

Supported decision-making Factsheet

A clear path to care.

Supporting a person to make a decision

A person's decision making capacity must be assumed unless there is evidence to the contrary. The factors that should be taken into account when considering if a person has decision making capacity include whether or not a person can:

- > understanding any information that may be relevant to the decision, including the consequences
- > retaining such information, even for a short time
- > using information to make decisions
- > communicating the decision (in any way).

If a person is having difficulty in making their own decisions, they should be given support to make them, before being assessed as not having decision-making capacity.

You can support a person to make a decision by:

a) Giving the person the relevant information

- > Consider who would be best to have the conversation with the person about the decision (this could be a combination of a professional, the Substitute Decision-Maker (if one is appointed), a trusted relative or friend of the person).
- > Take time to explain anything that is relevant or might help the person to make the decision.
- > Don't overload the person with more information than necessary.
- > Describe any foreseeable risks and benefits.
- > If there are options, give the information about the choices in a balanced way.

b) Communication

- > Consider the best time to communicate with the person (e.g. are there times of the day when the person is more alert?).
- > Be prepared to have more than one conversation with the person about the decision that has to be made.
- > If the person has hearing difficulties ensure that appropriate aids are used.
- > Does the person require an interpreter (including sign language).
- > Use simple language - avoid jargon or complex medical terms.
- > If appropriate, use pictures and objects to communicate with the person.
- > Speak at an appropriate speed and volume.
- > Ask one question at a time and wait for a response before continuing.
- > Be aware of cultural and religious factors which might influence the person's way of thinking, communicating and behaving.

c) Location

- > If possible, choose a location where the person feels most at ease to have a discussion.
- > Choose a quiet place where interruptions are unlikely and without background noise.

For more information

SA Health
Policy and Commissioning Division
Email: policy&legislation@health.sa.gov.au
Subject line: Advance Care Directive

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Impaired Decision-Making Factsheet

A clear path to care

What is impaired decision-making capacity and how is it assessed?

The Advance Care Directives Act 2013 and the Consent to Medical Treatment and Palliative Care Act 1995 now specify when a patient is unable to consent/refuse. This is called impaired decision-making capacity. Assessing decision-making capacity is not a global assessment but decision specific and should be determined at the time consent is being obtained.

In respect of a particular decision, impaired decision-making capacity means the person is not capable of:

- > understanding any information that may be relevant to the decision, including the consequences
- > retaining such information, even for a short time
- > using information to make decisions
- > communicating the decision (in any way).

When determining if a person has decision-making capacity you may want to consider the following questions:

Does the person understand the nature and effect of the treatment at the time that the medical or dental decision is required, not hours or days before or after it is made?

Does the person know the 'nature' of the treatment? That means, do they understand broadly and in simple language:

- > What the medical or dental treatment is?
- > What the procedure involves?
- > Why it is proposed?
- > That there are other options? If choosing between options, the person must understand what each option is, what it involves, the effect of each option, and the risks and benefits of each option.
- > What it will mean if they don't have the treatment?

Does the person understand the 'effect' of the treatment? Are they aware, in simple terms, of the main benefits and risks of the treatment?

Does the person have the ability to indicate whether they want the treatment? Can they communicate any decision made, with assistance if necessary?

Has the person made the decision freely and voluntarily?

A person has a right to refuse treatment. If they have refused, consider the following:

- > Is refusal of treatment consistent with the person's views and values?
- > Is this behaviour usual for the person?
- > Has all the relevant information been given to the person in a way they can understand?

Tips on Questioning

Remember, when assessing whether a person has the capacity to make medical or dental decisions, it is important you:

- > ask open-ended question
- > do not ask leading questions
- > try to quickly identify whether a person needs support or help to make the decision or requires a Substitute Decision-Maker to make a decision for them. In some circumstances the person may need support from a neutral person such as an advocate or an interpreter.
- > ensure it is the person being assessed who answers the questions.

Other health decisions

There may be a need to assess the capacity of a person to make other health decisions, such as whether to:

- > have a non-intrusive examination by a doctor or dentist, for example, having the mouth, teeth, throat, nose, ears or eyes looked at
- > take over the counter chemist medication
- > have alternative therapies.

The person needs to understand the nature and effect of the type of examination, medication or therapy that they are deciding upon.

You can use the capacity test (checklist and questions) above, as a guide to capacity assessment for other health decisions.

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