

An introduction to capacity

Understand what it means to be capable, and why it's legally important

We take it for granted that we can make our own decisions about a range of issues that affect our lives, large and small. For more complex decisions, we may seek advice from others. But we decide whether we follow that advice or not.

The law presumes adults have the 'capacity' to make their own decisions, until proven otherwise. But capacity isn't always straightforward. Capacity is situation and decision specific.

For example, a person may have capacity to know what they want to do with their money - like fix the plumbing or take a holiday – but may not have capacity to handle their investments. Or they may have capacity for decisions regarding their health or lifestyle. People may have greater capacity in their own home when in familiar surroundings than in a strange environment.

'Capacity' means that when you make a decision, you have the ability to:

- Understand the facts involved
- Understand the main choices
- Weigh up the consequences of your choices
- Understand how the consequences affect you
- Communicate your decision

You must have the capacity to make decisions about:

- Making a will
- Buying or selling property
- Taking out a loan
- Investing money
- Making a power of attorney
- Entering a contract

If you don't have capacity to make these types of decisions, they will not be legally binding.

Which is why it's so important that everyone at any age, especially older people, ensure that their financial and legal affairs are always in order and up to date.

For more information on capacity and making decisions, visit the [Legal Aid NSW](#) page.