

# Who will speak for you if you can't?

We generally expect to make our own decisions about our healthcare and living situation. But what happens if you lose the ability to make decisions – either because of an accident, sudden illness or a progressive illness like dementia. Identifying and appointing someone who will make decisions on your behalf is an important part of planning ahead.

Determining who would make decisions for you can happen either:

- by you legally appointing someone to be your substitute decision-maker for health and personal care decisions, or
- according to definitions in legislation within each State or Territory.

## Your decision-maker: persons identified in state legislation

The term used for your health decision-maker varies across the States but usually involves certain types of people (e.g. guardian, spouse, informal carer, close friend or family member). Your decision-maker must be approached to get consent for any proposed treatment if you cannot give your own consent. Information about the specific definitions for each State and Territory can be found at [www.Start2talk.org.au](http://www.Start2talk.org.au).

## Is this the person you would have chosen for yourself?

In many cases, the person identified as your decision maker is the same person that you would have chosen yourself. But this is not always the case.

## Legally appointing your decision-maker

If you have any concerns that the person who would be asked to make future decisions on your behalf may not be a person you would have chosen then you can do something about it. You can act now and legally appoint your preferred person who knows you and your wishes well. This will give you peace of mind knowing that any decisions made will be by someone you trust.



## Guidelines for choosing your decision-maker

This is a very important role and something you should consider carefully. It is important that the person or people you choose:

- would be willing to speak on your behalf
- would be able to act on your wishes and separate their own feelings from yours
- lives close by or could travel to be at your side if needed
- knows you well and understands what's important to you
- is someone you trust with your life
- will talk with you now about sensitive issues and will listen to your wishes
- will likely be available long into the future
- would be able to handle conflicting opinions between family members, friends, and medical personnel
- can be a strong advocate for you if a doctor or an institution doesn't do what you want initially.

## How to appoint your substitute decision maker

While the general principles underlying legal appointment of a substitute decision-maker for health and personal care are similar across Australia, the terms used, regulations and witnesses required vary among the States and Territories. It is vital that you use the appropriate forms for where you live. See [Start2talk.org.au](http://Start2talk.org.au) or [advancecareplanning.org.au](http://advancecareplanning.org.au) for more detailed information from each State and Territory.

A person appointed by you as your substitute decision-maker for health and personal care only takes on this role if you lose capacity to make your own decisions. They do not have the power to manage your financial affairs – unless they have also been appointed separately to take that role.

You can appoint different people for different areas of decision-making. You can appoint more than one person and give them the power to act alone or together in making decisions.

## For more information

**Information about advance care planning, with links to state-specific information, can be found at:**

- [www.start2talk.org.au](http://www.start2talk.org.au)
- [www.advancecareplanning.org.au](http://www.advancecareplanning.org.au)

Assistance may also be available from the advance care planning area of your state health department, a community health worker, your GP, solicitor or a community legal centre.

Alternatively call the National Dementia Helpline on 1800 100 500

### Local contact:

#### Other brochures in the series:

- Supporting a person to make their own decisions
- Can they decide themselves? Assessing capacity to make decisions
- When you need to make a decision for someone - Information for substitute decision makers

#### Acknowledgements

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## Supporting and empowering your substitute decision-maker

You can do a lot to help your substitute decision-maker perform their role confidently and effectively:

- make sure they are happy to do it.
- ensure they understand what the role entails.
- discuss your views about your future care.
- make sure they have a reasonable understanding of your health conditions, and health choices that may need to be made in the future.
- ensure they are clear on the issues they need to address when advocating on your behalf.
- make sure they have copies of any relevant documents related to your wishes, such as advance care plans.
- ensure they know how to step in as a substitute decision-maker.

It is helpful if you explain to others who may expect to have a say in your care what you have done, and why. Ask these people to support the person you have appointed.