

Capacity



This fact sheet is for people who have someone appointed to make financial decisions for them and want to understand what capacity means and how it impacts their ability to make their own decisions.

What is 'capacity'?

You have capacity if you can:

- understand the nature and effect of a decision
- freely and voluntarily make the decision
- communicate the decision in some way

In deciding if you have capacity, the focus is on your ability to make decisions and not the decisions you have made in the past.

Who decides if I have capacity?

All adults are presumed to have capacity to make decisions. However, the Queensland Civil and Administrative Tribunal (QCAT) can appoint a guardian and/or administrator when there is enough evidence that a person **does not** have capacity. Your capacity can change. You can have capacity for some things and not others.

What happens if QCAT decides you have impaired capacity?

If you cannot make decisions by yourself, and you do not have appropriate informal decision-making support (family or friends) to help you, QCAT can appoint an administrator or guardian to make decisions for you on:

- 1** Financial matters (Administration Order). For example, paying bills or spending money.
- 2** Personal matters (Guardianship Order). For example, where you live or what services you receive.

How you can show you have capacity for financial matters

You can show QCAT that you have capacity to make decisions about your money by:

- Preparing a draft budget that shows how much you spend, and what you spend it on. Your expenses should not be more than your income, and it would be helpful if you can show you have some savings.
- Being aware of any assets or debts you might have, for example, property or cars, credit card or SPER debts.
- Working together with your appointed administrator, if you have one.
- Showing a pattern of responsible behaviour, for example, making sensible purchases and saving money to cover unexpected expenses.
- Having a doctor (for example a GP or a specialist) complete a 'Health Professional Report' and comment on your ability to make your own financial decisions. The doctor who completes this report should know you well.

How you can show you have capacity for personal matters

You can show QCAT that you have capacity to make decisions about your personal affairs by:

- Having a doctor (for example a GP or a specialist) complete a 'Health Professional Report' and comment on your ability to make your own personal decisions. The doctor who completes this report should know you well.
- Being aware of any health care treatments you are on or medications you are taking.
- Being aware of any support services you may have in place, for example, home visitors.
- Showing you have stable living arrangements and employment (where relevant).

The importance of support

Your capacity can be increased with appropriate support.

The support you have and the environment you are in can change your capacity.



Can you get a declaration of capacity?

You or an interested party (such as a family member) can request that QCAT make a [Declaration about your capacity](#) about a particular area. For example, your capacity to make health care decisions.

However, you should speak to a lawyer before making an application for a declaration about capacity.

If QCAT makes a declaration that you **do have capacity**, then any existing administration or guardianship order may be revoked or changed to reflect that declaration.



We are here to help

If you would like more information or legal advice about financial administration or guardianship, please contact us.

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This fact sheet has been written by Queensland Advocacy for Inclusion (QAI), an independent, community-based systems and advocacy organisation for people with disability in Queensland. This publication is for general information only. It must not be relied on as legal advice. You must seek legal advice about your own particular circumstances.