

Making health care decisions for others

A guide for substitute decision-makers

This guide is about making health care decisions for someone who cannot make decisions themselves. For key terms see the Glossary on pages 7–8.

Key messages

- You may be asked to make health care decisions for someone else if they do not have decision-making capacity. This is known as substitute decision-making.
- Substitute decision-making is a last resort. Before deciding for someone, the person should be supported to make the decision themselves.
- If the person cannot decide with support, a substitute decision-maker must make the decision the person would have made or wanted.
- The law says who can be a substitute decision-maker. It is usually someone close to the person e.g. family, close friends.

When might I need to make health care decisions for someone else?

Consent is needed before a health professional can give a person health care and medical treatment.

In most cases, the person will be able to decide whether or not to consent. However, in some situations **they may not be able to decide because they have impaired decision-making capacity**. For example, they might be unconscious or have an illness or medical condition which means they are unable to make a decision.

In these cases, **substitute decision-making may be needed**. This is when someone else (a **substitute decision-maker**) decides for the person.



Substitute decision-making **should be a last resort**. Before a decision is made for the person, they should be **supported to make their own decision (supported decision-making)**.

Supporting a person to decide (supported decision-making)

What is supported decision-making?

This is where the **person is given support to make or communicate their own health care decision**, rather than someone else making the decision for them.¹ This will not always be possible e.g. where a person is unconscious, but in other cases it can help the person to make the decision themselves, and to remain in control of their life.¹

Someone who provides support is a **supporter**. They are someone the person chooses e.g. a close family member, friend, or carer. If the person agrees, supporters can do things to help them decide, such as:



Attend medical appointments with the person.



Help the person to understand information being given by a health professional e.g. helping the person to think about, process and remember the information.



Assist the person to communicate with health professionals about treatment the person wants or does not want e.g. asking questions or communicating for them, interpreting the person's body language or non-verbal communication.



Access information to help the person to decide e.g. information from the person's medical records.



Find out more about supported decision-making from your Office of the Public Guardian or Public Advocate (see page 8 for contact details). For supported decision-making in aged care, visit the [Older Persons Advocacy Network](#).

What is the difference between a supporter and a substitute decision-maker?

Being a supporter and being a substitute decision-maker are different.



SUPPORTER

Supported decision-making

*Provides support so the person can make their own health care decision.
Cannot decide for the person.*

Can they make decisions for the person?

✘ No



SUBSTITUTE DECISION-MAKER

Substitute decision-making

Makes the health care decision on behalf of a person with impaired decision-making capacity.

Can they make decisions for the person?

✔ Yes

Supporting Meera to decide

Meera, aged 80, has early-stage Alzheimer's disease. 6 months ago, Meera had influenza and then developed pneumonia. It has left her with pleural (lung) scarring resulting in chest pain. Meera has seen a respiratory specialist, Dr Tom, about treatment options. After the appointment, Meera tells her daughter Jane that she is confused and unsure what to do. Meera asks Jane to come with her to the next appointment.

At the appointment, Jane asks Dr Tom to explain the treatment options slowly, avoiding complex language and medical terms. Dr Tom says that surgery can be performed to remove the scarring and improve lung expansion. He explains, using simple language, what surgery will involve, and its outcomes, risks and benefits.

To help Meera understand, he breaks down the information into chunks and checks her understanding of each step. He also draws basic diagrams to show what will happen.

Jane asks questions to help Meera understand more about what will happen. She also explains some of Dr Tom's responses to Meera using concepts Meera knows e.g. *"Remember when you had the surgery for your knee, you will need to have an anesthetic and hospital stay like that"*. With Jane and Dr Tom's support, Meera is able to understand the surgery and agrees to have it.

Making decisions for someone else (substitute decision-making)

If the person cannot decide with support, and they do not have an Advance Care Directive relevant to the decision, then a substitute decision-maker may be able to decide.

There are three main categories of **substitute decision-makers**:

- 1 The person might have made an **Advance Care Directive, Enduring Power of Attorney (EPOA), Enduring Guardian document, or Medical Treatment Decision Maker appointment** that says who they want to make health care decisions.
- 2 A court or tribunal may have appointed a **guardian** to make health care decisions for the person.
- 3 If the person does not have a substitute decision-maker in category 1 or 2, each State and Territory has laws about who can be a substitute decision-maker. It is **usually someone with a close, ongoing relationship with the person** e.g. their spouse, adult child, or another relative or close friend.

In some cultures, decisions might also be made by other decision-makers e.g. decision-makers under Aboriginal and/or Torres Strait Islander custom or cultural protocol.

If there are several people who could possibly decide, the law says which person, or people, have priority and whether they must decide together or not.

If there is **no one who can be the person's substitute decision-maker**, the Public Guardian or Public Advocate, or a court or tribunal may be able to decide (depending on the State or Territory).



Find out more at [End of Life Law in Australia](#). Select a State or Territory and click on *Who can be a substitute decision-maker?*

If I am a substitute decision-maker, what decisions can I make?

Depending on the State or Territory, substitute decision-makers for health care can consent to or refuse consent to health care and medical treatment (including refusing treatment that would keep the person alive).

If you are a substitute decision-maker appointed by the person, or a guardian, it is important to check the document or order appointing you. It will tell you what types of decisions you can make.



Find out more at [End of Life Law in Australia](#). Select a State or Territory and click on *What health care decisions can a substitute decision-maker make?*

How should I make decisions?

If you are a substitute decision-maker, you should first check whether the person made an Advance Care Directive, an EPOA, Enduring Guardian document or Medical Treatment Decision-Maker appointment. These documents may have instructions about the medical situation and what the person wants to happen. **You should consider these when making the decision.**

If the person did not make these documents, or they did but the documents do not apply to the medical situation, then one of the main factors to consider is **what the person would want or choose to do if they could decide.**

What do I have to do?

As a substitute decision-maker, your role is to 'step into the person's shoes'. **This means making the decision the person would have made or wanted, not the decision you would want for yourself.**

You might not agree with their views or choices, but you should still respect their values and preferences and prioritise what they would have chosen. This is an important part of respecting the person's right to decide what happens to them.



Deciding what the person would want involves following this process:

1

Think about the **person's values, preferences, views, wishes, and conduct in the past and now**. Ask yourself ^{2,3,4}:

- *What does the person want now?*
- *What have they previously said they want or don't want?*
- *What have they said is important to them? What are their values and beliefs?*
- *How have they reacted in the past to similar situations?*
- *What do I know from spending time with them?*

Also consider information given by the clinical team about treatment options.



2

If possible, ask **the person about their current wishes**, even if they cannot fully understand the situation.⁴

You can also ask significant people in the person's life (their close friends, family members, carers) what they know about the person's preferences and values for treatment and care.



3

Consider other relevant factors. These can include:

- *What decision will least restrict the person's rights and freedom?*
- *Will the person regain decision-making capacity? If yes, can the decision wait until then?*
- *What are the risks and consequences of the treatment?*
- *Are there treatment alternatives that are less invasive and could be tried first?*
- *What decision respects the person's culture, language, beliefs and values?*
- *For an Aboriginal and/or Torres Strait Islander person, will having treatment mean the person is away from Country for a long time? If so, how will this affect the person, and their connection to Country, community, and culture?*

If I don't know what decision the person would want, how do I decide?

If, after following the process on page 5, you do not know what the person would have wanted, think about **what decision would best promote the person's personal and social wellbeing** (in other words, what is in their interests).

This also involves thinking about the effect and consequences of the treatment, and whether there are alternatives. You can also talk to other people close to the person to gain information to help you decide.

Can a health professional make the decision instead of me?

Health professionals can give you advice about the person's prognosis, the risks and benefits of treatment, and alternative options, but usually they cannot make the decision for you or the person. There are some exceptions:

- **If the person needs treatment urgently to save their life** (for example, in an emergency), and there is no time or it is not possible to get your consent, health professionals can usually give treatment without consent.
- Where health professionals believe **starting or continuing treatment would not benefit the person (or would have little benefit)** they do not have to give treatment, even if you ask them to. If you are worried that the wrong decision is being made, you can ask for a second opinion, seek a meeting with the clinical team, or get legal advice.

CASE STUDY

Making a decision for Meera

Meera, aged 80, has early-stage Alzheimer's disease and lives independently. She is in hospital with a chest infection. Meera is delirious. She is confused and disoriented to place and time, clinicians are unable to keep her attention, and her responses to questions are inconsistent. A geriatrician confirms Meera has impaired decision-making capacity due to her delirium.

Meera did not make an Advance Care Directive or other legal documents appointing a decision-maker. Jane, Meera's daughter, is her only family member, and they have a close and ongoing relationship. Jane is Meera's substitute decision-maker.

The medical team discuss Meera's treatment options with Jane. They tell Jane Meera's chest infection can be treated but that once she has recovered, she may need additional support at home or residential care. They discuss treatment options such as IV antibiotics and AIRVO therapy (high-flow oxygen therapy) which can be provided in hospital. They tell Jane that there is a risk that Meera will deteriorate and she may need intensive care.

Jane knows that Meera does not want to die in hospital, and that she is looking forward to being at her granddaughter's wedding next month. Jane consents to the medical team giving Meera IV antibiotics and AIRVO therapy to see if these treatments can stop the infection. They will meet with Jane in the next 24–48 hours to discuss Meera's options, based on her progress.

Helpful resources

For more information about decision-making contact:

- ④ [Public Trustee and Guardian Australian Capital Territory](#)
- ④ [New South Wales Trustee and Guardian](#)
- ④ [Northern Territory Public Guardian and Trustee](#)
- ④ [Office of the Public Guardian Queensland](#)
- ④ [Office of the Public Advocate Queensland](#)
- ④ [Office of the Public Advocate South Australia](#)
- ④ [Office of the Public Guardian Tasmania](#)
- ④ [Office of the Public Advocate Victoria](#)
- ④ [Office of the Public Advocate Western Australia](#)
- ④ [National Advance Care Planning Advisory Service](#)

Hospitals, health services and aged care providers may also be able to connect you with a social worker for decision-making help or support.

For self-care and support call:

- **Lifeline:** 13 11 14
- **National Dementia Helpline:** 1800 100 500
- **PalAssist:** 1800 772 273

Glossary

<p>Advance Care Directive</p>	<p>A legal document made by a person with decision-making capacity. It records their decisions and preferences for future health care if they lose decision-making capacity and cannot make decisions. In Queensland, South Australia and the Northern Territory, a person can appoint a substitute decision-maker in their Directive.</p> <p>'Advance Care Directive' is used in Victoria, Tasmania, New South Wales, and South Australia. It is known as an Advance Health Directive in Queensland and Western Australia, an Advance Personal Plan in the Northern Territory, and a Health Direction in the Australian Capital Territory.</p>
<p>Decision-making capacity (also called 'capacity')</p>	<p>Generally, this means when a person can:</p> <ul style="list-style-type: none"> • comprehend and retain information needed to make the decision, including the consequences/risks of the decision, and • use and weigh that information as part of their decision-making process.
<p>Enduring Guardian and Enduring Power of Attorney <i>(see also Medical Treatment Decision-Maker)</i></p>	<p>In some States and Territories, a person with decision-making capacity can appoint either an Enduring Guardian or Enduring Power of Attorney to make health care decisions for them if they lose decision-making capacity in the future.</p> <p>The appointed substitute decision-maker is called:</p> <ul style="list-style-type: none"> • an Enduring Guardian in New South Wales, Tasmania and Western Australia. • an Enduring Power of Attorney in Queensland and the Australian Capital Territory. <p>The person must use a specific form to appoint their Enduring Guardian or EPoA.</p>
<p>Guardian (health care)</p>	<p>A person authorised by a court or tribunal to make health care decisions for a person with impaired decision-making capacity.</p>
<p>Impaired decision-making capacity</p>	<p>A person who does not have decision-making capacity will have impaired decision-making capacity.</p>
<p>Medical Treatment Decision-Maker</p>	<p>A type of health care substitute decision-maker in Victoria. They can be appointed by the person using a Medical Treatment Decision-Maker appointment form.</p>

Public Advocate and Public Guardian	Independent bodies in each State and Territory with powers relating to end of life decision-making. They may act as the guardian of someone with impaired decision-making capacity where no one else is available.
Substitute decision-maker	<p>A person (and sometimes more than one person) who is lawfully able to make health care or medical treatment decisions on behalf of a person with impaired decision-making capacity.</p> <p>Decision-makers are called something different in each State and Territory. There are also different types of decision-makers:</p> <ul style="list-style-type: none"> • Australian Capital Territory: Enduring Power of Attorney, Health Attorney • New South Wales: Enduring Guardian, Person Responsible • Northern Territory: Advance Personal Plan Decision-Maker, Health Care Decision-Maker • Queensland: Attorney appointed in an Advance Health Directive, Enduring Power of Attorney, Statutory Health Attorney • South Australia: Substitute decision-maker in an Advance Care Directive, Person Responsible • Tasmania: Enduring Guardian, Person Responsible • Victoria: Medical Treatment Decision-Maker • Western Australia: Enduring Guardian, Person Responsible. <p>If there is more than one decision-maker, the law says who has priority to decide.</p> <p>Find out more about decision-makers in your State or Territory at End of Life Law in Australia.</p>
Substitute decision-making	The process of a substitute decision-maker/s making decisions about health care and medical treatment for a person with impaired decision-making capacity.
Supported decision-making	The process of supporting another person to make their own decisions and to participate in decision-making.

References

1. Older Persons Advocacy Network, Supported decision-making toolkit: Your decisions, your care – know your rights and options (<https://opan.org.au/supported-decision/what-is-supported-decision-making/>, accessed April 2026).
2. Northern Territory Public Guardian and Trustee. Making health care decisions under the Health Care Decision Making Act 2023 guideline. July 2024 (https://pgt.nt.gov.au/resource-library2/resources/health-decisions/pgt - making health care decisions_guideline.pdf).
3. Advance Care Planning Australia. Being a substitute decision-maker. July 2025 (https://www.advancecareplanning.org.au/understand-advance-care-planning/being-a-substitute-decision-maker#section_whattoconsiderwhenmakingdecisions), accessed 7 April 2026).
4. Office of the Public Advocate South Australia. Making decisions for others (<https://www.opa.sa.gov.au/guardianship/making-decisions>, accessed 7 April 2026).

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