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## Dementia - early planning

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### Summary

- Early planning may allow a person with dementia to be involved in decisions about their medical treatment or financial future.
  - There are legal arrangements that allow another person to look after a person's finances or medical treatment.
  - A will is only legal if the person making it understands its implications.
  - In most states and territories, there is a Guardianship Board or Tribunal that can appoint a guardian or administrator for a person who is no longer able to make decisions for themselves.
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Dementia affects people differently. One person may begin to lose the ability to handle money matters or make competent business decisions at an early stage, while another person may keep these skills much longer. Eventually, the abilities of the person with dementia will decline and they will be unable to make their own decisions about financial and legal matters.

### Planning ahead for dementia care

Planning ahead can make it easier for families and carers to manage the affairs of the person with dementia. It may also mean that the person with dementia can participate in the planning and make sure that their wishes are carried out in the way that they would like.

Where possible, get advice while the person with dementia can still participate in the discussion and is legally competent to sign any documents.

### Decisions about medical treatment for dementia

If a person with dementia loses the legal capacity to make decisions about their medical treatment, someone else needs to make those decisions for them. In most states and territories, a person can appoint a person they trust to make these decisions. If a person has not planned ahead, the law in every state and territory allows a particular court to appoint someone to make these decisions.

Advance care planning can help the people close to you know what is important to you about the level of healthcare and quality of life you want. There are two ways you can plan ahead for decisions about medical treatment:

- you can appoint a medical treatment decision maker– this allows a person with dementia to appoint another person to act on their behalf to make decisions about medical treatment.
- you can create an advance care directive – a document that expresses a person's wishes about medical treatment. This may include specific instructions about the type of care you would want in certain circumstances.

The documents might have different names in some states and territories, but the function of the document is much the same.

**There is more information on recording wishes for future care and related matters in the section on advance care plans.**

### Planning ahead for medical treatment

Things you can do to plan ahead include:

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- making sure the person with dementia has the opportunity to appoint a medical treatment decision maker or create an advance care directive
- having a copy of any advance care planning document and knowing where they are kept.

### **Getting help with decisions about medical treatment**

People or organisations that can help you with making decisions about medical treatment include:

- a solicitor
- the Law Institute, Law Society or Legal Aid
- the Public Advocate or Public Guardian
- Alzheimer's Australia.

### **Money matters and dementia**

If a bank account is in joint names, the partner of the person with dementia can continue to operate it without any change in arrangements. Problems can occur if the person with dementia uses the account inappropriately or has accounts, credit cards or other arrangements in their name only.

To avoid these difficulties, the person with dementia can give authority, while they are legally competent, for another person to operate the account. It is important to remember that this authority will become invalid when the person is no longer legally competent. If they are unwilling to agree to a change of arrangement, it may be helpful to consult the bank manager about a possible solution.

### **Planning ahead for money matters**

Things you can do to plan ahead include:

- having joint financial accounts
- discussing financial affairs with a financial adviser
- arranging how and when the person with dementia will access their finances.

### **Getting help with money matters**

People or organisations that can help you plan for money matters include:

- a bank manager
- an accredited financial adviser
- a solicitor
- Alzheimer's Australia.

### **Enduring power of attorney and dementia**

In most states and territories, a person can sign a document called an enduring power of attorney if they are legally competent at the time of signing. An enduring power of attorney is a legal arrangement that enables a nominated person to look after another person's financial affairs if they become unable to do so themselves. Many people have enduring powers of attorney, regardless of any illness or diagnosis.

An ordinary or general power of attorney is also available, but is only valid while the person is legally competent. An enduring power of attorney is different because it remains valid even if the person becomes unable to manage their own affairs. An enduring power of attorney continues until the person's death, unless revoked. This is why enduring powers of attorney are more useful for people with dementia.

One of the benefits of having an enduring power of attorney is that it allows the person with dementia to choose someone to act on their behalf in legal and financial matters, when they are no longer able to do so themselves.

### **Planning ahead for an enduring power of attorney**

Things you can do to plan ahead include:

- making sure that the person with dementia has the opportunity to consider making an enduring power of attorney (if they don't already have one) as soon as possible after diagnosis and while they still have the capacity to do so

- making sure that family and carers also have their own enduring powers of attorney so that their affairs are well managed if they also become incapable
- having a copy of the enduring power of attorney and knowing where it is kept.

### **Getting help with an enduring power of attorney**

People or organisations that can help you with an enduring power of attorney include:

- a solicitor
- the Law Institute, Law Society or Legal Aid
- the Public Advocate or Public Guardian
- Alzheimer's Australia.

### **Wills and dementia**

A will gives instructions as to how the estate of a deceased person should be distributed. A will is only legal if the person making it understands its implications. It is essential that, if the person with dementia makes or updates their will, they do so while they are still competent to sign.

### **Planning ahead for a will**

Things you can do to plan ahead include:

- having an up-to-date will
- knowing who the executor is
- knowing where the will is kept.

### **Getting help with a will**

People or organisations that can help you with wills include:

- a solicitor
- the Law Institute, Law Society or Legal Aid
- Alzheimer's Australia.

### **Guardianship and administration and dementia**

In most states and territories, there is a Guardianship Board or Tribunal that can appoint a guardian or administrator for a person who is no longer able to make decisions for themselves. If there are problems dealing with the affairs of the person with dementia, or if there is conflict in the family about the person's best interests, an application for the appointment of a guardian or an administrator may need to be considered.

Alzheimer's Australia can be contacted to discuss whether an application to appoint a guardian or administrator may be needed and how to go about it.

### **Where to get help**

- Your doctor
- Your solicitor
- Community Legal Centres
- The Law Institute or Society or Legal Aid in your state
- The Public Advocate or Public Guardian in your state
- National Dementia Helpline – Alzheimer's Australia Tel. 1800 100 500
- Centrelink – People with disability Tel. 132 717

**This page has been produced in consultation with and approved by:**

Dementia Australia

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