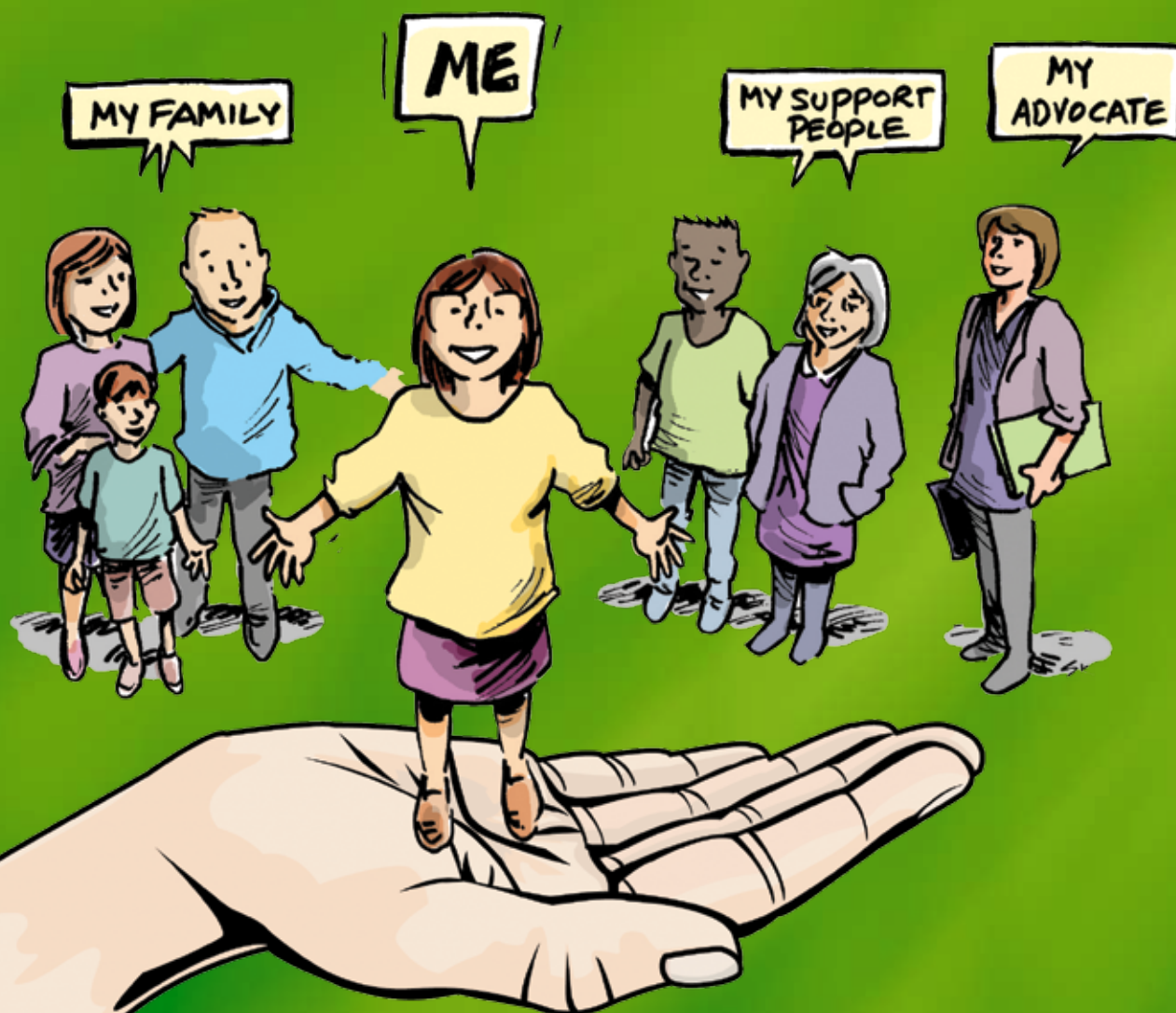


# Discover

A resource for people planning for the future

A DisabilityCare Australia, the National Disability Insurance Scheme Help Guide





# Discover

A resource for people planning for the future

A DisabilityCare Australia, the National Disability Insurance Scheme Help Guide



# Acknowledgements

This Guide was prepared by Gail Casey DipT, BEd, MEd, LLB, Dip. Legal Prac; Veronica Jones BBus, MMarkMgt and Professor Patrick Keyzer BA (Hons), LLB (Hons), LLM, PhD on behalf of the Centre for Law, Governance and Public Policy, with the assistance of Matthew McLean and Kate Byster-Bowles LLB, BIR. The Centre takes responsibility for the content of the Guide and we welcome your feedback. To provide feedback, and for more details regarding the consultation method and research techniques employed by the team from the Centre, please email [lawgovpolicy@bond.edu.au](mailto:lawgovpolicy@bond.edu.au).

The development of the Guide was funded by a Practical Design Fund grant from the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). The project was independently managed by the Endeavour Foundation on behalf of FaHCSIA.

The opinions, comments and/or analysis expressed in this document are those of the author or authors and do not necessarily represent the views of the Minister for Disability Reform and cannot be taken in any way as expressions of government policy.

This document contains legal information, not legal advice. Always consult a solicitor when you develop your legal planning for the future.

This document was completed in the days following the passage of the legislation, but before NDIS Rules were finalised. While every effort has been made to ensure that the material in it is up to date, it is possible that there have been changes that we could not account for. At the back of this Guide we have compiled an Additional Services Directory that contains details of organisations that may be able to assist you with advice about DisabilityCare Australia. DisabilityCare Australia also has a website [www.ndis.gov.au](http://www.ndis.gov.au) and a hotline 1800 800 110.

The Endeavour Foundation would like to thank and acknowledge the contribution of people with disability, their families and the service providers who supported the consultations that were undertaken across Australia. Your input and support is greatly appreciated.

ACT Mental Health Service for People with Intellectual Disability  
Disability ACT

NSW ConnectAbility Australia

NT HPA Incorporated  
Somerville Community Services

QLD Endeavour Foundation

SA Bradford

TAS Veranto

VIC Karingal

WA Developmental Disability Council of WA

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Prof Ben White

SA Lynn Young

TAS Jenny Dixon

VIC John Chesterman

WA Jaquie Mills

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## Foreword



**The National Disability Insurance Scheme (NDIS) is for you – a fairer national system for people with disability and their families.**

The introduction of a NDIS is a once-in-a-lifetime opportunity that will change the lives of Australians living with disability. Through the concerted efforts of individuals and organisations campaigning the NDIS is now a reality – it is now law. Endeavour Foundation played an important role in the campaign for an NDIS. I am delighted to have been part of the change that has occurred over the past four years.

NDIS is a move away from government-led and funded services to a person-oriented system. Services will be purchased and planned according to the need of the individual. As the changes are introduced people with disability and their families will gain more and more control over the support services in their lives. NDIS will bring a very different way of experiencing disability – there will be a lot more planning and decision making to be done.

This guide is designed to assist people with an intellectual disability and those who are substitute decision makers or formal guardians with planning their future.

This guide has been developed with a funding grant from the Practical Design Fund from the Department of Families, Housing, Community Services and Indigenous Affairs. Endeavour Foundation asked the Centre for Law, Governance and Public Policy to produce the guide, and together we consulted with families and people with disability from each state and territory in Australia. This guide will offer you a lot of information about the changes that will be happen under the NDIS. The Centre for Law, Governance and Public Policy have been generous with their legal expertise, providing additional information on whole-of-life planning for people with disability.

I welcome any feedback you have about the guide.

I also look forward to working alongside you to make Australia a fairer place for people with disability and their families.

A handwritten signature in black ink, reading 'David Barbagallo'. The signature is written in a cursive style and is positioned above a horizontal line.

Sincerely,  
**David Barbagallo**  
CEO, Endeavour Foundation

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# 1 Introduction



# 1 Introduction



**This Guide includes information that will help you learn more about DisabilityCare Australia and what it will mean for you. We have tried to make DisabilityCare Australia as simple as possible and there is a glossary of meanings of words at the back of this Guide.**

This Guide has a 'Frequently asked questions' section at the end of each chapter. These questions have been developed from feedback from people with disability and their parents, carers, guardians and experts.

Additionally, this Guide has space in the 'worksheet' sections where you can write down your ideas and questions.

There is also a directory of organisations at the back of this Guide that can give you more information.

It is important to think about what you want to do in the future. It is also important to think about

how your plans for the future will affect other people in your life. To help you plan for the future, this Guide also provides more information about guardianship, wills, trusts, powers of attorney and other legal tools that are used when people plan for the future. Planning with these tools can supplement the plans that people with disability make for their future by securing accommodation and financial resources.

We hope you find this Guide useful as you plan for a DisabilityCare Australia future. If you have any suggestions for improvement of this Guide please send them to the Project Team at:

**Centre for Law, Governance and Public Policy**  
Bond University  
QLD 4229  
Australia

P +61 7 5595 3033

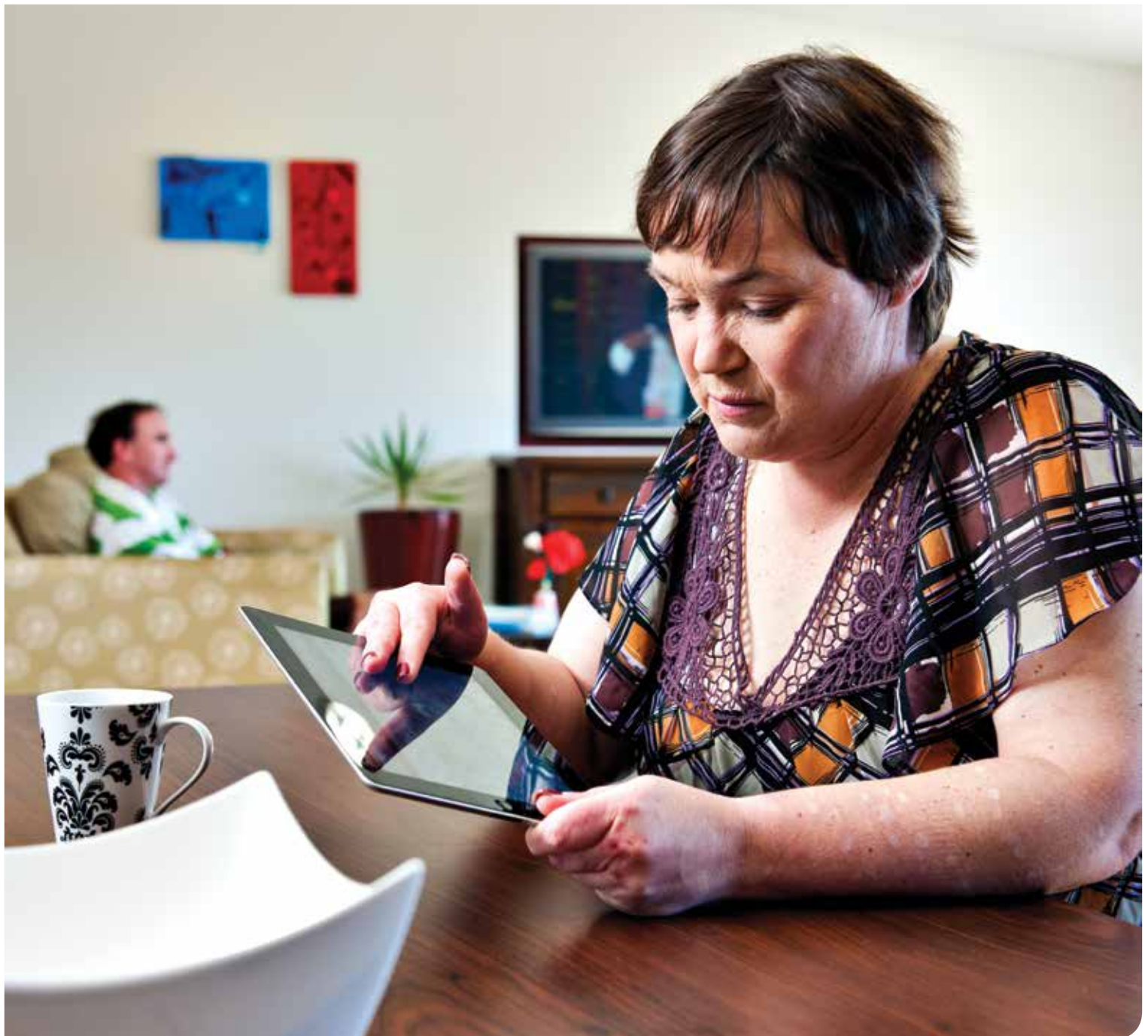
F +61 7 5595 1011

E [lawgovpolicy@bond.edu.au](mailto:lawgovpolicy@bond.edu.au)



2

## What is DisabilityCare Australia?



## 2 What is DisabilityCare Australia?

**DisabilityCare Australia (DCA) is a new planning and service system that has been developed by the Australian Government to assist Australians with disability. Just as Medicare provides universal health insurance to all Australians, DisabilityCare Australia is intended to provide all Australians with a significant and ongoing disability with long-term assistance.**

### When Will DisabilityCare Australia Commence?

The first stage of DisabilityCare Australia will be launched at trial sites in July 2013. Ultimately, DisabilityCare Australia will depend upon funding commitments from the Commonwealth and State Governments so the roll-out will take place over a number of years. At the completion of DisabilityCare Australia roll-out, it is intended that all current and all new disability clients would be receiving DisabilityCare Australia services.

### Where Will DisabilityCare Australia Commence?

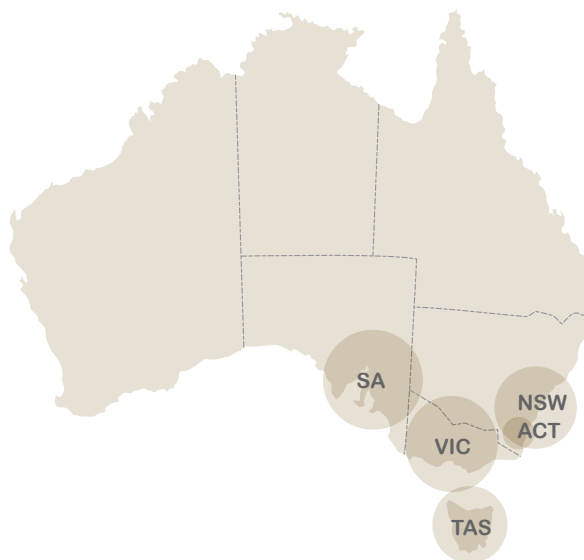
DisabilityCare Australia launch sites: ACT, NSW, SA, TAS and VIC.

Here is a list of the States and Territories that will implement DisabilityCare Australia:

- New South Wales will have DisabilityCare Australia in some specific areas. These include the local government areas of Newcastle in 2013 and Lake Macquarie and Maitland by 2016.
- Victoria will also have DisabilityCare Australia in the Barwon area. This includes the City of Greater Geelong, Colac-Otway Shire, the borough of Queenscliff and the Surf Coast Shire are included.
- South Australia will have DisabilityCare Australia limited not by geographical area but by age-specific eligibility requirements.
- Tasmania will also have DisabilityCare Australia limited by age-specific eligibility requirements.
- In the Australian Capital Territory, all citizens with a disability will be covered in full up to the age of 65.

These locations were determined on their ability to ensure that operational aspects of the Scheme are properly assessed in preparation for a full-scale national roll-out.

**NDIS Launch Sites: ACT, NSW, SA, TAS and VIC.**



## 2 What is DisabilityCare Australia?

### How Will DisabilityCare Australia Function?

DisabilityCare Australia will operate under the National Disability Insurance Scheme (NDIS) Act. This is a law made by the Commonwealth Parliament that was enacted on 19 March 2013.

The legislation can be accessed via a website that is run by the Australasian Legal Information Institute. If you type “Australasian Legal Information Institute” into your search browser, you will be directed to **[www.austlii.edu.au](http://www.austlii.edu.au)**.

Click on ‘Commonwealth’ and then ‘Acts’. Then you can search for the legislation, which is called the DisabilityCare Australia Act.

DisabilityCare Australia will be an entirely new system for people with disability, which are or are likely to be permanent, that will do away with existing funding models based on historical budget allocations. The DisabilityCare Australia will:

- Give people the care and support that is objectively assessed as reasonable over the course of their lifetime.
- Offer early intervention where it will improve a person’s functioning or slow the progression of their disability.
- Work with carers to make sure the care they provide is sustainable.

DisabilityCare Australia Act contains a number of chapters dealing with the following topics:

- Chapter 1 outlines the objects and general principles, aims to support independence and social and economic participation of people with disability.

- Chapter 2 sets out the broad role of the Agency to provide general supports to people with disability and their families as well as to provide funding.
- Chapter 3 highlights the process for how to become a participant in the scheme and to receive a plan and support from the Agency.
- Chapter 4 includes the structure of DisabilityCare Australia, setting out rights to review, rules to protect information and the right to appoint nominees.
- Chapter 5 addresses the interaction between DisabilityCare Australia and other compensatory schemes and common law actions for people with disability.

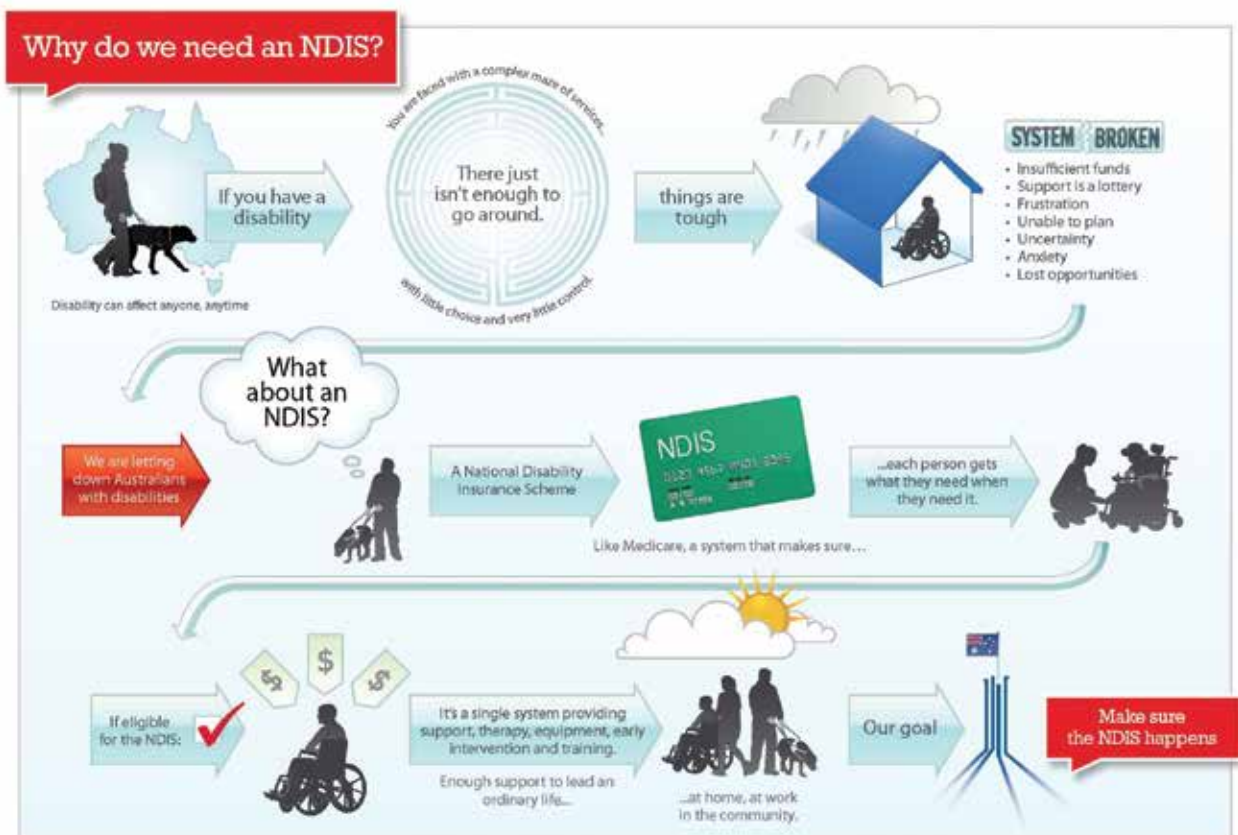
National Disability Insurance Scheme (NDIS) Act also sets up an organisation called the *DisabilityCare Australia Launch Transition Agency* (the Agency). The Agency is charged with a duty to provide supports to people with a disability. This includes:

- Assisting people with disability to access mainstream services.
- Providing funding to help people with disability participate in economic and social life.
- Deciding whether people with disability are eligible to be participants in DisabilityCare Australia.
- Helping people develop their plans for the future.
- Helping people review their plans.
- Building community awareness around matters of disability.
- Collecting, analysing and exchanging relevant data.
- Offering information to the public about DisabilityCare Australia.

## 2 What is DisabilityCare Australia?

### Why Do We Need DisabilityCare Australia?

Source: Every Australian Counts Campaign (2013),  
Everybodycounts.com.au/ndis\_dl\_infographic\_brochure.pdf





## 2 What is DisabilityCare Australia?



DisabilityCare Australia will be a new part of the Australian Government which is different to Centrelink. DisabilityCare Australia aims to help all Australians with disability for the long term.

---



DisabilityCare Australia will provide information and encourage people to have their own individual plan for the future.

---



DisabilityCare Australia will help people find the right services. These may be services especially for people with disability or other services they choose.

---



DisabilityCare Australia will help carers with their role.

---



DisabilityCare Australia will provide support to people with disability if they need it.

## 2 Worksheet – Thinking time

Write down some things you would like to do, and think about how DisabilityCare Australia might help you achieve them.

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What help would you need from DisabilityCare Australia to do the things you want to do?

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## 2 Frequently asked questions

### **Q. How do I find out about DisabilityCare Australia?**

There is more information about DisabilityCare Australia in the next few chapters of this Guide. DisabilityCare Australia has a website that includes up to date information in formats for the visually impaired **[www.ndis.gov.au](http://www.ndis.gov.au)**

### **Q. Does DisabilityCare Australia have a hotline?**

DisabilityCare Australia has a hotline for anyone seeking more information. The details are: 1800 800 110 free call. Office hours 8.00 am to 5.00 pm.

### **Q. I am a parent or carer of a person with disability. Is there any information that explains my role in DisabilityCare Australia?**

Please see the information in the “Parents, Carers, Guardians and Nominees” section of this Guide. NDIS website also contains resources for parents and carers.

### **Q. My home is not in a DisabilityCare Australia trial site. When will DisabilityCare Australia come to my area?**

DisabilityCare Australia will not be rolled out across Australia until the Commonwealth, States and Territories have made commitments of funding to the Scheme. This may take a number of years.

### **Q. Will DisabilityCare Australia provide training to people with disability, their carers, parents, guardians and advocates so that they can understand how DisabilityCare Australia works?**

A Practical Design Fund has been established to offer practical ways to prepare people with disability as well as their families, carers and the community for a transition to DisabilityCare Australia.

This Guide was funded by the Practical Design Fund. The NDIS website contains a ‘Resources’ tab that links you through to Fact Sheets, Publications and additional resources for people with a disability, carers, parents, guardians and advocates. This is available at **[www.ndis.gov.au/resources](http://www.ndis.gov.au/resources)**.

At the time this publication was prepared, the Fact Sheets included:

- Safeguards for DisabilityCare Australia.
- Early Intervention within DisabilityCare Australia.
- Choice and Control within DisabilityCare Australia.
- Indigenous Australians.
- Tasmanian Launch.
- South Australian Launch.

You should check the NDIS website for updates.

## 2 More information



Here is a list of other sources of information that can help you:

- The NDIS website has information about DisabilityCare Australia, available at **[www.ndis.gov.au/about-an-ndis/what-is-an-ndis](http://www.ndis.gov.au/about-an-ndis/what-is-an-ndis)**
- National Disability and Carers Alliance received funding to talk with people with disability as well as their family, carers and service providers about DisabilityCare Australia. Information about this project is available at **[disabilitycareralliance.org.au](http://disabilitycareralliance.org.au)**
- The People with Disability Australia website offers regular updates on important disability developments including DisabilityCare Australia, available at **[www.pwd.org.au](http://www.pwd.org.au)**
- 'The National Disability Strategy: An initiative of the Council of Australian Governments 2010–2020' report is available at **[www.fahcsia.gov.au](http://www.fahcsia.gov.au)** or **[www.coag.gov.au](http://www.coag.gov.au)**
- An Easy Read version of 'A better way of helping people with a disability: The main ideas from the Final Report' by the Productivity Commission is available at **[www.pc.gov.au/\\_data/assets/pdf\\_file/0007/111400/disability-support-easy-english.pdf](http://www.pc.gov.au/_data/assets/pdf_file/0007/111400/disability-support-easy-english.pdf)**

### Who Can Help?

We have provided a list of organisations which can help you learn more about DisabilityCare Australia. This list is available in our Additional Services Directory at the back of this document.

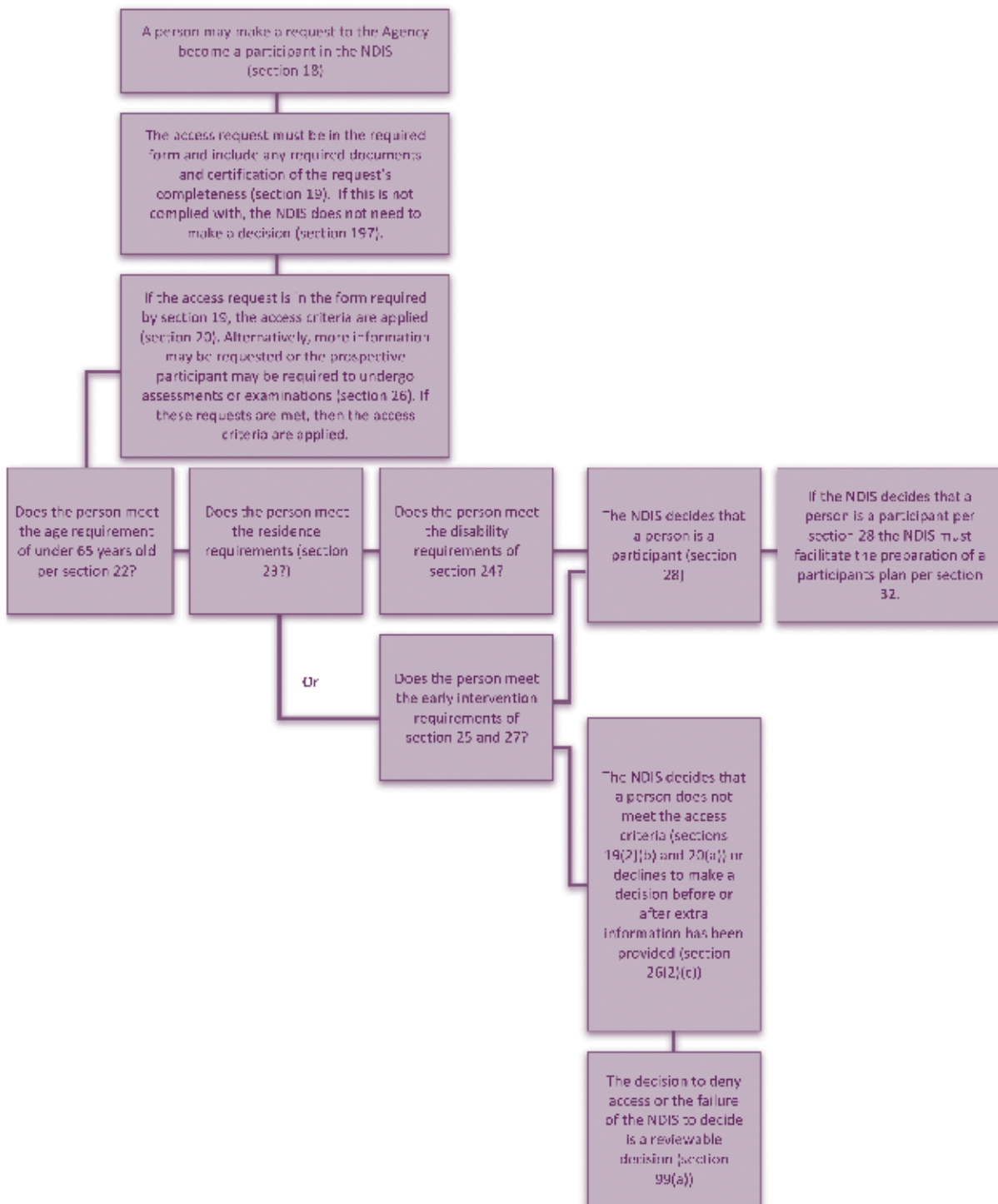


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## Becoming a participant in DisabilityCare Australia



### 3 Becoming a participant in DisabilityCare Australia



## 3 Becoming a participant in DisabilityCare Australia

**To become a participant a person makes an 'access request' using an approved form. DisabilityCare Australia will evaluate this request by applying access criteria including age, residence and either disability or early intervention requirements. DisabilityCare Australia may request that the prospective participant undergo assessments or examinations. This will help DisabilityCare Australia to apply the criteria.**

**The following material is drawn from the Draft NDIS Rules. Check the NDIS website for up-to-date information.**

### Age Requirements

The first criteria is age. A person meets the age requirements if the person is under 65 years old when the access request was made. There are additional age requirements applicable to people in the different launch sites.

A person who resides in South Australia will meet the age requirements only if:

- An access request is made before 1 July 2014 – the person was aged under 6 on 1 July 2013 (this includes children born after 1 July 2013); or
- An access request is made between 1 July 2014 and 30 June 2015 (or made before 1 July 2014 and decided by the CEO on or after 1 July 2014) – the person was aged under 14 on 1 July 2014 (this includes children born after 1 July 2014); or
- An access request is made on or after 1 July 2015 (or made before 1 July 2015 and decided by the CEO on or after 1 July 2015) – the person is aged under 15 on the date of the access request.

A person who resides in Tasmania will meet the age requirements only if the person is:

- Aged at least 15, and under 25, on the date the access request was made; and
- Aged under 25 on 1 July 2013.

### Residence Requirements

A person meets the residence requirements if they reside in Australia, and is either an Australian citizen, the holder of a permanent visa, or a special category visa holder. If a person stops meeting these residence requirements, their status as a DisabilityCare Australia participant can be revoked.

The following areas are the 2013 DisabilityCare Australia launch areas:

- The Australian Capital Territory
- South Australia
- Tasmania

The areas that comprise the following municipal districts of Victoria as at the commencement of these Rules:

- Colac-Otway Shire
- City of Greater Geelong
- Borough of Queenscliff
- Surf Coast Shire

The areas that comprise the following areas of New South Wales proclaimed under section 204 of the Local Government Act 1993 (NSW) as at the commencement of these Rules:

- Lake Macquarie City
- Maitland City
- Newcastle City



## 3 Becoming a participant in DisabilityCare Australia



### Disability Requirements

The disability requirements are met if all these requirements are met:

- The person has a disability that is attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments, or to one or more impairments attributable to a psychiatric condition.
- The person's impairment or impairments are, or are likely to be, permanent.
- The impairment or impairments result in substantially reduced functional capacity to undertake, or psychosocial functioning in undertaking, one or more of the following activities: communication, social interaction, learning, mobility, self-care, self-management.
- The impairment or impairments affect the person's capacity for social and economic participation.
- The person's support needs in relation to his or her impairment or impairments are likely to continue for the person's lifetime.

An impairment that varies in intensity (for example because the impairment is of a chronic episodic nature) may be permanent, and the person's support needs in relation to the impairment may be likely to continue for the person's lifetime, despite the variation.

### Alternative Way To Meet The Access Criteria

If a person does not meet the age requirements, or the disability or early intervention requirements there may be alternative ways to meet the access criteria which will be detailed in NDIS Rules when finalised.

### Ceasing To Be a Participant

A person ceases to be a participant in DisabilityCare Australia when they die, turn 65 years old and have entered a residential care service, or are being provided with community care on a permanent basis, or their status is revoked. The status is terminated in the event DisabilityCare Australia is satisfied the person does not meet the residence or disability or early intervention requirements.

The details relating to eligibility requirements are set out in the NDIS Rules, which are available at [www.ndis.gov.au](http://www.ndis.gov.au)

### 3 Becoming a participant in DisabilityCare Australia

DisabilityCare Australia will help people who are born with disability or who develop disability later in life.



A participant must have a disability.

---



The disability must be permanent which means it will not go away over time.

---



A participant will need to be a resident of Australia.

---



There will be Rules which will help work out who can become a participant and who can receive services and support.

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DisabilityCare Australia will help with use of therapy so that support can improve a person's life.

---



DisabilityCare Australia wants to make sure that people who are currently receiving disability support services can continue to get support.

### 3 Worksheet – Thinking time

Write down queries or questions you have about becoming a participant.

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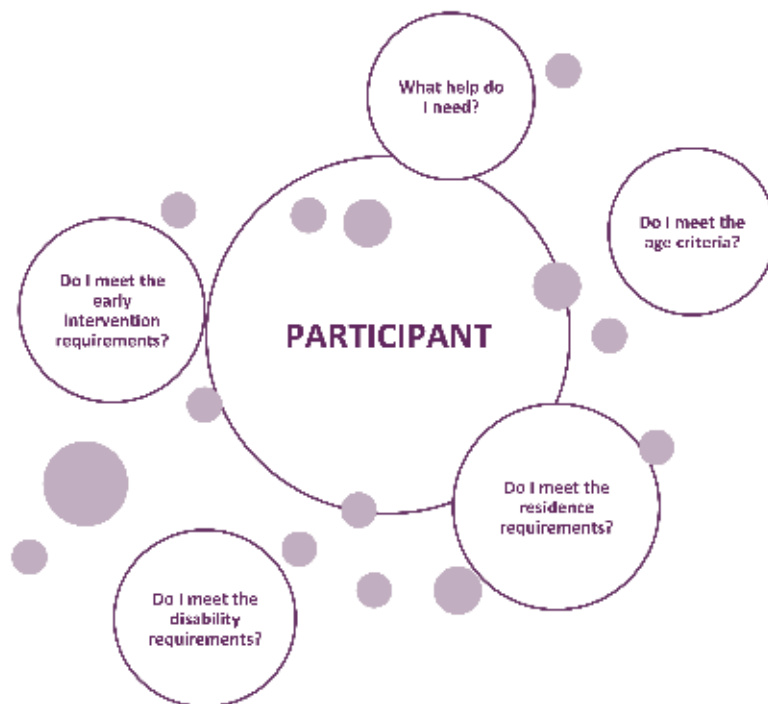
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### 3 Frequently asked questions

**Q. When does a person meet the age requirements?**

Generally the age requirements are satisfied if the person is under 65 years old when the access request in relation to the person was made.

**Q. When does a person meet the residence requirements?**

A person satisfies the residence requirements if they reside in Australia and are either an Australian citizen, hold a permanent visa or a special category visa holder who is a protected special category visa holder.

**Q. When is an impairment permanent or likely to be permanent?**

An impairment is or is likely to be permanent if it is irreversible or likely to be irreversible.

**Q. What kind of activities are considered relevant activities for the purposes of impairment?**

Communication, social interaction, learning, mobility, self-care and self-management are considered relevant activities by the NDIS Rules.

**Q. Are there alternative ways to meet the access criteria?**

If a person does not meet the age requirements or the disability or early intervention requirements, there may be alternative ways to meet the access criteria which will be detailed in the NDIS Rules when finalised.

**Q. What happens when I turn 65?**

When you turn 65 you can no longer submit an access request to DisabilityCare Australia. If you are already a participant, you will cease to be a participant if you permanently enter a residential aged care service or are provided with permanent community care and you are 65 years or older.

### 3 More information

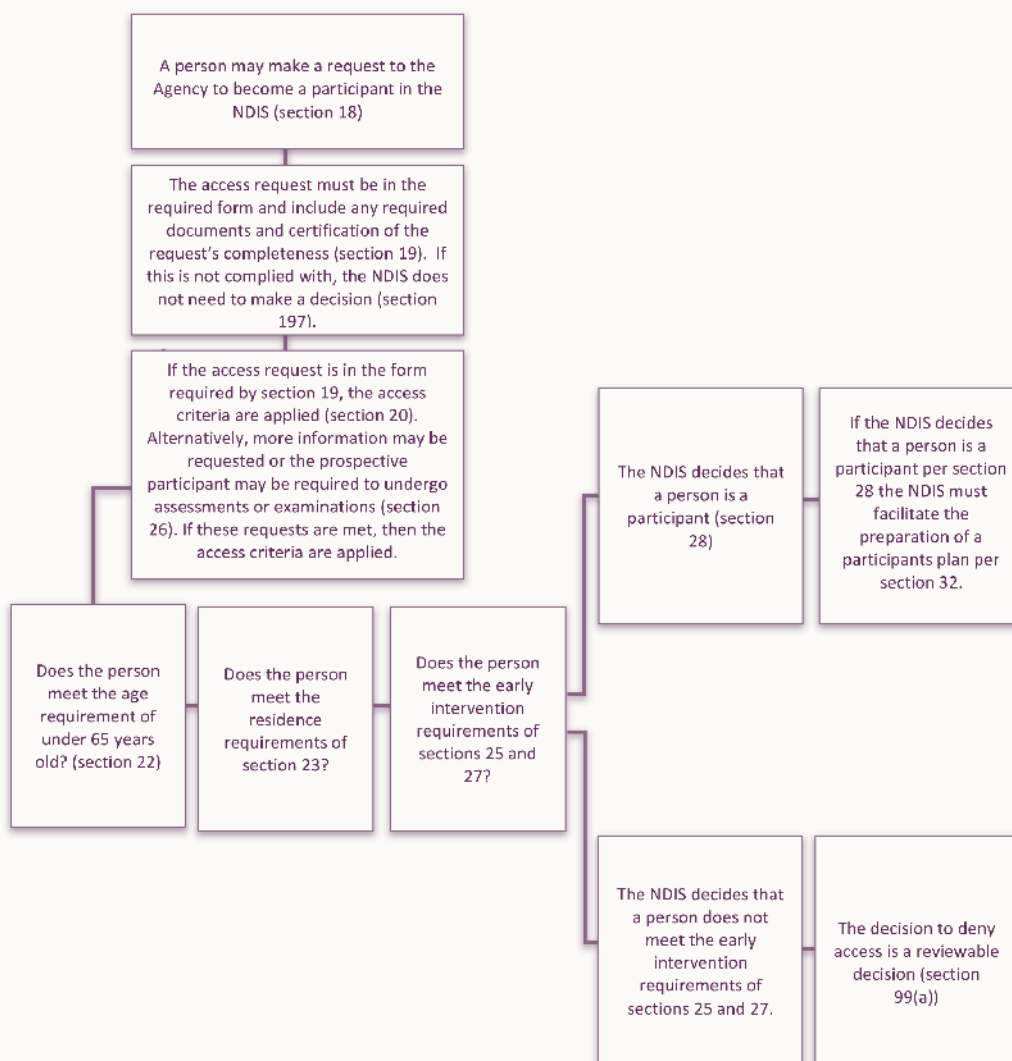


- The Draft Rules for Becoming a Participant are available on the NDIS website at [yoursay.ndis.gov.au/document/show/27](https://yoursay.ndis.gov.au/document/show/27)
- Disability Directory further information [www.disabilitydirectory.net.au/understanding-the-ndis-draft-legislation-plans-and-funding/](https://www.disabilitydirectory.net.au/understanding-the-ndis-draft-legislation-plans-and-funding/)



# 4

## Early intervention



Flow chart showing the process to access early intervention under DisabilityCare Australia

## 4 Early intervention

**A person who has a disability should be provided support early to reduce the need for future support. Supporting them now will make them more able to function in the future.**

**One of the objectives of DisabilityCare Australia is to support people through 'early intervention' so that their disability is less likely to prevent them from participating in society in the future.**

Through early intervention the scheme is able to:

- Fund supports that help minimise the impacts of a person's disability.
- Help improve their functioning or prevent the deterioration of their functional capacity over their lifetime.
- Reduce the need for future support.
- Build the sustainability of each individual's support network, particularly that of their immediate family.

Some examples of early intervention strategies include:

- Investment in community supports that would allow a person to remain in their own home rather than be forced to move into residential care.
- Therapy to slow or delay the impact of a degenerative condition.
- Early intervention programs in childhood to address developmental delay.

DisabilityCare Australia will also be able to support innovative approaches which do not yet have a clear evidence-base and which can be tested within DisabilityCare Australia.

### Early Intervention Requirements

Under section 25 of NDIS legislation, a person meets the early intervention requirements if the person has any one of the following:

- One or more identified intellectual, cognitive, neurological, sensory or physical impairments that are, or are likely to be, permanent. If the disability is prescribed by the NDIS Rules then DisabilityCare Australia will automatically be satisfied that this requirement is met.
- One or more identified impairments that are attributable to a psychiatric condition and are, or are likely to be, permanent.
- A child who has developmental delay. If the disability is prescribed by the NDIS Rules then DisabilityCare Australia will automatically be satisfied that this requirement is met.

The person must also satisfy DisabilityCare Australia that both:

- Firstly, that early intervention is likely to benefit the person by reducing the person's future needs for supports.
- Secondly, that early intervention is likely to benefit the person by doing any of the following:
  - Minimising or alleviating the impact of the person's impairment upon the functional capacity of the person to undertake communication, social interaction, learning, mobility, self-care or self-management.
  - Preventing the deterioration of such functional capacity or improving such functional capacity.
  - Strengthening the sustainability of informal supports available to the person, including through building the capacity of the person's carer.
- The person does not meet the early intervention requirements if DisabilityCare Australia is satisfied that early intervention support for the person is more appropriately funded or provided through other systems of service delivery or supports, including reasonable adjustments, and not by DisabilityCare Australia.



## 4 Early intervention



DisabilityCare Australia will help people or children 'early on'.

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This means that help and support may stop things getting worse.

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Children often benefit if they receive help with their disability while at school.

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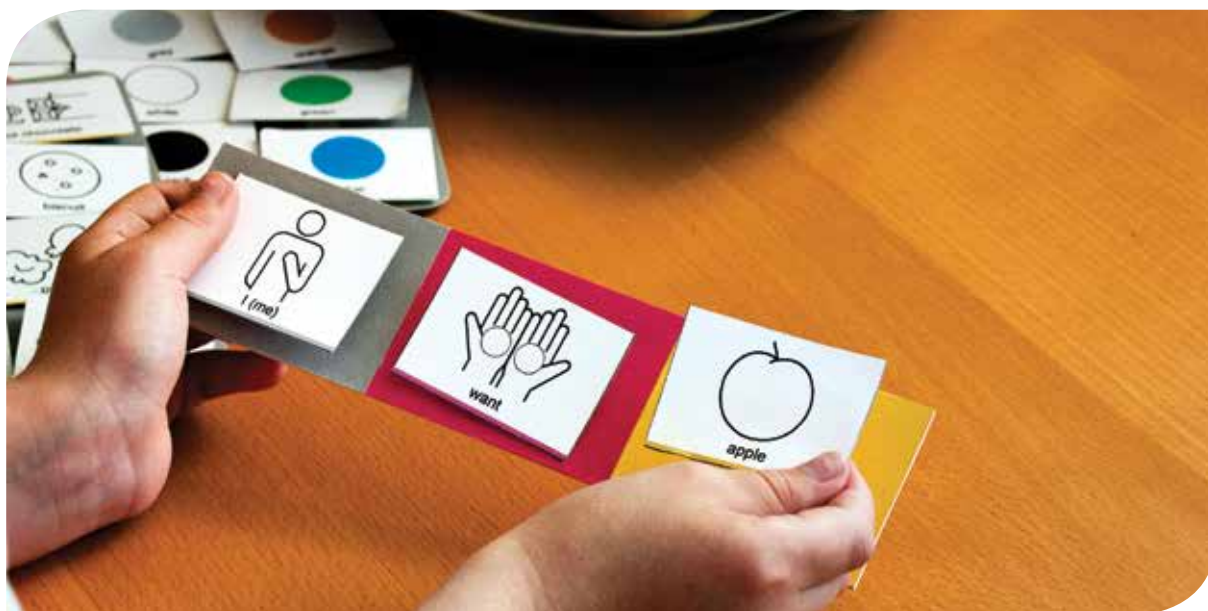
DisabilityCare Australia will provide help 'early on' so that people with disability may not need so much support in the future.

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DisabilityCare Australia will help an older person with equipment or aids in their home so they can stay at home, rather than go into a nursing home.

## 4 Worksheet – Thinking time



Think about a child who has trouble with speaking...  
DisabilityCare Australia can help that child with speech therapy.

Write down other help a child could receive if they have disability.

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## 4 Frequently asked questions

### **Q. What is the criteria for early intervention regarding preventing deterioration of a person's functional capacity?**

DisabilityCare Australia have published Draft Rules on the NDIS website. Public consultation will end on 23 March 2013 and at the time this Guide was prepared, final determinations on the NDIS Rules were yet to be made.

### **Q. What types of early intervention could be provided under DisabilityCare Australia?**

Early intervention under DisabilityCare Australia can encompass a full range of disability supports and services including: specific therapies, aids and equipment, behaviour and specialist interventions, support coordination and home and transport modifications.

People can receive early intervention in a range of settings depending on their requirements, including a person's home.

### **Q. What could early intervention look like under DisabilityCare Australia?**

Where appropriate, early intervention will be a key part of the supports provided to people under DisabilityCare Australia, and could be considered at different stages, including:

- **The planning process:**  
people will be able to work with DisabilityCare Australia to plan the things they can do now to reduce the impact of their disability over time and choose the interventions right for them.
- **When managing support options:**  
people will be able to access early intervention in addition to any ongoing support they are eligible to receive from DisabilityCare Australia.
- **Review and reassessment of a person's plan:**  
early intervention will mean different things to different people. DisabilityCare Australia will work with a person to make sure that their intervention works for them and is tailored to their needs and stage of life.

## 4 More information



“Early Intervention Within DisabilityCare Australia”, National Disability Insurance Scheme.

[www.ndis.gov.au/wp-content/uploads/2013/01/Early-Intervention.pdf](http://www.ndis.gov.au/wp-content/uploads/2013/01/Early-Intervention.pdf)



5

# DisabilityCare Australia and human rights



## 5 DisabilityCare Australia and human rights

**Human rights are fundamental rights and freedoms that are intrinsic to every person by virtue of their status as a human being. Human rights are said to be ‘inalienable’ and this means they cannot be taken away.**

**Human rights are recognised by the international community as basic to every person irrespective of their national, cultural, political, geographic, social, religious or temporal context and any other personal characteristics, such as disability, gender, race, sexuality or age. They are standards applicable to all persons, at all times, in all societies.**

### Convention On The Rights Of Persons With Disabilities

In 2007 an international treaty called the *Convention on the Rights of Persons with Disabilities* (CRPD) came into operation for Australia. It ensures the rights of people with disability are realised. There were 82 signatories of the Convention on that day, including Australia.

The National Disability Insurance Scheme (NDIS) Act contains a number of principles drawn from the CRPD. These are listed below.

- People with disability have the same right as other members of Australian society to realise their potential for physical, social, emotional and intellectual development.
- People with disability should be supported to participate in and contribute to social and economic life to the extent of their ability.
- People with disability and their families and carers should have certainty that people with disability will receive the care and support they need over their lifetime.
- People with disability should be able to exercise choice and control over the purpose, planning and delivery of their supports or in taking reasonable risks.
- People with disability should be enabled to obtain access to reasonable and necessary supports, including early intervention.
- People with disability have the same right as other members of Australian society to be respected for their worth and dignity and to live free from abuse, neglect or exploitation.

- People with disability have the same right as other members of Australian society to pursue any grievance.
- People with disability should be able to determine their own best interests, exercise choice and control and engage as equal partners in decisions that will affect their lives, to the fullest extent of their capacity.
- People with disability should be supported in all their dealings and communications with the Agency so that their capacity to exercise control and choice is maximised in a way that is appropriate to their circumstances.
- People with disability should have their privacy and dignity respected.
- Reasonable and necessary supports for people with disability should:
  - Address the effect of an impairment or impairments on their capacity to undertake everyday activities, including enabling them to participate in and contribute to social and economic life to the extent of their ability; and
  - Allow them to achieve their goals, objectives and aspirations, to the extent possible.
- The vital role of families, carers and other significant persons in the lives of people with disability is to be acknowledged and valued.
- Access for people with disability to supports outside DisabilityCare Australia, and assistance in the integration of such supports with the supports provided under DisabilityCare Australia, should be facilitated.

### Sexual Rights

The UN Convention on the Rights of Persons with Disabilities states that all people have the right to make choices, including relationships. Many people with intellectual disability have boyfriends, girlfriends, partners or spouses. People with intellectual disability have sexual feelings just like other people and have the same choices to make about their sexuality. People with intellectual disability often need information and support to help them make decisions about these issues.

## 5 DisabilityCare Australia and human rights

### Disability Discrimination Act

DisabilityCare Australia supplements the *Disability Discrimination Act* (DDA) which was enacted in 1992. The Federal *Disability Discrimination Act 1992* (DDA) provides protection for everyone in Australia against discrimination based on disability. It also aims to promote equal opportunity and access for people with disability. Disability discrimination happens when people with a disability are treated less fairly than people without disability.

The DDA makes it against the law to discriminate against someone if they have a disability in the following areas of life:

- **Employment.**  
Discrimination could occur when someone is trying to get a job, receive equal pay or gain a promotion.
- **Education.**  
Discrimination could occur when enrolling in a school, TAFE, university or other colleges.
- **Access to premises used by the public.**  
Discrimination could occur when using libraries, places of worship, government offices, hospitals, restaurants, shops, or other premises used by the public.
- **Provision of goods, services and facilities.**  
Discrimination could occur when a person wants goods or services from shops, pubs and places of entertainment, cafes, video shops, banks, lawyers, government departments, doctors, hospitals and so on.
- **Accommodation.**  
Discrimination could occur when renting or trying to rent a room in a boarding house, a flat, unit or house.
- **Buying land.**  
Discrimination could occur when buying a house, a place for a group of people, or a drop-in centre.
- **Activities of clubs and associations.**  
Discrimination could occur when wanting to enter or join a registered club, (such as a sports club, RSL or fitness centre), or when a person is already a member.
- **Sport.**  
Discrimination could occur when wanting to play, or when playing a sport.
- **Administration of Commonwealth Government laws and programs.**  
Discrimination could occur when seeking information on government entitlements, trying to access government programs, wanting to use voting facilities.



## 5 DisabilityCare Australia and human rights



Everyone has rights. There are laws in Australia which require people to treat those with disability the same as everyone else.

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Australia has international obligations to ensure that people with disability have rights in Australia.

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The United Nations Enable website is all about the Convention on the Rights of People with Disabilities: [www.un.org/disabilities](http://www.un.org/disabilities)



## 5 Worksheet – Thinking time

Write down some events or things in your life which have been difficult for you – for example if you use a wheelchair, making yourself understood in a shop or trying to get a job...

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Sometimes when things are made difficult for you this is 'discrimination' which means you have been treated unfairly and not like everyone else. Who did you tell about this and what did they do?

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## 5 Frequently asked questions

**Q. DisabilityCare Australia implements Australia's obligations under international law. That sounds good, but what does it mean for me?**

The new law contains provisions that specifically refer to the human rights of people with disability and imposes an obligation on the Agency to ensure that their decisions are made with reference to those rights.

**Q. If I am dissatisfied with a decision made under DisabilityCare Australia, what can I do?**

Later in this Guide there is a section called "Review of Decisions" that lists the types of decisions that DisabilityCare Australia can make that can be reviewed, and the way that this is done.

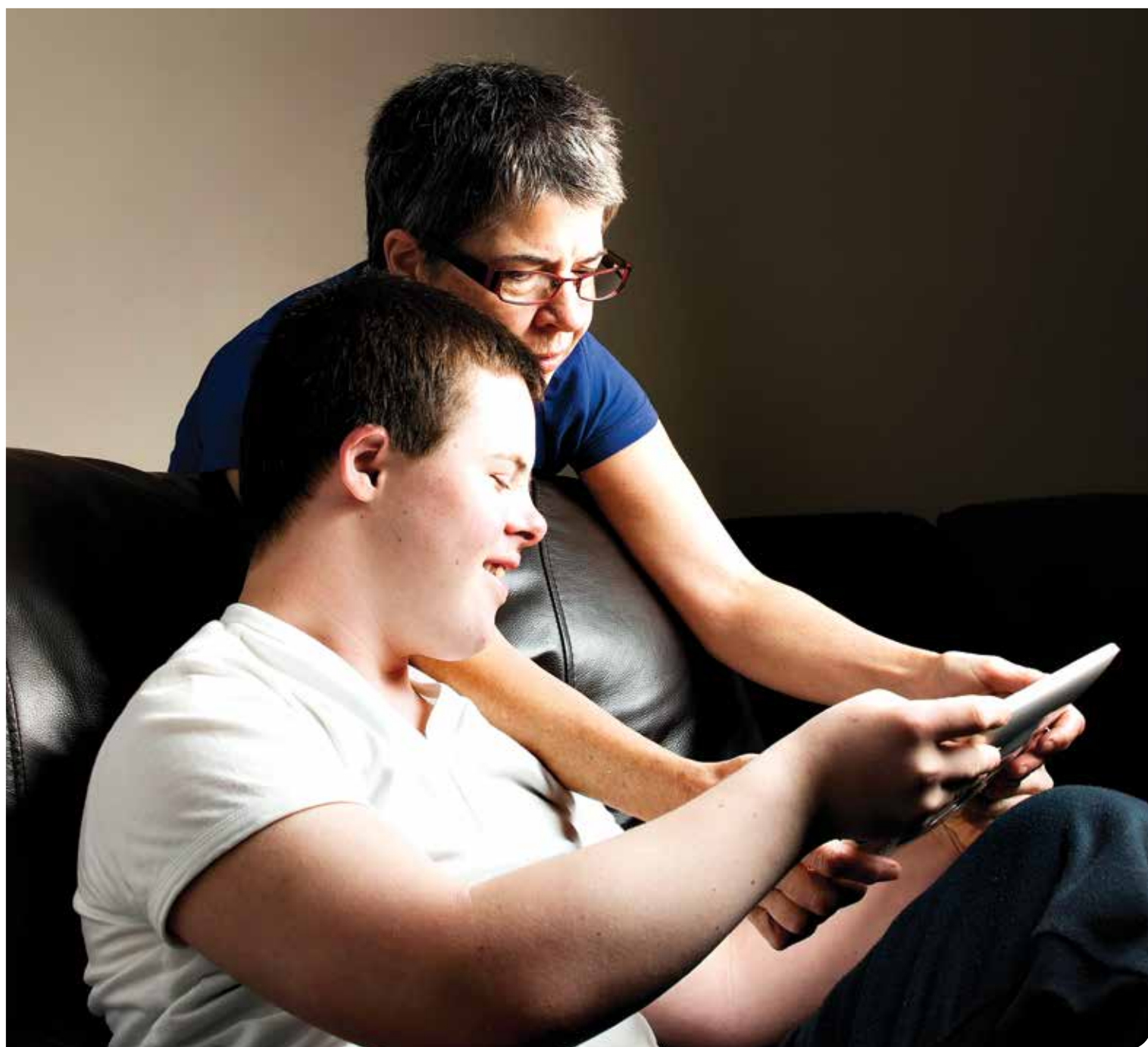
## 5 More information

### Who Can Help?

For more information about human rights and the rights of people with disability to be free from discrimination, there are a number of organisations who can assist. We have provided a list of organisations that can give you more help in the Additional Services Directory at the back of this document.

# 6

## Advocacy and advocates



## 6 Advocacy and advocates

People such as those with an intellectual disability, dementia, acquired brain injury or mental health issues may need advocates to help them get what they need. Advocacy may come in many forms, as explained below.

### Models Of Disability Advocacy

- **Citizen Advocacy**  
Seeks to support people with disability by matching them with volunteers. Some of the matches made may last for life.
- **Family Advocacy**  
Works with parents and family members to enable them to act as advocates with, and on behalf of, a family member with disability. Family advocates work with parents and family members on either a short term or issue-specific basis. Family advocates work within the fundamental principle that the rights and interests of the person with disability are upheld at all times.
- **Individual Advocacy**  
Seeks to uphold the rights and interests of people with all types of disabilities on a one-to-one basis by addressing instances of discrimination, abuse and neglect.
- **Legal Advocacy**  
Seeks to uphold the rights and interests of people with all types of disabilities on a one-to-one basis by addressing legal aspects of instances of discrimination, abuse and neglect.
- **Systemic Advocacy**  
Seeks to influence or secure positive long-term changes that remove barriers and address discriminatory practices to ensure the collective rights and interests of people with disability are upheld.



#### Case Study – Max

Max is a 42 year old man with a mild intellectual disability and lives at home with both of his parents, who are 70. Max had always worked with his father until his father's retirement some years ago and now Max is 'house-bound' because he cannot drive or catch a bus. Max wants to go out with his friends and work part time instead of helping his mother each day in the kitchen. An advocate's role could be to work with all the family in developing strategies to support Max to help him to be more independent, safe, and enjoy activities.



#### Case Study – Amanda

Amanda is a 45 year old lady and has a moderate intellectual disability. She lives in a group home run by a service. Amanda is unhappy that the service workers take care of her money and don't give her enough to spend. She has brought the matter up with her parents but they do not want to approach the service directly as they are both nearly 80 years of age. An advocate's role could be to work at Amanda's direction, to support her and resolve the issue with the service so that Amanda has the right to make decisions about her money.

## 6 Advocacy and advocates



There are people outside your family who can also 'speak up' for you and they are called 'advocates'.

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Advocates listen to what you have to say.

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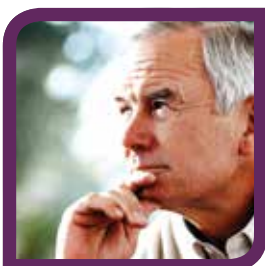
Advocates can go with you to speak on your behalf, if you want them to, when you have a problem.

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Advocates can help you plan your future.

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Advocates work with you to fix your problem.



## 6 Worksheet – Thinking time

Do you remember when you had a problem and you needed help?  
Who did you go to for help?

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Was that person in your family or outside your family?

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List down the type of problems you need help with (problems with  
Centrelink, problems at work or problems with a bank).

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Would you like to meet an advocate to talk to them about what you want?

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## 6 Frequently asked questions

### Q. Where would I go to find out more about advocates?

- The Department of Families, Housing, Community Services and Indigenous Affairs also provides a list of advocacy services and contacts. This is available at: [www.fahcsia.gov.au/our-responsibilities/disability-and-carers/program-services/for-people-with-disability/national-disability-advocacy-program/models-of-disability-advocacy/national-disability-advocacy-agencies-funded-by-the-commonwealth-by-state-or-territory](http://www.fahcsia.gov.au/our-responsibilities/disability-and-carers/program-services/for-people-with-disability/national-disability-advocacy-program/models-of-disability-advocacy/national-disability-advocacy-agencies-funded-by-the-commonwealth-by-state-or-territory)
- Disability Advocacy Network Australia operates to support and strengthen independent disability advocates. This network is made up of almost 70 agencies from all over Australia who undertake a variety of advocacy services for those with a disability. More information is available at: [dana.org.au/](http://dana.org.au/)
- The Endeavour Community and Advocacy Support Unit promotes and protects the human rights of those with disability. By way of advocacy this ensures that those who accept Endeavour supports and services are treated in accordance with the Convention on the Rights of Persons with Disability. More information is available at: [www.endeavour.com.au/Disability-services/Advocacy-NDIS](http://www.endeavour.com.au/Disability-services/Advocacy-NDIS)
- “A Self Help Guide for Parents by parents of children with disability in Queensland” which outlines the different services available. This is available at: [www.developingfoundation.org.au/media/user\\_files/5\\_MEtoo08.pdf](http://www.developingfoundation.org.au/media/user_files/5_MEtoo08.pdf)



### Who Can Help?

This Guide also contains details about advocacy organisations. The Additional Services Directory is located at the back of this document.

# 7

## Communicating with people with disability





## 7 Communicating with people with disability

DisabilityCare Australia's purpose is to put people with disability in charge of planning and controlling their life by:

- Giving people with disability access to funding and supports so that they can participate fully in Australian society.
- Helping people with disability realise their human rights.

To help a person with disability to make decisions, it is necessary to communicate in the most appropriate way possible.

- Provide information to the person in their preferred communication mode and format.
- Written language may be used, spoken language, signs, symbols or line drawings, photographs or other objects.

For people with communication needs an Alternative and Augmentative Communication (AAC) system may be required. This may include using various types of equipment such as:

- A letter, word or picture board
- A voice synthesiser or computer and/or
- A hearing loop.

### Disagreements

When disagreements occur between a professional who has assessed a person's capacity and a family member, friend or carer, an effective approach is to:

- Try to resolve the issue informally.
- Listening to, acknowledging and discussing a person's issues without criticism may be all the person is asking for.
- It may be helpful to invite someone independent and qualified, such as an advocate, to an informal meeting.

There are also formal ways to resolve issues. Guardianship Tribunals (in each State or Territory) can consider applications for:

- Guardianship.
- Financial management.
- Consent to medical and dental treatment.



### Case Study – Helena

Helena can use some words and expresses herself in various ways including facial expressions and body language. Helena lives in a group home but she wants to move into another group home. An advocate spent time with Helena to support her, because the staff stated Helena did not have capacity to make a decision to move into the new home by herself. Through a series of meetings Helena communicated through symbols, pictures, photos and some language, to convey why she wanted to move and her capacity to make decisions about where she wanted to live. This was done in her own way with appropriate communication support.



## 7 Communicating with people with disability



Communication takes place during much of our lives and is a basic human right.

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Communication disabilities affect four main areas. This includes a person's ability to speak, to understand what others are saying, to read and/or to write.

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Some of the main types of communication disabilities affect the following: hearing, movement, learning and remembering, and language.

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Regardless of the cause of disability all people who have communication disabilities are individuals and communicate in their own ways.

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All people with disability can communicate more effectively when they are given appropriate support.

## 7 Worksheet – Thinking time

Write down some ways people can communicate  
(for example pointing, sign language, drawing, etc).

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Think of a person you know with disability and write down the two most  
important ways they are able to communicate with you:

1 

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2 

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Can you think of other ways you could communicate with them?

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## 7 Frequently asked questions

**Q. How should I communicate with people with disability that affects their capacity to communicate? Are there any resources I could use to improve my communication skills?**

- The Queensland Government has produced a document called 'Better Communication' which is about communicating with people with disability. The document has a number of postcards to aid communication. This is available at: [www.qld.gov.au/disability/community/communicating/](http://www.qld.gov.au/disability/community/communicating/)
- The Commonwealth Government has produced a document about working with people with disability which is available at: [jobaccess.gov.au/Coworkers/Working\\_with\\_people\\_with\\_disability/How\\_to\\_communicate\\_with\\_people\\_with\\_disability/Pages/home.aspx](http://jobaccess.gov.au/Coworkers/Working_with_people_with_disability/How_to_communicate_with_people_with_disability/Pages/home.aspx)
- The Vela Microboards Association provides information on microboards and how they may assist communication. This is available at: [www.microboard.org/Vela\\_Affiliates.htm](http://www.microboard.org/Vela_Affiliates.htm)
- National Alternative Dispute Resolution Advisory Council produced 'Issues of Fairness and Justice in Alternative Dispute Resolution' and Chapter 6 is titled 'People with Disabilities and Alternative Dispute Resolution'. This is available at: [www.nadrac.gov.au/publications/PublicationsByDate/Documents/Issues%20of%20Fairness%20and%20Justice%20in%20Alternative%20Dispute%20Resolution.pdf](http://www.nadrac.gov.au/publications/PublicationsByDate/Documents/Issues%20of%20Fairness%20and%20Justice%20in%20Alternative%20Dispute%20Resolution.pdf)
- Judy Cohen has produced 'Making Mediation Sessions Accessible to People with Disabilities' and is available at: [www.mediate.com/articles/cohen.cfm](http://www.mediate.com/articles/cohen.cfm).
- The Disability Advocacy Resource Unit has a number of useful publications which are available at: [www.daru.org.au/resource-library](http://www.daru.org.au/resource-library).



### Who Can Help?

In the Additional Services Directory at the back of this Guide we have set out contact details for advocates, mediators and legal services that may be able to assist you.

# 8

## What is 'capacity' and why does it matter?



Capacity is always assumed for people 18 and over

People can be supported to make their own decisions

People have the right to make the decisions and choices they want

If a decision is made on a person's behalf, it must be in their best interests

Best interest decisions must be the least restrictive of the persons's rights and freedoms.



## 8 What is 'capacity' and why does it matter?

**'Capacity' is the legal word for a person's ability to make decisions.**

**Under Australian law a person who is 18 is assumed to have capacity. That means that they can make all their own decisions. People with disability are presumed to have capacity to make decisions that affect their own lives.**

A person with capacity is able to make decisions about things affecting their daily life, such as:

- Where to live.
- What to buy.
- What support or services they need.
- When to go to the doctor.

A person with capacity also has the power to make decisions with matters that have legal consequences, including:

- Making a will.
- Getting married.
- Entering into a contract.
- Having medical treatment.

Generally, a person who has capacity to make decisions can:

- Understand the facts involved.
- Understand the choices involved.
- Weigh up the consequences of the choices.
- Understand how the consequences affect them and others and
- Communicate their decision.

### Capacity Is Decision Specific

It is very rare for a person not to have capacity for any decisions. However, this can happen when a person is unconscious or has a severe cognitive disability, for instance.

More often if a person lacks capacity then that relates to complex decisions. For example:

- A person might be able to decide where they want to live (personal decision), but not be able to decide whether to sell their house (financial decision).
- They can do their grocery shopping (make a simple decision about money), but not be able to buy and sell shares (make a more complex decision about money).

### Capacity Can Vary

Capacity varies from person to person and from situation to situation. Capacity is not something solid that you can hold and measure. Neither is it something that is the same all the time. It is affected by a person's abilities and by what is happening around them.

Everyone's abilities vary and everybody reacts in their own way to their environment. For example, some people enjoy being in noisy places or busy places such as shopping centres, but others find that very stressful.

Each person's capacity can fluctuate, depending on things such as their mental and physical health, personal strengths, the quality of services they are receiving, and the type and amount of any other support.

The level of capacity a person has at a particular time can depend on the following factors:

- Is the decision simple or complicated?
- How much information has the person been given, and what is their level of understanding about the information?
- The type of decision being made. Is it a financial decision, a health decision, some other kind of decision?
- The timing of the decision. Is the person tired? Is the person more able to make decisions in the morning, for instance?
- Communication. Sometimes a person with a disability may need an interpreter or advocate or a particular Alternative and Augmentative Communication (AAC) strategy may be needed.
- The physical environment in which the decision is being made. Is the environment noisy or is the situation stressful?
- The person's experience. How much knowledge of, or familiarity with, the topic does the person have?
- Health. Does the person have an illness or condition that worsens from time to time and affects their capacity, such as a mental illness or the effects of drugs, alcohol or anaesthetic?
- Personal stress. Is the person dealing with any social issues which may cause them stress at the time of decision-making?
- Duress. Is the person making the decision in a circumstance where they are being bullied or forced?

## 8 What is 'capacity' and why does it matter?



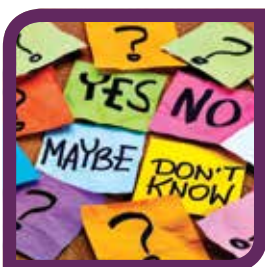
'Capacity' is a legal word that refers to a person's ability to make decisions.

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The law in Australia says that everyone over the age of 18 years has 'capacity' including people with disability.

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This really means that just like everyone else, people with disability are supposed to have capacity to make decisions about their own life.

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Some decisions are harder than others to make, while some decisions are easier to make.

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Any decision a person with disability makes requires them to understand the consequences of their decision.

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A person must also think about the choices, what can happen when a choice is made and they must be able to communicate their decision.

## 8 Worksheet – Thinking time

We make decisions every day, for example, what to eat and which television channel to watch. List as many everyday decisions as you can think of:

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What are some major decisions you have had to make in your life? For example, having an operation in hospital, going on a holiday or moving house. Write down some major decisions you have made.

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Who helped you make those decisions?

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## 8 Frequently asked questions

**Q. The person I care for can make some types of decisions without assistance but may find other decisions to be a struggle. How will DisabilityCare Australia account for this issue?**

At the core of DisabilityCare Australia is a principle to empower people with disability and give them more control in their life. However, there are times when people with disability need the valuable support of their carers, family, friends and community.

This is why DisabilityCare Australia Act provides for both plan nominees and correspondence nominees to assist people with disability in their life with DisabilityCare Australia.

DisabilityCare Australia has published an important Fact Sheet called 'Choice and Control within DisabilityCare Australia'. In summary, the Fact Sheet says that choice and control is about having control over the course of your life and the flexibility to make decisions. DisabilityCare Australia propose eight key principles to guide how people can make decisions under DisabilityCare Australia:

- Choice.
- Control.
- Presumption of Capacity.
- Design.
- Minimum intervention.
- Minimum restrictions.
- Inclusion and flexibility.
- Dignity in risk.

The Fact Sheet says that choice and control should be in all stages of DisabilityCare Australia. This includes:

- How and when somebody accesses DisabilityCare Australia.
- During the assessment process.
- During the planning process.
- When managing funding and support options.
- When monitoring, reviewing and reassessing a participant's plan.

The Fact Sheet says DisabilityCare Australia should support people to make effective decisions though:

- Providing information.
- Building capacity to exercise control and choice.
- Enabling and recognising the role of any trusted advisor or nominee.
- Options to support people who take up self-managed funding.
- Local Area Coordination.

## 8 More information

- DisabilityCare Australia Fact Sheet called 'Choice and Control within DisabilityCare Australia' is available at: [www.ndis.gov.au/resources/fact-sheets-and-publications/choice-and-control/](http://www.ndis.gov.au/resources/fact-sheets-and-publications/choice-and-control/)
- A 'Capacity Toolkit' has been published by NSW Attorney General's Department and is available at: [www.diversityservices.lawlink.nsw.gov.au/divserv/ds\\_capacity\\_tool.html](http://www.diversityservices.lawlink.nsw.gov.au/divserv/ds_capacity_tool.html)
- The Government of Victoria, Department of Human Services has produced 'Supporting Decision-Making: A Guide to Supporting People with a Disability to make their own Decisions' and is available at: [www.dhs.vic.gov.au](http://www.dhs.vic.gov.au)
- The New South Wales Government Department of Family and Community Services, Ageing, Disability and Home Care has produced 'Lifestyle Planning Guidelines' about lifestyle planning for people with disability. It is available at: [www.adhc.nsw.gov.au/\\_\\_data/assets/file/0005/258584/Lifestyle\\_Planning\\_Guidelines\\_Aug\\_2012\\_web.pdf](http://www.adhc.nsw.gov.au/__data/assets/file/0005/258584/Lifestyle_Planning_Guidelines_Aug_2012_web.pdf)
- The New South Wales Government Department of Family and Community Services, Ageing, Disability and Home Care has produced 'Working in Person Centered Ways: A Resource Book for New South Wales Advocacy and Information Services' which is available at: [www.adhc.nsw.gov.au/\\_\\_data/assets/file/0013/250033/Working\\_in\\_Person\\_Centred\\_Ways\\_Resource\\_Book.pdf](http://www.adhc.nsw.gov.au/__data/assets/file/0013/250033/Working_in_Person_Centred_Ways_Resource_Book.pdf)

### Who Can Help?

At the back of this guide there is an Additional Services Directory which provides contact details for services that may be able to assist you.



9

# Independent, supported and substitute decision-making

☐

yes

☐

no

☐

maybe

## 9 Independent, supported and substitute decision-making

**The philosophy of DisabilityCare Australia is that the Scheme should maximise opportunities for people with disability to make decisions about controlling their support and the management of their funding arrangements.**

DisabilityCare Australia will presume that people with disability have the capacity to exercise choice and control in their lives, and endeavour to support and develop their capacity.

This situation might be different for some people who have impaired capacity, whether this is caused by developmental delay, intellectual disability, mental ill-health, dementia or acquired brain injury.

In the following pages of the Guide we attempt to define the different types of decision-making, and identify issues that can arise in decision-making contexts. This material might help you reflect on your role in the decision-making of a person with disability.

### Independent Decision-Making

As noted above, the philosophy of DisabilityCare Australia is that the Scheme should maximise opportunities for people with disability to make decisions about their support and the management of their funding arrangements.

#### Issues To Think About

- Making your own decisions is the most empowering, provided there are no serious risks involved.
- Assumptions of freedom of choice, freedom to contract and equality of bargaining power can be questionable where vulnerable people are involved.
- There may be greater operational challenges for people with intellectual disability because there may be a limited stock of prior knowledge about their values and wishes.
- Risks include abuse of power, social isolation or marginalisation, and the challenges of managing any personalised budgets.
- Solutions for such abuse are legal actions that are ill-suited in practice to the needs of ordinary people. This is due to the costs associated with successfully correcting financial abuse.

## 9 Independent, supported and substitute decision-making

### Supported Decision-Making

Supported decision-making is a variety of decision-making in which a person who needs help with decisions is given support from other people so that, so far as it is possible, the person with disability can exercise their own choice and control. Most adults make decisions in consultation with other people, particularly when those decisions affect other people, or when those decisions are important. Social networks or 'circles of support' help to build supports for good decision-making.

#### Issues To Think About

- Does the person with disability have social networks? If not, how can these be built?
- Are advocates involved to ensure that decision-making does not involve duress?
- Are the people who support the person with disability, be they parents, carers, guardians, accountable to others?
- Have decision-making options been confined to a narrow menu of choices which has substantively removed the decision-making power of the person with disability?
- Do risk minimisation policies, resource constraints, and/or an attitude that decisions made by family must override all others create the risk that assisted decision-making will become substitute decision-making?
- Will supporters become de facto guardians without the checks and balances of guardianship?

### Substitute Decision-Making

Substitute decision-making is a situation where one person makes a decision on behalf of another. Since the law presumes that all people 18 and over have capacity, if a parent, carer or other interested person wants to make a decision on behalf of someone else they will need to seek legal power to do so.

A power of attorney or an enduring power of attorney is a legal document that one person gives to another to authorise him or her to act on behalf of the person giving consent to do so.

Guardianship orders are made as a 'last resort' but making an enduring power of attorney is good planning for future eventualities.

#### Issues To Think About

- Guardianship boards and tribunals in each of the States and Territories make guardianship orders. A guardianship order can be 'plenary', giving the guardian full decision-making power, or 'partial', allowing the guardian to make some decisions and not others.
- There is more important information about guardianship in the "Parents, Carers, Nominees and Guardians" section of this Guide.
- A power of attorney or an enduring power of attorney can only be made by a person who has capacity. It is a private arrangement that respects the views of the person writing it. A tribunal is only involved if there is a concern about abuse of the document. There is more information about powers of attorney later in this Guide.

## 9 Independent, supported and substitute decision-making



‘Independent Decision-Making’ is when you make the decisions by yourself – you do not need any help.

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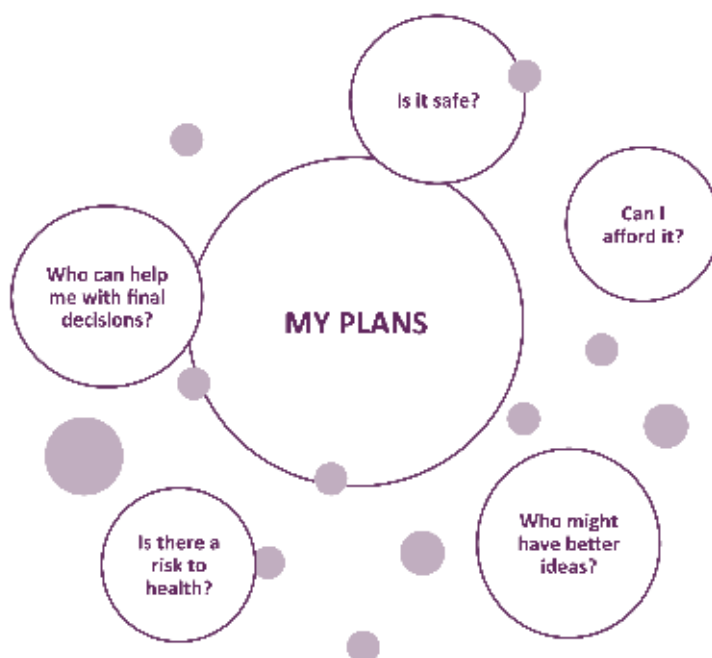


Sometimes you may need help with making daily or other decisions, so you would ask a parent or carer to help you – this is called ‘Supported Decision-Making’.

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Some people are unable to make most major decisions, so they are assisted by ‘Substitute Decision-Makers’.



## 9 Worksheet – Thinking time

List the decisions you make by yourself as an ‘Independent Decision Maker’:

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List the decisions you make with a ‘Supported Decision Maker’:

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Do you have a guardian to help you make decisions?  
What decisions to they help you with?

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## 9 Frequently asked questions

### Q. How does DisabilityCare Australia support decision-making by people with disability?

DisabilityCare Australia aims to give people with disability more choice and control in their life and endeavours to support and develop their capacity to make important decisions in their life.

### Q. What about people with disability who don't have the capacity to make decisions alone?

DisabilityCare Australia recognises that not everyone has the capacity to make important decisions alone. Existing powers of attorney and guardianship orders are not affected by DisabilityCare Australia but the new legislation provides for appointment of 'nominees' who can also make decisions on behalf of others.

### Q. What is involved in the nominee process?

Please see the following chapter for further information on nominees.

## 9 More information

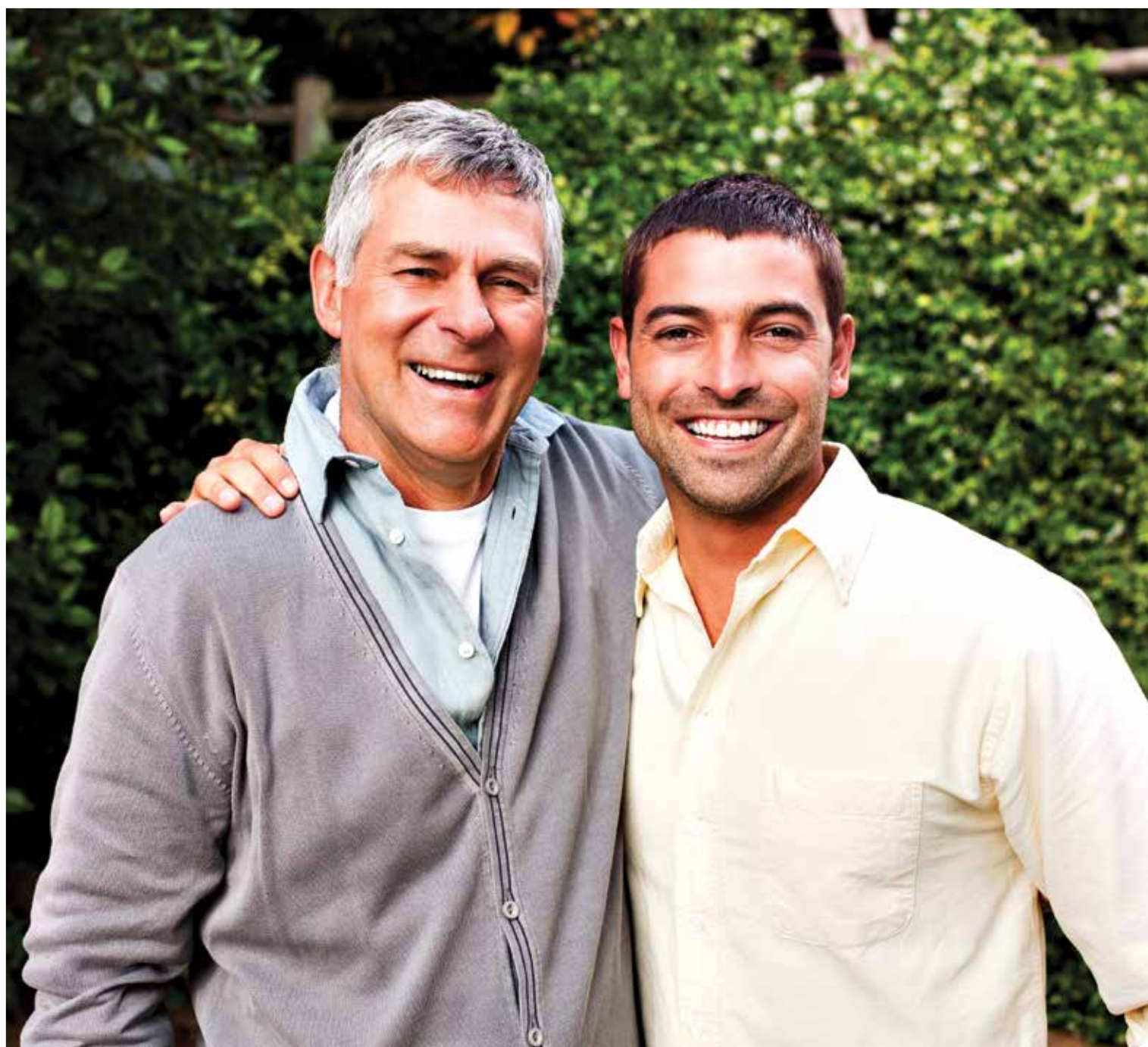
- Victorian Department of Human Services has produced 'Supporting Decision-Making: A Guide to Supporting People with a Disability to make their own Decision' and is available at: [www.dhs.vic.gov.au/\\_data/assets/pdf\\_file/0011/690680/dsd\\_cis\\_supporting\\_decision\\_making\\_0212.pdf](http://www.dhs.vic.gov.au/_data/assets/pdf_file/0011/690680/dsd_cis_supporting_decision_making_0212.pdf).
- American Association of Intellectual and Developmental Disabilities has produced a presentation called 'Building Capacity for Decision-Making in People with Intellectual and Developmental Disability' which is available at: [aaidd.org/content\\_8306.cfm](http://aaidd.org/content_8306.cfm)

### Who Can Help?

At the back of this Guide there is an Additional Services Directory which provides contact details for services that may be able to assist you.

10

# The role of parents, carers, guardians and nominees



## 10 The role of parents, carers, guardians and nominees

This section of the Guide explains the role of parents, carers, guardians and ‘nominees’. Before describing these roles it is useful to set out some terminology that is used in DisabilityCare Australia legislation.

<b>Agency</b>	The DisabilityCare Australia.
<b>Carer</b>	<p>An individual who:</p> <ul style="list-style-type: none"> <li>(a) provides personal care, support and assistance to another individual who needs it because that other individual is a person with disability; and</li> <li>(b) Does not provide the care, support and assistance: <ul style="list-style-type: none"> <li>(i) Under a contract of service or a contract for the provision of services; or</li> <li>(ii) In the course of doing voluntary work for a charitable, welfare or community organisation; or</li> <li>(iii) As part of the requirements of a course of education or training.</li> </ul> </li> </ul>
<b>CEO</b>	The Chief Executive Officer of the Agency.
<b>Parent</b>	An individual with parental responsibility.
<b>Parental responsibility</b>	Where a person is the child’s parent and has not ceased to have parental responsibility under the Family Law Act or is given so under a parenting order.
<b>Participant</b>	A person who is a participant in DisabilityCare Australia.
<b>Participant’s statement of goals and aspirations</b>	Specifies the goals, objectives and aspirations of the participant and the environmental and personal context of the participant’s living.
<b>Plan</b>	The participant’s statements of goals and aspirations and their statement of supports.
<b>Plan management request</b>	A participant’s request as to who will manage the funding supports under the plan.
<b>Plan nominee</b>	A person who is appointed as the plan nominee of a participant.
<b>Reviewable decision</b>	A decision of DisabilityCare Australia that may be reviewed.
<b>Statement of participant supports</b>	Specifies the general supports that will be provided and the reasonable and necessary supports that will be funded as well as the date by which the Agency must review the plan and the management of funding and other aspects.

People with disability are presumed to have capacity to make decisions that affect their own lives. However, the Act recognises that there may be circumstances where it is helpful to have another person appointed as a ‘nominee’ to act on behalf of, or be involved in making decisions.

‘Nominees’ are people who have a duty to ascertain the wishes of a participant and to act in a way that promotes the participant’s personal and social well-being. Parents, carers and guardians can be nominees.

Appointments of nominees will be justified only when it is not possible for participants to be assisted to make decisions for themselves. It is expected that wherever possible, participants will be supported to make decisions for themselves.

Under DisabilityCare Australia, there are two types of nominee: a plan nominee and a correspondence nominee. Either type of nominee can be appointed either indefinitely or for a limited term. These nominees are separate from those appointed for Centrelink purposes.

## 10 The role of parents, carers, guardians and nominees

A plan nominee is able to do any act that may be done by a participant that relates to the preparation, review or replacement of the participant's plan or the management of funding for supports under the participant's plan.

A correspondence nominee is able to make requests to the Agency and receive notices from the Agency, on behalf of the participant. Both nominees may be appointed at the request of the participant or by DisabilityCare Australia. As explained in the NDIS Rule, if DisabilityCare Australia appoints a nominee, DisabilityCare Australia may consider the following:

- The presumption that, if the participant has a guardian whose powers and responsibilities are comparable with those of a nominee, the guardian should ordinarily be appointed as nominee.
- The degree to which the person knows the participant and is in a relationship of trust with the participant.
- The degree to which the person is willing and able to act with other representatives and supporters to maximise the participant's wellbeing.
- The degree to which the person is willing and able to undertake the activities that a nominee is required under the Act. This includes being able to enter into contracts on behalf of the participant.
- The degree to which the person is willing and able to involve the participant in decision-making processes.
- The degree to which the person is willing and able to assist the participant to make decisions.
- The degree to which the person is willing and able to ascertain what judgements and decisions the participant would have made.
- The degree to which the person is willing and able to understand and is committed to performing the duties of a nominee.
- The degree to which the person is sensitive to the cultural and linguistic circumstances of the participant.
- The degree to which the person is familiar with, and able to work with, the participant's communication system or other technological supports (if any).
- The desirability of preserving family relationships and informal support networks of the participant.
- Any existing arrangements that are in place between the person and the participant.
- Any answers or information that have been provided by the person and any refusal by the person to provide answers or information
- Any relevant views of carers and other persons who provide support to the participant.
- Any relevant conviction for an offence under Commonwealth, State or Territory law.



## 10 The role of parents, carers, guardians and nominees

### Appointment

DisabilityCare Australia may appoint a person to be the 'plan nominee' of a participant. The plan nominee can be appointed at the request of the participant or on the initiative of DisabilityCare Australia. DisabilityCare Australia may also appoint a 'correspondence nominee'. Like the plan nominees, the correspondence nominee can be appointed either at the request of the participant or on the initiative of DisabilityCare Australia. The same person may be appointed both the plan and correspondence nominee of the same participant. An appointment cannot be made without the written consent of the person appointed and after taking into consideration the wishes of the participant regarding the appointment. The appointment could be for a specified term or without any time restrictions.

### Roles Of Nominees

A plan nominee may do things that can be done by a participant relating to preparation, review or replacement of their plan or the management of funding for supports under their plan. Anything done by the plan nominee has the effect as if it had been done by the participant. A correspondence nominee may do anything that a participant can under DisabilityCare Australia other than anything which relates to the preparation, management or review of a plan or the management of funding for supports under a plan. These acts are to be done by the participant and any notice given to a correspondence nominee is taken to be given to the participant.

### Rights Of Nominee

The nominee has a right to attend assessments and medical psychiatric or psychological examinations with the participant. The nominee will only accompany the participant for these assessments if the participant wishes that to be the case and the examiner consents for that to occur.

### Duties Of Nominee

As noted above, nominees have a duty to ascertain the wishes of the participant and to act in a way that promotes their personal and social wellbeing.

A nominee does not breach this duty by an act or decision not to act if at the relevant time they reasonably believed it to be in the interests of the participant's personal and social wellbeing. A nominee is not subject to any criminal liability under the Act in relation to an act or omission of the participant or anything done in good faith by the nominee in their capacity as nominee. Nominees must notify the Agency of any matters affecting their ability to act as a nominee if an event or change occurs that is likely to affect their ability to act as a nominee, the ability of DisabilityCare Australia to give notices to the nominee or the ability of the nominee to comply with notices given to the nominee.

There are additional details about the role of nominees in NDIS Rules and sections 78 to 85 of NDIS legislation. The Rules and legislation can be accessed at [www.ndis.gov.au](http://www.ndis.gov.au).



## 10 The role of parents, carers, guardians and nominees



'Nominees' are people who are able to help you and act on your behalf.

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Someone may be able to help you with putting a plan together called a 'Plan Nominee'. That person may be a parent or a service provider.

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Someone may be able to receive and explain letters about DisabilityCare Australia to you. That person is called a 'Correspondence Nominee'.

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This is similar to the Centrelink situation where people are able to talk to Centrelink officers on your behalf, but there are separate appointments for each.

## 10 Worksheet – Thinking time

Who helps you make decisions now?

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Do you need help with making most of your decisions?

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What decisions do you need help with?  
(For example, money or where you live?)

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Is there someone new that could help with decisions?

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Where can I go if I need help with decisions?

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## 10 Frequently asked questions

### **Q. What is parental responsibility?**

A person who can do things on behalf of a child is someone with parental responsibility, that is if a child is under the age of 18 years of age. Parental responsibility belongs to a person if they are the child's parent and have not ceased to have this responsibility under a court order, or if the court has made a parenting order that the child is to live with or spend time with the person. Persons with parental responsibility have a duty to ascertain the wishes of the child participant and act in a manner that promotes the personal and social wellbeing of the child.

### **Q. Who should be appointed as a nominee?**

DisabilityCare Australia will appoint a nominee after considering the wishes of the participant, whether a guardianship order exists or any other decision-making order, and whether the prospective nominee is willing and able.

### **Q. Who cannot be appointed as a nominee?**

A person under the age of 18, the Agency or any individual associated with the Agency other than in their personal capacity.

### **Q. How long does the appointment of the nominee last?**

DisabilityCare Australia is able to appoint a nominee indefinitely or for a limited term.

### **Q. Will DisabilityCare Australia offer respite for carers?**

DisabilityCare Australia Rules on "Supports for Participants" says that DisabilityCare Australia can be responsible for providing additional respite to parents of children. This is part of DisabilityCare Australia supports for children, families and carers as a direct result of a child's disability. The aim is to sustainably maintain a carer's role. The Rules do not specifically refer to respite for carers of adults. Alternatively, you may be eligible for Commonwealth Respite and Carelink assistance or Respite Support for Carers of Young People with a Severe or Profound Disability program.



- The Draft Rules for Children are available on The NDIS website at [yoursay.ndis.gov.au/document/show/17](https://yoursay.ndis.gov.au/document/show/17)
- The Draft Rules for nominees are available on The NDIS website at [yoursay.ndis.gov.au/document/show/23](https://yoursay.ndis.gov.au/document/show/23)



11

How do I develop a  
participant's plan with  
DisabilityCare Australia?





## 11 How do I develop a participant's plan with DCA

### The plan will comprise two parts:

- The participant's statement of goals and aspirations and
- Statement of participant's supports

### Participant's Statement of Goals and Aspirations

These specify the goals, objectives and aspirations of the participants and their environmental and personal context including living arrangements, informal and other community supports and social and economic participation.

### Statement of Participant's Supports

The Statement of Participant's Supports specifies the general supports provided under DisabilityCare Australia, reasonable and necessary supports that will be funded by DisabilityCare Australia, a date of review, how the funding supports is to be managed and any other management aspects.

When DisabilityCare Australia decides to accept a plan, they have regard to the following:

- Whether material harm, including material financial harm, to the participant could result if the participant were to manage the funding for supports to the extent proposed, taking into account the nature of the supports identified in the plan.
- The vulnerability of the participant relating to physical, mental or financial harm, exploitation or abuse.
- The ability of the participant to make decisions.
- The capacity of the participant for financial management.
- Minimising risk through the participant's informal support network or any DisabilityCare Australia safeguards including regular review, regular meetings and providing funding supports.

If the participant is a child, or is an adult represented by a plan nominee, DisabilityCare Australia is to have regard to the following:

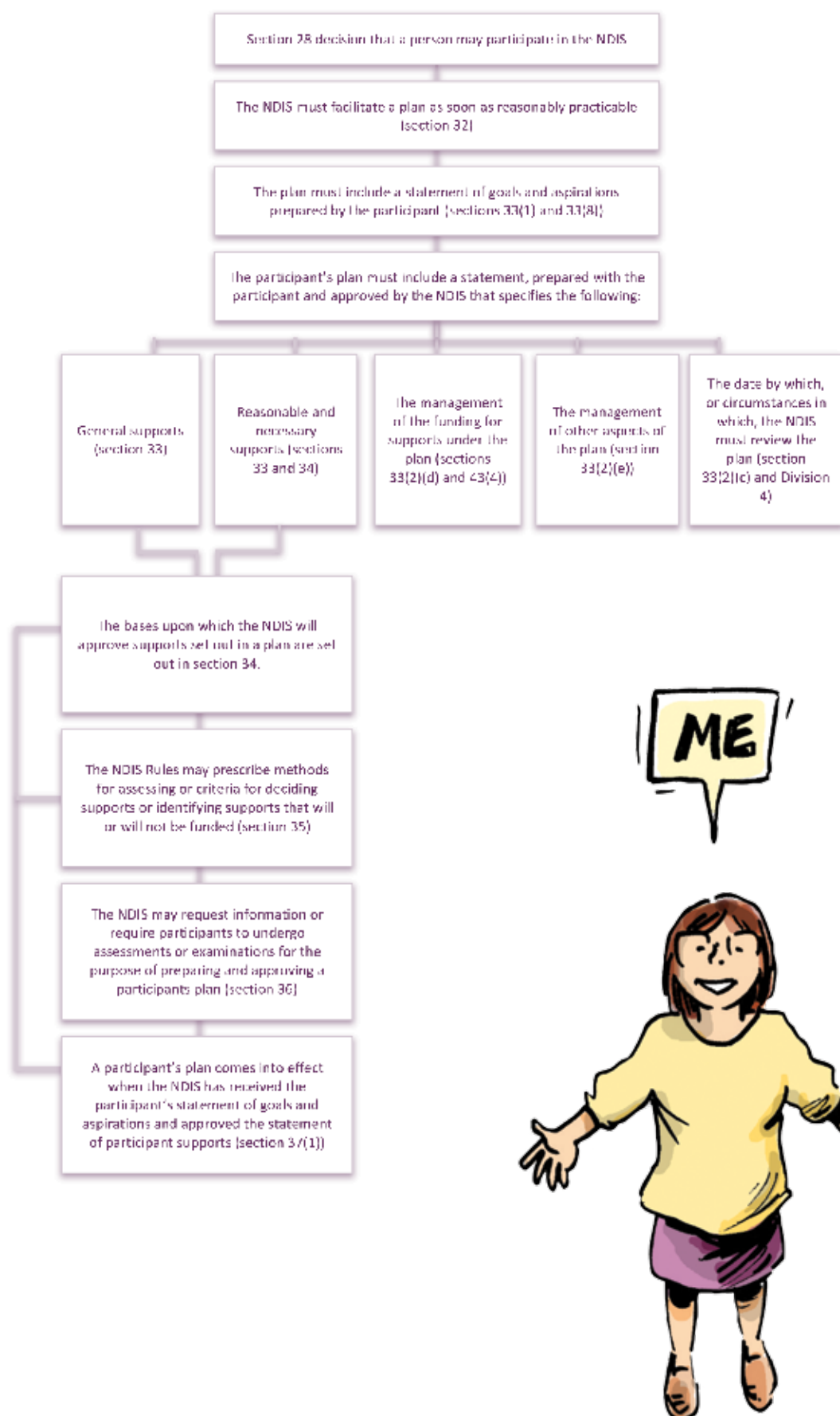
- The capacity of the child's representative or the plan nominee for financial management.
- Whether any risks could be minimised by any DisabilityCare Australia safeguards or strategies.
- The support will assist the participant to pursue the goals, objectives and aspirations included in the participant's statement of goals and aspirations.
- The support will assist the participant to undertake activities to facilitate the participant's social and economic participation.
- The support represents value for money.
- The support will be effective and beneficial for the participant.
- The funding or provision of the support takes account what is reasonable to expect families, carers, informal networks and the community to provide.
- The support is most appropriately funded or provided through DisabilityCare Australia, and is not more appropriately funded or provided through other service systems.
- The support is not specified by these Rules as a support that will not be funded or provided under DisabilityCare Australia.
- The funding of the support complies with the methods or criteria specified in these Rules for deciding the reasonable and necessary supports that will be funded under DisabilityCare Australia.

A reasonable and necessary support will not be funded under DisabilityCare Australia if it does any one of the following:

- It is likely to cause harm to the participant or pose a risk to others.
- It is not related to the participant's disability.
- It duplicates other supports delivered under alternative funding through DisabilityCare Australia.
- It relates to day-to-day living costs that are of a kind that are incurred by general members of the community (for example, standard rent, groceries and utility fees) and not as a result of the participant's disability support needs.

## 11 How do I develop a participant's plan with DCA

**NB: Sections refer to sections of NDIS legislation**



## 11 How do I develop a participant's plan with DCA



DisabilityCare Australia allows you to have a plan for your future.



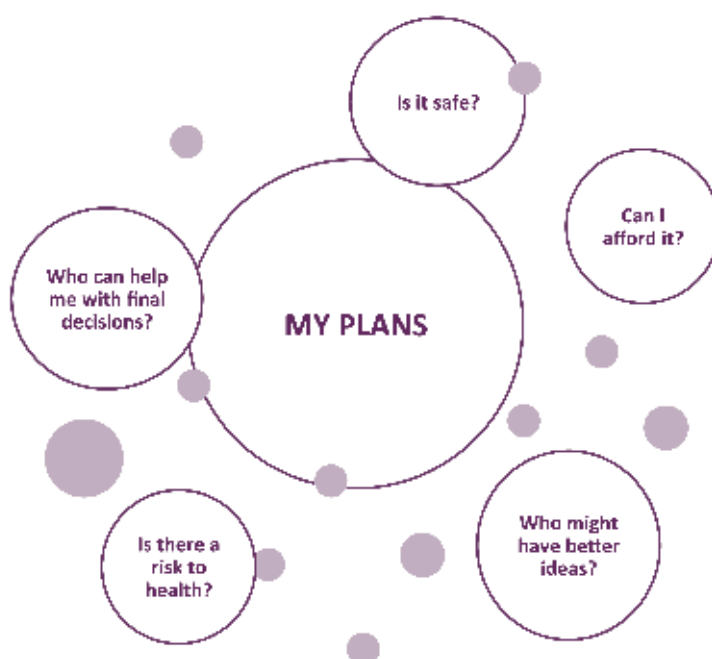
You can plan for some new things in your life such as study, or moving into a group home, or support with everyday life.



DisabilityCare Australia says that plans should be 'reasonable and necessary'.



This means that: a plan has to be safe for you or other people; a plan must be value for money and must not affect your health.



## 11 Worksheet – Thinking time

Write down the things you are happy about in your life now  
(for example friends, work etc).

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Is there anything you would like to change?

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Is there anything you need now that you do not have now?

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Is there anything new you would like to try out in the future?

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Ask your friends and family if they have any ideas. Are you happy with  
those ideas or would you like to try something different?

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## 11 Frequently asked questions

### Q. Why have a plan?

All participants in DisabilityCare Australia will have a plan. The purpose of the plan is to allow individuals with disability to think ahead to their future and offer them the assistance they need for times ahead.

### Q. What is included in a plan?

The plan includes the participant's statement of goals and aspirations and statement of participant supports. DisabilityCare Australia prepares the plan on behalf of the participant.

### Q. Who is involved in developing the plan?

The participant, their families and their carers will work with the Agency to explore their goals and aspirations, how their daily life is affected by their disability and to fully understand and support the options explored.

### Q. What supports and services are included in a plan?

The purpose of DisabilityCare Australia is to consider a person's needs over their lifetime. Their plan will be developed to have the supports and services they need now and in the future.

### Q. Is there flexibility in developing plans?

A key principle of DisabilityCare Australia is to develop increased flexibility and innovation. Many different participants will be able to access many different types of support. A participant will not be able to manage the funding for supports under their plan to a particular extent if DisabilityCare Australia is satisfied that this would present an unreasonable risk to the participant.

### Q. I am already accessing services, will my records be transferred over to DisabilityCare Australia?

Until the Rules are finalised and published it is uncertain as to whether your records will be transferred to DisabilityCare Australia. It is important to also remember that your records and your privacy will be protected under NDIS legislation.

## 11 More information

- The Draft Rules for Managing a Plan are available on The NDIS website at **[yoursay.ndis.gov.au/document/show/25](https://yoursay.ndis.gov.au/document/show/25)**
- The Victorian Department of Human Services has produced a document called 'Self-Directed Planning for People with a Disability' which is available at **[www.dhs.vic.gov.au/for-individuals/disability/self-directed-support/self-directed-planning-for-people-with-a-disability](https://www.dhs.vic.gov.au/for-individuals/disability/self-directed-support/self-directed-planning-for-people-with-a-disability)**



12

# Planning for the future

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## 12 Planning for the future



**Planning is based upon a person's dreams and aspirations, their abilities and interests and on what a person needs and wants for the future. Some things may be important now such as always being able to follow preferred routines or being with favourite people. However, in the future it may be meeting new people and realising dreams or aspirations.**

Legally, parents have no 'rights' at all over a child when she or he attains the age of majority, which is 18 in each State and Territory of Australia. More details are set out in the "Capacity" section of this Guide.

If an adult person does not have the capacity to make a certain decision, someone called a 'substitute decision-maker' or 'supported decision-maker' might need to make the decision for them or assist them to come to a decision. More details about this are set out in the "Decision-Making" section of this Guide.

We plan for the future to maximise a person's quality of life and to also support the person to

decide what is required to make that happen. Planning can involve a person's family and other important people in a person's life.

The person with the disability should be at the centre of the planning:

- Developing the person's abilities.
- Planning is based on positive action.
- Planning is the process of listening, clarifying and learning.
- Family and people important to the person with a disability are all partners in the planning.

Planning involves communication as a person builds relationships with other people and allows other people to have a 'say' in their lives.

Under DisabilityCare Australia, a person with a disability can appoint a 'nominee'. A plan nominee may do things on behalf of a participant including the preparation, review or replacement of their plan and the management of funding for supports under their plan.

## 12 Planning for the future



Each participant in DisabilityCare Australia will have their own individual plan. This explains the things that people want to do with their lives and what support is needed to help people meet their goals.

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Choice and control is important for the participant in their plan. This includes having a choice to manage the plan on their own or getting help to manage it.

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Everyone can get help to manage their plan if they want or need it. It is important that the support in the plan meets each person's individual needs.

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Support provided should be:

Reasonable – this means 'just about right', or 'balanced'.

Necessary – this means what is needed.

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You might need an aid or appliance like a wheelchair to help make your life easier. You might also need changes made to your home or car. These are things you can put in your plan.

## 12 Worksheet – Thinking time

Does your home need changing to suit your disability or impairment?  
Write down what you think you need.

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Do you need a carer to visit you and help you take care of yourself?  
Write down what you think you need.

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Do you need a disability service sometimes? What services?

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Do you need help with accessing the community sometimes?  
Where do you like to go? Who do you like to go with?

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Would you like to move away from home? Do you like to live with other  
people or by yourself? Where would you like to live?

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## 12 Frequently asked questions

**Q. What does DisabilityCare Australia have to do with my future?**

Planning for the future is key to DisabilityCare Australia. All participants will be assisted to develop their own personal statement of things they want to achieve (goals and aspirations) and which outlines their individual vision for the future.

**Q. How will DisabilityCare Australia help me to achieve my goals in the future?**

DisabilityCare Australia will assist people with disability achieve their goals and aspirations through the supports offered in their plan.

**Q. If my plan for the future includes education will DisabilityCare Australia assist?**

DisabilityCare Australia can fund education supports for example personal supports at schools or educational facilities required by an individual, portable aids and equipment, specialist transports, specialised support, and training for staff and non-clinical allied health.

**Q. If my plan for the future includes employment how can DisabilityCare Australia help?**

DisabilityCare Australia will offer assistance to support a person with disability to transition into employment as well as frequent and ongoing supports that assist a person with disability take part in work.





### Who Can Help?

For more information about planning for the future, there are a number of community legal centres across Australia which can assist. We have provided a list of these centres in the Additional Services Directory at the back of this Guide.

13

How will the plan  
be managed?



## 13 How will the plan be managed?



**The participant's plan must specify the management of funding supports under the plan and the participant's plan must specify that funding is to be managed wholly, or to a specified extent, by:**

- The participant.
- The plan nominee.
- A registered plan management provider or,
- The Agency.

The participant can make a plan management request that he or she manage the funding for supports in whole or in part to the extent specified in the request. The participant can also make a plan management request that a registered plan management provider or a person specified by the Agency manage the funding.

When a participant's plan is to be managed in any way by a registered plan management provider specified by the Agency, they must have regard to the wishes of the participant in specifying who is to manage the funding for supports under the plan.

However a statement of participant supports in a participant's plan must not provide that the participant is to manage the funding for supports under his or her plan to any extent if the participant is:

- An insolvent under administration.
- If DisabilityCare Australia is satisfied that management of the plan to that extent would present an unreasonable risk to the participant.
- Or would permit the participant to manage matters prescribed by NDIS Rules as being matters that must not be managed by the participant.

NDIS Rules will specify amounts payable to participants or fund managers, the time or times of payment and the manner of payment. NDIS Rules may provide that funds be payable to bank accounts and not until a bank account is nominated.

DisabilityCare Australia amounts must be spent in accordance with the participant's plan. The NDIS Rules may require the retention of records relating to amounts paid, for a prescribed period. As at the time of writing, The NDIS Rules have not been finalised.



## 13 How will the plan be managed?



A plan is needed to show your personal 'goals'. This means what you want to get in the future or what you want to do in the future.

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A plan should include what supports you need now and in the future.

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The plan when written down must be 'managed'. This means a person is responsible for paying bills and other paperwork.

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A plan must be managed because the money comes from the Government.

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Managing the plans means that someone is responsible for doing all this. The person could be: you, another person such as a service provider, DisabilityCare Australia, or your nominee such as one of your parents or friends.

## 13 Worksheet – Thinking time

Management of the plan involves many tasks including:  
Keeping all records, accessing bank records and administrative  
duties to comply with the NDIS Rules.

Think about who can manage the plan.  
Write down people who may be able to do this:

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List the major issues which come to mind for example 'time', 'complexity',  
'access to the person', 'cost' or other things:

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Who best from the list above would be able to manage your plan?  
Think about a service provider, a friend, family member (for example).

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## 13 Frequently asked questions

### **Q. Who can manage a plan?**

A plan can be managed by the participant themselves, a registered plan management provider, DisabilityCare Australia or the plan nominee. The participant chooses how their plan is managed.

### **Q. When can't the participant manage his or her own plan?**

Only when the participant is insolvent or where it would create an unreasonable risk will the participant not be entitled to manage their own plan.

### **Q. Who is a registered plan management provider?**

A registered plan management provider is a registered provider of supports approved to manage funding for supports by the Agency.

### **Q. Who is a plan nominee?**

A person nominated by a participant to manage a plan on their behalf.

### **Q. How are payments under a plan made?**

Payments for support are made to the participant or a person managing their plan. This payment is made on condition that the money is spent in accordance with the plan and records are retained.

### **Q. There is a shortage of professionals to assist the person I care for. What will DisabilityCare Australia do to resolve that issue or deal with other service provision deficit?**

The job of DisabilityCare Australia is to co-ordinate services, including the provision of reasonable and necessary professional services.

### **Q. I receive different services from different people at different places. How will DisabilityCare Australia co-ordinate services?**

DisabilityCare Australia will co-ordinate the services or identify a registered service provider to provide co-ordination services.

### **Q. Will DisabilityCare Australia ensure that there is sufficient funding in place to support plan?**

Funding for DisabilityCare Australia is coming from the Commonwealth Government and the State and Territory Governments that have agreed to participate in the scheme. Funding decisions are made on an individual basis.

## 13 More information



Choice and Control within  
DisabilityCare Australia, (DCA)

**[www.ndis.gov.au/resources/fact-sheets-and-publications/choice-and-control/](http://www.ndis.gov.au/resources/fact-sheets-and-publications/choice-and-control/)**

Plan Management Rules available at  
**[yoursay.ndis.gov.au/document/show/25](http://yoursay.ndis.gov.au/document/show/25)**

14

## Reviewing and changing plans



## 14 Reviewing and changing plans



**A participant may change their plan at any time. The participant's plan is then taken to be replaced.**

A participant may request that the Agency conduct a review of the participant's plan at any time and DisabilityCare Australia must decide whether to conduct a review within 14 days of receiving the request. However, if DisabilityCare Australia does not make a decision within that period, he or she is taken to have decided not to conduct the review. If DisabilityCare Australia decides to conduct a review of the participant's plan, DisabilityCare Australia must commence the review within 14 days of deciding, and complete the review as soon as reasonably practicable.

DisabilityCare Australia will then prepare a plan 'with the participant' that:

- Specifies general supports.
- Reasonable and necessary supports.
- Review arrangements.
- Management of funding for supports
- and management of other aspects of
- the plan, just as with the original plan.

Just as with the development of the participant's original plan, for the purpose of reviewing a participant's plan, DisabilityCare Australia may request information from a participant or another person, or require the participant to undergo assessments or examinations.

Just as with the original plan, DisabilityCare Australia's decision to approve a plan is reviewable.

## 14 Reviewing and changing plans



You can change your plan with DisabilityCare Australia.

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Your life may change and your supports may change as well.

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A new plan will have to be in writing.

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DisabilityCare Australia can ask you to provide information on your current situation which may include whether you need less support or more support.

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DisabilityCare Australia can ask you to go for an examination or assessment to see if you are getting better or worse if you have health issues.



## 14 Worksheet – Thinking time

List below the changes you can see will happen in your life –  
for example, moving out of home, going on a holiday and/or changing  
your plan for study.

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Are there things that you might change in the future?

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Who will help you plan for these changes?

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## 14 Frequently asked questions

### **Q. When will a plan change?**

A participant may change their statement of goals and aspirations at any time. As a result their plan will change to include these updating goals and aspirations.

### **Q. When can a plan be reviewed?**

A participant may request DisabilityCare Australia to review their plan at any time or may review the plan on their own initiative. DisabilityCare Australia must decide whether or not to conduct this review within 14 days.

### **Q. What is the outcome of a review of plan?**

If DisabilityCare Australia conducts a review of a participant's plan they must facilitate the preparation of a new plan with the participant.

### **Q. Does a new plan require a new statement of goals and aspirations?**

A participant can maintain their existing statement of goals and aspirations. If they elect to do this it will simply form a part of their new plan.

### **Q. What does DisabilityCare Australia require in reviewing a plan?**

DisabilityCare Australia may request the participant or another person provide information necessary to review the plan or require the participant to undergo an assessment and report back.

### **Q. What happens if my circumstances change?**

A participant or potential participant must notify DisabilityCare Australia of a change in their circumstances which might affect their access request or status as a participant. This notification must be made in writing and as soon as reasonable practicable.

### **Q. What information might be required?**

DisabilityCare Australia may require information from a participant where it is relevant to monitoring of supports funded, spending in accordance with the participant's plan, determining entitlements and compliance. Furthermore, DisabilityCare Australia may request information from another person to determine access criteria and funding needs.

### **Q. Is privacy protected?**

Protected information is information about a person that is (or was) held in the records of the Agency, or information to the effect that the Agency holds no information about a person. This information may only be disclosed for the purposes of the Act, with the authorisation of the person to whom the information relates or where necessary to prevent a serious threat to health or safety. It is an offence to use protected information without authorisation, to solicit the disclosure of protected information and to supply protected information.

### **Q. What happens if I go overseas?**

If a person is temporarily away from Australia, there is a grace period for which their plan will not be affected. This period is 6 weeks or a longer period determined by DisabilityCare Australia. Similar periods usually apply to social security payments, but Centrelink must be contacted in advance about this.

### **Q. What happens if I am overseas longer than the grace period?**

If a participant is absent from Australia for longer than the grace period, their plan will be suspended until they return to Australia.

### **Q. What information is protected by the Agency?**

Any information about a person is protected and will only be disclosed with the authorisation of the person it relates or where necessary to prevent a serious threat to health or safety.

### **Q. Is a participant liable for anything their nominee does?**

No.

### **Q. Is a nominee liable for their acts as a nominee?**

There is no criminal liability in relation to an act or omission of a nominee done in good faith in their capacity as a nominee.

## 14 More information



- DisabilityCare Australia Fact Sheet called 'Choice and Control within DisabilityCare Australia' is available at [www.ndis.gov.au/resources/fact-sheets-and-publications/choice-and-control/](http://www.ndis.gov.au/resources/fact-sheets-and-publications/choice-and-control/)



# 15

## Review of decisions



## 15 Review of decisions

DisabilityCare Australia has a number of significant decision-making powers. There is a list overleaf that sets out all of the 'reviewable decisions'. If you would like a decision reviewed, DisabilityCare Australia does not provide any legal assistance to you. The stages of the review are:

### Internal Review

The first stage of review for these decisions is a process which is called an 'internal merits review'. This means an internal review undertaken by another appropriately authorised person in DisabilityCare Australia who was not involved in making the original decision.

### Notice Of Review

DisabilityCare Australia must give written notice of a reviewable decision to each person directly affected by the decision. A person who receives this notice may request a review of the decision within three months of receiving it.

### Power Of Reviewer

A decision reviewer may:

- Confirm
- Vary
- Or set aside the original decision

A request for review of a decision does not affect the operation of the decision or prevent actions being taken to implement the decision. The original decision still operates until it is changed.

### External Review

A person may apply to the Administrative Appeals Tribunal for an external review of the decision to:

- Confirm
- Vary
- Or set aside the original decision arising from the internal review process

The following is a list of some of the decisions that DisabilityCare Australia can make that may be reviewed:

#### Decision Concerns:

A decision that a person does not meet the access criteria

A decision not to specify a period longer than 28 days for a prospective participant to comply with a request

A decision to revoke a person's status as a participant

A decision to approve the statement of participant supports in a participant's plan

A decision not to extend a grace period

A decision not to review a participant's plan

A decision to approve a person or entity as a registered provider of supports

A decision to revoke an approval as a registered provider of supports

A decision to make, or not to make, a determination about who may do things on behalf of a child for the purposes of the Act

A decision to make, or not to make, a determination that a person has parental responsibility for a child

A decision to appoint a plan nominee

A decision to appoint a correspondence nominee

A decision to cancel or suspend, or not to cancel or suspend, the appointment of a nominee

A decision to give a notice to require a person to take reasonable action to claim or obtain compensation

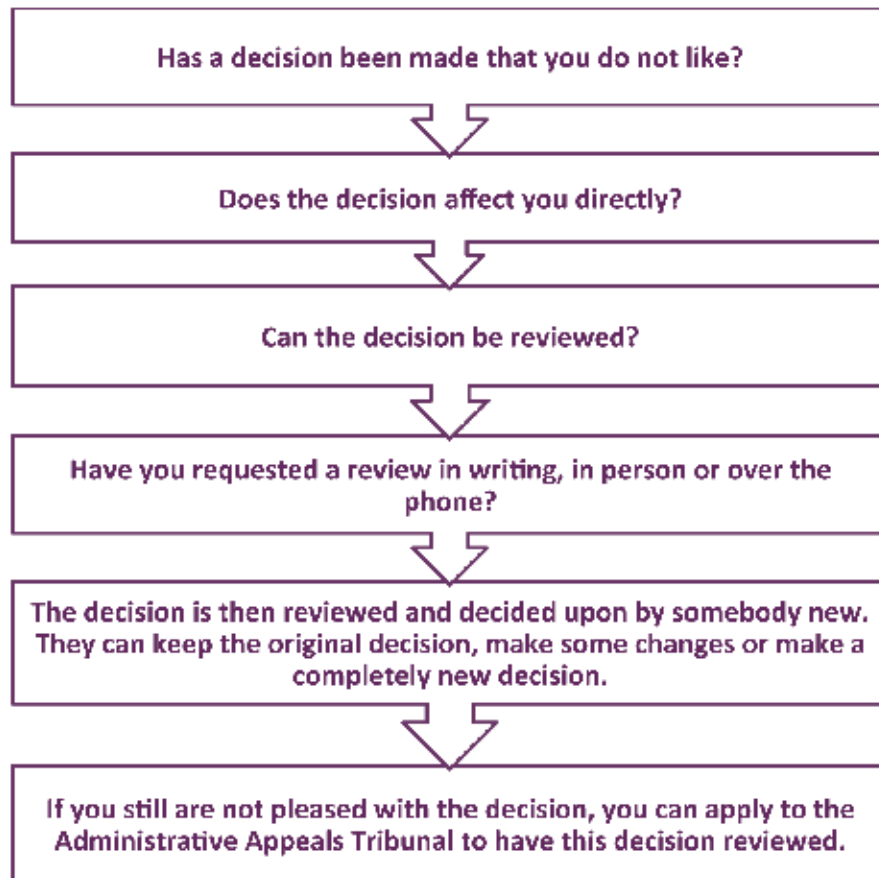
A decision to give a notice that DisabilityCare Australia proposes to recover an amount specified in the notice from an amount of compensation

A decision not to treat the whole or part of a compensation payment as not having been fixed by a judgement or settlement



## 15 Review of decisions

The following flow chart details the stages in the review of a decision



## 15 Review of decisions



DisabilityCare Australia may make a decision that you do not like. If you do not like a DisabilityCare Australia decision, you can ask for a 'review'.

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This means DisabilityCare Australia first must look at the decision again to make sure it is right.

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To get DisabilityCare Australia to review the decision you must contact DisabilityCare Australia.

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A new person will then look at the decision. After looking at it again one of these things will occur: The decision may stay as it is, or it may be changed a bit, or a completely new decision may be made.

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If you are not happy with the decision, you can get it reviewed by an outside body called the Administrative Appeals Tribunal. Advocates and lawyers are able to help you with this.



## 15 Worksheet – Thinking time

Think of a time when someone has made a mistake. A mistake can be fixed. Write down some events where a mistake has been made:

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People who work in Government can make mistakes too, just like everyone else. List down the steps you would take to help you sort something out with DisabilityCare Australia (for example, you could speak to your parent or carer).

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Think about for the easiest way you would try to contact DisabilityCare Australia for a 'review' if a mistake has been made. Which is easiest for you?

Write to DisabilityCare Australia .....

Ring up DisabilityCare Australia .....

Go to a DisabilityCare Australia office .....

## 15 Frequently asked questions

### Q. How will I know if a decision is reviewable?

DisabilityCare Australia must give written notice of a reviewable decision to each person directly affected by it. A list of reviewable decisions is set out earlier in this section of the Guide.

### Q. How can a request for review be made?

A request may be made by sending or delivering a written request to DisabilityCare Australia or making a request in person or by telephone.

### Q. Can I withdraw a request for review?

A request for review of a reviewable decision may be withdrawn by sending or delivering a written notice to DisabilityCare Australia or contacting DisabilityCare Australia orally.

In the Additional Services Directory at the back of this Guide we have set out contact details for advocates, mediators and legal services that may be able to assist you.

## 15 More information

### Who Can Help?

At the back of this guide there is an Additional Services Directory which provides contact details for services that may be able to assist you.

#### **Administrative Appeals Tribunals**

National phone number: 1300 366 700

16

## Legal planning for the future





## 16 Legal planning for the future

**DisabilityCare Australia (DCA) is all about people with disability making plans for their future. This future will often involve other people who provide resources and support to a person with a disability; resources such as money or accommodation. DisabilityCare Australia will provide resources and support, but many people with disability receive resources from other people, such as family members or friends.**

People who are planning for the future with DisabilityCare Australia also need to think about the additional things they can and should do, beyond their DisabilityCare Australia planning, to make sure their future meets their expectations. This will be more important under DisabilityCare Australia because it is designed to allow people with disability, and their supporters, to make decisions now made by service providers or government.

In this section of the Guide, we provide information for people who may have impaired capacity, and for the carers, friends and parents who want to help make sure that those people with impaired capacity have resources at hand so that they can be secure in the future.

Parents and carers of children with disability often need to make plans for a future situation when they are no longer able to provide care for their children. Many parents ask “what will happen when I die?”

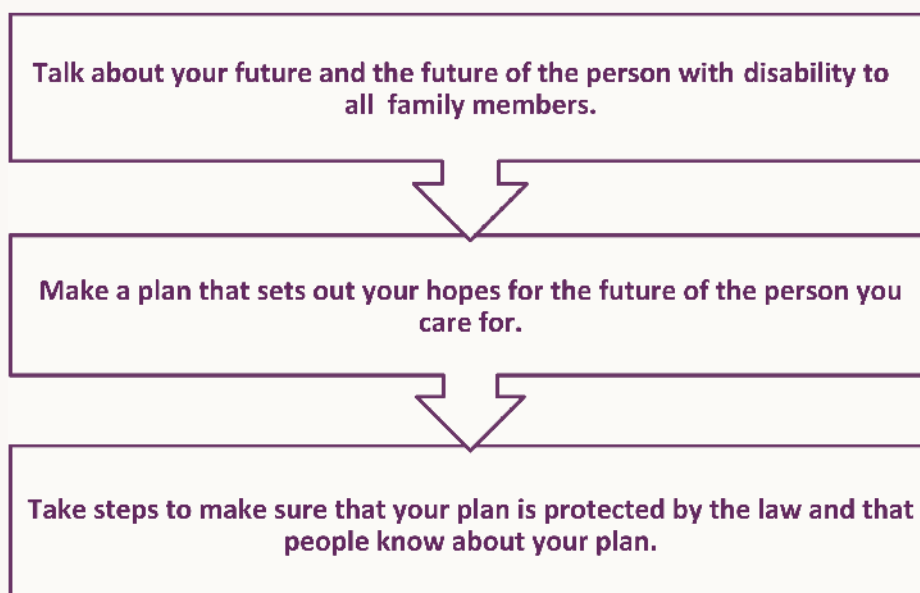
The best way to deal with this anxiety is to take the steps necessary to secure the future of the people you care for with a thorough plan that is legally valid and which is well understood and accepted by potential family or other support people. This takes time and assistance to develop.

A crisis is the worst possible time to look at alternative options for a person who has always lived in the family home. Time is needed if parents are to be fully engaged in drawing up the plans, so that they gain a sense of security and remove the sense of anxiety about the future.

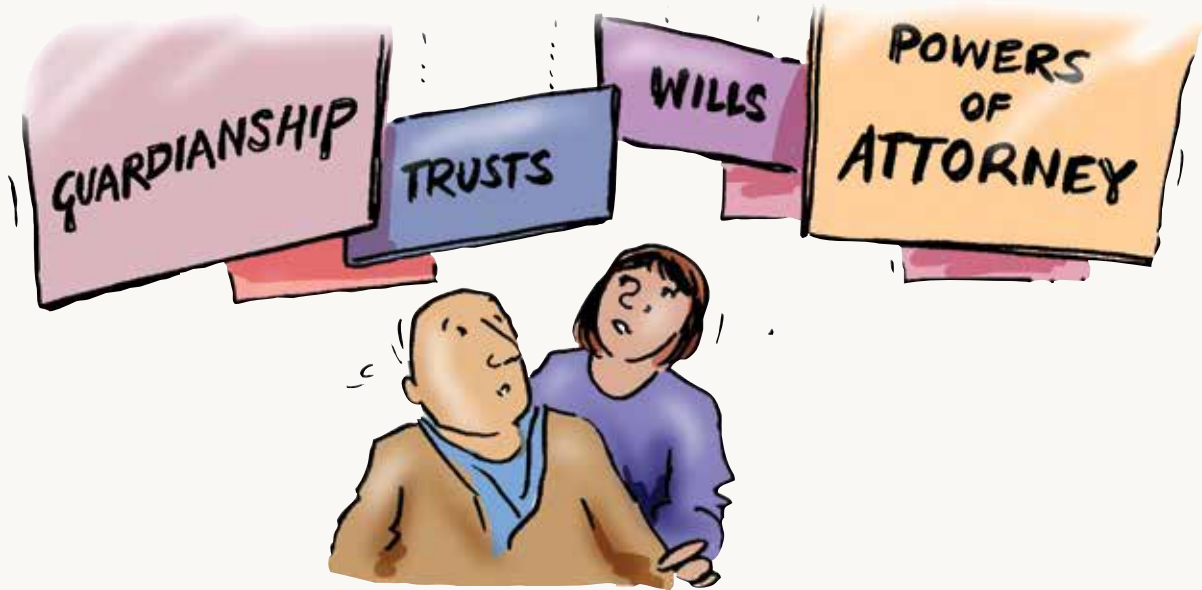
It is also crucial for the person with disability to be involved in the planning so their hopes and wishes can be realised. What are the options?

There are a number of legal options available to older parents or carers who wish to make such provision for the people they care for, including:

- Wills and estate planning
- Powers of attorney
- Trusts and Special Disability Trusts
- Guardianship



## 16 Frequently asked questions



### Q. Where can I go for help developing a valid Will?

It is possible to make a valid Will without the assistance of a solicitor but this is not something that we would advise you to do. Some solicitors are willing to provide this service free-of-charge, but often they will charge a fee for the 'execution' of the Will. The Public Trustee in each State and Territory can prepare Wills. However they also charge fees.

### Q. How often should my Will be revised or updated?

Your Will expresses your wishes at a particular point in time. You may wish to review your Will when circumstances change to reflect accurately your current wishes. Those situations may include:

- Divorce
- The executor named in the Will becoming ill or unable to handle the responsibility or has died
- Buying or selling assets, for example, the value of legacies diminishing over time. You may have left a sum of money which seemed significant when you last made your Will, but its worth may have diminished over time.

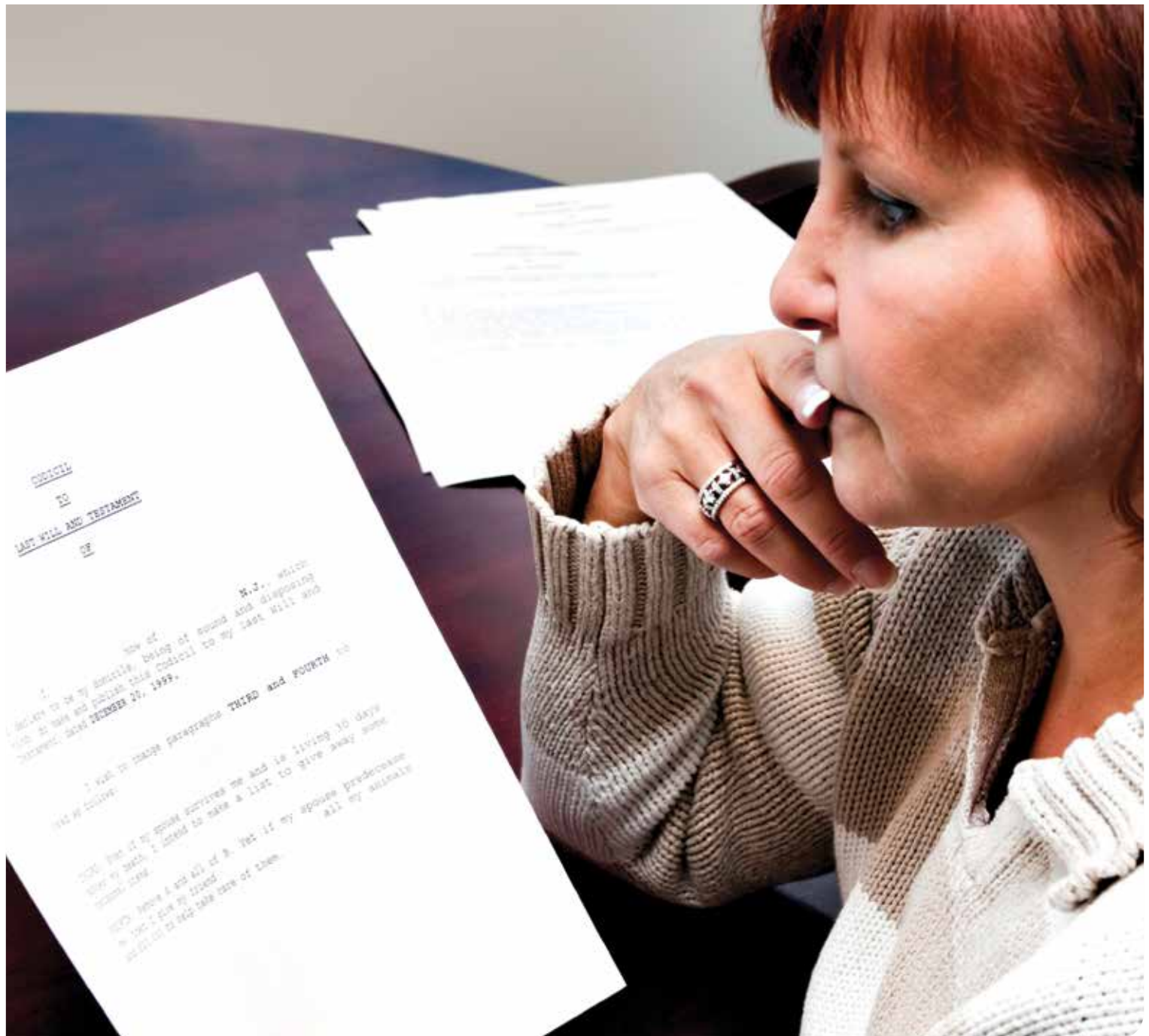


### Who Can Help?

- The Law Society in your State or Territory will assist you to find a solicitor or the Public Trustee is available to assist as well. At the back of this Guide there is an Additional Services Directory which provides contact details for services that may be able to assist you.



# 17 Wills



**This part of the Guide sets out information about Wills. This is legal information, not legal advice. Always consult a solicitor before you develop your legal planning for the future.**

## Reasons To Make a Will

Every person 18 years of age and older should make a valid Will. Well-made Wills can be powerful documents that help ensure your plan will continue when you are not there to help your son or daughter or the person you care for.

A Will should make provision for:

- Payment of debts, taxes and other liabilities.
- Funeral expenses.
- Distributing what you own as you wish.  
This includes property/real estate, cash and bank accounts, investments and insurance policies, household furniture, clothing, and personal items.
- Protecting the financial position of a son or daughter with a disability, perhaps through a trust.
- Ensuring there is a guardian for your children, or for people for whom you act as guardian.

## What Difference Does It Make Whether I Have a Will Or Not?

If you die without a Will, the law calls this intestacy. If you die with a Will that only gives away some, but not all, of your property, this is called a partial intestacy. When a person dies intestate or partially intestate, State or Territory law applies automatically and the property that is not dealt with by the Will is distributed by reference to a formula. The formula typically benefits the 'next of kin': a wife or husband, if the person is married or in a de facto relationship, and children. However different rules apply in different States and Territories.

In addition, different rules apply if you have movable property (such as goods) or immovable property (such as land) that has not been dealt with in the Will. This can make matters very complicated. It can result in considerable additional expense as lawyers become involved to sort out what your intentions were and divide the property, sometimes against your wishes.

In addition, if you die intestate or partially intestate, the Public Trustee may become involved in the execution of your Will, giving rise to additional expense. To avoid all of these problems and complications, you should make a valid Will. It will make things less complicated and costly for your beneficiaries.

A valid Will can help your family or people who receive a gift under your Will (your 'beneficiaries') to avoid unnecessary costs, delay or legal challenges.

## Where Can I Go For Help Developing a Valid Will?

It is possible to make a valid Will without the assistance of a solicitor but this is generally not advisable. To avoid intestacy, partial intestacy or confusion, delays and costs associated with a poorly-drafted Wills it is very important to seek legal advice.

Some solicitors are willing to provide this service free-of-charge, but often they will charge a fee for the 'execution' of the Will. This fee can sometimes be calculated by reference to a percentage of the value of the estate, so you should check with your solicitor as to how they will charge for this service as it can be very expensive. Execution is a word that describes the process that takes place after you die to divide the property in your Will among beneficiaries. A valid Will appoints an 'executor' who has this task. The executor files documents with the Supreme Court of the State or Territory where a person dies seeking 'probate', or an order confirming the death of the person, after which the property may be validly distributed among beneficiaries.

The Public Trustee in each State and Territory can prepare Wills. However they also charge fees.



### What If a Person With Intellectual Disability Has No Provision Or Inadequate Provision Made For Them In A Will?

Parents should be aware of the risks entailed in making a small provision for a son or daughter with an intellectual disability where there are sufficient resources to do so.

Many parents and carers engage in informal planning with a 'key person' such as an adult child that does not have a disability, to plan for the future care of a person with intellectual disability. This has many benefits for ensuring continuity of informal social care relationships and supports, but this is not a secure approach to planning for the financial future.

Some parents and carers simply assume that their son or daughter without disability will care for their sibling with a disability, even though they may never raise this proposal with them. This is an even less secure approach to planning for the future.

To avoid potential problems, a Will could include a trust that ensures that the property left behind is used for the advantage of the person with a disability (the 'beneficiary'). We provide more information about these arrangements in a section in this Guide called "Trusts".

There is legislation in each State and Territory of Australia which gives courts power to alter a Will where the person making the Will has not made adequate provision for their son or daughter with an intellectual disability.

This may help the situation but there are costs and delays associated with this. It is far better to plan in advance.

### What If My Son Or Daughter Does Not Have The Capacity To Manage Money?

Before preparing a Will, parents need to consider the capacity of any beneficiary with intellectual disability to manage money or property, such as real estate, for themselves.

It should not be assumed that a person with intellectual disability is incapable of managing a gift. Many people with disability can manage money and property, and some may only require some support or assistance making decisions about their money or property. Many people would consult a solicitor or financial planner if they were thinking about making an important decision about their money or property, and people with disability are no different. Some people with disability may not have the capacity to make some types of decision about money or property. It is important to have arrangements in place that account for this.

All families are different. In each case parents and carers need to consider the size and complexity of any gift they plan to leave and their son or daughter's capacity to look after property, to understand its worth and whether or not they are vulnerable. Older people and people with disability can be vulnerable to financial abuse, so people who are given money or property in a Will should have independent advocates available to support their decision-making. Details of organisations that provide independent advocacy services are located at the back of this Guide.

If the person does lack the capacity to manage money you can still leave money or other property to the person in a Will as there are several ways to structure a Will to protect the interests of the beneficiary:

- Parents can leave a share of the estate in a trust. This requires appointing another person or people, which could include trusted family members or friends, as 'trustees' to manage and use the fund for the person with intellectual disability in the way specified in the Will.
- The trust, for example, may provide for a weekly payment to be made to the person with the intellectual disability in addition to their disability pension or other social security payment, if they receive one.
- There are different varieties of trusts. Later in this Guide, there is material on Trusts and Special Disability Trusts.

## What Assets Can Be Dealt With In a Will?

A Will can only deal with assets that the person making the Will actually owns. It therefore cannot deal with assets owned by a family company or a family trust because the person making the Will does not own them.

- **Superannuation** proceeds are 'owned' by the trustee of the superannuation fund, not the person making the Will. While the trustee may follow a non-binding direction as to how to deal with the funds it usually has complete discretion. It is a mistake to think that superannuation proceeds are necessarily part of an estate for the purpose of making a Will. Specific arrangements have to be made to ensure that superannuation proceeds can be applied for the advantage of a person with a disability.
- **Life Insurance Policies** on the life of a person making the Will, may be owned by somebody else, possibly a spouse or even a former spouse. If so, it is not an asset that will form part of the estate.

## How Often Should My Will Be Revised Or Updated?

Your Will expresses your wishes at a particular point in time. You may wish to review your Will when circumstances change to reflect accurately your current wishes. Those situations may include:

- Divorce.
- If you are in a de-facto relationship.
- The executor named in the Will becoming ill or unable to handle the responsibility or has died.
- Buying or selling assets: people may gift assets which they sold before they died which results in some beneficiaries receiving nothing, while others receiving significantly more than was intended in the original Will.
- The value of legacies diminishing over time: you may have left a sum of money which seemed significant when you last made your Will, but what is it worth in today's dollar terms?
- A beneficiary named in the Will having died: when writing your Will, it is wise to name substitute beneficiaries.

## What Are The 'Nuts And Bolts' Of Writing a Will?

A valid Will must be:

- **In writing** – this includes handwritten, typed or printed.
- **Signed** – ideally your signature should be at the end of the Will.
- **Witnessed** – a Will must be signed by you and witnesses properly. The rules for this differ slightly in each State. Two independent adults who are not beneficiaries are usually required to witness a Will at the time they see you sign it.

## Helpful Tips

- You and the witnesses should all use the same pen as evidence that you were all together when the Will was signed.
- Nothing should be attached to the original Will with a pin or paper clip.
- No alterations should be made to the Will after it has been signed.
- The witnesses should print their names and addresses below their signatures.
- You keep a clear, comprehensive list of your assets (bank accounts, investments, insurance policies, title deeds and so on) and update this from time to time. This will make your executor's task much easier and quicker.
- It will be helpful if you leave a list of people and organisations to be notified of your death. These might include Centrelink, the Department of Veterans' Affairs, clubs, particular relatives or friends.
- Be specific when you want a particular gift to be given to a person. For example "a diamond ring to my daughter Suzie" as there may be three diamond rings at the time of death which will cause confusion.
- Make sure you have specifically named your beneficiaries (using their full name).
- Ask executors ahead of time if they are happy to be an executor.

Finally, tell your family members where your Will is kept; this is a simple thing to do. A Will can be kept with your lawyer or if you prefer, at home with other personal documents in a place well-known to the family.

### Can I Specify My Funeral Arrangements In a Will?

It is advisable to inform your next of kin or your executor of your wishes as well as including that information in your Will. Often your funeral will have taken place before your Will is read.

### Can The Person I Care For Who Has a Disability Write a Will?

Many people with intellectual disability can make a Will and should be encouraged to do so. However the person must have attained the age of 18 years. Usually a Will is uncomplicated and can be written in plain English. Any person who makes a Will must have 'testamentary capacity' which means that:

- The person knows a Will says what happens to his or her property after they die.
- The person knows what property he or she owns.
- The person knows the people who may have a claim on his or her property.
- The person is able to consider or weigh up the claims of these people.

### What Will Happen If a Person Dies Without Making a Will?

If a person has property, then the property is divided by a government agency called the Public Trustee according to the various Acts in each State or Territory in Australia. This usually means the property goes to the person's nearest relatives. If there are no people entitled to the property according to the law, that property goes to the Government.

### Is Evidence Of Capacity Required?

A Will is usually presumed valid unless and until someone challenges it. A formal assessment (by a doctor or similar professional) is not required to make a Will. However there may be a risk that another person will be unhappy about the distribution of property under the deceased person's Will. That person may challenge the Will on the grounds that the person making the Will did not have sufficient testamentary capacity. For that reason, people with an intellectual disability should ordinarily be assessed by someone such as a psychologist who is familiar with the issues involved in testing for testamentary capacity.

When deciding whether or not evidence of testamentary capacity should be obtained, the following factors should be considered:

- The Will-maker's own views.
- The level of disability of the Will-maker.
- The value of the estate.
- Any possible challenges to the Will in the future.

Written notes recording the understanding of the Will-maker at the time of making the Will may be sufficient evidence of testamentary capacity. Anyone who has been involved with the Will-maker for a long period of time, for example the family doctor or a support worker, may provide evidence and be present when the Will-maker gives instructions for the drafting of the Will or when the Will is explained and signed. In a situation where more evidence of testamentary capacity is required the Will-maker may be willing to be examined by a psychologist or neurologist. Any written notes or statutory declarations should be kept with the Will.

### Can Someone Else Make a Will For a Person With Intellectual Disability?

No. Another person cannot make a Will for any other person. Guardians, trustees, parents and people under a Power of Attorney have no power to make a Will on another's behalf.

### Is a Solicitor Required To Prepare a Will?

No. A Will does not need to be prepared by a solicitor but if the person's property is valuable then a solicitor may be better placed to ascertain some legal issues such as undue influence by a carer for example.

### Document Checklist

These papers should be organised and kept in a safe place. Ensure your family knows where this safe place is:

- Birth and marriage certificate
- Your Will
- Property deeds
- Lease agreement
- Taxation records
- Insurance policies
- Life assurance/superannuation policies
- Details of other assets, eg shares, debentures etc
- Details of all bank accounts, other investments.

### Legal Expressions

#### **Beneficiary**

A person who receives something from an estate.

#### **Executor**

The person who is responsible for administering a Will.

#### **Guardian**

The person that you would like to look after your children. This is only a statement of preference by you; the decision of who cares for your children is made under family law principles.

#### **Testator**

The person who makes the Will. This person is the 'Will-maker'.

#### **Trustee**

A person who administers a trust established under a Will, eg. a trust for children.



Have you ever had a dog? Or maybe a cat?  
Perhaps you had a bird or fish?



Are they still alive? Or maybe they died. How did you  
feel when a pet died? Did you feel sad?



Animals don't live forever and people do not live forever  
either. You may have had a grandparent or friend who  
died. Sometimes people say they 'pass away' instead of  
'die'. If you have had a family member die, you probably  
felt very sad.



When a person dies, they have things such as a  
house, or car, or CD's or computer. Who would get  
those things?

Just think about the things you own...



Think about people who are close to you...



Family members such as brothers, sisters, cousins,  
or friends or people who have been especially kind to  
you, may like to be given a gift from your things.



## 17 Worksheet – Thinking time

Think carefully about who you want to have what things, for example:  
“I want my brother Stephen to have all my DVDs”

What things do you own? You can write them here:	Who would you like to have your things? You can write them here:

When this is written down and you sign the paper it is called a Will.  
A Will tells everyone what you want to happen to your things after you die.

## 17 Frequently asked questions

### Q. Is a Solicitor Required To Prepare a Will?

No. A Will does not need to be prepared by a solicitor but if the person's property is valuable then a solicitor may be better placed to ascertain some legal issues such as undue influence by a carer for example.

### Q. What are the 'nuts and bolts' of writing a Will?

A valid Will must be:

- **In writing** – this includes handwritten, typed or printed.
- **Signed** – ideally your signature should be at the end of the Will.
- **Witnessed** – a Will must be signed by you and witnesses properly. The rules for this differ slightly in each State. Two independent adults who are not beneficiaries are usually required to witness a Will at the time they see you sign it.

### Q. Can Someone Else Make a Will for a Person with Intellectual Disability?

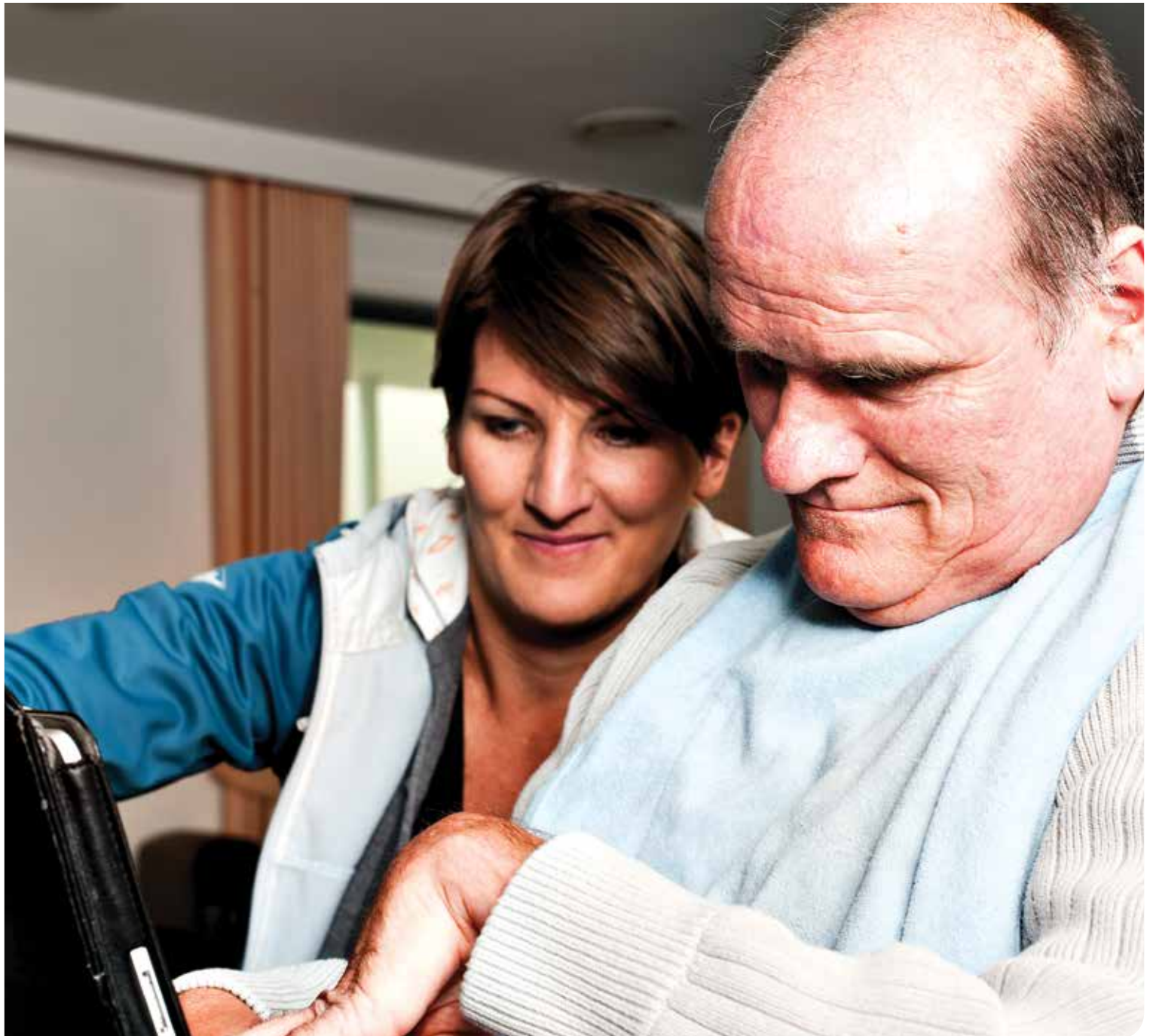
No. Another person cannot make a Will for any other person. Guardians, trustees, parents and people under a Power of Attorney have no power to make a Will on another's behalf.



### Who Can Help?

- The Law Society in your State or Territory will assist you to find a solicitor or the Public Trustee is available to assist as well. At the back of this Guide there is an Additional Services Directory which provides contact details for services that may be able to assist you.

# 18 Guardianship



## 18 Guardianship

**Guardianship is a word that is used to describe a relationship between people in which one or more persons, a 'guardian' exercises legal decision-making power over a person who lacks capacity to make decisions.**

A 'guardianship order' is a legal decision made by a government agency called a tribunal that decides who may be a guardian and what decisions they are allowed to make. Guardians can be family members or friends of a person with disability.

If family or friends are unwilling or unavailable to make decisions on behalf of the person with disability, these powers can be exercised by the Adult Guardian in Queensland or the government guardianship office in your State or Territory.

### What Is Capacity?

Earlier in this Guide, we explained that once people turn 18 years of age, they are legally autonomous human beings who are presumed to have the capacity to make decisions for themselves.

However some people with decision-making disability need help and support to make some decisions in their lives, for example about where they will live or money matters.

The ability to make decisions is fluid and may vary from time to time and from decision to decision.

#### A person is said to have capacity to make a decisions when they can:

- Understand the information and choices presented to them.
- Weigh up the information to determine what the decision will mean for them.
- Communicate their decision.

It is rare for a person not to have capacity for any decisions. However, this can happen when a person is unconscious or has a severe intellectual disability, for instance. The types of decision-making disabilities for which formal guardianship orders are sought and made can include:

- Intellectual disabilities
- Psychiatric disabilities  
eg. schizophrenia and depression
- Neurological disabilities  
eg. dementia and Alzheimer's
- Development disabilities  
eg. autism and Asperger's

- Brain injuries and
- Physical disabilities which render a person unable to communicate their intentions or wishes

### What Factors Need To Be Taken Into Account Regarding Guardianship?

Substitute decision-making is an absolute last resort. All adults over the age of 18 years regardless of disability are entitled to make their own decisions. Supported and substitute decision-making arrangements do not presently require a formal guardian appointed by order of a tribunal or court – they can operate informally (Victoria is considering whether to add new 'supported' or 'co-decision-making' orders).

It may be the case that a person with disability can have in place informal supported decision-making arrangements with trusted, supportive and diligent family and/or friends, rather than resorting to formal arrangements.

For Centrelink payments, it is possible to apply for someone to be appointed by Centrelink either to receive a copy of all correspondence (a 'correspondence nominee' who checks that things are done: see below) or to receive the person's payment (a 'payment nominee' who looks after the funds).

Where there is a proven and current need for a person's decision-making to be supported (or as an absolute last resort, to be substituted) and it is in their best interests, the following principles should guide and instruct the decision-making process:

- The wishes, opinions and choices of the person must always be sought and considered first.
- The privacy, cultural diversity and integrity of the person must always be respected.
- The least restrictive and intrusive intervention into the person's life.
- Records must always be kept about supported and substitute decision-making arrangements (informal and formal) and decisions made to ensure processes are transparent, subject to independent review.
- Informal arrangements and support from family members, carers or friends who have close and continuing relationships with the person are preferable to formal orders of guardianship.



## 18 Guardianship

- Support provided to the person to make decisions must always be in the best interests and welfare of the person.
- A substituted decision should be the least restrictive alternative.
- Diminished decision-making ability should not be confused with difficulties or impairment in communication – people should be provided adjustments and alternative modes of communication to express themselves.

### Social Security, Banks And Other Institutions

If an adult child does not have legal capacity to execute a power of attorney, then his or her parents can be confronted by some institutions that refuse to provide personal information to them or refuse them the power to look after their adult child's affairs without the authority of the child.

These institutions have privacy law obligations and have an obligation to ensure their clients are not being defrauded or exploited.

What can parents do in this situation?

- Some institutions have 'nominated person' or 'nominee' forms that a parent can fill in eg. Centrelink can appoint and then recognise a 'nominee'.
- The family can meet with the institution, taking with them relevant medical and school reports about the child, points of identification and request alternative informal arrangements.

More often, people lack capacity only in making one sort of decision. A person might be able to decide where they want to live (a personal decision), but not be able to decide whether to sell their house (a financial decision). They can do their grocery shopping (make a simple decision about money), but not be able to buy and sell shares (more complex decision about money).

### Who Can Be Guardians?

State or Territory legislation gives tribunals power to make guardianship orders. This means they can appoint a person as guardian. The guardian's decisions have the same legal force as if the person had made them themselves.

A guardian should be someone who is familiar with the represented person's values and beliefs, likes and dislikes. When deciding who to appoint, the Tribunal must take into account the wishes of the represented person so far as they can be ascertained, as well as family members and interested parties. If there is no-one available or there is a need for an independent person because of disagreement between family or friends about what is best for the represented person, a formal Guardian from the relevant State or Territory can be appointed.

### When Might a Guardian Be Needed?

The sorts of situations where formal guardianship orders might be needed are where:

- A person does not have any family or friends willing and able to support the person and maintain informal decision-making arrangements.
- There is conflict about what is in the best interests of a person.
- Informal decision-making arrangements are proving detrimental to the best interests of the person.
- A person is being subjected to neglect, harm, abuse or exploitation.
- A person's own decisions are now working in their own best interests and are in fact placing them at risk or
- A child's parents pass away.

### What Are The Responsibilities Of a Guardian?

Protect the represented person from abuse, exploitation and neglect.

- Consider the represented person's wishes.
- Advocate for the represented person.
- Encourage the represented person to make their own decisions where possible.
- Guardians are accountable for the decisions they make.
- Guardians have a duty of confidentiality.

### What Functions Can a Guardian Exercise?

Guardianship orders specify what functions or powers the guardian can exercise. Some of the most common include:

- **Accommodation** – where the person lives currently and will live in the future and with whom they live and will live.
- **Services** – what services the person will access and engage in (for example day programs).
- **Education and training** – what education and training the person can receive and
- **Work** – whether a person can work, the nature of the work and with whom they can work.

### Are There Any Decisions That Guardians Can Never Make For a Person?

Only the tribunal can make certain decisions (the list varies between States and Territories), such as those about:

- Sterilisation.
- Termination of pregnancy.
- Experimental treatments or medical research.
- Electro-convulsive therapy or psychotherapy.
- Making or revoking a Will.
- Making or revoking a power of attorney, enduring power of attorney or advanced health directive.
- Exercising the right to vote in an election or referendum
- Consenting to marriage.

### What Is The Process For Guardianship?

In each State and Territory the process for formal guardianship is as follows:

#### Application

There are some differences across the States and Territories as to who has standing to bring a guardianship application though it covers a very wide range of people: generally this includes the tribunal, board, panel or court on its own initiative, the person him or herself, the Public Guardian, Adult Guardian or Public Advocate, a relative or a member of the public who can demonstrate a sufficient interest in the issues.

#### Investigation

The bulk of the investigations carried out by tribunals, panels, boards and courts is conducted during the hearing. Most do not have the funding or resources to undertake substantive inquiries or investigations, though there are some exceptions.

#### Hearing

Those entitled to receive notice of an upcoming hearing and to be parties to the proceedings include: the applicant; the person to whom the application relates; relatives of that person, a person (if any) who has care of that person; the Public Guardian, Adult Guardian or Public Advocate and any other person who has a proper interest in the proceedings.

The hearing is not meant to be a fight or an adversarial context; rather it is an inquisitorial exercise for the members. At the end of the hearing depending upon the complexity of the matter before them, the members (or sometimes the member sitting alone) can deliver their decisions – all parties will receive written copies of the order and reasons for that order.

#### Review

All guardianship orders (whether temporary, continuing, limited or plenary) are subject to automatic periodic reviews. Reviews are mandatory where the guardian dies or wishes to be discharged or appears incapable of carrying out their duties by reason of mental or physical incapacity. In addition, there is a provision for a review to be conducted where an eligible person makes an application (so long as the application is not frivolous, vexatious or lacking in substance).

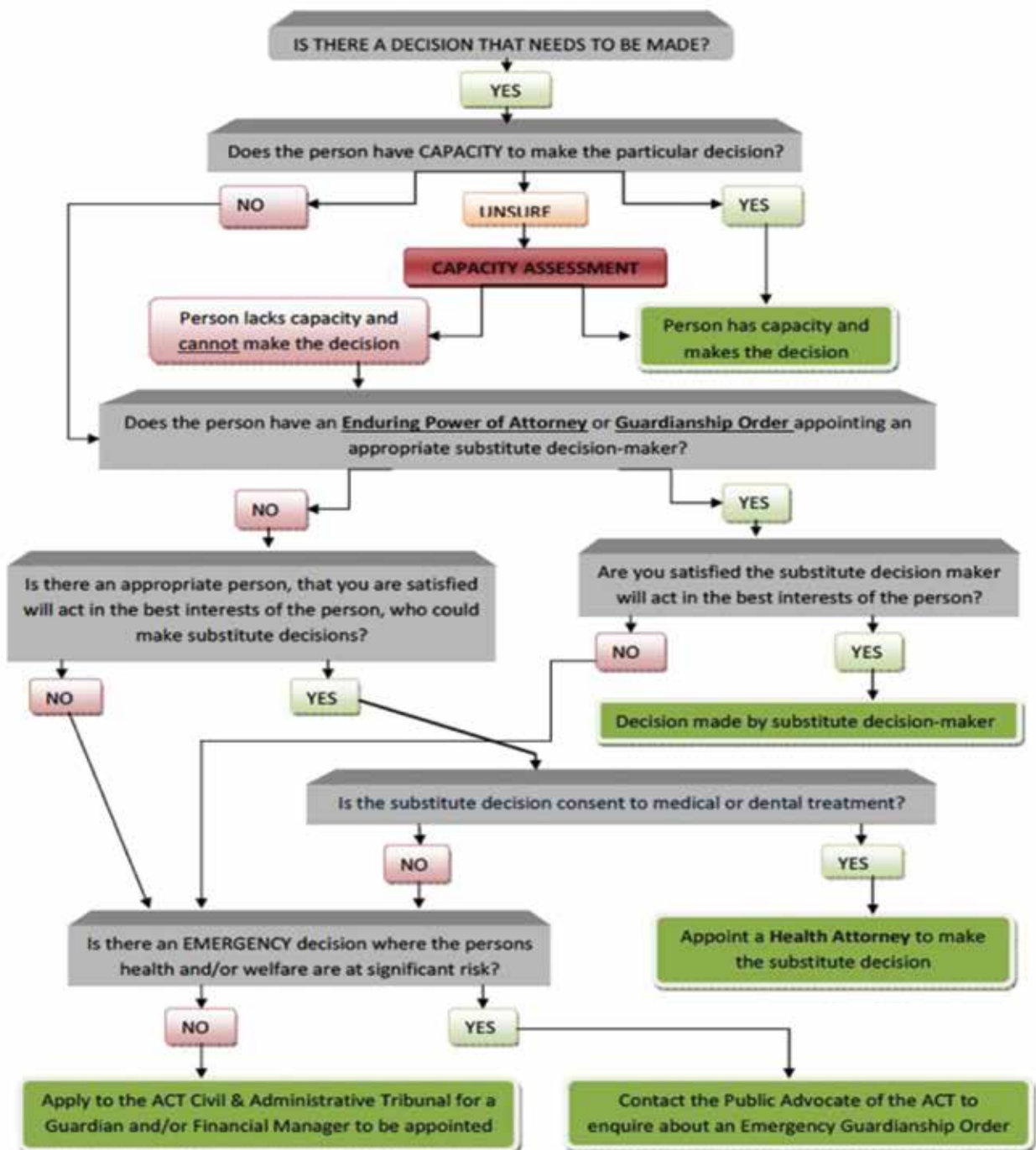
Generally those eligible to apply for a review are: the tribunal, panel, board or court on its own initiative; the person under guardianship the public guardian, adult guardian or public advocate and a person with a “genuine concern for the welfare of the person under guardianship”.

A review considers whether the guardianship order needs to be amended, varied, continued or replaced subject to any conditions or restrictions, or revoked altogether.

## 18 Guardianship

Below is a flow chart from Office of the Public Advocate ACT that might help to explain the process [www.publicadvocate.act.gov.au/guardianship](http://www.publicadvocate.act.gov.au/guardianship)

### Is Guardianship Required?



## 18 Guardianship



A guardian is a person who makes some important decisions about your life. A guardian may make decisions such as where you live, medical treatment and what support you should have.

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If you have made some decisions and they have not worked out or you have made really big mistakes, then having a guardian might be the best way of helping you.

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The law says a guardian should make any decisions which are in your 'best interests'. This means the guardian must think very carefully before making any decisions about you.

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You can tell your guardian how you feel about things and your guardian must think about your wishes. People who know you well may help with what decisions need to be made and why.

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A 'Guardianship Order' is a piece of paper that says how long the guardian will be in your life to make decisions and what kinds of decisions your guardian can make.

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If you don't like a decision you can ask your guardian why it was made. If you are still unhappy, you can get things 'reviewed'. You can ask a friend or family member to help you write a letter and then wait a month or so for a decision.

## 18 Worksheet – Thinking time

Sometimes people make big mistakes. Think about some decisions you have made where everyone has been unhappy. Write them down:

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The Government can appoint a guardian which might be the best way of helping you with some decisions. Write down some people you think would be a good guardian for you:

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No one wants you to make decisions which could put your health and safety at risk. Write down some areas of your life where you need help, (for example managing money):

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## 18 Frequently asked questions

### Q. What functions can a guardian exercise?

Guardianship orders specify what functions or powers the guardian can exercise. Some of the most common include:

- **Accommodation** – where the person lives currently and will live in the future and with whom they live and will live.
- **Services** – what services the person will access and engage in (for example day programs).
- **Education and training** – what education and training the person can receive.
- **Work** – whether a person can work, the nature of the work and with whom they can work.

## 18 More information

### Who Can Help?

- The Office of the Public or Adult Guardian in your State or Territory may be able to assist you. At the back of this Guide there is an Additional Services Directory which provides their contact details.

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# Powers of Attorney

## Power of Attorney

I, the undersigned

(legal name)

residing at

(Social Security number)

residing at

(number)

Attorney-in-Fact (Agent) with the power of delegation and substitution.

Agent is unable or unwilling to serve for any reason, I designate

## 19 Powers of Attorney

### What Is An Ordinary or 'General' Power Of Attorney?

An ordinary (or 'General') Power of Attorney is a legal document appointing a person or trustee organisation of your choice to manage your money and financial affairs while you are alive. This person or organisation is then known as your 'attorney'. There are two important points:

1. To make a valid Power of Attorney you must be 18 years or over.
2. You must have the capacity to understand the nature and effect of the appointment.

- The authority your Power of Attorney will have and what sort of decisions they will be empowered to make.
- When and how your attorney will have the authority to exercise their power.
- The effect that your attorney's actions could have on you.
- What options are open to you to cancel or change your attorney appointment in the future.

This means that at the time of making your Power of Attorney you understand:

You can use a Power of Attorney for almost any financial purpose: for example, you can authorise your attorney to collect debts, vote at meetings, operate your bank account, manage your investments or carry out any other function which can be lawfully delegated.

A Power of Attorney ceases when you die. The executor named in your Will then takes over the responsibility of administering your estate.

A 'General' Power of Attorney is made so that someone can make financial decisions on behalf of a person when they are absent or unavailable. For example, if a person is overseas and needs someone else to sell their house for them while they are away, banks and other authorities would follow their instructions. A general power of attorney becomes invalid immediately once/should you become unable to make your own decisions.

### What Is An Enduring Power Of Attorney?

The Western Australian Office of the Public Advocate defines an Enduring Power of Attorney as:

*"An enduring power of attorney is a legal agreement that enables a person to appoint a trusted person – or people – to make financial and property decisions on their behalf. An enduring power of attorney is an agreement made by choice that can be executed by anyone over the age of 18, who has full legal capacity."*

*'Full legal capacity' means that the person must be able to understand the nature and effect of the document they are completing and the nature and extent of their estate. An enduring power of attorney cannot be made by another person on behalf of a donor whose capacity might be in doubt due to mental illness, acquired brain injury, cognitive impairment or dementia.*

*An enduring power of attorney can be operational while the person still has capacity but may be physically unable to attend to financial matters.*

*The benefit of an enduring power of attorney is that unlike an ordinary power of attorney, it will continue to operate even if the donor loses full legal capacity. An enduring power of attorney does not permit an attorney to make personal and lifestyle decisions, including decisions about treatment. The authority of the attorney is limited to decisions about the donor's property and financial affairs.*

*An enduring power of attorney is legally binding. To be made 'null and void' it must be revoked, generally by a guardianship tribunal".*

## 19 Powers of Attorney

### Who Can Make a Power Of Attorney?

You can appoint an attorney. This would allow someone to do the things you are currently doing for your family member with a disability while you are alive but no longer able to do the things yourself.

### How Long Does a Power Of Attorney Last?

You can appoint an attorney:

- As your 'delegate' for a limited time – for example if you are going overseas or to deal with a specific situation – this is a **general power of attorney**. It applies until you revoke it or die, but it immediately ceases to be valid once you become legally incapable of deciding things for yourself.
- As someone to 'take over' decision-making when you become legally incapable of doing so for yourself – **this is an enduring power of attorney**. It applies until you die or it is ended or modified by an application to the Guardianship Tribunal, but you cannot alter it unless you regain your lost capacity.

### What Are The Duties And Responsibilities Of An Attorney?

Your attorney is in an important position of trust and has a responsibility to always act only in your best interests. They therefore must:

- Avoid doing anything as an attorney which would mean that their interests conflict with your interests.
- Obey your instructions while you are mentally capable and any directions you make in the Enduring Power of Attorney.
- Act according to any limits or conditions placed on their authority.
- Not give gifts or give themselves or others a benefit using your finances unless you specifically authorise this. The gift given must be seen as reasonable given the circumstance.

- Keep their finances and money separate from yours.
- Keep accurate and proper records of their dealings with your finances or property.

Your attorney must also recognise your right to confidentiality, and respect your views and wishes, taking into account your existing relationships, values and culture.

### How Many Attorneys Can I Appoint?

You can appoint more than one attorney. When appointing more than one attorney, you should choose people who can co-operate with each other and who you trust to work together in your best interests. You can appoint your attorneys to act:

- Jointly and severally (this means that the attorneys can make decisions together or separately).
- Severally (this means that any one of the attorneys can make decisions independently of the other attorneys).
- Jointly (the attorneys must agree on all decisions).

### When Does a Power Of Attorney Commence?

Your ordinary Power of Attorney can start whenever you want. You can nominate a date in the future. Alternatively, if no date is stated, an ordinary Power of Attorney commences once it is signed by you.

### Does a Power Of Attorney Have To Be In Writing?

Yes. It is an important and powerful document giving an authority to another person to look after things you have nominated. So the Attorney knows what they are empowered to do precisely and to ensure the safety of this power, the form of the Power of Attorney must be in writing.

## 19 Powers of Attorney



A 'Power of Attorney' is a written paper that gives another person, called the guardian, the power to deal with your assets and financial affairs while you are still alive. This means another person will be able to spend money you have in the bank.

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You must be able to trust the person and this can only happen if you understand what you are doing at the time.

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You might need a power of attorney if you become ill for a long time, or you go away on a holiday and there are bills to be paid while you are away, or you have difficulty handling money.

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Any person over 18 can be given 'Power of Attorney'.

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It can be a friend you trust or a close family member and you should ask the person if they agree to be your attorney and look after your money.

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You can give The Public Trustee (which is part of the Government), a lawyer or an accountant 'Power of Attorney' if you wish. If you give one of these people 'Power of Attorney' they may charge fees. You can end a power of attorney at any time.



## 19 Worksheet – Thinking time

Signing any document is sometimes very hard to do. You must understand what the document means. Write down three documents you have signed recently:

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Did you understand what you were signing?

☐ Yes    or    ☐ No

If you did not understand what you were signing, do not sign any more documents.

If you did not understand what you were signing, write down why you didn't ask about the document (for example too nervous, no time to ask, no-one to help you).

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## 19 Worksheet – Thinking time

A Power of Attorney is a very serious document to sign because it will give another person 'authority' or the right to do certain things, instead of you doing those things. Tick some of the items you agree with:

- ☐ Someone else paying my bills for me and spending my money
- ☐ Selling any of your property, for example your scooter or home unit
- ☐ Having an operation in hospital.

If you want to make those decisions by yourself, then a Power of Attorney may be not the right thing for you.

If you want someone else to help you with big decisions, make sure they are a person you trust. Write down some people you trust below:

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# 20 Trusts





**A trust is a legal obligation placed on one person called the trustee, to look after the assets of the trust for the benefit of another person or perhaps a number of people who are called a “beneficiary” or “beneficiaries”.**

A trust can continue to look after some of the interests of a person with disability after your death. If you decide to use a Trust for a family member with disability the main decisions that you will need to make are:

- Who will be the trustees?
- What accommodation and care options should I provide for?
- How much direction and discretion can I give the trustee(s)?
- In what way can I divide my assets fairly for the person with the disability and other sons and daughters?

### Setting Up a Trust

Firstly you will need legal advice as a Trust Deed has to be prepared. This Deed is a legal document which:

- Identifies who is the founder of the Trust, who is the Trustee and who benefits from the Trust.
- Sets out the powers of the trustees.
- Provides details of how the assets and/or money are to be used for beneficiaries.

### Who Owns The Assets In A Trust?

The idea of a Trust is to separate:

- The power to control assets from the right to benefit from those assets.

The person with disability can therefore benefit from the assets without the risks involved in having direct control over the assets.

### Example

If a person with an intellectual disability has 'title' or ownership to a house or unit for example, the situation could occur that the person could be at risk of exploitation or abuse because they may not have the full capacity of understanding the concept of the financial value of the property.

- However, if a Trust is created, the Trustee has the right to control and administer the assets but only for the benefit of the beneficiary and
- The beneficiary has the right to benefit from the assets (such as living in the house or unit) but not the power to control or sell the asset.

### Choosing Trustees

Choosing the right people can be a difficult decision because although a legal structure is in place, people do not always act in ways which are legal or moral.

The Trustee will make decisions in your place and should, as far as possible, make those decisions in keeping with your wishes. It is possible to have a number of Trustees for a Trust with a mix skills or abilities; however it is important that they are compatible. Some of the factors to be considered are:

- A person who has some business skills or financial knowledge would enable them to look after the financial side of the trust well.
- A person who is around the age of the person with the disability so that they are involved over the longer lifespan of the trust.
- A person who is independent will ensure, as far as possible, a safeguard so that the person with disability will have their best interests met by that Trustee.
- A person who is a brother or sister will probably have a significant interest to ensure that the person with disability is well looked after in the Trust.
- A person who has a friendship or interest in disability issues, will be well placed to act as Trustee as they are well aware of the person's needs and interests.

There is no limit to the number of Trustees but the practicalities mean that more than three is not desirable.



### What Is a Testamentary Trust?

This is a trust created in a will. A parent is able to set up a trust in the will and appoint a trustee (or trustees) to administer the trust for their benefit. If a person is over 18 years of age and they will not be able to manage their financial affairs when they have the legal right to do so, the testamentary trust in the will lasts throughout their lifetime.

### What Are The Different Types Of Trusts?

There are different types of trusts including fixed trusts, discretionary trusts, and special disability trusts.

A fixed trust states clearly what the trustee must do, for example give a son or daughter \$10,000 per year. A discretionary trust gives our trustee wide discretion. It might direct the trustee to invest the funds and pay only the income to the son or daughter with disability at the trustee's discretion or it may allow the trustee to use both the capital and the income for their benefit at their discretion.

The benefit of a fixed trust is that a parent can direct and limit the trustee's powers. The limitation of a fixed trust is that it is inflexible and does not give the trustee the flexibility needed to address unforeseen circumstances in the lives of the son or daughter, changes in law and government policy that might affect them.

A discretionary trust on the other hand, allows flexibility to adjust the level of payments or financial support according to the needs of the beneficiary with disability, rather than being forced to pay them a certain amount every year, regardless of their needs.

# 21

## Special disability trusts



## 21 Special disability trusts

### What Is a Special Disability Trust?

Special Disability Trusts can be established by parents and immediate family members to plan for the future care and accommodation needs of a person with **severe disability**. 'Special' refers to the Social Security and Tax treatment of the trust and is not a reference to the beneficiary's disability.

In the right circumstances, a Special Disability Trust allows parents or other family members to provide assets for a person with severe disability without

affecting either the disabled person's entitlement to the Disability Support Pension, or prejudicing any social security payments of the person setting it up (see 'gifting' exemption below). Special Disability Trusts can therefore provide generous social security concessions for both the beneficiary and family members who gift to the trust. In a situation where assets are limited or where a reduction of Social Security entitlements is not a significant risk, a Special Disability Trust may not be relevant.

### What Is Severe Disability?



A person who has reached 16 years of age who is or would qualify to receive the Disability Support Pension AND

Who has disability that would, if the person had a sole carer, qualify the carer for Carer Payment or Carer Allowance OR



A person who is living in an institution, hostel or group home in which care is provided for people with disability and for which government funding is provided AND

Who has disability as a result of which he or she is not working and/or who has no likelihood of working for more than seven hours per week at or above the relevant minimum wage (this captures the Supported Wage situation). From 1 January 2011 a beneficiary can work up to seven hours a week at or above the minimum relevant wage in open employment and still qualify (However the 2012 change enabling continued receipt of DSP on obtaining paid work of at least 15 and less than 30 hours a week does not apply here).

### What Are The Social Security Benefits Of a Special Disability Trust?

The Special Disability Trust attracts concessional treatment under the Social Security means test to both the person with the severe disability and the eligible contributing immediate family members who are parents (including adoptive and step parents); legal guardians; grandparents and brothers and sisters.

If you receive any Centrelink payments, the "gifting" rules state that you or your partner can give away money or other assets to any value you choose at any time, but the rate of income support payment you receive may be affected. This is because there is a limit to the amount of money you can gift within a financial year without the gift being brought back into account under your means test. These gifting rules mean that you can ordinarily only give away \$10,000 per year without affecting your payment.

However with each Special Disability Trust the following applies:

- The gifting concession limit is \$500,000 combined (total amount in trust that has received gifting concession) by one or more eligible family members of the person with the severe disability. This amount is not subject to indexation.
- To be eligible for the gifting concession, immediate family members must be at (or over) Age, or Service Pension age, and receiving a Social Security pension when the contribution is made to the trust

An Assets Test assessment exemption of up to \$596,500 (as at 1 July 2012 indexed annually) is available for the person with the severe disability, termed the beneficiary. This means that the Special Disability Trust could have any assets plus the home in which the person with severe disability lives before the excess assets are included in the person's assessable assets. All trust income is excluded from the income test assessment for the beneficiary.

## 21 Special disability trusts

### Can Anyone Gift To The Special Disability Trust?

Yes, anyone can gift or donate to the trust but the concessions only apply to those mentioned above.

### What Are The Main Characteristics Of a Special Disability Trust?

A Special Disability Trust must meet the following requirements:

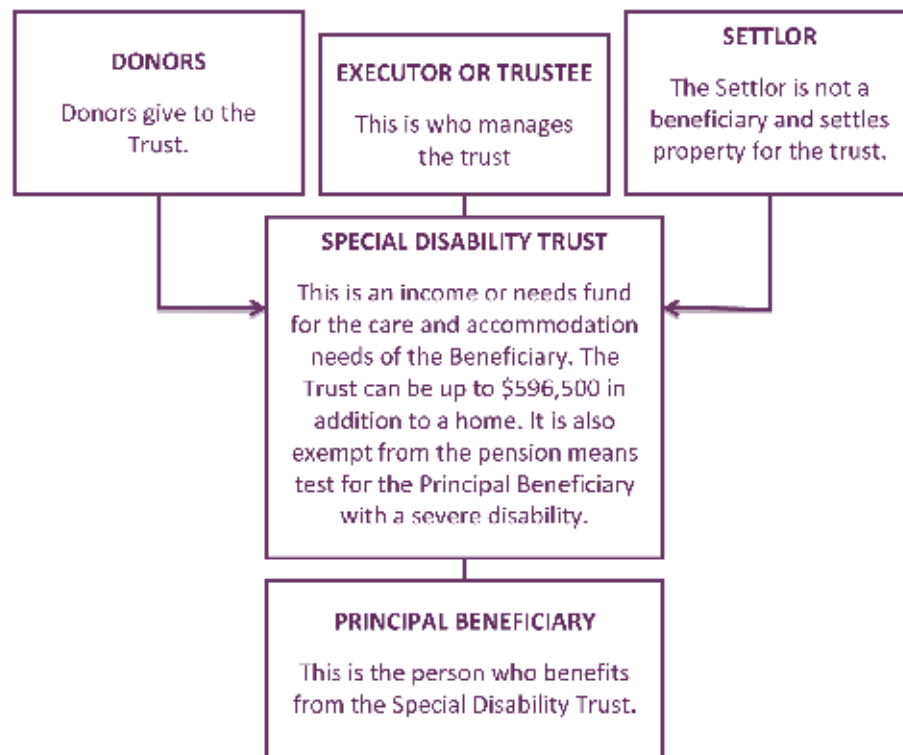
- Have only one beneficiary (that is the person for whom the trust is established). If there are two people in a family who have disability, then two trusts must be created.
- The primary purpose must be to provide only for the accommodation and care needs of the beneficiary.
- Have a trust deed that contains the clauses as set out in the model trust deed.
- Have an independent trustee, or alternatively have more than one trustee.
- Comply with the investment restrictions, provide annual financial statements, and conduct independent audits when required.

### What Is a Model Trust Deed?

Special Disability Trusts must be in the form of the 'Model Trust Deed' which sets out: Who is to be a trustee (a person who looks after or administers the trust).

- The person who is to be the beneficiary (the person who benefits from the trust).
- What things the trustee is to take into account.
- What other powers and duties the trustee has.

The Model Trust Deed is available at [www.fahcsia.gov.au/our-responsibilities/disability-and-carers/publications-articles/model-trust-deed-for-special-disability-trusts](http://www.fahcsia.gov.au/our-responsibilities/disability-and-carers/publications-articles/model-trust-deed-for-special-disability-trusts)





## 21 Special disability trusts

### How Are The Funds Used?

The trustee is able to:

- Use funds to meet the reasonable care and accommodation needs of the principal beneficiary.
- Pay the maintenance expenses of the trust-property assets.

The main benefit is that the income from the assets of a Special Disability Trust will not be counted for the application of the income test to the beneficiary of the Trust. Recent legislative changes now mean that a trust can spend up to \$10,500 in a financial year (as at 1 July 2012, indexed annually) of discretionary spending that is not directly related to the care and accommodation needs of the beneficiary. This can include:

- Household cleaning services.
- Recreation and leisure activities.
- Life skills and social inclusion workshops.
- Toiletries such as toothpaste, etc.
- Payment of utilities charges for the principal beneficiary's place of residence.
- Building and contents insurance.
- Food other than food specified by a medical practitioner.

### How Does This Work In a Practical Context?

Eligible beneficiaries in receipt of an income support pension from Centrelink escape means testing assessment of trust monies where they are as beneficiary of a Special Disability Trust. This includes:

- All income from the trust and
- Up to \$596,500 in trust assets (as at 1 July 2012 and indexed annually) plus any exempt assets such as the beneficiary's principal residence.

Under the Special Disability Trust rules:

- The trust's house is assessed as the beneficiary's principal residence and therefore, for the beneficiary, this is an exempt asset and not counted, and
- The trust's \$400,000 is under the Special Disability Trust beneficiary's concessional limit.

### Example

A single adult, receiving a Disability Support Pension is assessed by Centrelink as an eligible beneficiary under the Special Disability Trust requirements. The parents of the Disability Support Pension recipient, who set up a trust which is also assessed by Centrelink as meeting the Special Disability Trust requirements, contribute a house and \$400,000 cash for their child's care and accommodation costs. The beneficiary of the trust lives in the trust's house.

Therefore, there is no effect on the Disability Support Pension recipient's (beneficiary's) payments. The beneficiary is assessed as a homeowner as they have a life interest in the principal residence and has a security of tenure of the residence.

### Glossary Of Terms For "Special Disability Trusts"

**Asset:**

Resources or investments you own, which has an economic value. Examples include shares, property and cash.

**Beneficiary:**

The beneficiary is the person with the severe disability who benefits under the trust. They have no right or claim to any of the trust property.

**Life Tenant:**

A person entitled to enjoy the use and occupancy of a property while they live

**Settlor:**

Person who creates the trust by deed

**Trustee:**

The trustee manages the day to day activities of the trust, conducting business on behalf of the trust including making investment decisions. Trustees must be fully acquainted with the terms of the trust and their responsibilities, know what the assets and liabilities of the trust are, keep proper accounts and prepare tax returns.

**Trust Property:**

Assets of the trust

**Trust Income:**

The income generated by the trust which may differ in law from tax income as defined by Commonwealth Tax law.



22

# Income support Centrelink



### Person With Disability – Disability Support Pension

You may receive Disability Support Pension if you are:

- Over 16 years of age and under age pension age (65 years)
- An Australian resident and in Australia when you claim and
- Permanently blind or have been assessed as having a physical, intellectual, or psychiatric impairment, and either:
- You are participating in the Supported Wage System or
- You are unable to work, or to be retrained to work, 15 hours or more per week at or above the relevant minimum wage within the next two years because of your impairment and
- Have been assessed as having a severe impairment or as having actively participated in a program of support for a period of two years.

To assess your eligibility for Disability Support Pension, Centrelink usually needs a report from your doctor or specialist about your disability, injury or illness. You may also need to have a Job Capacity Assessment. A Job Capacity Assessment is a way of finding out; whether you can work, how much work you can do and how much help you need in order to find and keep a job.

### Mobility Allowance

You may be eligible for Mobility Allowance if you:

- Are aged 16 or more and
- Cannot use public transport without substantial assistance because of a disability, illness, or injury, and
- Need to travel to and from your home to look for work, do paid or voluntary work, or participate in study or training.

Note: You can still qualify for Mobility Allowance if there is no public transport where you live.

### Standard Rate

To be eligible for the standard rate of Mobility Allowance, you must also:

- Be undertaking vocational training, voluntary work, paid work, independent-living / life-skills training or any combination of these for at least 32 hours every four weeks on a continuing basis or
- Have an agreement to look for work through an Employment Services Provider (e.g. Job Services Australia or Disability Employment Services) or
- Be participating in a Disability Employment Services or Disability Management Service.

### Higher Rate

You may be eligible for the higher rate of Mobility Allowance if you are:

- Receiving Disability Support Pension and
- Working for at least 15 hours a week on wages that are at or above the relevant minimum wage and either
- Undertaking job-search activities for work of at least 15 hours a week on wages that are at or above the relevant minimum wage, under an Employment Pathway Plan or agreement with an Employment Services Provider (e.g. Job Services Australia or Disability Employment Services), or
- Working for at least 15 hours a week on productivity-based wages under the Supported Wage System.

### Carer Allowance (Caring For a Person 16 Years Or Over)

You may receive Carer Allowance (caring for a person 16 years or over) if you:

- Are looking after a person aged 16 or more who has disability or medical condition or is frail aged and needs additional care and attention on a daily basis.
- Provide the care for that person in either your home or that person's home and
- The person cared for obtains a minimum score as assessed under care load measuring instruments.

You may receive Carer Allowance for up to two adults in your care. Carer Allowance is not means tested.

If the person you care for goes into respite care or hospital you can still receive Carer Allowance for up to 63 days in a calendar year when the person you care for is temporarily out of your care or is in hospital.

### Carer Allowance (Caring For a Child Under 16 Years)

You may receive Carer Allowance (caring for a child under 16 years) if:

- You look after a child with disability or medical condition who needs additional care and attention on a daily basis or
- Care for two children with disability and the children do not individually qualify you for Carer Allowance (child) but together create a substantial caring responsibility and
- You live with the child (or children) you are caring for.

### Carer Payment (Caring For a Person 16 Years Or Over)

You may be eligible for Carer Payment (caring for a person 16 years or over) if you provide constant daily care in the home of the person you care for and he or she:

- Is aged 16 or more with severe disability or medical condition or is frail aged, or
- Is aged 16 or more with moderate care needs and has a dependent child who either is under six or is aged 6–16 and eligible for Carer Allowance.

The person you care for must also either:

- Receive an income-support payment.
- Be unable to receive an income-support payment because they have not lived in Australia long enough to be eligible, or
- Meet the care-receiver income and assets tests.

If the person you care for goes into respite care or hospital you can still receive Carer Payment for up to 63 days in a calendar year when the person you care for is temporarily out of your care.

### Tips Regarding Contact With Centrelink

The following suggestions for communicating with Centrelink could be helpful in dealing with any agency including financial institutions, other government departments and service providers.

- **Keep records of everything** – This will be helpful for tax requirements and if you ever have to appeal against a Centrelink decision.
- **Request a receipt number** – for any phone call you have with Centrelink.
- **Be polite but firm and persistent** – Ask for the answer in writing if you are still unclear.
- **Ask to be transferred** – to another department or to someone with more authority to handle your request if you do not get the information you need from the first person you speak to.
- **Read letters carefully** – Computer generated letters may contain information that is not specific to you. Be clear whether or not an answer is necessary and, if so, by what date.
- **Keep your contact details updated** – When Centrelink send correspondence that you are required to respond to, you may have less than a fortnight to respond and you are unlikely to get a second notice
- Centrelink has a dedicated hotline for people with disability: 132 717.
- There is also a standalone complaints and feedback line for anyone who has an issue with how their dealings with Centrelink took place: 1800 132 468.

### Help In Dealing With Centrelink – Nominees and Advocates

You don't have to go it alone when dealing with Centrelink, and neither do any of your family members. When you attend an interview, you can take a friend or advocate along with you to help you understand Centrelink jargon and requirements or even just for moral support.

If you would like to deal with Centrelink on behalf of your family member, however, you will find that national privacy and confidentiality legislation limits how much you are able to do. To address this problem, Centrelink offers two formal arrangements:

- **Correspondence Nominee** – A Correspondence nominee can complete most actions on behalf of a Centrelink customer, including making enquiries, receiving copies of the customer's mail, notifying Centrelink of changes in circumstances or completing forms and statements.
- **Payment Nominee** – A payment nominee can receive payments into an account that they manage. They must ensure that the payments are used exclusively for the customer's benefit, may be asked to provide financial records and can only be given minimal information regarding issues affecting the customer's payment.

Centrelink needs to have this nomination in writing, and provides a form that is available from and Centrelink office or:

**[www.centrelink.gov.au/internet/internet.nsf/services/nominee.htm](http://www.centrelink.gov.au/internet/internet.nsf/services/nominee.htm)**

They are not obliged to accept any nominee arrangement, and these arrangements are subject to review. For more information, call Centrelink on 13 2300.

If the person with the disability is unable to complete the forms, the nominee can attach a doctor's report to confirm this. If an administrator has been appointed by the Guardian and Administration Appeals Tribunal attach a copy of the order.



## 22 Frequently asked questions

**Q. Does parents' income affect a son or daughter's application for the Disability Support Pension?**

No. Parents' income or assets has no impact. However Worker's Compensation or Third Party damages, it may affect a son's or daughter's payment. If a person is granted a Disability Support Pension, they may be able to claim for Rent Assistance even if they live at home with their family.

**Q. How can I find out if I am eligible for the Disability Support Pension?**

An application pack can be obtained from Centrelink office or ringing phone on 132 850. There is a requirement for medical reports and other relevant document to assess eligibility against 'impairment ratings'.

An 'impairment rating' is a measurement of the effect of physical, intellectual and psychiatric impairment on a person's ability to work. One of the criteria for Disability Support Pension is an impairment rating of at least 20 points on these Impairment Tables. Each table lists a range of conditions, symptoms and impairments, and gives a rating for each according to how it affects your capacity to work. Unless all 20 points come from a single table, there is usually also a requirement to have participated for 2 years in a disability employment support program.



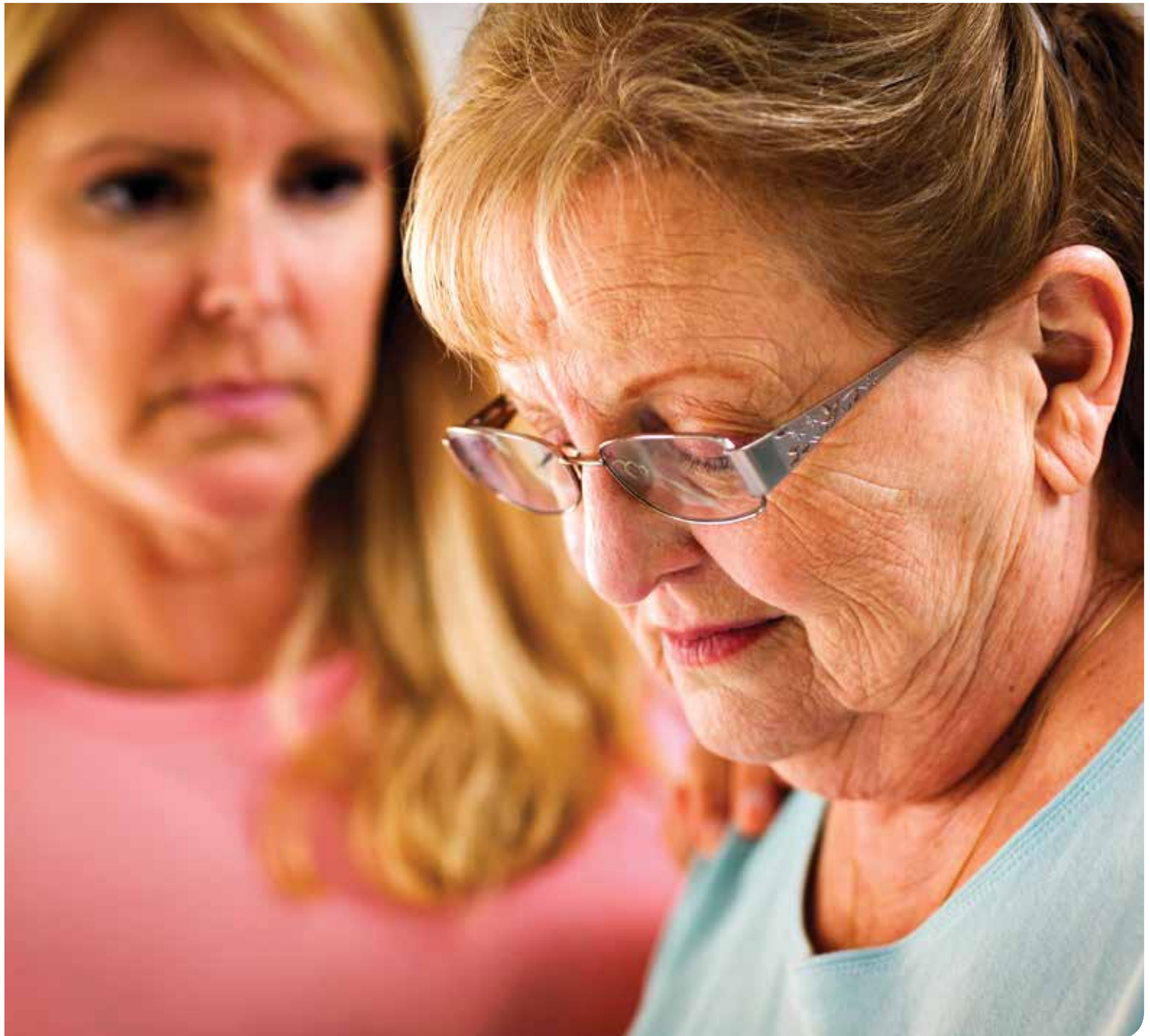


### Who Can Help?

- Centrelink is a primary source for income support, available at [www.humanservices.gov.au/customer/subjects/payments-for-people-living-with-illness-or-disability](http://www.humanservices.gov.au/customer/subjects/payments-for-people-living-with-illness-or-disability)
- Welfare Rights Service Inc: [www.wrcqld.org.au/dealing-with-centrelink/common-situations-and-solutions/disability.html](http://www.wrcqld.org.au/dealing-with-centrelink/common-situations-and-solutions/disability.html)
- Carers Australia, National Advocacy organisation [www.carersaustralia.com.au/](http://www.carersaustralia.com.au/)

23

## What to do in a crisis



## 23 What to do in a crisis



### **Have a back-up plan if you are a parent or carer for a person with disability to cover situations in an emergency.**

A personal support network is a group of people who may help you, including family, friends and other people who know you to assist in caring for a person with disability when you are not able to do so due to some unforeseen situation occurring. A support network can help you to identify and collect resources to assist during and after an emergency if for example you have to go to hospital and the person with disability still needs ongoing care. This network is made up of individuals who will check in and assist when needed. They should know you well – they may be housemates, friends, family members, work colleagues, or people from a particular disability association.

When developing a plan with DisabilityCare Australia it may be useful to write in the names of various friends or family who are able to help if needed as alternate nominees for example.

Do not depend on only one person. The person you care for may also be emotionally affected by the event for example if you have to go into hospital. It's best to include at least three people, and consider speaking with and training as many people as possible. They should be; trustworthy, able to determine when assistance is needed (understand your capabilities and needs) and be able to provide help within minutes.

Give the network members copies of the person with disability's medical information list, disability-related supplies and special equipment list and all relevant contacts.

Write down the details of disability type (intellectual, learning, speech-related, sensory, physical, neurological, psychiatric) so that the person knows exactly how to communicate.

Getting to know your neighbours is an important part of preparing your household. People who know each other in their community are more likely to turn to each other for help, and in the long term cope better with crises and emergencies.



## 23 Worksheet – Thinking time

You can write down in this table some things you might need help with in your life if someone else needed to care for you.

Checklist	Things You Might Need Help With	Yes	No	Further Information For Your Carer To Note
Daily Living	Personal care – bathing and grooming			
	Special utensils to help with eating			
	Adaptive equipment to help with dressing			
Communication	Speak another language, eg Auslan			
	Assistance in communicating with others			
Getting Around	Assistance or adaptive equipment such as a walking frame			
	Specially equipped vehicle or accessible transport			

## 23 Worksheet – Thinking time

You can write your important **contact names** and **phone numbers** here:

Important Contacts	Name	Phone Number
Your Local Doctor		
Disability Service Provider		
Family members		
Neighbours		

You can write down what **medications** you take here:

Medications	Time to be taken	Dose



## 24 DisabilityCare Australia glossary

DisabilityCare Australia uses words and phrases that that might be new to you:

Term	Definition
<b>Access request</b>	A request to become a participant in the National Disability Insurance Scheme
<b>Agency</b>	DisabilityCare Australia
<b>Carer</b>	An individual who: <ul style="list-style-type: none"> <li>(a) provides personal care, support and assistance to another individual who needs it because that other individual is a person with disability; and</li> <li>(b) Does not provide the care, support and assistance:               <ul style="list-style-type: none"> <li>(i) Under a contract of service or a contract for the provision of services; or</li> <li>(ii) In the course of doing voluntary work for a charitable, welfare or community organisation; or</li> <li>(iii) As part of the requirements of a course of education or training</li> </ul> </li> </ul>
<b>CEO</b>	Chief Executive Officer of the Agency
<b>Child</b>	Means a person who is under 18 years of age
<b>Community care</b>	Care consisting of a package of personal care services and other personal assistance provided to a person who is not being provided with residential care
<b>Compensation</b>	A payment in respect of compensation or damages related to personal injury that is wholly or partly in respect of the cost of supports that may be provided to a participant
<b>Developmental delay</b>	A delay in the development of a child under 6 years of age that: <ul style="list-style-type: none"> <li>(a) Is attributable to a mental or physical impairment or a combination of mental and physical impairments; and (b) results in substantial reduction in functional capacity in one or more of the following areas of major life activity: (i) selfcare; (ii) receptive and expressive language; (iii) cognitive Development; (iv) motor development; and (c) results in the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services that are of extended duration and are individually planned and coordinated.</li> </ul>
<b>DisabilityCare Australia amount</b>	An amount paid under DisabilityCare Australia in respect of reasonable and necessary supports funded under a participant's plan
<b>Early intervention supports</b>	Supports that are identified in the National Disability Insurance Scheme rules as early intervention supports
<b>Entity</b>	Means partnership or unincorporated association
<b>Entry</b>	The commencement of the provision of care to a person through aged care services
<b>General supports</b>	A service provided by the Agency to a person or an activity engaged in by the Agency in relation to a person that is in the nature of a coordination, strategic or referral service or activity, including a locally provided coordination, strategic or referral service or activity
<b>Grace period</b>	Six weeks beginning when the participant leaves Australia or a longer time decided by DisabilityCare Australia

## 24 DisabilityCare Australia glossary

Term	Definition
<b>Managing the funding for supports</b>	Purchasing the supports identified in the plan and receiving and managing any funding provided by the Agency and acquitting any funding provided by the Agency
<b>NDIS Rules</b>	A legislative instrument made by the Minister required to be prescribed for or necessary to give effect the NDIS Act
<b>Nominee</b>	The correspondence nominee of a participant or the plan nominee of a participant
<b>Officer</b>	A member of the staff of the Agency or a person assisting the Agency
<b>Parent</b>	An individual with parental responsibility
<b>Parental responsibility</b>	Where a person is the child's parent and has not ceased to have parental responsibility under the Family Law Act or is given so under a parenting order
<b>Participant</b>	A person who is a participant in the DisabilityCare Australia launch
<b>Participant's impairment</b>	An impairment in relation to which the participant meets the disability requirements or the early intervention requirements to any extent
<b>Participant's statement of goals and aspirations</b>	Specifies the goal, objectives and aspirations of the participant and the environmental and personal context of the participant's living
<b>Plan</b>	The participant's statements of goals and aspirations and their statement of supports
<b>Plan management request</b>	A participant's request as to who will manage the funding supports under the plan
<b>Plan nominee</b>	A person who is appointed as the plan nominee of a participant
<b>Prospective participant</b>	A person in relation to whom an access request has been made but not yet decided
<b>Protected information</b>	Information about a person that is or was held in the records of the Agency or information to the effect that there is no information about a person held in the records of the Agency
<b>Registered plan management provider</b>	A registered provider of supports who is approved in relation to managing the funding of supports under plans section 70(1)(a)
<b>Registered provider of supports</b>	A person approved as a registered provider of supports section 70
<b>Residential care service</b>	An undertaking through which residential care is provided
<b>Reviewable decision</b>	A decision of DisabilityCare Australia that may be reviewed
<b>Statement of participant supports</b>	Specifies the general supports that will be provided and the reasonable and necessary supports that will be funded as well as the date by which the Agency must review the plan and the management of funding and other aspects

## 25 Additional services directory

### Administrative appeals tribunals

Administrative Appeals Tribunals can independently review administrative decisions made by the Australian Government. You can contact your local Tribunal if DisabilityCare Australia review a decision and you are still not satisfied with the new decision.

#### Australian Capital Territory

##### **Administrative Appeals Tribunal**

4th Floor, Canberra House  
40 Marcus Clarke Street  
Canberra City ACT 2600  
Phone: 1300 366 700

#### New South Wales

##### **Administrative Appeals Tribunal**

Level 7, City Centre Tower  
55 Market Street  
Sydney NSW 2000  
Phone: 1300 366 700

#### Northern Territory and Queensland

##### **Administrative Appeals Tribunal**

Level 4, Harry Gibbs Building  
Commonwealth Law Courts  
119 North Quay  
Brisbane QLD 4000  
Phone: 1300 366 700

#### South Australia

##### **Administrative Appeals Tribunal**

11th Floor, Chesser House  
91 Grenfell Street  
Adelaide SA 5000  
Phone: 1300 366 700

#### Tasmania

##### **Administrative Appeals Tribunal**

Ground Floor, Edward Braddon Building  
Commonwealth Law Courts  
39–41 Davey Street  
Hobart TAS 7000  
Phone: 1300 366 700

#### Victoria

##### **Administrative Appeals Tribunal**

Level 16, HWT Tower, Southgate  
40 City Road  
Southbank VIC 3006  
Phone: 1300 366 700

#### Western Australia

##### **Administrative Appeals Tribunal**

Level 5  
111 St Georges Terrace  
Perth WA 6000  
Phone: 1300 366 700

### Advocacy organisations

Advocacy organisations can assist you in resolving issues and representing your interests in disputes. Below are some advocacy organisations funded by the commonwealth government. Your local Community Legal Centre may also offer advocacy services. There may be advocacy services funded by your State government that are not included in this list.

#### Australian Capital Territory

##### **ACT Disability, Aged and Carer Advocacy Service Inc**

Phone: (02) 6242 5060  
Website: [www.adacas.org.au](http://www.adacas.org.au)

##### **Advocacy for Inclusion Incorporated**

Phone: (02) 6286 9422  
Website: [www.advocacyforinclusion.org](http://www.advocacyforinclusion.org)

#### New South Wales

##### **Ability Incorporated**

Phone: (02) 6628 8188  
Website: [www.abilityincorporated.org.au](http://www.abilityincorporated.org.au)

##### **Brain Injury Association of NSW Inc**

Phone: (02) 9868 5261  
Website: [www.biasnsw.org.au](http://www.biasnsw.org.au)

##### **Disability Advocacy Network Inc**

Phone: (02) 6921 9225  
Website: [www.dan-inc.net.au](http://www.dan-inc.net.au)

##### **Disability Advocacy NSW Inc**

Phone: (02) 4927 0111 or 1300 365 085  
Website: [da.org.au](http://da.org.au)

## 25 Additional services directory

### **Illawarra Advocacy Inc**

Phone: (02) 4229 4064 or (02) 4229 4999  
Website: [www.illawarraadvocacy.org.au](http://www.illawarraadvocacy.org.au)

### **Intellectual Disability Rights Service**

Phone: (02) 9318 0144  
Website: [www.idrs.org.au/home/index.php#sthash.2w2l6x63.dpbs](http://www.idrs.org.au/home/index.php#sthash.2w2l6x63.dpbs)

### **Multicultural Disability Advocacy Association of NSW Incorporated**

Phone: (02) 9891 6400 or 1800 629 072  
Website: [www.mdaa.org.au/](http://www.mdaa.org.au/)

### **Newell Advocacy Inc**

Phone: (02) 6792 3195  
Website: [www.nican.com.au/service/newell-advocacy-inc-nsw](http://www.nican.com.au/service/newell-advocacy-inc-nsw)

### **People with Disability Australia Inc**

Phone: (02) 9370 3100  
Website: [www.pwd.org.au/](http://www.pwd.org.au/)

### **Self Advocacy (Sydney) Inc**

Phone: (02) 9622 3005  
Website: [sasinc.com.au/](http://sasinc.com.au/)

### **Side by Side Advocacy Inc**

Phone: (02) 9808 5500  
Website: [sidebyside.org.au/](http://sidebyside.org.au/)

### **Spinal Cord Injuries Australia**

Phone: (02) 9661 8855  
Website: [scia.org.au/](http://scia.org.au/)

### **Sydney Regional Aboriginal Corporation Legal Service**

Phone: (02) 9687 7688  
Website: [www.alsnswact.org.au/](http://www.alsnswact.org.au/)

### **The Institute for Family Advocacy and Leadership Development Association Inc**

Phone: (02) 9869 0866  
Website: Nil

### **Northern Territory**

#### **Darwin Community Legal Service Inc**

Phone: (08) 8982 1111  
Website: [www.dcls.org.au/](http://www.dcls.org.au/)

#### **Disability Advocacy Service**

Phone: (08) 8953 1422  
Website: [www.das.org.au/](http://www.das.org.au/)

#### **Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council Aboriginal Corporation**

Phone: (08) 8958 2345  
Website: [www.npywc.org.au/](http://www.npywc.org.au/)

### **Queensland**

#### **Independent Advocacy Townsville**

Phone: (07) 4725 2505  
Website: [www.independentadvocacy.org.au/](http://www.independentadvocacy.org.au/)

#### **People with Disability Australia Inc**

Phone: (02) 9370 3100  
Website: [www.pwd.org.au/](http://www.pwd.org.au/)

#### **Queensland Advocacy Incorporated**

Phone: (07) 3236 1122  
Website: [www.qai.org.au/](http://www.qai.org.au/)

#### **Rights In Action**

Phone: (07) 4031 7377  
Website: [www.rightsinaction.org/](http://www.rightsinaction.org/)

#### **Speaking Up For You Inc**

Phone: (07) 3255 1244  
Website: [www.sufy.org.au/](http://www.sufy.org.au/)

#### **Sunshine Coast Citizen Advocacy Programme Inc**

Phone: (07) 5442 2524  
Website: [www.citizenadvocacy.com/](http://www.citizenadvocacy.com/)

#### **The Advocacy and Support Centre**

Phone: (07) 4616 9700  
Website: [www.tascinc.org.au](http://www.tascinc.org.au)

### **South Australia**

#### **Brain Injury Network of South Australia Inc**

Phone: (08) 8217 7600  
Website: [www.binsa.org/](http://www.binsa.org/)

#### **Citizen Advocacy South Australia Incorporated**

Phone: (08) 8410 6644  
Website: [www.citizenadvocacysa.com.au/](http://www.citizenadvocacysa.com.au/)

#### **Disability Advocacy and Complaints Service of South Australia Inc**

Phone: (08) 8297 3500 SA Country 1800 08 325  
Website: [www.dacssa.org.au/](http://www.dacssa.org.au/)

#### **Family Advocacy Inc**

Phone: (08) 8340 4450  
Website: [www.familyadvocacy.org.au/?id=1](http://www.familyadvocacy.org.au/?id=1)

#### **Independent Advocacy SA Inc**

Phone: (08) 8232 6200  
Website: [www.independentadvocacysa.org.au/](http://www.independentadvocacysa.org.au/)

#### **MALSSA Inc**

Phone: (08) 8351 9500  
Website: [www.malssa.org.au/](http://www.malssa.org.au/)

#### **Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council Aboriginal Corporation**

Phone: (08) 8958 2345  
Website: [www.npywc.org.au/](http://www.npywc.org.au/)

## 25 Additional services directory

### Tasmania

**Advocacy Tasmania Inc**

Phone: (03) 6224 2240

Website: [www.advocacytasmania.org.au/home.htm](http://www.advocacytasmania.org.au/home.htm)

**Citizen Advocacy Launceston Region Inc**

Phone: (03) 6331 2177

Website: [www.citizenadvocacylton.org.au/](http://www.citizenadvocacylton.org.au/)

**Speak Out Association of Tasmania Inc**

Phone: (03) 6231 2344

Website: [www.dhhs.tas.gov.au/service\\_information/disability/speak\\_out\\_association\\_of\\_tasmania\\_inc](http://www.dhhs.tas.gov.au/service_information/disability/speak_out_association_of_tasmania_inc)

### Victoria

**Leadership Plus Inc**

Phone: (03) 9489 2999

Website: [leadershipplus.com/](http://leadershipplus.com/)

**Action for More Independence and Dignity in Accommodation Inc**

Phone: (03) 9650 2722

Website: [www.amida.org.au/](http://www.amida.org.au/)

**Action on Disability within Ethnic Communities Inc**

Phone: (03) 9480 1666

Website: [www.adec.org.au/](http://www.adec.org.au/)

**Association of Employees with Disability Inc**

Phone: (03) 9639 4333

Website: [www.aed.org.au/index.html](http://www.aed.org.au/index.html)

**Melbourne East Disability Advocacy**

Phone: (03) 9808 8633

Website: [www.meda.org.au/](http://www.meda.org.au/)

**Citizen Advocacy Sunbury and Districts Inc**

Phone: (03) 9744 7378

Website: [casunbury.net/](http://casunbury.net/)

**Colac Otway Region Advocacy Service**

Phone: (03) 5232 1009

Website: Nil

**Disability Advocacy and Information Service Inc**

Phone: (02) 6056 2420

Website: [www.dias.net.au/](http://www.dias.net.au/)

**Disability Justice Advocacy Inc**

Phone: (03) 9481 7022

Website: [www.justadvocacy.com/](http://www.justadvocacy.com/)

**Gippsland Disability Advocacy Inc**

Phone: (03) 5133 9440

Website: [www.gdai.org.au/](http://www.gdai.org.au/)

**Grampians Disability Advocacy Association Inc**

Phone: (03) 5352 2722

Website: Nil

**North East Citizen Advocacy Inc**

Phone: (03) 8407 3684

Website: [citizenadvocacy.com.au/](http://citizenadvocacy.com.au/)

**Regional Information and Advocacy Council Inc**

Phone: (03) 5822 1944

Website: [www.riac.org.au/](http://www.riac.org.au/)

**Southern Disability Advocacy**

Phone: (03) 9533 5977

Website: [southernda.org.au/](http://southernda.org.au/)

**Southwest Advocacy Association Inc**

Phone: (03) 5561 4584

Website: [www.southwestadvocacy.org.au/swaa/](http://www.southwestadvocacy.org.au/swaa/)

**Victorian Mental Illness Awareness Council**

Phone: (03) 9380 3900

Website: [www.vmiac.org.au/](http://www.vmiac.org.au/)

**Villamanta Disability Rights Legal Service Inc**

Phone: (03) 5229 2925

Website: [www.villamanta.org.au/](http://www.villamanta.org.au/)

### Western Australia

**Advocacy South West Inc**

Phone: (08) 9791 3293

Website: [advocacysouthwest.org.au/](http://advocacysouthwest.org.au/)

**Catholic Archdiocese of Perth Personal Advocacy Service**

Phone: (08) 9275 5388

Website: [www.perthcatholic.org.au/agencies-services/index.cfm?loadref=18](http://www.perthcatholic.org.au/agencies-services/index.cfm?loadref=18)

**Citizen Advocacy Perth West Inc**

Phone: (08) 9322 5999

Website: [www.capw.org.au/](http://www.capw.org.au/)

**Citizen Advocacy South Metropolitan**

Phone: (08) 9356 2814

Website: [www.casm.org.au/](http://www.casm.org.au/)

**Ethnic Disability Advocacy Centre**

Phone: (08) 9388 7455

Website: [www.edac.org.au/index.php/en/](http://www.edac.org.au/index.php/en/)

**Midland Information, Debt and Legal Advocacy Service Inc**

Phone: (08) 9250 2123

Website: [www.midlas.org.au/](http://www.midlas.org.au/)

**Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council Aboriginal Corporation**

Phone: (08) 8958 2345

Website: [www.npywc.org.au/](http://www.npywc.org.au/)

**People With Disabilities (WA) Inc**

Phone: (08) 9485 8900

Website: [www.pwdwa.org/](http://www.pwdwa.org/)



## 25 Additional services directory

### **Sussex Street Community Law Service**

Phone: (08) 6253 9500

Website: [www.sscls.asn.au/](http://www.sscls.asn.au/)

### **Uniting Care West**

Phone: 1300 663 298

Website: [www.unitingcarewest.org.au/](http://www.unitingcarewest.org.au/)

## **Carers**

Carers' organisations advocate and lobby for a wide range of issues that specifically affect carers. They also produce a number of publications that may assist you.

### **National**

#### **Carers Australia**

Phone: (02) 6122 9900

Website: [www.carersaustralia.com.au/home/](http://www.carersaustralia.com.au/home/)

### **Australian Capital Territory**

#### **Carers ACT**

Phone: 1800 242 636 or

(02) 6296 9900

Website: [www.carersact.org.au/](http://www.carersact.org.au/)

### **Northern Territory**

#### **Carers NT**

Phone: 1800 242 636 or

(08) 8944 4888

Website: [carersnt.asn.au/](http://carersnt.asn.au/)

### **New South Wales**

#### **Carers NSW**

Phone: 1800 242 636 or

(02) 9280 4744

Website: [www.carersnsw.org.au/](http://www.carersnsw.org.au/)

### **Queensland**

#### **Carers QLD**

Phone: 1800 242 636 or

(07) 3900 8100

Website: [carersqld.asn.au/](http://carersqld.asn.au/)

### **South Australia**

#### **Carers SA**

Phone: 1800 242 636 or

(02) 8291 5600

Website: [carers-sa.asn.au/](http://carers-sa.asn.au/)

### **Tasmania**

#### **Carers TAS**

Phone: 1800 242 636 or

(03) 6231 5507

Website: [carerstas.org/](http://carerstas.org/)

### **Victoria**

#### **Carers VIC**

Phone: 1800 242 636 or

(03) 9396 9500

Website: [www.carersvictoria.org.au/](http://www.carersvictoria.org.au/)

### **Western Australia**

#### **Carers WA**

Phone: 1800 242 636 or

1300 227 377

Website: [www.carerswa.asn.au/](http://www.carerswa.asn.au/)

## **Community legal centres**

Community Legal Centres can offer a wide variety of services. These include assistance with wills, legal planning and advocacy. To receive assistance, it is essential that you meet their requirements and fall within their catchment area. You can contact your State or Territory Association for assistance.

### **Australian Capital Territory**

#### **ACT Association of Community Legal Centres (ACTACLC)**

Phone: (02) 6247 1026

Website: NIL

#### **Welfare Rights and Legal Centre (ACT)**

Phone: (02) 6218 7977

Website: [www.welfarerightsact.org](http://www.welfarerightsact.org)

#### **Women's Legal Centre**

Phone: (02) 6257 4499

Website: [www.womenslegalact.org](http://www.womenslegalact.org)

### **New South Wales**

#### **Community Legal Centres NSW Inc (CLCNSW)**

Phone (02) 9212 7333

Website: [www.nswclc.org.au](http://www.nswclc.org.au)

#### **Australian Centre for Disability Law**

Phone: 1800 800 708 or

(02) 8014 7000

Website: [www.disabilitylaw.org.au](http://www.disabilitylaw.org.au)

## 25 Additional services directory

### **Central Coast Community Legal Centre**

Phone: (02) 4353 4988

Website: [www.centralcoastclc.org.au](http://www.centralcoastclc.org.au)

### **Elizabeth Evatt Community Legal Centre**

Phone: (02) 4782 4155

Website: [www.eeclc.org.au](http://www.eeclc.org.au)

### **Far West Community Legal Centre Inc**

Phone: (08) 8088 2020

Website: [www.farwestclc.org.au](http://www.farwestclc.org.au)

### **Hawkesbury Nepean Community Legal Centre**

Phone: (02) 4587 8877

Website: [www.hnclc.net.au](http://www.hnclc.net.au)

### **Hunter Community Legal Centre**

Phone: (02) 4040 9120

Website: [www.hunterclc.org.au](http://www.hunterclc.org.au)

### **Illawarra legal Centre**

Phone: (02) 4276 1939

Website: [www.illawarralegalcentre.org.au](http://www.illawarralegalcentre.org.au)

### **Inner City Legal Centre**

Phone: (02) 9332 1966

Website: [www.iclc.org.au](http://www.iclc.org.au)

### **Intellectual Disability Rights Service Inc**

Phone: (02) 9318 0144

Website: [www.idrs.org.au](http://www.idrs.org.au)

### **Kingsford Legal Centre**

Phone: (02) 9385 9566

Website: [www.kingsfordlegalcentre.org](http://www.kingsfordlegalcentre.org)

### **Macarthur Legal Centre**

Phone: (02) 4628 2042

Website: [www.macarthurlegal.org.au](http://www.macarthurlegal.org.au)

### **Macquarie Legal Centre**

Phone: (02) 8833 0911

Website: [www.macquarielegal.org.au](http://www.macquarielegal.org.au)

### **Marrickville Legal Centre**

Phone: (02) 9559 2899

Website: Nil

### **Mid North Coast Community Legal Centre**

Phone: (02) 6580 2111

Website: [www.mncclc.org.au](http://www.mncclc.org.au)

### **Mt Druitt and Area Community Legal Centre**

Phone: (02) 9675 2009

Website: Nil

### **North and North West Community Legal Service**

Phone: 1800 687 687

Website: [www.nnwcls.org.au](http://www.nnwcls.org.au)

### **Northern Rivers Community Legal Centre**

Phone: (02) 6621 1000

Website: [www.nrclc.org.au](http://www.nrclc.org.au)

### **Public Interest Advocacy Centre**

Phone: (02) 8898 6500

Website: [www.piac.asn.au](http://www.piac.asn.au)

### **Redfern Legal Centre**

Phone: (02) 9698 7277

Website: [www.rlc.org.au](http://www.rlc.org.au)

### **Shoalcoast Community Legal Centre**

Phone: (02) 4422 9529

Website: [www.shoalcoast.org.au](http://www.shoalcoast.org.au)

### **South West Sydney Legal Centre**

Phone: (02) 9601 7777

Website: [www.swslc.org.au](http://www.swslc.org.au)

### **The Aged-Care Rights Service**

Phone: (02) 9281 3600

Website: [www.tars.com.au](http://www.tars.com.au)

### **University of Newcastle Legal Centre**

Phone: (02) 4921 8666

Website: [www.newcastle.edu.au/school/law/uncl.html](http://www.newcastle.edu.au/school/law/uncl.html)

### **Welfare Rights Centre (NSW)**

Phone: (02) 9211 5300

Website: [www.welfarerights.org.au](http://www.welfarerights.org.au)

### **Western NSW Community Legal Centre Inc**

Phone: (02) 6884 9422

Website: Nil

### **Warringa Baiya Aboriginal Women's Legal Centre**

Phone: (02) 9569 3847

Website: [www.warringabaiya.org.au](http://www.warringabaiya.org.au)

### **Women's Legal Services Limited (NSW)**

Phone: (02) 8745 6988

Website: [www.womenslegalnsw.asn.au](http://www.womenslegalnsw.asn.au)

## **Northern Territory**

### **Northern Territory Association of Community Legal Centres Inc (NTACLC)**

Phone: (08) 8953 6355

Website: Nil

### **Central Australian Women's Legal Services Inc**

Phone: (08) 8952 4055

Website: Nil

### **Darwin Community Legal Service**

Phone: 1800 812 953

Website: [www.dcls.org.au](http://www.dcls.org.au)

### **Katharine Womens Information and Legal Service**

Phone: (08) 8972 1712

Website: Nil

## 25 Additional services directory

### **Top End Women's Legal Service**

Phone: 1800 234 441

Website: Nil

### **Queensland**

#### **Queensland Association of Independent Legal Services Inc (QAILS)**

Phone: (07) 3392 0092

Website: [www.qails.org.au](http://www.qails.org.au)

#### **Bayside Community Legal Service Inc**

Phone: (07) 3206 2724

Website: NIL

#### **Cairns Community Legal Centre Inc**

Phone: (07) 4031 7688

Website: [www.cclc.org.au](http://www.cclc.org.au)

#### **Care Goondiwindi Association Inc**

Phone: (07) 4670 0700

Website: [www.caregoondiwindi.org.au](http://www.caregoondiwindi.org.au)

#### **Caxton Legal Centre Inc**

Phone: (07) 3214 6333

Website: [www.caxton.org.au](http://www.caxton.org.au)

#### **Central Queensland Community Legal Centre Inc**

Phone: (07) 4922 1200

Website: [www.cqclc.org.au](http://www.cqclc.org.au)

#### **Disability Discrimination Legal Service**

Phone: 1800 950 197

Website: [www.cclc.org.au/discrimination.html](http://www.cclc.org.au/discrimination.html)

#### **Gold Coast Legal Service and the Citizens Advice Bureau**

Phone: (07) 55329611

Website: [www.advicebureau.org.au/](http://www.advicebureau.org.au/)

#### **Mackay Regional Community Legal Centre**

Phone: (07) 4953 1211

Website: [www.mrclc.com.au/](http://www.mrclc.com.au/)

#### **Moreton Bay Regional Community Legal Service**

Phone: (07) 3883 3834

Website: Nil

#### **North Queensland Women's Legal Service Inc (Cairns Office)**

Phone: 1800 244 504

Website: [www.nqwls.com.au](http://www.nqwls.com.au)

#### **North Queensland Women's Legal Service Inc (Townsville office)**

Phone: 1800 244 504

Website: [www.nqwls.com.au](http://www.nqwls.com.au)

#### **Nundah Community Support Group Inc (Nundah Legal Services)**

Phone: (07) 3260 6820

Website: [www.nundahcc.org.au/weblease/tpcommon/src/tp1FullPage.cfm?idPageCopy=14980&idClient=980](http://www.nundahcc.org.au/weblease/tpcommon/src/tp1FullPage.cfm?idPageCopy=14980&idClient=980)

#### **Pine Rivers Community Legal Service**

Phone: (07) 3205 2955

Website: [www.pnrc.org.au](http://www.pnrc.org.au)

#### **Roma Community Legal Centre**

Phone: (07) 4622 4547

Website: Nil

#### **Seniors Legal and Support Services**

Phone: 1800 650 931

Website: Nil

#### **Southwest Brisbane Community Legal Centre**

Phone: (07) 3372 7677

Website: [www.communitylegal.org.au](http://www.communitylegal.org.au)

#### **Stanthorpe Community Legal Centre**

Phone: (07) 4681 3777

Website: Nil

#### **Suncoast Community Legal Service Inc**

Phone: (07) 5443 7827

Website: [suncoastcommunitylegal.org](http://suncoastcommunitylegal.org)

#### **Taylor Street Community Legal Centre**

Phone: (07) 4194 2663

Website: [www.herveybaycommunitycentre.com.au/community/services/taylor-street-legal-overview.html](http://www.herveybaycommunitycentre.com.au/community/services/taylor-street-legal-overview.html)

#### **Townsville Community Legal Service Inc**

Phone: (07) 4721 5511

Website: [www.tcls.org.au](http://www.tcls.org.au)

#### **Women's Legal Services QLD**

Phone: (07) 3392 0670

Website: [www.wlsq.org.au](http://www.wlsq.org.au)

#### **Youth and Family Services (Logan City) Inc**

Phone: (07) 3826 1500

Website: [www.yfs.org.au/legal](http://www.yfs.org.au/legal)

#### **Youth and Family Services (Logan City) Inc**

Phone: (07) 3826 1500

Website: [www.yfs.org.au/legal](http://www.yfs.org.au/legal)

### **South Australia**

Note that no Community Legal Centre in South Australia will draft wills.

#### **Central Community Legal Service**

Phone: (08) 8342 1800

Website: [www.ucwesleyadelaide.org.au/ccls](http://www.ucwesleyadelaide.org.au/ccls)

## 25 Additional services directory

### **Northern Community Legal Service Inc**

Phone: (08) 8281 6911

Website: Nil

### **Riverland Community Legal Service Inc**

Phone: (08) 8582 2255

Website: [www.riverlandlegalservice.org.au](http://www.riverlandlegalservice.org.au)

### **Roma Mitchell Community Legal Centre**

Phone: (08) 8362 1199

Website: [rmhrvs.auspics.org.au](http://rmhrvs.auspics.org.au)

### **South East Community Legal Service Inc**

Phone: (08) 8723 6236

Website: [www.secls.org](http://www.secls.org)

### **Southern Community Justice Centre Incorporating Community Mediation Services**

Phone: 1300 850 650

Website: [www.scjc.com.au](http://www.scjc.com.au)

### **Welfare Rights Centre**

Phone: (08) 8223 1338

Website: [www.wrcsa.org.au](http://www.wrcsa.org.au)

### **WestSide Lawyers**

Phone: (08) 8243 5521

Website: [www.westsidelawyers.net](http://www.westsidelawyers.net)

### **Women's Legal Service**

Phone: (08) 8221 5553

Website: [www.wlssa.org.au](http://www.wlssa.org.au)

### **South Australian Council of Community Legal Services Inc (SACCLS)**

Phone: (08) 8342 1800

Website: [www.saccls.org.au](http://www.saccls.org.au)

### **Tasmania**

#### **Tasmanian Association of Community Legal Centres Inc (TACLC)**

Phone: (03) 6424 8720

Website: Nil

#### **Hobart Community Legal Service**

Phone: (03) 6223 2500

Website: [www.hobartlegal.org.au](http://www.hobartlegal.org.au)

#### **Launceston Community Legal Centre**

Phone: (03) 6224 1577

Website: Nil

#### **North West Community Legal Centre Inc**

Phone: (03) 6424 8720

Website: [www.nwclc.org.au](http://www.nwclc.org.au)

#### **Women's Legal Service (Tas)**

Phone: (03) 6231 9466

Website: [www.womenslegaltas.org.au](http://www.womenslegaltas.org.au)

### **Victoria**

#### **Federation of Community Legal Centres (Victoria) Inc**

Phone: (03) 9652 1500

Website: [www.communitylaw.org.au](http://www.communitylaw.org.au)

#### **AED Legal Centre**

Phone: (03) 9639 4333

Website: [www.aed.org.au](http://www.aed.org.au)

#### **Barwon Community Legal Service Inc**

Phone: 1300 430 599

Website: [www.barwoncls.org.au](http://www.barwoncls.org.au)

#### **Brimbank Melton Community Legal Centre**

Phone: (03) 8312 2000

Website: [www.communitywest.org.au](http://www.communitywest.org.au)

#### **Broadmeadows Community Legal Service**

Phone: (03) 9302 3911

Website: Nil

#### **Casey Cardinia Community Legal Service**

Phone: (03) 9793 1993

Website: [www.communitylaw.org.au/caseycardinia](http://www.communitylaw.org.au/caseycardinia)

#### **Central Highlands Community Legal Centre**

Phone: (03) 5331 5999

Website: [www.communitylaw.org.au/centralhighlands](http://www.communitylaw.org.au/centralhighlands)

#### **Darebin Community Legal Centre**

Phone: (03) 9484 7753

Website: [www.communitylaw.org.au/darebin](http://www.communitylaw.org.au/darebin)

#### **Eastern Community Legal Centre**

##### **Inner East Branch**

Phone: (03) 9285 4822

Website: [www.eclc.org.au](http://www.eclc.org.au)

##### **Eastern Community Legal Centre**

##### **Outer Branch**

Phone: (03) 9762 6235

Website: [www.eclc.org.au](http://www.eclc.org.au)

#### **Fitzroy Legal Services**

Phone: (03) 9419 3744

Website: [www.fitzroy-legal.org.au](http://www.fitzroy-legal.org.au)

#### **Flemingston and Kensington Community Legal Centre**

Phone: (03) 9376 4355

Website: [www.communitylaw.org.au/clc\\_flemmingstonkensington](http://www.communitylaw.org.au/clc_flemmingstonkensington)

#### **Footscray Community Legal Centre**

Phone: (03) 9689 8444

Website: [www.communitylaw.org.au/footscray](http://www.communitylaw.org.au/footscray)

#### **Gippsland Community Legal Service**

Phone: 1800 004 402

Website: [www.communitylaw.org.au/gippsland](http://www.communitylaw.org.au/gippsland)

## 25 Additional services directory

### **Hume Riverina Community Legal Service**

Phone: 1800 918 377

Website: [www.communitylaw.org.au/humeriverina](http://www.communitylaw.org.au/humeriverina)

### **Loddon Campaspe Community Legal Centre**

Phone: (03) 5444 4361

Website: [www.lcclc.org.au](http://www.lcclc.org.au)

### **Mental Health Legal Centre**

Phone: (03) 9629 4422

Website: [www.communitylaw.org.au/mhlc](http://www.communitylaw.org.au/mhlc)

### **Monash Oakleigh Legal Service**

Phone: (03) 9905 4336

Website: [www.communitylaw.org.au/monashoakleigh](http://www.communitylaw.org.au/monashoakleigh)

### **Moonee Valley Legal Service**

Phone: (03) 9376 7929

Website: [www.mvls.org.au](http://www.mvls.org.au)

### **Moreland Community Legal Centre**

Phone: (03) 9383 2588

Website: [www.morelandclc.org.au](http://www.morelandclc.org.au)

### **Murray Mallee Community Legal Service**

Phone: (03) 5023 5966

Website: [www.malleefamilycare.com.au](http://www.malleefamilycare.com.au)

### **North Melbourne Legal Service**

Phone: (03) 9328 1885

Website: [www.nmls.org.au](http://www.nmls.org.au)

### **Peninsula Community Legal Centre (Vic)**

Phone: (03) 9783 3600

Website: [www.pclc.org.au](http://www.pclc.org.au)

### **Peninsula Community Legal Centre, Bentleigh Branch Office**

Phone: (03) 9570 8455

Website: [www.pclc.org.au](http://www.pclc.org.au)

### **Peninsula Community Legal Centre Cranbourne Branch Office**

Phone: (03) 5995 3722

Website: [www.pclc.org.au](http://www.pclc.org.au)

### **Pensinula Community Legal Centre Rosebud Branch**

Phone: (03) 5981 2422

Website: [www.pclc.org.au](http://www.pclc.org.au)

### **Seniors Rights Victoria**

Phone: 1300 368 821

Website: [www.seniorsrights.org.au](http://www.seniorsrights.org.au)

### **South West Community Legal Centre**

Phone: 1300 361 680

Website: [www.comconnect.com.au](http://www.comconnect.com.au)

### **SouthPort Community Legal Service**

Phone: (03) 9690 9144

Website: Nil

### **Springvale Monash Legal Service Inc**

Phone: (03) 9545 7400

Website: [www.smls.org.au](http://www.smls.org.au)

### **St Kilda Legal Service**

Phone: (03) 9534 0777

Website: Nil

### **Victorian Aboriginal Legal Service Cooperative Ltd**

Phone: (03) 9418 5999

Website: [www.vals.org.au](http://www.vals.org.au)

### **Villamanta Disability Rights Legal service Inc**

Phone: 1800 014 111

Website: [www.villamanta.org.au](http://www.villamanta.org.au)

### **West Heidelberg Community Legal Service**

Phone: (03) 9450 2002

Website: [www.whcls.org.au](http://www.whcls.org.au)

### **Western Suburbs Legal Service Inc**

Phone: (03) 9391 2244

Website: [www.wsls.org.au](http://www.wsls.org.au)

### **Whittlesea Community Legal Service (Whittlesea Community Connections)**

Phone: (03) 9401 6655

Website: [www.whittleseacommunityconnections.org.au](http://www.whittleseacommunityconnections.org.au)

### **Women's Legal Service Victoria**

Phone: (03) 9642 0877

Website: [www.womenslegal.org.au](http://www.womenslegal.org.au)

### **Wyndham Legal Service**

Phone: (03) 9741 0198

Website: [www.communitylaw.org.au/wyndham](http://www.communitylaw.org.au/wyndham)

## **Western Australia**

### **Aboriginal Family Law Services**

Phone: (08) 9355 0971

Website: [www.afls.org.au](http://www.afls.org.au)

### **Albany Community Legal Centre Inc**

Phone: (08) 9842 8566

Website: [www.albanyclc.com.au](http://www.albanyclc.com.au)

### **Albany Family Violence Prevention Legal Service**

Phone: (08) 9842 7777

Website: [www.sacorp.com.au](http://www.sacorp.com.au)

### **Bunbury Community Legal Centre**

Phone: (08) 9791 3206

Website: Nil

### **Citizens Advice Bureau**

Phone: (08) 9221 5711

Website: [www.cabwa.com.au](http://www.cabwa.com.au)



## 25 Additional services directory

### **Community Legal Centres Association (WA) Inc**

Phone: (08) 9221 9322

Website: [www.communitylaw.net](http://www.communitylaw.net)

### **Employment Law Centre of Western Australia Inc**

Phone: (08) 9227 0111

Website: [www.elcwa.org.au](http://www.elcwa.org.au)

### **Fremantle Community Legal Centre**

Phone: (08) 9021 1888

Website: [www.fremantle.wa.gov.au](http://www.fremantle.wa.gov.au)

### **Goldfields Community Legal Centre**

Phone: (08) 9021 1888

Website: Nil

### **Gosnells Community Legal Centre**

Phone: (08) 9398 1455

Website: [www.gosnells.com.au](http://www.gosnells.com.au)

### **Kimberly Community Legal Services Inc**

Phone: (08) 9169 3100

Website: Nil

### **Marninwarntikura Fitzroy Women's Resource Centre**

Phone: (08) 9191 5284

Website: Nil

### **Mental Health Law Centre (WA) Inc**

Phone: (08) 9328 8266

Website: [www.mhlcwa.org.au](http://www.mhlcwa.org.au)

### **Midland Information, Debt and Legal Advocacy Service Inc**

Phone: (08) 9250 2123

Website: [www.midlas.org.au](http://www.midlas.org.au)

### **Northern Suburbs Community Legal Centre – Joondalup Office**

Phone: (08) 9301 4413

Website: [www.nsclegal.org.au](http://www.nsclegal.org.au)

### **Northern Suburbs Community Legal Centre – Mirrabooka Office**

Phone: (08) 9440 1663

Website: [www.nsclegal.org.au](http://www.nsclegal.org.au)

### **Peel Community Legal Service Inc**

Phone: (08) 9581 4511

Website: [www.peelcls.com.au](http://www.peelcls.com.au)

### **Pilbara Community Legal Service – Karratha Office**

Phone: (08) 9185 5899

Website: Nil

### **Pilbara Community Legal Service – Newman Office**

Phone: (08) 9175 9932

Website: Nil

### **Pilbara Community Legal Service – Roebourne Branch Office**

Phone: (08) 9182 1169

Website: Nil

### **Pilbara Community Legal Service – South Headland Office**

Phone: (08) 9140 1613

Website: Nil

### **SCALES Community Legal Centre Inc**

Phone: (08) 9550 04400

Website: [www.law.murdoch.edu.au/scales](http://www.law.murdoch.edu.au/scales)

### **Street Law (WA) Inc**

Phone: 1800 752 992

Website: [www.streetlawcentre.org.au](http://www.streetlawcentre.org.au)

### **Sussex Street Community Law Service Inc**

Phone: (08) 6253 9500

Website: [www.sscls.asn.au](http://www.sscls.asn.au)

### **Welfare Rights and Advocacy Service**

Phone: (08) 9328 1751

Website: [www.wraswa.org.au](http://www.wraswa.org.au)

### **Wheatbelt Community Legal Centre**

Phone: (08) 9622 5200

Website: [www.wheatbeltclc.com.au](http://www.wheatbeltclc.com.au)

### **Women's Law Centre of WA**

Phone: (08) 9272 8800

Website: [www.wlcwa.org.au](http://www.wlcwa.org.au)

### **Youth Legal Service**

Phone: (08) 9202 1688

Website: [www.youthlegalserviceinc.com.au](http://www.youthlegalserviceinc.com.au)

### **Community Legal Centres Association (WA) Inc**

Phone: 08 9221 9322

Website: [www.communitylaw.net/About-Us/about-clca-wa-inc/menu-id-32.html](http://www.communitylaw.net/About-Us/about-clca-wa-inc/menu-id-32.html)

## **Disability discrimination services**

These are specific organisations that can assist you with advice or advocacy if you feel you have been subjected to discrimination. Your local Community Legal Centre may also be able to assist you.

### **Australian Capital Territory**

#### **Disability Discrimination Legal Service (ACT)**

Phone: (02) 6218 7918

Website: [www.welfarerightsact.org](http://www.welfarerightsact.org)

## 25 Additional services directory

### New South Wales

#### **Australian Centre for Disability Law**

Phone: (02) 8014 7000

Website: [disabilitylaw.org.au](http://disabilitylaw.org.au).

#### **The Intellectual Disability Rights Service**

Phone: (02) 9318 0144

Website: [www.idrs.org.au/home/index.php#sthash.N4JLf3n7.dpbs](http://www.idrs.org.au/home/index.php#sthash.N4JLf3n7.dpbs).

### Northern Territory

#### **Darwin Community Legal Service**

Phone: 1800 812 953

Website: [www.dcls.org.au/disability-discrimination.html](http://www.dcls.org.au/disability-discrimination.html)

### Queensland

#### **Disability Discrimination Legal Service**

Phone: 1800 650 197

Website: [www.cclc.org.au](http://www.cclc.org.au)

### South Australia

#### **Disability Discrimination Service**

Phone: (08) 8342 1800

Website: [www.ucwesleyadelaide.org.au/ccls/disabilit\\_discrimination.htm](http://www.ucwesleyadelaide.org.au/ccls/disabilit_discrimination.htm)

### Tasmania

#### **Launceston Community Legal Centre**

Phone: (03) 6334 1577

Website: [www.lclc.net.au](http://www.lclc.net.au)

### Victoria

#### **Disability Discrimination Legal Service Inc**

Phone: (03) 9654 8644

Website: [www.communitylaw.org.au/clc\\_ddls/cb\\_pages/about\\_us.php](http://www.communitylaw.org.au/clc_ddls/cb_pages/about_us.php)

### Western Australia

#### **Sussex Street Community Law Services Inc**

Phone: (08) 6253 9500

Website: [www.sscls.asn.au/Programs-Services/Disability-Discrimination](http://www.sscls.asn.au/Programs-Services/Disability-Discrimination)

## Government departments

### Australian Capital Territory

#### **Department of Disability, Housing and Community Services**

Phone: (02) 6207 1086

Website: [www.dhcs.act.gov.au/disability\\_act](http://www.dhcs.act.gov.au/disability_act)

### New South Wales

#### **Department of Family and Community Services (Ageing, Disability and Home Care)**

Phone: (02) 9377 6000

Website: [www.adhc.nsw.gov.au/](http://www.adhc.nsw.gov.au/)

### Northern Territory

#### **Department of Health (Disability)**

Phone: (08) 8999 2400

Website: [health.nt.gov.au/Aged\\_and\\_Disability/Disability/index.aspx](http://health.nt.gov.au/Aged_and_Disability/Disability/index.aspx)

### Queensland

#### **Department of Communities, Child Safety and Disability Services**

Phone: 13 74 68

Website: [www.communities.qld.gov.au/gateway/about-us/contact-us](http://www.communities.qld.gov.au/gateway/about-us/contact-us)

### South Australia

#### **Department for Communities and Social Inclusion**

Phone: (08) 8415 4250

Website: [www.sa.gov.au/government/entity/1856/About+us+-+Disability+SA](http://www.sa.gov.au/government/entity/1856/About+us+-+Disability+SA)

### Tasmania:

#### **Service Tasmania**

Phone: 1300 13 55 13

Website: [www.service.tas.gov.au/browse/People+with+disabilities/Disability+services/State+government](http://www.service.tas.gov.au/browse/People+with+disabilities/Disability+services/State+government)

### Victoria

#### **Department of Human Services**

Phone: 1800 783 783

Website: [www.dhs.vic.gov.au/for-individuals/disability/start-here](http://www.dhs.vic.gov.au/for-individuals/disability/start-here)

### Western Australia

#### **Disability Services Commission**

Phone: 1800 998 214

Website: [www.disability.wa.gov.au/contact-us/](http://www.disability.wa.gov.au/contact-us/)

## 25 Additional services directory

### Law societies

Each State Law Society can give you names of solicitors in your area that can assist you with your specific concern. This is called a referral.

#### Australian Capital Territory

##### **ACT Law Society**

Phone: (02) 6247 5700

Website: [www.actlawsociety.asn.au/](http://www.actlawsociety.asn.au/)

#### New South Wales

##### **Law Society of NSW**

Phone: 02 9926 0333

Website: [www.lawsociety.com.au/](http://www.lawsociety.com.au/)

#### Northern Territory

##### **Law Society of the Northern Territory**

Phone: (08) 8981 5104

Website: [www.lawsocnt.asn.au/](http://www.lawsocnt.asn.au/)

#### Queensland

##### **Queensland Law Society**

Phone: 1300 367 757

Website: [www.qls.com.au/Home](http://www.qls.com.au/Home)

#### South Australia

##### **Law Society of South Australia**

Phone: (08) 8229 0222

[www.lawsocietysa.asn.au/](http://www.lawsocietysa.asn.au/)

#### Tasmania

##### **Law Society of Tasmania**

Phone: (03) 6234 4133

[www.taslawsociety.asn.au/web/en/lawsociety.html](http://www.taslawsociety.asn.au/web/en/lawsociety.html)

#### Victoria

##### **Law Institute of Victoria**

Phone: 03 9607 9311

[www.liv.asn.au/](http://www.liv.asn.au/)

#### Western Australia

##### **Law Society of Western Australia**

Phone: (08) 9324 8600

Website: [www.lawsocietywa.asn.au/](http://www.lawsocietywa.asn.au/)

### Legal aid

Legal Aid provides free access to legal information, advice and representation for disadvantaged members of the community. To receive this service, you will need to apply.

#### **Legal Aid Queensland**

Telephone 1300 65 11 88

Website: [www.legalaid.qld.gov.au/services/Pages/Our-services.aspx](http://www.legalaid.qld.gov.au/services/Pages/Our-services.aspx)

#### **Legal Aid New South Wales**

Telephone: 1300 888 529

Website: [www.legalaid.nsw.gov.au/](http://www.legalaid.nsw.gov.au/)

#### **Legal Aid Victoria**

Telephone: (03) 9269 0120

Website: [www.legalaid.vic.gov.au/](http://www.legalaid.vic.gov.au/)

#### **Legal Aid South Australia**

Telephone: 1300 366 424

Website: [www.lsc.sa.gov.au/](http://www.lsc.sa.gov.au/)

#### **Legal Aid Western Australia**

Telephone: 1300 650 579

Website: [www.legalaid.wa.gov.au/Pages/Default.aspx](http://www.legalaid.wa.gov.au/Pages/Default.aspx)

#### **Legal Aid Northern Territory**

Telephone: 1800 019 343

Website: [www.ntlac.nt.gov.au/](http://www.ntlac.nt.gov.au/)

### Mediation sources

Mediators can assist in resolving disputes. There is a national directory of mediators listed below that you can access to find a mediator. Alternatively, your Local community Legal Centre may be able to assist.

#### **National**

##### **Family Mediation Centre**

Phone: (03) 9556 5333

Website: [www.mediation.com.au](http://www.mediation.com.au)

##### **Mediator Locator: A National directory of Mediators**

Phone: (02) 9211 1881

Website: [www.mediatorlocator.com.au/index.php](http://www.mediatorlocator.com.au/index.php)

#### **South Australia**

##### **Southern Community Justice Centre**

##### **Incorporating Community Mediation Services**

Phone: 1300 850 650

Website: [www.scjc.com.au](http://www.scjc.com.au)

## 25 Additional services directory

### Public trustees

The Public Trustees provide Wills, Enduring Powers of Attorney as well as investment, executor and financial administration services.

#### Australian Capital Territory

##### Public Trustee

Phone: (02) 6207 9800

Website: [www.publictrustee.act.gov.au](http://www.publictrustee.act.gov.au)

#### Victoria

##### State Trustees Limited

Phone: (03) 9667 6466

Website: [www.statetrustees.com.au](http://www.statetrustees.com.au)

#### Queensland

##### QLD Public Trustee

Phone: (07) 3213 9288

Website: [www.pt.qld.gov.au](http://www.pt.qld.gov.au)

#### New South Wales

##### NSW Trustee and Guardian

Phone: 1300 364 103

Website: [www.tag.nsw.gov.au](http://www.tag.nsw.gov.au)

#### South Australia

##### Public Trustee

Phone: (08) 8226 9200

Website: [www.publictrustee.sa.gov.au](http://www.publictrustee.sa.gov.au)

#### Western Australia

##### Public Trust Office

Phone: 1300 746 116

Website: [www.publictrustee.wa.gov.au](http://www.publictrustee.wa.gov.au)

#### Tasmania

##### Public Trustee

Phone: 1800 068 784

Website: [www.publictrustee.tas.gov.au](http://www.publictrustee.tas.gov.au)

#### Northern Territory

##### Public Trustee

Phone: (08) 8999 7271

Website: [www.nt.gov.au/justice/pubtrust/index.shtml](http://www.nt.gov.au/justice/pubtrust/index.shtml)

### Welfare

Centrelink is your primary source for welfare enquiries. If you require assistance you can also contact the organisations listed below. Your local Community Legal Centre may also be able to assist you.

#### Federal

##### Department of Human Services – Centrelink Disability and Carers Line

Phone 13 27 17

Website: [www.humanservices.gov.au/customer/subjects/payments-for-people-living-with-illness-or-disability](http://www.humanservices.gov.au/customer/subjects/payments-for-people-living-with-illness-or-disability)

#### Australian Capital Territory

##### Welfare Rights and Legal Centre (ACT)

Phone: (02) 6218 7977

Website: [www.welfarerightsact.org](http://www.welfarerightsact.org)

#### Victoria

##### Social Security Rights Victoria Inc

Phone: (03) 9416 1111

Website: [www.ssr.v.org.au](http://www.ssr.v.org.au)

##### Sussex Street Community Law Service

Phone: (08) 6253 9500

Website: [www.sscls.asn.au/](http://www.sscls.asn.au/)

#### Queensland

##### Welfare Rights Inc

Phone: (07) 3847 5532

Website: [www.wrcqld.org.au](http://www.wrcqld.org.au)

#### New South Wales

##### Welfare Rights Centre (NSW)

Phone: (02) 9211 5300

Website: [www.welfarerights.org.au](http://www.welfarerights.org.au)

#### South Australia

##### Welfare Rights Centre

Phone: (08) 8223 1338

Website [www.wrcsa.org.au](http://www.wrcsa.org.au)

#### Western Australia

##### Welfare Rights and Advocacy Service

Phone: (08) 9328 1751

Website: [www.wraswa.org.au](http://www.wraswa.org.au)

## 26 Project team

### The Community Advocacy and Support Unit, Endeavour Foundation:

#### **Mark Reimers**

Manager of the Community Advocacy and Support Unit. Mark has an extensive background in supporting people living with disability, and their families. He has held senior leadership and management roles in government and Not-for-Profit organisations. Roles have included direct support, management, staff training, advocacy, consultancy, research and organisational development

#### **Melinda Ewin**

Senior Advisor, Community Advocacy and Support Unit. Melinda has been a Systemic Advocate for over 15 years and is responsible for systemic initiatives that improve the lives of people with disability and their family members. Melinda is a parent of a young adult with disability and Chair of the peak body Children with Disability Australia.

### Written by:

#### **Patrick Keyzer**

Director of the Centre for Law, Governance and Public Policy. A practising barrister, Patrick has appeared as counsel in test cases in the High Court and United Nations Human Rights Committee. Patrick was lead investigator and co-author of *I Hope He Dies Before Me: Legal Service Options for Ageing Carers of People with Intellectual Disability* (with Terry Carney and David Tait). Patrick has consulted to federal and State government agencies in the disability law field.

#### **Veronica Jones**

Centre Manager and Senior Research Assistant of the Centre for Law, Governance and Public Policy. Veronica possesses over 10 years' experience at a management level and is well versed in the organisation and facilitation of research interviews, nominal group technique sessions, undertaking market research, preparing ethics applications, supporting grant writing, interpreting qualitative and quantitative data and participating in research findings.

#### **Gail Casey**

Gail is a qualified lawyer and teacher and the mother of twin daughters with an intellectual disability. Her community engagement experience includes membership of the Gold Coast Regional Disability Council of Qld and co-authoring a successful submission to Qld Government for a respite service on the Gold Coast.

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**This guide is an initiative of The Community Advocacy and Support (CAS) Unit, Endeavour Foundation.**

The CAS Unit advocates to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disability, and to promote respect for their inherent dignity. The CAS Unit is an initiative of the Board of Endeavour Foundation to ensure that the rights of people with disability within the organisation and the broader community are upheld and promoted through systemic advocacy.

This guide, funded through the Practical Design Fund from the OPOLDF, is a part of the CAS Unit's systemic advocacy role. It comes from listening to people who access our services and their family members or substitute decision makers.

Endeavour Foundation has 215 services across Queensland and New South Wales offering services and supports for more than 3,350 people with disability. Our person-centred approach is designed to meet individual needs in supported accommodation, lifestyle activities, employment, training, education, in-home support and respite. We employ more than 3,300 staff and supported employees and enjoy the generous support of more than 1,250 volunteers.

**Project Manager:**

Mark Reimers

**Project Concept and Direction:**

Melinda Ewin

For further information contact the:

**Community Advocacy and Support Unit**

**Email:** [casunit@endeavour.com.au](mailto:casunit@endeavour.com.au)

**Phone:** 07 3908 7276.

The Centre for Law, Governance and Public Policy is a not-for-profit university research centre based in the Faculty of Law at Bond University on the Gold Coast, Queensland. Established in 2009, the Centre brings together scholars with a common interest in the development, practices and processes of good public policy. Its aim is to advance just and workable solutions to society's problems and to be an advocate for good governance everywhere. The Centre is funded by competitive grants, through consultancy and by donations. The Centre's activities include: research, publishing, arranging symposia, conducting workshops, community engagement, training and development.

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FOUNDATION

Opportunities for people with a disability

50 Southgate Ave  
Cannon Hill, Qld 4170

**Phone:** (07) 3908 7100

**Fax:** (07) 3908 7101

**Email:** [information@endeavour.com.au](mailto:information@endeavour.com.au)

**Website:** [endeavour.com.au](http://endeavour.com.au)

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