



Capacity in the registered supporter context

Policy for registered supporters

Summary

This policy outlines the concept of capacity in the context of an older person's ability to make and communicate their own aged care decisions and the registered supporter role under the *Aged Care Act 2024 (Cth)* (the Act).

Disclaimer

This policy was published to support the commencement of the *Aged Care Act 2024 (Cth)* (the Act). The information in this policy is applicable from 1 November 2025.

The Act and related rules take precedence over this policy, which should be read alongside them. The guidance provided in this policy about registered supporters does not constitute legal advice.

The Department of Health, Disability and Ageing will update this policy, periodically and/or as required.

This policy is one part of the [registered supporters policy library](#). Please refer to the online version of the policies in the registered supporter policy library located on the department's website to ensure you have the most recent version.

Version history

Version	Date published	Commentary on changes
1	October 2025	First version published.
2	April 2026	Review of key terms and concepts to ensure consistency across the registered supporters policy library; no policy changes made.

Contents

- Summary 1
- Version history 1
- Policy 3
 - Capacity in the registered supporter context 3
 - Role of the System Governor 3
 - Actioning a person’s actions or decisions 3
 - Complaints or disputes related to a person’s capacity 5
 - Role of other persons or entities 6
- Key concepts 6
- Legal capacity 6
 - Older people retain right to do things 7
 - Meaning of a person’s capacity to make a particular decision 7
 - Capacity specific to each decision 8
 - Presumption of capacity 8
- Registered supporters’ involvement in capacity assessments 9
- Active, appointed decision makers 10
 - Orders by state or territory courts, boards, panels or tribunals 11
- Evidence relating to decision-making ability and capacity 11
 - Opinions about a person’s decision-making ability and capacity 11
 - Standards for medical evidence 12
 - Providing evidence relating to capacity to the System Governor 13
- Complaints 15
- Audience 16
- Roles and Responsibilities 16
- Contact 17
- Definitions 17
- Related legislation 17

Policy

Capacity in the registered supporter context

Everyone has the right to make decisions about their life, including the support and services they receive from aged care. A key change under the Act is that every older person is presumed to have the ability to make their own decisions and to have those decisions respected and recognised by law.

The Act establishes a legal framework for the registration of supporters, which will help embed supported decision-making across the aged care system. The registered supporter role is one of the changes under the Act that aims to promote older peoples' rights to be supported to make their own decisions.

In understanding the role of a registered supporter and their engagement with the older person they support, it is important to understand what capacity means:

Capacity is a legal concept referring to a person's ability to make a particular decision and to have that decision recognised and respected by the law. Capacity considers that a person's decision-making ability can fluctuate and change in relation to specific circumstances or decisions. The meaning of capacity, and associated concepts, differ depending on what type of decision is being made and what legal frameworks are relevant to the decision. For example, the legal thresholds for determining a person's decision-making capacity can be different between Commonwealth, state and territory arrangements. Assessments of decision-making ability by medical professionals usually contribute to legal considerations of a person's capacity.

Decision-making ability refers to the ability of a person to make a particular decision, with the provision of relevant and appropriate support, at a time when a decision needs to be made.

These [key concepts](#) are discussed in more detail later in this policy.

Role of the System Governor

Every older person is presumed to have the ability to make their own decisions and to have those decisions recognised and respected by law. This is known as the [presumption of capacity](#) and is elaborated on later in this policy.

Actioning a person's actions or decisions

There are circumstances where the System Governor may consider a person's ability or capacity to make a particular decision. In doing so, the System Governor may come to an opinion about a person's capacity, and the legal force of their actions and decisions.

Factors that may affect the System Governor's consideration of a person's capacity to make particular decisions – and subsequently the System Governor's consideration of the legal force of those decisions – include the:

- extent of, and evidence demonstrating, a person's loss of decision-making ability
- authority someone has to make decisions on another person's behalf, if any, and

- Commonwealth, state or territory arrangements under which any appointment is made.

The circumstances where the System Governor may consider a person's ability to make a particular decision and their capacity include:

- Regarding an older person:
 - Where an older person seeks to make a decision under, or for the purposes of, the Act, and the System Governor is in receipt of information that suggests the older person does not have decision-making capacity for that decision. This extends to all decisions under, or for the purposes of, the Act. Examples include:
 - requesting the registration of a supporter or the cancellation of a supporter's registration
 - seeking assessments for Australian Government-funded aged care services
 - updating or seeking information held by the System Governor, and
 - seeking reconsideration of decisions made by the System Governor.

To confirm, if the System Governor forms an opinion that an older person does not have capacity for some or all decisions, this can be taken into account in any engagement with the System Governor; this consideration is not confined to the registration process for supporters.

- Where a person is registered, or seeking to register, as a supporter without the consent of the older person by virtue of their being an appointed decision maker and where their legal authority is activated by the older person experiencing, or having experienced, a loss of capacity.
- Regarding the capacity of a registered supporter:
 - Where information about a registered supporter's capacity has been provided to the System Governor that suggests the registered supporter may not be able to act as a registered supporter. This includes where the registered supporter is also an active, appointed decision maker and their authority for the older person is under consideration because they have questioned decision-making capacity.

Considerations and response of the System Governor, including via My Aged Care

To confirm, the System Governor would not necessarily block an older person or registered supporter from making and communicating a decision as a default response in the above circumstances; however, the System Governor will consider if the decision has legal force and can be actioned.

Information held by the System Governor relating to the capacity of a person is likely to be information that was provided to My Aged Care. As such, My Aged Care may be in receipt of information relating to the capacity of a person. Where a person's capacity to make particular decisions is in question, My Aged Care may be unable to seamlessly engage with that person.

In these circumstances, My Aged Care or the System Governor may:

- seek to involve the older person's active, appointed decision maker (if that older person has one and they are known to the System Governor)
- seek to involve the older person's registered supporter (if the older person's will and preferences regarding the particular decision(s) are known to that registered supporter)
- request information to inform the System Governor's understanding of a person's capacity, including from health practitioners or a state and territory court, board, panel or tribunal
- seek legal advice, and/or
- notify other bodies or authorities including law enforcement authorities or a state or territory court, board, panel or tribunal (for example, if the System Governor considers the disclosure is necessary to mitigate or prevent a serious threat to the safety, health or wellbeing of an older person).

Complaints or disputes related to a person's capacity

Where the older person has an active, appointed decision maker

Where the System Governor receives information about a person's capacity in relation to a complaint or dispute involving active, appointed decision makers, the System Governor will encourage the appointed decision makers to direct the dispute to the relevant state or territory court, board, panel or tribunal for consideration. This includes complaints or disputes relating to the capacity of the older person and/or appointed decision makers, regardless of whether they are registered supporters. The System Governor, responsible for registered supporters, does not have authority for appointed decision makers, including disputes about their substitute decision-making authority.

Though the System Governor cannot resolve disputes surrounding the authority of active, appointed decision maker's relating to an older person's capacity, the System Governor may notify other bodies or authorities where the System Governor considers the disclosure is:

- necessary to mitigate or prevent a serious threat to the safety, health or wellbeing of an older person
- for the purpose of, or in relation to, reporting a past threat to an older person's life, health or safety, or
- in the public interest.

If these circumstances are met, the System Governor may notify the state or territory court, board, panel or tribunal who afforded the active, appointed decision makers their authority.

Where the older person does not have a known active, appointed decision maker

Where the System Governor receives information about an older person's decision-making ability in relation to a complaint or dispute and that raises questions about the older person's capacity, and the System Governor is not aware of any active, appointed decision makers for the older person, the System Governor cannot appoint someone as the older person's appointed decision maker or grant anyone decision-making authority for the older person.

The System Governor may provide the older person and those involved in the dispute with information and resources to support them, including support to resolve the dispute. For

example, this may include information on relevant state or territory court, board, panel or tribunal processes, including urgent applications to appoint a decision maker.

Additionally, if the older person, their registered supporters and/or other people supporting the older person require further assistance accessing aged care services and supports, they would be encouraged to access other supports such as:

- contacting the [Older Persons Advocacy Network](#) (OPAN) for support from an independent advocate. OPAN provides free, independent and confidential advocacy support to older people, their families, and others supporting them.
- accessing a [care finder service](#). Care finders provide a free service to support vulnerable people who have no one else to support them when navigating aged care services.

As outlined above, the System Governor may also notify other bodies or authorities where there is a current or past threat to an older person.

Role of other persons or entities

The System Governor is one authority performing functions under the Act. There are many other people or entities who engage with older persons seeking or receiving Australian Government-funded aged care services. These include the My Aged Care contact centre, aged care assessors, aged care providers, and the Aged Care Quality and Safety Commission.

While an older person's ability to make a particular decision and their capacity may be considered by different people and entities as appropriate in each circumstance, the capacity of an older person should be presumed across the aged care system, and for each decision.

Key concepts

The meaning of capacity, and associated concepts, differ depending on what type of decision is being made and what legal frameworks are relevant to the decision. For example, the legal thresholds for determining a person's decision-making capacity can be different between Commonwealth, state and territory arrangements.

This policy aims to provide general information about concepts that are important to the System Governor's functions under the Act.

The System Governor and other persons performing functions under the Act will need to consider the circumstances specific to Commonwealth, state and territory arrangements. Likewise, appointed decision makers must consider their specific circumstances to ensure that they exercise decision-making authority within the scope of their active, legal authority.

Legal capacity

Legal capacity is about a person's decisions and actions being recognised and respected by the law. It refers to both legal standing (that is, the ability to hold rights and duties, and to be recognised as a legal person) and legal agency (that is, the ability to exercise those rights and duties and to perform acts with legal effects). For example, there are ages below which children are not considered able to have the legal capacity to enter into certain contracts, get married, or make a Will.

Adults, including all older people, are taken to have legal capacity unless they are determined to have temporarily or permanently lost their capacity to make a particular decision. This means an older person has the right to make their own decisions, and have those decisions recognised and respected by the law. Older people may also be provided with the support they require to exercise their rights and duties and to perform acts with legal effects.

Older people retain right to do things

Having a registered supporter **does not** stop an older person from being able to receive information, make decisions, or communicate directly with others including aged care providers, My Aged Care and assessors. Older people can keep requesting, receiving and communicating information and making decisions.

The registration of a supporter itself cannot be used to signal in any way that an older person does not have capacity.

Registered supporters may only act within the scope of their role and in line with their duties under the Act. Becoming a registered supporter does not grant someone decision-making authority for an older person.

Meaning of a person's capacity to make a particular decision

The Act does not define capacity. In this policy, a person's capacity is a legal concept referring to a person's ability to make a particular decision and to have those decisions recognised and respected by the law.

Under certain legal frameworks, a person is generally said to have capacity for a decision if they are able to:ⁱ

- understand the information relevant to the decision and effect of the decision
- retain that information to the extent necessary to make the decision
- consider, use or weigh that information as part of the process of making the decision, and
- communicate the decision and the person's views and needs as to the decision in some way, including by speech, gestures, written word or other means.

In determining whether a person has capacity for a decision, legal frameworks may also consider:ⁱⁱ

- a person may have capacity for some decisions and not others
- if a person does not have capacity for a decision, it may be temporary and not permanent
- it should not be assumed that a person does not have capacity for a decision on the basis of the person's appearance
- it should not be assumed that a person does not have capacity for a decision merely because the person makes a decision that is, in the opinion of others, unwise, and
- a person has capacity for a decision if it is possible for the person to make a decision in the matter with practical and appropriate support.

Decision-making support includes universal design and accessibility measures and recognition of diverse, non-conventional methods of communication. Non-conventional

methods of communication include the expression of decisions non-verbally or through observed behaviour.

Decision-making support may involve a range of persons, services, and assistive technologies and is not exclusive to, or dependent on, the involvement of a registered supporter.

There are also things that, by themselves, should **not** be considered indications that a person does not have capacity for a decision. These include that the person:ⁱⁱⁱ

- is eccentric
- makes, what is considered by others to be, unwise decisions
- does or does not express a particular political or religious opinion
- has a particular sexual orientation or expresses a particular sexual preference
- engages or has engaged in illegal or immoral conduct, or
- takes or has taken drugs, including alcohol.

Capacity specific to each decision

The capacity of each person is specific to the decision they are making.

This means that the decision-making ability of a person, and their capacity, should be considered in each circumstance.

If an active, appointed decision maker seeks to make a decision on behalf of an older person, they must be able to provide proof that their authority is active and they are acting within the scope of their authority. This may necessitate them providing proof that they have legal decision-making authority for that particular decision. Sometimes, they may also be asked to provide medical evidence that the older person does not currently have the ability to make that decision.

The [specificity of medical evidence](#) is discussed in more detail later in this policy.

Presumption of capacity

A key change under the Act is that every older person is presumed to have the ability to make their own decisions and to have those decisions respected and recognised by law. This is known as the presumption of capacity. This means that other people, for example registered supporters, workers, health professionals and carers, should assume in the first instance that an older person can make their own decisions and do things themselves.

The presumption of capacity applies to every decision to be made. This means that an older person is presumed to be able to make every new decision. If an older person is not able to make a decision on one occasion, it does not mean the older person should be excluded from decision-making on other occasions.

The Act respects the decisions made by an older person, with or without supports.

While the Act does not explicitly use the phrase 'presumption of capacity' when referring to an older person, the presumption is embedded in the Act. This includes through the new Statement of Rights and the roles and duties of a registered supporter.

For example, the Statement of Rights includes the right of an older person to exercise choice and make decisions that affect their life. The Statement also includes the right to be

supported to make those decisions if necessary, and have those decisions respected. The Act also requires registered supporters to apply their best endeavours to maintain the decision-making ability of the older person. When supporting an older person to do a thing under the Act, a registered supporter must support the older person only to the extent necessary for them to do the thing themselves.

Fluctuating ability

The Act recognises that an older person's ability to make a decision can fluctuate and seeks to maintain an older person's connection to their decision-making for as long as, and to the greatest extent, possible. An older person's experience of fluctuating ability to make decisions does not mean that the older person loses their capacity to make decisions and have those decisions respected and recognised by law. An older person experiencing fluctuating ability to make a decision should be supported to make the decision.

Registered supporters, aged care providers and workers, and people supporting an older person should recognise that an older person's ability to make a decision and communicate their will and preferences may change from day to day or over time, depending on the circumstances and decision being made.

The role of a registered supporter is to help older people to make and communicate their own aged care decisions, when the older person wants or needs help from their registered supporter. This may mean an older person might require different types or levels of support at certain times of the day, on certain days, or during certain periods in their life.

Registered supporters' involvement in capacity assessments

A registered supporter's role is to support the older person to make their own decisions. It is not the role of a registered supporter to make assessments of decision-making ability or capacity.

However, the decision-making ability and/or capacity of an older person will be relevant to the way in which a registered supporter can undertake their role, or become or remain registered as a supporter. For example:

- if an older person cannot make a decision, or communicate their decision, will, or preference to a registered supporter, that registered supporter may not be able to help the older person make or communicate their decision, will, or preferences.
- if a registered supporter believes that the person they support has a substitute decision-making arrangement that may be active, they may be involved in an assessment of the older person's capacity (for example by arranging assessments, assisting during an assessment, or receiving the outcomes of assessments).

However, unless the assessment of capacity is directly related to a thing that the registered supporter is assisting the older person to do under, or for the purposes of, the Act, the registered supporter is likely to be involved in an assessment of capacity in a role *other* than as a registered supporter. For example, they may be involved as a partner, family member, friend, or carer.

An assessment of capacity should only occur if something was observed in the older person's behaviour that makes themselves or others question their ability to make decisions. However, if a person's ability to make decisions is in question, this does not necessarily mean they do not have capacity.

If an assessment of an older person's capacity is planned, registered supporters should speak to the older person about the assessment and remind them of their decision-making rights including the right to be supported to make decisions, even if they are experiencing changes in decision-making ability. In line with the known will and preferences of the older person, the registered supporter may also engage other trusted persons in an older person's life.

Registered supporters should keep in mind their duty to act honestly, diligently and in good faith, and to act in a manner that promotes the will, preferences and personal, cultural and social wellbeing of the older person. Registered supporters must also uphold their duty to support the older person only to the extent necessary for the older person to do the thing themselves and apply their best endeavours to maintain the ability of the older person to make their own decisions.

Active, appointed decision makers

Some registered supporters also have guardianship, enduring power of attorney or similar legal authority for an older person. These people are appointed decision makers for the older person and can make decisions on their behalf under Commonwealth, state or territory arrangements. An appointed decision maker can only make decisions on the older person's behalf in line with their legal authority and if that legal authority is active.

If a person relies on their authority as an active, appointed decision maker for an older person to become registered as a supporter without the consent of the older person, they are labelled a '**supporter guardian**'.

Appointed decision makers are responsible for understanding and acting in accordance with the evidential requirements and conditions of their decision-making authority. These requirements and conditions are set out under the Commonwealth, state or territory arrangements that granted them the decision-making authority.

If an appointed decision maker's decision-making authority is not active because the older person has the ability to make their own decisions, the appointed decision maker should not make decisions on the older person's behalf. Instead, the appointed decision maker should support the older person to make and communicate their own decisions. They can do so regardless of whether they are a registered supporter, as the Act recognises the right for older people to have other people support them in making decisions. If the older person wants them to be their registered supporter, a relationship can be established with the consent of the older person.

Appointed decision makers are responsible for understanding and acting in accordance with the requirements and conditions of their decision-making authority. This means knowing and understanding any requirements and conditions of their specific decision-making authority. Appointed decision makers cannot rely on this policy as legal guidance.

Orders by state or territory courts, boards, panels or tribunals

State and territory boards, courts, panels and tribunals generally consider assessments by health professionals when making guardianship and administration orders. Where a state or territory board, court, panel or tribunal has made a formal finding that an older person does not have capacity for a decision, and subsequently made an order granting a person decision-making authority for an older person, the order itself may be taken as evidence that the court, board, or tribunal has made a finding that the older person does not have capacity. The System Governor will consider each legal document on a case-by-case basis.

Evidence relating to decision-making ability and capacity

There are circumstances where the System Governor may consider a person's ability or capacity to make a particular decision. In doing so, the System Governor may come to an opinion about a person's capacity, including the legal force of their actions and decisions. This may be the older person or registered supporter.

These circumstances are elaborated [earlier](#) in this policy, but to confirm, if the System Governor has evidence to suggest an older person or registered supporter does not have capacity for some or all decisions, this can be taken into account in any engagement with the System Governor.

This may include legal and medical evidence that is provided for the purposes of demonstrating there is an active, appointed decision maker who has requested to be registered as a supporter without the older person's consent, or medical evidence about an older person or registered supporter that is provided in isolation, likely relating to a dispute about the older person or registered supporter's decision-making ability and capacity.

The System Governor's consideration of a person's ability or capacity to make a particular decision is not confined to the registration process for supporters but extends also to actioning decisions or actions made by older people and registered supporters. The System Governor will consider whether those decisions or actions have legal force.

Factors that may affect the legal force of actions and decisions taken by a person include the extent of, and evidence demonstrating, a person's loss of decision-making ability, the authority someone has to make decisions on another person's behalf, and the Commonwealth, state or territory arrangements under which that appointment is made.

Opinions about a person's decision-making ability and capacity

While there is no restriction on who can express an opinion about an older person's capacity, ultimately this is a legal question on which people and bodies routinely seek professional opinions.

Health professionals, like general practitioners, geriatricians, psychologists, and neuropsychologists, are often asked for their professional opinions about whether people have the ability to make particular decisions, such as health care decisions. As such, the

opinion of health professionals usually contributes to legal assessments of a person's capacity.

Opinions of an older person's ability to make a particular decision or particular decisions should be documented and clearly outline the health professional's opinion. This may then be used by the System Governor in a consideration of the older person's capacity to make particular decisions.

Other professionals may also be involved in assessments of the older person's legal capacity, such as solicitors, especially in situations where legal documents like Enduring Powers of Attorney are being made.

Where there is dispute between the older person, their registered supporters, appointed decision makers and/or other people supporting the older person, the relevant state or territory civil and administrative tribunal has legal authority to make determinations about a person's capacity.

Standards for medical evidence

As outlined above, relative to the regulation of registered supporters, there are circumstances where the System Governor may, or must, consider whether a person has capacity. In forming an opinion, the System Governor may consider medical evidence.

This policy describes the standards of evidence that the System Governor expects, not those of any other regulatory authority.

A diagnosis does not necessarily indicate a loss of capacity

A diagnosis does not necessarily mean that a person no longer has the ability to make some or all decisions for themselves. This includes diagnoses of dementia, mental illness, intellectual or cognitive disability, or acquired brain injury. For example, simply because a person has been diagnosed with dementia, does not mean that they lack decision-making ability for some or all decisions.

Examples of other things that, by themselves, should not be considered indications that a person does not have capacity for a decision are provided [earlier](#) in this policy.

Under the Act, every older person is presumed to have the ability to make their own decisions. Accordingly, the System Governor will presume the capacity of a person unless the System Governor is in receipt of evidence that may directly rebut this presumption. This may be legal or medical evidence. For example, a person may provide both legal and medical evidence to demonstrate they are an active, appointed decision maker when requesting to register as a supporter without the older person's consent, or someone may provide the System Governor with medical evidence alone about the older person's decision-making ability as part of a complaint or dispute.

The following sections detail the expectations the System Governor has for medical evidence relative to the regulation of registered supporters.

Currency of medical evidence

Any medical evidence of an older person's decision-making ability provided to the System Governor must address the older person's current ability to make a particular decision or

particular decisions. Where possible, the medical evidence should have been recently obtained from a health professional. However, if the medical evidence is not recent, it may still be recognised if it continues to address the older person's ability to make a particular decision. For example, medical evidence:

- could show an assessment that the older person is experiencing a loss of ability to make a particular decision or particular decisions which is expected to be enduring and unlikely to improve, or
- which is several months old may still confirm the appointed decision maker's authority to make decisions on behalf of the older person, if the medical evidence expected that the older person's loss of decision-making ability would remain unchanged since the date the evidence was obtained. The appointed decision maker may not have needed to activate their legal instrument until this time because a decision did not need to be made on the older person's behalf.

The currency of medical evidence will differ depending on the older person's circumstances and the legal instrument. Ultimately, the currency of medical evidence is entirely dependent on context. There are no set rules about how current a piece of evidence must be for the System Governor to accept and recognise it.

Specificity of medical evidence

Any medical evidence of an older person's ability to make a particular decision provided to the System Governor should specify the particular decisions the older person does not have the ability to make, in the medical professional's opinion. If an appointed decision maker wishes to rely on this medical evidence to activate their legal authority, the particular decisions specified in the medical evidence must match the particular decisions for which the appointed decision maker has been granted decision-making authority for under their Commonwealth, state or territory arrangement.

For example, an appointed decision maker who can only exercise decision-making authority under a Commonwealth, state or territory arrangement if the older person loses the ability to make decisions for health matters must provide medical evidence that the older person does not have the ability to make particular health decisions. As a result of the appointed decision maker seeking medical evidence, a qualified medical professional may find that the older person does not have the ability to make any decisions, or they may specify that the older person does not have the ability to make health decisions.

If a Commonwealth, state or territory arrangement grants decision-making authority to a person for all decisions, the medical evidence provided to the System Governor could cover all, or some decisions. If the medical evidence provides an assessment of an older person's ability to make only particular decisions, the System Governor can only accept that evidence in relation to those particular decisions.

Providing evidence relating to capacity to the System Governor

In general, circumstances where a person may wish to provide evidence to the System Governor relating to their own, or another person's, capacity may include:

- where they, or someone else, wishes to be recognised as an active, appointed decision maker
- where a registered supporter may not be able to act as a supporter because they may not have capacity, or
- to dispute other information that the System Governor holds relating to a person's capacity.

Applying to become registered as a supporter guardian

An active, appointed decision maker can apply to be registered as a supporter without the consent of the older person they have decision-making authority for. They must, however, provide the System Governor with proof they are an active, appointed decision maker for the older person. This is likely to be legal documentation. If the appointment is activated on loss of the older person's ability to make all or some decisions, the System Governor will also seek medical evidence to support this.

A person can apply to be registered as a supporter:

- using the My Aged Care 'Apply Online' assessment tool
- using the My Aged Care digital registration form
- downloading and completing a hard copy registration form
- in person, with an aged care assessor
- in person, with an Aged Care Specialist Officer, or
- in a My Aged Care Online Account.

A person who relied on their authority as an active, appointed decision maker to become registered as a supporter is labelled a 'supporter guardian'.

Further information on the process of applying to register a supporter relationship is available on [My Aged Care](#) and in the [Registration policy](#).

Duty of registered supporters to inform of changes in circumstances

Registered supporters have a [duty](#) under the Act to notify the System Governor of any event or change in circumstances, or likely event or change in circumstances, that will or may affect their ability to:

- act as a registered supporter
- comply with their duties, or any requirements or notices given to them by the System Governor, or
- be contacted by the System Governor.

An event or change in circumstances may include that the older person has regained their ability to make particular or all decisions such that prior assessments of decision-making ability and subsequent considerations of capacity are no longer relevant.

An event or change in circumstances may also be a change, or likely change, in the registered supporter's own ability to make particular decisions such that they themselves are, or may be, unable to act as a registered supporter or an appointed decision maker.

The registered supporter must inform the System Governor as soon as reasonably practicable after the event or change of circumstances happens, or when the registered supporter first becomes aware that the event or change in circumstances is likely to happen.

A registered supporter can inform the System Governor by making a submission directly to the System Governor responsible for supporters, using the [online form](#) available on the department webpage for registered supporters.

Disputing information held by the System Governor

Any person can provide information that challenges information already considered or relied upon by the System Governor. This information can relate to the capacity of a person, such as legal documentation or medical evidence. For example, a person can provide medical and/or legal documentation affirming an older person's ability to make all or particular decisions, after the System Governor has formed an opinion about the person's capacity based on evidence submitted earlier.

If this new documentation affects the legal decision-making authority of a supporter guardian, the provision of this information could lead to the suspension and/or cancellation of their registration as a supporter by the System Governor.

If a supporter guardian had relied on earlier evidence to act dishonestly or in bad faith, this conduct may also justify the suspension and cancellation of their registration as a supporter and could be considered an offence under the Act. These offences are detailed in the Safeguards from Abuse policy.

Each case must be considered on a case-by-case basis. Where there is a dispute relating to the decision-making ability of an older person, the System Governor may refer the matter to the appropriate state and territory authority.

Information relating to an older person's ability to make a particular decision and their capacity may also be raised as part of a request for internal review of a decision. For example, if an active, appointed decision maker is registered as a supporter without the consent of an older person, that older person has a right to request an internal review of the decision. As part of making this request, they may provide evidence disputing the information that the System Governor used to make their initial registration decision.

Complaints

Any person or organisation can raise a complaint with the System Governor. This includes complaints about the System Governor's consideration of, and actions relating to, decision-making ability and capacity.

Complaints can be made by:

- Calling My Aged Care on 1800 200 422 or
- Submitting a complaint directly to the System Governor responsible for supporters.

The direct complaints pathway to the System Governor responsible for supporters is comprised of an [online form](#), accessible on the Department of Health, Disability and Ageing (the department) webpage for registered supporters, that can be completed by any person or

body wishing to make a complaint. The online form requires the person or body to detail the complaint and enables them to upload any relevant documents or attachments.

More information on complaint making, including other types of complaints such as a person's engagement or interaction with My Aged Care or aged care providers, is available in the [Complaints and Reviews of Decisions policy](#).

Audience

This policy applies to older people and their registered supporters, including registered supporters who are also active, appointed decision makers (that is, supporter guardians).

This policy is intended for all stakeholders across the aged care system – such as older people and their registered supporters and appointed decision makers, aged care providers and others who engage with My Aged Care and the broader aged care system.

Roles and Responsibilities

The **System Governor** has many functions under the Act. One of these is responsibility for receiving, assessing, and actioning any requests for the registration of supporters. If a person is purporting to act on behalf of an older person, the System Governor is responsible for seeking evidence, as required, to satisfy that the person is an active, appointed decision maker and is acting within the scope of their authority. This may include that the older person does not have capacity for some or all decisions. If the System Governor forms an opinion that an older person does not have capacity for some or all decisions, this can be taken into account in any engagement with the System Governor; this consideration is not confined to the registration process for supporters. The System Governor may also notify other bodies or authorities, for example, if the System Governor considers the disclosure is necessary to mitigate or prevent a serious threat to the safety, health or wellbeing of an older person.

Registered supporters are responsible for understanding their role and duties. **Supporter guardians** may also have additional responsibilities under the Commonwealth, state or territory legal arrangement that they have relied on to become registered as a supporter guardian.

Older people are responsible for communicating with their registered supporters and directing them to act as they wish. Older people are also able to stay connected to their decision-making, if they choose to, for as long as possible. If an older person is not satisfied with the actions of their registered supporter and consider that their registered supporter has not or cannot comply with their duties, they should raise this with the registered supporter. If they cannot agree on a pathway forward, the older person can escalate a concern, complaint, or request to cancel the supporter's registration with the System Governor.

Aged care providers and workers are responsible for upholding their obligations under the Act and have broader responsibilities relating to safeguarding the welfare of older people that they provide aged care services to, including against the actions of registered supporters and active, appointed decision makers.

Contact

For any further information on this policy, please contact:

Supported Decision-Making Section

Email: SupportedDecisionMaking@Health.gov.au

Definitions

To learn more about some of the terms used in this policy, and across the Policy Library for registered supporters, please go to the [Glossary](#).

Related legislation

[*Aged Care Act 2024 \(Cth\)*](#)

ⁱ *Powers of Attorney Act 2014 (Vic)*, s 4. Other state and territory enduring guardianship and attorney laws contain similar definitions.

ⁱⁱ *Ibid.*

ⁱⁱⁱ *Powers of Attorney Act 2006 (ACT)*, s 91. Other state and territory enduring guardianship and attorney laws may contain similar lists.