

7 December 2017

Our ref (VK-SLC)

The Hon. Yvette D'Ath
Attorney-General and Minister for Justice
Minister for Training and Skills
Attorney General's Department
GPO Box 149
BRISBANE QLD 4001

By post and email [REDACTED]

Dear Attorney

Re: Definition of Child

We write in relation to possible law reform around the definition of child in Queensland succession law. Presently, child means biological child¹ and also includes adopted children. For family provision law, child also includes stepchildren.

What it does not include, for either intestacy laws or family provision laws, is a person whom a deceased person treated as a child. *Eatts v Gundy* is a potential example, as is a child as a result of an extra-marital affair. Another recent example could be facts that are similar to the situation in the recent NSW case of *Re Wilson* [2017] NSWSC 1.

Members of the Society's Succession Law Committee are aware of cases where DNA testing after a deceased person's death has resulted in "children" not actually being biological children of the deceased. The sad result in those cases being that the "child" has no rights, notwithstanding the deceased person always considered that person to be their child and treated them as such (and vice versa).

The Society respectfully requests that consideration be given to expanding the definition of child, as appropriate in s5A of the *Succession Act* 1981 with the intent that it apply to the whole Act, to include a person whom the deceased treated as their child. We would be pleased to consult with you further on this important issue.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Senior Policy Solicitor, Vanessa Krulin on [REDACTED]


Christine Smyth
President

¹ *Eatts v Gundy* [2014] QCA 309