

SUCCESSION AND ELDER LAW CONFERENCE



Recorded: 2 November 2023

10.5 hours | 1 CPD point per hour viewed



Program

58 min

Human rights: a guiding imperative in succession and elder law



The intersection between human rights and succession and elder law is a growing concern, particularly in light of the *Human Rights Act 2019* (Qld) (the HRA). This intersection is relevant for both elder lawyers and succession lawyers, as they often deal with issues related to human rights in the context of aging and estate matters. Join Bill Mitchell OAM as he examines how the HRA has started impacting various aspects of these areas of law, including cultural rights, family provisions, property rights and elder abuse/ageism.

Presenter: **Bill Mitchell OAM**, Principal Solicitor, Townsville Community Law Inc; Member, Queensland Law Society Elder Law Committee

Chair: **Bryan Mitchell**, Principal, Mitchells Solicitors; Accredited Specialist (Succession Law) – Qld; Member, Queensland Law Society Succession Law Committee

Patterns of financial elder abuse and strategies on how to help aging clients reduce the risk

This portion of the session aims to shed light on the critical issue of financial elder abuse while providing strategies for prevention and protection. Brian Herd's focus will be on understanding the patterns of financial abuse, identifying the tactics employed by malicious individuals, and empowering older Australians with knowledge to safeguard their assets.

This session will help you:

- explore the common indicators and signs of financial abuse
- strategise on how to deal with clients affected by financial abuse for empathetic and effective client engagement
- analyse the methods and schemes used by perpetrators
- discover legal tools and mechanisms for limiting the impact of financial abuse
- determine legal avenues for protecting assets if financial abuse occurs
- learn the role of financial professionals in identifying and preventing abuse
- ascertain how collaborative efforts can safeguard clients' financial well-being

Presenter: **Brian Herd**, Partner, Estates and Succession, HopgoodGanim; Member, Queensland Law Society Elder Law Committee

Chair: **Bryan Mitchell**, Principal, Mitchells Solicitors; Accredited Specialist (Succession Law) – Qld; Member, Queensland Law Society Succession Law Committee

58 min

Tax issues for superannuation death benefits



For more and more Australians, superannuation is a significant asset, so it is vital that estate planning takes superannuation benefits into account. There are many issues to consider, and the tax consequences of receiving a superannuation death benefit are usually little understood, very complicated, can have a significant impact and in some consequences can be easily managed. This session will discuss the tax consequences on superannuation death benefits and identify different strategies for managing them.

Presenter: **Scott Hay-Bartlem**, Partner, Cooper Grace Ward

Chair: **Patrick Ellwood**, Director, Clover Law; Member, Queensland Law Society Succession Law Committee



1 hr 1 min

TRACK 1A

Estate accounts – how to prepare them and what to include



Preparing an estate account is more than just producing a trust account statement.

Learn what you need to consider when preparing your estate accounts: the do's, the don'ts, and the questions you need to ask.

Presenter: **Prue Poole**, Director, Cornford-Scott Lawyers; Accredited Specialist (Succession Law) – Qld
Chair: **Karen Gaston**, Barrister, Queensland Bar; Member, Queensland Law Society Succession Law Committee

1 hr 1 min

TRACK 1B

“Whose side am I on again?” – Avoiding conflicts of interest in family structuring



Dealing with succession and structuring can be challenging at the best of times. Where family interests come into play, it can present a range of additional challenges around conflicts. It can be all too easy for practitioners to become the meat in the sandwich when familial ties intersect with financial interests.

This session considers whether it is possible to maintain harmony within family groups when interests collide, the importance of transparent communication, clearly defined roles and responsibilities, and knowing when to step aside.

Presenter: **Neal Dallas**, Principal, McInnes Wilson Lawyers; SMSF Specialist Advisor™
Chair: **Raj Lal**, National Sales Executive, LEAP

50 min

TRACK 2A

Family provision claims: perplexing difficulties from premature distribution



Through case studies, explore with a barrister issues related to the circumstances in which a personal representative may be held liable to a family provision applicant and the rights, if any, that a family provision applicant possesses concerning a beneficiary of the estate given certain factors.

Presenter: **Robert Whiteford**, Barrister, Queensland Bar

Chair: **Mehera Saunders**, Special Counsel, Mitchells Solicitors; Accredited Specialist (Succession Law) – Qld; Member, Queensland Law Society Succession Law Committee

55 min

TRACK 2B

Getting the team together: a multidisciplinary practice model



Explore how an evidence-informed multidisciplinary practice model for vulnerable older people can support client-centred practice in the context of incapacity assessments.

Presenters:

Nicky Mitchell, Managing Senior Lawyer, Caxton Legal Centre Inc.

Helen Wallace, Social Work Practice Director, Caxton Legal Centre

Chair: **Claire Bassingthwaighe**, Legal Team Manager, Professional Conduct, Avant Law; Member, Queensland Law Society Occupational Discipline Law Committee; Deputy Chair, Queensland Law Society Health and Disability Law Committee

59 min

TRACK 3A



Risk management in wills and estates matters

Discover essential strategies and best practices to navigate the complex terrain of wills and estates through understanding of the potential pitfalls and challenges that solicitors encounter in this area of practice. This session will cover issues such as who is your client; avoiding conflicts of interest and how to advise a client who may have conflicting interests.

Presenter: **Hayley Mitchell**, Partner, Cooper Grace Ward; Accredited Specialist (Succession Law) – Qld

Chair: **Natalie Silvester**, Legal Practitioner Director, Legally Gifted Lawyers; Accredited Specialist (Succession Law) – Qld; Member, Queensland Law Society Succession Law Committee; Member, STEP Qld Committee

59 min

TRACK 3B



Addressing power dynamics in granny flat arrangements



With extensive research in access to justice and decision-making for vulnerable populations, join Professor Tina Cockburn TEP as she shares her insights and strategies for navigating the intricate power dynamics within granny flat arrangement in the context of elder and disability law.

Presenter: **Professor Tina Cockburn TEP**, Faculty of Business and Law, Queensland University of Technology

Chair: **Jon Wiedman**, Director, Hede Byrne & Hall; Member, Queensland Law Society Succession Law Committee

1 hr

TRACK 4A



Navigating complex beneficiary dynamics: strategies for handling discontent, challenges, and unreasonable expectations



Through war stories about challenging beneficiary interactions, this session equips you with the knowledge and tools to handle even the most complicated beneficiary situations with confidence and professionalism.

Presenters:

Renee Bennett, Partner, wilson/ryan/grose Lawyers; Accredited Specialist (Succession Law) – Qld

John de Groot, Special Counsel, de Groot's Wills & Estates Lawyers

Bryan Mitchell, Principal, Mitchells Solicitors; Accredited Specialist (Succession Law) – Qld; Member, Queensland Law Society Succession Law Committee

Chair: **Ann Janssen**, Special Counsel, Estate First Lawyers; Accredited Specialist (Succession Law) – Qld

59 min

TRACK 4B



The why and when to seeking a grant of probate in Queensland

Knowing when you should apply for a grant of probate (or some other type of grant) is an important aspect of reducing risk to your client. This session will delve into when and why you should be recommending to executor/administrator clients to obtain a grant and explores the different types of grants that can be applied for. This session will also provide a practical overview of lodging grants electronically.

Presenter: **Natalie Silvester**, Legal Practitioner Director, Legally Gifted Lawyers; Accredited Specialist (Succession Law) – Qld; Member, Queensland Law Society Succession Law Committee; Member, STEP Qld Committee

Chair: **Jon Wiedman**, Director, Hede Byrne & Hall; Member, Queensland Law Society Succession Law Committee

44 min

Legal ethics and the use of ChatGPT in the context of practising in elder and succession law



This session will cover:

- ChatGPT and large language models – what they are (and what they aren't)
- How to use them ethically, and to avoid the pitfalls
- Recent cases dealing with the use of AI in the legal profession
- Threats, challenges and opportunities related to AI in the succession law/estate planning sphere

Presenter: **Shane Budden**, Special Counsel, QLS Ethics and Practice Centre, Queensland Law Society

Chair: **Chloé Kopilović**, President, Queensland Law Society; Director, FC Lawyers; Member, Queensland Law Society Innovation Committee

Closing remarks

Presenter: **Chloé Kopilović**, President, Queensland Law Society; Director, FC Lawyers; Member, Queensland Law Society Innovation Committee

Presenters

Claire Bassingthwaight

Legal Team Manager, Professional Conduct, Avant Law; Member, Queensland Law Society Occupational Discipline Law Committee; Deputy Chair, Queensland Law Society Health and Disability Law Committee



Claire was admitted as a solicitor of the Supreme Court of Queensland in 2003 and the High Court of Australia in 2006.

Claire has extensive experience in health and professional conduct law. She defends practitioners and medical practices in a wide range of complex matters, such as coronial investigations and inquests, commissions of inquiry, and regulatory matters involving the Medical Board of Australia, the Office of the Health Ombudsman, the Department of Health and the Office of the Information Commissioner.

Claire has represented practitioners in the Coroners Court of Queensland and the Queensland Civil and Administrative Tribunal, as well as both the District and Supreme Courts. She has also acted for the Medical Board prosecuting medical practitioners.

Claire is a volunteer Judicial Committee Member with community sporting organisations and a member of the Medico-Legal Society of Queensland.

Renee Bennett

Partner, wilson/ryan/grose Lawyers; Accredited Specialist (Succession Law) – Qld



Renee is a Partner of wilson/ryan/grose Lawyers, where she heads the Succession Law Work Group, and an Adjunct Lecturer with the College of Law in the Masters of Law – Applied Law Program.

Renee's practice encompasses all areas of Succession Law, including estate planning, estate administration and trust and estate litigation. Renee is also regularly appointed as Independent Administrator and/or Independent Trustee in relation to contentious estate and trust administration matters.

Renee is the current President of the Townsville Business Women's Circle and a Board Member of the Good Shepherd Home Townsville. She is a Notary Public and previously served as a Committee Member of STEP Qld.

Shane Budden

Special Counsel, QLS Ethics and Practice Centre, Queensland Law Society



As a Special Counsel Ethics in the QLS Ethics and Practice Centre/QLS Solicitor Support Pty Ltd, Shane provides ethical guidance and instruction to practitioners. He contributes significantly to the QLS journal *Proctor*, both through his regular column and by authoring feature articles.

Shane was admitted in 1992 and worked in general practice with a focus on Criminal Law, before moving to in-house work, initially with the Ipswich City Council internal legal team.

Prior to joining QLS he headed up the internal legal team at the Queensland Building Construction Commission/Queensland Building Services Authority and was Chair of the Society's Government Lawyers Committee.

Professor Tina Cockburn TEP

Faculty of Business and Law,
Queensland University of
Technology; Member,
Queensland Law Society Health
and Disability Law Committee

Professor Tina Cockburn TEP is a Professor of Law at the Queensland University of Technology (QUT), Director of the Australian Centre for Health Law Research (ACHLR), co-lead of the ACHLR Planning for Healthy Ageing research program, and a sessional member of the Queensland Civil and Administrative Tribunal (QCAT). Prior to joining QUT she was employed as a solicitor with a leading commercial law firm.

Tina's research focuses on access to justice and decision making by vulnerable members of society in three contexts: elder and disability law; patient safety law and medical negligence; and compensation for the institutional abuse of children. In the area of elder and disability law, Tina's research focuses on estate planning, succession law, trusts, decision making, powers of attorney, elder abuse, and aged care and accommodation.

Neal Dallas

Principal, McInnes Wilson
Lawyers; SMSF Specialist
Advisor™



Neal practises in the areas of revenue law, with particular emphasis on structuring for tax and asset protection, superannuation and business succession.

Neal advises the superannuation industry, including corporate, industry and self-managed superannuation fund trustees and members. He also works closely with financial advisers, accountants and employer sponsors across a range of legal and tax issues.

Neal typically acts for professionals, business proprietors and high net worth individuals. His expertise in estate planning and business succession matters, family trust arrangements, wills and testamentary trusts and related life insurance is well recognised.

Neal regularly conducts presentations and training for clients and professional bodies on structuring, asset protection, superannuation and tax-related issues.

Dr John de Groot

Special Counsel, de Groot's
Wills & Estates Lawyers



John is a leading specialist in Succession Law and author of a number of publications on the subject. These include: "Wills Probate & Administration Practice (Queensland)" and "Family Provision in Australia" (an estate litigation text), of which he is the co-author with Mr Bruce Nickel.

John is Past President of the Queensland Law Society; former Chairman of the Queensland Law Society's Succession Law Committee and of its Advisory Committee on Specialist Accreditation (Succession Law); Adjunct Professor at the T. C. Beirne School of Law at the University of Queensland; former Chair of the Queensland Community Foundation (currently a member of Board of Governors); and a regular presenter at seminars dealing with Succession Law issues.

For many years, John was the Director of Legal Practice of the Law Faculty at the Queensland University of Technology, responsible for the faculty's legal training programs for graduates seeking admission as solicitors or barristers in the State. He designed and delivered QUT's "Estate Planning" unit for the faculty's LL.M. by coursework degree and was lecturer in charge of "Professional Responsibility"—the compulsory legal ethics unit in QUT's LL.B program. John retired from QUT in 1999 to return to full time private practice as special counsel at de Groot's Wills and Estate Lawyers.

Patrick Ellwood

Director, Clover Law; Member,
Queensland Law Society
Succession Law Committee



Patrick is a lawyer with over a decade of experience assisting high-net-worth individuals and family business owners. He is the founder of Clover Law, an Australian law firm specialising in tax structuring, estate planning, superannuation and asset protection.

Patrick is a regular speaker for a range of private and professional bodies and is a published author of a number of legal textbooks.

Patrick is passionate about helping individuals and business owners grow their wealth and achieve a successful transition of their legacy to the next generation.

Karen Gaston

Barrister, Queensland Bar;
Member, Queensland Law
Society Succession Law
Committee



Karen is a barrister in private practice and brings nearly 18 years of litigation experience as a solicitor to her practice at the bar.

Karen is particularly interested in estate litigation with a broader commercial focus, such as those concerning rural partnerships, trusts, and equitable remedies, such as undue influence and unconscionable conduct.

She has conducted many family provision applications (FPAs), solemn form probate applications, will construction and interpretation applications, cy pres, and statutory will applications and other “classical” succession law actions.

Karen recognises the value of alternative dispute resolution, especially in family-based disputes. She has undertaken the Bond University mediation course and was one of the first succession lawyers to undertake training in Collaborative Law at UTS in Sydney in 2008.

The 2023 Doyle’s Guide ranked Karen as “Leading” in the category of Wills and Estates Litigation Junior Counsel.

Scott Hay-Bartlem

Partner, Cooper Grace Ward



Scott and his team specialise in assisting clients and their other advisers including accountants and financial planners with tax and superannuation (particularly SMSFs) advice; estate planning, administration and disputes; family businesses, business structuring; business succession arrangements; asset protection and restructuring. Scott has a particular interest in how these areas intersect with self-managed superannuation funds and the impact of and on these structures.

Scott is the Chair of the SMSF Association, having joined its board in July 2019.

Scott is a SMSF Specialist Advisor™ with the SMSF Association, a Chartered Tax Adviser, a member of the Society of Trust and Estate practitioners. Scott chairs the Cooper Grace Ward Diversity and Inclusion Group and its ARCUS sub-group, and is the leader of the firm’s Private Client Commercial group.

Scott been selected by his peers for inclusion in the 16th Edition of Best Lawyers in Australia in the practice areas of: Superannuation Law, Trusts and Estates, Wealth Management / Succession Planning Practice and Commercial Law. He was named the 2016 Brisbane Wealth Management/Succession Planning practice ‘Lawyer of the Year’ and the Superannuation ‘Lawyer of the Year’ for 2019, 2022 and 2024.

Scott has been listed in Doyle’s Guide for Queensland Estate Planning lawyers as a pre-eminent practitioner.

Brian Herd

Partner, Estates and Succession, HopgoodGanim; Member, Queensland Law Society Elder Law Committee



Brian practises in elder law or law for older people and their families. He has written many papers and given numerous presentations to a broad cross section of audiences in Australia and overseas on the expanding landscape of elder law. Brian is a member of the Queensland Law Society Elder Law Committee, an international member of the National Academy of Elder Law Attorneys of America, a Doyle's Guide recommended in Wills and Estates Planning and Litigation and listed in Best Lawyers for retirement and seniors housing law.

Brian is also the Author of the recently published book on elder law entitled "Avoiding the Ageing Parent Trap".

Ann Janssen

Special Counsel, Estate First Lawyers; Accredited Specialist (Succession Law) – Qld



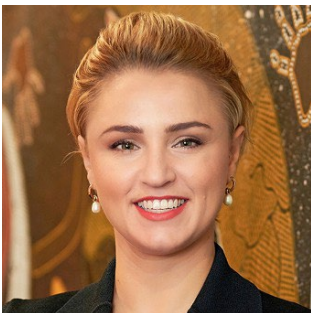
Ann is an accredited specialist in succession and a registered Trust and Estate practitioner with the international Society of Trust and Estate Practitioners (STEP). She is also a member of the Tax Institute and Mensa.

Ann founded Estate First Lawyers in 2009, a succession practice with a focus on estate planning law. The firm has 8 lawyers, 3 of whom are accredited specialists in succession law and is the largest estate planning team in Queensland. Ann has a Bachelor of Arts, a Bachelor of Laws (Honours) and a Master of Business Administration. She is also on several boards, including the national board of Women in Super.

Ann is passionate about estate planning and credits the growth in the firm to a strong senior legal team and the increasing demand amongst baby boomers for a sophisticated and thorough estate planning legal service.

Chloé Kopilović

President, Queensland Law Society; Director, FC Lawyers; Member, Queensland Law Society Innovation Committee



Chloé is a director of FC Lawyers, leading its Wills and Estates team. Shortly after admission in 2013, Chloé found her passion in succession law and went on to complete her Masters in Applied Law (majoring in Wills and Estates). Chloé enjoys the confidence of fellow practitioners and clients in relation to her expertise in the field.

Chloé has served on the Council for the last six years and has been a member of the Executive Committee for the past two years. Chloé passionately believes in the legal profession and its traditions.

Outside the law, Chloé is a director of the charity, Uniforms 4 Kids and committee member of the Australasian Council of Women and Policing.

Bryan Mitchell

Principal, Mitchells Solicitors;
Accredited Specialist
(Succession Law) – Qld;
Member, Queensland Law
Society Succession Law
Committee



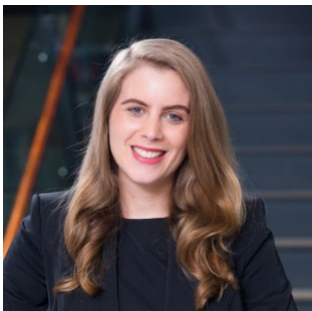
Bryan works almost exclusively in the area of wills and estates and trusts, including estate planning, elder law, estate administration and estate disputes. He has a special interest in helping parents of children with a disability, with their estate planning.

Bryan was admitted as a solicitor of the Supreme Court of Queensland in 1992 after completing degrees in Commerce and Law at the University of Queensland and articles of clerkship. Since then he has completed post-graduate study at QUT and the College of Law in the areas of estate planning and wills and estates generally.

Bryan is a regular public speaker and has had the privilege of presenting in various parts of Australia, Hong Kong and London. He was one of the early members of the Queensland Branch of STEP and presently serves as Chair for STEP Australia. Bryan has also been a Fellow of the Tax Institute for a number of years.

Hayley Mitchell

Partner, Cooper Grace Ward;
Accredited Specialist
(Succession Law) – Qld



Hayley is a Succession Law Accredited Specialist (Qld) and partner in the private clients team at Cooper Grace Ward. Hayley practises in estate and trust disputes, estate planning, and estate administration.

Nicky Mitchell

Managing Senior Lawyer,
Caxton Legal Centre Inc.



Nicky is the Managing Senior Lawyer in Caxton Legal Centre's Family, Domestic Violence and Elder Law Practice. In this role, she is responsible for the supervision of the Seniors Legal and Support Service, which assists older persons who are at risk of, or are experiencing elder abuse, within a multi-disciplinary framework. This service provides legal advice and representation, and social support across various areas of law.

Nicky regularly contributes to and assists with submissions to law reform and policies for issues concerning older people.

Bill Mitchell OAM

Principal Solicitor, Townsville
Community Law Inc; Member,
Queensland Law Society Elder
Law Committee



Bill was James Cook University's (JCU) first admitted solicitor in 1992. He was made an Outstanding Alumni of JCU in 2012 and an Honorary Doctor of Laws in 2021. He is an Adjunct Associate Professor with JCU's Law School.

Bill has been involved with community legal centres since 1991 and received the Australian Human Rights Commission Law Award in 2008. He was the Queensland Law Society Community Legal Centre Member of the Year in 2019 and recipient of the Access to Justice Award in 2022. He was awarded the Law Council of Australia's President's Medal in 2019 and a Medal of the Order of Australia in 2020.

Bill has written and presented on a wide range of access to justice and human rights topics, including extensively on the human rights of older persons. He has been involved in program service design in diverse areas, including elder abuse and disaster legal response.

Bill has represented Community Legal Centres Australia in various UN processes since 2013, including before the United Nations in New York and Geneva in debates around a new Convention on the Rights of Older Persons.

Prue Poole

Director, Cornford-Scott
Lawyers; Accredited Specialist
(Succession Law) – Qld



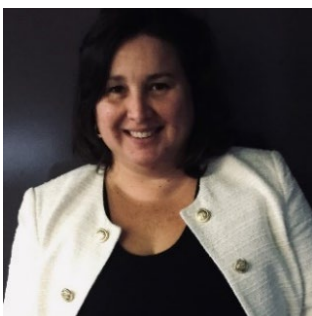
Prue is an accredited specialist in Succession Law with more than 17 years' experience in this area. Within her specialty, Prue focuses predominantly on estate administration and estate litigation. Prue gained her specialist accreditation in 2011 being recognised then as the highest achiever in her cohort.

Prue provides advice and guidance to executors and beneficiaries who may be individuals, charities, trustee companies, other professionals or on behalf of minors. Prue is often consulted by other law firms on estate matters, as well as regularly being appointed by the Supreme Court of Queensland to act as the independent administrator of estates.

Prue has been recognised in the last number of years' Editions of Best Lawyers in Australia for Trusts and Estates Law and in the Doyles' Guide for Queensland and Australia in the Leading Estates Litigation Lawyer and Leading Wills, Estates and Succession Planning Lawyer categories.

Mehera Saunders

Special Counsel, Mitchells
Solicitors; Accredited Specialist
(Succession Law) – Qld;
Member, Queensland Law
Society Succession Law
Committee



Mehera was admitted in 2002 and has practised in Succession Law for most of her career, becoming accredited in 2009. Mehera has experience in estate planning and estate administration, but these days practises exclusively in estate litigation and dispute resolution.

Natalie Silvester

Legal Practitioner Director,
Legally Gifted Lawyers;
Accredited Specialist
(Succession Law) – Qld;
Member, Queensland Law
Society Succession Law
Committee; Member, STEP
Qld Committee



Natalie is the Legal Practitioner Director of Legally Gifted Lawyers, a law firm based in Emerald in Central Queensland that provides specialist Succession Law services to the local community.

Natalie is an Accredited Specialist in Succession Law (Qld), has a Master of Laws (Applied Law) majoring in Wills and Estates, and is a Trusts and Estates Practitioner of the Society of Trusts and Estates Practitioners (STEP).

Natalie gives back to the succession law community by volunteering her time as a Committee Member of STEP Qld and the Queensland Law Society Succession Law Policy Committee. She is also the Chair of the Queensland Law Society Succession Law Specialist Accreditation Advisory Committee, a Mentor in the STEP Australia Mentorship Program and is the Founder/Co-Admin of the Queensland Succession Law Ladies Facebook group.

Robert Whiteford

Barrister, Queensland Bar



Robert has 44 years' experience as a Barrister at the Queensland Bar since being admitted in 1979. He specialises in Succession Law, with a particular focus on wills, estate and trusts-based litigation.

Jon Wiedman

Director, Hede Byrne & Hall;
Member, Queensland Law
Society Succession Law
Committee



Jon is a Director of Hede Byrne and Hall, and practices almost exclusively in all aspects of Succession Law, including preparation of wills and powers of attorney, estate administration and litigation.