

29 November 2023

Attorney-General's Department  
Attn: Protecting the Rights of Older Australians Section  
3-5 National Circuit  
Canberra ACT 2600



Dear Committee

### **Achieving Greater Consistency in Laws for Financial Enduring Powers of Attorney**

Thank you for the opportunity to provide feedback on the review into achieving consistency in laws for financial enduring powers of attorney (the **Review**). Aged and Disability Advocacy Australia (**ADA**) appreciates being consulted on this important issue.

#### **About ADA Australia**

ADA is a not for profit, independent, community-based advocacy and education service with more than 30 years' experience in informing, supporting, representing and advocating in the interests of older people, and persons with disability in Queensland.

ADA also provides legal advocacy through ADA Law, a community legal centre and a division of ADA. ADA Law provides specialized legal advice to older people and people with disability, including those living with cognitive impairments or questioned capacity, on issues associated with human rights, elder abuse, and health and disability legal issues related to decision-making.

ADA advocates and legal practitioners work with identified First Peoples advocates through the Aboriginal and Torres Strait Islander Disability Network Queensland (**ATSIDNQ**), a network established to support mob with disability and provide individual advocacy services for Aboriginal and Torres Strait Islander people with disability.

#### **Consultation Paper**

ADA supports the harmonisation of financial Enduring Powers of Attorney (**EPOA**) laws, which would assist with achieving a more consistent approach to the understanding and operation of these instruments across Australia. This consistency would ease some of the impracticalities and obstacles currently faced where a principal and an attorney are located in different jurisdictions.

The foundational objective in the making or revoking of an enduring power of attorney is the communication of a principal's views, preferences and directions to be followed at a time that they are unable to implement or communicate these independently. It is critical that a national framework embed a human-rights framework that seeks to promote the intentions of the individual.

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ADA Australia acknowledges the Traditional Custodians of this land and pays respect to Elders, past and present.

Aged and Disability Advocacy Australia trading as ADA Australia | ACN: 610 892 398 | ABN: 19 488 136 200



This should include a supported decision-making framework with mechanisms and resources to ensure that attorneys understand and act in accordance with the rights and wishes of the principal.

### *Principles*

The legislation should expressly include a rights-based framework that applies to the operation and interpretation of Act, and informs attorneys as to their obligations when supporting a principal to make a relevant decision.

ADA supports the description of the General Principles and a meaning of 'Decision-making capacity', as outlined by Queensland's Public Advocate, Dr John Chesterman in the paper 'Model financial enduring powers of attorney law'.<sup>1</sup>

With respect to capacity, the framework should reiterate the presumption of capacity and inform that capacity to make an informed decision can fluctuate, including that it may improve, and should be regularly assessed by a decision-maker with an obligation to consult and incorporate the views and wishes of the principal in each decision. This is supported by the Australian Law Reform Commission's (ALRC) 2014 report '*Equity, Capacity and Disability in Commonwealth Laws*'<sup>2</sup> (the **2014 ALRC Report**) which sets out a series of principles and best practice recommendations.

It is critical that the framework both directs an attorney and comprises mechanisms to support a principal's participation in decision-making, and that it does not enact provisions that subdue the principal's ability to make or participate in decision-making.

ADA notes that these principles are supported and expanded on in the submission by the Older Persons Advocacy Network (**OPAN**) of which ADA is a member.

### *Witnessing arrangements for principals*

ADA is supportive of a witnessing regime that will improve accessibility for persons, including those in regional and remote areas, to make or revoke an EPOA. This should include provision for remote witnessing arrangements such as videoconferencing or other internet-based technologies.

Reforms in this space should have regard to the 'enhanced witnessing' characteristics described in the Australian Law Reform Commission's report '*Elder Abuse – A National Legal Response*',<sup>3</sup> (the **2017 ALRC Report**) which describes the positive duties that a witness has in carrying out the safeguarding benefit for both principals and attorneys.

A program of credentialling could be made available to an expanded classes of witnesses, and would ensure that a witness is appropriately qualified to support the completion or revocation of an EPOA. This might take the form of a specialised training module, that could be open to completion by a wider cohort of persons to broaden accessibility of potential witnesses available to a principal, whilst providing an increased understanding and capacity of a witness to apply the safeguards and compliance requirements set out in the legislation. Though this expands the cohort of potential

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<sup>1</sup> Queensland Public Advocate, '*Model financial enduring powers of attorney law*', (July 2023).

<sup>2</sup> Australian Law Reform Commission, '*Equality, Capacity and Disability in Commonwealth Laws*' (ALRC Report 124), (August 2014) <<https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-alrc-report-124/>>.

<sup>3</sup> Australian Law Reform Commission, '*Elder Abuse – A National Legal Response*' (ALRC Report 131), (June 2017) <<https://www.alrc.gov.au/publication/elder-abuse-a-national-legal-response-alrc-report-131/>>.

witnesses, the targeted education and upskilling would align with the recommendations for 'tightening' witnessing requirements as set out in the 2017 ALRC Report.

The prescribed information resources as described in the consultation paper are broadly appropriate, and would compliment the specialised training or 'micro-credentialling' approach described above. The Queensland Capacity Assessment Guidelines are a useful tool that could be included, or adapted, as a resource to support a witness in determining a principal or attorney's capacity in entering into an EPOA or acceptance of an appointment.

The guidance material should include referral details to be provided to a principal or attorney who may benefit from further assistance, such as that which can be provided by an independent advocacy service or community legal centre.

#### *Acceptance of appointment by attorney*

A single national attorney acceptance form would be beneficial, and would likely prompt a positive reduction in the issues associated with interpreting an EPOA that was made in a different State or Territory. Transitional periods will be required to allow States and Territories to make necessary legislative changes, as well as to ensure that relevant agencies, sectors and service providers have completed training on the new form and implemented requisite system and procedural changes.

In addition to the proposal that attorneys are upskilled about their obligations and responsibilities of the role prior to acceptance, ADA supports the suggestion made by other contributors that the model should require attorneys to periodically refresh their knowledge and ensure that they maintain a comprehensive understanding of their role to ensure compliance with the legislation.

ADA suggests that, in accepting an appointment, an attorney should be required to declare an understanding of their obligation to act in accordance with the legislation and in support of the wishes, view and preferences of the principal.

#### *Revocation*

The proposed model for revocation as set out in the Consultation Paper is broadly supported.

In respect of an improved witnessing regime for revocations, and availability of appropriately qualified witnesses, we refer to the specialised credentialling concept set out above.

We note the requirement that a revocation must be executed in the '*presence of an authorised witness*' and repeat our previous comments that this should provide for remote witnessing arrangements using video-conferencing or other internet-based technology.

#### *Automatic revocation*

The model provision allowing for automatic revocation of an EPOA under one of the scenarios set out under section 6 of the Consultation Paper is supported, with flexibility to allow for any transitional periods as may be necessary in each jurisdiction.

In Queensland, an automatic revocation scheme associated only with financial EPOAs would impact on existing EPOAs made for both personal and financial matters. Transitional arrangements will need to be developed and an adequate period of time permitted before an automatic scheme were to come into effect.

#### *Attorney eligibility*

ADA is supportive of a model which allows a principal to make an informed decision as to whether they consider a person to be an appropriate attorney. For this reason, we consider the 'disclose and approve' approach in the Victorian legislation should be considered for a national framework. The legislation may include exceptions where a disclose and approve application seeking to override a statutory exclusion period would not be permitted, such as when there are domestic and family violence proceedings on foot or where the proposed attorney has been convicted of a domestic and family violence or dishonesty-related offences against the principal.

### *Supported/substitute decision-making*

The legislation should clarify that a substitute decision-making approach is one of last resort and only lawfully used after all other options to support a person in making their own decisions have been exhausted. To ensure that substitute decision-making is not inappropriately relied on, we reiterate the importance of embedding the principles set out in the 2014 ALRC Report into the legislation.

We repeat the comments of the Queensland Public Advocate and support the suggestion that the framework must distinguish itself from a 'best interests' model in which individual rights are treated as secondary to what an agency or attorney considers to be in the best interests of the principal. In exceptional cases where an attorney is unable to obtain the adult's views, guidance material should be available to assist the attorney and ensure that all decisions made strongly consider and seek to align with the principal's previous views and preferences.

For example, for a principal who has typically received vaccinations and adhered to the medical advice of qualified health practitioners, and in the absence of current and qualified medical advice advising against a particular vaccination for an individual, an attorney acting as a substitute decision-maker for an adult should consider the individual's past preference for receiving vaccinations to be indicative of their preference to continue receiving vaccinations.

ADA considers that all types of attorneys should be subject to the same obligations. This is an important safeguard that will promote consistency of standards irrespective of the attorney/principal relationship.

### *Model laws*

In our view, the model should encompass the relationship between EPOAs and guardianship legislation. The Queensland framework is an example wherein the legislation governing powers of attorney and guardianship laws have been amended with regard to the other instrument. This allows for a more complete understanding of the alternative decision-makers who may be engaged in relation to a person who experiences a loss in decision-making capability.

In relation to the need to embed supported decision-making into a national framework, ADA suggests that consideration is given to the model set out in Ireland's *Assisted Decision-Making (Capacity) Act 2015* (the **Irish Model**).

Some aspects of the Irish Model are reflected in Queensland's guardianship legislation, such as that the test for decision-making capacity is time, decision and domain specific. However the Irish Model provides a range of supported decision-making arrangements which are intended to preserve the autonomy of the affected adult for as long as possible. Incorporation of a similar model into nationally harmonised financial EPOA legislation would be a significant step forward in meeting the recommendations of the 2014 ALRC Report, as well as aligning with international instruments such as the United Nations Convention on the Rights of Persons with Disabilities (**CRPD**), which Australia ratified in 2008. In practice, it will support an improved rights-based approach to supported decision-

making, which in turn is likely to reduce the number of persons seeking review of attorney appointments or decisions through State and Territory tribunals.

*Education, resources and transitional arrangements*

We repeat our previous comments with regard to the importance of developing and providing a comprehensive and tailored curriculum of training for key persons, sectors, agencies and service providers. As described above, this must be accompanied by a reasonable transitional period to allow States and Territories to pass and implement necessary legislative changes and prepare key agencies through provision of guidance material, education and procedural changes.

ADA has developed a Supported Decision-Making guideline which has been distributed to key agencies involved in overseeing or undertaking supported decision-making, including the NDIS Commission and the Queensland Office of the Public Guardian. We enclose a copy for your reference.

***Anything else of note***

Thank you again for the opportunity to comment. ADA would be pleased to further assist the Department with its inquiry. Should you wish to discuss this submission, please do not hesitate to contact Vanessa Krulin, Solicitor and Senior Policy and Research Officer [REDACTED]  
[REDACTED]

Yours faithfully



**Geoff Rowe**

Chief Executive Officer

# Supported Decision Making

Helping people to make their own decisions  
(A guide for adults and those supporting them)

Including Informal Support Checklists



Proudly created by



**ADA Law**  
Community Legal Service



# Forward

## John Chesterman

Supporting people to make their own decisions, rather than having someone else make them, doesn't sound that hard. But in a world where service systems are complex, and where the focus on 'consumer choice' sees people asked to make ever more decisions about the services they receive, anyone who has difficulty making decisions is at risk of having others step in and take over.

That's why this resource is so timely and important. 'Supported Decision Making' is a guide that gives people, and those who are seeking to support them, valuable information that will enable them to keep making decisions about their own lives wherever possible.

The great benefit of this guide is that it makes complex information simple to understand. And it's been designed so that you can jump in and out of it as needs be.

It has sections on a huge range of important topics, including: 'who can make NDIS decisions', 'moving into residential aged care', and 'consenting to medication'. It will assist you if you need information on how to access aged care, disability support, or our healthcare system.

I commend ADA Law and QAI for bringing this resource to life. Behind it lies the valuable advocacy experience of dedicated staff members at these impressive organisations, who see first-hand when decisions are made for, rather than by, the people concerned. 'Supported Decision Making' is a tangible, practical, and valuable expression of a commitment to ensuring that people make their own decisions wherever possible.

John Chesterman is the Queensland Public Advocate

# Supported Decision Making:

## Helping people to make their own decisions

(A guide for adults and those supporting them)










Parts of this guide are for use by the person making decisions and parts of this guide are for use by their supporters. Supporters could include family, friends, carers, decision makers, health professionals or anyone giving support.

### Acknowledgement:

PRACTICAL Tool for Lawyers: Steps in Supporting Decision-Making: Reprinted by permission of the American Bar Association. All rights reserved. People with Disability and Supported Decision-Making: A guide for NDIS providers in NSW, by National Disability Services Limited (NDS). Queensland Capacity Assessment Guidelines 2020, Attorney-General and Minister for Justice, Qld.



## This guide has been made with assistance from:

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# 1.

## Introduction

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# Introduction

Most of us take for granted the ability to live our lives autonomously, making our own decisions (good and bad) about things like; where we live, who we live with, what we spend our money on and what type of medical treatment we want.

But age, an accident, or an illness can mean that it is harder to make decisions, particularly when big changes to our lives are involved, or when we require help to assist in maintaining our health and wellbeing.

Having to have someone appointed to make decisions on behalf of a person, like a guardian, administrator or attorney, really means that someone's freedom to make decisions about certain things is taken away from them. A decision is instead made on their behalf.

For some people, having a decision maker may be unavoidable, particularly if they are without a network of friends, family and supporters to help them.

For many people though, the appointment of a guardian or administrator is not necessary. They can receive informal support from family and friends to make the decisions and receive the supports or services they need.

So how can you support someone (like your Mum, Dad, another family member, or a close friend) who needs some help making decisions about their future and the supports and services they may need?

This booklet will take you through some of the more frequent decisions that people need to make as they age or live with disability, and how you can find out about the range of services and supports they can access through government and non-government programs.

The booklet is designed for you to 'pick and choose' the areas that are relevant to decision making or finding out about the types of supports and services that are available for eligible people.

The government systems that we need to access to receive supports and services, like aged care, the National Disability Insurance Scheme (NDIS) and Centrelink can be complex. This booklet is designed to try and remove some of that complexity so that you, when helping someone to make decisions, have a better understanding of what's available and what you need to discuss. The more you know about what type of supports and services someone may be able to receive and how to access them the more likely it is that they will not require a formal decision maker. Instead, options can be discussed with the person and a decision made.

# Overview

In the health and disability sectors there is a focus on the “capacity” or ability of the person to make their own decisions. If there is doubt about the person’s (your) capacity or ability a capacity assessment may be conducted. The Queensland Government has recently completed guidelines to help the general community and health professionals understand, approach and conduct these assessments, and we have reproduced the key approaches below:

## Capacity is decision-specific and time-specific

Capacity is specific to the type of decision to be made and the time the decision is made. Someone might have capacity to make certain types of decisions (e.g. a personal decision about where to live) and not others (e.g. a financial decision about whether to sell their house).

## Capacity can improve/fluctuate or deteriorate

An adult with a medical condition or illness may temporarily lose capacity, but then regain capacity at a later date. On the other hand, an adult with dementia or delirium, for example, might have capacity on some days (or during some parts of the day) and not others.

## Capacity can change with support

An adult’s capacity can improve depending on the support available to them. For this reason, an adult should not be found to lack capacity until all practical steps have been taken to provide the support and information needed to make the decision.

## A ‘bad’ decision does not mean you lack capacity

People have a right to make unpopular decisions, or decisions that other people don’t agree with. It alone does not mean you cannot make decisions.

# This Guide

This guide has been designed to assist in only a few key decisions in a person's life, who may need support with their decision making. We have focused on the following types of decisions, including:

- Where to live? (accommodation)
- Who can help? (services)
- What healthcare do I need? (healthcare)

We understand that we all make many decisions in our daily life. We have noticed that over time, these are the sorts of decisions that may be more difficult and that other people may be concerned about your ability to make. These types of decisions are often the ones that get sent to a Tribunal (Court) to see whether a decision maker may need to be formally (or properly) appointed to make these decisions for you.

We have put a lot of information together that may be useful to help you get the care and services that you might need, without it being necessary to have a decision maker appointed to make the decision for you.

Decisions about where to live, helping or support services and healthcare will depend on the individual or adult concerned. If the person is younger than 65 and requires support, then the National Disability Insurance Scheme (NDIS) or mental health services may be relevant care systems that may be useful. If the person is over 65, or is a First Nations person over 50 (and doesn't already have NDIS support), then Aged Care Services (My Aged Care or MAC) may be the place to start.

All of these care systems are very large and at times hard to sort out how they may be able to help. Also, decisions about care, support and services may need to be made during a healthcare crisis, and access to information can be difficult. With this information, support and/or time, you may be able to work your way through this and be able to make your own choices.

Please only look at the parts of this guideline that might be useful to you as everyone's situation is different, and most people do not need everything. We have divided the information into chapters, each focussing one area of decision making. If you need information about an area that is not included in this guide, check page 52 for organisations to contact for help.

## Types of Decisions

Examples of Supported Decision Making (SDM)

## Did You Know?

These pages are intended for use by the person. These pages can be reproduced and given to the person, as a starting point for them to consider and explore their options.

It may jog their memory about plans they have already made, give them the start they need to solve their own challenge, or lead them to the next steps.

## Accessing Systems

Working with systems can be overwhelming. To avoid information overload we suggest working through one chapter at a time

## Informal Support Checklists

### Explanatory Notes

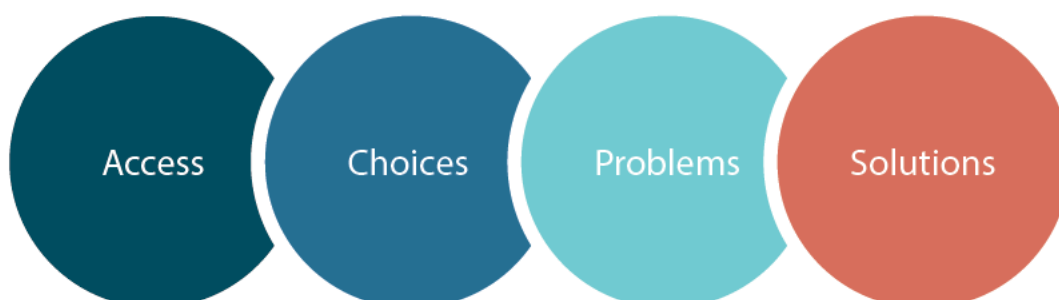
These checklists are tools to assist in:

- identifying what decisions the person has to make and can work through (including with support),
- exploring what has worked, what has been tried and didn't work, and
- what decisions the person really does need more formal help to make right now.

The checklists assist to give clarity to any concerns, and break it down into simple and complex areas.

Some topics will not be relevant and therefore it is not necessary to tick every box.

## A Person's Journey



# 2.

## Getting Help: Help at Home or Access to Aged Care

For people aged 65 or older and  
First Nations people aged 50 or older

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# Did You Know?



## My Aged Care (MAC)

MAC can help you understand how to get help in your home or how to move into residential aged care.




  
**Anyone can help you apply to My Aged Care**

**If your needs have changed, you can contact My Aged Care for a review**

  
**An Aged Care Advocate or lawyer can help you understand your contract**

**If you need help choosing providers and managing your plan My Aged Care can help**  
**If you need help finding options, an Aged Care Broker or Care Finder can help you**

 Google search: Aged Care Brokers or Care Finder

**Living Well - Think about working with a private Occupational Therapist or Social Worker to help you plan and implement your care needs - you can ask for one through NDIS or MAC**



**An Aged Care Advocate can help you access and navigate My Aged Care**


**If you need an ACAT Assessment or Review, My Aged Care can help**

**An ACAT Assessment is an assessment of your personal needs for government funded help eg shopping, cooking**



**If you don't know what you need, an Aged Care Advocate or Care Finder can help**

**If you are having trouble with My Aged Care or don't think you've had a fair go, an Aged Care Advocate (or any supporter) can help you complain**

 Google search: Aged Care Advocacy

  
**If you think it might be time to consider moving into residential aged care My Aged Care can help you**





# Accessing My Aged Care (MAC)

## What is the decision?

- To get help with daily living, to stay well at home, or to start planning for moving into residential aged care.

## How is this done?

- By contacting My Aged Care (MAC) and registering.  
[www.myagedcare.gov.au](http://www.myagedcare.gov.au)
  - Consider organising a MAC nominee, done by phone consent with MAC. Your nominee can help you deal with MAC.

## Clues that the person may need support to get help

- The person is unable to find all the options, or choose between the options available - this may suggest that the person doesn't understand the options, has trouble using or accessing technology, or is having difficulty weighing up the advantages and disadvantages of each one.
- The person delays or refuses to make a decision - this may suggest that the person doesn't like any of the options, or doesn't understand how they will benefit from the service type.
- The person asks someone else to make the decision - this may suggest the person is inexperienced making decisions, or is concerned about making the 'wrong' decision.

## What support could be provided?

Supports could include:

- Assisting the person to access My Aged Care (MAC) [phone / website] - [Consider a MAC Nominee]
- Identifying options available
- Helping arrange an ACAT assessment
- Meeting/s with providers to learn about the services and see how services are delivered
- Talking with other participants who use those services
- Accessing information about MAC, and help at home options, such as brochures, websites, DVDs
- Using tools to consider parts of the decision, such as a chart to compare options
- Talking with MAC to find out more information about the options, such as the reputation of each provider, and whether there are differences between the options

Most people will not need all of these supports to help them make an informed decision.

## Who can provide the support?

Anybody can help, including:

- Trusted friends or family
- The person's MAC Nominee
- An Aged Care Advocate (helps the person access information, make complaints, get more help)
- A Care Finder may be able to assist
- Services / Healthcare Providers (including Social Workers)
- MAC - [1800 200 422](tel:1800200422) or [www.myagedcare.gov.au](http://www.myagedcare.gov.au)

# Complaining about an Aged Care Provider



## What is the decision?

- How to raise concerns and complaints, and what response is an acceptable resolution.

## How is this done?

- By contacting the service provider complaints or by contacting MAC
  - Consider organising a MAC nominee or Aged Care Advocate

## Clues that the person may need support to get help

- The person's usual behaviour changes when services are being delivered, or when they get home - this may suggest they are unhappy with something that has happened, but don't know how to clarify the problem and raise their concern
- The person tells a family member / friend / advocate about their concern - this may suggest that they don't know about the provider's complaint procedures, or is afraid to raise it directly with a staff member
- The person has trouble using or accessing most technology
- The person is not happy with the way the provider says it will fix the problem - this may suggest that either the person doesn't understand what the provider can and cannot do, or that the provider is unclear or unwilling to be more flexible

## What support could be provided?

Supports could include:

- Provide information to the person and their supporters about the provider's complaint handling process - in accessible formats
- Link the person with someone who can assist them to identify what they feel, and what that feeling is linked to - for people who have difficulty making sense of why they feel unhappy. Tools or Allied Health referrals may be useful to support the person for this part
- Assist the person to document their concern. This may mean that staff or another support person listens to their concern and writes it for them
- Nominate a team member/manager to keep in contact with the person, and update them on the progress of an investigation
- Link the person with an independent advocate, legal service, or other complaint handling body
- Provide explanations to the person about what options the provider has to fix the problem. Wherever possible, there should be a range of options so that participants can choose the outcome that best suits them

Most people will not need all of these supports to help them make an informed decision.

## Who can provide the support?

Anybody can help, including:

- Trusted friends or family
- The person's MAC Nominee
- An Aged Care Advocate
- A Care Finder may be able to assist
- Services / Healthcare Providers (including Social Workers)
- MAC - [1800 200 422](tel:1800200422) or [www.myagedcare.gov.au](http://www.myagedcare.gov.au)



# Accessing Help at Home

## What is the decision?

- To get help with daily living, to stay well at home.

## How is this done?

- This is arranged by contacting My Aged Care (MAC) and registering for services.

## Clues that the person may need support to get help

- The person is unable to find all the options, or choose between the options available - this may suggest that the person doesn't understand the options, has trouble using or accessing technology, or is having difficulty weighing up the advantages and disadvantages of each one.
- The person delays or refuses to make a decision - this may suggest that the person doesn't like any of the options, or doesn't understand how they will benefit from the service type
- The person asks someone else to make the decision - this may suggest the person is inexperienced making decisions, or is afraid of making the 'wrong' decision.

## What support could be provided?

Supports could include:

- Assisting the person to access My Aged Care (MAC) [phone / website] - [Consider a MAC Nominee]
- Identifying options available
- Helping arrange an ACAT assessment
- Meeting/s with providers to learn about the services and see how services are delivered
- Talking with other participants who use those services
- Accessing information about MAC, and help at home options, such as brochures, websites, DVDs
- Using tools to consider parts of the decision, such as a chart to compare options
- Talking with MAC to find out more information about the options, such as the reputation of each provider, and whether there are differences between the options

Most people will not need all of these supports to help them make an informed decision.

## Who can provide the support?

Anybody can help, including:

- Trusted friends or family
- The person's MAC Nominee
- An Aged Care Advocate see [www.opan.org.au](http://www.opan.org.au) or [1800 700 600](tel:1800700600)
- A Care Finder may be able to assist
- Services / Healthcare Providers (including Social Workers)
- MAC - [1800 200 422](tel:1800200422) or [www.myagedcare.gov.au](http://www.myagedcare.gov.au)

# Help at Home - My Aged Care (MAC)



## My Aged Care Service

### Who Can Make MAC Decisions?

#### Accessing My Aged Care (MAC)



#### Identifying Needs and Preferences



#### Arranging Aged Care Assessment Team (ACAT) Assessments



#### Selecting and changing service providers / Accommodation



## Home Care Services (Aged Care)

### Who Can Make MAC Decisions?

#### Signing Service Agreements



**The Person  
(Participant)**



**My Aged Care  
(MAC) Nominee**



**Family member,  
Carer (non-paid) or  
Friend**



**Attorney (for  
Personal Matters)**



**Guardian  
(for Services/  
Accommodation)**

A Service Agreement is a legal contract between the provider and participant.

If an attorney or guardian is appointed, they must have authority to make decisions about Services.

If the Public Guardian is appointed to make decisions about Services, they will endorse a service and make a decision about services but will not sign a service provider's service agreement. NB> the Public Guardian will email confirmation of their decision, which is sufficient for MAC requirements. Note that the Public Trustee will not sign Service Agreements.

If the provision of Services is agreed, but no-one is willing or able to sign the Service Agreement, the provider should keep records of the verbal agreement, and its efforts to obtain a signature. However, the provider has no legal protections with an unsigned Service Agreement.

#### Making a complaint / Requesting a Review



**The Person  
(Participant)**



**My Aged Care (MAC)  
Nominee (plan or  
correspondence)**



**Family member,  
Carer (non-paid) or  
Friend**



**An Aged Care  
Advocate**



**Attorney (for  
Personal Matters -  
if the concern is re  
services)**



**Attorney (for  
Finances - if the  
concern is re  
finances)**



**Guardian  
(for Services)**

A review could be for an ACAT review.

#### Making Payments to providers



**MAC makes  
payments directly  
to Services**

If co-contributions are required by the participant invoices will be provided.



# Help at Home - My Aged Care (MAC) Support Checklist



**Remember:** formal Guardianship is the MOST restrictive option available, and must only be considered as the LAST Resort. Absolutely all reasonable steps must have been taken first, and found insufficient

Home Care Services (Aged Care)	Agreeable to help from service	Able to arrange help (incl. with support)
--------------------------------	--------------------------------	-------------------------------------------

<p>What informal supports/strategies are available for these decisions? [Does the person have friends / family / professionals available to help?]</p>		
<p>What would it take for the person to make this decision? [eg Assistive Technology, Interpreter, Written/Picture Information, Professional Advice, Time ...]</p>		
<p>Are these challenges temporary or reversible? [eg Mental illness, Illness, Sensory Impairment, Grief, Cultural, Medication Side Effects...]</p>		
<p>Challenges / Barriers [Make note of whether these are temporary (short term) or longterm] [eg Eligibility / Cost / Risk of Undue Influence / Neglect / Family Disputes / Lack of Supporters ...]</p>		
<p>Have these options been tried?</p> <ul style="list-style-type: none"> <li>• Mediation / Family Meetings</li> <li>• Attorney under Enduring Power of Attorney (EPOA)</li> </ul> <p>If not, what are the barriers?</p>		
<p><b>NB. seek legal advice about what options may be available and before applying for a formal decision maker, confirm and document that all the above steps have been explored and are insufficient</b></p>		
<p>For those areas where you have concern, what informal strategies have you tried? What problems remain?</p>		
<p>If ultimately a formal Decision Maker is considered necessary, what is the least amount of time, and power, suggested for the appointment? [eg. Only to arrange Services, short time...]</p>		

# Deciding Where to Live - Accommodation



What is the decision?	<ul style="list-style-type: none"> <li>Working out where is the best place to live, taking into account wellbeing, needs and preference.</li> </ul>
How is this done?	<ul style="list-style-type: none"> <li>Weighing up the pros and cons of community versus residential care.</li> <li>Finding out what options are available.</li> </ul>
Clues that the person may need support to get help	<ul style="list-style-type: none"> <li>The person's health team is concerned they are not eating well, or they are having too many falls in their own home, or great difficulty in accessing the community / health care</li> <li>The person believes that acknowledging they need help opens the door to being forced into aged care</li> <li>The person's family is arguing</li> <li>The person is missing rent payments</li> <li>They have had an increasing number of visits to hospital</li> <li>They are unable to find all the options available to them, or have trouble accessing or using technology</li> </ul>
What support could be provided?	<p>Supports could include:</p> <ul style="list-style-type: none"> <li>Assisting the person to clarify what is important to them</li> <li>Assistance to call My Aged Care (MAC)</li> <li>Contacting relevant Decision Makers</li> <li>Identifying options available, and those that align with what is important to them</li> <li>Visit/s to, or meeting/s with, each of the aged care and home care providers to learn about the services and see how services are delivered</li> <li>Talking with other participants who use those services</li> <li>Accessing information about each of the providers, such as brochures, websites, DVDs</li> <li>Using tools to consider parts of the decision, such as a chart to compare options</li> <li>Talking with an Aged Care Advocate or Care Finder or broker, to find out more information about the options, such as the reputation of each provider, and whether there are differences between the options</li> </ul> <p>Most people will not need all of these supports to help them make an informed decision.</p>
Who can provide the support?	<p>Anybody can help, including:</p> <ul style="list-style-type: none"> <li>Trusted friends or family</li> <li>An Aged Care Advocate</li> <li>An Aged Care Broker (A broker is someone you pay to look for options for you)</li> <li>A Care Finder may be able to assist</li> <li>Services / Healthcare Providers (incl Social Workers)</li> <li>Government agencies like Rent Connect</li> <li>MAC - <a href="tel:1800200422">1800 200 422</a> or <a href="http://www.myagedcare.gov.au">www.myagedcare.gov.au</a></li> </ul>



# Moving into Residential Aged Care (RAC)



What is the decision?	<ul style="list-style-type: none"> <li>Whether to move into a residential aged care facility (RACF) or not, or maybe choosing one.</li> </ul>
How is this done?	<ul style="list-style-type: none"> <li>Finding out what options are available</li> <li>Weighing up the pros and cons</li> </ul>
Clues that the person may need support to get help	<ul style="list-style-type: none"> <li>The person is unable to find all the options, or choose between the options available - this may suggest that the person doesn't understand the options, has trouble using or accessing technology, or is having difficulty weighing up the advantages and disadvantages of each one.</li> <li>The person delays or refuses to make a decision - this may suggest that the person doesn't like any of the options, or doesn't understand how they will benefit from the service type</li> <li>The person asks someone else to make the decision - this may suggest the person is inexperienced making decisions, or is afraid of making the 'wrong' decision.</li> </ul>
What support could be provided?	<p>Supports could include:</p> <ul style="list-style-type: none"> <li>Assisting the person to access My Aged Care (MAC) [phone / website] - [Consider a MAC Nominee]</li> <li>Identifying options available</li> <li>Helping arrange an ACAT assessment</li> <li>Meeting/s with RACFs or brokers to learn about the home and see if it is suitable</li> <li>Talking with other residents who live there</li> <li>Accessing information about MAC, and brochures, websites, DVDs</li> <li>Using tools to consider parts of the decision, such as a chart to compare options</li> <li>Talking with MAC to find out more information about the options, such as the reputation of each RACF, and whether there are differences between the options</li> </ul> <p>Most people will not need all of these supports to help them make an informed decision.</p>
Who can provide the support?	<p>Anybody can help, including:</p> <ul style="list-style-type: none"> <li>Trusted friends or family</li> <li>The person's MAC Nominee</li> <li>An Aged Care Advocate</li> <li>An Aged Care Broker (A broker is someone you pay to look for options for you)</li> <li>A Care Finder may be able to assist</li> <li>Services / Healthcare Providers (incl Social Workers)</li> <li>MAC - <a href="tel:1800200422">1800 200 422</a> or <a href="http://www.myagedcare.gov.au">www.myagedcare.gov.au</a></li> </ul>

# My Aged Care - Residential Aged Care



## My Aged Care Service

### Who Can Make MAC Decisions?

#### Accessing My Aged Care (MAC)



#### Identifying Needs and Preferences



#### Arranging Aged Care Assessment Team (ACAT) Assessments



#### Selecting and changing service providers / Accommodation



## Aged Care

## Who Can Make MAC Decisions?

### Signing Service Agreements



**The Person (Participant)**



**My Aged Care (MAC) Nominee**



**Family member, Carer (non-paid) or Friend**



**Attorney (for Personal Matters)**



**Guardian (for Accommodation)**

A Service Agreement is a legal contract between the provider and participant.

If an attorney or guardian is appointed, they must have authority to make decisions about Accommodation.

If the Public Guardian is appointed to make decisions about Accommodation, they will endorse a service and make a decision about Accommodation but will not sign a service provider's service agreement. The Public Guardian will email confirmation of their decision, which is sufficient for MAC requirements. Note that the Public Trustee will not sign Service Agreements either.

If the provision of Accommodation is agreed, but no-one is willing or able to sign the Service Agreement, the provider should keep records of the verbal agreement, and its efforts to obtain a signature. However, the provider has no legal protections with an unsigned Service Agreement.

### Making a complaint / Requesting a Review



**The Person (Participant)**



**My Aged Care (MAC) Nominee (plan or correspondence)**



**Family member, Carer (non-paid) or Friend**



**An Aged Care Advocate**



**Attorney (for Personal Matters - if the concern is re services)**



**Attorney (for Finances - if the concern is re finances)**



**Guardian (for Services/ Accommodation)**

A review could be for an ACAT review.

### Making Payments to providers



**MAC makes payments directly to Services**

If co-contributions are required by the participant invoices will be provided.

# Accommodation - Aged Care Support Checklist



**Remember:** formal Guardianship is the MOST restrictive option available, and must only be considered as the LAST Resort. Absolutely all reasonable steps must have been taken first, and found insufficient

Accommodation	Living independently (incl. with services/ supports)	Maintaining safe conditions	Accessing community resources
What informal supports/strategies are available for these decisions? [Does the person have friends / family / professionals available to help?]			
What would it take for the person to make this decision? [eg Assistive Technology, Interpreter, Written/Picture Information, Professional Advice, Time ...]			
Are these challenges temporary or reversible? [eg Mental illness, Illness, Sensory Impairment, Grief, Cultural, Medication Side Effects...]			
Challenges / Barriers [Make note of whether these are temporary (short term) or longterm] [eg Eligibility / Cost / Risk of Undue Influence / Neglect / Family Disputes / Lack of Supporters ...]			
Have these options been tried? <ul style="list-style-type: none"> <li>• Mediation / Family Meetings</li> <li>• Attorney under Enduring Power of Attorney (EPOA)</li> </ul> If not, what are the barriers?			
<b>NB. seek legal advice about what options may be available and before applying for a formal decision maker, confirm and document that all the above steps have been explored and are insufficient</b>			
For those areas where you have concern, what informal strategies have you tried? What problems remain?			
If ultimately a formal Decision Maker is considered necessary, what is the least amount of time, and power, suggested for the appointment? [eg. Only to arrange Services, short time...]			

# 3.

## Getting Help: NDIS

For people aged under 65

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## NDIS

### Did You Know?



Anyone can help you apply for NDIS


A Disability Advocate can help you access and navigate the NDIS and get support




If you don't have a Support Coordinator, you can get help from the Local Area Coordinator (LAC). The LAC can also help you change Support Coordinators

If you need help choosing providers and managing your plan the NDIA can fund a Support Coordinator

If you have issues with a service provider, your Support Coordinator or a Disability Advocate can help you




You can nominate someone to help you sign up for the NDIS - 3RD PARTY AUTHORITY



The Assessment and Referral Team (ART) can support young people at risk between ages 7-25 to access the NDIS

If you need help paying your service providers:

1. the NDIS can fund a Plan Manager, or
2. your Plan Nominee (someone you know and trust) can 'self manage the plan on your behalf, or
3. the NDIA can manage the plan for you



If you need help with paperwork and information, you can nominate a Correspondence Nominee *NB. this person cannot make decisions*




If you are having trouble with NDIS or don't think you've had a fair go, a Disability Advocate (or any supporter) can help you complain and get support to appeal a decision



Living Well - Think about working with a private Occupational Therapist or Social Worker to help you plan and implement your care needs - you can ask for one through NDIS or MAC

Housing Options ...



If you have been assessed for:

1. Supported Independent Living (SIL); or
2. Individualised Living Options (ILO) or
3. Specialised Disability Accommodation (SDA)

your Support Coordinator can assist you to explore options

# Accessing the NDIS

(The NDIS funds services for people under 65 years old, who live with disability)



## What is the decision?

- To register with NDIS; and
- Get help with daily living, life skills, and gaining independence (services)

## How is this done?

- By contacting NDIA and registering for services.

## Clues that the person may need support to get help

- The person is unable to find all the options, or choose between the options available - this may suggest that the person doesn't understand how to access the NDIS, has trouble using or accessing technology, or is having difficulty weighing up the advantages and disadvantages of each one.
- The person delays or refuses to make a decision - this may suggest that the person doesn't like any of the options, or doesn't understand how they will benefit from the service type
- The person asks someone else to make the decision - this may suggest the person is inexperienced making decisions, or is afraid of making the 'wrong' decision.

## What support could be provided?

Supports could include:

- Accessing information about the NDIS, such as brochures, websites, DVDs
- Assisting the person to access the NDIS, including help to complete paperwork, obtain necessary medical reports and disability assessments and Access Referral Forms (ARFs)
- Identifying options available
- Visit/s to, or meeting/s with, each of the providers to learn about the services and see how services are delivered
- Talking with other participants who use those services
- Using tools to consider parts of the decision, such as a chart to compare options
- Talking with a Support Coordinator (if funded), or the Local Area Coordinator (LAC), to find out more information about the options, such as the reputation of each provider, and whether there are differences between the options

Most people with a disability will not need all of these supports to help them make an informed decision.

## Who can provide the support?

Anybody can help, including:

- Trusted friends or family
- A Disability Advocate
- Services / Healthcare Providers (incl Social Workers)
- The NDIS Plan Nominee / Plan Manager
- An Attorney for personal matters
- Support Coordinator / Local Area Coordinators (LACs)
- The Assessment and Referral Team (ART) for young people at risk 7-25yrs



# Selecting an NDIS Service Provider



## What is the decision?

- Selecting a provider to deliver a specific type of support.

## How is this done?

- By accessing the NDIS Portal and finding a provider

## Clues that the person may need support to get help

- The person is unable to find all the options, or choose between the options available - this may suggest that the person doesn't understand the options, has trouble using or accessing technology, or is having difficulty weighing up the advantages and disadvantages of each one.
- The person delays or refuses to make a decision - this may suggest that the person doesn't like any of the options, or doesn't understand how they will benefit from the service type
- The person asks someone else to make the decision - this may suggest the person is inexperienced making decisions, or is afraid of making the 'wrong' decision.

## What support could be provided?

Supports could include:

- Assisting the person to clarify what outcomes they want from the service, so they can compare what each option is offering
- Identifying options available
- Visit/s to, or meeting/s with, each of the providers to learn about the services and see how services are delivered
- Talking with other participants who use those services
- Accessing information about each of the providers, such as brochures, websites, DVDs
- Using tools to consider parts of the decision, such as a chart to compare options
- Talking with a Support Coordinator (if funded), or the Local Area Coordinator (LAC), to find out more information about the options, such as the reputation of each provider, and whether there are differences between the options

Most people with a disability will not need all of these supports to help them make an informed decision.

## Who can provide the support?

Anybody can help, including:

- Trusted friends or family
- A NDIS Plan Nominee / Plan Manager
- A Disability Advocate
- An Attorney for personal matters
- Services / Healthcare Providers (incl Social Workers)
- Support Coordinator / Local Area Coordinators (LACs)



# Complaining about an NDIS Provider



## What is the decision?

- Raising concerns and complaint, and having an acceptable resolution.

## How is this done?

- By contacting the service provider, Support Coordinator or NDIA

## Clues that the person may need support to get help

- The person's usual behaviour changes when services are being delivered, or when they get home - this may suggest they are unhappy with something that has happened, but don't know how to clarify the problem and raise their concern
- The person tells a family member / friend / advocate about their concern - this may suggest that they don't know about the provider's complaint procedures, or is afraid to raise it directly with a staff member
- The person has trouble using or accessing technology
- The person is not happy with the way the provider says it will fix the problem - this may suggest that either the person doesn't understand what the provider can and cannot do, or that the provider is unclear or unwilling to be more flexible

## What support could be provided?

Supports could include:

- Provide information to the person and their supporters about the provider's complaint handling process - in accessible formats
- Link the person with someone who can assist them to identify what they feel, and what that feeling is linked to - for people who have difficulty making sense of why they feel unhappy. Tools may be useful to support the person for this part
- Assist the person to document their concern. This may mean that staff or another support person listens to their concern and writes it for them
- Nominate a worker to keep in contact with the person, and update them on the progress of an investigation
- Link the person with an independent advocate, legal service, or other complaint handling body
- Provide explanations to the person about what options the provider has to fix the problem. Wherever possible, there should be a range of options so that participants can choose the outcome that best suits them

Most people will not need all of these supports to help them make an informed decision.

## Who can provide the support?

Anybody can help, including:

- Trusted friends or family
- A NDIS Plan Nominee / Plan Manager
- A Disability Advocate
- An Attorney for personal matters
- Services / Healthcare Providers (incl Social Workers)
- Support Coordinator / Local Area Coordinators (LACs)

# Accessing Education or Employment



## What is the decision?

- Choosing education or employment.

## How is this done?

- By enrolling in a course, or applying for a job vacancy.
- Or by cancelling a course or rejecting a job offer.

## Clues that the person may need support to get help

- The person is unable to find all the options, or choose between the options available - this may suggest that the person doesn't understand the options, has trouble using or accessing technology, or is having difficulty weighing up the advantages and disadvantages of each one.
- The person delays or refuses to make a decision - this may suggest that the person doesn't like any of the options, or doesn't understand how they will benefit from the service type.
- The person asks someone else to make the decision - this may suggest the person is inexperienced making decisions, or is afraid of making the 'wrong' decision.

## What support could be provided?

Supports could include:

- Assisting the person to clarify what outcomes they want from the service, so they can compare what each option is offering
- Identifying options available
- Visit/s to, or meeting/s with, Disability Employment Service (DES) provider to discuss options for education and employment and supports a DES might be able to provide
- Talking with other participants who use those services
- Accessing information about each of the providers, such as brochures, websites, DVDs
- Using tools to consider parts of the decision, such as a chart to compare options
- Talking with a Support Coordinator (if funded), or the Local Area Coordinator (LAC), to find out more information about the options, such as the reputation of each provider, and whether there are differences between the options

Most people with a disability will not need all of these supports to help them make an informed decision.

## Who can provide the support?

Anybody can help, including:

- Trusted friends or family
- A NDIS Plan Nominee / Plan Manager
- A Disability Advocate
- An Attorney for personal matters
- Services / Healthcare Providers (incl Social Workers)
- Support Coordinator / Local Area Coordinators (LACs)

# NDIS



## NDIS Services

### Who Can Make NDIS Decisions?

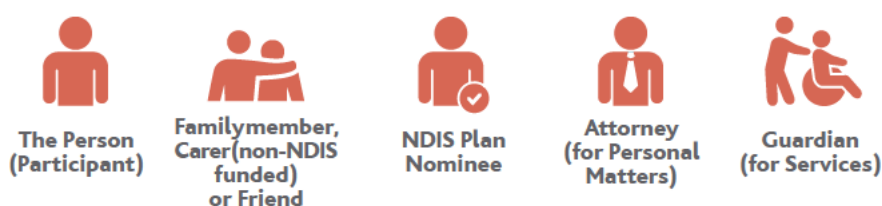
#### Accessing the NDIS



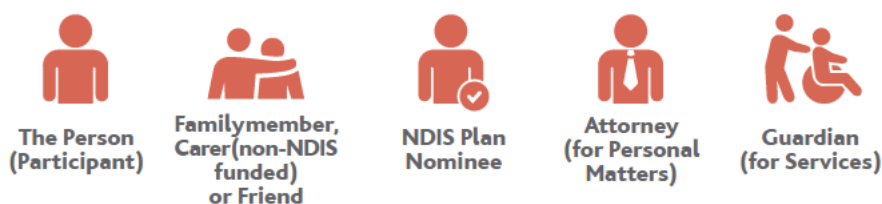
#### Identifying Goals and Objectives



#### Developing the NDIS plan



#### Selecting and changing service providers



## NDIS Services

## Who Can Make NDIS Decisions?

### Signing Service Agreements



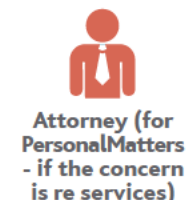
Service Agreement is a legal contract between the provider and participant.

If an attorney or guardian is appointed, they must have authority to make decisions about Services.

If the Public Guardian is appointed to make decisions about Services, they will endorse a service and make a decision about services but will not sign a service provider's service agreement. Note that the Public Guardian will email confirmation of their decision, which is sufficient for NDIA requirements. Note that the Public Trustee will not sign Service Agreements.

If the provision of Services is agreed, but no-one is willing or able to sign the Service Agreement, the provider should keep records of the verbal agreement, and its efforts to obtain a signature. However, the provider has no legal protections with an unsigned Service Agreement.

### Making a complaint / Requesting a Review



A review could be for a plan review or 'reassessment', or a requested review of a 'reviewable decision'.

### Making Payments to providers



If the Public Trust is appointed for Finances, it does not manage NDIS payments.

If no-one is available, NDIS payments can be made by a Plan Manager (if allocated in the plan), or directly by NDIA.

# NDIS Support Checklist



**Remember:** formal Guardianship is the MOST restrictive option available, and must only be considered as the LAST Resort. Absolutely all reasonable steps must have been taken first, and found insufficient

NDIS Services	Living agreeable to help from service providers	Able to arrange help (incl. with support)	Can access education/employment
What informal supports/strategies are available for these decisions? [Does the person have friends / family / professionals available to help?]			
What would it take for the person to make this decision? [eg Assistive Technology, Interpreter, Written/Picture Information, Professional Advice, Time ...]			
Are these challenges temporary or reversible? [eg Mental illness, Illness, Sensory Impairment, Grief, Cultural, Medication Side Effects...]			
Challenges / Barriers [Make note of whether these are temporary (short term) or longterm] [eg Eligibility / Cost / Risk of Undue Influence / Neglect / Family Disputes / Lack of Supporters ...]			
Have these options been tried? <ul style="list-style-type: none"> <li>• Mediation / Family Meetings</li> <li>• Attorney under Enduring Power of Attorney (EPOA)</li> <li>• Nominee with NDIA</li> </ul> If not, what are the barriers?			
<b>NB. seek legal advice about what options may be available and before applying for a formal decision maker, confirm and document that all the above steps have been explored and are insufficient</b>			
For those areas where you have concern, what informal strategies have you tried? What problems remain?			
If ultimately a formal Decision Maker is considered necessary, what is the least amount of time, and power, suggested for the appointment? [eg. Only to arrange Services, short time...]			

# 4.

## Getting Help: Healthcare

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Did You Know?



## Statutory Health Attorney (SHA)

**We don't all have close relationships with our relatives, or sometimes they're not available, so the law in Queensland lets other people act for you with health decisions, when necessary. They are called a Statutory Health Attorney (SHA)**



**In Queensland, if you need help making a health decision, your supporters can help**



Your SHA could be your Spouse or Partner, your unpaid carer, your family or friend.



**If you don't have anyone in your life who could help with Health Decisions, the Public Guardian can be your SHA.**



**For some people their close friends know them best.**



**You don't need to complete any paperwork to appoint a Statutory Health Attorney**



**Queensland law does not have a Next of Kin (NOK)**




**Instead, we use a Statutory Health Attorney (SHA)**

## Did You Know?




### Advance Health Directive (AHD)

 An Advance Health Directive (AHD) is a **legal document**. The powers and responsibilities granted are **legally binding**


The person making an AHD is called the **Principal**




Discuss your needs with your usual Doctor




A lawyer or Justice of the Peace **can witness an AHD in Qld**




You may wish to complete an Advance Health Directive to **explain your health views and wishes**



 A principal always has the right to **complain** (including about their attorney/s)

A principal always has the right to information about them, including health options and information and EPOAs, even if an attorney is making decisions.



 A principal always has the right to independent advocacy or legal advice, or complain, even if they have impaired decision-making capacity



# Consenting to Healthcare

## What is the decision?

- Who to see for a health problem
- Whether to consent or not to a proposed treatment option.

## How is this done?

- By making an appointment with a doctor
- By weighing up the pros and cons of the options available

## Clues that the person may need support to get help

- The person believes that they must do what the doctor says - this belief suggests that the person doesn't understand that there is a decision (choice) that needs to be made
- The person accepts the recommended option without questions - this may suggest that the person is being compliant to a person in authority, or does not understand what the procedure is for, or its risks
- The person does not appear to understand the risk of not treating their illness (eg. doing nothing)

## What support could be provided?

Some treatments have significant effects on a person, such as operations and cancer treatments. Therefore, giving informed consent means the person will need to learn some complex information, as outlined below. Support options could include:

- talking with your usual GP
- meeting/s with the specialist health professional to hear an explanation about the condition that needs treating, what the treatment will do (and whether they will feel a difference in themselves after it), whether the recovery and rehabilitation is for a short time or ongoing, if there are any side-effects or long-term risks, the risks of not taking the recommended treatment, and if there are alternative treatments
- Discussion/s with carers about how they can provide support, such as increasing support at home, attending appointments with the person
- Access to factsheets, diagrams or videos about the condition and recommended treatment
- Discussion with someone else who has a similar situation
- For simpler procedures, the information may be easier to learn and the person may need less support
- Look at ADA Law Health Decision Making Flowcharts and Resources <https://adalaw.com.au/healthcare-decision-making/>

## Who can provide the support?

Anybody can help, including:

- Trusted friends or family
- Someone you trust and may be considered to be your Statutory Health Attorney (SHA)
- An Advocate
- Services / Healthcare Providers (incl Social Workers)
- The person's usual health care provider (GP) / a specialist

# Consenting to Medication

## What is the decision?

- When a health professional prescribes a specific medication, the decision for an adult is whether or not to consent to taking it.

## How is this done?

- By weighing up the pros and cons of the options available

## Clues that the person may need support to get help

- The person believes that they must do what the doctor says - this belief suggests that the person doesn't understand that there is a decision (choice) that needs to be made
- The person accepts the recommended medication without questions - this may suggest that the person is being compliant to a person in authority, or does not understand what the medication is for, or its risks
- Perhaps unusually, the person does not follow reasonable medical advice given by their trusted health professional

## What support could be provided?

Some medications have significant effects on a person, such as psychotropic or contraceptive medications. Therefore, giving informed consent means the person will need to learn some complex information, as outlined below. Support options could include:

- talking with your GP
- meeting/s with the prescribing health professional to hear an explanation about the condition that needs treating, what the medication will do (and whether they will feel a difference in themselves when taking it), whether it is for a short time or ongoing, if there are any side-effects or long-term risks, the risks of not taking the medication, and if there are alternative treatments
- Discussion with the person to learn why they do / do not wish to take the medication. What are the options/risks of this option. Explore what consequences they think could happen and how they formed this view
- Discussion/s with staff about how they can provide support, such as help to get the medication from the pharmacy, reminders to take the medication, and what staff can do if the person refuses the medication
- Access to factsheets, diagrams or videos about the condition and recommended medication
- Discussion with someone else who takes the medication
- For simpler medications, the information may be easier to learn and the person may need less support.

## Who can provide the support?

Anybody can help, including:

- Trusted friends or family
- Someone you trust and may be considered to be your Statutory Health Attorney (SHA)
- An Advocate
- Services / Healthcare Providers (incl Social Workers)
- The person's usual health care provider (GP) / a specialist

# Healthcare Support Checklist



**Remember:** formal Guardianship is the MOST restrictive option available, and must only be considered as the LAST Resort. Absolutely all reasonable steps must have been taken first, and found insufficient

Healthcare	Taking medications as needed	Managing personal cares	Making Decisions about medical treatment/ choosing health provider
What informal supports/strategies are available for these decisions? [Does the person have friends / family / professionals available to help?]			
What would it take for the person to make this decision? [eg Assistive Technology, Interpreter, Written/Picture Information, Professional Advice, Time ...]			
Are these challenges temporary or reversible? [eg Mental illness, Illness, Sensory Impairment, Grief, Cultural, Medication Side Effects...]			
Challenges / Barriers [Make note of whether these are temporary (short term) or longterm] [eg Eligibility / Cost / Risk of Undue Influence / Neglect / Family Disputes / Lack of Supporters ...]			
Have these options been tried? <ul style="list-style-type: none"> <li>• Advance Health Directive (AHD)</li> <li>• Statutory Health Attorney</li> <li>• Mediation / Family Meetings</li> <li>• Attorney under AHD</li> <li>• Attorney under Enduring Power of Attorney (EPOA)</li> </ul> If not, what are the barriers?			
<b>NB. seek legal advice about what options may be available and before applying for a formal decision maker, confirm and document that all the above steps have been explored and are insufficient</b>			
For those areas where you have concern, what informal strategies have you tried? What problems remain?			
If ultimately a formal Decision Maker is considered necessary, what is the least amount of time, and power, suggested for the appointment? [eg. Only to arrange Services, short time...]			

# 5.

## Getting Help: Personal Wellbeing

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# Personal Choice and Safety Support Checklist



**Remember:** formal Guardianship is the MOST restrictive option available, and must only be considered as the LAST Resort. Absolutely all reasonable steps must have been taken first, and found insufficient

Relationships and personal safety	Having access to relationships that matter to the person	Recognising and avoiding abuse
<b>What informal supports/strategies are available for these decisions?</b> [Does the person have friends / family / professionals available to help?]		
<b>What would it take for the person to make this decision?</b> [eg Assistive Technology, Interpreter, Written/Picture Information, Professional Advice, Time ...]		
<b>Are these challenges temporary or reversible?</b> [eg Mental illness, Illness, Sensory Impairment, Grief, Cultural, Medication Side Effects...]		
<b>Challenges / Barriers [Make note of whether these are temporary (short term) or longterm]</b> [eg Eligibility / Cost / Risk of Undue Influence / Neglect / Family Disputes / Lack of Supporters ...]		
<b>Have these options been tried?</b> <ul style="list-style-type: none"> <li>• Mediation / Family Meetings</li> <li>• Attorney under Enduring Power of Attorney (EPOA)</li> <li>• Nominee with NDIA</li> </ul> <b>If not, what are the barriers?</b>		
<b>NB. seek legal advice about what options may be available and before applying for a formal decision maker, confirm and document that all the above steps have been explored and are insufficient</b>		
<b>For those areas where you have concern, what informal strategies have you tried? What problems remain?</b>		
<b>If ultimately a formal Decision Maker is considered necessary, what is the least amount of time, and power, suggested for the appointment?</b> [eg. Only to arrange Services, short time...]		

# 6.

## Getting Help: Finances

including Centrelink

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# Did You Know?



## Financial Advice and Planning

### Banking

**You can nominate someone you trust to help you with banking**  
- Talk to your bank about appointing a SIGNATORY



**Speak to a Financial Advisor for advice and information about strategies for your future finances**



**Your Accountant, bank or Superannuation Fund may be able to help you with Financial planning and information**



Getting by without a Financial Administrator  
**You may not need a formally appointed Financial Administrator. Speak with your trusted advisors about Financial Counselling**



### Enduring Powers of Attorney

**You can appoint people you know and trust to help you manage your finances - Speak to your lawyer**



### Your Options, Your family

**Your Family Solicitor may be able to help you make decisions about your future and help with planning eg EPOAs / AHDs**



# Did You Know?



## Financial Advice and Education



Look at [MoneySmart.gov.au](https://moneysmart.gov.au) for free info, ideas and tools

**Financial Capability Worker**

**Do you want to learn how to manage your own finances? Ask to speak with a Financial Capability Worker**



**Enrol in free courses: learn how to budget, avoid scams and traps and be moneywise and independent**

**MoneyMinded**



**Financial Counsellor**

**A Financial Counsellor may be able to help you organise your finances, avoiding the need for a financial Administrator**



# Did You Know?



## Centrelink

**Centrelink's  
Centrepay  
service can  
manage your  
bills for you**



**You can appoint a trusted supporter to be  
your Centrelink NOMINEE**



**Centrelink have Financial  
Information Service (FIS) Officers  
who can give you information  
about your options**



### Helpers and what they can do to help you at Centrelink:

Your authorised person or organisations can:	Person permitted to enquire	Person permitted to update	Correspondence nominee	Payment nominee
----------------------------------------------	-----------------------------	----------------------------	------------------------	-----------------

Ask us questions about your payments or services	✓	✓	✓	✓
Tell us about changes to your circumstances	✗	✓	✓	✗
Respond to requests for information	✗	✓	✓	✗
Come to appointments with you or, if appropriate, on your behalf	✗	✗	✓	✗
Complete and sign forms and statements	✗	✗	✓	✗
Get copies of your letters	✗	✗	✓	✗
Get your Centrelink payments, and use them only for your benefit	✗	✗	✗	✓
View and update your information online	✗	✗	✓	✓
Claim payments and services for you	✗	✗	✓	✗

# Money Management Checklist



**Remember:** formal Guardianship is the MOST restrictive option available, and must only be considered as the LAST Resort. Absolutely all reasonable steps must have been taken first, and found insufficient

Money Management	Managing accounts, assets, income, pensions, etc	Recognising exploitation or abuse	Dealing with major assets - e.g. house, investments
What informal supports/strategies are available for these decisions? [Does the person have friends / family / professionals available to help with this?]			
What would it take for the person to make this decision? [eg Assistive Technology, Interpreter, Written/Picture Information, Professional Advice, Time ...]			
Has the person completed courses such as MoneyMinded or met a Financial Counsellor? Details: _____			
Are these challenges temporary or reversible? [eg Mental illness, Illness, Sensory Impairment, Grief, Cultural, Medication Side Effects, negative influences...]			
Challenges / Barriers [Make note of whether these are temporary (short term) or longterm] [eg Eligibility / Cost / Risk of Undue Influence / Neglect / Family Disputes / Lack of Supporters ...]			
Have these options been tried? <ul style="list-style-type: none"> <li>• Signatory on bank account</li> <li>• Nominee at Centrelink</li> <li>• Mediation / Family Meetings</li> <li>• Authorised Agent (for RACF, Telstra, etc)</li> <li>• Attorney under EPOA</li> </ul> If not, what are the barriers?			
<b>NB. seek legal advice about what options may be available and before applying for a formal decision maker, confirm and document that all the above steps have been explored and are insufficient</b>			
For those areas where you have concern, what informal strategies have you tried? What problems remain?			
If ultimately a formal Decision Maker is considered necessary, what is the least amount of time, and power, suggested for the appointment? [eg. Only for selling home, 6 months...]			

# 7.

## Getting Help: Legal Matters


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## Did You Know?





### Enduring Powers of Attorney (EPOA)

 An Enduring Power of Attorney (EPOA) is a **legal document**. The powers and responsibilities granted are legally binding

 The person making an EPOA is called the **Principal**


 A lawyer or Justice of the Peace **can witness** an EPOA in Qld


 A principal always has the right to information about them, including financial records and EPOAs, even if an attorney is making decisions


 A principal always has the right to complain (including about their attorney/s)





A principal always has the right to independent advocacy or legal advice, or complain, even if they have impaired decision-making capacity

 An Attorney is a person who has been given decision-making responsibility in an Enduring Power of Attorney

 An Attorney/s must produce a copy of the EPOA if acting as someone's decision maker.

 A principal may **appoint** several attorneys.

 Speak with a lawyer to get advice about EPOAs and AHDs

 An Attorney/s must listen to the Principal, and make decisions in line with the principal's views, wishes and interests.

An attorney is a **Fiduciary**. This means only the Principal's interests **matter**.

# Formal / Legal (Financial) Decision Making Checklist



**Remember:** formal Guardianship is the MOST restrictive option available, and must only be considered as the LAST Resort. Absolutely all reasonable steps must have been taken first, and found insufficient

Decision Making	Understanding legal documents (e.g. contracts, lease, EPOA)	Communicating wishes	Completing financial transactions (e.g. house sales)
What informal supports/strategies are available for these decisions? [Does the person have friends / family / professionals available to help with this?]			
What would it take for the person to make this decision? [eg Assistive Technology, Interpreter, Written/Diagram Information, Professional Advice, Time, Training Videos...]			
Are these challenges temporary or reversible? [eg Mental illness, Illness, Sensory Impairment, Grief, Cultural, Medication Side Effects...]			
Challenges / Barriers [Make note of whether these are temporary (short term) or longterm] [eg Eligibility / Cost / Risk of Undue Influence / Neglect / Family Disputes / Lack of Supporters ...]			
Have these options been tried? <ul style="list-style-type: none"> <li>• Mediation / Family Meetings</li> <li>• Financial Attorney under Enduring Power of Attorney (EPOA)</li> </ul> If not, what are the barriers?			
<b>NB. seek legal advice about what options may be available and before applying for a formal decision maker, confirm and document that all the above steps have been explored and are insufficient</b>			
For those areas where you have concern, what informal strategies have you tried? What problems remain?			
If ultimately a formal Decision Maker is considered necessary, what is the least amount of time, and power, suggested for the appointment? [eg. Only for selling home, 6 months...]			

# Formal / Legal (Non-Financial) Decision Making Checklist



**Remember:** formal Guardianship is the MOST restrictive option available, and must only be considered as the LAST Resort. Absolutely all reasonable steps must have been taken first, and found insufficient

Decision Making	Understanding legal documents (e.g. Criminal, Child Safety, Family Law - not financial)	Communicating views and wishes	Completing legal proceedings & consequences (e.g. entering a plea)
What informal supports/strategies are available for these decisions? [Does the person have friends / family / professionals available to help with this?]			
What would it take for the person to make this decision? [eg Assistive Technology, Interpreter, Written/Diagram Information, Professional Advice, Time, Training Videos...]			
Are these challenges temporary or reversible? [eg Mental illness, Illness, Sensory Impairment, Grief, Cultural, Medication Side Effects...]			
Challenges / Barriers [Make note of whether these are temporary (short term) or longterm] [eg Eligibility / Cost / Risk of Undue Influence / Neglect / Family Disputes / Lack of Supporters ...]			
Have these options been tried? <ul style="list-style-type: none"> <li>• Mediation / Family Meetings</li> <li>• Personal Attorney under Enduring Power of Attorney (EPOA)</li> </ul> If not, what are the barriers?			
<b>NB. seek legal advice about what options may be available and before applying for a formal decision maker, confirm and document that all the above steps have been explored and are insufficient</b>			
For those areas where you have concern, what informal strategies have you tried? What problems remain?			
If ultimately a formal Decision Maker is considered necessary, what is the least amount of time, and power, suggested for the appointment? [eg. Only for Legal proceeding, 1 year...]			

# Dictionary

Advance Health Directive (AHD)	a legal document completed by a person to instruct health professionals, and to appoint health decision makers for the future, in case the person is unable to make some or all of their own health decisions
Advocate	an independent party to help a person raise an issue, access more information, know their rights, eg Aged Care Advocate, Disability Advocate
Aged Care Assessment Team (ACAT)	a government agency which provides an assessment of a person if they, or someone who knows them, thinks they may need help with services or moving into aged care
Aged Care Quality and Safety Commission (ACQSC)	the national regulator of aged care services, responsible for accreditation, assessment and monitoring of aged care services in Australia
Attorney	a person legally appointed by a person to make decisions for the person (Personal and / or Financial) during periods when they are unable to make their own decisions. NB. financial attorneys may be authorised to make decisions even when the person is able
Care Finders	Care finders is a free service which supports vulnerable people (those who have no one else to support them) to learn about, apply for and set up support services
Centrepay	a free bill paying service offered by Centrelink
Elder Abuse Prevention and Support Service	Relationships Australia provides a free case management service providing assistance to those at risk or experiencing elder abuse through individual support and referral
Enduring Power of Attorney (EPOA)	a legal document completed by a person to appoint decision makers for the future, in case the person is unable to make some or all of their own decisions
Financial Administrator	a decision maker appointed by QCAT to make financial decisions such as selling a home, paying bills, settling an estate
Financial Information Service (FIS) Officer	a specialist Centrelink employee who can give information about Centrelink options
Guardian	a decision maker appointed by QCAT to make personal decisions such as where a person will live, arranging a lawyer, consenting to services, etc



Local Area Coordinator (LAC)	an organisation assigned to help local residents with accessing the NDIS
My Aged Care (MAC)	the government service which assists older people to access help at home or accommodation in residential aged care
National Disability Insurance Scheme (NDIS):	the government scheme which provides funded services to people with disability, to assist them with daily living
Nominee	someone chosen by a person to help them deal with Centrelink/MAC
Participant	the NDIA/NDIS/MAC uses this term to describe the person who receives the services and support
Plan Manager	someone chosen by a person to manage the service provider fees
Plan Nominee	someone chosen by a person to help them deal with NDIS
Power	for formal decision making - a decision maker can only act in the scope or power for which they have been appointed
Restrictive	formal powers should be for minimal scope and for shortest period
Seniors Legal and Support Service (SLASS)	SLASS provides free legal and social work support to people (aged 60 + or 50+ for First Nations people) who are experiencing elder abuse, mistreatment or financial exploitation.
Services	help at home to keep a person independent and well as long as possible, eg lawn mowing, keeping their home clean, getting to appointments, shopping and help with medication
Statutory Health Attorney (SHA)	a person who can make healthcare decisions for a person while they are unable to. Eg spouse, carer, friend, family, Public Guardian
Support Coordinator	someone funded by NDIS to help a person access services and manage the workers
Queensland Civil and Administrative Tribunal (QCAT)	the tribunal responsible for appointing and removing Guardians and Financial Administrators, and reviewing Attorneys' actions

# Contact Details

## Government Agencies

<b>My Aged Care (MAC)</b>	<a href="https://www.myagedcare.gov.au">https://www.myagedcare.gov.au</a>
<b>National Disability Insurance Scheme (NDIS)</b>	<a href="https://www.ndis.gov.au">https://www.ndis.gov.au</a>
<b>The Public Trustee of Queensland</b>	<a href="https://www.pt.qld.gov.au">https://www.pt.qld.gov.au</a>
<b>Office of the Public Guardian</b>	<a href="https://www.publicguardian.qld.gov.au">https://www.publicguardian.qld.gov.au</a>
<b>Queensland Civil and Administrative Tribunal QCAT</b>	<a href="https://www.qcat.qld.gov.au">https://www.qcat.qld.gov.au</a>
<b>Office of Public Advocate</b>	<a href="https://www.justice.qld.gov.au/public-advocate">https://www.justice.qld.gov.au/public-advocate</a>

## Advocacy and Other Help

<b>ADA Australia</b>	<a href="https://www.adaaustralia.com.au">https://www.adaaustralia.com.au</a>
<b>Elder Abuse Prevention Unit (EAPU) Helpline</b>	<b>(1300 651 192)</b> <a href="https://eapu.com.au/elder-abuse-helpline/">https://eapu.com.au/elder-abuse-helpline/</a>
<b>Queensland Advocacy for Inclusion</b>	<a href="https://www.qai.org.au">https://www.qai.org.au</a>
<b>Queensland Law Society</b>	<a href="https://www.qls.com.au">https://www.qls.com.au</a>
<b>Older Persons Advocacy Network (OPAN)</b>	<a href="https://www.opan.org.au">https://www.opan.org.au</a>

## Local Area Coordinators

<b>Carers QLD Australia</b>	<a href="https://www.carersqld.com.au">https://www.carersqld.com.au</a>
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## Resources

<b>ADA Law - Healthcare Decision Making</b>	<a href="https://adalaw.com.au/healthcare-decision-making/">https://adalaw.com.au/healthcare-decision-making/</a>
<b>Queensland Government Publications - Capacity Assessment Guidelines</b>	<a href="https://www.publications.qld.gov.au/dataset/capacity-assessment-guidelines/">https://www.publications.qld.gov.au/dataset/capacity-assessment-guidelines/</a>