

Decision-making

Legal rights

By law, everyone is presumed to be able to make their own decisions, unless it is proven otherwise.

If a person has an intellectual disability, they should be informed of their rights and responsibilities and allowed to make choices.

The United Nations Convention on the Rights of Persons with Disabilities

Under the Convention parties must ensure that people with disabilities:

- have the right to recognition before the law
- enjoy legal capacity on an equal basis to others
- have access to support to exercise legal capacity
- have safeguards provided to prevent abuse
- have equal rights to own property, have control over their finances and equal access to financial credit

The person-centred approach

The person-centred approach involves working with a person so they can be involved in decision-making.

A person-centred approach is often used for planning and setting goals.

Key to the person-centred approach is the belief that the individual can be a participant in making choices that affect them.

Using supported decision-making strategies is essential to ensure person-centred approaches are effective and meaningful.

Decision-making strategies

Approaches to supporting decision-making will vary according to the individual and the nature of the decision. Each situation should be treated as different.

1. Identify all the information to be considered and understood, including all possible consequences of the decision.
2. Provide information in a form appropriate to the person's disability and cultural background (for example, use pictures and plain language).
3. Identify and describe the different options. Don't make it harder by adding unnecessary information or choices that may not be appropriate for that person.
4. Present the information in stages that follow logically. Put each stage to the person and assess whether he or she understands each stage before adding more information.
5. Allow the person plenty of time to consider and respond to each piece of information.
6. Encourage questions and discussion.
7. Things are often better explained by using pictures, examples and, better still, personal experience.
8. Be creative. For example, the best way to explain going to hospital may be to visit or talk to another patient. To explain work options, a trial period at the workplace may be a good idea.
9. Be aware of non-verbal messages you may be sending.

10. Be careful not to ask questions in such a way that suggests an answer. For example, 'You're happier working here, aren't you?'
11. To check whether the person has understood, go back over the information, ask the question in another way or have the person explain their decision to you. Be sure to reassure the person that you are checking this so that you are clear about their wishes and not because their previous answer was wrong.

Circles of Support

One approach to supporting decision-making is to form a group of people committed to ensuring that the disabled person has support.

Circles of Support assist the individual and their family, bring a range of skills and varying perspectives.

Circles of Support also assist by discussing options, identifying consequences and providing support on decisions that need to be made. In some instances, a person from the circle may act as an advocate for the person.

Guardianship

Parental guardianship for young people automatically ends at 18.

This does not mean that families cannot be involved in decision-making, however, they no longer have authority to make decisions on behalf of the young person.

For Inland Revenue Department purposes, parents only have authority to act for their children until they are 16.

Family Court processes

The Protection of Personal and Property Rights Act 1988 (PPPR Act) allows the Family Court to make decisions about an issue or to appoint a person to act on behalf of another.

Under the PPPR Act the Family Court can make personal orders and appoint welfare guardians, property managers or enduring powers of attorney.

A comprehensive guide, The Protection of Personal and Property Rights Act 1998, is available from www.justice.govt.nz/family. Contact your lawyer or local Community Law Centre for more information.

Appointed person

Anyone can request another person to act on their behalf on any particular matter and with any particular agency, such as Work and Income and IRD.

An appointed person can view information that would otherwise be private and assist with communication. This is a useful tool for supporting decision-making.

An appointed person does not have powers to act or make decisions against the wish or without the knowledge of the person they are acting for.

Making a Will

People with an intellectual disability can be supported to make a Will. It is important that plain language is used. Making a Will is a complex matter, but it does not require complex wording.

You may like to use a psychologist or the person's doctor as a witness. If the Will is challenged they could then testify that the Will maker knew and approved of the contents.

Resources and contacts

The IHC Library has information on person-centred approaches and Circles of Support. Call **0800 442 442** or go to www.ihc.org.nz

Standards Plus promotes and holds training on person-centred approaches and developing Circles of Support. Email StandardsPlus@imaginebetter.co.nz or go to www.imaginebetter.co.nz

The IHC Advocacy team can assist with questions on appointed persons and guardianship. Call **0800 442 442** or email advocacy@ihc.org.nz