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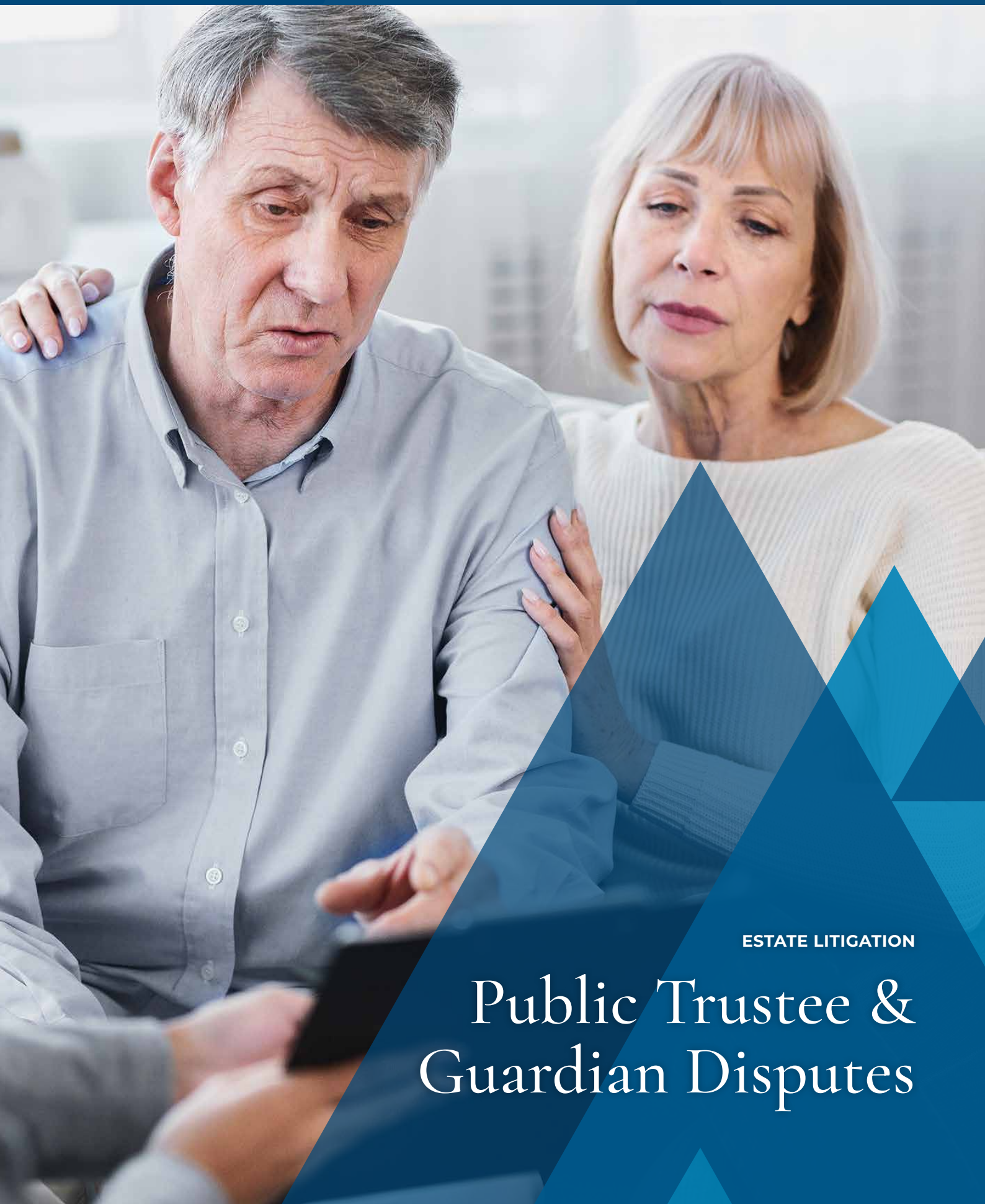
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ACN 126 248 208



Attwood Marshall
LAWYERS



ESTATE LITIGATION

Public Trustee & Guardian Disputes



Public Trustee Offices perform certain roles in our community, including acting as executor/administrator of deceased estates and managing the financial affairs of vulnerable individuals who are incapable of managing their own affairs.

It is our experience that the general public places blind trust in Public Trustee Offices due to the public nature of these organisations. Unfortunately, these government organisations do not always provide the expected service, leaving individuals and their families feeling frustrated and deflated. It's important for the community to understand there are alternative options available when seeking assistance with drafting a Will, executor services, financial administration, establishing and managing trusts.

It is also possible to remove the Public Trustee and seek compensation for mismanagement of affairs.

What is the Public Trustee's role?

The Public Trustee and Guardian are statutory agencies established to "protect, promote and support the rights, dignity, choices and wishes" of those vulnerable members in our society who have impaired decision-making capacity. They were created to provide services to assist those who are more vulnerable in our society. Some examples of the services offered by Public Trust Offices can range from:

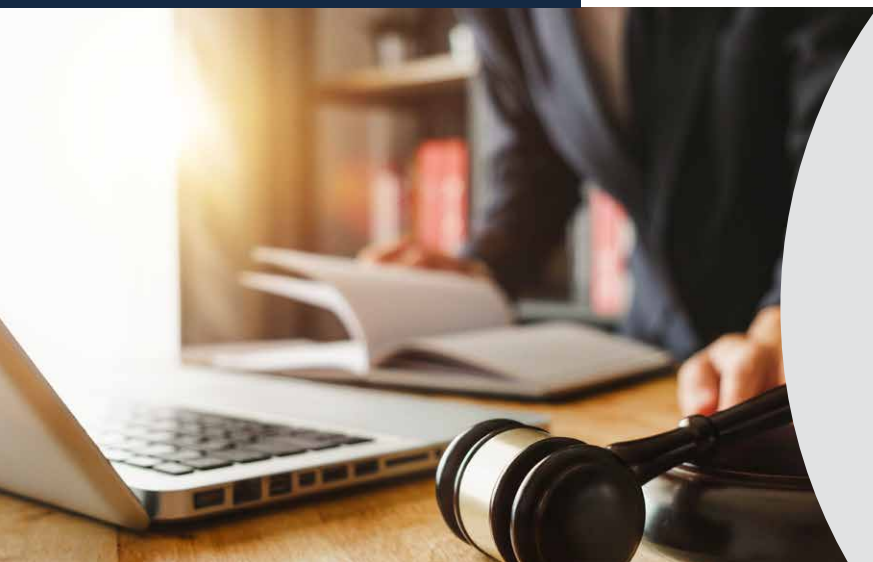
- Acting as an Executor of an estate
- Being appointed as Financial Manager of someone who may not have capacity to manage their own financial affairs. In New South Wales, this appointment is called Financial Manager, in Queensland this appointment is referred to as an Administrator.

- Being appointed as a Trustee – if someone is unable to manage their finances – such as a minor, the Public Trustee can be appointed to manage investments, allocate allowances and manage trust funds.

There is a general assumption within the community that the QLD Public Trustee and NSW Public Trustee and Guardian are the most suitable and accessible options. Many people do not realise that there are several alternatives, including professionals and Private Trustee Companies, who can administer deceased estates and manage protected estates/conduct the role of trustee.

Can I remove the Public Trustee?

Generally speaking, yes, you can apply to a Court or Tribunal to remove the Public Trust Office from some roles such as the role of Financial Manager (NSW) or Administrator (QLD) for someone who may not have capacity to manage their own financial affairs. Usually, this involves applying to have the Public Trustee Office removed and replaced by a Private Trustee Company or Individual (if appropriate).





The process to remove the Public Trust Office

An application for a substitute decision-maker can be made to a Tribunal or a Court. If the incoming Financial Manager seeks to be paid (such as in the case with a Private Trustee company) the application must be made to the Court to seek the removal of a Public Trust Office from the role of Financial Manager and the appointment

of the new Private Trustee. The reason a Court application is required, as opposed to an application through the Tribunal, is because when there is payment involved the Court essentially needs to approve it.

The following process will apply when removing the appointment of the Public Trustee in Court:

Step 1: Find a substitute

Seek out an appropriate incoming Financial Manager and make sure they are a fit for the individual and their family

Step 2: Make an application to the Court

Step 3: Provide evidence before the Court.

You will need to provide evidence before the Court in relation to:

- The individual's capacity to manage his or her financial affairs
- Evidence from any family member about their opinion of the current situation. The Court wants to know the family is supportive of the application
- Why there has been some difficulties and why the relationship with the Public Trust Office has deteriorated
- Evidence of the suitability of the incoming Private Trustee Company
- Financial reports in relation to the individual's financial affairs and the nature of their protected estate



Who can apply for replacement of a Financial Manager?

As the individual who is the subject of the application usually does not have legal capacity, any person "having a sufficient interest in the matter" may make the application to the Court. This would usually be a parent, husband or wife, or close family member who is concerned about the current situation.





Why it is important to have trusted legal representation

If you are involved in a dispute with the Public Trust Office, our Estate Litigation team have extensive experience in resolving these disputes. It is important that you get the right legal advice so you are fully informed about your

rights and understand what options are available to you to have the public trustee removed, if you are unhappy with their conduct or if you want to challenge the exorbitant fees they may be charging you for their services.



STEP 1

Taking the first step.

If you would like us to help you protect your interests, there are a number of ways to contact us:

- Visit <https://attwoodmarshall.com.au/forms/estate-litigation-public-trustee-questionnaire/> to complete our questionnaire and get your matter fast-tracked
- Call our office on 1800 621 071
- Go to <https://attwoodmarshall.com.au/book-online/> to book an appointment online now



STEP 2

Initial consultation.

Our Estate Litigation Department Manager will contact you and let you know if there is any further information we require and will arrange a complimentary phone consultation with one of our estate litigation lawyers.



STEP 3

Proceeding past consultation.

After the consultation, if you require legal representation we will send you a costs agreement outlining the work we will do on your behalf and our proposed fees. On approved cases we can arrange 'deferred fee' or 'No Win, No Fee' payment arrangements.

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LAWYERS

Meet our Estate Litigation team:



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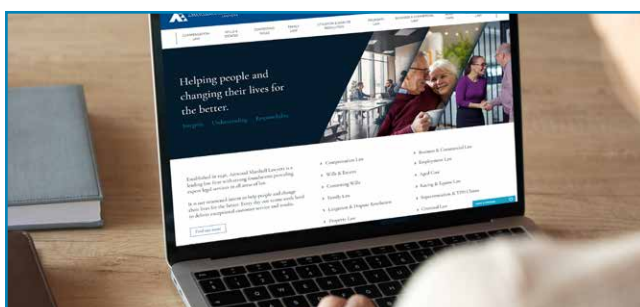
Amber Roebeck
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We're here to help

We recognise the complexity of succession law and are highly reputed in the legal industry for our expertise in estate litigation. Our dedicated team practice exclusively in elder law and inheritance disputes and we are ready to help you the Public Trustee removed or obtain compensation for the mismanagement of your affairs.

Attwood Marshall Lawyers is a leading estate litigation firm with extensive experience in complex Public Trustee matters. We can provide legal services for those experiencing problems with the Public Trustees including assisting with:

- matters involving the mismanagement of affairs under financial management orders
- matters involving the mismanagement of estates where the Public Trustee has been appointed Executor
- negotiating the exorbitant fees charged by the Public Trustees
- applications to the Court to seek the Court to appoint alternative Trustees in the place of the Public Trustees



HELPFUL ARTICLES

If you would like to find out more information on contesting Wills and other estate litigation topics, visit:

<https://attwoodmarshall.com.au/news/>

Helping people and changing their lives for the better.

Integrity. Understanding. Responsibility.

Coolangatta

72 – 80 Marine Parade,
Coolangatta
PO BOX 334,
Coolangatta
QLD 4225

Open:

Mon: 7.30am - 5.30pm
Tue: 7.30am - 5.30pm
Wed: 7.30am - 5.30pm
Thur: 7.30am - 5.30pm
Fri: 7.30am - 5.30pm
Sat: Closed
Sun: Closed

Robina Town Centre

Shop 4135, Robina
Town Centre,
Robina
PO BOX 4358 Robina
QLD 4230

Open:

Mon: 8.30am - 5.00pm
Tue: 8.30am - 5.00pm
Wed: 8.30am - 5.00pm
Thur: 8.30am - 9.00pm
Fri: 8.30am - 5.00pm
Sat: 9.00am - 12.00pm
Sun: Closed

Southport

Suite 10, Level 10,
36 Marine Parade
(Commercial Tower),
Southport QLD 4215

Open:

Mon: 8.30am - 5.00pm
Tue: 8.30am - 5.00pm
Wed: 8.30am - 5.00pm
Thur: 8.30am - 5.00pm
Fri: 8.30am - 5.00pm
Sat: Closed
Sun: Closed

Kingscliff

Level 2, Suite 24,
42 Pearl Street,
Kingscliff
PO BOX 1413 Kingscliff
NSW 2487

Open:

Mon: 8.30am - 5.00pm
Tue: 8.30am - 5.00pm
Wed: 8.30am - 5.00pm
Thur: 8.30am - 5.00pm
Fri: 8.30am - 5.00pm
Sat: Closed
Sun: Closed

Brisbane

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32 Turbot Street Brisbane
QLD 4000

Sydney

Level 25, 100 Mount Street,
North Sydney
NSW 2060

Melbourne

Level 2, Riverside Quay,
1 Southbank Blvd, Melbourne
VIC 3006

Contact Attwood Marshall Lawyers on **1800 621 071** or
email info@attwoodmarshall.com.au to speak to one of
our experienced lawyers today.



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