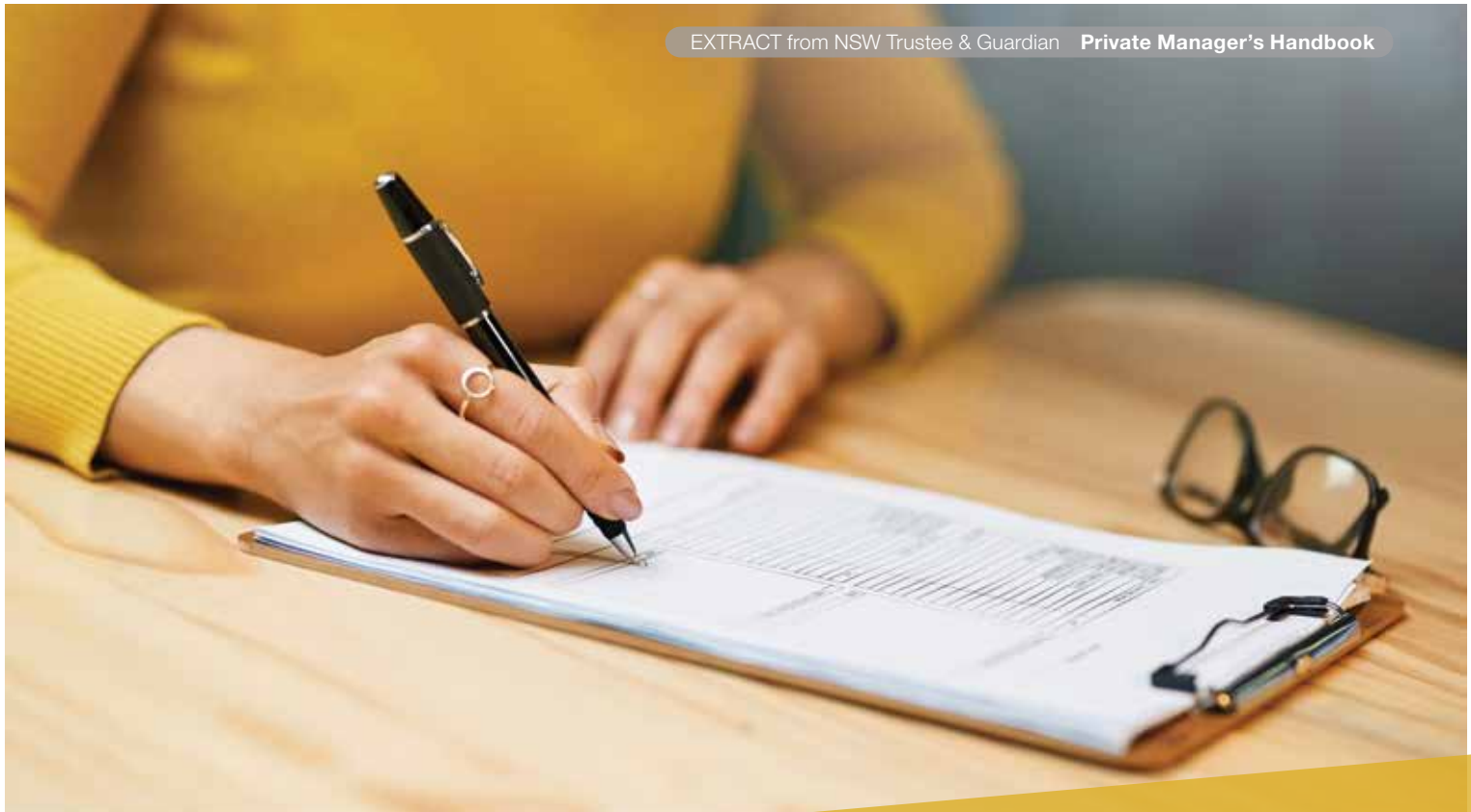
If the managed person is an executor or administrator of a deceased estate, the private manager must seek additional direction from us to appoint another person or consent to apply for letters of administration.

The managed person runs a business

Depending on the situation, we may authorise you to sell or close the business. Alternatively, we may authorise you to continue operating the managed person's business. Each case will be considered on an individual basis.

Your role in other legal matters

The ability of the managed person to deal with their estate is suspended while a financial management order is in place. If a contract they have signed prior to a financial management order being made is in their interests, you can ask us for approval to complete the transaction.



Death of the managed person

Your role as a private manager will end when the managed person dies. Your final duties will be to:

- advise us of the managed person's death
- advise the executor of the managed person's Will or (where there is no Will) next of kin, of their death and details of their estate
- provide us with details of the executor or administrator of the person's estate.

The appointed executor or administrator will then administer the managed person's estate. Please send them all documents related to the estate. If there are outstanding fees for NSW Trustee & Guardian, these will be claimed from the estate.

After payment of all outstanding fees and copies of probate documents or letters of administration have been provided, we will release any funds or documents held in line with the written instructions of the executor.

If the estate is worth less than \$10,000 we may release any funds or documents without a copy of probate documents or letters of administration. You should contact your client service team for information on what to do in this case.

Does a financial management order apply outside NSW?

Interstate or overseas assets

Your power to deal with such assets depends on the acceptance of your authority in the state or country where the assets are located. A financial management order will generally only apply to assets in NSW. This means that you will have to seek a financial management order in the relevant state, territory or country for assets outside of NSW.

The managed person or private manager lives outside NSW

The financial management order still applies regardless of whether the managed person or private manager lives outside NSW. If both the managed person and the private manager live outside NSW, it is generally best to have the NSW order cancelled and apply for a financial management order in the relevant state or country. The exception to this is if there is real estate in NSW to be managed or sold.