

What is Capacity?

It's all about making decisions!

Having capacity means you can understand information important for making a decision and can appreciate the reasonable consequences of making or not making that decision.

When making a decision, can an adult:

- Take in key information
- Think about the pros and cons, and
- make a decision, based on his/her values.

For additional information visit the Office of the Public Guardian and Trustee

Website:

<http://www.humanservices.alberta.ca/guardianship-trusteeship.html>

On the Legal Acts:

<http://www.humanservices.alberta.ca/guardianship-trusteeship/legislation.html>

To Access Forms:

<http://www.humanservices.alberta.ca/guardianship-trusteeship/personal-matters-forms.html>

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Capacity Assessment

Understanding Decision-making Capacity



Facts About Capacity

- All adults have capacity to make their own decisions until demonstrated otherwise.
- Capacity assessment is a process used to determine whether an adult is still able to make his/her own decisions.
- There must be proof that the capacity assessment is needed and the adult needs someone else to help make decisions.
- Making a risky decision, or a decision that others do not agree with, does not necessarily mean that the adult lacks capacity.
- You can have capacity to make certain types of decisions but not others. For example, an adult may have capacity to choose where to live, but not have the capacity to manage his/her money.
- If an adult does not have capacity, steps can be taken to help them make decisions (see Legal Acts)

How is capacity assessed?

The assessment usually includes:

- Getting information on the risk caused by the adult's decisions from the adult/caregivers
- Working with the adult to find out his/her strengths and limitations.
- Problem-solving by the healthcare team to try and resolve the issue.
- If the issue is not resolved, a staff member will formally interview the adult to determine his/her capacity in a specific area.
- The formal interview looks at whether the adult understands the facts about a decision **and** what might happen if they make one choice over another.

When should capacity be assessed?

Capacity should be assessed when:

- An adult makes choices or behaves differently than they usually do, which puts themselves, or others, at risk.
- This change seems to be a result of impaired decision-making
- Often there is conflict about the decision. For example, an adult does not want to give up driving when they should because of safety concerns.

Areas of Decision-making

The decisions an adult has to make can be assessed in any of the following areas:

- **Health Care**
- **Accommodation**
- **Finances**
- **Education/Training**
- **Employment**
- **Legal Affairs**
- **Social Activities**
- **Choice of associates**

Capacity assessments are only done in the area of concern; where the adult must make a decision. For example, an adult is refusing much-needed surgery and appears to lack capacity, the capacity assessment will only be done for the area of health care.

	Decisions made by you in advance	Decisions made for you by the Court
Personal	Personal Directive	Co-decision-making/ Guardianship
Financial	Enduring Power of Attorney	Trusteeship

Legal Acts About Capacity

Personal Directive Act

- Allows an adult to name a trusted person (an agent) to make decisions on his/her behalf. This document is called a Personal Directive.
- Addresses personal decisions, including medical care, but not decisions concerning finances or property
- Set up by an adult when he/she has capacity and activated when the adult loses capacity.

Powers of Attorney Act

- Allows an adult to name a person to assist with finances and property.
- Set up by an adult when he/she has capacity and activated when the adult loses capacity (**Enduring Power of Attorney**).

Adult Guardianship and Trusteeship Act

Co-decision-making

- Capacity is significantly impaired, but the adult can make personal decisions (not financial) with guidance and support.
- The adult will be assisted by the co-decision-maker to make decisions together.

Guardianship

- Legal process which gives an adult (called a guardian) the legal right to make or help make decisions about non-financial matters on behalf of another adult who lacks capacity.
- Deals with personal decisions (i.e. healthcare, accommodation), but not finances

Trusteeship

- Legal Process which gives an adult (called a trustee) the legal right to make or help make decisions about financial matters on behalf of another adult who lacks capacity.
- Financial matters include personal property, realty, money, investments, and income.