

Advance Health Directives (AHDs)





What is a Advance Health Directive? (AHD)



The explanatory guide contains twenty seven pages of instructions for completing the document

Form 10

Powers of Attorney Act 1998 (section 161)
Version 1: approved for use from 30 November 2020.

Advance health directive explanatory guide (Queensland)

Your guide to completing an
Advance health directive (Queensland)

Read this guide before you begin filling in [Form 4—Advance health directive](#). It provides detailed explanatory notes about the information required to complete the form. It also has a step-by-step guide to each section of your advance health directive form.

Forms and explanatory guides are available at www.qld.gov.au/guardianship-planahead



Who is involved in the AHD ?

1. A doctor:

Who must complete:

Section 5: Doctor Certificate (before the Principal brings the AHD to the witness)

2. The Principal: (Your client)

Who must complete:

Section 1: Your details

Section 2: Your health conditions and concerns

Section 3: Your views, wishes and preferences

Section 4: Your directions

Section 6: Appointing an Attorney(s) for health matters

Section 7: Declarations and signatures

Section 8: Attorney(s) acceptance.



Who is involved in the AHD ? cont'd

3. The witness, JP(Qual) Cdec:

Who must complete:

Witness' certificate.

The witness must not be:

An Attorney for the Principal, or

A relation of the Principal, or a relation of the Principal's Attorney (if any), or

A beneficiary under the Principal's Will, or

A current paid carer or health-care provider for the Principal.

The doctor and the witness are not required to sign the AHD on the same day. In some cases there may be some time between the two events.



Who is involved in the AHD ? cont'd

4. The Attorney:

Who must complete:

Section 8 Attorney(s) acceptance (This section is completed only if an Attorney was appointed in *Section 6: Appointing an Attorney for health matters.*)

Must be aged 18 years or over.

Must not be:

A current paid carer or health-care provider for the Principal.



Who is involved in the AHD ? cont'd

Similar to an EPA, the Attorney(s), if to be appointed, do not need to be present when the Principal executes the AHD.

The Attorney(s) acceptance must not pre-date the granting of the Power nominated in the AHD.

The Attorney(s) they should sign the Attorney's acceptance within a reasonable time after the AHD is executed by the principal.



Revoking an AHD

The Principal should review their AHD regularly (2yrs is recommended) or when state of health changes.

An AHD can be revoked at any time, while the Principal retains decision-making capacity.

Revoking an AHD must be done in writing, but no specific form is required.

The Principal should destroy the original AHD, and take reasonable steps to notify all parties concerned before executing a new AHD.



Queensland Capacity Assessment Guidelines 2020

Are you concerned about another adult's
capacity to make decisions?
Are you thinking about seeking a capacity assessment?
Are you having your own capacity assessed?

A guide to understanding capacity,
capacity assessment and the legal tests of capacity
under Queensland's guardianship legislation.





Queensland Capacity Assessment Guidelines 2020 *

Section 1: Introduction

Section 2 : Capacity

Section 3: Capacity assessment principles

Section 4: The general test of capacity

Section 5: The capacity assessment checklist

Section 6: Assessing capacity to make an enduring document

APPENDIX A: Further assistance

APPENDIX B: Next steps if capacity is in doubt

APPENDIX C: Types of substitute decision-making arrangements



* Attorney-General and Minister for Justice





Section 2 : Capacity *

Capacity is a legal term referring to the ability to exercise the decision-making process.

When an adult has capacity to make a certain decisions they are able to:

- understand and retain (even for a short while) the information relating to the decision
- understand the main choices available
- understand and weigh up the consequences of the choices
- communicate the decision
- make a decision freely and voluntarily
- [...]





Section 2 : Capacity

Under the general test for capacity under Queensland's guardianship legislation, an adult must be capable of:

- (a) understanding the nature and effect of decisions about the matter
- (b) freely and voluntarily making decisions about the matter
- (c) communicating the decision in some way *



* Attorney-General and Minister for Justice






SECTION 3: Capacity assessment principles

This section describes the **five principles** to be applied in making an assessment of an adult's capacity.



Practical tip

You can print this page to use as a guide 



Principle 1

Always presume an adult has capacity



Principle 2

Capacity is decision-specific and time-specific



Principle 3

Provide the adult with the support and information they need to make and communicate decisions



Principle 4

Assess the adult's decision-making ability rather than the decision they make



Principle 5

Respect the adult's dignity and privacy



Assessing capacity

It is important to develop a rapport with the client (principal)
Avoid making assumptions about:

- Clothing
- Body shape
- Personal freshness
- Ethnicity
- Gender

Equally importantly, the witness needs to practice “*Active listening skills*” to ensure the principal “*Understands the nature and effect of their decisions*” and can communicate those choices. (see previous slide)



Assessing capacity

The interview technique has to be non-judgmental and demanding:
Avoid the overuse of “why” (which is a challenging and commanding word.)

“Why do you want an AHD”?

Instead open the conversation with:

“Can you tell me about your choices”?

“Can you expand on that”?

“Tell me your understanding of the document”?

It is also essential that the interview process is flexible and not mechanical or structured.



Witnessing the document

At the commencement:

Confirm the person (principal) is over 18 and has decision-making and physical capacity to sign.

If they are not physically capable of signing, do they have an eligible signer?

If they do not understand or read English, is there an interpreter present? (A Form 7 is needed.)



Form 7

Powers of Attorney Act 1998 (section 161)
Version 2: approved for use from 30 November 2020.

Interpreter's/translator's statement

This form should be used by an interpreter or translator who interprets or translates an
Enduring power of attorney (Form 2 or 3) or Advance health directive (Form 4).

If an interpreter is present when this document is witnessed, they complete this section.

Name of interpreter: _____

Address of interpreter: _____

NAATI number (if applicable): _____

I read out and interpreted this document to the principal in the following language: _____

I provided a true and correct interpretation of this document to the principal.

(Tick here to confirm)

Interpreter's signature: _____

Date: _____

If an interpreter/translator assisted in the preparation of this document, they complete this section.

Name of interpreter/translator: _____

Address of interpreter/translator: _____

NAATI number (if applicable): _____

I interpreted/translated this document to the principal in the following language: _____

(Tick one or both boxes)

I provided a true and correct interpretation of this document to the principal.

I provided a true and correct written translation of this document to the principal.

Interpreter's/translator's signature: _____

Date: _____

Forms and explanatory guides are available at www.qld.gov.au/guardianship-planahead

INTERPRETER'S/TRANSLATOR'S STATEMENT | Version 2: approved for use from 30 November 2020.





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Certifying True Copies of EPAs and AHDs

Section 45 of the *Powers of Attorney Act 1998*:

provides that a person may prove the existence of an EPA or AHD by producing a copy of the original document, as long as it is correctly certified.

This is to certify that this page document is a true and complete copy of the originalpage EPA/AHD

Date

Signed

Name

Qualification

Stamp available

