

Volume 2, Issue 1

WORKING TOGETHER
FEBRUARY 2021



Ability NETWORK
brightfuturesplan.ca

Upcoming Webinars

- **Wednesday March 3rd** - Creating a Future Income for your Loved Ones
- **Tuesday March 9th** - Workshop on Planning for a Good Life
- **Tuesday March 16th** - Q&A with Bright Futures
- **Wednesday March 31st** - How to Plan for your Loved One's Future

WORKING TOGETHER



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Now a word from our Network!

Over the years, the Bright Futures Ability Network and its' predecessors have developed relationships with the leading professionals in our community. We are pleased to be able to draw on our Network Partners to share their expertise with families in our community.

Over the next few months, we will be sharing insights from our Network Partners with you via our Newsletters and Website updates. Please stay tuned.

In this issue of our newsletter, we will be introducing two of our Network Partners who will be sharing ideas on future housing for our family members and issues surrounding guardianship and power or attorney for our loved ones.



“More and more families are seeking individualized approaches as an option, rather than traditional avenues ... the most positive outcome is the relief from families at not placing their son or daughter in a group home, knowing they can plan independently and start moving forward sooner rather than later.”

Kelly Casey,
Facilitator

Independent Living

At Bright Futures we aim to bring together all the pieces of the planning puzzle by providing you with a network of professionals. One of the number one questions we get asked is where will my loved one live when I am gone and how much will that cost. To help answer that question, we would like to introduce you to Kelly Casey at KC Professional Solutions. KC Professional Solutions develops customized plans that include creative housing options.

Kelly Casey has over 30 years of experience working with people in the developmental services sector. Over the past 10 years, she has developed several creative housing solutions with people and their Network of Support. In addition to planning with people and their families, Kelly is a well-respected collaborator and partner with various agencies in the private and public sector, all of which aim to support a more meaningful life for all people.

Worried about the Future?

Did you know there are thousands of people waiting for funded residential options in the province of Ontario? Here are some facts that you should be aware of:

- There is limited system capacity because of historical underfunding.
- Most people only get offered a “funded option” when one/both

caregivers are deceased, over the age of 80 or no longer able to care for their loved one.

- Homeless or those at risk of homelessness are prioritized first.
- Based on the DSO CER 2019-2020 Year in Review, 33 group homes spaces were made available in York, Simcoe, Durham and HKPR and 2383 people were waiting for these spaces.

Intentional planning can support people and their families who want to build a meaningful life. A planner can help people identify the vision based on strengths and interests, identify resources, determine costs, foster relationships, and explore opportunities.

If you would like to learn more about Kelly and her upcoming workshops. Please visit this link on our website to hear our interview with Kelly <https://brightfuturesplan.com/planning-for-a-good-life-now-and-in-the-future/>

If you are interested in participating in a workshop and developing your plan, please contact Kelly Casey at kcsolutions2@gmail.com. Please see Page 3 for further details regarding Kelly’s upcoming workshop.

If you have any other questions please reach out to info@brightfuturesplan.ca

Planning for a Good Life Now and in the Future

Create a plan for the future so you can live your best life!

Join facilitators Kelly Casey and Katherine Pickard for a virtual series that will help you learn how to:

- plan and build your vision for your future life,
- identify your interests, strengths and how to build your support network,
- focus on key goals (e.g. skill building, community activities, health and fitness, finances, employment, relationships, etc.),
- be inspired to develop an individualized housing plan
- move you from your vision to real life,
- learn ways to maximize available resources and incorporate technology in your plan, and more!

Details

The workshop is 10-12 weeks in length and includes:

- 4 Group sessions of 2 hours each (Session dates are: March 9th, March 23rd, April 6th, and April 20th, 2021.)
- Individual time with the Facilitator throughout the 10-12 weeks
- Individual time with the Planner throughout the 10-12 weeks
- 2 Facilitated Network Meetings (support circle) to build your team and help you put your plan into action
- Support to create your individualized vision and plan for the future, including your specific goal areas and resources to achieve your vision
- You will receive an electronic copy of your person-directed plan

Date and Time:

Starts March 9th, 2021

6:00 p.m. to 8:00 p.m. (or a time suitable to participating families)

Cost:

\$1,600 *Planning is an allowable expense under the Passport program



*For more information or
to register for this
workshop please contact:*

*Kelly Casey
kcpsolutions2@gmail.com
289-221-9665*

*Katherine Pickard
kpickard@yssn.ca
1-866-257-9776*

*Workshop provided
through the York Support
Services Network.*

*York Support Services
Network offers a range of
developmental services and
mental health programs
throughout York Region
and South Simcoe.*



For further questions regarding the legal rights of yourself or a loved one, please visit the PooranLaw website at pooranlaw.com or reach out to them at 416-860-7572 or info@pooranlaw.com



Consent and Capacity Q & A

We are often asked for clarification regarding Capacity, the use of Powers of Attorney and Guardianship. We asked PooranLaw, leading advocates for people with disabilities, to provide further insight on these topics.

Who has the right to make legal decisions for themselves?

The law recognizes the right of every person to self-determination and generally requires that an individual provide consent in respect of any decision that will affect his or her rights. The validity of consent is in part dependent on whether the person providing consent has the required mental capacity to do so.

What is “capacity”?

Capacity describes a person’s ability make a decision.

What types of decisions can I delegate?

In general, there are two broad areas of decision-making that need to be considered when working through the planning process.

The first deals with a person’s property. Decisions involving property may include signing tax and annual returns for the purposes of meeting obligations to the CRA, opening bank accounts or RDSPs, and otherwise dealing with financial institutions.

The second area of decision-making relates to personal care matters, which includes health care, nutrition, shelter, clothing, hygiene, and safety.

Can I be appointed to make decisions for a loved one who doesn’t have capacity?

Many parents are surprised to learn that they do not automatically have guardianship, custody, or any other legal rights over their own adult child. In fact, as a matter of law, every person is presumed to have capacity to make decisions for themselves. When it comes to personal care decisions, that presumption kicks in at age 16. For property decisions, the presumption arises at age 18.

The same principle applies with respect to custody; no person can have custody of another adult, even if they have lived with, cared for, and provided for that person for their entire lives. This presumption of independence and capacity to make decisions is designed to protect people’s right to live freely and govern their own affairs.

When it comes to the realities of everyday life, however, many family members are concerned about their loved ones who may require support to make various decisions. In Ontario, we do not currently have a supported decision-making framework recognized by the law. This means that if your loved one is deemed incapable of making a decision, the law does not provide for a family member or friend to support him or her in making that decision. Rather, the decision is placed in limbo pending someone with legal decision-making authority for your loved one stepping in, whether it be an attorney for property or personal care, legal guardian, or substitute decision-maker for personal care matters.

What is a power of attorney for personal care?

A Power of Attorney for Personal Care (PAPC) is a document that allows you to authorize one or more persons to make decisions on your behalf about matters related to your health care, hygiene, nutrition, safety, shelter, and clothing. The authority granted to your attorney(s) comes into effect only upon you being deemed incapable of making a decision in one or more of these areas of personal care.

What is a power of attorney for property?

A Continuing Power of Attorney for Property (CPAP) is a document that allows you to authorize one or more person(s) to make decisions on your behalf about matters related to your property. This may include real property, financial investments, bank accounts, etc.

Unfortunately, in the absence of a Power of Attorney, a costly and time-consuming guardianship application is frequently required to deal with the property of a person who does not have or has lost the capacity to manage his or her property. Whether or not it is necessary to do so usually depends on the value of the assets held independently in the person's own name.

How do I obtain guardianship over my loved one?

(A) PROPERTY

When it comes to property decisions, the type of situation where guardianship may be necessary typically arises when your loved one does not have the capacity to manage property but inherits money, or is the Beneficiary of a pension, registered plan, or insurance policy in his or her own name. In other words, guardianship may be needed if your loved one receives a substantial sum of money or other property directly, rather than through a properly constituted absolute discretionary or Henson Trust. Where this occurs, not only will your loved one's ODSP benefits likely be interrupted, but in the absence of a Continuing Power of Attorney for Property, no person will have the authority to deal with the funds to ensure that they are managed appropriately. These types of situations can be avoided with careful planning and communication amongst family members.

Where it appears that guardianship may be necessary, it can be pursued by applicants through a statutory process involving the Office of the Public Guardian and Trustee, or through the court-appointed process. Applica-

tions are quite involved, and therefore retaining an experienced lawyer to review your options and complete the necessary documentation is strongly recommended.

Based on the above, it is our experience that very few families decide to pursue a guardianship application. In many cases, it is simply unnecessary. Further, the human rights implications on the person with a disability, as well as the time and significant costs associated with the process, simply act as a deterrent.

Our hope is that Ontario will follow other Canadian jurisdictions and shift toward a more progressive legal framework that recognizes trusted family members and friends within the context of supported decision-making. Such a framework, based on a piece of legislation called the Representation Agreement Act, has been in place in British Columbia since 1996.

(B) THE GUARDIANSHIP PROCESS FOR THE PERSON

Guardianship of the person is a less commonly pursued process, partly because the degree of capacity required to give a Power of Attorney for Personal Care is much lower (recall that it merely requires that your loved one understands whether the person they are appointing has a genuine concern for his or her welfare and appreciates that the person being appointed may need to make personal care decisions for him or her.) Guardianship of the person is also commonly rendered unnecessary due to the statutory substitute decision-making authorities granted to family members under the Health Care Consent Act (see above).

Where it appears that guardianship of the person may be necessary, it can be pursued by applicants through the court-appointed process only. As with guardianship of property, applications are quite involved, and therefore retaining an experienced lawyer to review your options and complete the necessary documentation is strongly recommended.

Register for one of our upcoming webinars

Our 2021 webinars are underway. In our attempt to keep you safe and well informed we will be hosting several virtual presentations this year. As always, our webinars are free of cost and we will be covering a range of topics from the full Bright Futures Ability Network. Please visit our upcoming events page to register for a webinar. We will be continuing to update our calendar throughout the year. <https://brightfuturesplan.com/upcomingevents/>

March Webinars

Wednesday March 3rd 7pm Creating a Future Income for Your Loved One

Tuesday March 16th at 7pm Q&A with Bright Futures

Wednesday March 31st at 6:30pm How to Plan for your Loved One's Future



Graeme Treeby, Disability Consultant
graeme@brightfuturesplan.ca

Erin Blair, Insurance Advisor
erin@brightfuturesplan.ca

Derrick Lee-Shanok, Financial Advisor
derrick@abilitypcg.com



How we can help support you

Whether it's a full financial and estate plan for your family or simply a plan to provide for your son or daughter with a disability, the Bright Futures Ability Network can guide you through the process of putting all the pieces of your planning puzzle together with expert advice and insights.

You can achieve a Bright Future for your family by allowing the Network members to provide support and guidance with your Wills and Henson Trusts, Life Insurance, Registered Disability Savings Plans (RDSP's), Investment programs, Retirement planning, Estate planning Tax planning and Tax Returns, Disability Tax Credit Applications, ODSP planning and qualification, Trustee Support Services and much more.

We can offer a complete life insurance review with Erin Blair or an RDSP and Financial Plan review with Derrick Lee-Shanok or we can connect you with the PooranLaw Whole Life Planning Centre for integrated will, trust, estate and tax planning services.

Our team is still working remotely and available to speak with you. If you would like to have the peace of mind that a Bright Futures Plan can provide, feel free to reach out to us by email (info@brightfuturesplan.ca) or [Book a Call](#)