

# Forward planning

## Introduction

During the early stages of dementia, a person's capacity to make legal, financial and lifestyle decisions may not be impaired. Over time dementia increasingly affects memory and other cognitive abilities, and may impact on the person's legal capacity to make important decisions. Legal capacity (also called legal competence) can be defined as an adult's ability and right to make a decision, if they can:

- Understand the information
- Make an informed decision according to the information provided
- Communicate that decision to someone else.

There are a number of individuals (for example, doctors and lawyers) and organisations (for example, public guardians and protecting commissions) that may be involved in determining whether an individual with dementia has this capacity. In addition, each state or territory may have different legal requirements regarding the assessment of legal capacity and the process of forward planning.

## Recommendations

It is important for someone with dementia to discuss plans for the future as soon as possible. Forward planning involves making plans for health care, long term care, finances and property. In most states and territories of Australia there is a range of different terms and documents used in relation to forward planning, including:

- Enduring power of attorney (EPA) financial – a legal agreement in which you appoint someone you trust to make decisions about your legal and financial affairs, including money, investments and the buying and selling of property. An EPA continues to be valid after you lose the legal capacity to make those decisions yourself
- General power of attorney (POA) – a legal agreement in which you appoint someone you trust to make decisions about your legal and financial affairs, often for a specific purpose and for a set period of time. A general power of attorney becomes invalid if you lose legal capacity
- Enduring power of attorney (medical treatment) (MPA) also known as enduring power of attorney (EPA) covering health matters or enduring guardianship orders – a legal agreement in which you appoint a person you trust to make decisions about your medical treatment. An MPA usually only comes into effect if you lose the legal capacity to make your own medical treatment decisions. In most states and territories of Australia you will need an EPA specifically for health matters and an EPA specifically for financial matters, although you can appoint the same person for both

- Enduring power of guardianship (EPG) – a legal agreement in which you appoint a person you trust to make decisions about your lifestyle, such as where you will live and the types of activities you will be involved in. In some places, the person you appoint may also be able to make decisions about your health care if you have not appointed someone under a MPA. An EPG usually only comes into effect if you lose the legal capacity to make these types of decisions yourself
- Advance care plan or advance health care directive - a formal or informal document that involves making decisions and plans, in advance, about what medical treatments you want if you are seriously ill or dying. It is important to consider what medical treatment you believe is worthwhile and what medical treatment you believe is not. Advance health care directives are sometimes called living wills.

### **Summary**

While it is important for everyone to make plans for the future, planning ahead for someone with dementia is critical. During the early stages of the illness, the person with dementia may be able to discuss options for when they are no longer able to make sound decisions. The more involvement the person has, the less stress for all concerned as dementia progresses.

# Forward planning

## Useful contacts

### **National**

Alzheimer's Australia can provide some information about forward planning and a list of resources relevant to each State and Territory of Australia. For more information:

[www.alzheimers.org.au](http://www.alzheimers.org.au)

☎ 1800 100 500

### **State and territory**

Each state and territory has either an Office of the Public Advocate and/or Office of Public Guardian and/or Department of Justice and Attorney General and/or Office of Adult Guardianship. These organisations can provide advice about forward planning specific to the state or territory they are located in.

### **Australian Capital Territory**

For further information on forward planning contact the Public Advocate of the ACT

[www.oqa.act.gov.au](http://www.oqa.act.gov.au)

☎ (02) 6207 0707

### **New South Wales**

For further information on forward planning contact the Office of the Public Guardian

[www.lawlink.nsw.gov.au/opg](http://www.lawlink.nsw.gov.au/opg)

☎ (02) 9265 1443

☎ 1800 451 510.

### **Queensland**

For further information on forward planning contact the Department of Justice and Attorney General

[www.justice.qld.gov.au](http://www.justice.qld.gov.au)

☎ (07) 3239 3520

## **Northern Territory**

For further information on forward planning contact the Office of Adult Guardianship

[www.nt.gov.au](http://www.nt.gov.au)

☎ (08) 8999 2400

## **South Australia**

For further information on forward planning contact the Office of the Public Advocate

[www.opa.sa.gov.au](http://www.opa.sa.gov.au)

☎ (08) 8269 7575

☎ 1800 066 969 for country callers.

## **Tasmania**

For further information on forward planning contact the Office of the Public Guardian

[www.publicguardian.tas.gov.au](http://www.publicguardian.tas.gov.au)

☎ (03) 6233 7608

## **Victoria**

For further information on forward planning contact the Office of the Public Advocate

[www.publicadvocate.vic.gov.au](http://www.publicadvocate.vic.gov.au)

☎ 1300 309 337

## **Western Australia**

For further information on forward planning contact the Department of Justice








[www.justice.wa.gov.au](http://www.justice.wa.gov.au)










☎ (08) 9219 3111







☎ 1300 306 017 for country callers.

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## Recommended resources

Name of resource and where it is available	Brief description and type of resource	Target setting
<p>Alzheimer's Australia. (2005). <i>Help sheet 1.4: Early Planning</i>.  <a href="http://www.alzheimers.org.au">www.alzheimers.org.au</a>            [&gt; Publications &amp; resources &gt; Helpsheets &amp; update sheets &gt; About dementia]</p> 	<p>Help sheet. Explains the concept of planning ahead including common legal terms. Emphasises the importance of people with dementia planning ahead as soon as possible. Discusses ways to plan ahead and lists people and organisations that can help.</p> 	
<p>Alzheimer's Australia. (2005). <i>Help sheet 8.2: About you... Early planning</i>.  <a href="http://www.alzheimers.org.au">www.alzheimers.org.au</a>            [&gt; Publications &amp; resources &gt; Helpsheets &amp; update sheets &gt; Information for people with dementia]</p> 	<p>Help sheet. Discusses planning for the future following a diagnosis of dementia. Includes information on financial and legal matters, work and healthcare issues. Specifically written for the person with dementia.</p>	
<p>Alzheimer's Australia. (2005). <i>Position paper 5. Legal planning and dementia</i>.  <a href="http://www.alzheimers.org.au">www.alzheimers.org.au</a>            [&gt; Publications &amp; resources &gt; Numbered publications]</p> 	<p>Position paper. Explains the concept of forward planning and legal issues related to dementia. Clearly explains commonly used legal terms and includes a summary of legal resources in each state and territory. Also has information on driving and dementia.</p>	

<p>Austin Health. (2007). For Australian Government Department of Health and Ageing. <i>Respecting patient choices</i>.  <a href="http://www.respectingpatientchoices.org.au">www.respectingpatientchoices.org.au</a></p> 	<p>Website. Outlines how to make an advance care plan. Includes frequently asked questions and medico-legal information specific to each state and territory.</p> 	
<p>Darzinš, P., Molloy, DW., &amp; Strang, D. (Eds.). (2000). <i>Who can decide? The six step capacity assessment process</i>. Glenside: Memory Australia Press.  ISBN: 0646403435  Check your local library or for purchase.</p> 	<p>Book. A practical and comprehensive resource that discusses the notion of decision making capacity and capacity assessments.</p>	
<p>Hampshire, A., Squires, B., Wall, S., &amp; Thompson, R. (1999). For NSW Committee on Ageing. <i>Taking charge: Making decisions in later life</i>.  <a href="http://www.maca.nsw.gov.au">www.maca.nsw.gov.au</a>  [ &gt; Publications &gt; Discussion papers]</p> 	<p>Report. A comprehensive document that compares mechanisms for competent decision-making across Australian States and Territories. Includes a comparative table, and a comprehensive glossary of terms.</p>	
<p>Ladd, K., &amp; Rand, E. (2006). <i>Living with Alzheimer's and other dementias: After the diagnosis</i>. South Yarra: Michelle Anderson Publishing.  ISBN: 085572370X  Check your local library or for purchase.</p> 	<p>Book. Discusses the needs of the person with dementia and their family and carer after a diagnosis of dementia is made. Includes information about forward planning and support services.</p>	

Symbol	Explanation
	Community
	General
	Culturally and linguistically diverse, includes translations
	Light reading
	Medium level resource
	In depth, detailed resource
<u>Underlined text</u>	Refer to glossary for definition