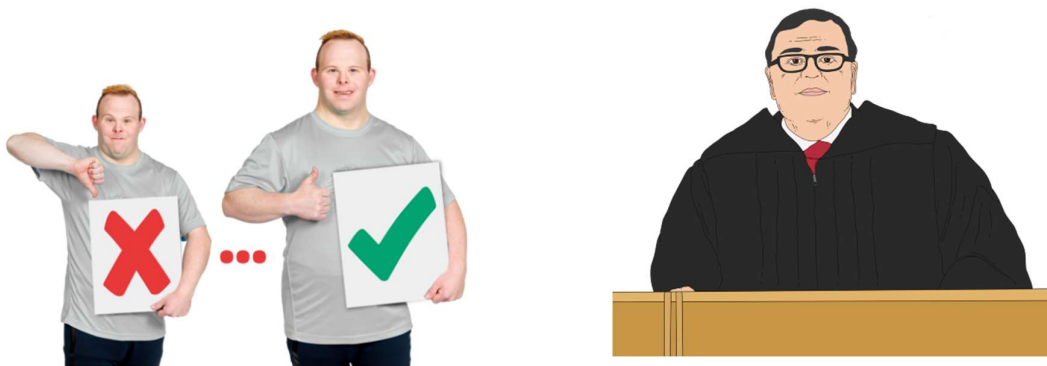


He arotake i te ture mō ngā huarahi whakatau a ngā pakeke

Review of adult decision-making capacity law



**Key topic 4:
Practical improvements and court processes**

Published: April 2024

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What is this review?



Te Aka Matua o te Ture – Law Commission is an organisation that:



- does **reviews** of the law
- uses what it finds out in the reviews to tell the Government how to make the law better.



A **review** is when we:

- look carefully at a part of the law
- talk to people who know a lot of things to do with that part of the law
- ask people what they think
- write a report about what we have found out.





In this Easy Read document when we say **we / our** this means the **Law Commission**.



Some people find it hard to make decisions about their own lives.



In this document we will call people who find it hard to make decisions about their own lives **people with affected decision making**.



In this review we are looking at what the law should do when people have affected decision making.



As part of this review the Law Commission has written a document called the **Second Issues Paper**.



The **Second Issues Paper**:

- explains problems with the law we have now
- asks people to tell us how the law could be made better.

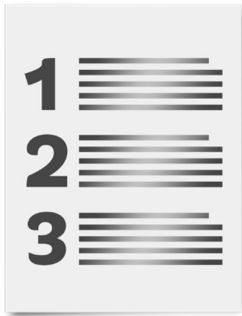
You can find the Second Issues Paper on our website at:

huarahi-whakatau.lawcom.govt.nz

The Second Issues Paper is not in Easy Read.



We have also written 4 documents called **key topic documents**.



These **key topic documents**:

- talk about some of the most important things in the Second Issues Paper
- ask some questions so you can tell us what you think.

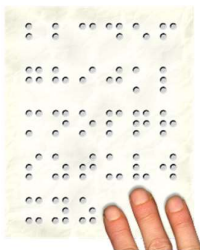


This is the fourth of the key topic documents.



The key topic documents are in:

- Easy Read
- other alternate formats.





You can find the other key topic documents on our website at:

huarahi-whakatau.lawcom.govt.nz



There is an Easy Read document with more information about:

- the review
- the key topics
- what we will do with your information if you tell us what you think.



The document is called:

Key topics information sheet

You can find it on our website at:

huarahi-whakatau.lawcom.govt.nz/

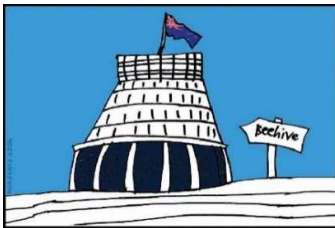


You should read the **Key topics information sheet** first.

How to tell us what you think



We want to hear what you think.



We will use what you tell us in our report to the Government about what the law should be.



Telling us what you think is called **making a submission**.



We have some questions that we would like you to think about when you make your submission.



You can find these questions in:

- this document
- the other key topics documents.



When you make your submission you can answer:

- all the questions
- just the questions you want to.



You can make a submission:

- on your own
- as part of a group.



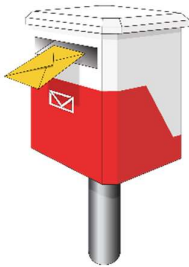
You need to get your submission to us by:

5 pm Friday 21 June 2024.



You can make a submission by emailing us at:

huarahi.whakatau@lawcom.govt.nz



You can also **post** your submission to:

Review of Adult Decision Making Capacity Law

Law Commission

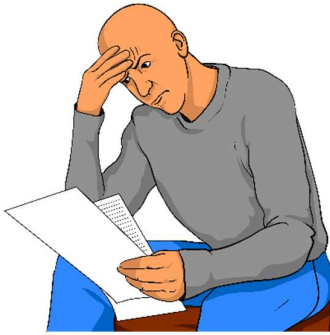
PO Box 2590

Wellington 6140



If you cannot make a submission in these ways please get in touch with us.

If you need support



Some people might find it makes them sad to:

- think about the things in the review
- make a submission.



You can ask someone to support you to make a submission.



If you are upset you can also contact:

1737: Need to Talk



At 1737: Need to Talk you can talk to a counsellor by:

- calling: **1737**
- texting: **1737**



1737: Need to Talk is open all day / night.



If the 1737 number does not work from your phone you can call this number:

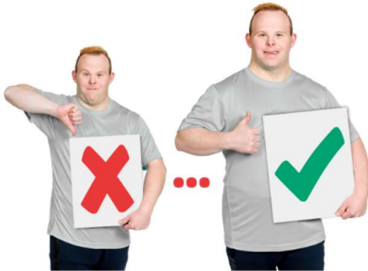
0800 1737 1737



You can find out more about 1737: Need to Talk on this **website**:

www.1737.org.nz

What are practical improvements?



Practical improvements are things that can be done to make things better.

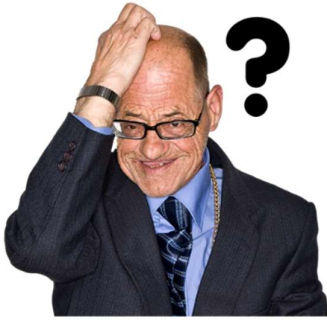


Affected decision making can be caused by many things such as:



- brain injuries
- **dementia**
- learning disabilities
- experiences of mental distress
- other conditions or disabilities that affect how people make decisions.





Dementia is a health condition where people can find it hard to:

- remember things
- understand things.



People have told us about lots of things that can be hard when:

- someone has affected decision making

and

- a **decision making arrangement** might be needed.





Decision making arrangements are legal ways of deciding how decisions are made when someone has affected decision making.

Examples of decision making arrangements are:

- **Enduring Powers of Attorney**
- **court-appointed representatives.**

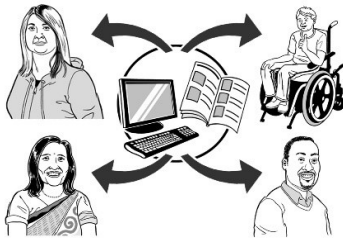


An **Enduring Power of Attorney** is when a person chooses someone to make decisions for them if they have affected decision making in the future.

Enduring Powers of Attorney are also called **EPOAs**.

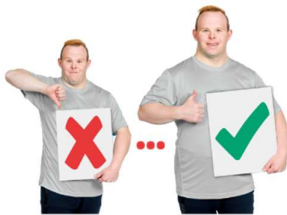


A **court-appointed representative** is someone the court says can make decisions for someone else.



We are looking mostly at issues in 3 groups:

- access to information / **guidance**
- **making complaints**
- other ways to make things work better.



Guidance is when someone supports you to decide what to do.



Making a complaint is when you tell someone that:

- you are unhappy about something
- you want something to be done about that thing to make things better.



We will talk more about all of these groups of issues in this document.

Access to information and guidance



Good information and guidance can be useful for:

- adults who have affected decision making
- people who support them.



Examples of information and guidance are:



- information for adults with affected decision making about their rights
- information about the different kinds of decision making arrangements
- guidance about the law / courts.



Another example of information and guidance is guidance for people who make decisions about:



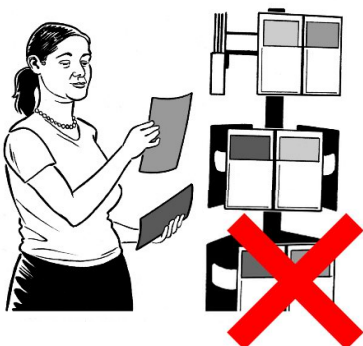
- how to do things
- how to give good support on decision making.



In our review people told us that information and guidance need to be made better.

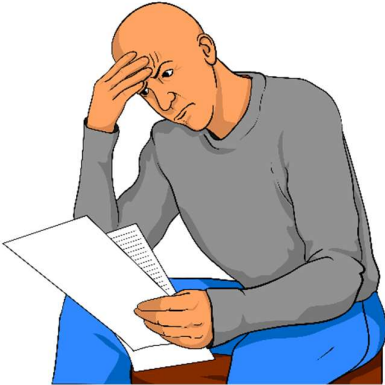


Some people do not know about ways of setting up decision making arrangements.

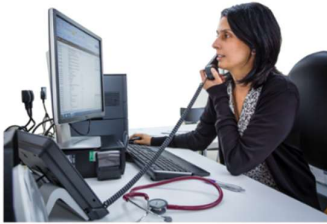


Some people think there is not enough information on how to set up decision making arrangements.

The information and guidance we have can be:



- hard to understand
- not accessible.



People who work with adults with affected decision making do not always feel they know how to give them good support.



Question 4.1

What information and guidance would be useful?

Making complaints



Sometimes decision making arrangements do not go how they should.



People have told us there is not always an easy way to do something about it.



This might be if a person does not think a representative or attorney is doing their job well.



It also might be if friends / family members do not agree on the best way to support the person with affected decision making.



The main way to deal with this now is to go to court.



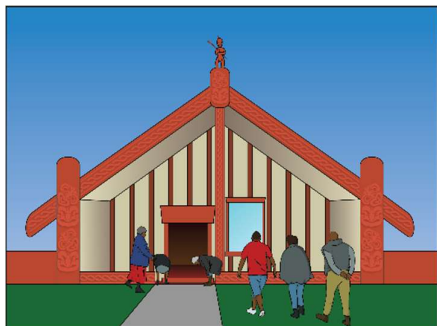
Going to court can:

- cost a lot of money
- be stressful
- take a long time.



People also told us that:

- it is not always clear what things they can do to make things better
- problems that are not serious enough to go to court are not always dealt with.



People also told us that they can find it hard to have their problems heard if they do not:

- have the money to go to court
- know how to go to court.

Some other ways to deal with complaints could be:

- having an organisation that deals with complaints
- having ways of dealing with complaints outside of court like:
 - **mediation**
 - ways of doing things that fit **tikanga**.



Mediation is when people have support to:

- talk through a problem
- come to an agreement themselves.



Tikanga is the right way of doing things in te ao Māori / the Māori world.



Another way to deal with complaints is making how courts work:

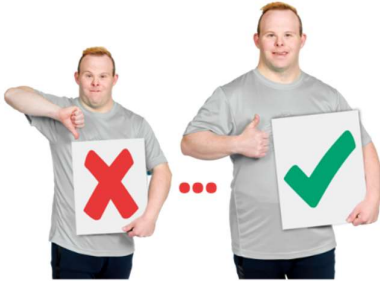
- more accessible
- easier for people to use.



Question 4.2

What ways should there be for problems to be raised if things are not going well?

Other ways to make things better



We are thinking about other ways to make things work better.



One idea is to have services for setting up decision-making arrangements that are:

- free
- do not cost much.



Another idea is to have a group of:

- supporters
- representatives
- lawyers



This group would be for people who do not have other people like family members to be supporters / representatives.



We are also thinking who should be in charge of making things better.



In some countries there is 1 **public body** that does things like:

- giving information
- dealing with complaints
- checking how decision-making arrangements are working.



A **public body** is like an organisation which is paid for by the government.



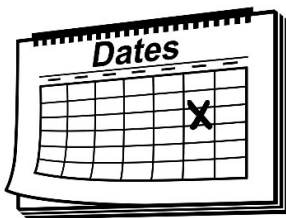
Having 1 public body in Aotearoa
New Zealand might make:

- things work better
- it easier for people to know
where to go to do things like:
 - get information
 - make a complaint.

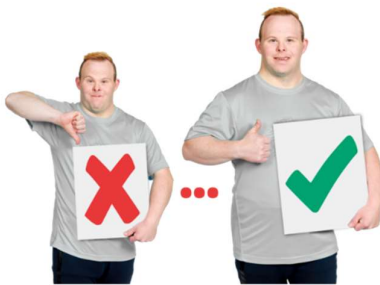


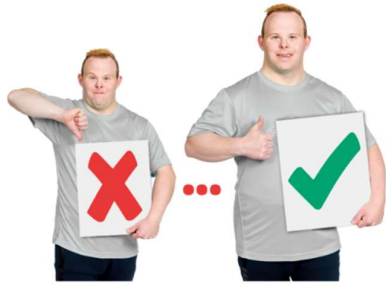
Starting new public bodies also:

- costs money
- can take time.



It might be better to work on making
the organisations / way of doing
things we have now better.





Question 4.3

How do you think we can make things work better?

Making how courts work easier for people

People find going to court can be very hard.



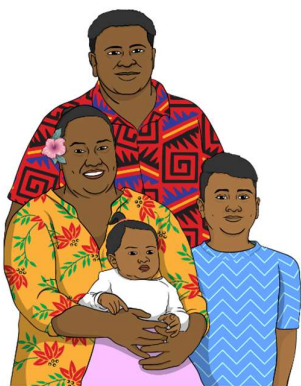
Court hearings can:

- cost a lot of money
- take a lot of time
- be stressful
- cause problems with **relationships.**



Court hearings are when a court:

- listens to what people have to say
- decides something.



Relationships are links you have with people like:

- spouse or partner
- whānau / family members
- friends.



The way courts work is not accessible to everyone.

Adults with affected decision making are sometimes not given enough support to:

- understand what is happening in court
- be part of what is happening in court.





1 idea for making courts work better is to have better support for people with affected decision making to be part of court hearings.



This could be by:

- having hearings in different places
- making it easier to get a lawyer who understands affected decision making well
- having **navigators**
- making sure the way the courts work better fits with the **culture** of the person with affected decision making.



Navigators support people to find their way around how courts work.



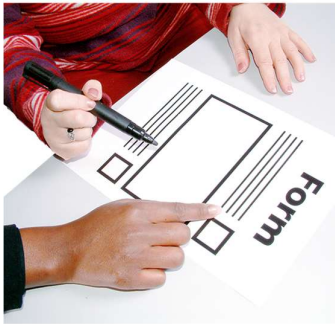
Culture is a way of:

- thinking that a group shares
- doing things as a group.

There are many different cultures in Aotearoa New Zealand.

Some examples of the different cultures are:

- Māori culture
- Pacifika culture
- Deaf culture.



Some more ideas for making courts work better are:

- making forms / information easier to use
- having a particular kind of court to deal just with this sort of case.



Question 4.4

What would make it easier for people to be part of how courts deal with decision making arrangements?

Anything else you want to tell us



You can also tell us anything else you want to say about these topics.



Question 4.5:

What else do you want to tell us about how things could be made better?

How to get in touch with us



You can get in touch with us by:

- email at:

huarahi.whakatau@lawcom.govt.nz

- phone on:

0800 832 526



If you find it hard to use the phone
the **New Zealand Relay** service is for
people who are:

- Deaf / hard of hearing
- deafblind
- speech impaired / find it hard to talk.



You can find out more about the New
Zealand Relay service at:

www.nzrelay.co.nz



This information was written by Te Aka Matua o te Ture – Law Commission.



It has been translated into Easy Read by the Make it Easy Kia Māmā Mai service of People First New Zealand Ngā Tāngata Tuatahi.



The ideas in this document are not the ideas of People First New Zealand Ngā Tāngata Tuatahi.



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